THE

PRESBYTERIAN REPORTER,

BEING A

REGISTER OF PARLIAMENTARY PROCEEDINGS
AND PUBLIC DOCUMENTS

RELATING TO THE

DISSENTING CHAPELS' AND ENDOWMENTS' BILL,

FOR THE

PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND,
NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF
HUMAN COMPILATION.

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GENERAL INDEX.

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No. I.

THE BILL.

HOUSE OF LORDS, Thursday, March 7.—The Bill was introduced by the Lord Chancellor, the Right Hon. Lord Lyndhurst, who said that he should make some explanatory remarks on the second reading.

A BILL INTITULED AN ACT FOR THE REGULATION OF SUITS RELATING TO MEETING-HOUSES AND OTHER PROPERTY HELD FOR RELIGIOUS PURPOSES BY PERSONS DISSENTING FROM THE CHURCH OF ENGLAND.

WHEREAS an Act was passed in the first session of the first year of the reign of King *William* and Queen *Mary*, intituled *An Act for exempting Their Majesties Protestant Subjects dissenting from the Church of* England *from the Penalties of certain Laws:* And whereas an Act was passed in the nineteenth year of the reign of King *George* the Third, intituled *An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters:* And whereas an Act was passed in the fifty-third year of the reign of King *George* the Third, intituled *An Act to relieve Persons who impugn the Doctrine of the Holy Trinity from certain Penalties:* And whereas prior to the passing of the said recited Acts respectively, as well as subsequently thereto, certain Meeting-houses for the worship of God, and Sunday or Day Schools (not being Grammar Schools), and other charitable Foundations, were founded or used in *England* and *Wales* for purposes beneficial to persons dissenting from the Church of *England*, which were unlawful prior to the passing of those Acts respectively, but which by those Acts respectively were made no longer unlawful: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That with respect to the Meeting-houses, Schools, and other charitable Foundations so founded or used as aforesaid, and the persons holding or enjoying the benefit thereof respectively, such Acts, and all deeds or documents relating to such charitable Foundations, shall be construed as if the said Acts had been in force respectively at the respective times of founding or using such Meeting-houses, Schools, and other charitable Foundations as aforesaid.

II. And be it enacted, That in all cases in which no particular religious doctrines or opinions shall, in the deeds declaring the Trust of any such Meeting-house as aforesaid, be in express terms required to be taught therein, the usage of years of the Congregation frequenting such Meeting-house shall be taken as conclusive evidence of the religious doctrines or opinions for the preaching or promotion whereof the said Meeting-house, with any Burial-ground, Sunday or Day School, or Minister's House, attached thereto, was established or founded.

III. Provided always, and be it enacted, That nothing herein contained shall affect any right or title to property derived under or by virtue of any Judgment, Order or Decree already pronounced by any Court of Law or Equity, or affect any property the right or title to which was in question in any action or suit pending on the first day of *March* in the present year.

——— Friday, March 7.—A Petition was presented by the Right Hon. Lord Brougham, from the Remonstrant Synod of Ulster and the Presbytery of Antrim, praying to be included in the provisions of the Bill,—as follows:

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Petition of the undersigned Members of the Presbytery of Antrim and Remonstrant Synod of Ulster, on behalf of themselves and other Non-subscribing Presbyterians of Ireland:

Humbly Sheweth,

That your Petitioners have been gratified to learn that a Bill has been introduced into your Right Honourable House, entitled "A Bill for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England."

That your Petitioners observe that this Bill is confined in its operation to England and Wales.

That there are in Ireland many Meeting-houses occupied by the Ministers and Congregations forming the two above-mentioned Bodies, called the "Presbytery of Antrim" and "Remonstrant Synod of Ulster," and several by Ministers and Congregations comprised in the Synod of Munster, in every respect similarly circumstanced with those Meeting-houses in England and Wales which will be affected by the said Bill.

That the said Meeting-houses in Ireland have in many instances Burial-grounds attached to them, and in some cases the Congregations are in possession of Schools and other properties for Educational and Religious purposes.

That these Meeting-houses and other properties have for a long series of years been held and enjoyed by Ministers and Congregations holding the religious views which have for more than a century been designated in Ireland "New-Light," or, as they are now called, "Anti-Calvinistic and Unitarian;" and that during the period that such opinions have been entertained by these Ministers and Congregations, they have in most instances rebuilt their Meeting-houses, and in all cases have largely augmented their value, besides creating or greatly increasing other Congregational properties, never having entertained the slightest doubt of the validity of their titles to properties which, without the disturbance of any other parties, have descended to them from their ancestors in uninterrupted Congregational succession.

That certain decisions have lately been made in the Courts of Equity,

both in England and Ireland, respecting religious trusts, in consequence of which decisions these Ministers and Congregations are threatened with deprivation of their Meeting-houses and other properties. That two suits are now actually pending in the Court of Chancery in Ireland, in one of which (that of the Eustace-Street Congregation) the cause has been heard, but no decree pronounced; and the other (that of the Strand-Street Congregation) is now ready for hearing; and that in these suits it is sought to deprive the Ministers and Congregations of Meeting-houses and other properties to the value of at least Two Thousand Pounds a year, of which they were in unquestioned and undisputed enjoyment for a long period of time, and a very large portion of which has been created or accumulated during the ministry of the present Ministers, or of predecessors who are admitted to have held the same religious opinions as the present possessors.

That your Petitioners humbly submit that the cases of the several Ministers and Congregations in the three Bodies above referred to, in relation to their Meeting-houses and other properties, are cases of peculiar hardship. According to the law, as declared in the cases referred to, a large number of Ministers and Congregations are liable to be harassed by tedious and expensive litigation in separate Chancery-suits.

That in many cases the whole fee-simple of the property held for religious purposes by these Ministers and Congregations would be insufficient to meet the costs of the inquiry which would be necessary to discover that party who (among numerous classes of claimants that might arise) were best entitled to that property: whilst wherever the value of the property would be sufficient to bear the cost, some speculative attorney (as has heretofore been known with regard to other charities) might make a wholesale business of filing Informations.

Your Petitioners further humbly and respectfully submit, that if at the time of passing the Act 57 Geo. III., any doubt had existed as to the validity of the titles of any of the Ministers or Congregations holding the religious opinions thereby tolerated, to the Meeting-houses or properties they then held and enjoyed, it can hardly be doubted but that that Act would have contained a clause having for its object the quieting of the Congregations in the possession of their Meeting-houses and other properties.

Your Petitioners further respectfully and humbly submit, that wherever there is no express declaration of Trust as to any particular doctrine or form of religious faith respecting any of their Meeting-houses, Burial-grounds, School-houses, or other Congregational Properties in Ireland, the usage of a series of years should, by analogy to the Statutes of Limitation relative to private property, and in conformity with the intent of the Bill introduced into your Right Honourable House as aforesaid, be conclusive evidence of the doctrinal opinions for the promotion whereof the same were founded.

Your Petitioners therefore humbly pray that your Lordships will be pleased to remedy these grievances of the classes of Irish Protestant Dissenters herein mentioned, as by the said Bill it is proposed to remove those of certain Dissenters in England and Wales, either by including them in the Bill now pending in your Lordships' House, or by passing a special Act for their protection.

And your Petitioners, as in duty bound, will ever pray.

H. MONTGOMERY, LL.D.,
WILLIAM GLENDY, A.M.,
JOHN PORTER,
W. J. C. ALLEN.

——— Tuesday, March 12.—A similar Petition was presented by

the Right Hon. Lord Cottenham, from the Eustace and Strand Street Congregations, Dublin, as follows:

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Petition of the undersigned Minister and Member respectively of the Protestant Dissenting Congregations of Strand Street and Eustace Street, in the city of Dublin, on behalf of themselves and of the said two Congregations:

Humbly Sheweth,

That your Petitioners have been gratified to learn that a Bill has been introduced into your Right Honourable House, intituled "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England."

That your Petitioners observe that this Bill is confined in its operation to England and Wales, and that it is therein provided that it shall not affect any property, the right or title to which was in question in any action or suit pending on the first day of March in the present year.

That the said two Congregations of Strand Street and Eustace Street were originally founded by English Nonconformists, and formed constituent parts of the Southern Presbytery of Dublin, which having from its formation agreed in the same fundamental principles with the Presbytery of Munster, became incorporated with that body in the year 1809, under the name of the Southern Association or Synod of Munster; and that the fundamental principles of the said Presbyteries previous to such union, and of said Synod since, have ever been, the taking the Bible alone as the Rule of Faith and Practice, the rejection of all Creeds and Articles drawn up by uninspired men, the recognition of the right of Private Judgment, guaranteeing to every congregation and individual in communion with the said Synod the right from time to time to change their opinion on controverted points of doctrine, as often as conscience and conviction may dictate, and, notwithstanding such change, to continue in full communion with the said Synod, and in possession of all their Presbyterian and Congregational Rights and Properties.

That in the exercise of the right so guaranteed as aforesaid, these two Congregations have, for a very long series of years, entertained theological views at variance with the doctrine of the Trinity as set forth in the Thirty-nine Articles of the Church of England, and in the Westminster Confession of Faith.

That Informations have recently been filed in Her Majesty's Court of Chancery in Ireland, against the Ministers and Members of these congregations, at the suit of Her Majesty's Attorney-general, upon the relation of three individuals, natives of Scotland, who are not, and have never been, in any manner connected with them or either of them, praying that they may be deprived of their Meeting-houses and all other their Congregational Endowments, upon the ground of an alleged diversity between the doctrinal opinions they at present profess, and those held by their predecessors at their original formation, a period considerably upwards of a century ago.

That in none of their grants, gifts, or instruments of endowment, from the very earliest period, is there contained any clause binding these Congregations to the profession of any peculiar doctrines, or in any wise interfering with the enlarged principles of liberty and the right of private judgment, the maintenance of which these congregations have at all times recognized as their sole bond of congregational union.

That many of these endowments of which they are now sought to be deprived, were created by members of these Congregations (some of whom

are still living) at a time when these Congregations entertained, and were known to entertain, opinions similar to those which they at present profess.

That of the said two suits which are so pending in the Court of Chancery in Ireland, one has been heard, but not yet finally disposed of, and the other is now ready for hearing.

Your Petitioners would humbly represent to your Right Honourable House, that inasmuch as no division exists in these Congregations or either of them, and inasmuch as the Relators at whose instance these Informations have been filed are total strangers to, and in no way interested in, the property of which they seek to deprive them, there is no party in whom there exists any vested right which would be interfered with by the extension of the Bill now before your Right Honourable House to the cases of these Congregations respectively; and in furtherance of this view, your Petitioners would humbly remind your Lordships of an Act passed during the present Session of Parliament, and which originated with your Right Honourable House, for staying certain actions which had been theretofore commenced for the recovery of penalties incurred for offences against the Horse-racing Acts. And inasmuch as your Lordships did not consider it unjust to put an end to the suits so pending, upon the terms of indemnifying the informers against the costs they had theretofore incurred in such actions, your Petitioners humbly hope that, where the object is to quiet the possession of religious societies, which has continued undisturbed for so long a series of years, your Right Honourable House will not deem it inequitable to extend relief to these two Congregations, notwithstanding the existing suits, upon the terms of the Relators being indemnified in respect of costs in such manner as to your Lordships may seem just.

Your Petitioners further humbly and respectfully submit, that inasmuch as there is no express declaration of Trust as to any particular doctrine or form of religious faith respecting their Meeting-houses, School-houses, Endowments, or other Congregational Properties, the usage of a series of years, recognizing in these Congregations the right of private judgment in the interpretation of the Sacred Scriptures, authorizing a change of doctrinal opinion on their part from time to time, as conviction and conscience may dictate, should by analogy to the Statutes of Limitation for the protection of private property, and in conformity with the intent of the Bill now introduced into your Right Honourable House, be received as conclusive evidence that such endowments were created for the support and advancement of such principles.

Your Petitioners therefore humbly pray that your Lordships will be pleased to remedy the grievances of the two Protestant Dissenting Congregations herein named, as by the said Bill it is proposed to remove those of certain Dissenters in England and Wales, either by including them in the Bill now pending in your Lordships' House, or by passing a special Act for their protection.

And your Petitioners, as in duty bound, will ever pray.

GEORGE A. ARMSTRONG, A. B.
HENRY HUTTON, A. M.

——— Thursday, March 14, on the motion of Lord Cottenham, a Committee was appointed for inquiring into the Cases referred to in the Irish Petitions: the Committee consisted of the following

Bishops—Canterbury, London, Exeter.

Law Lords—Lyndhurst, Campbell, Cottenham, Brougham, Plunket, Denman, Langdale.

Peers—Normanby, Fortescue, Lansdowne, Ripon, Wharncliffe, Glenelg, Wellington, Monteagle.

———Friday, March 15.—The Lords' Committee met and came to the determination that the matters referred to them required no evidence, and agreed to report to the House, that whatever measure was passed for England, ought to extend to all similar cases in Ireland. The Right Hon. Lord Cottenham presented this Report to the House on its meeting, and the Report was ordered to be printed.

LETTERS OF REV. J. C. LEDLIE, D.D., TO THE DUBLIN EVENING POST.

Letter I.

EUSTACE-STREET MEETING-HOUSE AND FUNDS.

THE ATTORNEY-GENERAL AT THE RELATION OF MATHEWS AND OTHERS AGAINST HUTTON AND OTHERS.

Sir,—It is with reluctance and pain that I obtrude myself on the notice of the public, by a short statement of the leading facts of this case, in which I am, indeed, personally very deeply concerned, but which involves principles that are of much higher moment than any individual interest.

The Relators pray the Lord Chancellor to remove the Defendants from their situations and trusts as ministers and members of the Protestant Dissenting congregation of Eustace Street, in this city, and cause the Meeting-house, and the various Endowments connected with it, to pass from them into other hands, on the alleged ground that they hold and profess doctrinal opinions in religion different from those held and professed by the founders of the congregation more than one hundred years ago; and the Chancellor has intimated his intention to grant the prayer of the Relators.

It is my purpose to shew, first—That, whatever may have been the opinions of the ministers or congregation at any period, they never intended, nor by any restriction did they bind themselves, or those who were to come after them, to any peculiar creed.

And, second—That the meeting-house was built, and all the endowments granted, during the incumbency of ministers who, contrary to what has been alleged, never acknowledged either the Westminster Confession of Faith or the Thirty-nine Articles of the Established Church as standards of religious belief, but who differed from them on many essential points. If I succeed in establishing these two propositions, it follows, that to deprive men of their civil and religious rights, on the ground of differing from creeds which they never professed, and by which they were never, in any manner, bound, is unjust and persecuting.

The Protestant Dissenting congregation, formerly of New Row, and now assembling in Eustace Street, was founded by English Nonconformists, who having suffered much from the unwise attempt to coerce religious opinion, steadily and uniformly refused to bind themselves or future generations by adopting human creeds or

articles of belief. They rested upon these simple and intelligible principles—that the Holy Scriptures are a perfect rule of faith and practice, and that it is the privilege and duty of every Christian to inquire for himself into the doctrines they contain. At a very early period they appear to have held what are called Trinitarian opinions, which then very generally prevailed; but subsequently, in the exercise of that freedom of inquiry on which their society was based, their views on this mysterious subject became greatly modified, till at length, amongst them, supreme religious worship was offered up to God the Father alone, through Jesus Christ our Lord. At what precise date this change was completely effected, it would now be difficult, if not impossible, to determine. It was, no doubt, gradual, and the work of time and reflection, but *it has existed for more than one hundred years*. In the early part of the eighteenth century, the subject of the Trinity excited a good deal of attention. The cruel persecution of Emlyn, in 1703, by the civil authorities, for denying the Supreme Deity of our Saviour, awakened public sympathy and stimulated inquiry. And though he stood *alone* as a *sufferer*, there is reason to conclude, from what he has himself recorded, that he was not, even then, *alone* in his *belief*. The other Protestant Dissenting ministers of Dublin, it is true, expressed their strong disapprobation of his opinions, and excluded him from their society; but they were no parties to the other persecutions he underwent. Soon after, a change came over the public mind. The Church of Geneva —the very cradle of Calvinism—gradually relaxed from its severity and intolerance, and, in 1706, abolished subscription to articles of faith. This was partly the cause and partly the effect of differences of opinion on theological questions; and the majority of the ministers of that Church, since then, have held the doctrines for the maintaining of which Servetus was burned.

In England, the doctrine of the Trinity gave rise to fierce discussions, and in 1710, the celebrated Whiston was expelled from the University of Cambridge on account of his Arian opinions—prosecuted in 1712 by the Convocation, as a heretic, but finally protected by an act of grace in 1715. About the same time, that eminent scholar and divine, Dr. Samuel Clarke, the friend of Emlyn and of Whiston, published his work, entitled "The Scripture Doctrine of the Trinity," which is decidedly opposed to the Creed commonly called the Creed of Saint Athanasius. The agitation of this question extended to the Protestant Dissenters also, and at an assembly in Exeter in 1718, and in the following year at Salters' Hall, London, there were warm debates as to a declaration of belief in the doctrine of the Trinity. The heat was thence communicated to this country, and from 1721 to 1726, the question of subscription to human creeds *generally*, and the expediency of expressing a belief in the Supreme Deity of our Saviour in *particular*, were warmly discussed, and ultimately led to a schism in the Northern Presbyterian Church, which remains to this day. The ministers of the Southern Presbytery of Dublin, *including those of New Row*, aided, by their influence and sympathy, the party who vindicated perfect religious freedom, and lay under the imputation of being unsound in the faith. As evidence of the progress of liberal feeling amongst them, it may be mentioned,

that in 1725 they inducted into the congregation of Dromore, in the county of Down, Dr. Colville, who had been rejected by the General Synod of Ulster for refusing to subscribe the Westminster Confession of Faith, and was also suspected of heresy. The Dublin ministers received him into their body, contrary to the wishes of the General Synod, assigning as a reason, "that they looked upon it as the undoubted right of Christian people to choose their own ministers, and would be ever ready to bear their testimony against injurious impositions of every kind"—shared with him for several years the Royal Bounty, and afterwards affectionately commended him to their friends of the Presbytery of Antrim, who had been excluded from the Synod of Ulster."

As further proof of the sentiments of the Dublin ministers during these important Northern controversies, I shall now give some extracts from a letter written by Nathaniel Weld, John Leland, Joseph Boyse and Richard Choppin, and addressed to Mr. Masterton, the Moderator of the Synod of Ulster:

"The ministers of Dublin are obliged to Mr. Masterton for his friendly advice that they would draw up some formula of a Confession for themselves, and give it as a test of orthodoxy, that the world may know it; or that they would adopt and establish, as a public declaration of their principles, the three ancient creeds, or some formula of their own making, equally expressive of the *doctrine* of their creeds. But we must, with all due deference to his judgment, beg to be excused at present from following it; both because we have, from long experience of former ages, seen the mischievous effects of those human tests of orthodoxy to corrupt the plain doctrine of the Christian Church, and to break the peace of it; and because we have found by our own experience, our peace and concord to be best secured by our having no *exclusive* authorized human standard, but one leaving every candidate the liberty of the Gospel Charter of expressing his faith in any words that are satisfactory, from a sole regard to the Holy Scriptures, the only Rule of Faith according to which the soundness or unsoundness of all doctrines in religion must be tried and determined. And we have too much modesty to make subscription to any formula of our own a necessary condition of ministerial communion, and too great a sense of liberty to think ourselves obliged to think in every controverted point as others have done before us, who were men of like passions, and as liable to inadvertent mistakes as ourselves." Again:—"The author cannot be ignorant that there are in that Confession" (the Westminster Confession of Faith) "many *doctrinal* propositions that are so far from being the principal doctrines of Christianity, that they are tenets contested among the best ministers that the Reformed Churches ever enjoyed—others of them are of so uncertain and ambiguous a sense, that no man knows by the subscription of others whether they take them in a sound sense or no—others of them rather obscure than explain the true doctrines of the Gospel, and one of them is in terminis contradictory to it."

Again: "There was, indeed, an alternative proposed, that a toleration should be sought upon the foot of either subscribing the Westminster Confession, or those Articles of the Established Church

which our brethren in England were obliged to subscribe; but we" (the Dublin ministers) "should have subscribed neither without proposed exceptions, and it was happy for us that we, at last, obtained a toleration without the clog of either." This last passage proves that even prior to 1719, the date of Damer's fund deed, and also of the Irish Toleration Act, Nathaniel Weld and John Leland, ministers of New Row, would have refused toleration itself on the condition of subscribing the Westminster Confession of Faith, or the doctrinal Articles of the Church of England; and that they looked upon such subscription "*a clog*" upon their religious liberty and right of private judgment. These extracts also clearly shew, that a change must have come over the minds of those who, in 1703, had refused to associate with Emlyn, but who, in the intermediate time, during which religious controversy was much agitated, if they did not change their doctrinal opinions, had at least been taught the important lesson of Christian forbearance.

In all the discussions, which were fierce and protracted, there is no resolution on the records of the congregation of Eustace Street, nor can a single act be alleged, that was not in accordance with the recognition of *perfect freedom of opinion.* Nor in the bequests or endowments made to them then, or at any subsequent period, is there a line or word that enjoins the holding or teaching of any peculiar religious opinions, save the general and comprehensive term of Protestant Dissenters of the Presbyterian denomination. Had any of the donors believed that the doctrine of the Trinity was a fundamental article of the Christian faith, "which except a man receive he shall, without doubt, perish everlastingly," and had he been anxious to have this doctrine taught and maintained in the congregation, it is inconceivable that he should never have, either directly or indirectly, expressed such a desire, when the question was, at the time, so deeply agitating and stirring up men's thoughts and passions. The conclusion is irresistible. They wisely respected religious liberty, and bequeathed those endowments to the society of which they had been members, in the trust and confidence that the rights and privileges of Christians amongst them would continue to be respected and maintained. Evidence has been given, that is uncontradicted, of the steady and uniform adherence of the congregation to these great principles; and on this they confidently rest, as giving them a clear and indubitable right to form and to alter their religious opinions, should they deem it advisable, without forfeiting thereby any civil or ecclesiastical privilege. Yet, upon the plea that such perfect liberty of thought (which is, in fact, a fundamental principle of Protestantism), must prove inconvenient and lead to confusion, and in direct opposition to the clearest proofs, the Lord Chancellor, leaving questions of *Law*, with which he is well acquainted, and entering on the department of *Theology*, where he has somewhat still to learn, takes upon him to pronounce that no such bond of congregational union could have existed. In vain have we the evidence of the *fact*, from the most ancient records of our religious society, and the solemn oath of persons of the highest respectability, one of them for more than *eighty years* a member of the congregation. In vain has the Rev. Wm. Hunter, Clerk of

the Synod of Munster, testified to the uniform practice of that body in recognizing this principle to its fullest extent, and in receiving into, and having at this day in its connexion, ministers and congregations differing widely from each other on the subject of the Trinity and other religious questions. In vain has the Chancellor been truly informed that the Presbytery of Antrim and the Remonstrant Synod of Ulster have been established on these very principles; and that the most ancient Presbyterian Church in the world—viz., that of Geneva—fully recognizes them. Had his Lordship been well acquainted even with the present history of religions opinion, he must have known, contrary to his dictum, that there is at this day a numerous and flourishing sect in the United States of America, consisting of more than one thousand churches, "that adopt the name of CHRISTIANS alone, as expressive of their renunciation of all sectarianism; who recognize no creed, no authority in matters of doctrine, but take the Scriptures, which every man must interpret for himself, as the only rule of faith; and grant admission to their church on a simple profession of belief in Christianity, and a conduct becoming the Gospel." The recognition of this right, which the Chancellor deems *inconvenient and impracticable*, is the very basis on which the Reformation rests, and on which it can alone be successfully vindicated; and in so far as Protestant Churches have adopted other terms of Christian fellowship, they have departed from their own principles, and left their separation from the Church of Rome indefensible. The attempt to create uniformity of opinion, by framing and enforcing human creeds or articles of faith, has been not only singularly unsuccessful in attaining this object, but has been a fruitful source of error, dissimulation and uncharitableness; whilst, on the other hand, perfect religious liberty makes the necessary provision for the growth and expansion of human intelligence, and for those diversities of thinking which are the natural and unavoidable results of diversities in our mental and moral powers. The words of that distinguished divine, Chillingworth, in his "Defence of Protestantism," are worthy to be recorded, as recognizing and advocating these principles—"I am fully assured that God does not, and therefore that men ought not to require any more of any man than this, to believe the Scripture to be God's Word, to endeavour to find the true sense of it, and to live according to it. Take away this *persecuting*, *burning*, *cursing*, *damning* of men, for not *subscribing* to the *words of men* as the *words of God;* require of Christians only to believe in Christ, and to *call no man Master* but Him only; let those leave claiming infallibility that have no title to it; and let them that in their *words* disclaim it, disclaim it likewise in their *actions*. Take away *tyranny*, and restore Christians to their just and full liberty of captivating their understanding to Scripture only; and it may be hoped, by God's blessing, that this may quickly restore Christians to *truth* and *unity*."

Such were the principles on which, as it has been shewn, the congregation of Eustace Street was founded, and which have been uniformly and consistently maintained. These provide for diversities of creed and change of opinion; so that at one period the ministers and people may have been believers in the doctrine of the Trinity,

and at another may have felt it their duty to pay supreme, religious adoration to the God and Father of our Lord and Saviour Jesus Christ alone, without involving any inconsistency, or violating in the least degree the sacred bond of their religious union. Upon the same principle, should they conceive themselves to be in error with regard to this mysterious doctrine, it would be their privilege and their duty to embrace Trinitarian belief, and in doing so would not disentitle themselves to any of the funds and endowments, even those created by Anti-trinitarians, inasmuch as they were given to a religious society that profess to have no human standard of belief, and makes allowance for and pre-supposes the right to change opinions.

These principles are, I think, intelligible, and have been acted upon with singular success for more than *one hundred years* by the congregation of Eustace Street. Their history, so far back as can be traced, presents one unbroken series of Christian harmony. They have lived in peace amongst themselves, and in peace with those around them, till their tranquillity has been broken in upon, and their rights invaded, by *strangers* and *aliens*, *with whom they never had any connexion.* They have hitherto enjoyed, to the utmost extent, their religious liberty, willingly conceding to others the privileges which they claim and exercise themselves. They have humanely, and in the true spirit of the Gospel, been applying their charitable funds for the improvement and the relief of the necessitous, without distinction of sect or of creed — envying none, condemning none; but meekly and unostentatiously following the path of Christian duty, as the only path to heaven. Yet the Lord Chancellor, who has not been so fortunate as to meet with such a religious community, cannot be made to understand its perfect freedom, and is, therefore, inclined to question its very existence; and, on this assumption, proceeds to affirm that the foundation must have been *exclusively* Trinitarian. Though there is not a *line* to that effect in any one of the deeds by which their properties are held—not a *word* that is not in perfect accordance with the utmost freedom of religious profession, within the pale of Protestant Dissent of the Presbyterian denomination — yet looking upon such a mode of church government to be irrational and inconvenient, his Lordship summarily interferes with an ancient and respectable community, in the exercise of their undoubted religious privileges—legislates for them in matters purely ecclesiastical—threatens, by one sweeping decree, to take away from them the *whole* of their properties, some of them handed down by their fathers, and others contributed by themselves, though *no departure from the terms of the trust has, in any one instance, been shewn, or any abuse of the charities so much as insinuated!* Because a Lord Chancellor, who, from his pursuits and studies, happens to be utterly unacquainted with our liberal institutions, and cannot understand or appreciate them, he pronounces absolutely as to what *must* or *ought* to have been the intentions of the founders; and, travelling out of the deeds, and, without a particle of evidence to that effect from the Relators, and in direct opposition to undoubted evidence from the Defendants, substitutes his own notions of what would be fitting and expedient—thinks it may

be his duty to deprive this congregation of their house of worship, and of all their funds and endowments, which no other party has yet presumed to claim—set them up for competition amongst rival sects — and reserves to himself the power of finally awarding the prize!

In another letter, I propose to shew that the meeting-house of Eustace Street, and all its endowments, were founded during the incumbency of ministers who never acknowledged the Westminster Confession of Faith, or the Thirty-nine Articles of the Established Church, as standards of belief, but repudiated them, and to explain the peculiar hardship and injustice of the present legal proceedings. If I mistake not, the case of Eustace-Street congregation, when fairly brought before the world, will present irresistible claims upon public sympathy and redress. It is not a matter exclusively of doctrine or of creed—it is not a question of individual suffering and wrong, but it involves the assertion and maintenance of a great principle, which lies at the root of our most sacred privileges. It cannot be too strongly impressed on the public mind, that this is not a question of *law*, but of *fact*, and that every man of common sense is as capable of deciding it as the Chancellor. It is simply this—do you believe, as has been distinctly sworn, that a belief in the Holy Scriptures as the only rule of faith and practice, and a recognition of the right of private judgment, form the sole bond of union in the congregation of Eustace Street? This has been repeatedly affirmed, and remains uncontradicted; yet his Lordship seems disposed to decide in opposition to such evidence. Should the meditated decision of the Chancellor be made the law of the land, then there is no denomination of Protestant, Non-subscribing Dissenters, the entire of whose properties and endowments may not be swept away by the breath of the informer. It must go to unsettle property to a most alarming extent, and to subvert the very foundations of religious freedom.

J. C. LEDLIE, D. D.,
One of the Ministers of the Congregation of Eustace Street.

Dublin, March 8th, 1844.

Letter II.

Sir,—Agreeably to promise, I now intend to shew that the meeting-house of Eustace Street, and all its endowments, were founded during the incumbency of ministers who never acknowledged the Westminster Confession of Faith or the Thirty-nine Articles of the Established Church as standards of belief, but repudiated them; and farther, to explain the peculiar *hardship* and *injustice* of the present legal proceedings.

The earliest of the funds is that of Damer, dated in 1719, and during the ministry of Mr. N. Weld and Dr. John Leland. With regard to Mr. Weld, the documents quoted in my former letter, and to which I beg leave to refer, clearly prove that, prior to 1719, *he was steadily opposed to all human tests of religious belief.* There are no writings of his extant, from which his doctrinal opinions can be known as he advanced in life; but his son, who succeeded him in

the ministry, studied Theology under Dr. Benson, of London, a distinguished divine of Anti-trinitarian views; and it is a matter of tradition in his family, communicated to me by his great-grandson, a most respectable member of the congregation of Eustace Street, that his ancestor deeply regretted the part he had taken in the case of Emlyn.

Doctor Leland did not commence his ministry till fourteen years after the persecution of Emlyn, and appears to have embraced the more liberal and tolerant views that were then beginning to spread in England and in this country. From a careful perusal of his works, I am fully persuaded that he adopted the opinions that are set forth with so much learning and research by Doctor Samuel Clarke, in his "Scripture Doctrine of the Trinity." Dr. Leland very rarely mentions the doctrine in his voluminous writings, and when he does, so far from adopting the views given of it in the Creed of Athanasius or any other creed, carefully guards himself against sanctioning any such human interpretations. "There is," says he, "nothing unintelligible in the doctrine, *taken in the simplicity in which it is delivered in Holy Writ, and not as it has been perplexed and obscured by the subtleties and rash doctrines of men.*"

We find, from "the Life of Emlyn," that it was from his *silence* on the doctrine of the Supreme Deity of Christ, that he was known to be an *Arian*. "By observing that I *avoided* the common opinion, and those arguments that are supposed to support it, he strongly suspected my judgment to be against the Supreme Deity of the Lord Jesus Christ."

Dr. Cooke, in his examination before the Commissioners of Education Inquiry, in 1825, when asked in what way had Presbyterian ministers in Ireland avowed *Arianism*, replied, "*It is known by the doctrines they do not preach. I believe it would not be easy to find any other way of ascertaining the fact. The others (the Trinitarians) treat frequently upon the peculiar Scripture doctrines of the Gospel.*" By applying this test to the opinions of Dr. Leland, we shall have no difficulty in coming to a satisfactory conclusion. He has, in his valuable writings, fully discussed other important Christian doctrines, but studiously avoided this one, which, according to the Athanasian Creed, is an essential article of faith, and *necessary to salvation*. Had he so believed, is it possible that a good and pious minister, as he undoubtedly was, should have left us "*to spell our tasks*," as best we may, in searching through his works, for a knowledge of such a fundamental truth? It is not to be supposed. But when we recollect that a law existed at that time which rendered the denial of the doctrine *penal*, it would be unreasonable to look for overt acts that must have exposed men to its severe visitations. Dr. Leland, without incurring such penalties, has, in various passages of his writings, expressed his disbelief of the perfect equality of the Son of God with his Almighty Father, so that the Chancellor was constrained to admit that his words "*cannot be reconciled with the orthodox doctrine of the Trinity.*" And if, in addition to this, we find that what Dr. Cooke would call "*the peculiar Scripture doctrines of the Gospel*" are openly assailed by him, we can have no hesitation in saying that he did not believe nor teach according to the

Westminster Confession of Faith, or the Thirty-nine Articles of the Established Church.

As confirmatory of these views, with regard to Leland, I would submit the following *facts:*

1st. In a volume of Prayers for the use of Families, published by Doctors Leland, Duchal, I. Weld, and Mr. Mears, we are told in the Preface, "Nor do the Protestant Dissenters, at this day, found their stated dissent from the Established Church merely upon the use of a Liturgy: but their main objection, so far, I mean, as relates to public worship (for what relates to Church government and the authority of the Clergy is of another consideration)—their main objection, I say, is, that there *are several passages* in the Liturgy of the Church which they cannot join in, and the use of it is so rigorously enjoined that there is no liberty to *add*, *alter* or *omit* any thing. The general directories and patterns which we have in the Holy Scriptures are our safest and best guide. If we keep to them, and imitate them as near as we can, we are in no danger of going astray, or mixing any thing with our devotions that is unfit, improper or unbecoming in our addresses to the Divine Majesty. Some, otherwise great and good men, not duly attending to this rule, and following imagination more than judgment, have strangely departed from the simplicity of the Gospel worship in several respects, and particularly in this, that they have introduced into their Prayers and public Liturgies the *doubtful and disputable opinions* of private persons or parties, and have sometimes expressed themselves in a manner that is quite *unintelligible.*" In this book of Prayers there is not a single petition addressed to any Being but to *God the Father only;* it contains also different passages that are wholly at variance with doctrines laid down in the Westminster Confession of Faith, and in the Thirty-nine Articles of the Established Church, but which completely accord with my religious views.

2nd. The volume of Hymns used by Dr. Leland in conducting public worship in the congregation of Eustace Street, is a selection from different authors, chiefly Dr. Isaac Watts. In the Preface to the book we are told, that "a liberty is taken to alter words, lines, and sometimes whole stanzas; *there is no need to give a reason for the several alterations that have been made.*" Upon comparing the Hymns so altered with the originals, the reason is apparent. Where, in Watts' Hymns, the Deity of our Saviour is affirmed, or supreme religious worship ascribed to him, the words are *altered* or *omitted* in the Eustace-Street Collection. In Watts' Collection there are one hundred and fifty hymns, and the like number in that of Eustace Street; and the concluding Hymn is the same in both. But then follows a remarkable discrepancy. In Watts', there are *six* Doxologies addressed to the Trinity, and not *one* retained in that used by Dr. Leland!

3rd. It has been stated in evidence to the Court, that Mr. Rogers, a clergyman from England, selected and approved of by Dr. Leland for his assistant during a temporary illness, was well known to be opposed to the Athanasian doctrine. He officiated in Eustace Street for two years, to the satisfaction of Dr. Leland and the congregation.

These *facts*, which the Lord Chancellor has strangely overlooked, coupled with the previous evidence, both *direct* and *inferential*, leave no doubt on my mind that Dr. Leland was far, very far indeed, from being an *Athanasian Trinitarian.*

His colleague, Dr. Isaac Weld, who, as we have seen, completed his theological studies under Dr. Benson, also maintained opinions at variance with the Westminster Confession of Faith and the Thirty-nine Articles of the Established Church. In a manuscript sermon of his, admitted as evidence, we have the following words:

"I come, fourthly, to consider the object of our thanksgiving, or *person* to whom it is to be performed, viz., *God the Father*. We are to give him the glory of all the good we enjoy or hope for. He is the fountain and source of all good: every good and every perfect gift cometh down from above, from the *Father* of Light. We are, therefore, to pay our acknowledgments to him, and *to him only*, as being the great fountain of all good. Here we may observe that, according to the economy of our redemption, the Father is represented under the character of the SUPREME Lord, Governor, and Judge—the Son, of a Mediator, whom the Father hath appointed, &c. So that, in the language of the New Testament, we are to worship, pray and give thanks to *God the Father*, through our Lord Jesus Christ, and by the Holy Spirit."

These words are evidently irreconcilable with the commonly-received doctrine of the Trinity, but are in accordance with *Arian* opinions. The following circumstances will also aid us in coming to a just conclusion. Dr. Weld made use of the same volume of Hymns with Dr. Leland—he assisted in composing the above-mentioned book of Prayers—he shared with Mr. Rogers in the duties of the ministry—he concurred in the invitation given to Mr. Thomas, an acknowledged Anti-trinitarian, to become his colleague—and, lastly, he signed the call to Mr. Taylor to be his assistant and eventual successor, whose family, education and liberal sentiments, publicly expressed at his ordination in Liverpool, left not a shadow of doubt as to *his* doctrinal opinions.

I have thus dwelt more particularly than might otherwise seem necessary on the religious opinions of Doctors Leland and Weld, because it was during their ministry that our *earliest endowments* were granted, and because their reputed orthodoxy has been so confidently affirmed. If it has been shewn that they stood opposed to some of the leading tenets of Calvinism, and that if they had lived in the present day, they could not conscientiously have subscribed to the Westminster Confession of Faith, nor have been admitted into the churches that have adopted it for a standard, it follows, that such churches can have no claim to our house of worship or endowments, on the ground of agreement in opinion with the founders. Yet it is now sought to deprive the successors of those men of rights and properties transmitted to them in the genuine spirit of religious freedom, and bestow them upon *strangers*, men of another creed, who are anxious "to put a yoke upon our necks, which neither we nor our fathers were able to bear."

It is unnecessary to enter particularly into the proofs that have been given of the doctrinal opinions of the succeeding ministers of

the congregation, as the Chancellor admits that "it cannot be denied that they were all Unitarians." Thus we have undoubted evidence that, during the long period of *seventy-seven years*, the opinions of this religious society were clearly opposed to the Athanasian Creed. We have evidence of a sermon, preached by Mr. Hutton forty-seven years ago, in which he classes a belief in the Trinity with the doctrine of Transubstantiation, and designates them both as the "hay and stubble" that had been raised by men on the foundation of the Gospel; and we have the declaration of the Chancellor, that wherever it could be shewn that Unitarianism had been preached for half a century, he would have great reluctance in disturbing such a possession. Yet, in direct opposition to this previous opinion, he afterwards expresses his apprehension that he would be constrained to sweep away the *entire of the funds*, the *greater number of which were created by men who did not believe in the Athanasian Creed!* How then does the matter stand? Dr. Leland, during whose ministry the meeting-house was built and some of our earliest endowments founded, is admitted, even by the Lord Chancellor, to have held opinions "that cannot be reconciled with the orthodox doctrine of the Trinity," and yet these very funds are to be wrested from *us*, who, like Dr. Leland, hold opinions that are at variance with it. The remaining endowments were founded during the ministry of men confessedly Anti-trinitarian, and yet these, his Lordship, notwithstanding his former declaration, seems resolved to confiscate, on the ground that they were added to what was originally, as he was pleased to say, a Trinitarian foundation. In the first instance, the funds were to be taken from us because, as has been alleged, they had been created during the ministry of *Trinitarians*, and it was therefore to be presumed the donors were likewise *Trinitarians*, and had bestowed them for *Trinitarian* uses. Upon the same principle, wherever it could be made appear that they were created during the ministry of *Anti-trinitarians*, it should follow that they must have been intended, and should be exclusively applied to *Anti-trinitarian* uses. This, one would think, would have been no more than justice. We put our opponents to the proof of the Trinitarianism of the ministers when the endowments were given; and the Chancellor admitted that they had not fully established it, even in the case of Leland, and that with respect to the succeeding ministers, they were undoubtedly Unitarian. Had the principle first laid down been faithfully carried out, we would have been fairly entitled even to the early endowments, where the proof of the Relators was so very defective; and parties long in undisturbed possession ought to have had the benefit of any doubt; whilst all the more *modern* funds, which are *numerous* and *valuable*, would have been placed beyond the grasp of spoliation. But the ground is suddenly shifted, and we are now to be denuded of our properties, even those contributed by members of the congregation, and Defendants in this case, because they are Unitarians, and because, between one and two hundred years ago, the worthy men who preached in the meeting-house of New Row probably held some opinions in religion different from those held and taught at present in Eustace Street! Though there were *no funds brought from New Row, no doctrinal tests or re-*

strictions imposed by any one, but the most perfect freedom of opinion asserted as the bond of union, yet the Chancellor has pronounced the foundation to be *exclusively* Trinitarian, and, therefore, that no change of opinion must be permitted even in a religious society which is expressly based on the right of individual judgment! If this principle be once admitted, it follows that no body of Protestant Dissenters, however unshackled in their institutions, can make the least change in the forms or opinions from those adopted in the infancy of their society, though they may afterwards have thought them inexpedient or erroneous, without incurring the penalty of forfeiting, not merely what was *first* contributed, but all *subsequent* endowments that may have been increasing in the course of time—a proposition so extraordinary that it astonishes us by its very absurdity and injustice!

The next inquiry is, who are the *parties* now claiming this house of worship, with its funds and endowments? It can be truly answered that *there are none whatever*. There is *no religious body, no individual that can shew, or has attempted to shew, the least title to any one portion of them, or the slightest injury sustained.* Two of the Relators, I have heard, are men in very humble life, natives of Scotland, residing somewhere in the county of Cork, who are utter strangers to the congregation, and probably are ignorant of the very locality of Eustace Street. The other, the principal Relator, is Mr. George Mathews, a clerk in the Castle of Dublin, also a native of Scotland, but who has no concern with our religious community. The office which he holds, connected as it is with the issue of Royal Bounty, has given him facilities for mixing himself up with the affairs of the Presbyterian Church; and in their recent unhappy religious controversies, he has taken the position of a *decided* and *influential partizan*. Not long before the present Chancery-suit was instituted, *he occasionally attended public worship in Eustace Street*, sometimes alone, and at other times accompanied by his *family*. He was pleased to express a *very favourable opinion of my ministerial services*, and even intimated a wish to become a subscriber to our funds. He gave me to understand that his religious opinions were undergoing a change—told me that there were *several doctrines in the Westminster Confession of Faith which he did not believe*—spoke of the work in a manner any thing but respectful—and declared that *he never had subscribed to it, and never would.* He also suggested plans for my personal advantage, and expressed a great interest in the prospects of my numerous family. If he was *sincere* in all this at the time, I have only to lament the sudden, and to me unhappy change. If he was *insincere*, and *sought an intercourse for other purposes, I leave him to his own reflections, and to the judgment of every honourable mind.* Whatever may have been his motives or views, the change that has come over him is complete. He has assailed *all our funds* and *endowments*, because we do not hold nor maintain the doctrines of the Westminster Confession of Faith, which he lately professed not to believe, and he seems resolved to deprive me, if possible, *of all means of support.* It is true that, some time after the legal proceedings had been commenced, he caused it to be intimated to me, that *if I would submit without oppo-*

sition to a decree, something might still be done for the benefit of my family; but if the decree was pronounced, every fund would be taken away, my ecclesiastical status destroyed, and my children left without resource! I was even given to understand that the Royal Bounty would cease, to which I had naturally looked as an humble provision for bodily infirmity and the weaknesses of age; and that my widow and fatherless children would receive no advantage from the fund destined for their relief, when I should have left this weary world. *These were hard sayings. Whether they arose from some remains of kindly feeling still lingering around his heart, or were intended to deter me from what appeared the line of duty, I know not. But the effect was the same. They gave me pain, but they did not, for one moment, alter my fixed determination.*

I have said that there are no *parties* claiming our properties: but I have little doubt, should the prey be stricken down, *many ill-omened birds will quickly appear, and that "where the carcass is, there will the eagles be gathered together"* !

The effect of the threatened decision, if carried into practice, will be, at once, to take away the meeting-house in which the congregation has so long worshiped undisturbed, and the funds for the support of their ministers, for the education and maintenance of poor children, and of aged and helpless widows. By far the greater number of these endowments were created during the ministry of those who are admitted to have been of *Anti-trinitarian* opinions. So late as 1825, Miss Crosthwait, who had been brought up by Dr. Leland, and whose opinions were most *decidedly opposed to the Athanasian doctrine*, made a bequest of £100 to the congregation. Even this the Chancellor has intimated his intention of referring to the original foundation, which he assumes to have been Trinitarian. But, if this bequest be referable to the *foundation*, surely the *terms* in which the bequest has been given must likewise be taken as explaining the nature of that foundation, and they are these—"I bequeath to the fund for the support of public worship in Eustace-Street meeting-house, £100; first, because I believe it is a matter of high importance to the cause of Religious Truth and Liberty that the principle on which the congregation of Eustace Street was founded should not be suffered to decline, and that, if they were strictly adhered to, many of the difficulties that are supposed to attend the study of Theology would be removed—for they declare for *the right of Private Judgment in matters of Religion, maintaining that the Bible alone, without note or comment, is the proper rule of faith and practice of Christians.*"

The endowments of the female Charity-school—all created during the ministry of Mr. Taylor and Mr. Hutton, who were most decidedly opposed to Trinitarianism—are to share a similar fate. But these cannot be referable to any *ancient* charitable foundation of the kind in Eustace Street, for *none such was previously in existence.*

The fund for the support of the Widows of Ministers was created by the subscriptions of the congregation, after the death of Mr. Thomas, who was an *acknowledged Unitarian*, and could not, therefore, have been *Trinitarian* in its origin. The same may be said of the fund created in 1830, for a similar purpose, by Mr. Hutton and

Mr. Swanwick, both Unitarians. None of them, assuredly, imagined that the proceeds must be applied only to the widows of Trinitarian ministers. In these latter cases—which were kindly intended to relieve the minds of the ministers on a subject so deeply interesting to them as a provision for their families, when they themselves were removed—the generous providence of the donors is likely to be frustrated, and the stern decree of the law is about rapaciously to seize upon the allotted portion of the *widow and fatherless.*

My colleague and friend, the Rev. Joseph Hutton, not less venerable for his age than for his piety and worth, who for *fifty-six years* has been the faithful and beloved pastor of this highly intelligent and respectable congregation, is threatened to be deprived of his office, and to have the stain of *intrusion* and *unworthiness* affixed to his spotless name. With regard to myself, after twenty-four years of arduous ministerial duty, amongst a numerous, intelligent and warm-hearted people in the North of Ireland, I was, in 1832, induced to comply with the unanimous wish of the congregation of Eustace Street, and became their junior pastor. The support which they were then enabled to offer me, from their endowments, and the prospect of a maintenance for those dearest to me on earth, when I should be no more, together with the hope of finding a situation better adapted to that bodily infirmity under which I have laboured since childhood, and which I felt to be increasing with increasing years, were amongst the motives that led me to wish for a change. In my former situation I had a respectable competence, which, as it arose from voluntary contribution, could not have been affected by legal proceedings. Now, I am threatened *to be deprived of all support—to be excluded from my position as a Christian minister, and my family cast out on the cold charity of the world! Thirty-six years* of anxious ministerial labour, mingled with the usual trials of human life, have brought with them their unavoidable portion of infirmity; and the shadows of evening, now gathering around, warn me that it is too late to seek a new occupation or a distant home. But *I will not, I do not despond.* The sympathy which has been so generally expressed, and the strong feeling which this case of *unprovoked aggression and wrong* has excited, lead me to hope and believe that a wise Legislature will interpose between us and our persecutors, to save our *altars* from being *desecrated*, and *those who serve at them* from being offered up as *victims.*

J. C. LEDLIE, D. D.,
One of the Ministers of the Congregation of Eustace Street.

Dublin, March 11th, 1844.

LETTER OF THE REV. WILLIAM GLENDY, TO THE NORTHERN WHIG, BELFAST, March 9, 1844.

REMONSTRANT SYNOD AND PRESBYTERY OF ANTRIM—IRISH SUBSCRIBING AND NON-SUBSCRIBING PRESBYTERIANS—MEETING-HOUSES AND FUNDS.

Sir,—In your paper of the 24th February, I perceive certain resolutions of the General Assembly of the Irish Calvinistic Presbyterians, on which I claim the liberty of making some observations.

The body to which I refer appear, in this case, to have acted with their usual tactics, by assailing us in the absence of Dr. Montgomery—the usual defender of our cause—when they knew that perversion and misstatement might be expected, for a time, to do their work, unmolested and unexposed. In adverting to these resolutions, it may be proper to state, that the General Assembly is composed of the Synod of Ulster and the Seceders, who, until within the last three years, constituted two distinct and opposite churches, the latter having separated from the former, on the grounds of error in doctrine or laxity in church government. How the Secession portion of the Assembly could have any concern in this matter, I cannot comprehend, as, with them, we never had any ecclesiastical connexion. With the Synod of Ulster, therefore, alone we have to do; but this meeting purports to have been that of the General Assembly, and was specially called for the consideration of the Marriage question *only*, and therefore had no right to take up other matter, of which neither the public nor its members had received any notice.

Besides, I have learned, from undoubted authority, that their meeting, even on the first day, was very thinly attended, and that, on the second, when the question relating to our properties was considered, it had dwindled down into a mere "hole-and-corner" Assembly; and it would seem as if the Ministers and Elders who attended this *Rump*-meeting, were so much ashamed of the work in which they were engaged, that they retired into the privacy of an *interloquitur*, and thereby prevented the public from knowing the grounds on which the resolutions were adopted, and whether the unanimity afterwards boasted of really existed.

The same parties who thus concocted the resolutions in private, returned into the meeting-house, after the expiration of several hours, and read them without comment, as if merely to give them publicity and authority. This insidious attempt to throw dust into the eyes of the public, by endeavouring to make it appear that the entire Calvinistic Presbyterian body (who did not even know that such a question was to be mooted) sanctioned their proceedings, is perfectly worthy of the little clique who, for the gratification of their own bad passions, have during the last sixteen years divided and embroiled the Presbyterian Church. Nothing could be more discreditable than such an attempt to involve very many respectable ministers and laymen in the apparent support of measures which they are known most strongly to disapprove, in common with the members of the Established Church, and, in fact, with all Christian-minded men of every denomination. From an extensive know-

ledge of the country, I am fully convinced it may with truth be affirmed, that, in most places, the Calvinistic Presbyterians are in utter ignorance of the true nature of the case—that those who do understand it, are dissatisfied with the persons who have assumed to act in their name; and that the whole of these proceedings, so disgraceful to Presbyterianism, are the acts of a few domineering men, who, having previously failed to crush their opponents in argument, have now been constrained to lay aside the weapons of the Gospel, in the hope of being more successful with those of Chancery-law.

The extraordinary misrepresentations contained in the resolutions to which I am about to advert, are the best proofs that our opponents are not able to carry with them the favourable opinion of their friends by an appeal to truth and facts.

With regard to the accusations against Her Majesty's Government, contained in the first resolution, "of having proposed a draft of a Bill for defrauding several congregations of the Assembly of their legal, equitable, just claims to the houses of worship from which they have been expelled since the year 1829," I have no immediate concern. This accusation, however, is only in complete coincidence with the sentiments of an insolent and swaggering letter, written to Sir Robert Peel, by Dr. Stewart and his coadjutors, dated the 16th of August last, in which they accuse Her Majesty's Ministers "of a desire to frustrate the expectations of pious persons deceased—to pervert trusts and properties invested for the propagation of truth, to the dissemination of error—and to quiet, in usurped possession, men who had crept into it by stealth, continued in the occupation by fraud, and who now plead the wrong committed as constituting a right, and contend that the length of time they have been tolerated as trespassers should give them a legal title." These compliments, I have reason to think, the Government have duly appreciated, and I therefore turn to the closing words of the resolution, in which they speak of certain houses of worship from which they have been expelled since the year 1829.—How any number of men, but, above all, Christian Ministers and Elders, even in the *convenient privacy of an interloquitur*, could have looked in each other's faces, and proposed to send such a resolution before the world, knowing, as they did, that it was utterly destitute of even the shadow of foundation, I am unable to comprehend. Sir, it is notorious that no individual was *ever* expelled from any Remonstrant congregation. It is true, indeed, some families did *voluntarily retire* from some of our congregations; but even this could not have been necessary for the vindication of their own conscientious feelings, because Remonstrants still adhered to the Code of Discipline which had been, with the exception of a single vote, unanimously adopted in the year 1824, and also, inasmuch as none of our ministers had in any way changed their views either of doctrine or church government.

With regard to the second and third resolutions, which have no bearing upon our rights and properties, I have nothing at present to remark, except the unworthy attempt to impose upon the world by a somewhat ludicrous assumption, that the unanimous opinion of the few persons who were unlawfully assembled constituted that of the whole Calvinistic Presbyterian body.

It may be true, as stated in the 4th resolution, that Calvin, Knox and the other founders of Presbyterianism, were Trinitarians; but it is just as absurd to say that the word Presbyterian, which refers solely to a form of church government, necessarily involves a belief in the doctrine of the Trinity, as it would be to assert that Episcopacy necessarily meant Catholicism. In truth, the word Presbyterian has no relation whatever to doctrine. It simply means, as our opponents themselves state in their 5th resolution, "a perfect equality of rank and power" amongst the members of a church.

That, as stated in the 6th resolution, the first Presbyterian settlers in Ireland may have been Trinitarians, is possible; but they were not, as alleged, all from Scotland; nor can I understand how the possible fact of Unitarianism not being known among the Presbyterians of Ireland until the year 1704, should be made the ground for robbing us of our dearest properties, at the distance of 140 years, for no other crime than carrying out the principles of Protestant Dissent and religious inquiry,—the real foundation on which the Presbyterian church was originally built, as a church dissentient from those of Rome and England.

The 7th resolution runs thus:

7. "That this Assembly are not aware of any customs in the General Synod of Ulster, previous to the disruption of 1829, in which any minister was elected as an avowed Unitarian; but of several, in which ministers elected as avowed Unitarians commenced by keeping their Unitarian opinions in abeyance, and which, as they acquired influence, they gradually introduced, until a large proportion of their Trinitarian hearers, either by the absence of truth or the avowal of error in their discourses, were gradually driven from their congregations, and a proportion of the remainder prepared for the adoption of their opinions."

From the miserable composition of this resolution, which would disgrace even an ordinary schoolboy, it is difficult to know the meaning, if any, which the Assembly intended to convey. Their intention appears to be an assertion, that no person avowing himself a Unitarian was ordained previous to the year 1829. Now, if this be the meaning of this clumsy and ill-arranged resolution, nothing can possibly be farther from the truth. It is a fact perfectly well known to every person acquainted with the North of Ireland, that for more than a century there were many congregations and ministers that were called "New-light"—that is, anti-Calvinistic and Unitarian,—that there were congregations in which none but a New-light minister would have been elected; nay, that there were whole Presbyteries belonging to the Synod of Ulster called and known by the name of New-light. It is also a fact, as attested by Dr. Stewart in the discussions which preceded our separation in 1829, that there were certain ministers, whom he named, who had been always known to be Unitarian. Besides, Dr. Cooke was installed by a Presbytery which he himself knew, and has testified, "to have been influentially Arian;" the fact being, that there was not more than one minister, if one, in the whole Presbytery, at that time, that was not Unitarian. For myself, I can truly say, that, whilst I am and was, long before I became a minister, a firm believer in the pre-existence of our Lord

Jesus Christ, yet I have as firmly held that, as a Son, he must be subordinate to his Father; and, holding these views, I was, by the Rev. James Carley, of Antrim, and Dr. Cooke, warmly recommended to the congregation of Ballycarry, where I was unanimously chosen their minister. In that congregation I was, for upwards of fifteen years, assisted at the Sacrament by Dr. Cooke, whilst I assisted him in return; and, in proof of his full knowledge of the opinions which I held, in common with Dr. Stewart, his other assistant, he has again and again declared to myself, that he could scarcely reconcile it to his conscience not to preach against our views of the doctrines of Satisfaction and the Trinity from our own pulpits. Nay, farther, at my ordination, at which Dr. Cooke officiated, and joined the Presbytery in the laying on of hands, one of the questions proposed to me, and to which I assented, in the face of the Presbytery and the congregation, was this—"Do you believe in the Lord Jesus Christ as the delegated representative of God?" and to this question, and my assent, not the slightest objection was made by any individual, either of the Presbytery or congregation. This occurred in the year 1812; and yet, now, the General Assembly have had the hardihood to affirm that, until the year 1829, no minister was ordained as an avowed Unitarian.

With regard to the statement in the latter part of the resolution, "that hearers, either by the absence of truth or the avowal of error, were driven from their congregations," I believe the statistics of the Synod of Ulster will fully bear me out when I say, both in reference to the Secession Church and the Covenanters, that more of their congregations will be found to have been collected from that portion of the Synod of Ulster, which called itself Orthodox, than from that which was called New-light.

The 8th resolution is as follows:

8. "That, in the opinion of Trinitarians, every form of Unitarianism is a direct denial of Jehovah, as revealed to Abraham, Isaac and Jacob—a rejection of the Mediator, 'God manifest in the flesh'—and that, of course, no sincere Trinitarian would invest his property in trust for the propagation and support of such an erroneous and destructive system."

It may be true, as stated in this resolution, that, in "the opinion of Trinitarians, every form of Unitarianism is a direct denial of Jehovah;" yet I would fondly hope that my Trinitarian brethren do not generally entertain such unjust and unworthy sentiments with regard to their neighbours. Be it, however, true or false, never was there a more erroneous statement made respecting the religious faith of any class of men; for it is notorious that our very fundamental doctrine is a belief in the God of the Bible—the one Jehovah—the God of Abraham, Isaac and Jacob. It is equally untrue that our faith "is a rejection of the Mediator." What but our fidelity to him—our firm adherence to his heavenly truths, and our rejection of all connected with the teachings of man that would render the Word of God of none effect, has drawn down on us the obloquy, reproach and persecution, to which, for the last sixteen years, we have been so unsparingly subjected? Yet, in order to substantiate this false accusation, they have either in ignorance misquoted the Word of

God, or have wilfully perverted it in order to found an argument against us. There are no such words in the Bible as "God manifest in the flesh." The words of the apostle are—God *was* manifest in the flesh, that is, in Christ Jesus, in whom we believe God was in a peculiar and striking manner manifested, being the brightness of the Father's glory and the express image of his person. Yet these men, with the assumption of peculiar piety, pervert the Word of God for the purpose of vilifying their neighbour. I trust it is a libel upon Trinitarians to say, as the General Assembly have asserted, that they prefer the narrow dogmas of a creed to the expanded principles of Christian liberty, and that they would not afford any aid to those who differ from them, to assist them in worshiping God according to the dictates of their own consciences; or that Trinitarian parents would deliberately form trusts by which their children might hereafter be deprived of their property for avowing an honest change of religious opinion. So far from this being the case, I know that Trinitarians and Unitarians have mutually aided each other in the erection of places of worship, and that both have created open trusts in relation to congregational properties, thereby leaving to their descendants the same liberty which they had exercised themselves.

The following is the 9th resolution:

9. "That the Assembly hold it to be not merely the right, but the duty, of their congregations to prevent the alienation of Trinitarian trust properties, and to seek either the restoration of, or an equitable compensation for, such funds, houses of worship, lands, or other properties, as are unlawfully withheld from them."

Is it not strange that men, having public documents staring them in the face, should dare to publish to the world insinuations, the very reverse of what they knew to be true? They well knew that instead of our desiring to retain "Trinitarian trust properties," or to refuse them "equitable compensation," we had repeatedly used every means in order to bring about an amicable arrangement. We made, for instance, the following proposal:

"Although Remonstrants could easily prove, by irrefragable arguments, that even an express grant or devise for Calvinistic purposes, made in ancient times, ought not, amongst Protestant Dissenters, to prevent the lineal descendants and regular congregational successors of such men from inheriting their congregational property; yet, to avoid all cavil and dispute, they again distinctly state, that such of them as are Anti-trinitarians shall at once surrender any meeting-house, glebe or funds, where any written document, of a legal kind, sets forth in distinct terms that said property was originally given for 'the perpetuation and preaching of Trinitarian and Calvinistic doctrines.'"

Subsequently, we made the following proposal with regard to the six divided congregations; the Assembly having, at the time when the first demand was made, not claimed against any others:

1. "That, with regard to the six divided congregations, arbitrators be appointed by the two Synods; or, in case of their not agreeing, by her Majesty's Government, to ascertain the actual value of the meeting-houses and other congregational properties at the time of the separation—deducting therefrom such sums as may appear to have

been contributed by persons extern to the said congregations—and let the remainder be divided, according to the stipend paid respectively by the two parties then actual seat-holders; the Remonstrants engaging to pay over said compensation within three months, and to afford full and free access to all books and documents calculated to assist in the settlement of claims. All arrears of stipend due by the party receiving compensation, to be deducted according to the decision of the arbitrators."

And even in reference to our eleven undivided congregations, and against which no distinct demand has ever yet been made, we made the following proposal:

2. "That, in relation to the other eleven congregations, two Belfast merchants, or other intelligent lay gentlemen, be chosen by the respective parties, and a third person selected by them as umpire, to ascertain, by strict inquiry, what persons retired from said eleven congregations, in consequence of the Remonstrant separation from the General Synod, and to determine the several sums at any time contributed by such individuals, or their ancestors, to the erection of the meeting-houses, or the creation of any other congregational property, now in possession of such Remonstrant congregations. The amounts so ascertained, to be paid over to said parties that have so retired, within one month from the completion of the award; and the umpire, in order to secure the greater impartiality, to be a member of the Established Church."

Now, to these, one would think no very unreasonable proposals, what do you imagine was the answer returned, by a leading and influential member of the Synod of Ulster? Why, that they were "rejected *in toto*"! And yet, after all this, the General Assembly have the audacity to insinuate, that we refuse them "equitable compensation, and desire to retain Trinitarian trust properties."

Besides, in addition to all this, Dr. Montgomery proposed, through Sir Robert Peel, to meet Doctors Cooke and Stewart, in his presence or that of Sir James Graham, to discuss the whole matter, not on the grounds of *ex-parte* allegations, but on the sure grounds of public documents and notorious facts; and "so fully was he (Dr. M.) convinced of the justice and perspicacity" of these two distinguished members of Her Majesty's Government, that he proposed to abide by their decision, whatever it might be. Failing in this, he next offered to leave the whole matter at issue to be decided by a Committee of the House of Lords, or by four Members of the House of Commons, mutually chosen, or to a Royal Commission appointed by Government, or by any two honest laymen, who should decide, not according to Chancery-law—which might (as in the case of Eustace Street) lead to the sweeping away of funds and other properties confessedly created by Unitarians—but according to the principles of unquestionable human right and Christian justice. I ask again, with these notorious facts, resting upon documents, staring them in the face, how could these men dare to insinuate that we desire to retain a farthing's worth of property not our own; or how could they speak of desiring only "to obtain equitable compensation," whilst they have thus disgracefully shrunk from any plan of

searching and honourable inquiry, by which the nature and extent of such compensation might be ascertained?

The 10th resolution also demands a few remarks:

10. "That this Assembly utterly disclaim all intention of interfering with any custom of sepulture, in any of the cemeteries which have been or may be recovered by any of their congregations; whilst it is notorious that the Arians and Socinians, when they have usurped Trinitarian houses of worship, have excluded from the burying-grounds connected with such houses all persons who would not continue to pay the Arian and Socinian ministers' stipend."

The declaration contained in the first part of this resolution has evidently been wrung from them by the power of public opinion; in proof of which I may state, that, in the case of Killinchy, in the Court of Exchequer, in Dublin, their lawyers, in the presence of Dr. Cooke, pertinaciously insisted that the burying-ground, as well as the meeting-house, should be included in the decree. With regard to their accusation, that the Arians and Socinians have excluded from the burying-grounds all persons who would not continue to pay the Arian and Socinian ministers' stipend, I am enabled to state, from unquestionable authority, *that it is not true;* but, on the contrary, it is a well-known fact, that Trinitarian ministers have performed funeral service in our grave-yards. But, as this charge, which I am aware was long slanderously circulated in private, has now been publicly put forward, I call upon any minister of the General Assembly to come forward *by name*, and to state the person to whom such privilege was refused, the name of the individual to whom the application was made, and who refused—or the Session or Committee to whom he applied, and when the application was made. Let us have the whole truth, but do not assail us with those slanderous "stiletto" stabs behind our backs. As to the permission of burial, which, they say, they are now willing to grant to the members of any congregation whose property they may be able to wrest from them by Chancery-law, I am convinced that, however wounding to the tenderest feelings of human nature to be separated in death from those whom we loved in life, no honourable Unitarian would submit to the humiliation of accepting a boon from the very hands which had despoiled him.

11. "That this Assembly further utterly disclaim any desire or intention of appropriating any part of any funds, houses of worship, lands, or other properties, that can be evidentially traced to Unitarian families or owners."

The satirist has said, that words were given to conceal our thoughts; and this sarcasm was never more justly applicable to human language than in the resolution before us. At the first glance, it would seem to be all that could be required, that Unitarians should retain "those properties which can be evidentially traced to Unitarian families or owners; for every man of plain understanding would infer, that Unitarians were thus to be left in the enjoyment of all properties, for religious uses, created by their ancestors or themselves. But how stands the fact, as their meaning and intentions have been illustrated by the conduct of their attorney and counsel in the late

crusade against the congregation of Eustace Street? The Lord Chancellor admitted that a very large portion of the funds had been created since the period in which both ministers and congregation were decidedly Unitarian, and some of them by persons still living; yet these gentlemen, who *utterly disclaim* any desire of appropriating "any part of any funds, houses of worship, lands, or other properties, that can be traced to Unitarian families or owners," did most *pertinaciously claim* every farthing's worth of the property of that congregation, from the earliest to the latest period; and, according to the intimated opinion of Sir Edward Sudgen, are likely to be put in possession of the plunder! The truth is, the words "evidentially traced," are a cunning device to impose upon fair-minded and unsuspecting individuals, designed to turn away the indignation of honourable Trinitarians, as if they implied that properties created by Unitarians and their ancestors should be secured to their rightful owners, whereas, in reality, they mean nothing more than such evidence as would be admitted in a Court of Chancery, where, very often, *even the truth* cannot be received in evidence; and not such as would satisfy the mind of any just and Christian man. These observations will equally apply to the terms "equity and equitable," so frequently used by them, which, in the estimation of all men who are not law-givers, mean that which is strictly just and right between man and man, in opposition to the quirks and quibbles of law. *Their* equity, however, means, not human justice, but simply the decision of a Chancery Court, which they have found to be the most convenient instrument for plausibly transferring to themselves that which every man knows to be the property of their neighbours. Their real intentions were farther illustrated by their receiving with approbation a memorial from the Calvinistic congregation of Cairncastle, claiming, among other properties, six pounds per annum, bequeathed by name to the Rev. Thomas Alexander, who is still alive, by his hearer and friend, the late Mr. James Wilson, well known to have been a decided Unitarian, and whose brother and sister are still members of the Remonstrant congregation!

The 12th resolution runs as follows:

12. "That whereas memorials have been presented from the congregations of Banbridge, Glenarm, Kilmore, Crumlin, Cairncastle and Templepatrick, applying for advice as to the recovery of their congregational properties, this Assembly recommend to these congregations and others in like circumstances, that although in equity they have an undoubted right to their houses of worship, and to every other congregational property, the whole having been founded by Trinitarians, yet that, to prevent the expense of enforcing this right by legal proceedings, and for the sake of peace, they accept as compensation of one-half of the expense to which they have been put in the erection of their churches, it being at the same time distinctly stated, that said arrangement is not to prejudice the right of any of those congregations who may choose to take legal proceedings for the recovery of the whole property."

On this resolution I remark—

1st. That they now make a demand upon Banbridge, "on which, as well as on Newry and others," they themselves declared, so late

as the year 1836, seven years after our separation, "*they had no claims*, inasmuch as the divisions had taken place in those congregations previous to the Remonstrant separation."

2nd. That Kilmore remained a perfectly united congregation, under a Remonstrant minister, for two years after our retiring from the General Synod; and,

3rd. That no Synodical congregation was formed in Crumlin for upwards of seven years after our separation; and that, even then, not more, at the utmost, than seven or eight families could be prevailed on to leave the Remonstrants.—These facts incontestably prove that, in their eager desire to oppress their former friends and brethren, they are as little bound by their own explicit declarations as by the sacred principles of Christian justice. The same spirit is evidenced in their further declaration, that, "in equity, they have an undoubted right to the houses of worship, and every other congregational property, the whole having been founded by Trinitarians." Now, the plain meaning of this is, that, whilst sanctioned by the liberal usages of the Synod of Ulster, and in the free exercise of their Christian liberty as Protestant Dissenters, Presbyterian congregations gradually changed their religious views, they are therefore to be deprived of the properties descending to them from their ancestors, or created by themselves, it being a notorious fact, that the value of the original foundation, or patch of land on which our houses were built, was comparatively nothing, whilst almost the entire value of our present congregational properties, of which they so unjustly seek to deprive us, has been produced by our immediate predecessors or ourselves.

As to the claim of "one-half of the expense to which they have been put in the erection of their churches," the assumption is ludicrously absurd;—for, first, they separated from our congregations, not on account of any change in our doctrine or worship, but because the General Synod thought fit to change its usages and laws. Secondly—Because it is notorious that a very small proportion of the money expended in building these houses was contributed by the congregations themselves, whilst much of it was obtained by begging from members of the Church of England and other parties. And, thirdly—In most cases, if not in all, owing to a very extravagant expenditure, a considerable debt is still hanging over them.

We have repeatedly offered them full compensation for their share of the property in the six houses of worship on which they originally claimed, in proportion to the stipend paid by those who retired from our communion; and also to reimburse any individuals who left our congregations, for any sums contributed by themselves or their ancestors towards the erection of our places of worship, or the creation of our other congregational properties. It is too bad, however, to be insulted with a demand for the payment of one-half of all the sums which they have thought fit unnecessarily to beg or borrow, or for which they are still in debt. But, even should we comply with this iniquitous demand, we should not, it appears, be defended from the tender mercies of Chancery-law; for they expressly declare, that the way shall still be open to those who may "choose to take legal proceedings for the recovery of the whole

property!" And this is what they call acting "for the sake of peace;" that is, they would take, first, the one-half of their own foolish expenditure, and then turn round, and, in addition, seize the "whole" of our property by process of law! For my own part, I should rather allow them to plunder me of all that I possess, than submit to a demand so insulting and degrading.

That the Assembly, according to the tenor and spirit of their two closing resolutions, "will most strenuously resist all attempts, by legislative enactments," to protect us in the peaceable enjoyment of our most sacred properties, every one who knows the clerical cabal under whose weight that body groan, will most readily believe. They are loudly glorying in the unprincipled spoliation of Clough, Killinchy, the General Fund and Eustace Street; and abundantly ready, in defiance of all compact and decency, to clutch any property which Chancery-law may yet place in their hands—conformably with the understood and humane boast of one of the ringleaders, that "they will not leave us a house over our heads!" And, besides the influence of these amiable sentiments, they have another motive for perseverance; for, should they stop or be foiled in their unworthy career, they will be doomed, through the ignominy of defeat in a bad cause, to everlasting disgrace—whilst it is well known that, in the estimation of the unthinking multitude, success will cast a *halo* even over corruption—like sunshine on a tomb. We calculate, therefore, on their most persevering and unscrupulous hostility. The times of compromise are gone by; and, in the words of ancient chivalry, yet with the abiding confidence of a Christian, I say,—"*God defend the right!*"

Having now, amidst many interruptions, reviewed the resolutions of the pretended Assembly, I shall give a brief outline of some things which they did not condescend to bring before the public.

1. *They did not state*, that the Synod of Munster was, from its foundation, a Non-subscribing Church—that it never had any connexion, in doctrine, discipline or property, with the Northern Presbyterians; and that *Dr. Ledlie, the first victim*, who will soon be stripped of ALL his property—yes, even of the fund to which he looked forward as the support of his widow and orphans, and, as has been threatened, of his Royal Bounty also—was the very man whose recommendation placed Dr. Cooke in Donegore, and on whom, for many years, amidst all the endearing confidences of private life, he leaned as on a brother!

2. *They did not state*, that, according to their own testimony, the Presbytery of Antrim has been separated from the Synod of Ulster, in doctrine, discipline and jurisdiction, ever since the year 1726; and, consequently, that the respectable congregations of that Presbytery have, by themselves or their ancestors, during the long period of 118 years, built all those meeting-houses, and given value to all those properties, of which parties who never had one shilling's worth of *actual* interest, now seek to plunder them!

3. *They did not state*, that the Remonstrants were members of the General Synod, when it was practically a free, untrammelled Church—that Arian ministers, as such, held the highest offices in that body—that the General Synod, by a majority, completely changed its laws,

as to the license and ordination of ministers, in the year 1828—that those who complained of this violation of the most solemn laws, compacts and usages, were pressed by their brethren to retire in peace, and to form a new Association—that, acting on this suggestion, the Remonstrants consented to retire—that, in the words of the General Synod, Committees of the two parties were appointed "to arrange the terms of an *amicable separation*"—that such terms were arranged on the 9th day of September, 1829: the General Synod solemnly engaging to pay over to Remonstrants an equitable proportion (about one hundred and fifty pounds) from certain funds, theretofore joint property—that, on the faith of such solemn compact, the Remonstrants immediately retired, *in the full, unquestioned possession of all their properties*—that the General Synod has always refused to pay its just and acknowledged debt, from the several funds—that, from the day of our "*amicable separation*," the doctrines of the Remonstrants have been assailed with the foulest misrepresentations, their congregations frequently invaded by mobs and missionaries, and their lives embittered by every means which clerical ingenuity could devise —and that, finally, to crown all, it is now proposed to ruin them by expensive litigation, to plunder them of all their congregational properties—nay, even of their *Royal Bounty*—and to cast their aged ministers houseless and homeless upon the world!—The miserable cant, "that the Assembly do not wish to obtain properties which can be evidentially traced to Unitarian families or owners"—or that "they will *recommend* parties to accept half the cost of their new houses," can impose upon no one, since the *almost completed and entire* spoliation of Eustace Street, at the urgent pressure of their feed counsel—*Eustace Street, where, as I have already stated, funds are even to be wrested from the* LIVING HANDS *that bestowed them!*

And *from* whom are all those properties to be snatched? In almost every case, from the very men who, by themselves or their ancestors, have given them their *entire value!* *To* whom are these properties to be transferred? In almost every case, to men who never, by themselves or their ancestors, contributed *the amount of one farthing* to their creation! *Why* is all this plunder to be effected? Why! Simply because some ministers and congregations, in obedience to the Saviour, "have searched the Scriptures"—in obedience to Paul, have been fully persuaded in their *own* minds—and, in obedience to conscience, have honestly avowed what they *inwardly believe!* Is it come to this, in the middle of the nineteenth century, and when all intolerant Statutes have been "repealed, annulled and utterly made void," that Christian men shall be "spoiled of their goods" for the *enormous crime* of venturing, in the cause of their own salvation, to differ in opinion from John Edgar and Henry Cooke? I put these questions, not to the Calvinistic clergy, who are, generally speaking, mere *automata* in the hands of a cabal—but I put them, respectfully, to the honourable laity of the Calvinistic Church, of whose real views of this question I am well aware. I especially appeal to the enlightened Calvinists of Belfast, Bangor, Armagh, and other important localities, whether they shall continue to sit still, whilst violent hands are laid upon their neighbours' goods? I am loath to believe—I do not believe—that they have become so utterly "priest-

ridden." But why do they allow dust to be thrown in their eyes—why do they bear the shame of abetting, even by their silence, unworthy proceedings which they inwardly abhor? Let them arise and vindicate their own fair fame; so that, even if protected by legislative justice, which I confidently anticipate, we may, nevertheless, be enabled to cherish towards *them*, as we earnestly desire to do towards all our fellow-men, the cordial sentiments of Christian esteem and affection.

I am, Sir, your obedient servant,
WILLIAM GLENDY.

PRINCIPLE OF LIMITATION OF ACTIONS PECULIARLY APPLICABLE TO CHAPELS.

(From the "Inquirer," March 16.)

By the decision in the Lady Hewley case, it was laid down that such words as "Protestant Dissenters" or "Dissenting Worship," in any deed, could be held to include such Dissenters or Worship only as were tolerated by law at the date of the deed; and that any then unrepealed statute, however obsolete, was for all after ages, and for all ages after its repeal, to be read as if it were a part of the deed. Though other views had been taken in the Courts below, this was the ground on which the Lady Hewley case was decided in the House of Lords.

It is well known that before the Toleration Act was passed, many Dissenting chapels had been erected, and that each successive enlargement of the Toleration Act was made in favour of religious bodies existing in considerable numbers at the time of such enlargement. The titles, therefore, of all chapels erected before the Toleration Act, and of those erected by subsequently-tolerated Dissenters before they were tolerated, are, under the rule of law before stated, bad. The chief object of the Bill is to remedy this mischief. A similar difficulty as to the Roman Catholics has already been removed by a Bill specially directed to their charities. A suit had been instituted, after the Catholic Relief Bill, but previous to their Charities' Act, to declare illegal a stipend given a century and a half before for Catholic purposes, and that suit succeeded. The law being in this state, we do not think that any one, unless some litigious attorney, hungry for costs, can complain of this part of the Bill as unjust.

There is only one other object to which the Bill is directed; and as to it, in our view, the Bill stops far short of what alone would be consistent with our general legislative policy. No principle of our law is better known or more valuable than the rules of limitation of actions and suits, and for the prevention of "stale demands." Have you a title to an estate which another enjoys? you must sue for it within twenty years of the time when his unjust possession began. In our view, the property under consideration has peculiar claims to the benefit, without stint, of this principle. Men have been bred up from their childhood to worship in a particular place. Their parents, wives, children—all that are near and dear to them—are buried in its precincts. They have formed with it associations the most sacred,

and have always looked upon it as their own. They have repaired, rebuilt and beautified it. From the time it was raised till now, there has been, with no one week's interval, unbroken possession. Fathers and children have so united and mingled together in their occupation, that a man and his forefathers may almost be looked upon as having worshiped at the same altar and at the same time. Deprive a person of the ordinary possessions which statutes of limitation protect, and you merely take from him so much sordid wealth and dross. But interfere with associations such as we have pointed at, and you wound the most intimate, sacred feelings of his heart. When, by allowing to generation after generation an undisturbed possession, you have added to these sacred feelings a gathered and accumulated strength, we should have said, speaking legislatively, that the interests of the community were best consulted by quieting such possession, however wrongfully gained in generations now past. No founder's intention, disinterred from beneath a century's neglect, should lead us to do such violence to the feelings and inmost associations of large bodies of existing men, themselves innocent of all intentional wrong. *To admit a moral necessity or propriety for this violence would be to say we must, if we would be just, give back the Established Church and its property to Roman Catholic, if not to druidical or pagan superstitions, and must keep them devoted to these superstitions for all time to come!* What is the binding difference between the will of the founder who died two centuries ago, or of him who died ten?

And as to bare justice—could a boy brought up in any place of worship, taught there to love God and man, looking on it as the Alma Mater, as it were, of his most precious education, be supposed, before he allowed his mind to be linked in and bound up with all the solemn usages and associations of the House of Prayer, to be under an obligation to look into its title-deeds? His forefathers forgot, or wilfully overlooked if you like, what, not they perhaps, but their attorney, had put in the deeds when they built a house for their worship—deeds which they most probably looked on as mere common purchase-deeds—so much law-parchment. Is their child, grandchild, or remoter descendant, to be injured so acutely for that? If ever it be right for a legislature to quiet possession, however legally bad the title of the holder, surely this is peculiarly the case.

But the present Bill stops far short of such a principle. It only says, that where there is no particular doctrine imposed in the deed, you are not to be driven to inference and speculation as to the founder's intent, and that the title shall then depend upon usage. We think this is far from coming up to the right point, and that trusts themselves, so far as opinions go, should have their death periods as well as all other legal limitations. A man cannot tie up his estate, keep it in his family, and prevent its alienation, beyond a period averaging, say, fifty years. Why should a founder be allowed to do what no legislature can do, to make laws irreversible for all posterity; to impress his own opinion on what *he* could hold on a human life tenure only; and to devote for all remaining time, to the propagation of his errors and imperfections, and the bigotry of his fallible, erring mind, that piece of earth which happened, in ancient days, to have gone for some ten, twenty or thirty years, by the name of his pro-

perty? Why allow him to compel schools for all time, with bare grammar only—all instruction beyond, a breach of trust—cathedrals for all cycles of ages, with nothing but the book of offices, genuflexions, and the mass? The law of trusts requires much more extensive change than it meets with here. This is but a small instalment, and on a small branch of the subject.

This argument is altogether beside any question of *moral title* in ourselves or others to property such as that under consideration. Let it not be supposed that we have not amplitude of right—of honest, moral right, on that ground, for any protection this Bill may afford. We are most confident that we have. But this article has purposely excluded the consideration of that ill-used and much-vexed subject. The *Patriot* speaks of this measure as an Irish job. Ireland is not, but certainly should be, and we are sure *must* be, included in this Bill, if it were only that a very large portion of the Irish Dissenting endowments are older than the Irish Toleration Act. But does not the *Patriot* know that, out of crusading zeal or of inquisitional vindictiveness, or else with a common informer's sharp-scented perception of fine booty in the shape of costs, numerous informations against what he calls "Arian and Socinian Presbyterians" had been prepared in England also? Does he not know that at least £30,000 has already been spent in the Lady Hewley litigation; that new orthodox combatants are still marching into that field of warfare, and that the prospect of any conclusion to that disgraceful litigation seems more remote than ever? Would his orthodoxy sacrifice all, or how many other Socinian properties to the Juggernaut of the law? Even *he* could not propose that the present possessors should themselves select to whom in particular their possessions should be transferred, and should hand them over without suit. The law would make them pay the value over again if they did it, and requires a separate suit for each. And how could the law divide a chapel, as it is trying with the Lady Hewley fund, among all the "orthodox" who rush into the scramble?

Let us apply these views to the case of Eustace-Street Chapel, so ably stated, so forcibly urged in Dr. Ledlie's two Letters (pp. 6—19). The prevalence of Unitarian opinions through all the old Presbyterian churches is an effect you must trace to some antecedent principle in their constitution. But pass that by. If, however, you can force your mind to assumptions so monstrous, concede Sir E. Sugden's propositions, viz.—that the Eustace-Street congregation, between the years 1720 and 1730, *were determined to exclude* from amongst them the right of private judgment, and to impose a creed, and that that creed was Trinitarian. Concede that the expression in the deed, "to worship in that way," is a sufficient legal declaration of this pro-creed and Trinitarian intent, and will bind the property and all accretions to the promotion of Trinitarian opinions; yet you have still the fact that *by living testimony it is proved* that the congregation were Unitarian EIGHTY YEARS ago, and must have been much earlier; IN OTHER WORDS, THAT THE SUIT NOW BROUGHT SHOULD HAVE BEEN BROUGHT FROM EIGTHY TO ONE HUNDRED YEARS SINCE; and long before Mr. George Mathews and his co-informers had emigrated from their native country of Scotland, or indeed been born, and *when the exact intent of the founders must have been well known to everybody*,

Trinitarian, Arian or Unitarian, and must have admitted the most facile proof, and when, *as we believe*, such a suit would have been scouted as an attempt at the most disgraceful of robberies—one under colour of law.

If the Trinitarian Dissenters of Ireland have slept on their now-asserted claim for just a century, and have allowed a succession of after-born and innocent generations to form with their places of worship the most sacred of all associations, and to add in the way of accretion, endowment after endowment to the bare walls of the assumed Trinitarian meeting-house, should a Legislature, which has extended and enforced the principle of limitation on almost every conceivable kind of property, allow a law to be put in force, which, as even Sir E. Sugden himself says, is too strong for his own sense of what is just, and will compel him to sacrifice even these Unitarian accretions to the stern requirement of this newly-discovered but ancient Trinitarian intent?

"ORTHODOX" DISSENTERS' OPPOSITION.

(From the "Inquirer," March 23.)

And this Bill is to be opposed by the Orthodox Dissenters! What would their *fathers* have said? for their fathers and ours were friends. But look at the facts *as these opponents assume them*—on their own case the thing shall be judged.

Some hundred years ago, a few men, believers in orthodox doctrines, built a house of prayer, and therein, after their own fashion and consciences, worshiped God. They taught their children to worship God there too. And therein they and their children studied their Bibles to find the truth. But so studying they found error—gross error. By some dateless process of mind, though within the first thirty, forty or fifty years, through some defect doubtless in their system, for every effect has its cause, they or their sons, scanning too curiously the holy book, too proud of their own reason, became Arian or Socinian. Thereby in law, in justice too, if you please, they became *trespassers* in their own house of prayer—"usurpers" is the orthodox word. *This was from fifty to one hundred years ago*, at the least. Ignorant of this law—not impressed with this justice, they continued to use that house of prayer, and their love for it grew with each continued use. From the opening Sunday, above one hundred years ago, to the Sabbath now last gone (without break or interval, or attempt at interruption or quarrel, internal or external), they have, generation after generation, to the best of their light and conscience, gone up, week by week, with glad feet to that house of prayer.

Within the precincts of that house lies the dust of all who ever formed that congregation. As each man, trespasser or *ante*-trespasser, grew old and died, the children he had trained to worship in that house carried to it his sacred ashes, and there performed the last offices to the dead. There was shed the mourner's tear, and there imbibed the mourner's consolation. There are ranged the solemn tablets and memorials of those loved ones now departed and gathered to the fathers who had gone before them to the same spot.

Orthodox men! hungerers for litigation! listen but a moment before you file your three hundred Chancery Bills. The trespass or usurpation, grave though it be in your eyes, is now, in truth and in deed, *very* stale. At the least, it was done in our grandfathers' or great-grandfathers' day. The place you would sue for, to *you* is worth but pounds and shillings in sterling money—but to *us* is most dear and holy. There it was our fathers taught us to pray—there were they also taught by those who went before them. In this same pew my father and my forefathers sat before me. We have held it ever since it was partitioned out. Will you not spare us these precious walls? Had it not been that, since we became, as you *now* tell us, trespassers, we have carefully upheld or rebuilt them, the edifice itself would, years ago, have crumbled into dust. Its real present pecuniary value is from our purses. If a man obtain possession of house or land, *or any thing but a chapel*, be it by trespass the most violent or fraud the most gross, your admitted law is, that after twenty years his possession shall not be questioned, nor be harassed by suit. All society hangs together by this law of possession. All dealings are safe only under its protection. But our possession of this chapel has, at the least, been for three or four of such twenty years; and what house or land is so precious to us as the house we have been taught to call the house of God? What harassing can be compared to that you would inflict upon us? Think of the days and of the place when in *your* childhood, between *your* father and mother, *you* knelt at public prayer. What hallowed recollections and high sacred associations are not these to *you!* You look on us as heretics, it is true—you deny us the Christian name. Yet, remember we have the feelings and weaknesses of men, if weaknesses these be. While *we* are in thick darkness, Christian truth, you say, is bright in you. Let Christian mercy and forbearance be bright also. Look at those you are about to eject, men and women, perhaps old and grey, and in their last declining years. Women like the venerable witness in the Eustace-street (Dublin) Chapel case, who says, "For near ninety years I have attended that chapel. For eighty years I can say it has been in doctrine and worship as it now is." Men bowed already towards the dust, and gazing every Sabbath on their fathers' tomb—on the tombs of brothers and sisters—wives and children—and of all the friends and associates of youth, manhood, middle and declining years. You have your own chapels—you want not these; but have them you will, while, like the Israelites of old—

> "We must wander witheringly,
> In other lands to die;
> And where our *fathers'* ashes be,
> Our *own* must never lie."

Must all these feelings be so intimately wounded and destroyed? All this heart-rending be inflicted? "Where our fathers prayed for so many years in peace," you would have us exclaim, "we, old as we are, must pray no more. For our earthly remains we must find a new resting-place, separate from our dear children, from those beloved ones, whose very names are too sanctified for the lips to utter."

And now, orthodox opponents, for what is it that all this violence

must be done? Is it that you, the Deputies of, as you say, three denominations, may then quarrel and struggle among yourselves for division of the spoil, as you have done, and are still doing, in the Lady Hewley case? You are marvellously unanimous in your *attacks* upon *us*, but how will it be when the booty is to be dealt out among the orthodox? Have you come to some compact since your Lady Hewley squabbles? Let us look at your intestine warfare there. Your passion, and the violence of your mutual recriminations in that case, were a disgrace even to the place where you vented them—disgusting even in the back office of the dark dens of the Masters in Chancery. But this "third act" of the Lady Hewley drama is too important to pass by in a line. Next week we will quote it, chapter and verse—act and scene we should say—and do our best to shew what might have been looked for if the Legislature had chosen to allow our antagonist correspondent of the *Morning Advertiser* to bring the one hundred and seventy Chancery-suits which he threatens against our chapels—sacred temples in our eyes and minds, but in his, a tempting bait for the plunderer.

One question more—Would all this law, think you, *scotch the snake?* Would it put down Unitarianism? On the contrary, it will assuredly spread it. The heresy is a tempting one. From the beginning, the Church has not been free from it. Once it well nigh conquered Christendom. Opinions, be they true or *be they false*, have always been spread by persecution. Men's sympathies go with the persecuted. The world, outside your body, looks on these attacks as persecution. Do you want a proof? The *very existence* of this Bill on the table of the House of Lords bears witness. We are no proselyting sect; but your efforts, could they be successful, would do for our opinions what we have never had the zeal to do ourselves;—unsuccessful, they will still tend that way.

Let not our readers suppose, from any thing in the foregoing article, that the great body of the Orthodox Dissenters do or can sympathize in the greedy and intolerant spirit of the opponents of the Bill. If these opponents assume to say so, the article extracted in another column, from that very able organ of their body, the *Nonconformist*, will shew that such assumption must be classed generically with most of their other assumptions, *i. e.*, with the class of the untrue. This explanation is probably quite needless: nevertheless, the respect we have for a large part of that body makes it right we should append it. Would that this large part would not allow such spoilers to pretend to act in their name!

Let it not be supposed either, that we have a shadow of apprehension as to the intention of the Government to persevere with this Bill, or as to the effect of the threatened opposition. Sir R. Peel and the Lord Chancellor will scarcely be frightened from their disinterested support of what they have seen and proclaimed to be just, at the mere bullying challenge of a few English Independents and Irish Free-Church Presbyterians. The attack of such will serve no other end than to expose their real character, notwithstanding all their pretensions to endowment-hating and exclusive Protestantism. It is only because we prefer admitting to our hot orthodox enemies all their own premises, that we have left room for error on either of these two points.

RESOLUTIONS OF DISSENTING DEPUTIES.

At a Special Meeting of the Deputies of Protestant Dissenters of the Three Denominations, Presbyterian, Independent and Baptist, *(rather read, Two Denominations, Independent and Baptist, with three or four Scotch Presbyterians, or non-descript Dissenters,)* in and within twelve miles of London, appointed to protect their civil rights, held the 13th of March, 1844,—Thomas Pewtress, Esq., in the chair,

It was resolved—I. That this Deputation has learned with deep regret and alarm, that a Bill has been introduced into the House of Lords by the Lord Chancellor, intituled, "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England."

II. That this Deputation feels called upon to express its decided condemnation of this Bill on the following grounds:

1. Because the intentions of founders, so far as they can be ascertained, either from express declarations or from inference or fair presumption, form the sole rule by which Courts of Equity are at present guided in the decision of questions affecting the right to the enjoyment of chapels, schools and endowments given or bequeathed for the use of Dissenters from the Established Church, and the usage of the congregation frequenting such places of worship is only admitted as a guide when the intentions of the founders cannot otherwise be understood.

2. Because no inconvenience or injustice has arisen from the application of this rule in practice, it being evidently calculated to secure, as far as possible, the just application of property according to the intentions of the donors; a right hitherto enjoyed by Dissenters as well as other members of the community.

3. Because the Bill now before the House of Lords proposes to introduce a new rule for the guidance of Courts of Equity in such cases; and provides, that "in all cases in which no particular religious doctrines or opinions shall in the deeds declaring the trust of any such meeting-house as aforesaid be in express terms required to be taught therein, the usage of —— years of the congregation frequenting such meeting-house shall be taken as conclusive evidence of the religious doctrines or opinions for the preaching or promotion whereof the said meeting-house, with any burial-ground, Sunday or day school, or minister's house, attached thereto, was established or founded." (S. 2.)

4. Because in this country and in Ireland numerous chapels and endowments, founded by Trinitarian Dissenters, have been usurped by Unitarians, and applied by them to the propagation of religious opinions directly opposed to those entertained by the founders and testators; but the existing rule of law has been the means by which, in some instances, such chapels and endowments, as in the case of Lady Hewley's charity, have been restored to their original destination under the decisions of the Court of Chancery and the House of Lords; whereas the proposed enactment would not only have the effect of preventing other such restorations of property to its rightful use, and confirming Unitarians in the enjoyment of chapels and

endowments which they have already unlawfully usurped, but would be offering a temptation to the future usurpation of chapels and endowments at present justly enjoyed by Trinitarian Dissenters, according to the well-ascertained intentions of founders and testators, although no particular doctrines are in the deeds declaring the trusts in express terms required to be taught.

5. Because an intention has been expressed by a noble and learned Lord to propose amendments which cannot be opposed on principle by the Government, by which the provisions of the Bill will become applicable in Ireland as well as England, a country in which property to a much larger amount than in England has been thus diverted from its rightful use.

III. That it is therefore the opinion of this Deputation that this Bill requires the immediate attention of all the friends of evangelical religion in the United Kingdom; and this Deputation pledges itself to use, in co-operation with other religious bodies interested in this important question, all constitutional means to prevent its passing into a law.

IV. That this Deputation wishes to offer no opposition to the first clause of the said Bill, if it be deemed necessary to secure any existing trusts from the operation of repealed penal statutes.

V. That a petition to the House of Lords, founded on the above resolutions, be prepared and signed by the members of this Deputation.

(Signed) THOMAS PEWTRESS, Chairman.

MORNING ADVERTISER ON DISSENTERS' CHAPELS' BILL.

[We have been a little surprised at reading, as "from a Correspondent," the following manifesto of certain of the Independents, in the "Morning Advertiser," a liberal paper, supported by the Publicans of London and the vicinity; but not at all surprised at seeing it copied into the "Patriot." It has been suggested to us, that it is in the "Random" style of a gentleman connected with the press, who has published many "Recollections," not always accurate. The author of this effusion of bigotry, be he who he may, knows little of the subject on which he writes, and, in spite of the attempt of the "Patriot" (the peculiar champion of Religious Liberty!) to give it circulation, will render small service to the party engaged in the work of persecution and plunder.]

Last week the Lord Chancellor brought into the House of Lords a Bill relating to suits respecting chapels and other property held for religious purposes by persons dissenting from the Church of England; the object of the Bill being professedly to remove certain hardships which affected Dissenters with respect to chapels and burying-grounds. On this occasion Lord Brougham inquired whether the provisions of the Bill were to extend to Ireland, because he was intrusted with a petition on the subject, which he would not present if such were the intention of his noble and learned friend. The Chancellor said, that on the second reading of the Bill he would enter into a statement of its objects and the circumstances which ren-

dered it necessary. He thought, therefore, it would be better for his noble and learned friend to reserve himself for the second reading, when it was intended to refer the Bill to a committee. Lord Brougham said he should present the petition to-morrow. Accordingly, the next evening Lord Brougham "presented a petition from the Presbytery of Antrim, on the subject of certain legal proceedings with respect to Dissenting chapels."

All this looks harmless enough to a general reader, and indeed may, at first sight, suggest that the Chancellor and the noble Lord who once "held the seals," were by some sudden fit of liberality about to perform some act of service to the Dissenters of England and Ireland, by which they would become entitled to the gratitude of that body. We confess, however, that we had our suspicions from the moment when we saw the brief notice we have just quoted, that these two dignitaries were lending themselves to some iniquitous job which would not bear the light, and these suspicions were strengthened by the indications of haste and concealment by which the proceeding was characterised. "The second reading," and exposition of the measure by which that second reading is to be accompanied, savour of the despatch and the mystification of the recent proceedings in behalf of rich and noble gamblers. Besides, who that knows Lord Lyndhurst or his Mephistophiles would expect from the one or the other the voluntary dedication of their energies to the service of Dissenters and the advancement of their claims?

"Timeo Danaos et dona ferentes."

On looking into this matter a little further, we have confirmation of our very worst suspicions, and we find that the exertions of these two Chancellors are being made for the purpose of placing under the shelter of an Act of Parliament those persons who have most unjustly obtained possession of various endowments which were originally left to Dissenters of a different class. The Unitarians of England and Ireland have gradually possessed themselves of the property which was bequeathed for the support of tenets to which they are most violently opposed. The law has lately been appealed to very successfully in opposition to the Socinians of England and Ireland. Lady Hewley's charities, after a very lengthened litigation, have been restored to the hands of persons professing those tenets which her ladyship was anxious to promote; and within the last few weeks a very considerable endowment has been recovered in Dublin. There is, therefore, a complete panic felt throughout the Socinian body in both countries, the judgments which have been obtained against them already having encouraged their opponents to commence further proceedings, of the success of which they are very sanguine. It is for the purpose of checking all these proceedings that the Lord Chancellor has brought in his Bill; in other words, the high functionary deems it not inconsistent with his dignity as Lord High Chancellor of England, to interpose his influence for the purpose of destroying the operation of a righteous law, with the character of which he is intimately acquainted.

Let us not be supposed to advocate endowments for the support of religion—whose maintenance is, in our judgment, most efficiently secured by the voluntary support of its friends; neither let it be con-

cluded that we advocate any thing like the oppression of any party of religionists: but we are the advocates of honesty and justice, and, as such, cannot withhold our protest from a proceeding by which common honesty and even-handed justice are to be set at defiance.

If individuals have bequeathed their property for the promulgation of any particular sentiments, we imagine the only duty of the Lord Chancellor is, to see that the money so bequeathed is appropriated in a manner accordant with the sentiments of the benefactor. But if the property so bequeathed has been evidently seized upon by persons of different tenets, we cannot avoid expressing our disgust when we see the man, whose office is the very highest dignity which the law can confer, employing his influence for the purpose of giving legality to injustice. The Lord Chancellor knows as well as any man in England, that the parties whose tool he has consented to become are the possessors of property to which he has given his judgment that they have no legal or moral right, and he is now hurrying through the Lords a Bill to establish those parties in the peaceable possession of their ill-gotten wealth.

The Unitarians in England possess two hundred and six chapels, of which they have erected at their own cost only thirty-six, leaving one hundred and seventy which they have illegally and fraudulently acquired; and in Wales they have fourteen, of which eight have been acquired unjustly. In Ireland, the proportion is much the same. The English chapels, with the funds and endowments, may probably average 2,000*l.* each in value, or 340,000*l.* altogether, and, taken with other trust property, the full amount cannot be less than half a million sterling. These matters are particularly stated in *The Manchester Socinian Controversy*, published in 1825, with the lists of usurped chapels, and the history of Lady Hewley's charity and Dr. Williams' library, both of which have been, and are still, the subject of legal contest.

So evident is the injustice of these usurpations, that all the Courts appealed to have decided that these malversations of trust property are illegal and ought to be redressed.

In these circumstances, if we did not know too much of the ease with which certain public men can eat up their own words, *reverse their own judgments*, and abandon their former selves, we should be really at a loss for any means of accounting for the disgraceful spectacle which the House of Lords now exhibits in the persons of Lords Lyndhurst and Brougham, calling upon their Lordships' House to contradict the solemn judgments which the various courts of law have pronounced, and which that House has confirmed.

There must be some secret influence, with which the public are not acquainted, brought into operation, for the purpose of inducing the Chancellor to stand godfather to the piece of deformity which he is not ashamed to acknowledge. There may be some very high ex-law dignitaries in Ireland and in England too, whose sympathy with the sentiments of the Unitarian party may account for the strange proceeding to which we have referred. With the religious tenets of these noblemen, we of course have no desire to interfere; but we must loudly protest against the injustice which the great bulk of Dissenters

will experience if Socinian ex-Chancellors are allowed to employ their high rank and influence for the purpose of establishing the unjust claims of the sect with which they may happen to sympathise.

We have thus attempted to expose a piece of legislative jobbing, which, when it comes to be understood, will bring down upon its authors the contempt of every honest man. We are not without hope that the *exposé* which we have made will tend to check the further progress of this most unjust measure. Be that as it may, we presume that the great body of Dissenters, aided by all the friends of justice throughout the kingdom, will immediately take up the matter with all the earnestness and industry which on a recent occasion they employed, and employed so successfully, for the resistance of another unjust measure with which they were threatened. Without any delay, petitions against this Bill should be prepared and sent into the House of Lords, and Lord Lyndhurst should learn the fact that the country understands the measure of which he is the author, and is determined that it shall not be permitted to pass into a law.

THE NONCONFORMIST.

THE "Nonconformist" weekly newspaper, which represents a large and very active part of those called "orthodox" Dissenters, has the following remarks, London, Wednesday, March 20, 1844, on the opposition raised by certain Dissenters to the "Dissenting Chapels' Bill:"

"In the House of Lords nothing of deep interest has occurred. The Lord Chancellor has introduced a Bill on the subject of Dissenting Chapel Trusts, the effect of which will be to confirm in the enjoyment of endowments the parties who have been in undisputed possession of them 100 years. We are quite aware that this question has excited some stir among what are called the orthodox Dissenters. We regret this. We are not anxious to claim for what we consider truth, means of advancing it so questionable in their results as are endowments. Sure we are that they are not worth, to any party, the bitterness of feeling which any disturbance of them must inevitably produce; and if, in every case, the intentions of donors must be abided by, and no statute of limitation be permitted to bar claims to property bequeathed for pious uses, then, undoubtedly, the advocates of such a principle must be prepared to give back to Roman Catholics what, at the period of the Reformation, was wrested from them. It is a subject, however, in which we take no manner of interest, except in as far as it may be the means of alienating one body of Dissenters from another; and, setting aside altogether our dislike for endowments, we would rather sacrifice ten times their value than create new feelings of hostility between those whose common safety lies in union."

RESOLUTIONS OF THE CONGREGATION OF BANGOR, NORTH IRELAND, IN CONNEXION WITH THE SYNOD OF ULSTER, AGAINST THE LATE LAW-PROCEEDINGS OF THE SYNOD IN REFERENCE TO UNITARIANS.

At a Meeting of the Committee of the First Presbyterian Church of Bangor, in connexion with the Irish General Assembly, held on the 21st day of March, 1844,—Mr. James White in the chair,—the following Resolutions were adopted:

1st. Resolved, That we lament that suits in Chancery have lately been prosecuted, for the purpose of alienating, under cover of legal technicalities, the meeting-houses and other properties of our Presbyterian brethren, by which heavy expenses have been incurred, and attempted to be saddled on us and others by the directors of the General Assembly.

2nd. Resolved, That it is our determination, as guardians of the pecuniary affairs of our church, to oppose what we consider an imposition; and that we cannot, in justice, convert any of the pew-rents to such a purpose.

3rd. Resolved, That we cannot compromise our characters as Presbyterians, by either directly or indirectly abetting any proceedings that have already taken place or may be in contemplation, to deprive any of the congregations of our Remonstrant brethren of their Church property, in violation of the solemn compact entered into with them at the period of their separation.

4th. Resolved, That as the civil law can alone settle the matters in dispute, *we hail with gratitude the Legislature having so promptly taken up the matter*, in order to prevent further litigation and bad feeling between the different Presbyterian bodies.

5th. Resolved, That we consider the Sufficiency of Scripture as a Rule of Faith, and the Right of Private Judgment, to be fundamental principles of genuine Protestantism; and we enter our solemn protest against any attempts to persecute any of our fellow-christians who think proper to adopt these views.

6th. Resolved, That these Resolutions be published in the Northern Whig and the Banner of Ulster.

(Signed) JAMES WHITE, Chairman.

PROCEEDINGS IN THE HOUSE OF LORDS.

(Continued from p. 6.)

Friday, March 22.—Lord Campbell presented a petition from Presbyterians at Stafford, against the endowment of Dissenters' chapels. In presenting the petition he must say that he did not concur in the prayer of it. In this case, too, he must remark that he was glad to be able to support any measure of her Majesty's Government.

The Lord Chancellor: It is very rare [laughter].

Lord Campbell was prepared to support the Bill. He wished to know when his noble and learned friend proposed proceeding with the second reading. There was great anxiety on the subject.

The Lord Chancellor observed that the support of any Government

Bill by his noble and learned friend was particularly rare. From the nature of this Bill, he wished it to be as widely circulated and as well understood as possible, before he proceeded with it. It was with that view he had it printed and laid on their Lordships' table. He proposed that the second reading should take place immediately after Easter. He wished to say that the Bill did not apply to endowments, but to chapels, burial-grounds, ministers' houses connected with them, and day and Sunday schools.

The Marquess of Normanby presented a petition from Berwick against the Dissenters' Chapels' Bill.

Monday, March 25.—Lord Kenyon presented a petition from Protestant Dissenters of Edward-Street Chapel, Portman Square, in favour of the Dissenters' Chapels' Bill. (From the *Times;* the *Morning Chronicle* reports it to be a petition in favour of the endowment of Dissenters' Chapels. Both reports are, no doubt, incorrect.)

THE "PATRIOT'S" EXEMPLIFICATION OF ATTACHMENT TO RELIGIOUS LIBERTY,—Monday, March 25, 1844.

THE LORD CHANCELLOR'S UNITARIAN BILL.

FORM OF PETITION.

To the Right Honourable the Lords Spiritual and Temporal, in Parliament assembled,

The Petition of humbly sheweth,

That many chapels and charitable funds founded by English Presbyterians, all of whom were Trinitarians, have, in the lapse of time, come into the occupancy of Unitarians, who designate themselves Presbyterians, although they have entirely departed from the doctrines and discipline of the Presbyterian Founders.

That a Bill, entitled "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England," having been introduced into your Honourable House, within the last few days, with the view of protecting Unitarians in the continued breach of trust, whereby they are in the possession of these Trinitarian Foundations, your Petitioners most strongly object to the measure, as a violation of all equity, and as sanctioning the application of bequests to the utter subversion of the religious faith of the Founders.

May it, therefore, please your Lordships to reject the said Bill, or any measure which will tend to unsettle the existing law as to the construction of charitable trusts in England.

And your Petitioners will ever pray.

Note.—Until the Act of Parliament which passed in the year 1813, Unitarianism was illegal; that is, of any meeting-houses erected, or funds created, for the purpose of preaching Unitarian doctrine, the Unitarians could be deprived by any one; but they were never interfered with, nor will any one ever attempt to recover from them meeting-houses or funds which were expressly formed by Unitarians. There are, however, a very large number of meeting-houses (many of them having land, dwelling-houses, or other property attached to

them) in the occupation of Unitarians, which were originally founded by Trinitarian Presbyterians, and to this class Unitarians have no right whatever. Now, the second clause in the Bill proposes to secure Unitarians in the possession of Trinitarian chapels and funds, if there be no covenants in the deeds of trust excluding them. This is monstrous. Let Unitarians have and hold whatever Unitarians bequeathed; but to give them, besides, Trinitarian property, is a perversion of justice. All the Trinitarian meeting-houses and funds at present illegally possessed by Unitarians, were formed between 1690 and 1760; and during all that period, and down to 1813, the Toleration Act subjected Unitarians to civil disability. The founders of these trusts, on the faith of the Toleration Act, did not think it needful to introduce covenants in the deeds against Unitarians, for this was done by the Legislature itself; and after a large amount of trust property was bequeathed by Trinitarian Presbyterians, an attempt is now making, by an *ex post facto* Bill, to give to Unitarians all their own, and also all the property of their neighbours.

It is earnestly hoped that petitions will be numerously signed against this unrighteous measure, and that it may be noted as somewhat a sign of the times, that in the year 1844, this measure for the encouragement and advancement of Unitarianism has been patronized by the highest in the land.

[Let another "sign of the times" be "noted" also, viz. that in the year 1844, Independents and Baptists are called upon by certain of their leaders to oppose a measure of relief to Non-subscribing Presbyterians, judged necessary by the Government and the Law-Lords, those in particular that were engaged in the hearing of the pleadings and in the Judgment in the Hewley suit, in consequence of the legal doctrines *supposed to be laid down* in that Judgment,—and to join in false and calumnious charges against the Unitarians,—and to endeavour to wrest from them their Houses of Prayer, and their Burial-grounds, occupied by themselves and their fathers for more than a century, or a century and a half,—this to be done, let it be remembered, *by the revival, quoad hoc, of* PENAL LAWS *against Anti-trinitarians, which the Justice and Humanity of the Legislature long ago repealed!* ED. P. R.]

P. S.—PETITIONS.—There have been no Petitions as yet in favour of the Bill, none being thought necessary. The Committee of the Presbyterian Union, appointed to superintend the business, will give timely notice to their constituents and friends, should any emergency arise in which Petitions for the measure shall be deemed expedient.

THE PRESBYTERIAN REPORTER,

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. II.

PROCEEDINGS IN THE IRISH COURT OF CHANCERY, ON THE EUSTACE-STREET MEETING-HOUSE, DUBLIN.

(From the Notes of the Short-hand Writer.)

THE ATTORNEY-GENERAL AT THE RELATION OF GEORGE MATHEWS AND OTHERS, *against* THE REV. JOSEPH HUTTON AND OTHERS.

Monday, February 19th, 1844.

Mr. Sergeant *Warren*, for the Relators.—This information was filed on the 1st of October, 1842; and it prays that the charity in the bill mentioned may be established according to the intent of the parties founding the same, and according to the true construction of the trusts contained in the several deeds, wills and instruments in the possession of the defendants; and that it may be declared that the ministers of Unitarian belief and doctrine, and members of their congregations, or persons of Unitarian belief or doctrine, are not fit objects of the charity; and that the defendants, being Unitarians, may be deemed not entitled to continue in the use, enjoyment or possession of the Eustace-Street meeting-house, or of any part of the congregational property; and that all the objects of the founders, as expressed in the said deeds, wills and instruments, may be decreed entitled to participate in this charitable property, in such manner as your Lordship shall direct; and that it may be declared that such Presbyterian Protestant Dissenters alone as believe in the doctrine of the Trinity and the Deity of our Lord Jesus Christ can be considered as within the meaning of the original founders of this property, or entitled to possess it. And that the defendants may be removed from being trustees, for an injunction and a receiver.

The information states that, in 1643, a large number of divines assembled at Westminster to revise the rites and ceremonies of the Church of England, and that they published the Westminster Confession of Faith. That the Presbyterian form of church government was established in England in 1646, and was introduced into Ireland in 1649. In 1650, the Government of England sent the Rev. Samuel Winter and the Rev. Samuel Mather from England to this country to establish that form of church government here, and Winter was appointed Provost, and Mather one of the Fellows of the College of Dublin. They both held the Westminster Confession of Faith, and were appointed to livings in the city of Dublin. In 1665, the Act of Uniformity passed, in consequence of which Winter and

Mather were ejected, with many other persons of similar religious opinions, from their benefices,—not for any want of conformity in religious belief, but merely for want of compliance with the forms required by the Act of Parliament. They established certain meeting-houses in the city of Dublin for congregational worship, free from the forms required by the Act. They were five in number; and amongst them was New Row, afterwards Eustace Street. The two first clergymen of that meeting-house were Dr. Winter and Mr. Mather. The other four meeting-houses were the meeting-houses of Protestant Dissenters, and all of them concurred in holding the doctrines of the Trinity and of the Divinity of Christ. In 1668, Dr. Winter died, and he was succeeded by Mr. Taylor as minister. He continued until 1682, when he died, and was succeeded by Mr. Nathaniel Weld, who continued such until 1730. Samuel Mather was succeeded in 1671 by Nathaniel Mather, and Nathaniel Mather was succeeded in 1687 by John Hemmingway, who continued minister until 1711. In 1710, the deed was executed which was the subject of the information in the Attorney-General *v.* Drummond; and that deed has been decided to have created a trust for Presbyterian Dissenters, who dissented from the Church of England in form and communion, but agreed with the Established Church and with the Westminster Confession of Faith in doctrine. Two of the trustees in that deed were Nathaniel Weld and John Hemmingway. Four or five of the elders of New Row were also trustees in that deed. By that deed it is recited that, from a pious disposition and concern for the interest of our Lord Jesus Christ and the welfare of precious souls, the founders designed and intended to set on foot a stock or fund for the support of religion in and about Dublin and the South of Ireland; and further reciting the dependence which the subscribers had upon the trustees therein named, being the ministers of the several Dissenting Protestant congregations associated in Dublin, and two out of each of their congregations, it declares that they shall be the trustees of the fund to manage and dispose of it; and provides, that whenever a vacancy shall occur in the number of the trustees, if it be by death of a minister, it shall be filled up by nominating the succeeding minister. In pronouncing judgment in that case, your Lordship came to the conclusion, that where a deed speaks of Christians in the general sense of that period, it means those who believed in the divinity of Christ; and when it speaks of Protestant ministers, it means those who professed Trinitarian doctrine; and when it speaks of Protestant congregations, it means those who attend a ministry professing that doctrine. (Reads passages from the report of that case, 1 *D. & War.* pp. 381, 389, 393 and 397.)

It appears that, in 1718, a fund was provided for building a new meeting-house for the congregation of New Row. By indenture of the 10th of February, 1718-19, made between Joseph Damer of the first part, Nathaniel Weld, Joseph Marriott and Nathaniel Kane (all of whom were trustees in the deed of 1710), of the second part, and John Damer of the third part, after reciting that Joseph Damer had delivered to the parties of the second part the sum of £1700, upon the trusts after mentioned, it was witnessed that said money

was so lodged with them upon the trusts following: that is to say, £200 for the building a new and convenient meeting-house for the Protestant Dissenting congregation, then of New Row, in the city of Dublin, in such place in the city or liberties as should be agreed on by the ministers and members of the congregation, or the major part of them, or as Joseph Damer should in his life-time appoint, for the service and worship of God in that way; and that the remaining £1500 should be laid out in the purchase of some estate in fee or for a long term of years, of lands in Ireland, in the name of John Damer, to be by him conveyed to the trustees of the second part, at a rent of one shilling per annum; in trust that they, out of the rents, should apply £20 per annum towards the support of a charity-school for poor boys in the city of Dublin, then already begun by the subscription of several pious and well-disposed Christians, and of the master and usher thereof, in such manner as the trustees should direct, for the instruction and training up such boys in reading, writing, and fitting them for honest and useful trades and employments; and should further pay £20 per annum to the maintenance and support of the Rev. N. Weld and the Rev. J. Leland, the then present ministers of said congregation, equally between them while they should continue so; and also to go and be applied to such other persons for the time being as should from time to time, during the continuance of the estate to be purchased, be preachers or teachers of that congregation; and should apply the residue of the rents to the binding out such boys to trades or employments, or for the support and maintenance of poor widows inhabiting the city of Dublin, or to such other pious uses as the trustees should think fit.

That gift was made at a time when the congregation of New Row formed one of the five congregations mentioned in the deed of 1710, and it has been established by the Attorney-General *v.* Drummond, though the defendants endeavour to shew the contrary in this case, that in that year these were congregations professing a belief in the divinity of Christ. The decision of the Court in the Attorney-General *v.* Drummond, was, that the meaning of the words Protestant Dissenter, or Christian, in that deed, was persons who believed in the Trinity and in the divinity of Christ. In the year 1719, the Act of Toleration passed, and in it is a clause that nothing in it contained shall extend to confer a benefit on those who shall in their preaching or writing deny the doctrine of the blessed Trinity as set forth in the 39 Articles; and independent of the considerations arising from that statute, we have the evidence of what were the opinions of these congregations, given in the former case. If, therefore, we were to stop there, there can be no doubt, that it being established that the founder of this charity believed in the doctrine of the Trinity and the divinity of Christ, and that the charity was established for Trinitarian purposes, whatever change of opinion may have subsequently taken place in the congregation, if there are persons now desirous of having the benefit of the charity according to the purposes of the founders of it, they are entitled to that relief, according to the principles established in the cases of the Attorney-General *v.* Pearson, and the Attorney-General *v.* Drummond.

The clergymen of Eustace Street were Weld and Leland. It is unquestionable that Weld held orthodox opinions. The defendants have gone into evidence to shew that Leland did not hold the doctrine of the divinity of Christ; and the relators have also gone into evidence upon that subject, and we think we have shewn that he was a believer in the divinity of our Saviour. But looking at the opinions of the Judges in Lady Hewley's case, the Court may, perhaps, be reluctant to admit some of the evidence, if there be other satisfactory evidence in the case. We rely on the principles established in Lady Hewley's case, and in the Attorney-General *v.* Drummond, that if the congregation at the time of the trust-deed was Trinitarian, any subsequent alteration in their opinions cannot affect the rights of those who now desire to have the trusts carried into execution, if there be such persons really and *bonâ fide* desirous of having the benefit of the trust. The expressions in the deed of 1718-19 are the same as those in the deed of 1710; and the Court, in construing that deed, has held that Protestant Dissenters meant Protestant Dissenters believing in the divinity of Christ, and that Christians meant persons who believed in the divinity of Christ.

In 1725, and between that and 1728, some deeds were executed to carry out the trusts of the deed of 1718-19. Some of the money was laid out in the purchase of premises in Eustace Street, on part of which the present meeting-house was built, and other parts of it were let at a profit rent; and we submit that the meeting-house and other rents should be applied for the benefit of a congregation professing the doctrine of the divinity of Christ and a belief in the Trinity.

It also appears that several accretions have been from time to time made to this fund for several purposes. One of the most important was that of John Lowton, who by his will, dated the 17th October, 1741, bequeathed to three trustees a certain house held for lives renewable for ever. By a letter of instructions accompanying his will and addressed to his trustees, he declares that the bequest to them was on trust, that the sum of £1800 should be laid out in the purchase of an estate in Ireland; and that until such purchase should be made, the interest of the £1800, and afterwards the rents of the lands to be purchased, should be applied to assist in supporting and maintaining a Gospel Minister or Ministers of the Presbyterian congregation, whereof he was a member, usually meeting for divine worship in Eustace Street, Dublin, and to instruct them and their successors for ever in the true principles of Christian religion; and that the clear rents of the house in Clothmakers' Square should be paid to such poor boys then belonging or afterwards to belong to the charity-school of said congregation, when out of their apprenticeship, towards setting them up at their several trades as his trustees should think fit. And he directed that upon the death of any of his trustees, the survivors should transfer the trust to three other "worthy and faithful members of the said congregation," to be chosen as therein mentioned, upon the trusts aforesaid, all of which the said John Lowton earnestly recommended to the care and management of the said trustees and their successors, beseeching them faithfully to discharge the trusts "as became Christians and

lovers of Christ and his church." It is conceded that the testator intended that this money should be appropriated in promoting the religion of which he was a member, and that he used the word Christian in the ordinary acceptance of the word at the time, and not to include a worship which, in 1741, he would have rejected as wholly unknown. Other sums of money were also given for similar purposes. The defendants state, amongst other matters, that R. Card, a member of the congregation, on the 14th April, 1744, bequeathed certain premises in Grafton Street to his son, Samuel Card, subject to £6. 10*s.* per annum, payable to Dr. Leland and the Rev. Isaac Weld, as ministers of the Dissenting congregation in Eustace Street, and their successors, for a term of 20 years, and £5 to the male school connected with said congregation, for a like period; and that by an entry in the vestry-book of the congregation, dated the 14th January, 1753, it appeared that Samuel Card assigned to N. Card, for the benefit of said congregation, any benefit or reversionary interest which he might be entitled to in the above-mentioned premises.

The defendants then state another bequest made in 1768, by Mrs. Davis, who bequeathed £50 for the use of the ministers of the congregation, and £20 for the use of the boys' school connected therewith; that the Rev. Mr. Dick, in 1782, bequeathed £50 for the use of the ministers of the congregation, and £20 to the boys' school; that Faithful W. Fortescue, by will made in 1822, bequeathed £50 to the use of the congregation in Eustace Street; and that in the year 1825, Miss Anne Crosthwaite bequeathed £100 for the support of public worship in the congregation of Eustace Street, and £38. 9*s.* 3*d.* for the use of the boys' school connected with the congregation.

The defendants further state that, in 1759, the trustees of Lowton's fund purchased certain lands in the King's County with part of the trust monies; that the present trustees, in 1836, purchased other lands in Kildare; and that the residue of the trust monies remains invested in stock in the names of the trustees of Lowton's fund. They further state that, in 1786, the trustees of Damer's fund received £300, subscribed by the congregation for the benefit of the widow of the Rev. Mr. Thomas. That in 1780, Mrs. Hannah Singleton bequeathed the sum £300 to H. S. Reilly, in trust, to pay one-third thereof to the Presbyterian ministers of Eustace-Street meeting-house, one-third thereof to the widows of Presbyterian clergymen of the Southern Association, and one-third thereof to the boys' school connected with the said meeting-house. They further state that, on the 13th of November, 1796, Nathaniel Johnson gave a donation of £100 for the use of the boys' charity-school, and a further donation of £100 for the use of the ministers for the time being of the congregation of Eustace Street. These are the principal donations and bequests which are the subject of the information. The defendants by their answer allege, that at the time when several of these sums were bequeathed, the clergymen then officiating and the devisors and grantors held Unitarian belief; and that even if the Court should think that in its origin the congregation was Trinitarian, yet that in late years many members of the congregation professed Unitarian belief; and that it is so admitted by the information. It is certainly the case, that of late years the congregation and clergymen

have held Unitarian opinions; but that does not authorize them to misapply the funds to support a worship which would have been rejected by the founders of the charity. Lord Eldon, in the Attorney-General *v.* Pearson, 3 *Mer.* p. 418, lays down the principle applicable to such cases. In consequence of the decision in that case, the Unitarian party abandoned the case, and suffered the orthodox clergyman to remain in the quiet possession of the meeting-house; but they proceeded to apply the funds to support another meeting-house in which Unitarian doctrines were preached; the consequence of which was, that a second information was filed against them. The Vice-Chancellor's decision is reported in 7 *Sim.* 290. It was appealed from, and the judgment of the Chancellor (Lord Cottenham), on the appeal, stood over for the decision of the House of Lords in Lady Hewley's case, which was then pending. Lord Cottenham, after he resigned the seals, gave, with the consent of the parties, a written judgment, affirming the decision of the Vice-Chancellor. (Reads it from the MS. copy.) It will be said that English Presbyterians are different from Scotch; that the Presbyterians of Dublin are a branch of the former, and those of the north of Ireland of the latter; and that the English Presbyterians do not hold as a bond of union the divinity of Christ; but that is contrary to what is said by the Vice-Chancellor in 7 *Sim.*, where he speaks of the necessity of following out the view of the original founders of the charity, if it was legal. All the documents in this case, and in the cases of the Attorney-General *v.* Drummond, the Attorney-General *v.* Pearson, and Lady Hewley's charities, shew, that until a very recent period, and long after 1744, Unitarian doctrine was not a congregational doctrine, though there were individuals who believed in it. I cannot fix the period when it became a congregational doctrine, but I should say that it was after 1780. Emlyn confessed that he stood alone, and he was ejected from the ministry in consequence of his holding that belief. We therefore conceive that we are entitled, as professing the belief of the founders, to the enjoyment of this meeting-house, and the funds given to it, or the charities connected with it. And the principle upon which I rest this claim is, that in 1718-19, the fund then vested in trustees belonged to persons professing the belief of the founders, as established and evidenced by the deed itself; and that when subsequent gifts are made, unless there are words in the grant to exclude the notion that they are given upon the same trusts as those contained in the deed of 1718-19, the present plaintiffs are entitled to the benefit of those accretions, whatever may have been the private opinions of the donors. There may be a case: a gift may be so worded that it would exclude the supposition that it was intended to be applied to Trinitarian purposes; or rather, that it would impose on the trustees the necessity either to reject the gift, or apply it to the purposes specified in the instrument of gift.

Lord Chancellor.—Suppose you are right, that at the time of the foundation of this charity in 1718, the congregation was Trinitarian, and that the charity was for Trinitarian purposes, and that by lapse of time the congregation became, say in 1770, Unitarian, and then that a member of the congregation gave to that congregation £100;

do you contend that the gift is to be referred back to the deed of 1718-19, and that you are to have the £100 in question?

Mr. *Warren.*—Yes.

Lord Chancellor.—On what ground? I suppose that at the time of the gift the congregation is Unitarian.

Mr. *Warren.*—And that nothing on the subject is expressed in the gift. If the donor gives £100 to the congregation, without saying any thing more on the subject, he gives it subject to what the law says is the congregation. We are entitled to say that the parties to whom this Court shall say that the meeting-house belongs, are also entitled to the accretions which are given to the congregation, or the trustees of the congregation, and which are not specifically appropriated to a particular purpose.

Lord Chancellor.—I am supposing a case where there is *de facto* an Unitarian congregation. A person believing in that doctrine gives to the congregation £100 a-year; you displace the congregation on the ground of original endowment, and then you say you are entitled to the benefit of the accretions. That is a strong proposition. I do not, however, give any opinion on the subject.

Mr. *Warren.*—There may be some difficulty in ascertaining what is the doctrine of the congregation.

Lord Chancellor.—None whatever. It is a question of fact; and there is no difficulty in proving it.

Mr. *Warren.*—The difficulty would be to ascertain by evidence what the intent of the donor was.

Lord Chancellor.—No difficulty in that; for the testator supposes that he is giving it to a congregation then existing: but you say that he is giving it not to the then existing congregation, but to a congregation which existed in 1718.

Mr. *Warren.*—The difficulty is to ascertain that it was the intention of the donor to give it to a congregation professing opinions then held by them, and not to persons professing opinions which, according to the foundation, they ought to have held, he not expressing any opinion on the subject. The very point was decided in the Attorney-General *v.* Pearson—7 *Sim.* 290. In page 306, the Counsel for the defendants state, that part of the funds were given to the chapel during the time when Unitarian doctrine was preached in it, and ask for an inquiry at what times the several gifts were made to the chapel. The Vice-Chancellor does not grant the inquiry; but, on the contrary, (p. 309,) declares, that all the property mentioned in the will, including, of course, the accretions, ought not to be applied to Unitarian purposes.

Lord Chancellor.—I do not observe that he gives any opinion on the point. He does not answer the objection taken by the Counsel. On the contrary, I would say, that the first part of his judgment shews that it would be very unjust to give to one that which was intended for another. It may be necessary and legal to do so, but it is not very just.

Mr. *Warren* referred to the Attorney-General *v.* Pearson, 3. *Mer.* 365, to shew that there were accretions to the original fund in that case.

Lord Chancellor.—Look into this matter before to-morrow, when I will hear you on the subject. *(Adjourned.)*

Tuesday.

Mr. *Warren* cites a pamphlet report of the Wolverhampton Case (the Attorney-General *v.* Pearson), and referred to pages 6, 8, 19, 20, 74, 82 and 156, as shewing that the question of accretions was brought distinctly under the consideration both of the Vice-Chancellor and of Lord Cottenham on the appeal.

Lord Chancellor.—I see nothing but statement in what you have read—no argument. There was a difficulty in that case, the gift being made to the minister for the time being. If you do not give it to him, to whom are you to give it?

Mr. *Warren.*—I cite those passages to shew that the matter was brought under consideration of the Chancellor and the Vice-Chancellor. The latter did not direct the inquiries asked for; and Lord Cottenham affirmed his judgment, and said that the accounts directed were perfectly right.

Lord Chancellor.—There is nothing in the Vice-Chancellor's judgment to draw the attention of the Court to this point; and therefore Lord Cottenham, in the change of circumstances, and not having had the case recently under his consideration, shewing the Vice-Chancellor's judgment before him, would probably say it was right.

Mr. *Warren.*—I do not think it possible he could have forgotten that this matter had been discussed before him. I am not aware that the point has been raised in any other case; but so far, that case is a decision in our favour. We have the deliberate judgment of the Vice-Chancellor on the subject. But I apprehend there will be little difficulty in the present case, and the Court will not have to decide the abstract question: for the several donations have been allocated specifically to charities in connexion with the Eustace-Street congregation, so that they cannot be separated from it. For instance, we have £100 given to the ministers for the time being: the Vice-Chancellor says he has no doubt about such a gift. So also the donations which were given to the boys' school, which was established in 1718-19, must follow the same principle. If money be given in 1796 to the boys' school, the Court cannot separate it from the school. The Court has to decide whether the school is to continue under the management of the present trustees or not; but, however that is decided, the school is to have the accretions. I do not think the abstract proposition will come before the Court, whether a sum of money given, not for a particular purpose, but merely to a congregation, shall be refunded to the donors or remain with the congregation, to be administered as part of its general funds. It will be for the defendants to set forth what they claim; we, *primâ facie*, are entitled to all we ask, having shewn that the origin of the charity was Trinitarian, and that it continued to be so for many years. It lies upon the defendants to shew the exception. It would be useless for me to go through the several items. The defendants have also gone into evidence to shew that several of the ministers who officiated at Eustace-Street chapel did hold or preach Unita-

rian doctrines. Until a very late period, that evidence is of a negative character, viz. that they did not preach Trinitarian doctrines, not that they preached Unitarian doctrine, which at that time it was illegal to do, and which, probably, would have been unpalatable to many of their hearers. I admit that, in 1828 or 1830, the main bulk of the congregation became Unitarians; and from that time they have been exclusively and avowedly an Unitarian congregation. There is a strong contrast in what took place before and after 1830:—in 1830 they had attained such boldness in uttering their opinions, that a society was formed, called the Irish Unitarian Christian Society, which had for its object the spread of Unitarian doctrine. Amongst the books circulated by them was what they called the Improved Version of the New Testament. I beg to call your Lordship's attention to the note in it to Matthew i. 16. (Reads it. It states that the latter part of that chapter, and also the 2nd chapter, are of doubtful authority.) That book was sold within the walls of Eustace-Street chapel.—I find I am mistaken—it was within Strand-Street chapel it was sold; but some of the defendants admit that they keep copies of it in their collection of books in the Irish Unitarian Christian Society. Again, in 1831, the congregation of Eustace Street published a new edition of an old collection of Hymns, which had been used at a time when the congregation confessedly professed, and their ministers preached, orthodox doctrine. This new edition was made to adapt the hymns to the present opinion of the congregation. (Reads the preface.)

Lord Chancellor.—The meaning of that passage is plain enough, and will not be disputed. It is consistent with the defendants' case.

Mr. *Warren.*—But it is not consistent with this view, that from an early period these were the doctrines taught in these meeting-houses.

Lord Chancellor.—It appears to me that you have a right to say that they did not make this change in their doctrine until 1831.

Mr. *Warren.*—I use it so;—that between 1828 and 1831, there was a decided change in their practice. Before that period, their preaching was of a negative character—not affirmative. In consequence of the defendants having alleged that Leland was an Unitarian and denied the Trinity, we have examined some of the Professors of Trinity College, well acquainted with his works, who have proved that he was a Trinitarian. They have cross-examined them to the extent of sixty or seventy interrogatories; and it appears from both that he was a believer in the Trinity. There may be some doubt whether this is legitimate evidence; but we have proved sermons preached by him in that very meeting-house, which are clearly legitimate evidence, and which lead to the same conclusion. In one of them he speaks of the doctrine of "the holy and ever-blessed Trinity," as one of the doctrines which our unassisted reason never could discover.

Lord Chancellor.—No person will dispute that at that time the preacher believed in the divinity of Christ and the doctrine of the Trinity. They may say that he afterwards changed his opinions.

Mr. *Warren.*—That is not what they say, but that at all times Leland was an Unitarian. Their evidence as to the other ministers is of the same nature as that with respect to Leland; but we are not

able to prove their actual opinions as clearly as in the case of Leland. Leland died in 1766, and was succeeded by Mr. Thomas.

Lord Chancellor.—He must for some time have acted with N. Weld.

Mr. *Warren.*—Yes: he succeeded Mr. Hemmingway; and his sermons were published by Isaac Weld, the son of his colleague. Isaac Weld succeeded his father in 1732, and lived until 1778, and was succeeded by Philip Taylor. As to Taylor and Thomas, we have not the evidence of their sermons; but we have proved that both of them were ministers in England before they came over here, and that at a time when they were bound to make a declaration as ministers of an orthodox congregation. It is not to be presumed that they came here covertly holding opinions contrary to those they had solemnly declared in England that they held.

Lord Chancellor.—There is an observation in the abstract of the charity funds handed to me, that the boys' school was closed in 1842.

Mr. *Warren.*—Yes: after the adjudication in the Attorney-General *v.* Drummond, we applied for a receiver over the property, and stated that there were certain properties connected with this congregation to which the principle established in that case would apply. The Court gave no costs in that case, but said if the parties threw any obstacle in the way of the trustees exercising their rights, it would know how to deal with them in respect of costs. The trustees ought to have kept the property in the same state as it previously was; nevertheless, they closed the school in 1842.

Mr. *Hutton.*—Mr. Warren is not acquainted with the facts. It was found that, after the introduction of the poor-law, the annual collection at the charity sermon for this school fell so short, that it was impossible to support the boys' school on its then footing; and the trustees came to the resolution to nurse the fund until it should be independent of the collection.

Lord Chancellor.—I refused to interfere at the instance of the relators, because I thought it better to leave things as they were. I think my observations have been misunderstood.

Mr. *Holmes.*—It was with respect to the funds of Strand-Street congregation, not those of Eustace Street, that the observations of the Court were made.

Lord Chancellor.—I am aware of that: but my observations equally applied to this case. It was very improper to close this school without the leave of the Court.

Mr. *Wright* calls proofs.

Answer, No. 7.

Allegation in bill, to which this is an answer.

Answer, No. 10: No. 4: No. 28.

Counsel for the defendants called the attention of the Court to this, that the resolutions for discontinuing the boys' school were entered into in December, 1841; and that the present information was not filed until the 1st October, 1842.

Mr. *Wright.*—*Answer*, No. of: admitting exhibits.

Dr. Winter's Sermons, p. 17.

——————— p. 69, edition 1656.

——————— p. 127.

Rev. S. Mather's Sermons, published 1705, pp. 218, 219, 297.
Rev. Nathaniel Mather's Sermons, pages, 8, 138.
Emlyn's Narrative, pages 16, 17, 18, 19.
Agreement between the Presbytery of Dublin and the Synod of Ulster, in 1710, signed by Hemmingway.

Mr. *Holmes.*—That is not in issue.

Lord Chancellor.—It was proved in the Attorney-General *v.* Drummond. It is offered to prove that Hemmingway was a Trinitarian. It is not necessary to put it in issue. It is a piece of evidence. They assert that this is a Trinitarian foundation; and they read this evidence to prove that fact. It is not necessary to put it in issue as a piece of evidence. They are bound to state what they mean to prove, but not to state the evidence by means of which they seek to prove the fact.

Mr. *Wright.*—Reads it. From the Records of the Synod of Ulster, June, 1710.
Letter from the Dublin Presbytery to Dr. V. Ferguson, of Belfast, 1721.
Letter from the Dublin Presbytery to the Belfast Society, in 1721.
Leland's Sermons, Vol. I. pages 314, 424.
——————— Vol. III. pages 122, 124, 108, 109.
Leland's Deistical Writers, pages 514, 515, 647.
Prayers by Leland, Weld and others, p. 158.
Leland's Sermons, Vol. I. Preface, p. 2.

Lord Chancellor.—That proves nothing.

Mr. *Wright.*—Weld's Confession—tendered.

Mr. *Holmes.*—It is not in issue, nor is it proved.

Mr. *Wright.*—It comes out of the custody of the family of Dr. Weld.

Solicitor-General.—How is it authenticated, Mr. Wright?
William Wynne, 11th Interrogatory—read.

Lord Chancellor.—This is not evidence. It is a reputed copy, found in the desk of the wife of the witness.
Rejected.

Mr. *Wright.*—As to the Rev. S. Thomas.
Answer, No. 86.
Act 1 Wm. and Mary, c. 18, s. 8, referred to.

Mr. *Holmes.*—It does not appear that he subscribed.

Lord Chancellor.—I think it must be taken that he did. You have a better point, that he came to Ireland because he did not like the restraint imposed on him in England.

Mr. *Wright.*—*Answer*, No. 87.
Rev. P. Taylor's Ordination Sermon at Liverpool, in 1770, pages 30, 31, 32, 36.
Taylor's Catechism, p. 9.
Deeds of the 12th April, 1725; 13th April, 1725; 21st July, 1725; 4th August, 1729; 14th May, 1768; 17th December, 1810; 12th July, 1827; 15th July, 1827.
Answer, No. 41, 42.
Lowton's will and letter of instructions.
First schedule to the answer as to Card's will.

Lord Chancellor.—The better way would be to enter all these; and for the other side to draw my attention to such of them as they say do not pass with the foundation. In saying this, I am assuming that the decree will be against the defendants; otherwise no question arises. Hand in your proofs.

Mr. *Wright.*—Dublin Ministers' Appendix to Emlyn's case, pages 51, 52.
Preface to Abernethy's Seasonable Advice.
Postscript to the Defence.
Antrim Presbytery's Narrative.
Scripture Plea by Kirkpatrick, 1724.
Boyce's Works.
Answer, No. 72, 65, 66.
Saunders' Newspaper, 25th March, 1831.
Answer, No. 67.—*N. B. The paragraphs, No. 66 and 67, were read on the requisition of the defendants.*

Lord Chancellor.—I conceive, Mr. Solicitor, that in reading those passages of the answer, you are going beyond what you are entitled to. What you have been reading is not connected with the evidence read by the plaintiff.

Solicitor-General.—They read that passage from the answer to afford an inference that we were connected with the Unitarian Society; we are entitled to read another part of the answer denying our connexion with it.

Mr. *Wright.*—Subsequent advertisements in Saunders' Newspaper entered as read.
Seventh Report of the Irish Unitarian Society.

Solicitor-General objects to this Report being read against the defendants, they having expressly disclaimed all connexion with the Society.

Lord Chancellor.—I do not understand that to be so. All they say is, that the congregation is not identified with the Society; but the relators have read an advertisement that Eustace-Street chapel should be used for the purposes of that Society. You identified yourselves with the Society by allowing their lectures to be given there.

Mr. *Wright.*—Old Hymn-book, p. 28.
New Hymn-book, p. 126, and Preface.
Answer, No. 40.

We have proved that the original formation of the five congregations, in 1665, was Trinitarian, and that they so continued up to the time of Emlyn. Emlyn did what the defendants now seek to do, namely, professed Unitarian doctrine and a belief in the Bible alone, rejecting all creeds, and he was deposed. The history of the general fund shews that the clergymen then were Trinitarians, so also the history of the present fund; and then as to Leland, the starting-point with the defendants in this case, we have his published works shewing that he was a Trinitarian. Joseph Damer makes Weld and others, all of whom were Trinitarians, the trustees of his fund, which is a strong circumstance. Leland's Sermons were published with the approbation of the congregation, as appears from the list of subscribers, shewing that they approved of his doctrine. Amongst them is Mrs. Singleton. It therefore must be considered that Leland lived

and died a Trinitarian. These Sermons were published between 1769 and 1770, and therefore, up to that date, the conclusion is that the congregation were Trinitarians. Isaac Weld edited these Sermons, whence his opinions are to be inferred to have coincided with those of Dr. Leland. As to Thomas and Taylor, it is proved that the congregation, up to the time of their coming in, was Trinitarian. Thomas came from England when he must have subscribed or declared his belief in the Trinity; and the case then is, a Trinitarian congregation apply to a country for a minister where, according to the law of the land and to truth and common honesty, the minister must be a professor of belief in the Trinity. Therefore we infer that up to this period, and during the continuance of their ministry, unless there be strong evidence to the contrary, the congregation must have been Trinitarian. We admit that the present defendants and Dr. Ledlie are Unitarians; but we cannot point out the exact period when the congregation lapsed into Unitarianism. We now leave it to the defendants to shew when they lapsed from the one belief to the other. There are no documents proving Taylor's belief, except his catechism and ordination sermon. In his catechism he lays down the doctrine of original sin, speaking of baptism, in a manner which is irreconcileable with the belief of Unitarians. (Reads it.)

Mr. *Holmes*.—No mention is made in the information of this exhibit; nor do they rely in it upon any doctrine as to baptism.

Lord Chancellor.—You certainly may be taken by surprise as to this point. It is impossible to read this passage without seeing that it is open to explanation.

Mr. *Wright*.—(Reads from Taylor's ordination sermon, to shew that he was a Trinitarian.)

Lord Chancellor.—It does look towards the doctrines of the church; but there is nothing decisive or conclusive in it.

Mr. *Wright*.—Except that if he was the man his writings profess him to be, he must have subscribed to those doctrines: and certainly his catechism is not an Anti-trinitarian production.

The *Solicitor-General*, for the Defendants.—I do not question any thing which has been decided in the Attorney-General *v.* Drummond, or in the English cases: but this case differs from them, and from any other which has been brought under the consideration of the Court. It involves a novel principle; and looking to the form of the information, the Court will see that there has not been any adjudication upon the questions in this case. This information is at the relation of certain persons who describe themselves as ruling elders of the congregation of Fermoy: the object of it is to deprive the defendants of the Eustace-Street meeting-house, and of all the other property mentioned in the information, and to forfeit those several bequests and donations, on the ground of some supposed deviation from the original principle of the foundation. The information states the Westminster Confession of Faith, and the doctrine of the Trinity contained therein, and in the 39 Articles of the Church of England; and its scope is, that this was the doctrine professed by the Eustace-Street congregation at the time of these gifts, and which it was the intention of the founder should be always recognized by

them; and that as the congregation has ceased to profess those doctrines, their right to this property has ceased, and the property is to go—not saying where. They only ask that the funds should be applied as the Court thinks fit. In this respect, this information differs from all others of its nature. Generally, an information is filed at the relation of persons alleging that they are the proper objects of the donor's bounty; but here we have a congregation unanimous in their views—no difference between different sections of the congregation—but all concurring in the same views. In that respect, this information is novel. It differs from the Attorney-General *v.* Pearson, in which one of the relators was a minister, whose rights were, in fact, usurped by the defendants. But here the question is simply whether there has been a forfeiture of these funds, or any of them, by reason of the tenets which the congregation of Eustace Street are now alleged to hold.

Lord Chancellor.—Do you say that there is any defect in the information because of the character of the relators?

Solicitor-General.—No; only that it is novel. I made the observation merely as to the merits of the case, and to shew why we resist the present information. As to the general form of Presbyterian worship, we allege that originally the government of the Presbyterian Church in England and Ireland, was different from that in Scotland. The Scotch Church requires subscription to the Westminster Confession of Faith; so also does the Synod of Ulster. But by the Presbyterian Church in England and Ireland, no subscription to any creed is required. On the contrary, the principle of that section of Presbyterians is the total rejection of all creeds and confessions, and the full and free exercise of private judgment upon the interpretation of Scripture. The Scotch system was introduced into Ulster by James the First; the English, into Dublin by Henry Cromwell. We admit the five congregations did not belong to the Scotch Church, but to the English Church; and we allege that whatever were the opinions of the original ministers, they did not require subscription to any confession of faith. We say that the Eustace-Street congregation never was under any ecclesiastical control, nor ever made it an article of their union that there should be any subscription.

This is the case of a succession of donations or grants to a particular congregation by name, viz. to the congregation in Eustace Street. It is not like the Attorney-General *v.* Drummond, in which the fund was subscribed by several persons for the general support of Presbyterianism in Dublin and the South of Ireland. It is not to be considered with reference to the law of the land, or to surrounding circumstances, for it is given to an existing body. We state that several of the ministers officiating at Eustace Street did not adopt the doctrine of the Trinity as it is set forth in the Thirty-nine Articles, where the eternal Godhead and supreme Deity of the three Persons of the Trinity is promulgated. There is also a doctrine of the Trinity in which, though the three names are used, the same divinity is not ascribed to the Second and Third Persons as to the First.

Lord Chancellor.—Is not that new?

Solicitor-General.—No. It is called Arianism.

Lord Chancellor.—That is not the description of Arianism given in the Attorney-General *v.* Drummond.

Solicitor-General.—No; but I am about to put forward the view of the Trinity entertained by several of the defendants, who admit the dignity of Christ, but not the eternal Divinity and Deity of the Second and Third Persons of the Trinity. Dr. Clarke, a member of the Established Church, entertained that view of it. Many persons called Unitarians by orthodox Christians entertained the same opinions. Dr. Leland took that view of the Trinity, and did not subscribe to the doctrine of the Trinity as set forth in the 39 Articles or the Westminster Confession of Faith; namely, as acknowledging the absolute Divinity and Deity of Christ. And though these writers use the words "our Lord Jesus Christ," they do not mean thereby to admit the supreme Deity of Christ.

Lord Chancellor.—Do you admit any time, down to which Trinitarianism, as properly understood, was preached to this congregation?

Solicitor-General.—We conceive that in 1718 the congregation were not Trinitarians. We do not say so as to 1710. Dr. Leland was appointed minister in 1716. We have evidence to shew that the principles of Leland were of the sort I have mentioned; and so have been the principles of the ministers from that time to the present. There is no period, from the time of the first donation, at which it can be shewn that this congregation were necessarily persons professing the doctrine of the Trinity, as understood in the 39 Articles and the Westminster Confession of Faith. Dr. Ledlie, one of the defendants, swears in his answer that he considers his religious views on the subject to be the same as those of Dr. Leland.

Lord Chancellor.—Tell me what construction would you put on the passage cited from Dr. Leland's works published in 1737?

Solicitor-General.—That refers to the form of baptism; and it is following up that in which all the defendants concur—that where the Scripture uses particular language, it ought to be followed; and our Lord having directed his disciples to baptize in the name of the Father and of the Son and of the Holy Ghost, they follow that form; but it is not a consequence of their doing so, that they use the words in the same sense as they are used in the 39 Articles or the Westminster Confession of Faith. (Reads the passage from Leland's works beginning, "It is a fundamental principle," &c.) In that passage, Leland is answering Lord Bolingbroke, whose objection was, that Christianity was Polytheism. But that passage shews that he did not understand that to be the meaning of Trinitarians.

Lord Chancellor.—I understand him there to be one of those who maintain the doctrine of the Trinity.

Solicitor-General.—The question is, what does he mean by the Trinity? I only mean to say this, that what Leland says in that passage is consistent with what we say were his real opinions.

Lord Chancellor.—Turn to page 16.

Solicitor-General.—Reads it. ("Besides which," &c.) He does not assert in so many words the Divinity or Deity of Christ. He indeed uses the words, "Holy and ever-blessed Trinity," but those words may be properly used by an Unitarian.

Lord Chancellor.—It is a very strong passage, "THE doctrine of THE holy and ever-blessed Trinity."

Solicitor-General.—The passage as to Polytheism has a contrary bearing; for all he says is, that the doctrine of the Trinity does not lead to Polytheism.

Lord Chancellor.—That does not seem consistent with what he says as to *the* Trinity.

(Leland's Works, Vol. IV. pp. 285, 286, and Vol. III. pp. 108-9, are read.)

Lord Chancellor.—The last is the passage I desired to hear read. How do you explain it?

Solicitor-General.—It is reconcileable with the notion of an inferiority of the Second Person.

Lord Chancellor.—Where do you find it in that passage?

Solicitor-General.—Reads the passage. The words are a scripture quotation from the 1st chapter of John, and the question always is, in what sense were they understood by the person using them?

Lord Chancellor.—Does that passage import or not the Godhead of Christ in the strongest sense?

Solicitor-General.—Personally, I should so understand it; but the question is, did Dr. Leland so understand it?

Lord Chancellor.—Of course I ask the question of you as Counsel for the defendants, not personally. I am endeavouring to ascertain the true construction of the passage. In what other sense than the ordinary sense are those words used? It appears to me that Dr. Leland used these words of Scripture as his own words.

Solicitor-General.—I can conceive a person speaking this language and holding the doctrines of the Arians. (Reads the passage.) "Peculiar and transcendent sense," means higher than angels, or higher still, but not as high as the First Person of the Trinity.

Lord Chancellor.—Try that passage with the New Version of the New Testament, and see what is there said of the passage.

Solicitor-General.—We disclaim the New Version.

Lord Chancellor.—I do not understand that. The defendants only say that they ordinarily use the Authorized Version.

Mr. *Holmes.*—I think Dr. Leland is the person most competent to explain himself, and therefore would call your Lordship's attention to the 4th vol. of his Sermons, p. 10. (Reads it.) That passage shews that Leland considered the Son to be inferior to the Father.

Lord Chancellor.—If that be the true interpretation, I must say that Dr. Leland's memory is open to the imputation that he held doctrines which he had not the manliness to avow.

Solicitor-General.—We propose to take *all* Leland's works and ascertain what his opinions are from them, and not from isolated passages in them. Dr. Leland was minister of this congregation for many years.

Mr. *Holmes.*—The Unitarians are divided into two classes, Arians and Socinians. The Arians believe in the pre-existence of Christ; that he descended from heaven and took upon him the form of man. The Socinians do not believe in the antecedent existence of Christ, only that he was a prophet sent from God. But both are Unitarians.

Lord Chancellor.—Read the profession of faith of these defendants.

Solicitor-General.—Reads Answer No. 72.

Lord Chancellor.—They exclude the Trinity and the Divinity of Christ. Have you any passage in your evidence in which the Trinity, without explanation, is spoken of by Unitarians?

Mr. *Armstrong.*—Yes, several.

Solicitor-General.—Dr. Leland was associated with Nathaniel Weld up to 1730. Nathaniel Weld then died; and in 1732, his son, Isaac Weld, succeeded him and became the colleague of Leland. We have evidence that Isaac Weld was educated in England by an Arian minister, and that the congregation in Eustace Street actually waited two years for him, and then appointed him their pastor. His opinions were not orthodox. He was Leland's colleague until the death of Leland in 1766. Then, Leland and Nathaniel Weld being the ministers, the first deed is executed. It recites the lodgment of £1700 in the hands of the trustees; and directs them to lay out £200 in building a meeting-house for the Protestant Dissenting congregation then of New Row; £20 a-year to the ministers of the congregation; £20 a-year to the boys' school; and the residue for pious purposes, as in the deed mentioned. The subsequent deeds declare the trust to be for the Protestant Dissenting congregation of Eustace Street meeting-house in the city of Dublin; and the question is, what were the Protestant Dissenting congregation of Eustace Street? Again, it appears that in 1741, at which time Dr. Leland and Isaac Weld were ministers, Mr. Lowton bequeathed a sum of money, and by a contemporaneous letter——

Lord Chancellor.—As you insist that those doctrines were preached to this congregation in 1718, you do not leave any second period of time at which you could draw a distinction between the several donations made to the congregation.

Solicitor-General.—There is no evidence of any time when there was a difference, or that a change took place in the opinions of this congregation. They appear to have been always unanimous. No member ever appears to have asserted that there was a deviation from the original views of the congregation. The plaintiffs have not themselves drawn any line. In Lowton's will, he does not bequeath the fund to any particular trustee named by the congregation, but he names his own trustee, and gives him certain instructions. (Reads them.) His expressions are, "Gospel ministry," and "Preachers of the Gospel," and "the congregation whereof I am a member." It is not a gift to Protestant Dissenters, but to an expressed congregation. He must have known what their tenets were. There is no evidence as to any particular doctrines held by Lowton; therefore no guide as to his intentions. It is a bequest generally for the benefit of the congregation at Eustace Street.

Lord Chancellor.—In his will he makes use of the words, "In the year of *our Lord God.*" That is not the expression of an Unitarian.

Solicitor-General.—In his letter of instructions written with his own hand, the expression is *Anno Domini.* The other is the expression of the attorney who drew the will. The next fund is one

given by Richard Bamber, 30th May, 1739—eight pounds a-year, one-half to the ministers of Eustace Street, and one-half to the boys' school.

Lord Chancellor.—There is no doubt that if this was an Unitarian congregation in 1718, all these bequests go with the original foundation. There is no question as to these bequests if you establish that this was an Unitarian congregation in 1719.

Solicitor-General.—Yes; but there is another question: supposing we should not be able to shew that, yet, as these subsequent bequests were made at a time when, without doubt, the congregation was Unitarian, they ought not to go with the original foundation.

Lord Chancellor.—In that point of view, I would desire to hear the case argued to-morrow. *(Adjourned.)*

ADDITION TO REV. DR. LEDLIE'S SECOND LETTER. (No. I. p. 19.)

THE following extract from the evidence of the oldest member of Eustace-Street congregation is the most convincing proof of the hardship and injustice of the case.

Ninth deponent—Mrs. ABIGAIL HONE, widow, to the 24th interrogatory:

"*I am* 90 *years of age.* I am a member of the Protestant Dissenting Presbyterian congregation worshiping in Eustace Street, in the city of Dublin; and I have been so, as I may say, *for the last* 80 *years.* I have a faint recollection of the late Dr. Leland, and a distinct recollection of Dr. Isaac Weld, Rev. Mr. Thomas, and the Rev. Philip Taylor, having been ministers of said congregation during the period of my membership with them, and I was very well acquainted with *all* of said ministers, save the said Rev. Dr. Leland, whom I have only a recollection of having seen and heard preach to said congregation."

Same deponent to the 25th interrogatory:

"So long as I can remember, or so far as I can speak from knowledge or hearsay, I can safely state that the doctrine of the Trinity set forth in the 39 Articles and the Westminster Confession of Faith, and the doctrines of the Supreme Deity of our Lord Jesus Christ, and that he is entitled to Supreme Religious Worship and Adoration, were never taught or preached in said meeting house of Eustace Street; and from my personal knowledge of the religious sentiments of the said Samuel Thomas and the said Philip Taylor, with each of whom I was intimately acquainted, I know that they both *repudiated* said doctrines and *rejected* the opinion that our Lord Jesus Christ was entitled to Supreme Religious Worship; and it has always been reputed and believed that the several ministers and members of the said congregation were DECIDED ANTI-TRINITARIANS, and of the opinions generally entertained by persons denominated Arians; and I can speak of *my own personal knowledge*, that during the ENTIRE PERIOD of my membership with said congregation, Supreme Religious Worship has NEVER been offered to our Lord Jesus Christ, or to the Holy Spirit, in said meeting-house, BUT TO THE FATHER ALONE, THE ONLY TRUE GOD."

When it is recollected that this most respectable lady has been a member of the congregation of Eustace Street for the last 80 years, the above evidence seems in itself a sufficient answer to these grievous proceedings.

RESOLUTIONS OF PRESBYTERIAN DEPUTIES.

At a Meeting of Deputies of Congregations of Protestant Dissenters of the Presbyterian Denomination, in and within Twelves Miles of London, appointed to Protect their Civil Rights, held the 3rd day of April, 1844,—Richard Martineau, Esq., in the Chair,—it was resolved unanimously,

First,—That this body, which has for upwards of a century been entrusted with the protection of the Civil Rights of the English Presbyterians, feel it to be their bounden duty to express their gratitude to Her Majesty's Government, for the protection proposed to be given by the Dissenters' Chapels Bill, not only to the Presbyterian body, but to all other Dissenters who object to subscription to Articles of Faith.

Second,—That by this measure it is proposed to enact, that the usage of a congregation for a defined period shall be evidence of the intent to which the chapel is dedicated, where the trust-deeds contain no declaration on the subject; and that the necessity of this measure is attested by the concurrence therein of all the Law Lords who pronounced the legal decisions out of which it has arisen, and that it is imperatively required on the following grounds of private justice and public policy:

1. Because threats have been loudly uttered of expelling, on legal defects recently discovered, by means of two or three hundred suits in Chancery, as many congregations of religious worshipers from the chapels and burial-grounds which for more than a century have been in the uninterrupted possession of themselves and their ancestors;—and because the Bill in question will prevent the execution of such threats.

2. Because, while it is "a matter of historical notoriety that the English Presbyterians at the time of Lady Hewley's charity, and subsequent thereto, refused to subscribe any tests, creeds or declarations of faith," (a fact sworn to in the above words by the late Mr. Thomas Wilson, of Highbury, one of the Informers in the Lady Hewley Trust case,) the threatened suits are in fact intended to dispossess their descendants, on the ground that they still refuse to subscribe any tests, creeds or declarations of faith.

3. Because, whatever diversity there may be between the opinions held by the present congregations and those of their ancestors one hundred or one hundred and fifty years ago, the change, if any, was not only authorized by their fundamental principle of non-subscription, but has been gradual and insensible—was perfected at a very remote period—has been in violation of no deed—and certainly took place with no intention to violate any law or trust imagined to exist.

4. Because the deeds of the property in question are, in scarcely

any instance, deeds of gift by donors, and in fact were never meant to be, and in sense and justice are not, foundation or trust deeds; but have always been regarded as common purchase deeds: and because the intent of the congregation was in no degree to tie up by such deeds their own hands or those of their successors, but merely to provide appliances for a worship which was to be managed and regulated by the congregation of the time being.

5. Because, even had these deeds been gifts upon a trust-intent, and had the early congregation meant to impose a peculiar religious belief, yet the law, which does not allow private property to be tied up for more than a few years, should neither allow any individual to perpetuate for all succeeding ages his own personal creed, by means of a trust altogether unexpressed, and to be inferred only from vague and speculative implication.

6. Because, to ask the Legislature to leave the law in its present state, is to ask permission to disinter from beneath a century's neglect, the intent of some supposed and unknown founder, and to sacrifice to a shadow the most sacred feelings of large bodies of men now living, who were placed in their present position by their fathers and ancestors, and are themselves innocent of all legal wrong. And because, if justice requires the interests of mankind and the usage of centuries to be set aside to satisfy each founder's intent, the religious endowments of the nation must be re-dedicated to Roman Catholic purposes, if not to Pagan superstition.

7. Because, little remains of the original foundations in question but the bare site of the chapels, which have been almost entirely repaired and rebuilt, and endowments or accretions have been made in modern times, and because their present pecuniary value mainly arises from the contributions of the present possessors, and the law, if unaltered, will deprive such possessors of the benefit of their own rebuildings and accretions.

8. Because, public decorum and respect for the most sacred feelings and associations imperiously require that the possession by religious societies of their ancient houses of worship, and by families of their tombs, should not be violated, except on the most urgent necessity, and that the titles should be placed on the firmest possible basis. And because, unless a legislative remedy were afforded, such titles would be, for all future time, utterly insecure, and the property could not be rebuilt or upheld.

9. Because, the principle of limitation of suits and of undisturbed possession conferring a title, is the basis of social arrangements with reference to property; and because the possession of the chapels in question has been of the most striking and uninterrupted nature, viz., that of a congregation meeting from Sunday to Sunday, from the day of the original erection to the present time, the children not succeeding to the possession of their parents, but becoming with them joint owners, and contributors to the maintenance, of the chapels; and also, because, while as to all other property every accruing year of possession adds confirmation to the title, every year makes the title of a chapel less safe, from the death of old witnesses, by whom alone the earlier principles of the congregation can be proved.

10. Because, while in all ordinary cases there is some individual

plaintiff affected and injured by the law of limitation, there is, in this case, no person capable of designation so injured or affected.

11. Because the suits now threatened should in justice have been brought, if at all, at least a hundred years ago, when the matters in issue were capable of ready and fair investigation.

12. Because the law requires a separate suit for each case;—because the threatened suits could not accomplish any founders' intent;—and because they would be used by speculative attorneys as a means of getting costs—and the whole property would, in most cases, be wasted in law.

13. Because a chapel is not capable of division amongst various sects, according to the principle propounded in the case of Lady Hewley's Trust, but some favoured recipients, themselves differing widely from the original congregation, must be selected.

14. Because bandying about the sacred articles of faith in law courts, and the religious squabbles between a variety of contending sects, such as are still in progress in the suit already mentioned, should, as a matter of public decorum, be prevented.

Third,—That the only two statements at present made against the Bill, viz., that the chapels in question have been usurped by Unitarians, and that the present Bill applies for the first time the principle of limitation to trusts, are unwarrantable, inasmuch as in no single case has the course of congregational possession, to the knowledge of this deputation, been disturbed or contested; and inasmuch as the present Bill only permits the possession of beneficiaries (and not that of trustees) to confer a title, while as to many other branches of property, recent statutes have even allowed trustees to gain titles as against their beneficiaries, while the same principle of limitation has been extended to Church property, such as tithes and advowsons; and also, inasmuch as the question is not whether the application of the principle is new, but whether it is just.

Fourth,—That we cannot close these resolutions without protesting against the usurpation of the name of this ancient body which we regret to find is still persisted in by the body calling itself "the Deputies of Protestant Dissenters of the *Three* Denominations;"* an usurpation which they justify by the admission of certain *Scotch* Presbyterians, it being well known that in 1836 the *(English)* Presbyterian Deputies separated from the other two Denominations, and that the Independents, when it suited their convenience, in Lady Hewley's case, as claimants of that property, have alleged and sworn in evidence that the Presbyterians *now* associated with the Independents and Baptists have no interest in the question, and in fact are not Dissenters at all.

RICHARD MARTINEAU, *Chairman.*

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* No. I. pp. 37, 38.

CHURCH PROPERTY—IMPORTANT DECISION IN THE COURT OF CHANCERY.

[From the "*Tipperary Free Press*" (*Roman Catholic*), Clonmell, March 6, 1844.]

In the case of Eustace-Street Presbyterian congregation, in the city of Dublin, a most important decision of the above Court has been lately announced. It seems that the congregation was originally Trinitarian in point of doctrine; but for using their Protestant right of judging as to the meaning of the Scriptures, to which, as Protestant Dissenters, they considered themselves entitled, they had adopted Unitarian opinions over sixty years past. For so doing, however, though the congregation was quite unanimous in sentiment, they are about to be deprived of funds to the amount, it is said, of £1200 per annum, a part of which is admitted to have been subscribed by Unitarians themselves, and to be ejected from their meeting-house, in which the Rev. J. Hutton, one of the present Trustees, has ministered for a period of about *fifty-six* years. An action has been instituted against them, in the name of the Attorney-General, at the relation of a person called Mathews, a Scotchman, we understand, a clerk in one of the Government offices in the Castle of Dublin, and two other persons living in Fermoy, in the county of Cork! And the Lord Chancellor has announced his determination to take their meeting-house and property from them, because originally founded by Trinitarians, and to give it those whose only title is an assumed similarity of faith with the founders.

This decision, though apparently of slight moment to the public, save as an instance of religious persecution of Protestants by Protestants themselves, is nevertheless most important in its consequences. The Lord Chancellor of Ireland has declared it to be contrary to equity and justice that Unitarians should be in possession of property founded for religious uses by Trinitarians, though inherited from their fathers. On the same principle, and by parity of reasoning, it is contrary to equity and justice that Protestants should be in possession of property left for religious uses by Roman Catholics. But what are tithes and other property of the Protestant Church in this country? The property originally of the Roman Catholic Church founded by our Roman Catholic ancestors. What prevents its restoration by a suit in Chancery? An Act of Parliament—a *Protestant* Parliament simply! By the decision of the Lord Chancellor in the above case, that Act is declared to be contrary to *equity* and *justice* and the *common law of this realm!* In the above case, there was no limitation of the funds to Trinitarian worship only. The founders imposed not their belief on their posterity. But because they were Trinitarians, it is argued, and successfully argued, that they could never have meant it for Unitarian worship. In like manner it may be argued—indeed, no one will be so bold as to assert that our Roman Catholic ancestors *could have meant* to leave their property for the support of *Protestant* worship. And, however Protestants may assume the liberty of judging for themselves in matters of faith, it is a well-known principle of Catholicism that the Church is the pillar and ground of truth.

To deprive the latter Church of its property was plainly an act of

legal spoliation, now declared to be so by the first legal authority in the realm. Are we to take this decision of Sir E. Sugden as a preliminary step to the restoration to their rightful owners of the funds originally bequeathed by pious Catholics? Will Protestants, who *profess* to take the Bible as their rule, be guided in this instance by its precepts? Will they "do unto others as they would that others should do unto them"? Time will tell.

We admit that, so far as the Unitarians are concerned, the decision is most oppressive. They had been *flattered* with the belief that, according to the principles of Protestantism, they had a right to form their own opinions. And for having the temerity to do so, they are now mulcted in heavy penalties by Protestants themselves! Even the accretions to the original funds which Unitarians have themselves made, are claimed, and by his Lordship's decision are, it would seem, to be handed over to Trinitarians! We would not be so unjust as to demand such from the Protestant Church. But we do demand that the tithes, meant originally for the support of the poor, and for other religious and charitable uses, should be speedily restored according to the intentions of the donors. In this demand we are happy to be supported by his Lordship's decision. We only ask what he has decided to be a matter of equity and justice. It cannot be pretended that Protestants were originally *encouraged* by the Roman Catholic faith to introduce schism into the church of Christ. And when they did assume the right or liberty to form their own opinions in religious matters, of which far be it from us to deprive them, it cannot be pretended that they had a further right to take from the church they had deserted the funds bequeathed to it by their pious ancestors. In the name of equity and justice, then, we demand that the principle now laid down by the Protestant Lord Chancellor of Ireland, be carried out in this country by the imperial parliament and government of the realm, and that the church property of Ireland be restored to the uses for which it was designed.

GENERAL LEGISLATIVE REASONS FOR THE BILL.

(From the "Inquirer," March 30.)

"The whim and caprice of every conventicle-builder is, on the principles our Courts seem disposed to follow, to be made permanent and inviolable."—*Preface to Third Act.*

The reasons for this Bill, personal to the parties whose *century* of possession is now for the first time questioned, has already been touched on in previous articles. The general legislative reasons, independent of personal justice, which make it imperative to pass such a Bill, are, among others, the following:

1st. The great scandal in a Christian country of *turning* 300 congregations of tolerated Dissenters out of their chapels, and from the tombs of their ancestors, *into the streets*, on the ground of a departure from some supposed pre-existing creed, of which the oldest living memory in the towns where these chapels are, and the tradition of them to boot, gives not the faintest evidence.

2nd. The impossibility of the Law dealing with these chapels

after the present holders were evicted; and the impropriety of electing some favoured sect as recipients, and the necessity of settling what are the fundamentals of each phase of *dissenting* faith of each "conventicle-builder," as our motto hath it.

3rd. The indecorum of these doctrinal contests in the Courts.

4th. The entire destruction of the property by legal expenses—i. e. the Juggernaut argument.

5th. The certainty that either persecuting bigots or speculative attorneys (acting as common informers) would at once attack them all, without regard to even orthodox dissenting ideas of justice.

6th. The necessity of putting titles of chapels on a foundation of certainty, so that they might be repaired and rebuilt, and the tombs and burial-grounds upheld.

7th. The State necessity of applying the doctrine of limitation, notwithstanding a trust, to at least every case of a possession by *beneficiaries* for their own use, even though they may have varied their own original but *unexpressed* intent.

It is with the second of these reasons we have promised to deal to-day. And before saying a few words upon it, it is right we should disabuse the public mind from two shameless untruths asserted by the opponents of the Bill. The first is, that the Unitarians ever "usurped" these charities. There never was in any case, and the asserters well know there never was in any case, any intrusion, or pretence of intrusion, of one body, and dispossession of another, in any one of these chapels. On the contrary, Mr. Thomas Wilson *has sworn on his solemn oath*, and as a matter it was then his interest to establish, "THAT IT IS A MATTER OF HISTORICAL NOTORIETY THAT THE ENGLISH PRESBYTERIANS OF THE TIME OF LADY HEWLEY'S CHARITY, AND SUBSEQUENT THERETO, REFUSED TO SUBSCRIBE ANY TESTS, CREEDS, OR DECLARATIONS OF FAITH."

Again, the same Mr. Thomas Wilson has also sworn, on his same solemn oath, that most of the late removed "Unitarian Presbyterian Trustees" of Lady Hewley "ARE DESCENDANTS OF THE OLD ENGLISH PRESBYTERIANS."

But if these were our ancestors, and if such was their leading principle, then in the name of all that is orthodox, and all that is honest too, how can Mr. Thomas Wilson and his orthodox brotherhood say that we are "usurpers"?

The second untruth is, that by this Bill a rule of limitation is to be for the *first time* established as to trusts. This statement every lawyer knows well to be altogether untrue, and that very many equitable or trust properties have been subjected, and most of them too in modern days, to laws of limitation.

These two falsehoods, told by a body now calling itself "evangelical," but which had, for a large part of a century, that well-known Unitarian, the late Wm. Smith, M. P. for Norwich, for its chairman, *are the only reasons alleged against the Bill.* Reading such reasons, and knowing how transparent is their untruth,—reading the term "evangelical,"—one can hardly help bursting out with the wild exclamation, "Great are the privileges of the saints!"

We now proceed to fulfil our last week's promise of discussing the second legislative ground above mentioned, and shewing what

would be the effect of allowing these "holy allies" of the pseudo-three denominations to attack the property in question. And on this subject we would first beg our readers to refer to a statement of the actual facts of the orthodox quarrel in the Lady Hewley case, which we have prepared with much care and labour, and which will be found in another column. Though put, for brevity and clearness, into a dramatic form, and though an abstract of 180 very closely-printed octavo pages, small type, enough will, we think, be found there to substantiate our point.* Here again, as heretofore, out of our opponents' own mouths, and on their own case, shall the matter be judged.

But the Master has there appointed trustees from each clique—"black spirits and white, blue spirits and grey." What will he do when he has a chapel? How will "the jarring elements" coalesce there? "Will they," to quote the words of the masterly editor of the Third Act, "by the mingling of their mutual repulsion, form a happy and harmonious compound?" Or, of them all, which is to be the favoured exclusionist?

Let us ask these holy allies one or two questions. You would not wish to be judges in this your own affair. You have been sending your deputations to discuss your objects with legislators. You call yourselves reformers and anti-state-church-men. How find you the legislators whose sympathies are most allied to yours? Do they think your case a good one, your doings virtuous and honest, and consistent with Protestant liberty, to say nothing of the principles of Protestant Dissent?

Is "the glorious memory of the TWO THOUSAND EJECTED MINISTERS" still your favourite toast?

Out then on the scandal of your course! Your fruitless intolerance and unslaked thirst for inquisitorial oppression has thrown a foul stigma on that great cause of religious freedom which alone has sanctified their noble names.

OUR DUTY.

(From the "Inquirer," April 6.)

A FEELING of reverence for the temples of our worship is incident to humanity—an essential element of our mental constitution. No country is without it. It is found even with the basest superstitions. History is full of its traces. A devotion—first, to the ancient altars of his worship; second, to his own home and hearth—are the first discoverable land, or road-marks rather, on the path of civilization.

And these feelings, like all the other pure elements of the mind—like the love of nature, of truth and of God—grow with the growth of civilization. In the most elevated and noble souls, they attain the most elevated and noble pitch. As the intellect expands, instead of dwindling and becoming extinguished, they grow and expand themselves, and embrace and enclose within their sacred

* We must content ourselves with referring the reader for these "facts of the orthodox quarrel," to the "Third Act," &c.—ED. P. R.

influences, circles which are continually widening. As the light and heat they shed extend over larger spaces, the focal point becomes also warmer, brighter and more concentrated. Although the truly great man is at home wherever human trouble and want are, yet as his sympathies towards them extend, his own fire-side also gains more enchaining attractions. Although to him who really worships in spirit and in truth, the whole universe is a temple, yet all the sanctifying influences which nature pours in upon him from every side, serve but to add newer and more solemn associations to that small house in which his fathers and forefathers prayed.

We should resolutely encourage these attachments. The feelings which led, two thousand years ago, to the rallying cry, "*Pro aris et focis*," must not be dimmed in our minds by any false notion of cosmopolitism. *We* also must keep alive a full strong resolution that those places and influences which our fathers bestowed upon us, shall be by us duly and faithfully preserved, and, by God's blessing, duly and faithfully transmitted to those who come after us,—and transmitted, too, with that added influence which the determined right use of one more generation cannot fail to append. And we must fully appreciate, and energetically applaud, the assistance we receive in accomplishing this holy duty, and must do this the more gratefully, the more we see personal sympathies sacrificed to a sense of public propriety, and in favour of our claims on justice.

An opposition is attempted by the parties anxious to be the common informers in suits against our ancient possessions. Though interested ourselves, we are yet justified in calling this a most unworthy and disgraceful opposition; for it is an opposition against the feelings of all impartial judges. The great Law Lords, with no sympathy for anti-creed principles, are unanimous in their opinion of the justice and necessity of this measure. The Government, though strongly disaffirming these principles, has also, without hesitation, come to the same conclusion. All the profession of the law is of the same mind. And yet the persecuting bitterness of sectaries, who have themselves but recently been freed, and that mainly by our assistance, from the trammels of the Test and Corporation laws, leads them to set at naught all these *impartial* declarations of the justice of our case, and to endeavour to prevent the passing of a law, without which not one single anti-creed chapel, older than 1813, can be rebuilt or repaired. They do this, no doubt, with a view to a holy crusade upon the descendants of men, whose *refusal to subscribe creeds*, they—these persecutors themselves—*have solemnly sworn* to be "A MATTER OF HISTORICAL NOTORIETY."

They themselves are doing this at some small hazard to their own property. They are all anti-state-church-men, and in the vehemence of their feelings are framing a confederacy against the connexion of Church and State. But though their own opinions against the Church government are so strong, they themselves, *by the present law*, hold all their own old chapels on condition that, if called on by any common informer, they shall swear to their belief in all the Articles of the Church of England, except the thirty-fourth, thirty-fifth and thirty-sixth, and the first seventeen words of the twentieth. How far these anti-state-church-men will swear to their belief in the

Church being a "witness and keeper of Holy Writ," in the "authority of General Councils," and in the doctrine that those excommunicated of the Church (e. g. a church-rate resister) "ought to be taken as heathen and publican;" and in other Articles about Church authority; to say nothing of their belief in the essential dogma of Consubstantiation—is a point which may yet be tested some day. It would doubtless be most agreeable to them, that their own favourite measure of right should be meted to themselves also; and that their own titles should be tried by their own adherence to their revered legal standard of ancient faith.

The merits of their opposition lie in a question—HAVE THEY, OR HAVE THEY NOT, A PERSONAL INTEREST IN THIS MATTER? If "Yes," then the principle of limitation, by *their own confession*, applies, and has run against them for a century: if "No," who set these men so peculiarly over *us*, to look after *our* properties and consciences? Where is *their peculiar* title to be heard? It can lie only in their bigotry—in their desire to put down, by any means, foul or fair, what they call a "pestilent heresy"—and, to quote their own expression in the Lady Hewley squabbles, from their wish "to wade in Presbyterian wealth." And this is all to be done without scruple, in the teeth of all the great judicial opinions of the day. Such conduct could never be found but in intimate conjunction with the blind fury of raging schismatics.

The "Independent" partners in this brigand and plundering confederacy, when clamouring for the lion's share of the spoil, swore "that the term Presbyterian is, in a fair, just and honourable sense, and in accordance with its *original* signification, capable of being applied to the generality of the English Congregationalists of the present time." Truly, as to its *original* signification, they are right. Go back to the time of that great Anti-trinitarian Independent, JOHN MILTON, and it is so. The Presbyterians then, as the Independents now, tried to "oppose their best friends and associates who molest them not—infringe not the least of their liberties—*unless they call it their liberty to bind* OTHER *men's consciences;* but are still seeking to live at peace with them."* And we may well now exclaim, as Milton did then—"Should ye set an oligarchy of twenty engrossers over us, to bring a famine upon our minds again—when we shall know nothing but what is measured to us by the bushel?" And may well continue the sentence, as he did—"Believe it, Lords and Commons! They who counsel ye to such a suppressing, do as good as bid ye to suppress yourselves."†

And for such, in "holy orders or pretended holy orders," as, coming here, or professing to come here, under colour of Free-Church, or Anti-State-Church, or other such affairs, take that opportunity to interfere in this matter, we have still another passage:—"I have something also to the divines, though brief to what were needful; not to be disturbers of the civil affairs, being in hands better able and more belonging to manage them..... Let them be sorry that, being called to assemble about reforming the church, they fell to progging and soliciting the parliament, though they had renounced

* Tenure of Kings. † Areopagitica.

the name of priests, for a new settling of their tithes and oblations; and [would fain have] double-lined themselves with spiritual places of commodity."*

As Milton then was, let us, at our humble distance, now strive to be—watchful, determinate, bold. Let us be thankful and grateful to the doers of justice, and resist to the last those who would, against all impartial opinion and in teeth of their own solemn oaths, wrest from us the things which should be our most valued possessions—the resting-place of the dust of our fathers, and the ancient altars which witnessed their devotion.

Since the above was written, we have read the *Patriot* of yesterday. We denounce those only who wish to thrust us from our chapels, in spite of every claim of justice and possession. Such we call, and shall call, bigots or plunderers, or probably both. The *Patriot*, with the reasonable of his own party, disavows this wish, and opposes the Bill on the simple ground that no suits are threatened. We make no war, therefore, with the *Patriot's* views, only with his ignorance. He says no suits are threatened. He may not be in the confidence of the council of war—probably is not. He is too reasonable and respectable. We *know* that many have *been prepared;* and so notorious is this fact, that Mr. Simons, the reporter of the Vice-Chancellor's Court, and of that exclusively, we observe, makes this very notoriety his excuse for going out of his way, and reporting the *House* of Lords' decision in the Lady Hewley Trust case, in his Vice-Chancellor's Reports. The *Patriot* speaks of a Bill brought in last session—*there never was any Bill brought in last session.* As we told the *Patriot* before, he has been altogether misled in this matter by a Belfast paper. It is the *Patriot*, not ourselves, who has confounded the Eustace-Street case with the very instructive Third Act of the Lady Hewley Drama. Our extracts last week, as all our readers must have understood, were to exemplify what the *Patriot* truly calls the "scandal and bad blood" such litigations are sure to engender. They were entirely taken from the orthodox litigants' affidavits in their intestine warfare in that case, after our ejection, and when they were squabbling about the division of the spoil. We want not to "circumvent any one" who takes up the *Patriot's* views; and the *Patriot* shall have our full assistance, if he will not despise the assistance of such "sentimentalists" as ourselves, in turning the present Bill from what he calls an aggressive into a purely defensive measure. We agree that the measure is, and should be, defensive, and defensive purely. Let him but point out in what way it is aggressive, how it can be rendered defensive only, and such aid as we can give, is his. All we ask is a good title to hold and rebuild our chapels upon—one not dependent for the next thousand years on a speculation what the doctrines of the builders of a chapel were.

But the *Patriot's* present views being such as he now states, we call on him, in honesty, to remodel the form of a petition he printed a week ago, in which he alleges against the Bill the one ground which he now so strongly disavows, and no other whatever, viz., that the Bill

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* Tenure of Kings.

is to protect Unitarians in a breach of trust, and that they should, on that ground, be ejected from all their chapels before 1760, and that the Bill should be thrown out on that ground, though the very date fixed shews eighty-four years of adverse possession.

If the views of the *Patriot* are those of the real leaders of his party, they would be better occupied in trying to remodel, than to oppose the Bill; and probably would find very little difficulty in effecting such object.

LAWS OF LIMITATION OF SUITS, PRESCRIPTION OR USUCAPTION.

(From the "Inquirer," April 13.)

"Inasmuch as such lands have beene used of long time, who may thinke therefore without great heavinesse that so many men should be bound to restitution."—*Doctor and Student*, b. i. c. 26.

THE important bearing of the principle of prescription upon the Dissenters' Chapels Bill will make a few words on this subject interesting to our readers. As the Presbyterian Deputies state in their reasons, this principle is the basis of all social arrangement. Though we deny indignantly the gross imputation thrown on our forefathers, of having usurped the property of others—the truth of the charge is unimportant *in a legislative* point of view. The most illegal and fraudulent possession becomes, and ought to become, an indefeasible right in the hands of an innocent successor. When longer periods were required by our law to complete a prescriptive title, there was much sense in our old rules, which drew a distinction between the case of possession of a wrong-doer and of that of his children, or, as they phrased it, after "a descent cast." All cases of contested right have a double aspect. The simple object of social arrangements is to make the title to property as sacred as possible, and society, in dealing with this subject, has to consider, not only the right of the dispossessed owner, *but also the acquired right of the innocent holder*, and the violence done to the feelings and interest of the community by dispossessing *him*. This point our opponents *dare* not even *approach*. In fact, it is unapproachable. To use the language of the framers of the Code Napoleon, (whose words are cited below,) "Prescription is the palladium and safeguard of society. Its principle has been consecrated by the legislation of all civilized people—of all who have recognized the right of property. Even if fraud has abused it, to cover usurpation or robbery, I repeat, (said the Tribune,) what an eloquent orator said in this place a few days ago, 'Morality has for its end, virtue—Law for its end, peace.'"

Our opponents have attempted to throw some mystification into this matter by talking about this being a case of Trust. Limitation is equally applicable to cases of Trust as to any other property where the possession and beneficial use is taken away from the party to whom the law would have given it, and has been in the hands of other beneficiaries for a sufficient period. It is only because a trustee has undertaken, by the form of his trust, to hold possession for some particular express purpose, and because the fact of *his* being in possession is consistent with the supposition that all the while he is duly applying the income to that purpose, that such possession does not

confer a title in every case. In the cases in question, the congregations now in possession are not trustees for, nor ever undertook or intended being trustees for, other classes of Dissenters. And as to all those cases where the trust-deeds are lost, or where no claim of trust has been kept up, we imagine that by the law, unjust as it now is, great difficulty would be found in ejecting the present possessors.

As an instance of the confusion, real or pretended, existing in the minds of our opponents on this point, we would allude to an assertion of the *Patriot*, that the intent of a founder ought to be just as binding if unexpressed as if expressed. Why surely, although you may, it is possible, be allowed, where the intent *is* expressed in the deeds, to say (though against all principles of jurisprudence) that the present holders took with means of knowing the intent, and should not, therefore, by *any length* of possession acquire a title—yet you cannot be allowed to say that the present holder's possession gives no better or different right (moral or legal), where there is no notice to him on the title-deed, of the intent to which it was to be devoted. To assert this, is to say that the principle of limitation is wrong or vicious throughout the whole system of law; and that the innocence of a present holder's position is altogether immaterial.

We challenge all objectors who admit that the principle of limitation is "the palladium and safeguard of society," to shew in what respect the present case is not within the scope of such principle. Let the *Patriot* try his hand at this, and at the same time join issue specifically on the 4th, 5th, 6th, 7th, 8th, 12th, 13th and 14th reasons of the Deputies. Particularly let him say if, in his view of right and wrong, Unitarian accretions should be taken away from us, as the law now takes them away, and as was done in the Wolverhampton Chapel case; and also if the present possessors ought not to be allowed to purchase their chapels, as proposed in that Belfast Bill which he is so well acquainted with. The *Morning Chronicle*, quiet enough in his views, speaks of this as an unquestionable point. We should also much like to know, if it be not going too deep into the mysteries of his opinions, how he can be so strongly opposed, as he says he is, to the imposition of creeds, while he yet insists that all chapels should be held on condition of adherence, *ad infinitum*, to the Founders' peculiar faith, to be ascertained any way you can. This to us is such a perplexing riddle and contradiction in terms, as to make us think we must be engaged in some subtle Polemico-Theological—certainly not in Jurisprudential debate. Say, *Patriot*, was it consistent, think you, with this objection to tests, that Mr. Thomas Wilson should tender before the Chancery Master to sign the Westminster Confession, as the price of being allowed to "wade in Presbyterian wealth"?

The *Patriot* speaks in a tone of dignified resignation, as if it were not now the practice of his sect to impose creeds in their chapel deeds; and as if after this Bill is passed, they should be driven to such a practice against their will and in self-defence. Why, there is no room for blunder here. Chapel deeds are all enrolled in Chancery-lane. Any one may see them there. There are his deeds by the hundred, and to each one a schedule running now over some large skin or more of parchment, containing the articles of their faith.

This is no new practice. It is to be seen there on record for generations. Is not *Patriot* in the council of war to this extent? If not, we will, next week, if we can spare room, print one of these schedules, and a startling document it is for the corner-stone of a church so strongly opposed, as we are now told, to all tests, creeds and declarations of faith, of human composure, at least startling to us simple ones, who are not in the secret, who hold not, as our new opponents say, "the faith delivered to the saints," and who only know how to speak "pretty sentimentalities" about what to us, sillily (the *Patriot* thinks), is a matter of deep and reverential sorrow —the threat of being turned away from the graves of all near and dear to us, now no more.

We should like, too, to know, if the *Patriot* does not object to further interrogatories about his creed, less offensive — smacking far less of the inquisition—than those his sect crammed down the defendants' throats in that Lady Hewley case, (the very mention of which *Patriot* protests is so utterly irrelevant,) what he thinks of Dr. Stewart's letter? Look at it, reader, in another column. Will it be, think you, *Patriot*, a *breach of donors' intent*, if the marriage-petition money should be milched for your Anti-Socinian purposes? Or would the diversion of a part of this Anti-Erastian fund to aid in putting down a pestilent heresy, be a righteous *cy-pres* application? Or is it that, while a breach of trust in our forefathers is to be visited on their children, to the third or fourth generation, your orthodox churches can do no wrong? If so, great, we say again, are the privileges of the saints. The *Patriot's* blunders about trustees electing the ministers among Unitarians—about the Lady Hewley decision not affecting chapels, and the like—are like his Belfast Bill of last session — and the orthodox Dissenters' quiescence after that Bill came into Parliament. Let them pass. To him we will finish with an invitation out of that excellent book of ancient days from which our motto is taken:

"And if thou can yet shew me any other considerations why the said recoveries [chapel-deeds] should [not] stand with conscience, I pray thee let me hear thy conceit therein, for the multitude of the said recoveries [chapel-deeds] is so great, that it were a great pity that all should be bound to restitution that have lands by such recoveries [chapel-deeds], sith there is none (as far as I can heare) disponed them to restore."

One word more, not to the *Patriot* only, though (respecting him after all) we should wish him to hear. So strong is the feeling among all disinterested lookers-on, particularly all legislators and jurists, that possession so ancient and so innocent as ours, should be left unquestioned, that all attempts to hinder the Bill will essentially be attributed by them to what the *Chronicle* calls spiteful dogmatism. Such lookers-on, particularly as they see the orthodox Dissenters are divided among themselves, will say, that the opposition to the Bill is founded on a secret belief in these two propositions:—1st, That to oppose the Bill will tend, at the expense of keeping up an unjust law, to put down "a pestilent heresy;" and, 2nd, That "the end justifies the means." And if an opposition, assuredly futile, is to excite such feelings, will it tend—will the ill-blood it engenders

tend—to raise our common name of "Dissenter" in the eyes of liberal and tolerant men—or to add weight to our common opinions on the great legislative questions on which we have so often spoken, and with so much unanimity and effect?

We have now to advert to the subject of Prescription, and the Limitation of Actions for the Recovery of Real Property.

It might at first sight be considered that the duration of wrong ought not to give it a sanction, and that the long suffering of injury should be no bar to the obtaining of right when demanded. But human affairs must be conducted on other principles. It is found to be of the greatest importance to promote peace by affixing a period to the right of disturbing possession. *Experience teaches us that, owing to the perishable nature of all evidence, the truth cannot be ascertained on any contested question of fact after a considerable lapse of time.* The temptation to introduce false evidence grows with the difficulty of detecting it; and, at last, long possession affords the proof, the most safely to be relied upon, of the right of property. *Independently of the question of right, the disturbance of property after long enjoyment is mischievous;* it is accordingly found both reasonable and useful that enjoyment for a certain period of time, against all claimants, should be considered conclusive evidence of title. — *Real Property Commission, First Report.*

Forasmuch as the time of limitation appointed for suing of writs of right and other writs of possession, and seisin of men's ancestors or predecessors, or of their own possession or seisin, by the laws and statutes of this realm, heretofore made, limited and appointed, *extend and be of so far and long time past, that it is above the remembrance of any living man truly to try and know the perfect certainty of such things as hath or shall come in trial,* or do extend unto the time and times limited by the said laws and statutes, to the great danger of men's consciences, that have or shall be empanelled in any jury for the trial of the same; and it is also *a great occasion of much trouble, vexation and suits to the King's loving subjects,* at the common laws of this realm; *so that no man, although he and his ancestors,* and those whose estate he or they have, *have been in peaceable possession of a long season,* of and in lands, tenements, and other hereditaments, *is or can be in any surety, quietness or rest, of and in the same, without a good remedy and reformation be had,* made and provided for the same; Be it therefore enacted, &c.—*Preamble to* 32 *Henry VIII.* c. 2.

People are not to sleep on their titles. It would be injurious to the public that they should. Lands which are the subject of litigation become waste for want of cultivation.—*Lord Redesdale,* 2 *Scholes & L.* 630.

As the end of all laws is the quiet and peace of society, the limiting of a period of time within which persons must pursue their remedy by action, was a wise and politic constitution.—*Reeve's Eng. Law,* Vol. III. p. 267.

Omnes actiones in mundo, infra certa tempora habent limitationem.—*Bracton.*

Expedit reipublicæ ut sit finis litium, is a maxim that has prevailed in Chancery at all times.—*Lord Camden, Bro. C. C.* 639 n.

Constitutionem super hoc promulgavimus qua cautum est ut res quidem mobile per triennium, immobiles vero per longi temporis possessionem (id est inter præsentes decennio; inter absentes viginti annis) usucapiantur, et his modis non solum in Italia sed etiam in omni terra quæ nostro imperio gubernatur dominia rerum justa causa possessionis præcedente acquirantur. *Justiniani Instit.* lib. ii. tit. 6, § 1.

From the "*Recueil complet de Travaux Preparatoires du Code Civil,*" Vol. XV. p. 603—*Discussion devant le Corps Législatif.*

La Prescription est ainsi le *palladium* de la propriété.

* * * * *

Si une possession accompagnée de tous les caractères que nous venons de vous présenter n'était plus un moyen d'acquérir et de se libérer, quand elle a eu lieu pendant le temps et sous les conditions determinées par la loi, tout deviendrait désordre et confusion; la propriété serait sans sauvegarde, ou plutôt il n'y aurait plus de propriété.

La prescription est donc une de ces institutions bienfaisantes et salutaires sur lesquelles repose la tranquillité de tous et de chacun, celle des familles, et de l'ordre social; elle doit être consacrée par la législation de tous les peuples policés et qui reconnaissent le droit de propriété.

Que si la mauvaise foi en abuse pour couvrir une usurpation ou un vol, je répéterai ce qu' à cette tribune, disait il y'a peu de jours, un orateur eloquent—*La morale est pour la vertu, la loi est pour la paix.*

(From the same, p. 573.)

De toutes les institutions du droit civil, *la prescription* est la plus nécessaire, à l'ordre social; et loin qu'on doive la regarder comme un écueil où la justice soit forcé d'échouer, il faut, avec les philosophes et avec les jurisconsultes, la maintenir comc un sauve-garde nécessaire du droit de propriété.

A thief has no title to retain a subject which, though in his possession, is not his property; he is besides bound in conscience to repair the damage done by him to the person formerly proprietor, by restoring the possession which of course restores the property. *But this claim of restitution* evidently reaches not any person who has acquired the subject by honest means, and having done no wrong, cannot be liable to make any reparation. —*Lord Kames' Law Tracts*, 84.

By the oldest law of the Romans, a single year completed the prescription of moveables; which testifies that property independent of possession was considered to be a right of the slenderest kind.—*Ditto*, 89.

Hume, I. Essays, 423, has the same remark; and see Gibbon, Vol. V. 404.

See 1 Rutherforth's Institutes of Natural Law, ch. 8. His idea is, that the longest term required to give a possessor any title should be that of living memory.

"It is an abuse to count of so long term whereof none can testify the hearing or seeing, which is not to endure generally above forty years."—*Mirror of Justices, tit. Abuses of the Common Law.*

I conceive no right capable of constant enjoyment should be enforced, if it has not been exercised within twenty years.—*Tyrell's Suggestions*, 116.

When a trustee remains in possession, and the *cestui-que* trust allows his right to remain dormant, I do not see any just reason why he should be allowed a longer time than a mortgagee, or a *cestui-que* trust by construction; and I think it desirable that his claim should be barred at the end of the ordinary period.—*Ditto*, p. 124.

A numerous body, as creditors, or a religious sect, are not expected to exert the same diligence as individuals, and therefore their rights are not [at present] considered to be barred in twenty years; and in cases relating to the rights of the public, a still further time is [now] allowed. The longer time allowed to creditors and other numerous bodies, appears to be productive of more inconvenience than benefit.—*Ditto*, pp. 95, 125.

EXPLANATION AND DEFENCE OF THE BILL.

(From the "Morning Chronicle," April 10.)

This Bill originates in the following circumstances:—After the Act of Uniformity, passed in Charles II's reign, and before the Toleration Acts (of England in 1689, and Ireland in 1719), and while dissent

was illegal, many meeting-houses were built in both countries. These buildings having been directed to objects which were illegal at the dates of their title-deeds, their titles were bad. The Roman Catholics were in the same situation, and by a suit instituted since their Emancipation Bill, an old charity of the Catholics was taken from them by a decree at the Rolls, as illegal in its inception. They have since procured an Act to give retrospective validity to their charities. The first clause in the Dissenters' Chapels Bill does the same thing for Protestant Dissenters as was done by that Act for the Roman Catholics. To this clause, which is manifestly just, no objection is raised.

The second clause of the Bill provides that, where there are no particular doctrinal opinions required by the title-deeds to be taught in a chapel, the title of the congregation holding it for the time being shall not depend, for the next 100 or 1000 years, on the accident of such congregation being able to prove, to the satisfaction of a Chancery Judge, whenever summoned by any common informer, that its doctrinal sentiments correspond with what such Judge may, from extrinsic evidence, infer to have been the unexpressed doctrines of the founders; but that the usage of the congregation, for some specified time, shall be sufficient evidence on the point. Upon this clause, which seems to confer but a reasonable modicum of protection, the whole quarrel between the Dissenters arises.

The objectors say that many congregations, now heterodox in their dogmas, were originally of orthodox opinions, but that at some period, admittedly two or three generations ago, they changed their sentiments, and thereby became trespassers in chapels up to that moment their own; and that their descendants should, therefore, be now required to give up their chapels.

To this it is answered, that even were it so, the parties at the period of change had no conception that such change affected their title —that no one thought of questioning such title then—that two or three generations have since occupied, and in most cases re-created, the property, by rebuilding and repairing it, under the fullest confidence that it was their own, and, what is still more important, have buried their families in the grave-yards; and that it would be a private injustice and a public scandal to disturb so solemn and unbroken a possession, and to turn out of doors some hundreds of congregations, whose occupation is justified not only by the oldest living memory, but also by the tradition of each locality. If extrinsic and oral testimony is to be used to displace us, then, say they, the great reason for a statute of limitation arises, viz., that without such a statute every year of added possession, instead of strengthening, weakens the title, by the death of old witnesses.

To this it is replied, that chapels are held on trusts, and that to justify possession in breach of a trust, is against the first principles of law, and that private inconvenience and suffering, though to be deplored, should be set at nought in favour of the principle of the sanctity of trusts; that schools, hospitals, &c., might as well be discharged from their trusts; and that the charity commission need not have been issued if such mistaken commiseration is to prevail.

In answer, the supporters of the Bill say, that the question is not

whether the intended application of the limitation law is new, but whether it is just; and they allege that the parallel between chapels and hospitals or schools does not hold. Congregations, when they bought a plot of ground and built a chapel, and put no doctrines in their deeds, must have looked on it as a kind of partnership affair, and meant to retain the control in their own hands and those of their successors; and not have intended to place the property they had just bought in such a position that any stranger, or common informer, might file a suit against them about it any day, and force them to settle a scheme for its administration in the Chancery Master's office. They must have looked on their conveyances as common purchase deeds; and if the law had allowed them to hold their property as a corporation does, without the intervention of trustees, there can be no doubt that they would have had it conveyed so, and in this way have placed it at the sole will of the congregation for the time being. In fact, this is just what the Free Church in Scotland are now debating upon, and, from a late number of the *Scotsman*, are thinking of applying to the Legislature to authorize. But any trust of this description is much more like a trust in a private settlement for a private purpose, than like a parting by a testator with his property for the benefit of the public, as in the case, for instance, of a legacy for founding a hospital. And although adverse possession by any trustee ought not to gain him a title against his beneficiaries, yet the possession by the beneficiaries ought and does in private settlements gain them a title against the trustee. So far from the reference to the charity commission holding good, these dissenting religious properties were *excepted* from the charity commission, and not inquired into under it, on the very ground that they were private charities and to be managed by the parties themselves.

General legislative reasons, certainly of much force, are also alleged in favour of the Bill, and no answer can well be made to them. It is easy, the supporters say, to decree the removal of a particular congregation. But to what other sect will you give the chapel then? All will quarrel. None now existing are like those who built it 150 years ago; some candidate must be preferred. Lady Hewley's funds are to be divided amongst many sects. But this cannot be done with a chapel; and they refer to the intestine disputes for the funds in the Lady Hewley trust case, which arose among the claimants after the old trustees were displaced, as shewing that this, practically, is an insuperable difficulty, and would open all chapels to suits by speculative lawyers, and would waste their whole value in law, for the costs must come out of the property, and there must be a separate suit for each case; and so exacting is our equity court that it would be a breach of trust for trustees, even if so inclined, to hand a chapel over to any other set of men without the direction of the court in a suit for that purpose; and they refer to the indecorum of these inquisitions into the doctrinal mysteries of religion in the law courts. Actuated, doubtless, by some such views, it appears that the Law Lords are unanimously in favour of the Bill.

The reasons for the measure will be found ably stated in the resolutions of the Presbyterian Deputies in our advertising columns. All parties must admit that some modification of the present law is re-

quired—some substitute for the 2nd clause of the present Bill, even if that clause is not right as it is; and that if the present holders are wrong altogether in their views, they should, at the least, be allowed to purchase their chapels and family tombs, having credit given them in the price for their own outlay and rebuilding, and that the titles should now be put on a clear foundation, and not left a prey in future to every common informer or spiteful dogmatist. But concede as much as this, and there is little left to quarrel for.

Contending bodies who believe themselves personally interested, should also, as to the merits of their respective support and opposition, rely rather on the judgment of disinterested parties than on their own. The unanimity with which the Bill was received in the Lords, particularly by every Law Lord, shews what that disinterested judgment is as to the present Bill.

"LEEDS MERCURY"*—JUSTIFICATION OF THE BILL.

(Saturday, April 13, 1844.)

A BILL has been introduced into Parliament by the Lord Chancellor, which has two objects—1st, to render valid the title to Dissenters' chapels, schools and charities, which may have been built or founded before the passing of the Toleration Act in England or Ireland, or the Act relieving Unitarians from disabilities; and, 2nd, to prevent chapels, in the trust-deeds of which there is no requirement as to the particular doctrines to be taught, from being taken away from their present holders on the ground of an alleged difference between the doctrines now taught and those originally taught there. The usage of the congregation for a certain time, to be fixed in the Bill, is to be regarded as sufficient evidence on the point: it is supposed that this period will be twenty years.

The 2nd and most important clause of the Bill is as follows:

(Here the Clause.)

The real object of this Bill is understood to be, to prevent the chapels now held by the Unitarians in England and Ireland from being taken from them, on the ground that they were originally held by Trinitarians. It is said that there are at least 170 chapels in England in this situation.

After much reflection, we have arrived at the decided conviction that this Bill is a wise and a right measure. Herein we differ from many of those with whom we usually agree, and with our friends, the editors of *The Patriot* and the *Evangelical Magazine*.

It is said with truth by those who disapprove of the Bill, that the chapels in question were built by orthodox Dissenters, and were of course intended for the preaching of orthodox doctrines, and that now doctrines essentially different are preached in them.

No one regrets more sincerely than ourselves the change of religious opinion which took place in the Dissenting congregations

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* This able and widely-circulated newspaper is, as is well known, edited by Mr. Baines, of Leeds, and is, in Dissenting questions, supposed to speak the sense of the Congregational Dissenters.—ED. P. R.

worshiping in those chapels: but we must not allow that regret to influence our judgment in deciding on the present Bill.

Our reasons for thinking that there should be such a limitation of actions as is intended to be provided by this Bill, are as follow:

The present holders of the chapels are in almost every case the lineal descendants of the individuals by whom the chapels and schools were built. They and their ancestors for several generations have worshiped there. Their family graves are in the chapel-yards.

In nearly every case, the religious opinions of the principal persons in the congregation, if not of a majority, changed, more or less gradually: there was no disturbance of possession: there was no violent usurpation: the ministers were elected in the manner provided by the trust-deeds.

In nearly every case, this change of doctrine took place one, two or more generations back,—and of course not in the time of the present holders.

The present holders, therefore, have all the feelings of rightful possessors, and they would feel themselves outraged and persecuted by the wresting of the chapels from them.

Those who retained orthodox opinions in the congregations long ago quitted the chapels, and, joining themselves with others, built new chapels, which they or their descendants at present occupy,—so that their wants are now supplied.

The chapels in question have in many cases been repaired, and in some cases enlarged or re-built, by the present occupants, who may have spent as much money on them as the original cost.

If the chapels were recovered from the Unitarians, it might be difficult to decide whose property they should be.

If they were assigned to the Independents, that body would not have the means of filling them,—they are already provided with chapels: what they seek is, congregations, churches, souls, not naked walls and empty pews.

But the expenses of litigating would, in most cases, far exceed the value of the buildings.

The suits might be instituted by mere speculating and pettifogging attorneys in London, whose acts would be laid at the door of the orthodox Dissenters generally.

If the Unitarians were ousted, they would build new and more spacious chapels, and their zeal and self-sacrifice would only be inflamed by the feeling that they were persecuted for conscience' sake.

The argument in favour of returning these chapels to the Trinitarian Dissenters, would be as good for returning most of the edifices and charities of the Protestant Church to the Roman Catholics.

That argument would also equally prevent the use of churches or chapels, in future, by bodies holding opinions different from, even though *more true* than, those of the founders.

The principle of *limitation* is quite familiar to the law of England: in private property, undisputed possession for twenty years is a legal bar to an action; and there are many other laws of a similar character.

Litigation between different classes of Dissenters would separate the friends of Religious Liberty, at a time when they can ill afford such separation.

If suits should be commenced to recover the chapels, religious doctrines would be discussed in our courts of equity, in a manner scarcely consistent with propriety or decency.

Without such a law as that which it is proposed to pass, the several chapels would be held in painful insecurity, and could not be repaired or rebuilt.

For all these reasons we think Government has done wisely in bringing in the Bill, and we should much regret to see the orthodox Dissenters petitioning against it.

AN AGED "ORTHODOX" MINISTER, ON THE OPPONENTS OF THE BILL.

To the Editor.

SIR, *April* 3, 1844.

THE Christian Reformer for this month (under the head *Presbyterian Reporter)* contains a copy of the Bill brought into the House of Lords by the Lord Chancellor, on the 7th of March, intituled "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England."

To oppose the passing of this Bill, the Independents are exerting themselves to procure Petitions from the congregations in their connexion, expecting to be able to appropriate to their own body the property of old Presbyterian chapels. Yet to this property they have not the slightest claim. They are not—they never were—Presbyterians. They belong to a different family—a family that has always rejected and condemned the Presbyterian form of church government. Their inconsistency, cupidity and obstinacy, in claiming Presbyterian property, are truly astonishing,—certainly, they cannot easily be reconciled with the character of honourable men, and much less with the character of Christian men. This has appeared in the conduct of the Independent Relators in the Hewley cause, in which they have been defeated in their attempts to appropriate to their own body the management of that important trust; judgment was given against them by Lord Henley in the Master's Office, and by the Vice-Chancellor of England.

It is reasonable to conclude that the opposition to the present Bill arises from the same quarter, as one of these Relators, Mr. Hadfield, of Manchester, has sounded the alarm in the Evangelical Magazine for this month, calling for Petitions against it to be presented to the House of Lords. It is due, therefore, to the interests of Truth and of Justice to draw the attention of the public to the strange conduct of these Independent Relators and of their supporters, in conducting the Hewley cause.

Will it be believed that the Rev. J. Pye Smith, D. D., in support of the claims of the Independent Relators, declared upon oath, "that the term *Presbyterian* is, in a fair, just and honourable sense, and in accordance with its *proper* signification, capable of being applied to

the generality of the *English Congregationalists?*"* Yet so it is stated in the copy of his affidavit given in a pamphlet intituled "Lady Hewley's Charities—the Third Act," page 73. The term *Presbyterian*, in its *proper* signification, and in the signification in which alone it could be noticed in the Court, means *Presbyterian as distinguished from Independent:* yet Dr. Smith declared that Independents were, in this *proper* sense, Presbyterians. It is justly stated, in answer to this affidavit of Dr. Smith, (Third Act, p. 99,) that with equal propriety the Independents may be styled Episcopalians, Baptists, Catholics or Unitarians, and claim a right to the property of any of these sects. "And it appears to be equally immoral for Independents, on such frivolous pretexts, to claim Presbyterian property, or to attempt to transfer to themselves property left by a Presbyterian lady, and by her solemnly committed to Presbyterian Trustees. .... Hitherto, Independents have disowned the name of *Presbyterians*, and their ordination services have abounded with declarations of what they call the *tyranny* of Presbyteries and Synods. But now, that Lady Hewley's property is in view, these very Independents, with incredible inconsistency, allow, for the first time, that 'the term *Presbyterian* is, in a fair, just and honourable sense, applicable to themselves.'"

This strange statement of Dr. Smith was met by affidavits from gentlemen of as long standing, and of as high respectability of character in every respect, as Dr. J. Pye Smith, who deponed that they had studied the controversy between Presbyterians and Independents, and that, in their judgment, the term Presbyterian cannot, in any fair, just and honourable sense, be applied to any class of Independents. (Third Act, pp. 113—116.)

Another leader among the Independents, the Rev. George Redford, D.D. and LL.D., of Worcester, endeavoured to support the cause of the Independent Relators in the Hewley case by a similar absurd statement—that "he is minister of the *old Presbyterian or Independent* congregation at Angel Street." Now, it is not possible for the same congregation to be at the same time *Independent* and *Presbyterian*, in the proper sense of the latter term as distinguished from *Independent*. If by the original deeds the chapel or property which Dr. Redford occupies was stated to be for the use of Presbyterians, Dr. Redford and his Independent church have no right to it whatever, and they may be ejected from it in course of law. If the original deeds of his chapel, or of the property connected with it, bear that it is for the use of Presbyterians, he ought, as a conscientious and religious man, to give up at once the possession of property which never was designed for the benefit of an Independent minister or an Independent church. The trustees who permitted Presbyterian property to fall into the hands of persons belonging to a different denomination, were guilty of breach of trust. If the original deeds do not bear that the property was designed for Presbyterians, then in what sense can he say that his congregation is Presbyterian? He may with equal propriety say that it is an Episcopalian or Indepen-

* When this was told to an aged minister in Scotland, he said, dryly, Dr. Smith has gone far to please his friends, and has presumed more than enough upon the ignorance of the English lawyers.

dent congregation, since, according to his own principles, he is the *Bishop* as well as the Presbyter of his church, and Episcopacy is not necessarily connected with a civil establishment of religion. Such wretched equivocation would be reckoned discreditable and degrading by an honourable man of the world. (Third Act, pp. 142, 143, 162.)

These are only a few of the strange statements made in support of the Independent Relators in order to obtain the management of the valuable Hewley Charities; and these statements would probably have led the Courts to give a decision in favour of the Independents, if they had not been exposed by other parties. But they were fully exposed, especially in the last affidavit, (Third Act, pp. 152—174,) and judgment was given against the claims of the Independent Relators.

Now these are the men who are employed in active agitation against the Bill which has been introduced by the Lord Chancellor into the House of Lords. Mr. Hadfield has sounded the alarm, and, no doubt, his brother Relators, with their supporters, join in the cry. It is right that the eyes of the public and of the Parliament should be directed to the manner in which these men laboured to gain their point in the Hewley cause. I do not say that they acted *dishonourably*, I do not say that they *designed* to mislead the Courts by partial, equivocal or false statements; but I am afraid their minds were blinded by groundless confidence in the justice of their own cause, and by regarding their honour as engaged in their success.

VINDEX.

EFFORTS OF THE "BANNER OF ULSTER" (ORTHODOX PRESBYTERIAN) AGAINST THE BILL.

(From the "Northern Whig," Belfast, March 30.)

Our contemporary *The Banner* has, in his last two publications, been putting forth his puny efforts to stop the progress of a Bill, lately introduced into the House of Lords by the Lord Chancellor of England, for putting a stop to the unrighteous war which has for some time been waged by certain parties, under the direction of the Irish General Assembly, against their fellow-christians. If *The Banner* were satisfied with statements of facts in support of the course he advocates, we would leave the public to draw their own conclusions; but we cannot allow them to be misled by misrepresentation and fiction. In the article of Tuesday, our contemporary speaks of the Lord Chancellor's Bill as being a "Bill to legalize the abstraction of property bequeathed *for the propagation of Trinitarian doctrines, and its employment in circulating Unitarian errors.*"—Now, if the Bill of the Lord Chancellor were so very unjust as our contemporary would have his readers believe, he need not surely have gone out of his way so to misstate its object. We must either believe that he felt the object of the Bill to be a proper one, and that he could not rouse the prejudices of his readers against it by stating it fairly, or that he has written about a matter of which he is completely ignorant.—If any one will take the trouble of looking to the Bill itself, he will find that it has no such object as that above stated, but that it deals only

with those cases—cases which were necessarily very numerous prior to the passing of the 53rd Geo. III. in England, and the 57th Geo. III. in Ireland—in which congregations requiring meeting-houses for public worship, raised funds among themselves or their friends for the purpose of erecting such meeting-houses, and in which the parties, maintaining the right of private judgment to its fullest extent, did not think it proper to mention any specific theological dogmas in any deeds connected with the congregational property.

It is with cases of this nature only, we conceive, that the Bill before the House of Lords proposes to deal; and by this measure "the intentions of pious testators" can never be "frustrated." And it is quite clear also, we apprehend, that some measure such as that ought to become law; for, notwithstanding our contemporary's great liberality as to the non-revival of the penal statutes against the Unitarians, he must know full well, if he have taken the trouble to look into the cases that have been decided, that it is in consequence of the state of the law rendering the preaching of certain opinions unlawful at the time of the erection of the meeting-house or other foundation, that the decisions have been against the Unitarian possessors. The argument has been this—say, respecting a meeting-house built in the middle of the last century, when no doctrine is referred to in the deed under which that meeting-house is held, and where the principle of non-subscription has been maintained:—At the time of the building of this meeting-house it was contrary to law to preach certain doctrines which are now certainly legal; and, although we have conclusive evidence that the minister and the congregation at that time maintained the principles of non-subscription, and refused to bind themselves by any creed, yet, as the law then only tolerated a certain system of opinions, therefore we must *presume* that the intention of the founders was, that the meeting-house should be used for the propagation of these latter opinions.—Now, although this may not be, strictly speaking, a revival of the penal statute which was repealed in 1817, it is certainly making the men of the present day suffer because that statute was once in force in this country.

We pass over our contemporary's statement—a statement whose inaccuracy is only excusable on the ground that the Editor is a total stranger to all these matters about which he writes so glibly—that "the property involved was *clearly and distinctly* given by Trinitarians to support the ordinances of the Gospel;" meaning, of course, by the latter phrase, the propagation of what are commonly called Orthodox opinions in theology. In the judgment of the Chancellor, to which *The Banner* refers, that learned Judge has found some difficulty in arguing out that conclusion, notwithstanding its alleged *clearness and distinctness.*—But we pass that matter over at the present, because we think we have *The Banner* enlisted as an advocate for a very material change in the present law (a change almost as great as the one proposed), which he now admits to be unjust. "Whatever addition to any of these endowments (says *The Banner*) has been made by Unitarians, will be returned to them. The General Assembly would not touch any part of these additions." Generous soul! how honest! But we would have you recollect that, before the General Assembly refuses to touch any of these additions, it will be neces-

sary for that reverend body to make out a title to touch them, a result which by no means follows from the decree of the Chancellor being in favour of the relators in any Information. For instance, in the Eustace-Street case, which has been heard, the Chancellor has intimated his intention to declare by his decree, that the present trustees and beneficiaries are not entitled to hold the meeting-house and enjoy the funds; but he has not declared, nor can he declare, until after an inquiry in the Master's office, *who are entitled to go into the possession and enjoyment of that meeting-house and other funds.* In this inquiry, we rather think it will puzzle the General Assembly, or any party connected with it, to make out such a title; so that this is a most gratuitous fit of generosity in our contemporary. But suppose that, by some extraordinary ingenuity, the General Assembly can establish a title to these funds, including, of course, the additions made by Unitarians, and that the Chancellor finally declares that reverend body, or some part of it, entitled to that property—how are the trustees who will be appointed under the decree of the Court, to perform the honest part advocated by *The Banner*, and return the additions to the Unitarians? Such an act of *admitted honesty* would be *a direct breach of trust*, for which the trustees would be *personally liable* in a new Information, at the suit of some other George Mathews. Besides, how are these additions to be ascertained? Only, we conceive, by a suit again:—so that the honest intention of our honest friend, *The Banner*, is only to be attained by a multiplicity of equity suits, of which a ruined man once well said, "I have been utterly ruined by having had decrees, with costs, given in my favour in nine Chancery suits."

The petition inserted in yesterday's *Banner* merely contains misstatements of the object of the Bill, and of its effects, similar to those contained in the article we have been commenting upon. We repeat, that the Bill now before Parliament takes especial care not to interfere with "the intentions of pious testators." It will not "destroy all confidence in trusts," or "put an end to investment of property for religious purposes in future." Wherever parties are desirous of investing their property for religious purposes, intending at the same time to restrain all religious inquiry, and to bind all future generations to the maintenance of one set of theological opinions, this Bill will throw no difficulty in the way. The Bill, which we sincerely trust, and confidently expect, many of our enlightened fellow-subjects, heedless of priestly tyranny, will unhesitatingly support and advocate, will only quiet in their possessions parties whose ancestors created, and who have themselves materially added to and improved, the property which they now enjoy for religious purposes.

CIRCULAR OF MODERATOR OF THE GENERAL ASSEMBLY (ORTHODOX PRESBYTERIAN) OF ULSTER.

(From the "Northern Whig," Belfast, April 6, 1844.)

It is highly gratifying to us to be enabled to state, that a petition is in course of signature, among the most respectable Presbyterians, being members of the General Assembly, resident in Belfast, praying Parliament to pass a measure for protecting Unitarian property, and putting an end to the unchristian attacks upon it. This petition has been already signed by a considerable number of bankers, merchants and other influential orthodox Presbyterians of the town. These gentlemen are taking a course which is creditable to them; and we feel quite satisfied that their upright and Christian exertions will operate beneficially. We regret that it is our duty to contrast with this proceeding of so many excellent laymen the conduct of the Moderator of the Assembly, who has just issued a circular, a copy of which has been kindly forwarded to us, for the purpose, we suppose, of publication. It is as follows:

"*Broughshane, 4th April*, 1844.

"Rev. and dear Sir,—I beg to call your particular attention to the enclosed form of a Petition to Parliament, regarding the present attempt of Unitarians to procure a Bill from the Legislature to retain possession of Trinitarian property. Since the *postscript* to my letter on the Marriage question was printed, circumstances have occurred which render it more urgently necessary that a petition, *numerously signed*, shall be forwarded from *every* congregation of the Assembly. Successful attempts have been made to create division on this subject in one or two of our congregations; and Unitarians and their friends are actively employed in enlisting, by various misrepresentations, the sympathies, and endeavouring to obtain the signatures, of Orthodox men on behalf of the Bill now before the House of Lords. You will perceive, therefore, that the ministers and members of the Assembly must make a vigorous effort to defeat these attempts, unless they are prepared to surrender much valuable property, and tacitly to approve of a measure which goes to change the law of religious trusts, and sanction usurpation and perversion of trust property.

"The expense of paper and engrossing of our petition may be deducted from the collection to be taken up on Wednesday next, the 10th instant, for the Marriage question; and it is earnestly requested you will have the petition ready for signature on that day, and forwarded to a Member of the House of Lords on or before Tuesday, the 16th instant.

"I am, &c., &c., yours respectfully,

"Robert Stewart, D.D.

"P.S. Please observe that no petition on the above is to be sent, at present, to the *House of Commons*."

It is really painful to read this production, and to compare its spirit and object with those of the petition above alluded to. The Moderator represents the Bill before Parliament as a measure for enabling Unitarians "to retain possession of Trinitarian property." It is deplorable that any man, but especially the Moderator of the General Assembly, should affix his name to such an assertion. The Bill, as the public well know, contemplates no such thing; but it contemplates this—to protect non-subscribing Presbyterians from being plundered of their property, some of it held for ages, and some of it

recently contributed by Unitarians. And it is against this that Dr. Stewart would rouse the orthodox Presbyterian laity!

As this is his object, we need not be surprised that he encourages a *misapplication* of the money to be raised in connexion with the Marriage question. He thinks that it would be quite right to apply a part of such money towards preventing the doing of an act of common justice—an act to secure property, and stop a small but wicked persecution! It is indeed high time that the laity should interfere in defence of their neighbours, and for the purpose of endeavouring to force a lesson of equity and Christian forbearance upon men who are paid for teaching such lessons, but some of whom appear not yet to have learned them.

MOVEMENT OF "ORTHODOX" PRESBYTERIANS IN ULSTER AGAINST THEIR LEADERS.

(From the "Northern Whig," Belfast, April 9.)

One thing has struck us and others as a little extraordinary. It is this—that whilst some of the Presbyterian ministers are, or affect to be, shocked by the alleged conduct of the Primate and his clergy, or a part of them, and also by the conduct of some of the Judges and Law Lords, on the subject of mixed marriages, we are not aware that any of the same Presbyterian ministers have expressed the slightest horror at the attempt (to which, indeed, they are themselves, either directly or indirectly, parties) to rob their Non-subscribing brethren of their congregational property! Nay, on the other hand, we have the Moderator of the General Assembly raising a cry, and endeavouring to excite the whole Assembly into a state of indignation at the Government, because they have introduced a Bill to prevent spoliation and robbery, under cover of an antiquated and penal law. Shame upon the men who can be guilty of such inconsistency! Shame upon the holy men who can be capable of encouraging and aiding in such spoliation!

We have always reposed great confidence in the good sense, Christian spirit and right feeling of the laity; and we continue to do so. We do not believe, if their minds were left unbiassed, there would be any considerable number of them found to countenance, or to shrink from denouncing, the unhallowed crusade against their Non-subscribing brethren. They are not so unjust, or such friends of persecution, that they would try, by means of an antiquated statute, of which, until recently, nobody knew any thing, to wrest out of the hands of their neighbours property to which, except upon *persecuting principles*, no human beings, save the present possessors, have the slightest shadow of claim. They could not, of themselves, be capable of even appearing to countenance a proceeding so abhorrent to every honest mind. As some proof that our expressions of confidence in the laity were not ill founded, we shall here give a letter which we have just received:

"*8th April*, 1844.

"Sir,—You will be gratified to hear that your appeals to the liberality and justice of the Presbyterian laity, in opposition to the agitation raised

by their clergy against the Dissenting Chapels' Bill, have not been in vain. In addition to the petitions, numerously and respectably signed, in various places, praying that the Bill may pass into a law, I am enabled to state, on authority which leaves not the least doubt of the fact, that two congregations in this neighbourhood were yesterday addressed by their ministers, who wished them to sign petitions against the Bill; but, in both places, the petitions encountered an opposition so indignant and powerful, that the documents had to be withdrawn.

"By the bye, it occurs to me that £5000 is a large bill of costs for the two suits relating to Clough and Killinchy, and the General Assembly's share of the expense in the Marriage case. That is the sum which has been stated; and, judging from the amounts applotted on the various congregations, it cannot seemingly be much less. I am far from saying that this may not be a fair bill of costs; but, unquestionably, it appears at first sight to be a large one. I should like to ascertain, therefore, whether the General Assembly, before applotting the amount of the attorney's demand upon the congregations under their care, took measures for ascertaining whether all the charges were proper and fair, by having the bill taxed by the proper officer. Unless the bill has been taxed, or else printed and circulated for the consideration of the laity, I cannot see how the latter can be called upon, with any reason, to put their hands into their pockets and liquidate the amount. Perhaps you could procure some information on this subject. Yours, &c.,

"A Presbyterian."

We believe that the two congregations referred to by our correspondent are the respectable congregations of Drumbo and Donegore; but, until we shall have had farther information, we shall state nothing about them positively. We shall only say, that any congregations which have acted, or may act, in the way stated, must be deserving of every credit. With respect to the bill of costs, we can say little. We have heard that it amounts to the above sum; and we are to presume that, coming from the respectable solicitor of the Assembly, it is moderate. We think we recollect to have heard it said that he gave his services *gratis*, at least in the Clough case; but perhaps we are in error. £5000 is a large sum; and really, if attacks upon Non-subscribers are to be made at so much expense, the luxury seems to us to be of rather a costly description. When the laity are paying the sums applotted upon them, we wish they would keep this in mind.

In conclusion, we request attention to a series of resolutions in our advertising columns, agreed to at a meeting of "Deputies of Congregations of Protestant Dissenters, of the Presbyterian denomination, in and within twelve miles of London." They refer immediately to the cases of the English Non-subscribing Presbyterians, but they are almost equally applicable to the Irish cases. They are clear and forcible, and set forth such a picture of contemplated oppression and legalized robbery, that one can scarcely help feeling utterly amazed that, at this time of day, any man or men would venture upon the enormity of such an outrage against religious liberty and common justice.

MOVEMENT IN IRELAND IN FAVOUR OF THE BILL.

(From the "Northern Whig," April 16.)

We continue to receive highly gratifying accounts of the spirit which exists at present among the lay members of the General Assembly with respect to this Bill. Indeed, if they were left to themselves, we believe that nine-tenths of them would readily express their approval of a measure so necessary and so clearly equitable. As it is, a fine feeling has been manifested in several quarters. The Ballymena petition is most respectably signed. The list of signatures is headed by a magistrate, and includes the names of five elders of the General Assembly. By the way, a correspondent states that we were incorrect in saying that the Banbridge petition had the signatures of *most* of the elders of the congregation; and we hasten to correct the mistake into which we were led. He says that "only one, or at most two, of the elders signed the petition;" that four were not asked to sign; but that a number of "the most respectable *members* did sign." Our error was quite involuntary, and we should be sorry not to correct it. A correspondent from Ballynahinch writes as follows:

"You will please to mention, in your next publication, the Presbyterians of Ballynahinch and the neighbourhood as amongst the number of those who have numerously and cheerfully signed a petition to Parliament in favour of the Dissenters' Relief Bill. The petition is signed by one hundred and twenty of the most respectable inhabitants of the town and vicinity in connexion with the General Assembly. Had time permitted, double that number of signatures might have been obtained."

In Lisburn and its neighbourhood, there has been a most satisfactory demonstration. There, members of the Established Church and of the General Assembly joined with alacrity in signing a petition in favour of the Protection Bill. Two or three magistrates, and almost all the medical gentlemen and solicitors in Lisburn, signed the petition. The signatures amount, we understand, to six or seven hundred. Petitions of a similar kind, and very respectably signed, have been forwarded from Strabane, Ballymoney, Derry, Rathfriland, Saintfield, Magherally, Greyabbey, Ballygilbert, Killileagh, &c. The Bangor petition has been numerously and respectably signed. All these petitions are, we believe, from members of the General Assembly alone, with the exception of the Lisburn one, which, as we have stated, is of a mixed character.

FURTHER STRUGGLE OF THE "PATRIOT," APRIL 4, AGAINST THE BILL.

We have hitherto given no opinion upon the Eustace-Street Chapel cause, which has produced so much excitement in Ireland, because we have not gone into an examination of the merits of the case, and should almost despair of getting at a fair and impartial view of the facts. We have a very strong opinion as to the general inexpediency of embarking in such litigations for the purpose of recovering bricks and mortar, or even more valuable endowments, from questionable occupation, at the cost of more money than would suffice to build a

new place of worship, and, what is worse, of incurring an infinite degree of scandal and bad blood. Circumstances connected with a particular case may, indeed, not only justify such a proceeding, but even render it a duty on the part of individuals to take that course at much cost and inconvenience to themselves. But, speaking generally of endowments connected with places of worship, we regard their alienation from orthodoxy as, for the most part, the natural effect of the decay and deterioration they tend to produce; they are a dead weight upon the voluntary energy which is at once the vital and the conservative principle of a religious body; and the loss, even when a wrong, is no injury. Repudiating, as we do, all State endowments of the Christian ministry, and taught also, by experience, to question the utility and benefit of those private endowments by which the piety of one age seeks to provide against the want of living piety in a succeeding age, or the inability of future generations to maintain the cause committed to their trust—we feel it would be in the highest degree inconsistent to discover a litigious spirit in respect to such endowments, or any very extraordinary anxiety to wrest them from those who may, without any direct usurpation, have come into possession of the trusts, contrary to the intentions of the donors. In going to law, whether *with* religious opponents or "before unbelievers," about such matters, it seems to us that Dissenters would lay themselves open to a just application of the apostolic reproof, "There is utterly a fault among you: why do ye not rather take wrong? Why do ye not rather suffer yourselves to be defrauded?"

But, while we hold this opinion, we are not prepared to subscribe to the justice, resonableness or honesty of depriving Dissenters of all right and discretion in the matter. "Orthodox men" as we are, yet, no "hungerers for litigation," we are willing to listen to all the *Inquirer* has to say,—to all his pathetic appeals to the imagination, and all his pretty sentimental touches,—before we sanction the filing of three hundred Chancery Bills against Unitarian "temples," or the bringing of even a single suit. Our contemporary has given us the first information of such a design being in contemplation. So far as we are aware, for the bringing in of this "Dissenters' Chapel Bill," no cause or provocation had been afforded by any step taken by orthodox Dissenters in this country; and it looks, therefore, like an attempt to steal a march upon their slumbering jealousy. Whether our Presbyterian brethren in Ireland be justified or not in their proceedings, small sympathy in them had been discovered on the part of English Independents. And when the Bill of last session was brought in, for the purpose of staying pending proceedings, notwithstanding the palpable injustice and violence of such a course, no active part was taken by the English Dissenters in opposing it. In our simplicity, we actually supposed that the Bill brought in by the Lord Chancellor related only to Ireland, and arose out of the Eustace-Street "squabble." Of the threatened persecuting movement against Unitarianism by the orthodox in this country,—the one hundred and seventy Chancery suits the *Inquirer* talks about,—we had heard nothing. What, then, could possess the suggesters of that Bill with the notion that their chapels and burial-grounds were in danger for want of sufficient titles? Lady Hewley's case? Assur-

edly not. That was a case of a very different kind,—not one of chapels and burial-grounds endeared to hereditary occupants by "hallowed recollections and high sacred associations,"—but of trust property clearly perverted from its due administration; and we are quite prepared to justify the public-spirited conduct of the relators in that case, from first to last. But this "Dissenters' Chapel Bill" has no reference to such cases; although our contemporary, the *Inquirer*, rather unfairly lugs in Lady Hewley's name, and wishes to make the Eustace-Street affair appear "the third act of the Lady Hewley drama." This is more ingenious than candid. He seems, too, to require us to admit "the very existence of the Bill on the table of the House," as a proof of the alleged persecution, and of "men's sympathies with the persecuted." We do not admit this. We maintain that the Bill was uncalled for by any proceedings of orthodox Dissenters in this country, past, present or contemplated;—that, under pretext of guarding against persecution, it seeks to tie up the hands of orthodox Dissenters in a manner invidious and unjust; that it is a deceptive measure, its very title being fallacious, its object partial and sectarian, and its principle at variance with equity and the spirit of English jurisprudence. Much as we detest the spirit of litigation, a law to "restrain litigation" we cannot but regard as a strange anomaly and an unjust restriction upon civil rights. How inexpedient soever it may be to go to law, it being better in many cases to suffer wrong, we are not called upon to submit to have the right of appeal to law taken from us. To this Bill, therefore, the orthodox Dissenters are bound, we think, to offer the most determined opposition. It is a shabby job, worthy indeed of a House that has gone counter to its own recorded decision, and to every principle by which legislation ought to be guided, in re-establishing Diocesan Courts with enlarged powers and salaried Judges. We call upon the Unitarian Dissenters to disavow this discreditable legislative manœuvre. It looks, at all events, like an unhandsome attempt to circumvent us. We sincerely regret they should have made an attempt likely to provoke a fresh quarrel. Dissenters, friends to religious liberty, cannot afford to quarrel; and our petty endowments are not worth quarrelling about. But this Bill cannot be allowed to pass. It is an aggressive measure under the pretext of being a defensive one. It involves a principle which would affect the security of all Trusts intended, not for the benefit of *persons*, but for the maintenance of religious interests. It is an innovation upon the rules of practical equity, such as, in any other case, would not be countenanced. The Dissenters would stultify themselves by acquiescing in a Bill ostensibly intended for their general benefit, but which *they* feel would have an opposite tendency. But again we say, we regret that this fresh cause for dissension should have arisen. The fault is not on our side. It is not for endowments, but for Truth and Freedom, that we are disposed to contend; and we would rather recommend our orthodoxy by a liberal policy, than strengthen hostile prejudices by a repulsive tenacity of our rights.

WESLEYAN RESOLUTIONS AGAINST THE BILL.

RELIGIOUS TRUSTS BILL.—At a Meeting of the Committee appointed for the Protection of the Civil and Religious Privileges of the Wesleyan Methodists, held at the Centenary Hall, Bishopsgate Street Within, London, on Tuesday, April 2, 1844,—the Rev. JOHN SCOTT, President of the Conference, in the Chair,—the following Resolutions were unanimously adopted:

1. That this Committee, after a careful consideration of a Bill introduced into the House of Lords by the Lord Chancellor, intituled "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the Church of England," cannot but view it with the deepest regret, dissatisfaction and alarm, and express their most decided opposition to such an enactment for the following reasons:

Because the law of trusts, as interpreted and acted upon by the courts in this kingdom, is most obviously equitable and safe, as it righteously seeks the fulfilment of the intentions of the founders of such trusts, and the appropriation of the property so intrusted to the purposes which they, in the trusts affected by this Bill, religiously contemplated. No inconvenience has arisen, nor is likely to arise, from its continuance, to parties in rightful possession; and it cannot be departed from, as proposed, but by a violation of justice, and by a sacrifice, as uncalled for as it is alarming, of the principles of equity which have been repeatedly affirmed by the Courts of Chancery and the House of Lords; and which have been depended and acted on, by parties to such trusts, as invaluable and indispensable guarantees of security. Any interference of the nature proposed, the Committee cannot, therefore, too strongly deprecate.

Because the Wesleyan Methodists, in whose name the Committee act, hold property to a very large amount, by various forms of trusts, consisting of chapels, schools and ministers' houses, as well as numerous charitable foundations, which might be in various ways dangerously interfered with by any departure, like the one proposed, from the usual course of long-established and satisfactory law. These trusts have been formed with the belief, and under the firm impression, which has been confirmed by the decisions of the courts, that the before-mentioned principle of interpretation with reference to trust property would continue to guide the administration of justice, and be undisturbed by Parliamentary interference. With the law, as it stands, this Committee, and the religious community in whose name they act, are satisfied: they are content to abide by its operation, and are decidedly opposed to any alteration, and much more to its being, as proposed by the Bill now before the House of Lords, practically superseded.

Because the Bill proposes, in reality, by an arrest of the course of justice, to quiet Arians, Socinians and Unitarians in the possession of property to which the courts have declared they have no right, and which the founders of the trusts relating to such property never intended persons of their peculiar theological opinions to possess and enjoy. No length of time during which possession has been had of

the property in question can create a right which did not originally exist, but is a powerful argument why injustice, aggravated by lengthened continuance, should cease, and justice be now done in the legitimate execution of the trusts, and in the appropriation of the property so intrusted.

Because such alteration of the law would operate as a powerful discouragement to the formation of religious trusts for the future, as, with a precedent sanctioning the infringement of trusts of this nature, no person could have security that his most cherished and conscientious intentions might not be defeated by some future act or acts of Parliament, the principle of legislative interference with the solemnly declared objects of trusts, like those with which the Bill proposes to interfere, being such as may with ease be made applicable in future to other cases of trust, in which parties may be interested in perverting property to objects dissimilar or opposed to those for which it was originally intrusted.

Because the alteration contemplated has not been preceded, as such an important change affecting such large interests imperatively demands, by any Parliamentary inquiry, but has been proposed without having been desired or sought by any considerable number of persons dissenting from the Church of England, and is calculated to benefit exclusively those who hold Anti-trinitarian opinions, and that in a way which cannot but be eventually injurious to those religious bodies which constitute so large a proportion of the whole population. In addition to the injustice of the measure, on which this Committee found their chief objection, it would be neither wise nor safe so to alter the law in favour of one party only, as to destroy or even endanger the acknowledged legal and equitable claims of the orthodox religious bodies in the kingdom.

Because in Ireland, to which the Bill is, by the decision of the Select Committee of the House of Lords, recommended to be extended, property, consisting of chapels, parsonages, school-buildings, and other charitable foundations, to a much larger amount than in England, has been diverted from its right use, the alienation of which would be perpetuated by the proposed Bill, and that under circumstances of peculiar aggravation, inasmuch as it would sanction and confirm the usurpations of parties holding doctrines, and teaching religious peculiarities, considered not only by the Churches of England, Ireland and Scotland, but by all other branches of the Catholic Church, in all ages, to be opposed to "the faith once delivered to the saints," and therefore endangering, in the most fearful and fatal manner, the best, present and everlasting interests of the community.

The Committee, therefore, in the discharge of their imperative duty, object to the enactment of the proposed Bill, and respectfully but firmly protest against its further progress.

2. That while this Committee think that Arians, Socinians and Unitarians are protected in the enjoyment of trusts which they founded prior to the repeal of the penal clause in the Toleration Act, it having been ruled in the courts that such repeal was retrospective as well as prospective, they would offer no objection to a specific legislative declaration of such protection.

3. That a petition, founded upon the foregoing resolutions, be pre-

pared and presented, on behalf of this Committee, to the House of Lords. Signed, on behalf of the Committee,

JOHN SCOTT, President of the Conference.
CHARLES PREST, Secretary of the Committee of Privileges.

J. C. EVANS'S LETTER TO THE LORD CHANCELLOR.

THERE has just appeared a pamphlet on the Lord Chancellor's Bill, by "James Cook Evans, Esq." It is entitled, "Letter to the Right Hon. Lord Lyndhurst, Lord Chancellor of England, on the proposed Alteration of the Law of Charitable Trust contained in the Dissenters' Chapels Bill, now before the House of Lords." (8vo, pp. 28, Hatchards.) As a legal argument *on the law of charitable trusts*, it is worthy only of contempt. As a statement of facts, the pamphlet is, from beginning to end, a collection of blunders and absurdities. The "learned" author might surely have looked on the back of the Bill which he affects to criticize, and he would have there learnt that it was *not*, as he states in the first line of the "Letter," introduced into the House of Lords "on the 17th of March." If, as the author states, "it is most satisfactory to know" "there is an entire agreement among all the great legal authorities as to the state of the law," it would seem as if he derived little satisfaction from the fact that "all the great legal authorities" regard the law as injurious and oppressive; and it is understood there "is an entire agreement" amongst them as to the necessity of relieving and protecting Unitarians holding Presbyterian meeting-houses from the injustice and oppression. The intense bitterness with which the author treats Lord Lyndhurst for introducing a Bill which he chooses to regard as utterly inconsistent with his Lordship's Judgment in the Hewley case, is amusing enough. As an expositor of the law in its then state, Lord Lyndhurst, it is now agreed on all hands, could only decide as he did. Is this pamphleteer, however, so crazed by the *odium theologicum* as not to see that the *summum jus* being decreed by the "Judge" necessarily and officially—when he perceives that he becomes thereby the ministerial cause of *summa injuria*, he will as a "Senator" be the more disposed to rectify the wrong? It would seem greatly to distress the bigots and persecutors of the orthodox party that this Bill is introduced by one Lord Chancellor who had heard both sides of the case, and is supported by two ex-Lord Chancellors, who, curiously enough, stand in the same situation. These distinguished Law Lords know full well all that persecuting orthodoxy can allege in behalf of the retention of its power.

In one respect we have to thank Mr. "James Cook Evans" for unintentional service to our cause. He has unconsciously completed the case of the Unitarians by exhibiting in all its rancour the bad spirit at work amongst certain orthodox parties. He has proved in his own person that it is not safe or decent to leave persecuting and bad laws on the Statute-book, trusting to the powerful influence of public opinion to keep them harmless. We do not imagine that there are many amongst the reputed orthodox Dissenters who

will care to identify themselves with the author of this foolish and bitter pamphlet,—but so long as there is one man in the kingdom who can put forth the intolerant doctrines it contains, the necessity is obvious for the Legislature to step in and prevent the vexations and unseemly proceedings which that one man, without the shadow of personal claim in the matter, may institute against every Unitarian in the kingdom acting as a Presbyterian Trustee.—There is one concession, or rather consolation, offered to Unitarians by this writer, in case they are hereafter ejected from their chapels and burial-grounds: it is this—that their orthodox successors will permit their ashes to mingle with those of their ancestors in "their family vaults," *on the payment of the proper fees.* Though dead to the feelings of charity and pity, they may be alive to the sacra auri fames. With extracting the passage in which Mr. Evans guarantees us "this last privilege," this liberal exemption from "a hardship and a cruelty," we conclude our notice of him: "A regard to fees, if not to feelings, will cause the orthodox Dissenters to act with liberality towards their Unitarian friends. Their ground is not consecrated ground," &c.—P. 22.

JOURNALS AND MAGAZINES.

The *Congregational* Magazine for April applauds Mr. *Pewtress* and the other members of the pseudo-Three Denominations of Deputies, and calls upon the "brethren throughout the country to resist so scandalous a measure" as the Bill.

The *Evangelical* Magazine, never backward in the cause of religious bigotry, inserts a letter from the notorious "George Hadfield," proclaiming an Informing Crusade; and the Editor, in very disgraceful language, improves upon the intolerance of his "respected correspondent." To whet the zeal of the "Evangelicals," this conductor of the Magazine says, "Let it not be forgotten that many of the Whigs, who advocate the principles of civil and religious liberty, have very strong leanings, though professedly Churchmen, to the Unitarian party."

The *Watchman* (Wesleyan Tory newspaper) of April 17, is rabid—bitten by the *Record* (Evangelical Church newspaper). This "Peter the Hermit" says, and his language is worth preserving,—

"We reiterate our call on Christians of all denominations to unite in hostility to this unrighteous measure. The Deputies of the Three Denominations of orthodox Dissenters, and the Free Presbytery of Edinburgh, as well as the Wesleyan Committee of Privileges, have already taken the ground that befits them on the question, and we are sure it is only necessary that the Bill should be *understood* to call forth a most extended and vigorous effort against it. If passed into law, it is impossible to predict what amount of injurious influence it may, in process of time, inflict on religious trust property generally. But, without looking into its future bearings, there is enough to justify the strongest hostility in the fact, that it now proposes to commit a gross injustice, and to commit it for the benefit of Arian and Socinian heretics. Even were orthodox Christians to derive benefit from the measure, we should earnestly oppose it on the ground of its inherent unrighteousness, and its tendency to unsettle the law respecting reli-

gious trusts; but we do not scruple to avow that our opposition is quickened by the patronage which it extends to one of the most God-dishonouring and soul-destroying heresies for which the much-abused name of Christianity has ever been usurped."

The same model of all that is ignorant and adverse to social improvement, gives us a precious morsel from the "Edinburgh Witness," a paper in the interest of the "Free Church," which we place amongst the *memorabilia* of these times:

"Unitarianism was, it seems, in peril—that form of Christianity which is of all others the most barren and inefficient,—possibly the only form which was never yet held by a converted man after his conversion, but which, from perhaps that very cause, possesses more largely the sympathies of our legislators than any other form of dissent. It has been stated by a Unitarian newspaper, that no fewer than one hundred and seventy suits were on the eve of being instituted in England on the precedent of the Hewley case. In Ireland, the important Eustace-Street Chapel suit was in actual progress. The Deistic Christianity was thus in great danger,—the link that unites infidelity to belief,—the form of worship that, leaving at full liberty the speculations of the Freethinker, extends to him the respectability of the Christian name, and represents, we doubt not, the actual religion of the majority of our legislators, was on the eve of being stripped, in behalf of the rightful owners, of its ill-gotten wealth; and hence this unjust Bill. However the cause of justice may suffer, the interests of the Unitarian must be maintained, for the infidel sympathies are strong in his behalf. We shall find, too, the revived superstition pleading strongly in his favour. He occupies posts of vantage which, in the possession of a vigorous Evangelism, might be rendered very formidable to the rising apostacy, but from which, in *his* keeping, the rising apostacy shall have nothing to fear. And so we shall by and by see Bishops in the House of Lords, and Young England in the House of Commons, very much his friend. Perhaps the union of superstition and infidelity was never better illustrated in its adverse bearing on the cause of Evangelism than in the Irish Marriage decision and the Dissenters' Trust Bill; and the fact that both Bill and decision,—the one redolent of a revived superstition, the other of a covert infidelity,—should have employed exactly the same mind, that of the Lord High Chancellor of England, adds surely to the interest of the case as a subject of serious study. For the present, the brunt has mainly fallen on the vigorous Presbyterians of Ireland, and Ulster is bestirring itself in exactly the true fashion,—rendering itself formidable to the power that would so fain trample on it; but the quarrel is that of Evangelism all over the empire; and never certainly was there a cause in which extensive combination is so imperatively required. The common enemy is one whose fears may be addressed to advantage, but to whose sense of justice it is in vain to appeal."

There is, we hear, in a *Glasgow* newspaper an ably-written and well-reasoned article on behalf of the Bill, which we regret not having yet received.

The *Patriot*, of April 15, says, under the malignant heading, "Lord Lyndhurst's Bill for legalizing Unitarian Usurpations,"—

"At the meeting of the Ministers and Delegates of the Lancashire Congregational Churches (about one hundred in number), held at Great George-Street Chapel, in Liverpool, on the 11th April instant, a petition to the House of Lords against this Bill was prepared and signed, and will be forthwith forwarded to London for presentation. It was signed by the Chairman, Elkanah Armitage, Esq., one of the county magistrates, by the

Secretary, the Rev. Dr. Raffles, and by the Rev. Richard Fletcher, the Rev. W. Bevan, and the Rev. Richard Slate, District Secretaries; and by Robert Hunter, Esq., the Treasurer of the Union. Also by the Rev. Dr. Vaughan, and the Rev. Dr. Davison, and by James Carlton, Esq., and the Rev. Dr. Clunie, Professors, Treasurer and Secretary of the Lancashire Independent College; and by the Rev. Dr. Halley, the Rev. J. W. Massie, and the other ministers; and also by the lay representatives of the churches then present."

The *Patriot* of April 22 has a bold fit, and seems to assert that all chapel-endowments for religious purposes, during the existence of the Penal Laws, must have been Trinitarian; that is, the Penal Laws ought to be revived against Unitarians for the sake of plundering them of their houses of prayer and the graves of their fathers! Yet the man that dares to write thus, is in a few days to halloo on the ultra-voluntaries to attempt to pull down the Church of England, *because it is* INTOLERANT! He claims the officious Mr. James Cook Evans, the Letter-writer, as "our indefatigable friend and ally."

The *Morning Advertiser* liberally admitted into two of its numbers, April 4 and 5, a reply to the misrepresentations contained in a paper of one of its correspondents, extracted in our 1st No., pp. 38—41. A further defence of the Bill, with an editorial comment in a good spirit, appears in its columns, April 21.

The *Globe*, of April 18, has a leading article in favour of the Bill; modified and temperate, indeed, but founded on just principles of law and liberty.

PROCEEDINGS IN THE HOUSE OF LORDS.

(Continued from p. 43.)

1844. Thursday, March 28.—The Earl of Roseberry presented a petition from a Presbyterian congregation at Birmingham, against the second clause of the Dissenters' Chapels' Endowments' Bill.

Lord Campbell presented a petition from a congregation of Dissenters in Northumberland in favour of the Bill.

April 2.—The Earl of Roseberry presented a petition from Birkenhead, in the county of Chester, against certain provisions in the Dissenters' Chapels Bill, and a petition to the same effect from the Scotch church of Manchester.

April 16.—The Marquis of Normanby presented a petition from Morpeth against the Dissenters' Chapels Bill.

Lord Denman presented a petition from Nottingham in favour of the same Bill.

Lord Monteagle presented a petition in favour of the Bill.

[We take the report of presentation of petitions, *pro* and *con*, from the *Morning Chronicle*, but we have reason to believe that great mistakes creep into this part of the Parliamentary Intelligence.]

April 18.—Lord Kenyon presented a petition from Bolton-in-the Moors against the Dissenters' Chapel Bill.

The Duke of Wellington presented a petition in its favour from a place in Kent.

Lord Falkland presented a similar petition from a congregation in Plymouth.

The Marquis of Normanby presented petitions from places in the North of England and Ireland, in pretty equal proportions, against and in favour of the Bill. His own opinion, he added, was, on the whole, in favour of the measure of his noble and learned friend (the Lord Chancellor). At the same time, there was much difficulty in the matter, and he should be glad to hear his noble and learned friend upon the second reading.

Lord Lyttelton presented a petition in favour of the Bill from Dudley.

The Bishop of London presented a numerously-signed petition from a congregation in Ballymena (as was understood) against the Bill.

April 19.—The Earl of Roseberry presented a petition from the Presbyterian congregation of Berwick-upon-Tweed against certain provisions in the Dissenters' Chapels Bill.

The Earl of Radnor presented a petition in favour of this Bill.

The Earl of Sefton presented a similar petition from a congregation in Liverpool.

The Marquis of Normanby presented a similar petition from a Dissenting congregation meeting in Little Portland Street, Regent's Park; also a petition against the Bill from New Mills, in Ireland.

Lord Sudely presented a petition in favour of the Dissenters' Chapels Bill from a congregation in Cirencester.

Lord Beaumont presented a like petition from a Unitarian congregation in Northampton.

Lord Brougham presented a petition in favour of this Bill from a congregation in Banbury, Oxfordshire.

Lord Wharncliffe presented various petitions from Yorkshire in favour of this Bill.

The Bishop of Exeter presented several petitions from Presbyterian congregations in Ireland against the Dissenters' Chapels Bill. The petitioners had requested him to support the prayer of their petitions, and certainly he would do so, were he not deterred by the high authority of his noble and learned friend who had brought in the Bill. He certainly thought at present that the Bill was open to all the objections which had been urged against it. When he considered, however, the authority by which it was brought forward, he expected to hear arguments adduced in its favour which might shake his present judgment: he would not, therefore, at present pledge himself to vote against it. In presenting one of the petitions, the right rev. Prelate observed that it was irregular, as purporting to come from a congregation of the Presbyterian Church in Ireland. Now there was no Presbyterian Church in Ireland. A canon of the Church of England and Ireland expressly declared that in England and Ireland there were but the Churches of England and Ireland, and no other body had a right to the title of Church in these kingdoms.

Lord Campbell inquired what was the name and date of this canon, and whether it had been sanctioned by the Legislature, without which sanction it would not be binding.

The Bishop of Exeter said that the date of the canon in England was 1603, and that in Ireland thirty years later. He would not here enter into the question of how far these canons were binding upon

the laity; but as members of the Church he did consider them to be binding upon the latter. As to whether they were binding in a court of law, he would not undertake to decide. He was not a judge, and this House was not then sitting in a judicial capacity, but he asserted that these canons were equally binding in conscience upon the laity and upon the clergy. These canons laid it down that to call any religious body, in England or Ireland, other than the Churches of England and Ireland, a Church, rendered the party so offending liable to grave and serious penalties,—but perhaps that is too strong a word; I will therefore say—censure.

April 22.—Lord Dacre, the Duke of Wellington, the Earl of Shaftesbury, Lord Brougham, Lord Campbell and the Marquis of Normanby, presented petitions in favour of the Bill.

[We hope in future Nos. to be able to furnish a correct list of the Petitions, *pro* and *con*, from the Votes of the Lords.]

REASONS SUBMITTED BY DISSENTERS INTERESTED IN FAVOUR OF A BILL BROUGHT INTO PARLIAMENT BY HER MAJESTY'S GOVERNMENT FOR REGULATION OF SUITS RELATING TO MEETING-HOUSES.

Before the Toleration Acts in England and Ireland, many meeting-houses were built for Dissenting worship. Dissent being illegal at that time, the title of such is bad to this day.

Further, a large number of meeting-houses and burial-grounds are held by congregations of Dissenters (Presbyterians, General Baptists and Unitarians), whose doctrinal belief is, and for periods very far beyond living memory or tradition has been, Anti-trinitarian; but whose bond of congregational union has not been a doctrinal one, but who have joined together on the principle of all holding the right of private judgment, and of refusing to subscribe creeds of human composure. Up to the year 1813, there were on the Statute-books obsolete penalties against preaching or teaching such opinions; but from the day of their enactment such penalties had never been enforced. But by the decision of Lord Cottenham in the Wolverhampton Chapel case, following the principle laid down by the House of Lords in the Lady Hewley Trust case, it was held that during the existence of these penal laws (*i. e.* till 1813), such a word as "worship" in a chapel deed must be held to mean worship by parties not within these penal clauses. All meeting-houses, therefore, built before 1813, although, for instance, notoriously built by Unitarians, inasmuch as their deeds were necessarily expressed in general terms, are held by the Courts to have been essentially intended by them for Trinitarian worship, and the holders' title declared bad.

Beyond these difficulties, which arise entirely out of the state of the Statute-book at the date of the different chapel purchase-deeds, another difficulty is suggested of great importance, arising from the vagueness of the deeds. It is, that as the land for the meeting-house (although held by a congregation as their private property) was necessarily

conveyed to a few of the congregation *in trust* for the rest, it was thereby placed on exactly the same legal footing as any charitable gift by a testator,—as for founding a school or a hospital;—that therefore any person, of any or no religious opinions (a pettifogging attorney for instance), had a right the moment after the chapel-deed was signed, and has for all future ages a right (and at the expense of the *trust* property), to institute a Chancery suit when and as he pleased, and in such suit to ascertain, by speculative conjecture, the unexpressed and unimposed doctrinal views of the original builders,—to have a scheme of trust framed for such chapel, and to turn out the lineal descendants of such builders as *trespassers*, although they have (in conjoint or successive holding with their fathers who brought them up to worship there) been as a continuous, unbroken congregation in continuous, unquestioned possession from the erection; and although they have there buried all their ancestors' wives and families, and have formed with it the most solemn associations, and although in the title-deeds there is not a single syllable about any doctrinal opinions at all; and lastly, although parties wishing to be informers in the suits, openly admit that the alleged trespass, if committed at all, was committed in pure ignorance by the grandfathers or remote ancestors of the present innocent holders, and that the suit they seek to bring might have been brought a hundred years ago, when the evidence on the matter in question, now long lost by death and lapse of time, could have been readily given.

To prevent the public scandal of such suits, and of ejecting in the Attorney-General's name many hundred congregations from their accustomed and ancient places of worship, and from their family tombs, and also to prevent the private and heart-breaking violence which would thereby be done to the feelings of large numbers of religious worshipers, particularly to the old,—and further to place the title of such places on a clear foundation, without which they cannot be rebuilt or repaired,—Her Majesty's Government, on the application of the parties aggrieved, and after hearing the objection of deputations of opponents from Ireland, have brought in this Bill.

The Bill is founded on the principle of prescription, and of allowing a reasonable period of innocent and unquestioned possession to form a title against any long-neglected public claims, if ever such existed. It is submitted that the present is the strongest of cases for the application of this principle, for there is no pretence that by this measure any *private* right is affected, or any *individual* capable of designation in any possible way injured. It is on the principle of prescription or limitation that all the titles of this realm rest, and such principle is the basis of the right of property in every civilized country. The proposed application of such principle does not, as is falsely alleged, authorize a trustee, by a breach of trust, to gain to himself a title against his beneficiaries; but simply allows as to trusts so entirely private that they were excepted from the Charity Commission, the usage of those who unquestionably at one time were the sole beneficiaries, and who never undertook to hold on any trust, but held and repaired and rebuilt as owners, to gain a title against their trustee in those cases where there is no doctrinal tenet in the title-deed, and

where the intent (if doctrinal intent there were) must be otherwise altogether a matter of speculatve implication.

One instance, not unfairly selected, but taken as being the case of the only pending Irish suit yet unheard, will best illustrate their reasons. A case of more grievous injustice could hardly be conceived.

A congregation of Anti-trinitarian Dissenters in Dublin (on the expiration of a lease of their old meeting-house) entered into a subscription, bought a piece of land and built a chapel. The list of subscriptions is in existence, and the opinions of all the subscribers are well known to have been Unitarian. Evidence of this, indeed, has been entered into, but it will be rejected as inadmissible. The father of the present Lord Plunkett was then minister of the congregation. His opinions are well known, and are proved to have been Anti-trinitarian. In 18 , a large fund was raised to buy an annuity for the ministers' widows for the time being of that congregation. The subscribers are most of them now alive. Lord Plunkett's sisters were the chief. THE FIRST WIDOW (the lady whose benefit was particularly in view) IS NOW IN POSSESSION.

In the year 1716, a gift, value £94 a-year, was made to the ministers of the old congregation and their successors. This fund the congregation carried with them. No doctrines were ever imposed on the old congregation. But the possession of the old fund is made a ground for the present suit.

There was not a word about any doctrinal opinions in the deed giving this sum. And it is said that it can be shewn, or a presumption can be raised, that the congregation then held Trinitarian doctrines. And on this flimsy pretence some Scotchmen, violent sectaries, having no earthly connexion with the congregation, living 120 miles away from Dublin, demand first to see the deeds, and on a refusal file a Chancery Bill. The production of the title is ordered, and the suit proceeds and in a few days is expected to be heard, and the present holders ejected, and the unfortunate widow left, it may be, to starve. And so proud are these same Scotchmen of their doings, that they come to England and ask the English Attorney-General, expressly on the grounds of their Irish activity, to take out of other, perhaps more scrupulous, hands, and to give to them, the conduct of other suits in this country!

The opposition to this Bill (which is confined to the second clause) is by some of the more violent of the orthodox Presbyterians of the north of Ireland, and by some of the Independents and other orthodox Dissenters in England. Petitions have been called for by their circulars, some of which have got into the newspapers.

Others, however, of the same body, when called on to petition against the Bill, have felt at once the extreme justice of the measure, and have petitioned for it. In particular, many orthodox congregations of Presbyterians in the north of Ireland have done so. The two leading newspapers of the orthodox Dissenters in England—the Nonconformist and the Leeds Mercury—have also deprecated the opposition. The latter paper (edited by Mr. Baines, of Leeds, one of the most important men of their body) has published able reasons in favour of the Bill. These reasons are a clear statement

of the case by a candid adversary. One allegation in them cannot, however, be admitted. It is the allegation that the builders (well-known rejectors of all subscription to creeds) meant or could have meant to impose any creeds or opinions on their successors.

IRISH SUITS.

We are happy to announce that Sir E. Sugden, the Irish Chancellor, has given notice that he shall not deliver judgment in the case of *Eustace Street*, until the Legislature have disposed of the Chapels' Bill, and that in the mean time the proceedings in the case of *Strand Street* are stayed.

PETITIONS.

Since we penned the paragraph in No. I. p. 44, the Committee for supporting the Bill have called for Petitions from the English Presbyterian congregations generally,—each being requested to state its own case. Accordingly, many have been presented from England and Ireland, and not a few from Presbyterians and others of *Orthodox opinions!* There are not wanting, of course, petitions on the other side, but we apprehend the leading Intolerants are not satisfied with their success. To quicken persecuting zeal, a motley assemblage of bigotry is called at the Freemasons' Tavern for Thursday, the 25th of April,—the offices of the *Patriot*, *Watchman*, *Record* and *Wesleyan Chronicle* (!) being advertised for the distribution of tickets of admission.

SECOND READING.

The second reading of the Bill (which stood appointed for Thursday) is put off to Friday next, April 26th, and the Lords summoned.

Tuesday, April 23.

THE PRESBYTERIAN REPORTER,

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. III.

PROCEEDINGS IN THE IRISH COURT OF CHANCERY, ON THE EUSTACE-STREET MEETING-HOUSE, DUBLIN.

(From the Notes of the Short-hand Writer.)

THE ATTORNEY-GENERAL AT THE RELATION OF GEORGE MATHEWS AND OTHERS, *against* THE REV. JOSEPH HUTTON AND OTHERS.

(Continued from p. 62.)

Wednesday, February 21, 1844.

Solicitor-General.—Yesterday I mentioned that the will of Mr. Lowton was in 1741.

Lord Chancellor.—You insisted that at the times when many of those donations were made, this congregation was Unitarian; and that if so, you were entitled to retain the donation. If, then, you desire not to confine your defence to the simple line that the congregation was Unitarian in 1718, you may single out any one of the donations you please, and try your hand upon it, in the other view of the case. As I understand you, you in the first place insist that this is an Unitarian foundation.

Solicitor-General.—Yes; that the ministers held those doctrines, and therefore that it must be supposed that the congregation held the same doctrines. We further say that, from the death of Leland, there is clear evidence that the ministers were Unitarian, and were elected by the congregation, knowing that they held Unitarian principles, and were selected for that very reason. From 1766, the date of the death of Leland, the evidence is clear that the religious sentiments of the several ministers of this congregation were Unitarian; and if the evidence warrants it, the Court may draw a line at the death of Leland, as the period when the congregation became decidedly Unitarian.—I shall not mention the details of the several donations, except that generally they are given to the use of the congregation worshiping in Eustace Street, or for the ministers for the time being of Eustace-Street congregation. The phraseology varies; but they merely express that the bequests were made for the benefit of the congregation of Eustace Street.

Lord Chancellor.—Let me have an abstract of the wills.

Solicitor-General.—We have not got the wills. In several instances we have only entries in our books.

Lord Chancellor.—Mention any donation after Leland's death which you say would not go with the chapel.

Solicitor-General.—In 1768, Mrs. Davis bequeathed £50 for the use of the ministers of the congregation of Eustace Street, and £20 for the boys' school.

Lord Chancellor.—What are the words of the bequest?

Solicitor-General.—We have not the will. It only appears from an entry in our books.

Lord Chancellor.—Let both sides agree in making an abstract of the terms of the gift, and send it to me.

Mr. *Hutton.*—In many cases the gifts were of small sums, which the executor paid to the congregation.

Lord Chancellor.—That is like throwing gold into another man's crucible.

Solicitor-General.—Reads from the vestry book the terms of Mrs. Davis's bequest.

20th March, 1768.—The Rev. Dr. Isaac Weld acquainted the gentlemen that he had received £50 from the representatives of the late Mrs. Davis, which she bequeathed "for the use of the ministers of this congregation;" and "£20 which she bequeathed to the charity-school belonging to this place."

1779, August 11th.—Mr. John Leland Maquay acquainted the governors of the charity-school, that his father, G. Maquay, had bequeathed £50 "to the charity-school of this house."

1780.—The terms of Mrs. Singleton's bequest appear in the answer. She gave £300 to a trustee, in trust, to pay one-third thereof to the Presbyterian ministers of Eustace-Street meeting-house; one-third thereof to the widows of Presbyterian clergymen of the Southern Association; and one-third to the boys' school connected with the said meeting-house.

1782.—Mr. Dick devised "to the fund for support of the ministers of this congregation £50, and to the charity-school of this house £20."

1784.—Mr. Cock's donation appears only as an entry of £11 cash, handed in to the treasurer.

1785, October.—Mr. Watson, the treasurer of the almshouse, reported that Mrs. Jackson had paid into his hands for the use of the said almshouse the sum of £100, being a donation from her to the said charity.

1786.—Congregational subscription, £300. The trusts of this fund were declared to be—"that the first £300 which shall be raised by such subscription, shall be paid to the trustees of Damer's fund, on condition that they allow to Mrs. Thomas during her life the sum of £40 a-year; and do for ever appropriate the sum of £40 per annum to the widow or widows of ministers of this congregation during their widowhood."

1789.—Mrs. Dickson's bequest only appears by an entry in the cash book; no trust appears.

1791.—Mrs. Bradley's bequest is evidenced in the same manner; no trust.

1792.—Congregational subscription of £304.

"At a meeting of the congregation for the purpose of esta-

blishing a female charity-school:—Resolved, that the several subscriptions received, or to be received, be consolidated with Mrs. Hanna Singleton's bequest."

1793.—Alexander Armstrong, cash, £10. No trust.

1796.—Mr. Johnston, £100 for "the boys' charity-school," and £100 "for the use of the ministers for the time being of this religious society."

1797.—Mr. Dyton, £10 cash.

1799.—Mr. Weld, £10 cash.

1807.—Mrs. Maurice, £100. The trust of this appears by a deed of the 23rd of October, 1830, which recites that Mrs. Maurice by her will bequeathed to her executors £100 upon trust, to lay out the same at interest, and permit her sister to receive the same during her life, and after her decease to pay the same "towards forming a fund for building a meeting-house for the Presbyterian congregation of Eustace Street, or rebuilding the then present one; provided that if the £100 and interest should not, within 20 years from the death of her sister, be disposed of for the purposes aforesaid, the same should, at the expiration of that period, be disposed of by her executors, as they should think best for the interest of that congregation." The 20 years having elapsed without the money being laid out, the trustees by this deed declare that they think it best for the interest of the congregation, that the same should be vested in trustees "for the benefit of the widows of deceased ministers of the said congregation," in the manner and subject to the provisions in that deed contained; and it declares that the trust shall be to permit the fund to accumulate until some one or more of the ministers of the congregation, that is to say, the Presbyterian congregation at present worshiping in Eustace Street, in the city of Dublin, shall have died, such minister or ministers being at the time of their decease in immediate connexion with the said congregation, &c. &c. The defendant, Mr. Hutton, is one of the executors of this will and the original trustee of the bequest.

1808.—Bartholomew Maziere, £24 cash.

1813.—George Thompson, £10 cash.

1818.—Nairac's legacy. "A letter from Mr. Maziere to announce a further payment of Mr. Nairac's legacy, was laid before the meeting. Resolved, that the treasurer of the charity-school be requested to comply with the desire of Mr. Maziere." There is no further entry with respect to this.

Lord Chancellor.—That is clearly given to the boys' charity-school.

Solicitor-General.—1819. Mrs. Johnson, gift of £150 for the boys' school; £100 for the girls; and £50 for the almshouse, to be expended or vested as the governors should think fit.

1821.—Mrs. Armstrong, £5 cash.

1822.—Mr. Fortescue bequeathed "to the governors of Eustace-Street meeting-house, to be applied in aid of the funds of that institution, the sum of £50." Resolved, that that fund be consolidated with the fund of John Lowton.

1825.—Miss Crosthwaite made her will in these terms:—"I

bequeath to the fund for the support of public worship in Eustace-Street meeting-house, £100 Irish, because I believe that it is a matter of high importance to the cause of religious truth and liberty, that the principles on which the congregation of Eustace Street was founded should not be suffered to decline; and that if they were strictly adhered to, many of the difficulties that are supposed to attend the study of theology would be removed; for they declare for the right of private judgment in matters of religion, maintaining that the Bible alone, without note or comment, is the proper rule of faith and practice for Christians. On this account, Protestant Dissenters refuse their assent to articles of faith that are the dictates of fallible men." And she gave a further sum of £100 to the Rev. Mr. Taylor, the senior minister, and £50 to the junior minister of the congregation; and to the guardians of Eustace-Street charity-school, towards the fund for giving premiums to boys who shall produce satisfactory testimonials from the master they serve and the ministers who shall give them religious instruction, £50; and towards forming a library for the boys of said school, the books to be laid in with the approbation of the school committee, and to be lent to young men during their apprenticeship, £20.

This lady was the pupil of Leland. She was his step-granddaughter, and lived to the age of 87. She has left a record of her approbation of the principles of the Eustace-Street congregation, and states that such have always been its principles. The dispositions in the will prove her to have been an Unitarian.

Then follow two small subscriptions—1827, Mr. Maquay, £20; and 1828, Mrs. Ogle, £10, which are cash.

1828.—Mr. Edward Johnson gave a legacy of £92. 6*s.* 2*d.* to the boys' school.

1832.—Mr. Maquay gave £40, the amount of a ballast-office debenture, "to furnish marriage portions of £2 or £3 each, as the fund would allow, to such girls brought up in the Eustace-Street school, as should marry persons of undoubted Protestant Dissent, and of whose as well as of their own Protestant Dissent there could be no doubt."

There is in addition some communion-plate, which is described in the schedule to the answer. These are the donations subsequent to the death of Leland; and I have already stated our case as to them. They were all made during the ministry of Unitarians. As to the Irish Unitarian Society, it appears that only sixteen of the congregation of Eustace Street are members of it. The New Version is not used in Eustace Street; the version used by Unitarians in general is the authorized version. But even if that work were found in the library of Eustace Street, it does not follow that the members of the congregation adopt it. It is placed there as any other theological work would be placed in a theological library. Then Mr. Ledlie says that he has studied Dr. Leland's works, and that his opinions ——

Mr. *Warren.*—This is not evidence.

Lord Chancellor.—The Solicitor-General has a right to state his client's case, and to open his answer; but he will have to prove afterwards what he says. The Solicitor-General is perfectly correct in

the course he is taking; he has a right to read the answer as part of his defence, and to open it fully.

Solicitor-General.—I am merely stating our case. Mr. Ledlie states, that he does not consider that Dr. Leland believed in the Trinity as set out in the 39 Articles; that there is but one passage in Leland's works in which the doctrine of the Trinity is mentioned as a doctrine of the Bible; and that is without any comment to shew the sense in which Leland understood it. He believes that his own opinions coincide with those of Dr. Clarke and Dr. Leland; and he refers to a work of Waterland's, in confutation of Clarke, as shewing the sense in which Clarke was understood. (Reads the answer No. 67, 68.)

Lord Chancellor.—Read the passage from the prayers which Mr. Brooke read. It lays an emphasis on the word "adoration."

Mr. *Armstrong.*—Arians do not worship Christ, but they pay him adoration in a subordinate sense, as implying the highest honour next to God.

Mr. *Brooke.*—No such distinction is taken by the answer. In the passage of the answer read as to the belief of the defendants, they state that they exclude Christ from adoration.

Mr. *Armstrong.*—Not so; they only exclude him from that supreme worship which they state is to be paid to the FATHER only, and which Christ himself disclaimed.

Solicitor-General.—Adoration may be paid to a person inferior to the First Person of the Trinity. The passage read is not a prayer, but a doxology.

Lord Chancellor.—That passage of the prayer is read to shew, that in that prayer no distinction is taken between the First and Second Person of the Trinity, in the adoration to be offered to them.

Mr. *Armstrong.*—The whole passage is in the *third person*, and contains no *direct address* to Christ. It is a mere ascription of honour and veneration, but not an act of worship.

Mr. *Holmes.*—Reads the 91st Hymn in Drummond's collection for Strand Street, to shew that there is a distinction between adoration and worship.

Solicitor-General.—Reads the definition of adoration given in Johnson's Dictionary. It is not synonymous with worship, but, according to the use of the word at the time, signifies only a high degree of honour and veneration.

Mr. *Armstrong.*—That appears from the quotation cited by Dr. Johnson from one of the British Essayists—"The people appear *adoring* the Prince, and the Prince *adoring* God." That passage clearly proves that the word *adore* does not necessarily imply supreme religious worship.

Solicitor-General.—Mr. Ledlie is now the only officiating minister in Eustace Street. Dr. Leland died in 1766; he became infirm in 1764; and there was in the interval an invitation sent by the congregation to Mr. Rogers, an English gentleman, to come over here. We have a letter of Mr. Rogers shewing that he was an Unitarian; certainly not a Trinitarian.

Lord Chancellor.—Mr. Rogers was not elected after the death of Leland.

Solicitor-General.—No; he had previously died.

Mr. *Armstrong.*—Not so; he was appointed to a better place.

Lord Chancellor.—That would have been a better place.

Solicitor-General.—Mr. Thomas, the successor of Leland, was recommended by Dr. Chandler, of London, a celebrated Unitarian. His tenets appear from his books published in 1736. Mr. Thomas signed the call to Mr. Taylor; and we have distinct *vivâ-voce* evidence that Thomas and Taylor were both Unitarians. Taylor's tenets appear in a letter of his, dated 1786; he was educated by his grandfather, the celebrated John Taylor, of Norwich, who published an Unitarian work in 1742. He finished his education at Warrington academy in England, a place of avowedly Unitarian principles. He was also a pupil of Dr. Priestley, an Unitarian. He joined in the call to Mr. Hutton, who is admitted to be an Unitarian. Some of the original trustees of Lowton's fund were living in 1764, when the call was made to Rogers, upon the infirmity of Leland; and they joined in that call. One of the trustees actually lived and joined in the call to Mr. Hutton, the defendant. In 1786, Dr. Price, an Unitarian, was applied to, to recommend a successor to Mr. Thomas. Three of the present defendants knew Mr. Thomas, and say that his opinions were Unitarian. Taking all this together, the evidence shews that there never has been a diversity of opinion in this congregation. It is plain that at the present time, and as far back as 1764 or 1741, this congregation was not a Trinitarian congregation. Then we have the several donations given by members of this Unitarian congregation, to the congregation, not for the general purposes of supporting Protestant Dissenting ministers, but for the support of the ministers of that very congregation. There is nothing to disentitle the congregation to any of those funds. It lies upon the relators to shew that there has been a deviation from the original principles of the congregation. But here there is no evidence on the part of the relators that the congregation of Eustace Street professed the doctrine of the Trinity, or repudiated that of Unitarianism. On the contrary, it appears that the ministers, so far as the evidence goes, always entertained Unitarian principles; and it does not appear that there has been any deviation from the principles professed by them when the donations were made. Under these circumstances, this appears to be a novel case. The onus of proving the forfeiture lies on the relators; and they have not proved it. Their evidence only affords an inference; they have not given any direct testimony on the subject. On the other hand, we have given evidence that this congregation chose their ministers by reason of their entertaining Unitarian principles. No case, therefore, has, I submit, been made out as to any of the funds. The case is not like that of the Attorney-General *v.* Drummond, in which the Court was obliged to put a construction upon a deed, taking into consideration the surrounding circumstances and the law of the land. Here the only question is, what were the opinions of the congregation at the time of the several donations?

Mr. *Armstrong.*—Calls the defendant's proofs.

Three Consent orders of the 19th October, 1843.

Consent order of the 6th February, 1844.

Margaret Taylor, 40 Interrogatory, lib. D.
——— ———, 41. same lib.
——— ———, 80. same lib.
John Armstrong, 77. same lib.
James Moody, 42. same lib.
——— ———, 6, of fourth set of Additional Interrogatories, lib. H.
John Armstrong, 34, lib. D.
John S. Armstrong, 4, of second set of Additional Interrogatories, lib. F.
William Bruce, 32, lib. D.
——— ———, 33, lib. D.

That Nathaniel Weld and Leland were non-subscribers.

Lord Chancellor.—The relators have proved that non-subscription is consistent with holding the faith in the Trinity.

Mr. *Armstrong.*—We are going to prove that non-subscription, as stated in Miss Crosthwaite's will, is the bond of union in Eustace Street.

Lord Chancellor.—You must read that evidence with great care.

Mr. *Armstrong.*—2 vol. Boyce's Works, 359. Read.

Lord Chancellor.—That does not prove what you stated. It proves nothing but non-subscription.

Mr. *Armstrong.*—It proves that they considered the Westminster Confession of Faith, and the *doctrinal* Articles of the Church of England, "a clog."

Lord Chancellor.—No doubt. But you told me you were reading to shew that the foundation of Eustace Street was the same as that stated in the will of Miss Crosthwaite. It proves no such thing—only this, which is not disputed, that subscription was rejected by the Dissenting congregations in Dublin; which I take to be an admitted fact in this case.

Mr. *Armstrong.*—I will shew that they rejected subscription to the Westminster Confession of Faith, because of its doctrine.

2 vol. Boyce's Works, 356. Read.

Lord Chancellor.—Non-subscription does not prove that a person is not a Trinitarian. The opening of that passage shews that.

Mr. *Armstrong.*—2 vol. Boyce's Works, 341. Read.

Lord Chancellor.—Do you deny that Boyce was a Trinitarian?

Mr. *Armstrong.*—No: we only say that he would not bind himself or his successors to be always Trinitarians.

2 vol. Boyce's Works, 359.

Weld's Sermon, preached at New Row, July 15, 1714, pp. 6, 7.

3 vol. Leland's Sermons, pp. 195 to 199.

Lord Chancellor.—The question is, to what conclusion did the party come?

Mr. *Armstrong.*—No; but whether they reserved to themselves the right to change their opinions.

Lord Chancellor.—We will not argue that now; but the question is, whether, if they had a right to change their opinions, they had a right to change the trust of the property? If you can maintain that the trust would change with the consciences of the congregation, there is an end of the case.

Mr. *Armstrong.*—The trust would never change, for it would always be for the principles of non-subscription and the right of private judgment.

Dublin presbytery book; entries under date of the 25th March, 1733, and 12th October, 1730.

Presbytery book of Killeleagh, September 27th, 1727.

Lord Chancellor.—Why do you produce this evidence?

Mr. *Armstrong.*—We give it in connexion with the evidence that Dr. Colville was an Arian.

Ex. 19. Sermon preached on the death of Nevin, at Downpatrick, 24th March, 1744.

Mr. *W. Brooke.*—Objects that the defendants should produce the records of the Synod of Ulster, to shew the cause of Dr. Colville's excommunication; which, he says, was for contumacy, and not heretical opinions.

Lord Chancellor.—The question is, upon what ground was he excommunicated? I cannot give any weight to his writings.

Mr. *Moore.*—Suppose we are not able to give legal proof of the cause of his excommunication, yet we shew the recommendation of Colville by Weld and Leland, and their approbation of him; and therefore, by shewing what were the opinions of Dr. Colville, we shew those of Weld and Leland.

Lord Chancellor.—How do you connect what Dr. Colville was in 1725 with what he was in 1744?

Mr. *Armstrong.*—We are entitled to assume that his opinions continued the same.

Reads pp. 8, 20, 25, of the Sermon.

Lord Chancellor.—He is speaking of Christ upon earth.

Mr. *Armstrong.*—To prove that the Presbytery of Antrim have always been reputed an Anti-trinitarian body.

The judgment of Joy, C. B. in the Clough case; *tendered.*

Mr. Sergeant *Warren.*—It is not evidence at all.

Lord Chancellor.—I cannot receive the opinion of a judge as evidence of a fact. *Rejected.*

Mr. *Armstrong.*—The evidence of Dr. Cooke in the report of the Commissioners of Education in Ireland; *tendered.*

Mr. Sergeant *Warren.*—Objects. Dr. Cooke is living and might have been examined.

Mr. *Hutton.*—The report was relied on by the Vice-Chancellor in Lady Hewley's case.

Lord Chancellor.—You may read the conclusion of the Commissioners; but if you want the evidence of a particular person who is alive, you should have examined him.

Mr. *Armstrong.*—4th Report of Commissioners, p. 9. Read.

——————————————p. 20.

To prove that Abernethy, Leland and Weld associated as members of the same presbytery.

Dublin presbytery book, passim, September 23, 1730.

To prove that Emlyn's principles made progress in Dublin between his trial and death.

Emlyn's Life, Vol. I. p. 62 of preface. Published 1746.

Lord Chancellor.—When do you fix the date of the first congregation openly professing Unitarian principles?

Mr. *Holmes.*—1702.

Lord Chancellor.—In 1702, Emlyn was deposed.

Mr. *Armstrong.*—We say 1716, the date of Leland's ordination in New Row.

Epitaph on Emlyn, p. 100 of preface. Read.

Emlyn's Life, Vol. I. p. 27 of preface. Read.

Emlyn's Narrative, Vol. I. 44.

Abernethy's Works, published 1748, Vol. I. preface, pp. 62, 68, 75, 76, 21.

Vol. II. p. 34.

Vol. IV. pp. 19, 20, 201, 202, 198, 199.

Vol. III. pp. 366, 367.

Lord Chancellor.—It is not necessary to read those long passages. They relate to justification by faith. We are not to try whether Abernethy believed in original sin or not. I understand the bearing of the evidence; but it is not necessary to read those long passages.

Mr. *Armstrong.*—No Trinitarian could have used such language respecting original sin and the atonement.

Abernethy's Works, Vol. III. pp. 364, 365, 366.

———— ————, Vol. IV. pp. 105, 140.

———— ————, Vol. VII. pp. 2, 42, 43, 244, and some others. (Entered as read.)

Mr. Porter's evidence *tendered.*

Mr. *W. Brooke.*—Objects. This is a living witness deposing to what was the cause of a separation which took place in 1725. We have the published narrative of the seven general Synods, and a letter of Weld in 1726, stating the ground upon which the Presbytery of Antrim seceded from the Synod of Ulster.

Lord Chancellor.—What was done in the Attorney-General *v.* Drummond?

Mr. *Armstrong.*—The evidence was rejected upon both sides. Mr. Porter is clerk to the Presbytery of Antrim.

Lord Chancellor.—So far as he speaks to a fact within his knowledge, I will hear him. I will hear the evidence of a man of science, to tell me the meaning of a term which I do not understand; but whether I can hear a man state that he has read Dr. Leland's works, and that he is of opinion that Dr. Leland's opinions were so and so, is another question.

Mr. *Hutton.*—You may ask a man what are the principles of his Church.

Lord Chancellor.—Yes, what they *are*, within his knowledge.

Mr. Porter's evidence as to the grounds of the separation of the Presbytery of Antrim in 1726, was not further pressed.

Mr. *Armstrong.*—To prove that on the death of N. Weld, the congregation of Eustace Street agreed to wait for two years for his son Isaac Weld, till he should have completed his studies with Benson.

Dr. Armstrong's History of the Presbyterian Congregations in Dublin, printed 1829—*tendered.*

It was used in the Attorney-General *v.* Drummond.

Mr. Sergeant *Warren.*—Objects that it is not evidence.

Lord Chancellor.—In the Attorney-General *v.* Drummond, I rejected all the evidence, in giving my judgment.

Mr. *Holmes.*—It is history.

Mr. Sergeant *Warren.*—It is not written as matter of history, but when there was a controversy between Trinitarians and Unitarians.

Mr. *Armstrong.*—By no means; there was no *lis mota* when this work was published.

Lord Chancellor.—I think it is history, but it is open to observation, and of very little authority. The fact it is called to prove, can hardly be called matter of history. I will not reject any history; but the authority of the Attorney-General *v.* Drummond upon this point, goes for very little; for in it I rejected 9-20ths of the evidence given, and proceeded upon very little evidence indeed.

Mr. *Armstrong.*—Armstrong's Historical Sermon, p. 82. Read.

Mr. Taylor's letter, 23rd January, 1829, to Dr. Armstrong—*tendered.*

Mr. Sergeant *Warren.*—This is not even matter of history. It is a private letter stating what took place many years before the writer was born. It is not evidence.

Lord Chancellor.—Do you, Mr. Solicitor, contend that this is evidence?

Solicitor-General.—It is analogous to cases of pedigree; Mr. Taylor is son-in-law to Isaac Weld. It also states matters in which he was not interested.

Mr. *Brooke.*—The date of the birth and death of Isaac Weld may be proved by it; but it is not evidence that he went to a particular place to be educated.

Lord Chancellor.—It is certainly going beyond matter of pedigree. It now appears that it is upon this letter that Dr. Armstrong's history is founded. It shews the weight to be given to the history. It is not worth disputing about.

Mr. *Armstrong.*—Dr. Armstrong's history is founded upon original letters and other documents of unimpeachable character, and he is well known to have been one of the most competent authorities on Presbyterian Church history in Ireland. Your Lordship has admitted Emlyn's biography by his son to be read against the defendants, and we only seek to read Weld's biography by his son-in-law. Reads the letter.

Wilson's History of the Rise of Dissenting Churches, Vol. I. pp. 121, 123, 124.

Letter of Benson to Towgood, cited in the Monthly Repository for 1823, Vol. XVIII.

Benson's Life, in the Lives of Eminent Unitarians, pages 213, 216.

As to Isaac Weld.

Vestry Book, January 5th, 1767, p. 152.

——— ——— 30th March, 1777, p. 275.

——— ——— 27th April, 1777, p. 160.

Proceedings of Dublin Presbytery, 1773, shewing that Dr. Weld associated in ministerial communion with Dr. Moody and Dr. Dunne, pages 1, 2, 3.

Vestry book, 1764, p. 143.

That Weld explained the text, "*Jesus Christ the same yesterday, to-day and for ever*," in the sense adopted by Unitarians.

Sermon preached by Isaac Weld on the death of Leland, pp. 6, 7.

MS. Sermon of Mr. Hutton, March 15th, 1807, p. 4.

MS. of Moody. Extract No. 7.

That Weld held that supreme religious worship is due to God the Father only.

MS. Sermon of Weld, marked No. 37.

Lord Chancellor.—Was it ever preached?

Mr. *Armstrong.*—That does not appear.

Mr. *Holmes.*—Whether preached or not, it shews his opinion.

Lord Chancellor.—Yes.

Mr. *Armstrong.*—Reads it, pp. 12, 15.

Lord Chancellor.—It is a declaration in writing of the sentiments entertained by Weld.

Mr. *Armstrong.*—That though the doctrine of the Trinity is mentioned in Leland's works as a doctrine of the Gospel, that word was used by Arians in a different sense from that of Trinitarians in the Athanasian Creed.

Dr. S. Clarke's "Scripture Doctrine of the Trinity"—title-page and table of contents read.

Taylor's "Apology for Mordecai," pp. 140, 141.

Lord Chancellor.—Why do you read this evidence?

Mr. *Armstrong.*—To shew that there is a view of the Trinity which is equivalent to Unitarianism; and that when Leland mentions the Trinity generally, or "in the simplicity of Scripture," he means that doctrine as explained by Dr. Clarke.

Biddle's "Confession of Faith, touching the Holy Trinity," Preface, pp. 1, 2.

Lord Chancellor.—I do not understand how what you have been reading proves that there is a doctrine of the Trinity amongst Unitarians. Read me any passage in which he accounts for the Trinity.

Mr. *Armstrong.*—Reads the Confession itself, pp. 1 and 2, and other passages. Biddle was a decided Unitarian, and yet maintained what he calls the doctrine of "*the Holy Trinity.*"

Leland's View of Deistical Writers, Vol. I. pp. 454, 455.

That is the only place in which Leland, in his works, comments on the word Trinity.

Mr. Sergeant *Warren.*—Not so.

Lord Chancellor.—There is another passage of his before me and in evidence, in which he speaks of the Trinity in much stronger terms.

Mr. Sergeant *Warren.*—Reads Leland's Sermons, Vol. I. p. 314.

Lord Chancellor.—In that passage he uses the word in the sense of the Established Church.

Mr. *Armstrong.*—In that passage he makes no comment whatever. He simply uses the word. In the passage we have read he limits his views of the doctrine to the "simplicity in which it is delivered in Scripture," and disapproves of the manner in which it has been "*perplexed and obscured,*" (as he says,) "*by the subtleties and rash*

decisions of men." This clearly implies his opposition to the doctrine of the Trinity as it is set forth in Creeds and Articles and Confessions of Faith.

Leland's Sermons, Vol. III. pp. 146, 147.
Lindsey's Apology, p. 66.
Whiston's Memoirs of Clarke, pp. 10, 12.
Leland's Sermons, Vol. I. p. 104.
Leland's Sermons, Vol. IV. p. 10.
Vindication of the History of the Old and New Testament, by Dr. Clayton, Bishop of Clogher, pp. 90, 103.
Leland's "Deistical Writers," Vol. II.
"Additions and alterations to first vol.," p. 8.
Leland's "Deistical Writers," p. 601.

Lord Chancellor.—I think you are reading much more than is necessary. Whatever has been said or done by the actors, I am ready to hear; or the opinions of other persons, with whom these persons joined; but you are reading much more than is necessary for you to read, or me to hear. *(Adjourned.)*

Thursday.

Mr. *Armstrong.*—I think it right to mention to the Court, that, since reading the evidence yesterday, I have discovered that Dr. Leland's approbation of the Bishop of Clogher was published before the third part of the Vindication of the History of the Old and New Testament, by the Bishop of Clogher, was published.

Lord Chancellor.—What are the passages which you cited from Biddle?

Mr. *Armstrong.*—The title-page, the first page of the preface, and pages 1, 4, 8 and 12, of the Confession.

Collection of Hymns used by Dr. Leland and Isaac Weld.
Mary Frith, 74 Interrogatory, D.
Dr. Watts' Hymns, Psalm 8.
Eustace-Street Collection, Psalm 8, p. 14.

Lord Chancellor.—Does the Eustace-Street Collection state that they are Watts' Psalms and Hymns with omissions and alterations, or merely that they are taken from Watts? Does the book inform the reader that these Hymns have been altered?

Mr. *Armstrong.*—It does. Reads the preface to the Eustace-Street Collection.

Psalm 51, p. 111, in Watts' Collection.
———— p. 117, in Eustace-Street Collection (read).
Psalms 102, 122, 150 and 90, in both Collections, are entered as read.

Boyce's Collection of Hymns, and Eustace-Street Collection, dated 1740, are entered as read, to shew that the latter omits Hymns in the former, in which Christ is addressed as God.

Leland's Collection of Prayers, preface, 29, 31, 32.
Lindsey's Apology, p. 164.
Leland's Sermons, Vol. I. p. 50.
———————— Vol. II. p. 8.
———————— Vol. III. pp. 60, 61, 78.

Taylor's letter of the 6th March, 1829, to Dr. Armstrong, is

tendered as evidence that Leland associated with a Unitarian minister as his assistant in Eustace Street.

Mr. *Brooke.*—Objects: this is not a question of pedigree.

Mr. *Armstrong.*—It is a question of fact, which the party knew of his own knowledge—read.

Two letters, in Dr. Leland's hand-writing, to Astley, dated the 31st of May 1764, and 29th May, 1765.

Entries in the Eustace-Street vestry book, pp. 142, 143, 147, dated respectively 6th and 8th January, 1764, and 31st March, 1765.

Rev. W. Porter, 14 Interrogatory, D.

Rev. W. Bruce, 14 Interrogatory, D.

Rev. W. Hunter, 14 Interrogatory, D.

Exhibit SS. 1, is tendered, to shew the evidence of Dr. Cooke, before the Commissioners of Education in Ireland, as to the meaning of the terms "Old-Light" and "New-Light" Presbyterians.

Mr. *S. Warren.*—Dr. Cooke is living, and ought to be examined. *Rejected.*

Present State of Dublin, published 1752, p. 25.

13 vol. of Swift's Works, 268. Sir W. Scott's edition.

Ex. 20.—Appeal to the Common Sense of all Christian People. Dublin, 1753.

Lord Chancellor.—The other side do not deny that there were persons in 1752, in Ireland, who held Unitarian doctrine; who denied the Trinity and Divinity of Christ.

Mr. *Armstrong.*—But they still maintained the doctrine of the Trinity in a certain sense, tantamount to Unitarianism.

Lord Chancellor.—You do not prove that.

Mr. *Armstrong.*—This book (Ex. 20) was published by a member of the Church of England.

Lord Chancellor.—You have not proved that. His styling himself such is not sufficient. Did no person ever fight with false armour?

Mr. *Armstrong.*—We will prove it by the evidence of learned orthodox divines, some of them Fellows of Dublin College.

Rev. Mr. M'Neice, 12 cross Interrogatory, lib. I.

Rev. Dr. Urwick, ———————————— lib. I.

Rev. Dr. Singer, ———————————— lib. I.

(Entered as read.)

Rev. Mr. M'Neice, 6 cross Interrogatory.

Lord Chancellor.—That deposition is open to the objections which have already been taken.

Mr. *Armstrong.*—Rev. Mr. M'Neice, 21 additional cross Interrogatory, lib. K.

Lord Chancellor.—Those expressions, Socinian Trinitarians, Arian Trinitarians, and Unitarian Trinitarians, are quite new.

Solicitor-General.—The Socinians do not believe in the orthodox Trinity.

Sergeant *Warren.*—Objects to the last deposition. It is the opinion of a witness who speaks from reading books on the subject. (After some discussion, the deposition was received.)

Mr. *Armstrong.*—Rev. Dr. Urwick, 22 additional cross Interrogatory, lib. K.

To prove that invocations and addresses to Christ are usual in the psalmody of Unitarians.

Rev. W. Porter, 63 Interrogatory, D.

Lord Chancellor.—This is not disputed. I understand the distinction, that you do not worship Christ, but only adore him. You may enter that deposition as read.

Mr. *Armstrong.*—Eustace-Street Hymn Book, Hymns 123, 125, 129.

Johnson's Dictionary, "Adore."

Evans' "Sketch of Denominations of the Christian World," p. 67.

Strand-Street Hymn Book, Psalm 120, 188.

Ex. 113. Biddle's Tracts.

Lord Chancellor.—Was Biddle an Arian?

Mr. *Armstrong.*—I conceive so.

Lord Chancellor.—I do not think so.

Mr. *Armstrong.* — There are Socinian Tracts bound up with Biddle's work, but not written by him, and which may have misled your Lordship.

Sermon by Dr. Armstrong in vindication of the principles of Unitarianism, preached in 1836.

Dr. Drummond's "Essay on the Trinity," p. 3.

As to Rev. Samuel Thomas—

Historical Sermon, p. 82.

Ex. 84. Taylor's Letter to Armstrong, 18th January, 1829.

Wilson's "History of Dissenting Churches," Vol. II. pp. 368, 373.

Mr. *W. Brooke.*—Reads p. 374, to shew that Chandler admitted that he himself was a moderate Calvinist.

Mr. *Armstrong.*—He may have been so, as the five points of Calvin *do not include the Trinity:* but in his History of Persecution, published in 1736, he writes against the Trinity and the Athanasian Creed, *by name.*

Chandler's "History of Persecution," pp. 411, 412, 413, 457.

Rev. Dr. Hincks, 11 Interrogatory, lib. D.

Mr. *Brooke.*—His deposition is merely upon belief.

Mr. *Moore.*—One of the arguments here is, that Thomas must have subscribed in England, and therefore that he was a Trinitarian.

Lord Chancellor.—Yes; but this deposition is not evidence of the fact; for the witness only says that he understood. (After argument, the deposition was received.)

Mr. *Armstrong.*—We will prove the same by documentary evidence.

History of the Baptist Churches in the West of England, by Murch. London, 1835.

Taylor's "Funeral Sermon on Thomas," p. 26.

Historical Sermon, p. 83.

Ex. 84. Taylor's Letter to Armstrong, 18th January, 1829.

——————————————— 30th May, 1813.

First Report of the Irish Unitarian Society, list of members.

Margaret Taylor, 79 Interrogatory, lib. D.

Lord Chancellor.—I observe that in Taylor's Letter, he says that

he is not a Priestleyan, much as he respected his old master. Yet a letter was read, that Isaac Weld was educated by Benson, in order to afford an inference that he adopted the doctrines of Benson.

Mr. *Armstrong.*—Priestley was not a Socinian at the time he educated Taylor, only an Arian. He afterwards became a Socinian, but Taylor remained an Arian until death.

Rev. Thomas Hincks, 12 Interrogatory, *tendered.*

Lord Chancellor.—That is mere repute.

Mr. *Hutton.*—That is the matter in issue; it was upon the repute of what the congregation was, that Thomas was invited to Dublin.

Lord Chancellor.—Whatever the doctrines were, they knew them. Mr. Solicitor, do you say that this is evidence?

Solicitor-General.—No. Evidence *rejected.*

Mr. *Armstrong.*—Rev. Thomas Hincks, 13 Interrogatory, lib, D.

Tracts on several Important Subjects, by Dr. John Taylor; title-page read.

Further Defence of the Rights of Christians, p. 40, by the same.

Vestry book of Eustace Street, April 16, 1786, pp. 309, 314, 337.

Estlin's Works. Sermon preached 25th of February, 1790.

Price's Sermons, p. 94.

Ex. 10. Priestley's Life, by Rutt, Vol. I. pp. 41, 42.

Mr. *Armstrong.*—This proves what I stated, that Priestley was an Arian at the time he educated Taylor.

N. Hone, 76 Interrogatory, D.

———— 24 Interrogatory; *tendered.*

Sergeant *Warren.*—Objects that Mr. Hone is a defendant, and that his evidence is not admissible.

Mr. *Hutton.*—Referred to the Act of Parliament of last Session.

Sergeant *Warren.*—It excludes existing suits from its operation. Evidence *rejected.*

Mr. *Armstrong.*—Abigail Hone, 24 Interrogatory, lib. D.

Abigail Hone, 25, same lib.

Esther Rochfort, 9, 30, 31, same lib.

————, ————30.

Rev. Thomas Hincks, 9, same lib.

———————— 5, same lib.

Mary Frith, 72, same lib.

———— 73, same lib.

Margaret Taylor, 25, same lib.

Abigail Hone, 27, same lib.

James Moody, 30, same lib.

Ex. SS.11. MS. Sermon of Dr. Moody, May, 1787.

Sergeant *Warren.*—I have no doubt that Dr. Moody was an Unitarian; but it is another question whether he preached that doctrine openly. There is no proof that that sermon was ever preached.

Mr. *Armstrong.*—The consent to admit documents states, that this sermon was preached. Reads it.

Lord Chancellor.—That is quite clear. It is an admission that the several sermons there mentioned were preached.

Sergeant *Warren.*—This comes on us by surprise. We were not required to admit any fact other than the writing of the sermons.

Mr. *Brooke.*—The consent does not mean to admit facts. It is only that the MS. sermons mentioned in it may be given and read in evidence, as if the same were duly proved; and then it proceeds to describe the sermons.

Lord Chancellor.—I must take it from the consent that this sermon was preached. I do not, however, think that fact has been proved by the document itself.

Mr. *Armstrong.*—Exhibits 103, 104, 101, 114. MS. Sermons and Essays of Moody.

Ex. SS. 13. Sermon of Dr. Moody, preached, 1783.

James Moody, 42 Interrogatory, lib. D.

Dublin Presbytery Book, p. 36.

Ex. 38. MS. Sermon of Bruce, preached April, 1787.

Ex. 98. Moody's Ordination Charge at the ordination of Mr. Hutton, 21 March, 1788.

Ex. 106 A. Moody's Ordination Sermon at the ordination of Dr. Armstrong, 1806.

Ex. 50. Ordination Sermon of Taylor, pp. 27, 28, published 1770.

Ex. 33. Ordination Sermon, preached by Taylor, 21 March, 1788, at the ordination of Mr. Hutton.

Sergeant *Warren.*—I trust your Lordship will not take that passage as a true description of the doctrines of the Church of England.

Mr. *Armstrong.*—I did not read it *as such*, Mr. Warren; I read it merely as Mr. Taylor's opinion of those doctrines. I have endeavoured as much as possible not to press upon the feelings of opposite counsel or of the Court.

Lord Chancellor.—So I understand. Mr. Armstrong has brought forward this evidence with great ability, delicacy and forbearance.

Mr. *Armstrong.*—Exhibit 35, Taylor's Ordination Sermon at the ordination of Dr. Drummond, 1815.

Ex. 36 C. Sermon by Taylor, preached at Liverpool, 1773, and at Eustace Street, 1774.

Lord Chancellor.—There is nothing in that sermon against the Trinity or the Supreme Deity of Christ. Have you any sermon in which Taylor denies the Trinity or the Supreme Deity of Christ?

Mr. *Armstrong.*—No; not in express terms.

Ex. 36 E.

— 36 A.

— 36 B. Manuscript Sermons by Taylor, dated respectively, 1786, 1801, 1814.

As to Mr. Hutton—

Ex. 39 *a.* MS. Sermon, preached February 9th, 1794.

— 39 *c.* ————, ———— 1799.

— 39 *d.* ————, ———— March 19th, 1797.

Margaret Taylor, 40 Interrogatory, lib. D.

Margaret Taylor, 29 Interrogatory, lib. D.

Mr. *Brooke.*—Objects. Evidence of the private religious opinions of the donor is not admissible. This was decided by the judges in Lady Hewley's case.

Mr. *Hutton.*—The opinions of the donors are evidence to shew that they belong to a certain religious community. It is admissible,

to shew that they belonged to a certain sect, who used language in a certain meaning. It is a most important fact to shew that these donors belonged to a certain sect of Unitarians.

Mr. *Holmes.*—Reads the judgment of Baron Gurney, 9 Cl. and F. 550; and Lord Cottenham's judgment, approving of the rule laid down by Baron Gurney.

Sergeant *Warren.*—That does not include the admission of the donor's own private opinion. Chief Justice Tindal says so expressly, 9 Cl. and F. 569, 570 (reads it).

Solicitor-General.—These observations must be taken in connexion with the case then before the Court. But this is a donation to a particular congregation, of which the testatrix, Miss Crosthwaite, was a member. It is competent to shew what were the principles of that congregation, and that she was a member of it, and held the same opinions. But, in fact, the terms of Miss Crosthwaite's will, will put an end to the question in her case. Reads her will.

Lord Chancellor.—That lady states her opinions; her will is most conclusive upon the subject. I thought it was with respect to another bequest that the question was about to be raised, for her will is conclusive on the subject.

Sergeant *Warren.*—Reads the judgment of Lord Cottenham, 9 Cl. and F. 570, 580.

Lord Chancellor.—I agree with the rule laid down there. There is no objection to evidence to shew the existence of the party by whom the phraseology was used, the manner in which they used it, and that Lady Hewley was a member of that party. You have proved the existence of the party here, and what their sentiments are, and now you are about to prove that this donor was a member of that congregation. But if you are going to read to me some person's notion of what her opinions were, I cannot receive it. I have a right to know, not the opinions abstractedly which she entertained, but to know all the circumstances by which she was surrounded and by which she might have been influenced at the time. Read, therefore, any thing shewing that she was a member of the congregation at the time.

Mr. *Armstrong.*—Margaret Taylor, 29 Interrogatory.

Mary Frith, 75 Interrogatory—*tendered.*

To prove the opinions of Edmund Johnson and Leland Maquay—

Sergeant *Warren.*—Objects. We do not deny that they were members of this congregation; but this evidence to shew their opinions is inadmissible.

Mr. *Hutton.*—The relators assert, that though the ministers were Unitarians privately, yet they did not preach that doctrine openly. We prove by this evidence that the congregation agreed with their minister: it is therefore material.

Lord Chancellor.—It is not given for that purpose. I am not upon the subject of the belief of the donors.

Solicitor-General.—I did not understand your Lordship to exclude evidence of the religious opinions of the donors in every instance. Upon this part of the case, I think it is admissible; for the question is, whom did the donor intend to benefit? To shew that the donor

of the fund entertained the same opinions as the congregation, and that both were Unitarians, is surely material.

Lord Chancellor.—I admit the evidence of the donor being a member of the congregation; I have admitted evidence to shew what were the doctrines preached by the ministers, and held by that congregation as a body; but it is a different question, whether, in construing the will of one of the members of that congregation, I can admit evidence of what his private opinions were.

Solicitor-General.—It is difficult to say that the donees should lose the gift *because they are of the same opinions as the donors.* This case also is different from that before the House of Lords, for there the evidence was given in order to construe a deed; here the question is, whether the congregation are to forfeit the gift *because they hold the same opinions as the donor.*

Lord Chancellor.—I have admitted evidence of the opinions of the congregation, and that these persons were members of the congregation: the inference is, naturally, that they entertained the same opinions as the congregation. But it is a different question, whether I can go into evidence of the particular individual opinions of the donors. Suppose it should turn out on such evidence that the donor was a Trinitarian?—I have nothing before me in which there was not either a deed or a will;—for though the will has not in all cases been produced, the substance of it has been given me from the answer of the defendants. When there was not either deed or will, I have entered it, by your admission, as cash.

Mr. *Hutton.*—Johnson's donation was not by deed or will; the evidence of his opinions, therefore, is not to alter or affect the construction of a declaration of trust.

Lord Chancellor.—Then, as I have received evidence of what the foundation was, viz. a boys' school, and that this was a payment through the hands of the treasurer, I must conclude that it went to that charity, whatever it was.

Sergeant *Warren.*—Reads the judgment of Baron Parke, 9 Cl. and F. p. 559.

Mr. *Hutton* referred to p. 542, (the judgment of Justice Williams,) that evidence of the religious opinions of Lady Hewley was admissible.

Lord Chancellor.—This is a question of great importance; therefore let it be argued to-morrow, by one counsel at each side, whether I can receive evidence of what Mr. Johnson's religious opinions were. I have no difficulty as to the admissibility of evidence to shew what were the opinions of the congregation, or that he was a member of that congregation; but if you want to give evidence of the opinions which he as an individual held, I will hear that argued to-morrow morning. In the mean time, read the evidence *de bene esse.*

(N. B.—The question was not afterwards argued.)

Mr. *Armstrong.*—Mary Frith, 75 Interrogatory—read.

Lord Chancellor.—It is hardly possible to conceive a more dangerous description of evidence; I hope it will not turn out to be the law that it is admissible.

Mr. *Armstrong.*—Abigail Hone, 28 Interrogatory, lib. D.

James Moody, 28, same lib.

Rev. Thomas Hincks, 6, same lib.
————————, 7, same lib.
————————, 8, same lib.
————————, 10, same lib.
Rev. J. S. Porter, 68, same lib.
Rev. W. Bruce, 68, same lib.
Rev. W. Hunter, 68, same lib.
Rev. J. S. Porter, 69, same lib.
Rev. W. Bruce, 69, same lib.
Rev. W. Hunter, 69, same lib.
Rev. J. S. Porter, 70, same lib.
Rev. W. Bruce, 70, same lib.
Rev. W. Hunter, 70, same lib.
Rev. J. S. Porter, 71, same lib.
Rev. W. Hunter, 71, same lib.
Rev. William Hunter, 37, same lib.
————————, 38, same lib.
————————, 39, same lib.
————————, 1 of 3rd set of Additional Interrogatories, lib. G. *(Close.)*

Mr. *Moore*, for the Defendants.—Though much evidence has been given, and not unnecessarily, the points in this case are few. It may be necessary to consider this case with reference to three distinct periods of time: the first, as to the year 1719, the date of the first grant; the second, at the time of Lowton's grant, in 1741; and the third, 1768, and the several grants from that period to the present.

Before doing so, I will advert to the principle established by the evidence adduced in this case; that is, it has been clearly shewn that the congregation of Eustace Street is a congregation professing and acting upon the principle of non-subscription. That is proved by the evidence last read, and also by the extracts from the several works of Boyce, Leland, &c., which shew that they have always acted upon the principle of non-subscription, and that it has always been a recognized truth, that each member was at liberty to take the Bible and put on it the best construction and interpretation he could, according to his own reason and judgment. Where subscription is admitted, there is a test to ascertain the principles of the person subscribing. The congregation elects the minister, and, if the congregation were in connexion with the Synod of Ulster, the minister must subscribe to the Westminster Confession of Faith; therefore, in such a congregation, there is a test whereby the principles of the congregation and minister may be ascertained. But where the congregation is a non-subscribing one,—where each person is at liberty to interpret the Bible according to the light of his own judgment and reason,—there is much greater difficulty in ascertaining what are their principles.

The first gift here was made in 1718-19. It is to the Protestant Dissenters, now of New Row, in the city of Dublin. The Court has received evidence of the surrounding circumstances attaching upon that congregation of New Row; and upon the one hand it is said that they were Trinitarians, and therefore that the gift to them was made

with the view of carrying out the same principles, and that those principles were attached to the trust: but, on the other hand, it appears to me that if the Court should come to the conclusion that Damer's principles were those of non-subscription, and that he refused to be bound in the interpretation of Scripture by the reason of another man, and that he was willing that all the members of the congregation should enjoy the same freedom of opinion as he claimed for himself—that principle furnishes a criterion of his object in making this gift to these Protestant Dissenters. Even conceding that, in 1718, the principles of Damer were Trinitarian, and that such was also the religious opinion of the minister and of the congregation at large, yet, when it appears that the main and leading principle of the congregation was, that it should be open to all to exercise their judgment upon the interpretation of the Bible, it cannot be said that it was the intention of the donor that from thenceforth the congregation were to be irrevocably bound to the principles they then professed; and that they were always to hold the doctrine of the Trinity, because they then held it, or that otherwise they were to lose the benefit of the gift he made to them. The expression he makes use of is—Protestant Dissenters. The congregation of Eustace Street *are* Protestant Dissenters. It is true they do not believe in the Trinity; but the gift being to them as Protestant Dissenters, it was, as such, accompanied with the liberty of their exercising their reason as to the manner in which the Bible was to be interpreted. I therefore read this gift as if Mr. Damer had said, "There is at present a congregation in New Row, composed of Protestant Dissenters: my principles at present are Trinitarian; so are those of the body of that congregation; but though that is *now* the interpretation they put upon the Scriptures, yet I know that it is the principle of that congregation that each member of it shall be at liberty to exercise his own private judgment upon the Bible; and therefore it is my will that they shall not be deprived of my gift, if at some future time they should think it right to change their opinions on the subject." That principle of non-subscription was urged on the Court in the Attorney-General *v.* Drummond. The Court then gave to the argument a clear and satisfactory answer; for in that case the deed, which was executed in 1710, provided for the whole body of Dissenters at large in Dublin and the South of Ireland, and not for any particular congregation: and accordingly, the trustees of that deed are the ministers of the five Dublin congregations and their principal members. It was shewn in evidence in that case, that although the congregations of Strand Street and Eustace Street were non-subscribing bodies, yet that some of the other congregations were subscribers; and therefore the Court said that the principle of non-subscription was not applicable to the construction of that deed, because some of the congregations were subscribers, and some not. But though that was an answer to the application of this principle to that case, it is not an answer in the present case, which is the case of a single congregation; and when you are to consider the gift of 1718-19, and to say what are the trusts upon which the donor intended to give it, and who are the persons to be benefited, the Court will look not simply at the doctrine which might have been entertained by the

congregation at any particular point of time, but also to the frame and constitution of the congregation, and to its leading principle at the time of the gift in question. For it is not possible that with the ruling principle, that there should be a free exercise of reason and private judgment in the interpretation of the Bible, it should also be a principle of the same congregation, that any particular form of doctrine, at any time prevalent in it, should never be departed from. The result of such a contradiction would be, that though the congregation had an undoubted and recognized right to change their opinions, yet the slightest deviation from those entertained by them at the time of the gift would operate as a forfeiture, and deprive them of the benefit intended for them. But if the ruling principle of the congregation in 1719, was the free and uncontrolled exercise of the right of private judgment upon the Bible, the gift then made to them is not to be taken from them, they continuing to be Protestants and Dissenters, though they may have changed in an article of belief, professed by themselves or the donor at that time. It appears to me that that view is much strengthened by looking at the other trusts in the deed of 1719. There are three trusts mentioned in that deed: the first is for the Protestant Dissenters of New Row, in the city of Dublin; the second, for the maintenance and support of the charity-school of poor boys in the city of Dublin; and the third is, that the surplus of the rents should go to and be applied for the binding out such poor boys to trades, and for the support and maintenance of poor widows. So that after making provision for the building of the meeting-house and for the Dissenting ministers, he gives the residue, without qualification, to poor boys and poor widows, not specifying what was to be the religious belief of either the one or the other of them; or that any person was to be excluded from the benefit of these trusts in consequence of his or her entertaining any peculiar opinion as to religion. If this deed was solely conversant with the charity to the boys and widows, and an information was filed to confine it to boys and widows of a particular denomination of Christian belief, it would be, at least, very difficult to do so, or say that there was to be a limit put to it, when the donor had put none; or that the Court was to inquire into the religious opinions of the individuals to be admitted into a participation of the benefits of the charity. These observations apply to the entire trust; and I submit, that if non-subscription were the prevalent paramount principle of this congregation in 1719, the trust is to be viewed with reference to that principle; and though the congregation may *now* differ from the founder upon a particular doctrinal point, they are not, therefore, to be deprived of the benefit of this trust.

But if the Court should not be with me upon this general view of the case, then it is for the Court to ascertain from the evidence what was the religious belief of the congregation and of the founders, and what are the trusts which are to be executed. But I must first draw the attention of the Court to this fact, that the relators do not belong to, nor are they connected with, the congregation of Eustace Street. I do not say that that prevents them from giving information to the Court, or from being relators; but this case differs materially from the Attorney-General *v.* Pearson, in which the congregation had been

divided, some entertaining opinions of one kind, and others opinions of a different kind. In that case the Court had to struggle with a difficulty. The meeting-house could not be given to *both* parties; and the congregation for whose benefit the trust was created, having separated into two bodies, the Court was obliged to say to which of them the meeting-house ought to be given. Accordingly, the Court had recourse to the opinions of the founder, and decided that as they were Trinitarian, the matter in controversy should be given to Trinitarians. But here there is no difference of opinion: the congregation may have changed their opinions; but they are all unanimous as Protestant Dissenters in entertaining a particular doctrine; and as *they* are the objects of the bounty, the Court will, before it disturbs them, require a strong case to be made out by the relators,—who have no personal interest in the matter,—to satisfy it of what were the intentions of the founder as to religious opinions; and unless such evidence be given, the relief prayed will be denied. With regard to what were the opinions entertained by the congregation in 1719, it appears that at that time the two ministers were Dr. Leland and Nathaniel Weld. I do not think I can controvert, from the evidence given, that the early opinions, and perhaps the late ones, of N. Weld were Trinitarian; for it is shewn that in 1702 he was one of those who joined in the prosecution of Emlyn. But in 1719, Leland was associated with him; and I would say, that though in 1702 there is reason to believe that the opinions of N. Weld were Trinitarian, yet there is evidence to shew that between 1702 and 1719 there was a considerable spread of the opinions which Emlyn professed. We have the statement of Emlyn that he was in the habit of coming over here every two or three years, down to 1741, and that he was received by a portion of his former congregation; and that his opinions were gaining ground in Dublin. It is also shewn that in 1712, Dr. Clarke departed from the doctrine of the Trinity as laid down in the 39 Articles, and that though he acknowledged a doctrine of the Trinity in the sense that the same was entertained by Leland, and is held by the present minister of Eustace-Street congregation, yet it was in a sense different from that in the Westminster Confession of Faith or in the 39 Articles. And as no date later than 1702 is given as the time when N. Weld held Trinitarian principles, it is very possible that after that period he changed his opinions and conformed to those of his colleague. As to Dr. Leland, we have clear evidence of what his opinions on the subject were. But before examining the evidence upon that subject, I would say this, that supposing the Court should be satisfied that in 1719 the tenets of N. Weld were Trinitarian, and that in the same year the tenets of Dr. Leland were Anti-trinitarian, then, considering what was the fundamental principle of this congregation—the right of private judgment—it would be difficult, if not impossible, in that state of things, for the Court to draw the inference that this was a gift for Trinitarian purposes, or to deprive the defendants of the benefit of it. For it would be as reasonable to presume that the donor, being apprised of the fact that Leland was an Anti-trinitarian, and Weld a Trinitarian, and being aware of the principle of the congregation,—the right of private judgment,—intended to give this benefit to those who pro-

fessed a belief in the doctrines of Leland, as to those who concurred with Weld in his sentiments.

How then does the case stand as to Leland? Without going through the evidence on the subject, I think I need not do more than refer to the discourses of Leland in the 4th vol. p. 10 (reads it). Now the doctrine of the Trinity, as set forth in the 39 Articles, is the perfect equality between Christ and God. Where there is equality, there can be no *subordination* or *nearness;* and when Leland lays it down that Christ is subordinate to the Father, it follows that he adopted the same principles as those upon which Dr. Clarke relied, and which are relied on by the defendants to the present day, namely, acknowledging the Divinity of our Saviour and of the Holy Spirit, but asserting that there is not a perfect equality between each of them and God; but, on the contrary, subordination. That is the principle put forward by Clarke in 1712, and which appears to me to have been inculcated by Leland in this discourse. It is also the principle admitted by Dr. Ledlie in his answer. These are the principles of Arianism, which regulate Eustace-Street congregation to this day, and which were advocated by Clarke several years before this gift, and were preached by Leland in the work I have referred to. If I am right in saying that Leland was, at all events when he published these discourses, of that opinion, then there is no evidence to shew that he ever was of a different opinion; and even granting that N. Weld was a Trinitarian in 1702, he might have changed his sentiments between that and 1719.

Lord Chancellor. — What is the date of the discourse you have cited?

Mr. *Moore.*—None of the sermons are dated: the book was published in 1769.

Lord Chancellor.—There is no proof that that discourse was ever delivered.

Mr. *Moore.*—No: but it is manifest that the discourses were prepared with great care. Then I submit that, considering the position of the relators, the case is not made out so clearly as to the principles of the ministers and congregation in 1719, as to induce the Court to interfere in the manner asked. It is established by that paragraph, what were the opinions of Leland; and they are the same as those held by the present congregation of Eustace Street.

The next document is the will of Mr. Lowton in 1741. It is material to call the attention of the Court to what took place in the interval between 1719 and 1741. In 1730, Nathaniel Weld died. He left a son, Isaac, who, from the evidence, appears to have been a very young man at that time, and not to have then finished his education. A resolution was adopted by the congregation to wait for two years before they filled up the vacancy occasioned by the death of N. Weld, and that those two years were to be devoted to the education of Mr. Isaac Weld. Now, if I can shew that Isaac Weld was of Anti-trinitarian principles, in the sense now entertained by the congregation of Eustace Street, it would go far to shew that there must have been some change in the opinions of his father, N. Weld, prior to his decease: for it is very unlikely that if he had continued of Trinitarian principles up to his death, his son should have been sent

to be educated by Benson, who clearly was an Anti-trinitarian. That fact, therefore, furnishes a ground for doubting what were the opinions of N. Weld at the time of his decease: it affords an inference that he had changed them since 1702.

With respect to Mr. Benson, it is established by the evidence that he was an Anti-trinitarian; and coupling that fact with the agreement of the congregation to wait two years until Isaac Weld had completed his education under Benson, it would follow that, in 1730, the principles of the congregation were Unitarian. For it cannot be supposed that having for their minister at that period of time Leland, who was a person entertaining Unitarian principles, they would have waited to fill up the office until this young man was educated in Unitarian principles, unless they also entertained those principles. When you go down in the history of the life of Isaac Weld, there is nothing to contradict the assertion that he entertained Unitarian opinions. We have a manuscript sermon in his hand-writing, in which he states that prayers are to be offered to God the Father, and him only. If he believed in an equality in the Divinity of the First and Second Persons of the Trinity, as inculcated in the 39 Articles, he never would have said, that prayers were to be offered to God the Father and *him only*. A Trinitarian would say, that the proper object of worship was the Supreme Being, including in him the Second Person of the Trinity. But in addition, it appears that in 1764, Leland being then infirm in his health, a resolution was entered into to invite Mr. Rogers to assist Leland in his ministry. Rogers came to them, and continued with them until he got a congregation at Fethard. According to the evidence, Rogers was a Unitarian in his principles: so that it appears that the person selected as the assistant of Leland, with the approbation of Isaac Weld, was a person professing Unitarian principles. All these things combined appear to me to shew strongly, that the principles of the congregation of Eustace Street were, early, of an Unitarian character:—not believing in the Supreme Deity of Christ;—acknowledging his Divinity, but not his equality with the Father.

The next period is 1767; Leland being then dead, Thomas was appointed his successor: and that he was a Unitarian, we have the strongest proofs. But before I go into that subject, Mr. Holmes reminds me, that the alterations in the Hymns, omitting those portions of them which related to the Deity of Christ, were made in the time of Isaac Weld.

Lord Chancellor.—It does not appear that he had any thing to do with them.

Mr. *Moore.*—Now as to Thomas: he was recommended by Chandler, who clearly appears to have been a Unitarian. He did not believe in the Athanasian Creed. We also have both Weld and Thomas joining with Dr. Moody and Dr. Dunne, in 1773, in forming the Dublin Presbytery. The evidence shews that both the latter gentlemen were Unitarians. In 1777, there was a call to Taylor; and that he was an Unitarian is distinctly proved. He was educated by Priestley; and we have his own letter in 1813, acknowledging himself to be an Unitarian; and in 1831, he became a member of the Irish Unitarian Society. So that whatever doubt there may be as to the prin-

ciples of the ministers of this congregation in 1719, there is clear evidence that, at least from 1730 down to the present time, the principles of this congregation have been the same as those of the present defendants; acknowledging the doctrine of the Trinity in one sense, though not in that of the Established Church. Therefore, the relators not having given any evidence to countervail that offered by us, the situation of the case is, that down to 1741, the Court is without evidence on the subject, except what has been offered by us; and the inference is, that from 1719, or at all events from 1730, the principles of the congregation were Unitarian; and therefore there is no ground for depriving them of the gift of Lowton.

Then as to the period 1768, and subsequent thereto. That is the date of the gift of Mrs. Davis. All the observations I have already made are applicable to all the bequests from the period of 1768 to the present. But in addition, I must observe, that the bequests are frequently given to already constituted charities: and if the Court should be of opinion that the boys' school, for instance, was founded by a donor of Trinitarian principles, and with the intention of working out those principles, yet it will not attach to it the accretions subsequently made; which, though given to the same charity in name, were clearly intended for a different object. For it is not reasonable to suppose that the subsequent donors, being of Anti-trinitarian principles themselves, and being members of an Anti-trinitarian congregation, intended that their gifts should be confined to the objects of the original foundation. There will be no difficulty in separating the accretions from the original gift. It is more reasonable to suppose that the subsequent donors were ignorant of the grounds upon which the grant of 1719 was made, than that they had the intention to depart from their own principles: and more natural to say, that if they *did* attach their donations to a school already established, they were under a mistake at the time as to the nature of that charity, than to suppose they intended to give a donation in support of principles which they did not entertain. If the Court should be of opinion, that the case of the relators is made out as to the donation of 1719, and should take the management of the charities from the Eustace-Street congregation, the result will be, that if the subsequent donations be held to be attached to the original one, the Court will not be carrying into effect the intentions of the subsequent donors. I therefore submit upon the whole of the case, that the relators have not made out their case; and that the Court ought not to disturb the defendants in the enjoyment of any, or at least of a considerable portion, of the donations which have been made.

(Adjourned.)

DEBATE IN THE HOUSE OF LORDS, MAY 3, 1844, ON GOING INTO COMMITTEE ON THE DISSENTERS' CHAPELS' BILL.

(From the Notes of the Short-hand Writer.)

THE LORD CHANCELLOR.—My Lords, it is my duty, in consequence of the arrangements made on a former night, to state to your Lordships, which I shall do very briefly, the nature and grounds of the Dissenters' Chapel Bill. I think that nothing more is necessary on my part on this occasion than to state to you what the scope and object of the Bill is, in order to induce your Lordships to give it your warm and hearty support. I certainly never anticipated, when I undertook to bring forward this very moderate and scanty measure of justice, that it would have met with such a clamorous opposition. Petitions have been presented in great numbers against it, and they are now upon your Lordships' table. I have felt it my duty to examine these petitions. The greater part of them are couched in the same language—"surprise" and "alarm." They are obviously written by the same hand. They come from the same officina, and therefore they have made little impression on my mind. I know the facility with which petitions of this description are got up and signed; and certainly they have not led me to feel less confidence in the justice of the case than before those petitions were presented. It must always be remembered, my Lords, that there are numerous petitions also on the other side; but I humbly presume to say that they are petitions of a widely different character, and that they are entitled to much greater attention at the hands of your Lordships. They are petitions from members of the Established Church, from Presbyterians, and from various other denominations of Dissenters, not couched in general terms, but pointing out specific hardships and evils, and praying your Lordships to pass this Bill for the purpose of affording a remedy for the complaints which they have set forth in their petitions.

My Lords, there is an opposition, however, of a very different description which this Bill is destined to encounter—the opposition of my Right Reverend friend—which is formidable not more from his talents than from his character and position. I do not apprehend, however, considering the strength and justice of the case, even the effect of that formidable opposition. I feel some surprise, indeed, at the new association into which my Right Reverend friend has fallen, but I am persuaded that this will result from it, that he will exercise that influence which he has acquired over his new associates to temper their zeal, and, if possible, to put an end to those differences which unhappily prevail amongst them. My Lords, I am thankful to say, with respect to the provisions contained in the first section, that there is no difference of opinion amongst us.

The BISHOP of EXETER.—No, no, no.

The LORD CHANCELLOR.—The Right Reverend Prelate says, "No, no, no." This is the only quarter whence I have heard any objection made to that provision. I believe that my Right Reverend friend who sits opposite to me, does not join in the opinions entertained by that Right Reverend Prelate. My Lords, what is the object of that section, and what is the state of the law which it is intended and calculated to remedy? Some charities with respect to places of

worship were established at a period when by law that species of worship was illegal. Subsequently, Acts of Parliament have been passed legalizing that form of worship. That which was illegal at the foundation of those charities, has since become legal according to the law of the land. The more liberal character and spirit of the present age has repealed those statutes which declared that form of worship to be contrary to law—to be illegal. My Lords, notwithstanding this, as at the foundation of those charities the charity itself and the foundation were illegal, it has been considered, notwithstanding the alteration of the law made in this respect, that the defect has not been remedied; and for the purpose, therefore, of preventing the consequences resulting from this, and for the purpose of preventing those charities from being vacated by processes in the Courts of Equity, I have introduced this clause into the Bill; and the object of the clause is, that these charities should be considered, in reference to their foundation, as if they had been founded subsequently to the passing of the Act. What can be more reasonable, what can be more just, than such an enactment? If they had been legal at the foundation of the charity, the charity itself would have been legal. They are now legal; why should we not, then, legalize these charities? And what is the object of those who oppose this Bill? The object is, that these charities are to be set aside and declared altogether void; and for what purpose? In order that they may vest in the Crown, and be devoted to some other purposes different from the object to which they were originally destined by the intention or will of the founder. Until I hear some argument urged in opposition to this clause, I shall rest on this statement; I will rest upon the support which I expect to receive from my Right Reverend friends; I will rely on the opinion expressed every where out of doors in favour of this part of the Bill; and I shall not trouble your Lordships with any further observations at present respecting it.

Now, my Lords, with regard to that which is the material point to which the opposition to this Bill is directed, I must state to your Lordships what the nature of the provision is. Nothing can be more simple. A place of worship is established by a deed or by the will of some benevolent person—that place of worship has been established for a period perhaps of 150 or 200 years. For a long period of time —thirty, forty, fifty, sixty, or seventy years—the congregation meeting at that place of worship have entertained the same religious opinions and doctrines. No change whatever has taken place during that period. It is a matter of speculation what was the religious opinion of the founder. He has not in his deed of trust or in his will declared what the doctrines and opinions were which he was desirous of having preached and inculcated in that place of worship. Why are we not to take the uses that have prevailed for so long a period of time as evidence of what his original intention was? If in a deed he has declared his will and intention for a particular doctrine to be preached and inculcated in that place of worship, to that state of things this clause does not apply; but it does apply to a state of things such as I have mentioned, where he has not laid down in terms what were the particular doctrines that he wished to be preached in that particular chapel, or what was the precise object of its foun-

dation. If parties have uniformly from time to time during a long period continued the same uniform and consistent usage with respect to religious worship and with respect to the doctrines preached in that place, I ask your Lordships whether it is not reasonable to take that usage as evidence of what the intention of the founder was, and not to allow the title of the occupants of the chapel under such circumstances to be impeached in a court of justice? My noble and learned friend who sits near me, on a former day stated the principles upon which this Bill is founded. It is a principle known to our law, which is, that uniform possession during a long series of years establishes a title. That is a great principle in our law and in the law of every civilized country—a principle which we have drawn from the wise jurisprudence of ancient Rome. That principle we apply to our estates and to our civil rights; why should we not apply it to a case of this description? Parties value their rights in property of this nature perhaps more highly than property of any other description. The place with respect to which the question arises may have been the place of religious worship frequented by their forefathers for a long series of years. The burial-ground attached to it may contain the ashes of their dearest relatives and most valued friends. Is it not, therefore, most material and important that that principle which we apply to civil rights, should be applied also to this mixed description of property?

My Lords, with respect to civil rights, if a party has obtained possession of property even by a flagrant act of violence, yet if he be allowed to continue in the uninterrupted possession of that property for a long series of years—indeed, for not a long period—according to our present law, his title becomes absolute and indefeasible. The person who is dispossessed may go into a court of justice and say, "I am wrongfully dispossessed—I am ready to prove it—I can give you the most distinct evidence of the fact." The answer is, "An indefeasible title has been acquired against you by lapse of time;" and this is built on a wise principle of law. Evidence is lost by lapse of time—witnesses die—testimony is gone—and parties are no longer able to establish by distinct evidence and proof what their rights were. Time effects all this. The lapse of time has also its counteracting effect. It establishes by continued possession, and the evidence of right which continued possession gives, another title, balancing and replacing the title that has been lost. My Lords, this is an old-established principle of law in this country. But, my Lords, it is material to consider how this principle has been recognized and extended in modern times, for the purpose of shewing how much importance has been attached to it, and how much we value that principle. Everybody knows that this rule of law to which I have adverted does not extend to the case of the Crown. The Crown is supposed to be so much engaged in public affairs, and to be devoted so much to the public interests, that it has not the opportunity of actively superintending its own particular interests. The Crown, therefore, was excepted from this general rule. Perhaps there was another principle applicable also to the case of the Crown—that the weakness, supineness and negligence of the immediate possessor of the Crown should not impair the rights and interests of his successors. This for a long

period of time was the law of this country. In modern ages, however, it was considered a false principle that the rule of law should not apply to the case of the Crown as well as to the case of private individuals, though not so strongly and after the lapse of a greater number of years. After much consideration and discussion, Parliament adopted that rule, and put an end to the exception to which I have adverted. But, my Lords, that was not all. In still more recent times, another exception which had continued almost to our own day—indeed, to our own day—did exist; I mean the case of the Church. Time did not run against the Church, for the reason I have already stated, namely, that the interests of the Church as a corporation should not suffer from the supineness, negligence or connivance of the party immediately in possession of the life interest. The Church, therefore, was an exception to the rule. How have we treated that exception? We have had the case again before us, and the policy of the rule, the importance of it, and the interest of society to put an end to litigation and to quiet titles, have prevailed even in the case of the Church. Almost in our own day, within a few years from this time, an Act of Parliament passed for the purpose of imposing a period of limitation even with respect to the title and property of the Church.

Lord BROUGHAM.—By Lord Tenterden's Act.

The LORD CHANCELLOR.—Yes; that Act was introduced by Lord Tenterden, a most accurate lawyer and a most zealous defender of the rights of the Church, whom no man would suspect of any looseness or laxity in his opinions or doctrines. He thought it essential to the interests of society, and consistent with public policy, that that exception, which had prevailed even to our own day, should no longer exist. Why, my Lords, have I entered into these details? For the purpose of impressing upon your Lordships' minds the importance of the principle I have stated, and the universality of its application; and I ask your Lordships, if with respect to all our civil rights—if with respect to the property of the Crown—and if with respect to the property and rights of the Church, this rule is to be applied, why should it not be applied in the particular case which is now the subject of your Lordships' consideration? If persons have been in possession for a long series of years of property devoted to the worship of the Supreme Being, and that worship has been carried on in a particular form, inculcating particular doctrines, why should not that establish a right as indefeasible as the right which is established in the particular cases to which I have referred?

My Lords, this is the principle of the Bill—this is the principle upon which it was founded, as was shortly announced by my noble and learned friend on a former night; and this is the short principle upon which I now rest the Bill. Now what is its practical operation and effect? The clause does not apply to a case where the foundation has in it terms of express trust, stating the particular doctrine which is to be preached and inculcated in that place; and why? Because in that case a departure from those doctrines and those opinions must be a wilful departure from the opinions and doctrines that were intended to be inculcated by the founder. But where no such limitation has been imposed—where nothing of that kind is to be found

in the body of the deed—where you are to be left to conjecture, from the particular opinions of the founder and from various collateral circumstances, what his intention was—it is for the purpose of obviating the necessity for such inquiries—for the purpose of preventing litigation of the most expensive and difficult kind, and for the same legitimate purpose for which statutes of limitation have been imposed, that this particular clause has been introduced into the Bill.

Now mark, my Lords, out of what this Bill originates. The circumstances I am about to detail with respect to a very important case not coming within the operation of this Bill, but throwing light on the species of inquiry which would be necessary if your Lordships should not think proper to pass this Bill, will satisfy you to demonstration as to the necessity for this measure. I allude to a case which was referred to by the Right Reverend Prelate on a former night—I mean the case of Lady Hewley's charity. Give me leave to say, my Lords, that that is not a case standing by itself. There are several other cases of the same nature now pending—many more are threatened—whereby much litigation and extravagance of expense will be incurred. I call all these circumstances to your Lordships' attention and recollection, in order that you may see the consequences of rejecting this part of the Bill to which I am now adverting.

Now, my Lords, what was the nature of that case? In the deed by which the charity was founded, there was no express declaration of the doctrines which she (the foundress) intended to be inculcated in that establishment. There were vague and general terms, I admit—and what was the consequence? An Information was filed in the Court of Chancery. It was necessary to enter into evidence of the most complicated, refined and difficult description—first to ascertain what the religious opinions of the foundress were. The evidence went to shew that she was a Presbyterian. A vast body of evidence was necessary for that purpose. Then there was another body of evidence for the purpose of shewing what were the particular religious opinions of the Presbyterians of that day—a vast body of refined evidence—conflicting evidence—historical evidence—testimony of one set of men opposed to the testimony of others. All that was collected into a great mass, and at last the case came on for hearing before the Vice-Chancellor of England. What was the result? After many days of argument and debate upon the question, the Vice-Chancellor of England was of opinion that there had been a violation of trust, and the trustees were dismissed. The same case came on afterwards before my noble and learned friend—it was again argued at great length, but unfortunately, before he was in a condition to decide it, he gave up the Great Seal. It then came on before me. Several days again were spent in hearing the arguments. I had the assistance of two of Her Majesty's Judges, and my decision was in affirmation of the decision of the Vice-Chancellor of England. The case then was brought before this House. It was argued, I believe, for fifteen days at your Lordships' bar. Arguments of the most refined and difficult description were brought forward. Your Lordships confirmed the judgment pronounced in the Courts below. And, my Lords, what has been the result? The result was, that the trustees being discharged from their trust—they not being considered

as entitled to the benefits of the charity, and the members of the Established Church not being considered as entitled to the benefits of the charity,—the question arose, who were the parties that were entitled?—what were the religious opinions of Lady Hewley, and what were the religious opinions which she thought ought to be taught in that chapel? Many candidates came forward. The Presbyterians said, "It applies to us." The Independents said, "It applies to us." There were several claimants. They all went into the Master's office. The Master had to investigate their particular religious creed and faith, and compare it with Lady Hewley's, in order to ascertain whether one or all were entitled to share in her benevolence. The Master made his report. That report went before the Vice-Chancellor on exceptions being taken to it. The Vice-Chancellor had again to go through all this detail, and to examine into all this conflicting, minute and vague evidence, to enable him to come to a conclusion; and I believe the cause is not yet determined—I believe it is still depending. But I will tell your Lordships one thing that is determined. I have taken pains to inquire into that which is a very important part of the concern—the costs come out of the charity—costs which would have crushed and completely destroyed many a smaller charity. Those costs up to this time amount to very nearly £30,000. They are to be paid out of the charity. The charity is to be mulcted to that amount. Why, my Lords, do I state this? This case does not come within the Bill—but then inquiries of the same nature must be carried on in those cases to which this Bill is directed. If in the deed creating the charity particular religious opinions are not stated, what is the consequence? The only mode of ascertaining what were the objects and intentions of the founder, will be to ascertain what were the religious opinions entertained by him, and what were his intentions in founding this establishment; and you will have to collect from collateral circumstances, as well as you can, what were the religious opinions that he intended should be taught. There is not a single case coming within the operation of this Bill (which is confined most modestly to chapels, to ministers' houses attached to them, to burial-grounds and to small schools) that would not by one week of such an inquiry be entirely annihilated by the expenses of litigation. Am I stating any thing that is visionary? I know that two or three hundred suits are already talked of as likely to be instituted for the purpose of ousting the present possessors of these different chapels, and to substitute other persons in their place. Now, my Lords, have I made out a case to call for the interference of your Lordships—for this moderate and scanty measure of justice? Is it possible that any person acquainted with these facts, and having viewed these circumstances, can entertain a doubt as to the propriety and justice of passing this Bill?

But, my Lords, there is another class of cases where it is still harder. We all know that about seventy years ago and down to the present time, chapels for religious worship have been established by mutual subscriptions, and trustees were appointed to continue the title. Who are the persons at present in the enjoyment of those chapels? The descendants of the original subscribers; and they are to be ousted because in the lapse of time (there being no direction in

the trust-deed) they have departed from some of the principles and doctrines held by the original subscribers, there being no test by which to know with accuracy what their particular opinions were, although the persons now in possession have for a great number of years acted uniformly and consistently with respect to their own religious belief and with respect to their form of religious worship. What can be a harder case than that? The subscribers have met in the chapel that was built at the expense of their fathers. Their relatives and connexions and friends are buried in the ground attached to the chapel. Are they to be turned out, to make way for strangers, because by conjecture, by plausible arguments, and by acute reasoning, you may come to the conclusion that the opinions of the founder of the chapel were different from the opinions of those who now frequent the chapel, and that he intended that those opinions should be the opinions inculcated in that particular place of worship?

These, my Lords, are the arguments upon which I rest this measure. I told you in the outset that all it was necessary for me to do was to make a plain and simple statement of the facts of the case, of the objects of the Bill, and of the evils which it was intended to remedy. The object is to quiet titles—to legalize that which may perhaps, after long inquiry and expensive litigation, ultimately turn out to be doubtful—and to prevent litigious individuals (professional men) looking to these charities as the prey upon which they are to feed, from instituting, for their own particular and selfish purposes, proceedings of this description. I ask your Lordships to aid me in this effort. I am conscious that the great majority of your Lordships will support me; and I sit down with the most perfect confidence that if this Bill be not carried into a law, at least I have justice and right on my side in placing it before your Lordships for your adoption.

The BISHOP of LONDON.—It is with unfeigned reluctance that I present myself to your Lordships for the purpose of objecting to your Lordships going into a Committee on the present occasion. It is with unfeigned reluctance that I assume the character of an objector to any measure proposed by so great an authority as that of my noble and learned friend, and that reluctance is greatly increased when I find it stated in certain printed papers which I have seen, that this is a Government measure. Unwilling as I am to oppose any measure brought forward by the noble and learned Lord, still more unwilling am I to oppose any measure of the Government of which he is so distinguished a member; but whether it be a measure of the noble and learned Lord or of Her Majesty's Government, I feel compelled, in the discharge of the duty I owe to the public and to religion, to declare that in my opinion this is a most unjust and uncalled-for measure, and I do hope before I sit down (though I shall occupy the attention of your Lordships for as brief a space as I can) that I shall be able to satisfy your Lordships that it is a measure to which you ought not to give your assent.

My Lords, I should have felt still greater reluctance in appearing before your Lordships in the character of an opponent to my noble and learned friend, had I not felt the grave and weighty authority

under which I might shelter myself; and that is, my Lords, the authority of my noble and learned friend himself. It adds no little happiness to the feelings with which I address your Lordships, to know that I am not left on the present occasion to appeal—I will not use the figure of an orator of antiquity, when speaking of an appeal from Philip in one condition to Philip in another—but I am entitled to appeal from my noble and learned friend as a Legislator, to my noble and learned friend as a Judge. I am glad to have the opportunity of bearing testimony also to the truth of the axiom propounded by another noble and learned Lord, who was once the occupant and the ornament both of the Woolsack and the Bench—that the opinion of a Judge was more certain than the opinion of a Senator. It must be so in most cases—and why? Because a Judge feels bound to decide according to the experience and according to the wise decisions of Judges in past ages, whilst the Legislature and the Senator are inclined to deal with the anticipations and uncertain contingencies of the future. I would therefore rather pin my faith, where any great principle of law or constitutional principle is concerned, on the opinion of a Judge than on the opinion of a Senator. I shall have occasion, before I sit down, to shew that I appeal not without just grounds to the authority of my noble and learned friend in another capacity.

Now, my Lords, my noble and learned friend has—I will not say taunted me, but has spoken, perhaps somewhat sarcastically, of what he terms my new associates. My Lords, the very first moment I cast my eyes upon this Bill, I did object to the second clause contained in it. Although I had before heard that some measure of this kind was in contemplation, yet I had never heard of this Bill until it was brought in by my noble and learned friend. I lost no time in expressing to my noble and learned friend my dissent from some of its provisions, particularly with reference to the second clause. I never mentioned the subject to any individual; and as to any subsequent communication with other persons, it does so happen, that I have had more communication with the promoters of the Bill on the subject of it than I have had with the opponents. The arguments which have been placed before me by the promoters of the Bill have failed to convince me that it is a Bill which ought to pass, neither have the arguments of those who are opposed to the Bill moved me to take the course which I am now pursuing.

My noble and learned friend has spoken of the hardships which this Bill is intended to remedy. Let me speak of the hardships it would create. He closed his eloquent and impressive speech with a description of the objects of the Bill. Permit me, my Lords, to state what appears to me to be the object of it. The object of the Bill is to render lawful that which is at present unlawful—to make the unlawful usage of a trust a title to the continued possession of it. My Lords, when I use the term "unlawful usage," I do not mean to employ it in any invidious sense. Do not let it be supposed that I intend to charge the parties with a wilfully illegal course of conduct; but I am prepared to shew that the use they have made of these trusts is illegal; and the object of this Bill is to quiet and confirm them in that course. It is true that another object of the Bill is to prevent

litigation. Now, litigation is an invidious term, and in the worst sense of it I admit it to be a great evil, though in another sense it is far from being an evil, for by its means truth and justice can be ascertained and vindicated; and then, so far as the public are concerned, it is a benefit. Then as to quieting titles: that, no doubt, is an important object; but if titles are to be quieted at the expense of the interests of Truth, Justice and Equity, and still more at the expense of Religion, then I say that quieting titles, where the tendency is in that direction, is an evil, and not a good; and this leads me to make a remark on one of the observations made by my noble and learned friend on Lady Hewley's charity. That certainly was a remarkable case of litigation. But what was the result? The concurrent decision of all the Judges in the Courts below, and of the Supreme Court of Judicature, that the case of the claimants was good. Can it be called an evil, my Lords, be the expense what it may, that property which has not been strictly limited and appropriated to the right use, has at all events been rescued from the wrong? With regard to the expense which the litigation in that case occasioned, to whom is it to be attributed? Obviously, not to those who succeeded in vindicating their right, but to those who pertinaciously defended themselves in the wrong. Admitting litigation in such cases to be generally an evil, yet, on the other hand, no inconsiderable good resulted from it, because the apprehension of it will almost infallibly protect from claims of an uncertain and doubtful nature small trusts, because it cannot answer the purpose of either party that the whole of the property should be swallowed up in costs, and which, therefore, if taken from one party, does not come into the hands of another.

But, my Lords, with respect to the historical part of this case—I have only heard one argument which appears to me to have any considerable weight, and it is this—that the persons who built, founded, and in some cases endowed these chapels—I use the word "chapel" to save trouble, that being the word used in common parlance, though the more proper term is "meeting-house"—and, in the same way, when I use the word "Unitarians," I do it to spare circumlocution, not wishing to be understood as admitting their right to the exclusive use of that name—but, my Lords, with regard to the historical part of the case, the argument to which I have alluded is this—it is said that these chapels were founded by persons who objected to any particular form of worship, and who consequently admitted no articles or creeds, and would not permit the introduction of any trusts, the tendency of which should be to restrict the worship of those who were to use the chapels; and, therefore, it is said that, upon principles of equity, the present occupants of these chapels, be their religious opinions what they may, are not intruders into or misusers of the trusts, in any sense of the term. Now, your Lordships are well aware that before the Act of Toleration passed, it was not lawful for any sect of Christians to worship God publicly according to any other form than that of the Church of England. At the time of the Restoration, your Lordships are aware, more than two thousand ministers, then enjoying benefices in the Church of England, were dispossessed of the benefices which they held, in consequence of their refusal to subscribe, and a great many Dissenting meeting-houses were built, all of which

without any exception, were held and preached in by men professing the doctrine of the Trinity. When the Act of Toleration was passed, Dissenters were permitted, under certain restrictions, to conduct their religious worship in their own way, but with this remarkable exception—the benefits of the Bill were not to extend to those who denied the Divinity of our Lord and Saviour Jesus Christ, and consequently no Dissenting ministers who did not believe in the Divinity of the Second Person in the Trinity—no Unitarian—could, under the Act of Toleration, exercise his functions without being subject to a penalty. Nevertheless, nearly two thousand chapels, or rather meeting-houses, were built within twenty years from 1689, when the Toleration Act was passed—the greater part of them within the first five years after the passing of that Act—and it is notorious that every one of these chapels was built by persons holding, and professing in the most unqualified manner to believe, the doctrine of the Trinity. I confidently assert that not one of these chapels built subsequently to the passing of the Toleration Act, was occupied by a minister who would not have considered it the height of blasphemy to preach Unitarian doctrines. I forgot to mention to your Lordships one important point, which is, that one condition on which Dissenting ministers were permitted to minister was, that they should sign the doctrinal Articles of the Church of England. They signed, therefore, a solemn declaration of their belief in the doctrine of the Holy Trinity, and they made no scruple of doing so. The Presbyterians and Dissenters approved entirely of it. Now, my Lords, I maintain that if Dissenting ministers for many years could not exercise their functions without subscribing a solemn declaration of their belief in the doctrine of the Trinity, then, giving them credit for being honest men, it is clear that all Dissenting ministers at that time must have been believers in that doctrine, and consequently there could have been no chapels built, and no endowments given to ministers who believed in the doctrines now professed by Unitarians.

My Lords, in 1697, a union took place between the Independents and the Presbyterians, but still the Dissenters were strictly Trinitarian. About that time, a very remarkable instance occurred to shew the abhorrence with which Unitarian principles were regarded. A very distinguished, learned and most excellent man, Mr. Emlyn, a Dissenting minister in Dublin, was deprived of his ministry because he had preached the Arian doctrine, and so strong was the prejudice excited against him when he came to London, that not one of the Presbyterian or Dissenting ministers would hold communion with him. I give no opinion in favour of these doctrines. I should be the first to discourage them. So matters stood till 1770, when, instead of a subscription of the Articles, a declaration was substituted, by which Dissenting ministers were only required to declare that they received the Holy Scriptures as they were received by the Protestant Church in general, and that they held them to be the Word of God. Well, my Lords, from 1689 to 1770, I say it was next to impossible that any chapels could have been built—certainly that any considerable number could have been built and founded—with a view to the preaching of Unitarian doctrines. It is not possible that a person believing in

the Trinity should think of giving his money to a place of worship where that Anti-trinitarian doctrine should be preached.

Now, it may be asked, why is there no express limitation? Why did they not expressly limit the use of the chapels to persons professing to believe in the doctrine of the Trinity? They did not do so, for a reason that is clear and obvious—because they never contemplated the possibility of such a change being made, as that Unitarian doctrines might legally be preached. I give no opinion as to whether that judgment was right or wrong; but certainly our forefathers never contemplated that a time would come when the preaching of Unitarian doctrines would be permitted by the law; and I think it may be said, that if any of those pious, though mistaken, men who founded these chapels, could have believed that such doctrines would ever be preached in them, they would have cut off their right hands rather than have dealt out from their purses the means of promoting so ungodly an end.

I would take this opportunity of remarking, that this is not a question between Churchmen and Dissenters, but a question of truth, equity and religion. I do not stand here to advocate the rights of the Church, or the rights of any particular body of Dissenters. I stand here, my Lords, to advocate rights which I conceive to be founded in justice, truth and equity; and, my Lords, that this is not my opinion alone will appear, if your Lordships will allow me to read a short extract from a letter that was published, with reference to the present dispute, nineteen years ago, by a very distinguished minister of the Independent persuasion, who says, "To every man who is acquainted with the character and writing," &c. (Reads an extract from the letter.) And here, my Lords, I must remark, having made a quotation from the writing of a Dissenter, that this question is not new; and this is a point to which I beg to direct your Lordships' attention. It is not as though the persons who now have these schools and these chapels (and who have, as we think, obtained them unjustly and contrary to the plain intentions of the founders) had not had warning. My Lords, the note of alarm was sounded nearly twenty years ago. At that time actions were brought, but the uncertainty of the law was so great till the decision in Lady Hewley's case, that the parties were afraid of encountering the expense to which an appeal to the law subjected them. But, my Lords, a controversy was carried on in Lancashire in the year 1825, when it was shewn most clearly, that of three hundred Dissenting chapels in that County Palatine, seventy-four had been usurped by Unitarian trustees (having been originally in possession of persons of notoriously orthodox sentiments); and yet these persons now come and ask your Lordships to give them protection, on the ground that their right to the possession of these chapels has never been called in question.

Again, your Lordships will not have failed to observe that this is a claim put forward by one small body of Dissenters, opposed almost, though not quite unanimously, by all the other Dissenters of England. Unitarians, I believe, at the present moment, form about two per cent. of the whole body of Dissenters. The Wesleyans have had a meeting upon this subject, and have agreed, with great unanimity

and cordiality, to represent to your Lordships their reasons against the passing of this Bill. The general body of Dissenters have had a meeting, at which a similar address was agreed to; and, therefore, my Lords, I again say, it is not a question between the Church and the Dissenters, but between the Church and the orthodox Dissenters, and those who they think are applying property which was given for one purpose, to purposes diametrically opposite.

Now, my Lords, this Bill, I think, is neither more nor less than an *ex post facto* law, making necessary to the validity of a trust certain conditions which were not necessary when the trust was first created. It makes it necessary to the validity of certain trusts, which notoriously and demonstrably were given for one purpose, that that purpose should have been expressly mentioned in the deed creating the trust, no such condition being at the present moment necessary in any case whatever; and this brings me, my Lords, to that great and sound principle upon which, up to the present day, courts of equity have acted, and upon which, I trust, your Lordships will act, namely, that where the intention of founders can be ascertained, as they can, to a moral certainty, be ascertained in the present instance, they ought to be strictly adhered to. I do not presume to speak on my own authority when questions arise which touch the interpretation of the law, or the administration of justice; but I have here the advantage of being able to fortify myself by a long array of witnesses, whose evidence is unquestionably of the most weighty nature—indeed so important, that I must trouble your Lordships by repeating it—and I shall close that long array with testimony not the least important—that of the noble Lord himself, who, in the judgment pronounced by him, has summed up the arguments of other great judges in equity, and has added the weight of his own name to theirs.

My Lords, in a case in this House, your Lordships held, that in a case where it was difficult to ascertain who were the legal owners of the meeting-house, as the representatives of the original contributors or subscribers to its erection, the use of the meeting-house belongs to those who adhere to the religious principles of those by whom it was erected. In the case of the Attorney-General against the Mayor of Bristol, Lord Eldon said, "Length of time, although it must be admitted," &c. (Reads the passage from Lord Eldon's Judgment.) The Master of the Rolls, in the case of the Attorney-General and Christ's Hospital, held that length of possession will not prevail against charitable trusts, &c. (Reads the passage.) Lord Ellenborough also, in the Attorney-General *v.* Pearson, says, "The Court of Chancery are bound," &c. (Reads the passage.) Again, in Toomey *v.* Wentworth—the case of the Albion Chapel—Lord Ellenborough remarked, "Where persons brought questions of property before the Courts," &c. (Reads the passage.) Now, my Lords, I come to the authority of my noble and learned friend himself, in the case to which reference has been made. It is not entitled to the less weight on account of the time that the discussion occupied, the importance of the interests involved in it, and the character of those who gave their votes upon it. In that case, Mr. Baron Alderson said—I interpose one witness for a moment before I come to my noble and learned friend—"Lady

Hewley must have had," &c. (reads the passage); and then Lord Lyndhurst says, "In every case of a charity," &c. (Reads the passage.)—My Lords, that very principle which is so accurately and beautifully defined by my noble friend, is a principle founded in common sense and common justice, and it is that principle which this Bill proposes to contravene. Then, my Lords, further, my noble and learned friend says, "Can we believe that this pious lady would have given her bounty"—and I beg your Lordships' attention to this, for it is strictly applicable to all those pious but mistaken men upon whose intentions this Bill will operate—"Can we believe that this pious lady would have given her funds," &c. (Reads the passage.) My Lords, it might almost seem superfluous, after such an assertion of a great principle involved in a great question of law, to add a word, by way of argument, to the evidence I have thus adduced; but yet, with the leave of your Lordships, I will say a word or two.

Now, my Lords, with respect to the mode by which a right to property of this nature is in future to be ascertained. A usage for the last twenty years is to be held conclusive evidence—of what? Of the intention and purpose of the founder a hundred and fifty years ago! My Lords, I should have thought, treating the question logically and on principles of reason, that the better test of the intentions of the founder would have been the usage of the first twenty years. It is very well to say that this is a measure for the sake of peace. Is it worth your while, my Lords, to overturn great principles of equity in order to decide a doubtful case? If twenty years of erroneous preaching is to establish the right and title of a party to a chapel, what will be the vigilance of congregations in future? Take the case of a preacher of orthodox doctrines, whose congregation have no reason to suppose that he intends any deviation from the straight line of correct doctrine, but who happens to drop an Arian expression—how would his congregation be alarmed? They would say—If he goes on thus for many years longer, we shall lose our right and title to the chapel; the congregation will become Arian, and from that they will become Socinian. I do say, my Lords, that this will excite a spirit of watchfulness, even among pious members of congregations, which will be extremely injurious to the feeling that should exist between them and their teachers. But, my Lords, the gradual descent, as it has been found by experience and by the history of these three hundred chapels, from what are commonly called Orthodox principles down to the very depths of Socinianism, is almost insensibly accomplished during the lapse of time. The history of these chapels shews a preacher first holding high Arian doctrines; afterwards, either he or his successor ventures on plain Arianism; and so they go on by degrees until they become affected by Socinianism; and thus for fifty, sixty, or seventy years, Unitarian doctrines have been preached in these chapels. I should like to know what security there is that some of these chapels may not hereafter be occupied by Socialists. The terms of the Act are so vague that I know not any sect, claiming to be a religious sect, that might not lay claim to hold possession of these chapels.

My Lords, there is one other point which I must slightly touch upon, and I beg to recommend this to the serious consideration of

those noble and learned Lords who have adorned the judicial Bench of this country—for it does seem to me to be a most important principle—that is, that the present Bill places trust property upon the same footing as private property. The principle of limitation applied to private property, which I admit to be a safe and sound principle, for the purpose of securing peace, is now to be applied to trust property. But I beg to remind your Lordships, that the duty of the Legislature with regard to trust property is different from that which should be applied to private property. It is needless to remark that trust property requires much greater protection than private property. No personal interests being involved, the trustees do not feel the same direct concern in the management and prosperity of the trust committed to their care. That is very often found to be the case, though no doubt there are exceptions. It by no means follows, therefore, that if it is right and just to apply the principle of limitation to titles which concern private property, it is also right and just to apply the same principle to trust property. On the whole, my Lords, it appears to me that this Bill will, without sufficient cause being shewn,—for this, my Lords, is no unimportant consideration; there has been no express representation of any hardship endured by the Unitarians, and, on the other hand, there has been no opportunity afforded for a very numerous body to shew, by counsel or otherwise, their reasons why this Bill, which is to enrich Unitarians and to despoil the Orthodox Dissenters, should not pass. The second clause of the Bill applies to chapels and to schools. Any person who is acquainted with the form in which these trust-deeds are usually drawn, is aware that in many cases the endowment is for the preacher in the chapel for the time being, and that the endowment follows the chapel, just as an advowson is appurtenant to a manor.

My Lords, there are one or two arguments with regard to the schools that I know might be brought forward, but as I shall be followed by other noble Lords who will handle the subject more successfully than I could, I will abstain from troubling your Lordships with any observations upon them.

Upon the whole, my Lords, anxious as I am to do every thing which shall prevent unnecessary litigation, and the tendency of which shall be to quiet doubtful titles, where it can be done without gross injustice, and not to oppose any measure that can be equitably claimed by any religious body, I feel bound to oppose this Bill—at least the second clause of it, as involving a principle which I consider to be inconsistent with the interests of justice and equity. I beg, therefore, to move that the word "now" be omitted, and that the words "this day six months" be inserted instead.

Lord BROUGHAM.—I so entirely approve of this Bill, that, without entering into any discussion at all, I merely wish to state that I give it my hearty support, and I desire at the same time to express my dissent from the very luminous, and I will say fair and candid argument of the Right Reverend Prelate who has just addressed your Lordships, and who on a question which no doubt might have given rise to some controversial feelings and topics, has, with the most commendable and exemplary abstinence from all such matters, argued the question on his view of its real and essential merits. I

will follow the admirable example which that Right Reverend Prelate has set, as well as I can, and I am sure that nothing shall intentionally fall from me which is calculated to give pain either to members of the Church of England or to any class of Dissenters. I think the Right Reverend Prelate has only erred in not keeping sufficiently in view the only object of my noble and learned friend's measure. He does not enter into any question of right or of wrong in regard to religious belief, any more than the Right Reverend Prelate himself, who most anxiously followed out his profession that he would avoid all such topics; but my noble and learned friend also—and so far we are agreed—abstained from enacting by his Bill that there shall arise any presumption whatever with respect to the original tenets and belief of the founders of those charities. The Bill does not consider that as at all concluded by the belief of the worshipers at those meeting-houses during the last thirty years. If it did, then no doubt my noble and learned friend would be open to the ingenious argument of the Right Reverend Prelate, which some of your Lordships, by the approbation you testified whilst he was speaking, appeared to fall in with—it would then admit of the answer that it would be much better to take as the test the usage of the first thirty years rather than of the last. But that is not what my noble and learned friend proposes. His Bill does not propose to enact that the doctrines which have been promulgated during the last thirty years shall be deemed conclusively to be the doctrines which were entertained by the original founder.

The BISHOP of LONDON.—The Bill does say so in effect.

Lord BROUGHAM.—The object of the Bill, and the only object, is to quiet possessions—that certain doctrines having been maintained for the last thirty years, shall be held to be so far conclusive, and so far evidence, as to prevent the question being mooted, and controversies raised with respect to it—as to prevent disputes arising between conflicting sects—as to prevent the legal operations which my noble and learned friend has this night so graphically described to us—as to prevent the lamentable waste of time of the worshipers and of the funds of the founders—as to prevent £30,000 from being squandered away in ascertaining, or endeavouring to ascertain, the nice, difficult, and perhaps not very important point, of what Lady Hewley's religious opinions and feelings were, one hundred and fifty years ago and upwards, on some particular point—and so as to prevent that money being spent in law which the charity and benevolence of the founder willed should be spent in charity and not in litigation, there being no doubt many qualities for which litigation is justly commended, but the one quality of increasing charity not being perhaps that for which it is most to be renowned.

My Lords, let us never lose sight of this—that my noble and learned friend's argument, when he decided the case of the Attorney-General *v.* Shore—the case respecting Lady Hewley's charity—is not at all inconsistent with his bringing in this legislative measure. A Judge lays down what the law is, and what the principles of the law are. He applies these principles to the case before him, and he applies that law to the case under his review and for his determination; but when he comes as a Lawgiver to consider whether that principle is a sound one, and whether that law is expedient, and ought to be con-

tinued, or whether it should be repealed or modified, he then, with the most perfect consistency, may adopt a totally different view, and very likely for the very reason and upon the very ground that it is the law, and that but for its being the law he would not have brought in this Bill. But, because the law was so, which he, acting as a Judge on his oath, was bound to declare and act on and to judge on, he brings in a Bill which he has himself described to be a very moderate and scanty measure, and which, in my opinion, is a very insufficient measure, by which he proposes to alter that law, but to alter it consistently with the truest principles of political justice, and with those principles which have uniformly guided the legislature of this and other countries, namely, a desire above all things to terminate needless doubts, to avoid superfluous litigation, and to quiet the apprehension of parties in the actual enjoyment of property.

My noble and learned friend reminded the House of the course which the legislature of this country has always adopted down to our own times, that Act of Lord Tenterden's being a remarkable instance of the necessity of some such provision; for if there was ever a man not given to join with those who were desirous of change—if there was ever a man cautious in the law and little inclined to support and countenance those who differed with the establishments of the country, either civil or religious, that man was my late noble and learned friend, the Lord Chief Justice of the Court of King's Bench. But nevertheless, finding that the law allowed no time to operate against the rights of the Church, and that if a modus for tithe had been paid from the first year after Richard I., yet, if it was found that the modus had not been paid for one year, but that there had been a perception of tithe, all the payment in the way of modus which had been made for centuries would be of no avail, because the principle of *nullum tempus occurit ecclesiæ* was still the law—finding that to be so, Lord Tenterden brought in a Bill to cure the defect. That Bill was thought by many persons to be insufficient, but still it proved useful both to the church and to the laity of this country. My belief is, that the Bill which has been now introduced by my noble and learned friend would operate beneficially in the same way. I could have wished it had gone one step further. I could have wished that it had put a stop to litigation in other cases, where actual possession for 30, 40 or 60 years could be proved, even though there had been a will of the founder, and though the principles upon which the founder desired his charity to be administered could be proved in evidence before the court. However, my noble and learned friend, judiciously wishing only to make the smallest change that the necessity of the case required, and not to go beyond the measure of that necessity, has thought otherwise, and no doubt has acted more judiciously in taking the course he has adopted. But, my Lords, when we look to the evils of uncertain possession—to the grievance of this constant litigation—to the alarm produced in the minds of the congregation of somewhere about three hundred different chapels, schools and other establishments of the like kind, at the idea of being driven from their chapels and their churchyards, which, I understand, excites peculiar feelings, as one can easily imagine, from the affectionate feelings of the heart to which this alarm tends to do violence—when

your Lordships consider all these things, can you conceive any thing more befiting the merciful justice of the House, than the passing of a measure to the extent proposed by my noble and learned friend? When it is said that you can always be quite sure what a founder intended to be done with his funds by simply ascertaining what were his religious opinions, I must beg to demur to that proposition, because I find that charity, which covers such a multitude of transgressions, has a still more blessed effect; for I know that many charitably-disposed persons have given their money, by will or by deed, to persons whose faith has been different from their own, and in order to encourage foundations upon principles different from theirs. It has happened to me constantly, sitting in the Court of Chancery, to see persons of the Protestant faith giving money, either by will or by deed—more frequently by will—to support institutions not confined to their own Protestant faith, but institutions of a Roman Catholic description, and even institutions of a Jewish description. And I have known Jews—members of that respectable, charitable and benevolent body of men, whose exclusion from the legislature I never think of without a feeling of shame, having to speak so often of their benevolence and generosity for Christian purposes—I have seen these benevolent Jews give money, with their eyes open, and with the knowledge that it is to be employed in the support of Christian establishments, though their faith is, in some respects, diametrically opposed to our own. I therefore differ from the view taken of the matter by Mr. Baron Alderson when he laid it down as a proposition not to be doubted, that you might at once tell what was the intention of the founder when you ascertained what were the religious doctrines he entertained. I submit to your Lordships that nothing can be more wholesome for lawgivers than to adopt such measures as tend to quiet possession, to relieve the mind from alarm, and to enable parties, when time shall have destroyed the muniments of their titles, to retain the possession they have had for so long a time. And, my Lords, I well remember that most eloquent passage of one of the greatest orators of this or any other age—I mean Lord Plunkett—who, dealing with this very question to which my noble and learned friend so forcibly and powerfully adverted, used some such language as this—but I ought rather to apologize for marring by a misquotation words which cannot ever be given so well as by following to the very letter the text itself, which I have not here in my hand—but he said that Time with his scythe mowed down muniments and evidence of title, and that therefore the mercy and the justice of the lawgiver placed in his other hand an hour-glass by which he should, at the same time that he destroyed those muniments, measure out the periods of time which should quiet possession by becoming a substitute for the titles which he had destroyed. Now this is the object of the present Bill, and none other. This is the object of all statutes of limitation. It is an object which courts of law have at different times viewed with more or less jealousy, but of late years, I rejoice to say, the sounder principle pervades all our courts, both of equity and of law—that of giving the most liberal and extensive construction to whatever statute affixes a limitation of time.

It is on these grounds, my Lords, viewing this simply as a measure

for quieting possession and preventing injustice and costly litigation, that I return my hearty thanks to my noble and learned friend for having brought forward this measure, which I humbly and earnestly hope will meet your Lordships' concurrence.

The BISHOP of EXETER.—My Lords, I feel it to be perfectly unnecessary to bespeak your Lordships' attention when I announce, with a deep sense of pain, that I fear I stand alon ein my opposition to the first clause of this Bill, which involves a principle, in my estimation, of the very first importance.

My Lords, I will not at this moment state the reasons why I think that the principle of that first clause is not tenable—at least I will not argue it. I shall recur to it presently. I will only now state, that I do not assent to that which is made the principle of this preamble, and which affects the principle, therefore, of the whole Bill. It proposes to make lawful that which was unlawful prior to the passing of the Acts here recited, particularly the Act of 53 Geo. III. c. 160.

My Lords, before I come to state to your Lordships the grounds upon which I rest my opposition, I shall beg leave to address myself generally to the subject; and, first, perhaps I may be permitted to allude to some things which the noble and learned Lord on the woolsack so forcibly set before us.

My Lords, the noble Lord spoke of the petitions that were presented against the Bill as altogether unworthy of your Lordships' attention—that they came from the same *officina*—that there could be no doubt that they were prepared by the same hand—and that they were rashly subscribed by those who signed them. I have seen several of them, and certainly my reading is different from that of my noble and learned friend. But the noble Lord speaks in terms of the highest respect of the petitions emanating from his own friends, and I applaud him for it. I have had some experience, too, with regard to these petitions, and what do your Lordships suppose these petitions generally pray? Do they pray for that which the noble and learned Lord has stated to be the object of this Bill, and which his noble and learned friend has so powerfully supported him in—namely, that they shall be protected in the enjoyment of those foundations which their predecessors founded for the support of particular doctrines? No such thing. On the contrary, they insist that such a principle is contrary to the first principles of justice, of equity, and of toleration, and that it is inconsistent with private judgment. My Lords, they insist that the true measure of justice in this case is, that there should be no restriction whatever with regard to religious opinions. I therefore might fling these petitions at the noble and learned Lord's face, if I could do it with civility; for never was a measure devised, nor could any measure ever be devised, more repugnant than this measure is to the very petition which is brought forward in support of it. What, my Lords, is the effect of this? That a usage for twenty years shall fix for ever the doctrines to be taught in these chapels; and this is the way in which the noble and learned Lord meets his respectable friends the petitioners for the Bill, who implore your Lordships to pass this measure, which would be a bar to the establishment of that right and title which they say are essential to the principles of toleration.

My Lords, if the object of the first clause of this Bill is to give an assurance that certain foundations which were established at a period when their doctrines could not lawfully be taught, shall have them secured to them, let the noble and learned Lord bring in a Bill for empowering them to make foundations for such a purpose, or let him move that there be a commission to ascertain by evidence what trusts there are of that nature, and let him state that he wishes to give effect to them by a Bill. I should rejoice to see it. I should think that a measure not only tending to peace, but, I will frankly say, to justice. But what is the nature of this case? The great object of this Bill is to set aside the sacredness of all trusts. My Lords, a usage has never hitherto been permitted by any court of equity to run against a public trust. And why, my Lords? Because an adverse usage can only be a series of malversations on the part of the trustees. My Lords, that must be admitted to be the necessary consequence, considering the duty of trustees. They are bound to act in accordance with the intentions of the founder. They take the trust with an obligation on their part to execute those intentions, and if they adopt an adverse usage, every single act is a malversation on the part of the trustees; and now a new state of the law is to be, that although these trustees shall be liable to suits in equity up to the last day of the 20th or 30th or 60th year, or whatever the period of limitation is, yet if by their great good fortune they should be able to carry their malversation up to the last hour, then they may laugh at courts of equity—they may fly for protection to this Bill, which your Lordships are now asked to pass into an Act, and say, 'We are now in possession, and you cannot turn us out.' We are told this is done to prevent litigation. Now if it had not come from such a quarter as the noble Lord on the bench, I should have thought it must have been intended (and indeed I can scarcely suppose that it was intended otherwise) to laugh at those he affects to serve. Is it possible, my Lords, for the wit and genius of my noble friend on the woolsack, or for my noble friend who sits by him, to devise any scheme more certain to produce litigation than to set up a usage in opposition to a trust? The thing is so absurd, that I will not waste your Lordships' time in arguing it.

But, my Lords, I will instance a case which has occurred within the last six weeks in a court of equity in this country—a case before Vice-Chancellor Knight Bruce. That was the case of an application for an injunction on the part of one of three trustees to restrain his two brother trustees and the minister from interfering with the affairs of a meeting-house belonging to a society of Protestant Dissenters in the county of Lancaster, particularly with regard to Mr. M'Phail, the minister of the meeting-house, that he had of late preached Chartist doctrines, and that he had denied one of the most material of the religious doctrines held by the congregation, namely, the eternity of future punishments for sin. "Mr. Rotch read several affidavits, in which it was shewn that M'Phail had on one occasion called on such of the congregation present as were of Chartist opinions to hold up their hands"—(this, my Lords, may seem to be merely a political matter, but your Lordships will see presently that it is of a religious character—they are required to hold up their hands)—"for the excommunication of such members of the congregation as were not

Chartists." This, my Lords, is the use made of an orthodox meeting-house in the county of Lancaster. "That he had admitted to the deponent that he did not believe in the eternity of future punishment for sin—that M'Phail was found in the pulpit smoking, while there were in the body of the chapel large numbers of colliers smoking and wearing large black caps, and that (all this taking place on a Sunday) M'Phail read comments from the Northern Star and from Richardson's Black Book." This, my Lords is usage—only for a short time, to be sure—not for 20 years. "His Honour said he did not see that he could make the order as to the two trustees. He had no means of judging what, according to the peculiar habits and doctrines of that sect, amounted to indecency and scandal—whether smoking or reading a newspaper in the pulpit was so or not. What might be indecent and scandalous in the Catholic Church, might be viewed in a different light elsewhere." Now if these Chartists and so on were to keep possession, and were to continue this usage for twenty years, not only would religious doctrines denying the eternity of punishment—which is consistent with the belief in the Holy Scriptures—for there are those who do maintain that doctrine, even though they affect to believe in the Holy Scriptures—there are those who deny the eternity of punishment for sin—nay, my Lords, Chartist doctrines, permit me to say, have been held in a very important point by a very large body of persons calling themselves Socialists. These Chartist doctrines are doctrines which are quite capable of being made good by usage, as being the doctrines intended to be taught in these chapels founded by orthodox Calvinistic Dissenters, who doubtless believed in the Trinity.

But, my Lords, we are told it is necessary that there should be an extension of the principle of prescription—that means have been adopted by which the rule *nullum tempus occurit ecclesiæ*, has been relaxed, and, therefore, that it is high time now that the same principle should be made available in the case of trusts. We are told, my Lords, that Lord Tenterden (than whom, probably, there never was a more prudent law-maker) having adopted this principle so far, it is clear that we ought now to go on with it. My noble and learned friend on the woolsack calls this a scanty measure of justice; and for my own part, I cannot see why, if the principle is to be acted upon with respect to these meeting-houses, it should not be made to apply to all trusts whatever. Is there any thing so peculiar with regard to trusts for religious purposes, that a more easy sacrifice ought to be made in order to avoid litigation? Till I shall have heard some reason to the contrary, I do believe that your Lordships will insist that if this principle is to be acted upon at all, it should be followed out to its legitimate extent, which cannot be unless it is made to apply to all trusts whatever. We are told, my Lords, that Lord Tenterden introduced this measure ten years ago. Was not the noble and learned Lord now on the woolsack in the House at the time? Did he take no interest in the proceeding when Lord Tenterden introduced the measure? Did not the noble Lord who last spoke grace the woolsack at that time, and was it not his duty to advise the Government as to the course they should take to satisfy justice? Why did not that noble and learned Lord at that time argue

this great measure of making usage run against trusts? My Lords, the noble and learned Lord was mute. Upon that occasion, he saw no reason for doing that for which he says now the plainest, the most stringent, and the most imperative reasons exist — reasons which induce him to reproach his noble and learned friend for introducing only so scanty a measure of justice. Time, my Lord, brings forth strange events—and certainly very strange words. To have heard that sentiment from any one of your Lordships would have excited surprise in me. To have heard it from a noble and learned Lord, would have made that surprise rise to astonishment. To hear it from my noble and learned friend, not only makes surprise rise to astonishment, but covers them both with the deepest pain. My Lords, I admire the wonderful talents of that noble and learned Lord. Most certainly it has been my misfortune to think differently from him on many occasions, but never for one instant have I considered him less than one of the greatest of living men. My Lords, the biographer of that noble and learned Lord, when he shall have to deal with many passages in that illustrious individual's life, will have some little difficulty, perhaps, in satisfying all his readers on all parts of that noble and learned Lord's career. But, my Lords, there is one passage — one distinguished passage — in that life upon which his biographer will be most eloquent. He will say that noble and learned Lord has deserved well, not only of the generation in which he has lived, but of all future generations, by one great measure of which he may be said to be the preparer—I mean, my Lords, the Commission of Charities. And, my Lords, upon what does that Commission of Charities rest? Is it on the principle that usage shall run against trust—that litigation shall be made to cease, and that peace shall be sought for in the way proposed by this Bill? No, my Lords; to his eternal honour, and to the lasting benefit of his country, he proceeded on an opposite principle. He said, "No time shall run against the trusts of charities. I will set forth, and even if it be the most powerful individual in the country, I will take care that the Attorney-General shall drag that individual before a court of equity, and make him disgorge the unrighteous gains which he has obtained from charities." That is the principle which was put forward, and that is the principle upon which that noble Lord has acted in respect of most powerful corporations, and for doing so and for so saying he will have the gratitude of posterity; and permit me to hope that his biographer may never by chance happen to stumble upon the declarations which the noble and learned Lord has made this night.

My Lords, I oppose this Bill again, because the principle of it is to disregard the intentions of founders. I say, my Lords, that that is the principle of the Bill, although, if the intentions of the founder are stated in express terms, the Bill does not meddle with those intentions. But if the intentions of the founder are not stated in express terms, and if they are not to be gathered from the four corners of the deed or will by which the trust is created, then, although evidence can be adduced to shew what his intentions actually were—and I need not tell your Lordships that in half the cases in equity, or at all events it is a matter of constant occurrence, you are obliged to

look for evidence out of the actual deed. Then I say, my Lords, that from whatever quarter you ascertain the intention, the intent, in all fairness and in all equity, or in all that which has been considered justice and equity, ought to rule. Not so, says this Bill, but we must have usage. I say the principle of the Bill is to disregard the intentions of the founder, because if you cannot ascertain what his intentions were, then this Bill is unnecessary, for usage will carry it. If you cannot ascertain what the intentions of the founder were, then usage, without the assistance of this Bill, will enable the parties now in possession to keep possession, and, therefore, I repeat that the principle of this Bill is to disregard the ascertained intentions of the founders.

My Lords, I object to this Bill for another reason—and this brings me to a point on which I feel most anxious, because it is a point on which the noble and learned Lord seems to think it impossible that I should be able to get any one to concur in opinion with me—I mean my objection to the first clause of the Bill. My objection to the first clause, and therefore to the whole principle of the Bill, is, that it puts a construction upon the Act of the 53rd Geo. III. cap. 160, which has never received such a construction in any court of law; and I am sure that the noble and learned Lord will permit me to say that there is high authority for not assenting to the principle.* I cannot hope that any thing I can say will be considered worthy of attention by those noble Lords, and therefore I will not further address them, but will address your Lordships. I say, my Lords, that this Bill puts a construction upon the statute of the 53rd Geo. III. cap. 160, which no court of law has ever put upon it, and against which there are very high authorities. These authorities are no less men than Sir Samuel Romilly and Lord Eldon. In a case with which the noble and learned Lord is familiar, I mean the case of the Attorney-General *v.* Pearson, Sir Samuel Romilly argued that it was perfectly out of the question that Unitarians should have any right in that case, because, said he, they were not only unlawful when the trust was founded, but they are unlawful now. That was after the passing of the Act of the 53rd Geo. III. cap. 160. My Lords, Sir Samuel Romilly said that that statute had no other operation than to remove the statutory penalties that were imposed on the denial of the Deity of the Second Person, and of the holy Trinity. "It may be true" (he said), "it is not necessary for me to argue that an indictment could be sustained, if it were possible that in these days any man could be found so bigoted as to indict a man for his religious opinions—that is not necessary for my purpose. There are many things," he said, "which cannot be made the subject of an indictment, but which are nevertheless unlawful at common law;" and he said that the denial of the Deity of the Second Person and of the holy Trinity was unlawful at the common law. My Lords, in the course of the further hearing of that suit, my Lord Eldon, who presided, met that observation of the counsel, not by a direct assent to it, but by saying that, sitting there as a Judge in equity, it was not

* The Lord Chancellor and Lord Brougham were at this moment engaged in conversation. The Rev. Prelate did not address the remainder of his speech to the woolsack.

for him to pronounce what was the proper construction of an Act of Parliament, unless it became necessary for the purpose of coming to a decision upon the matter before them. But, my Lords, he said that which no person could misunderstand. He said that which that noble and learned Lord was very much in the habit of saying—"I will take care to give no opinion," though in point of fact he gave it in the most intelligible manner. He said, when that Act passed, one House of Parliament at least did not intend that it should have the effect of repealing the common law making it an offence to deny the doctrine of the Trinity. My Lords, I am old enough to recollect that, when the statute passed, a very strong feeling of excitement prevailed in the country on the subject of it, and that excitement was especially caused by the circumstance of the Archbishop of Canterbury of that day giving his assent to the Bill. But, my Lords, how was that excitement allayed? What was the reason publicly given for the Most Reverend Prelate's assent to the Bill? Because that Bill was not designed to do more than to relieve the parties from the highly penal consequences imposed upon setting forth the doctrine by the statute of 9 and 10 Wm. III., giving them the benefits of toleration, and left the common-law offence where it was.

My Lords, I am aware that I now approach a subject which will increase the difficulties under which I address your Lordships. I have spoken hitherto with great authorities on my side—I will not say authorities sufficient to counterbalance that of the noble and learned Lords who have addressed your Lordships in favour of this Bill—but still no light authorities—Lord Eldon and Sir Samuel Romilly. Sir Samuel Romilly, it may be said, was pleading in the cause. True; but I see around me many noble Lords who knew that learned person well, and who knew the singular honesty and sincerity of his mind—who knew that he carried that with him into the Courts in which he pleaded, and that while doing the utmost justice to his client by putting forward any point which he thought favourable and concealing any point which he thought told against him, he never would state that as law which he believed not to be law; and if ever there was one class of cases with regard to which he would be thus abstinent, it was cases connected with religious toleration. Sir Samuel Romilly was himself, I believe, a Protestant Dissenter—I do not exactly know in what class he was to be found. I am not sure whether he was not—I rather think he was—in the class of those of whom he then said that their doctrines were such that they could not be affirmed and maintained without a violation of the law of the land. That, however, is a matter upon which I will say no more with respect to Sir Samuel Romilly; but, my Lords, I would say that my mind has been brought to some considerations which must increase the diffidence I feel in addressing your Lordships—I mean the opinions given by Judges in answer to certain questions addressed to them by your Lordships in that case of the Attorney-General *v.* Shore. My Lords, at first sight I thought that those learned and venerable persons did go the whole length of saying that now Unitarians were free from all penalties whatever, and that the denial of the Divinity of the Second Person in the holy Trinity was not now unlawful. But, my Lords, I perceive on a closer examination that those very learned

persons took care to guard themselves by words, in which I doubt not every one of your Lordships would readily concur; for they spoke of statutory penalties and penalties at the common law. In consequence of the repeal of the statute of 9 and 10 Wm. III., that would be the case; but, my Lords, they did not say absolutely that they were not unlawful. Those learned persons could not fail to bear in mind that there was another branch of the law of England which was as much a part of it as either the statute or the temporal common law—I mean the common ecclesiastical law of England. My Lords, I am perfectly certain that my noble and learned friend will not deny to me, that the common ecclesiastical law of England is part of the law of England, and, therefore, that at this hour any thing which is an offence against the ecclesiastical law of England is unlawful. It will not be denied that the denial of the Deity of the Second Person of the holy Trinity is an offence against the ecclesiastical law of England. Surely, my Lords, if any thing can be, that must be heresy. Heresy, my Lords, is still a grave offence. It is admitted on all hands to be a grave offence against the law of the land. That, my Lords, appears plainly from Hale's History of the Common Law, where it is said, "of matters ecclesiastical," &c. (Reads the passage.) We have been in the habit of hearing, and truly hearing, the common law of England praised by the greatest men who ever wrote, as being almost the perfection of common sense, and can it be supposed that that law which so nearly approaches the perfection of human wisdom has left so large a portion of offences, which it does not vindicate in the temporal courts, absolutely free from notice and free from punishment? If you are to say that the test of lawfulness is, whether the party is liable to an indictment or not, I would say, that if you come to apply that test, you will find that incest is not unlawful. It is not necessary to give further instances. It is sufficient to call the attention of your Lordships to the fact, that there is a large class of cases to which the same rule would apply. In former times, the Crown of England was said to have cognizance of all heresies, and we are told how the Crown of England was to exercise that power. A commission was to be created, which we know was created, and afterwards most properly abolished—but what was to be the guide for deciding on heresy? The matters complained of were to be proved to be heresies out of the clear words of Scripture, or out of the four first Councils. Of these four first Councils, I need not tell your Lordships, there is not one which does not absolutely condemn as heresy the principle which the Unitarians of this country at this day maintain. Therefore, by the statute of the 1st of Elizabeth, it is shewn that that is heresy which is now maintained by these persons, and that that is an offence against the common law of the land. My Lords, subsequently in that statute, which was to abolish theological controversy,—there, my Lords, again was a saving of the jurisdiction of the Ecclesiastical Courts in all cases of heresy, schism, and so forth. Your Lordships, therefore, will see that at that time a heresy continued to be unlawful. But then, perhaps, I shall be told that all that was changed by the Act of Toleration. No such thing. The Act does say there shall be no proceeding in the Ecclesiastical Court against persons who have the benefit of the statute—and I admit that these persons have the benefit of that statute

given to them by the Act of the 53rd Geo. III., the Toleration Act. The Toleration Act says that there shall be no proceeding in the Ecclesiastical Court against those who have the benefit of that Act—but for what? For heresy? No; for nonconformity—for not conforming to the Church, and for not attending the worship of the Church. Those statutes which were repealed by the Act of Toleration were simply and merely the Act of Uniformity, &c., which were passed to strengthen the law. The law, therefore, as to this matter, was left in its full vigour. I hope I shall not be contradicted in this by my noble and learned friend on the woolsack; but, my Lords, if a contradiction does come from that quarter, I do hope that that noble and learned Lord will so far indulge the scruples of the individual who now presumes to speak on a point of law, as to permit him to propose certain questions to the Judges on that point. Meanwhile I do say, in the hearing of that noble and learned Lord, that the Act of Toleration does not exclude persons who deny the doctrine of the Trinity from being articled against for heresy in the Ecclesiastical Courts.

I am sorry to have trespassed thus long on your Lordships' attention. I am quite aware that I am pursuing a very hopeless course. I am aware, my Lords, of the great power of the noble and learned Lord, and of the vast authority which he justly has in this House. But, my Lords, I find myself standing here not alone; for your Lordships have heard such a speech against this Bill from my Right Rev. friend who preceded me, as, if your Lordships have permitted it to pass into your hearts, will make you pause before you yield even to the noble and learned Lord who has brought forward this measure. But, my Lords, that noble and learned Lord has anticipated his triumph—a triumph not merely over two Bishops—I hope the whole Bench—but a triumph over principles which I will venture to say were never before assailed in this House. I entreat your Lordships to figure to yourselves a Bill of this nature presented to the House in the time of the Earl of Nottingham and Lord Somers. My Lords, those two illustrious predecessors of the noble and learned Lord—men with whom he ought to rank, and with whom no one but himself can prevent him from ranking—were parties to that statute of Toleration which excluded these persons not only from all the benefits of Toleration which were afterwards given, but they especially took care to secure to the Church all her rights, except what merely concerned Nonconformity. The noble and learned Lord has said that he shall have a great majority. No doubt the noble and learned Lord's power in this House is such, that he never can fail to have a great majority. On this occasion he has the assistance not only of those by whom he is usually supported, but I am afraid that many noble Lords who sit on the opposite side will on this occasion swell his numbers. I admit the great power of the noble and learned Lord. I know that he is sure to triumph. He has the power of a Judge and the power of a Minister of the Crown, and, my Lords, the noble and learned Lord has in this power the strength of a Briareus. He has a hundred arms. There are a hundred of your Lordships who are ready to rise up and support him. But after all this we shall come to a vote, because I shall think it my duty to give to those noble and learned Lords who think this Bill ought not to pass, an

opportunity of testifying their opinion; and when we do come to vote, we shall find this great, noble and learned Judge triumphing over some of the first principles of the Constitution, and trampling down some of the highest interests of the religion we profess.

My Lords, I most heartily concur in the vote moved by the Right Reverend Prelate.

Lord COTTENHAM.—My Lords, notwithstanding the dark insinuations which have been thrown out by the Right Reverend Prelate as to what may possibly happen to my noble and learned friend on the woolsack for having brought forward this measure, I most readily offer myself as a partaker in those punishments, whatever they may be, which may attend on asking Parliament to make this Bill the law of the land.

My Lords, I have listened with great attention to the speech of the Right Reverend Prelate, and I attended, as no doubt all your Lordships did, to the speech of my noble friend on the woolsack, and I would ask your Lordships whether you now feel the slightest doubt as to the propriety of making this Bill the law of the land. Your Lordships have heard all that can be said against it. The Right Rev. Prelates are both of them peculiarly qualified, from their learning and station, to inform and persuade the House, if they had a better cause to advocate, of the propriety of any view they may themselves entertain, and ask your Lordships to concur in.

My Lords, I have heard a great deal, but I have not heard either of the two Right Reverend Prelates who have addressed your Lordships grapple with the real question—with the difficulties which do exist, and which must exist, unless the present Bill passes into a law —with the cruel injustice which must happen to a large class of the subjects of this realm, and with the utter impossibility of devising any mode of protecting them in the enjoyment of property of which they have had the use for a great length of time, and which cannot by any possibility be handed over to any other class. Both the Right Reverend Prelates have argued before your Lordships upon points of law as well as upon points of policy, and they have treated this question as if it were a matter between the congregations now in possession and some other particular specified class whom they had dispossessed. That is altogether a fallacy. The Right Reverend Prelate who last spoke, said a good deal upon the subject of trusts. He will permit me to state that this Bill does not in the slightest degree interfere with the principle applicable to trusts. The Right Reverend Prelate says that this Bill is in effect a repeal of the law of the land, which says that there shall be no limitations with respect to trusts. That, undoubtedly, is the law of the land, and it will continue to be the law of the land just as much after this Bill shall have passed as it did before. That rule is applicable to a state of circumstances totally distinct from that which this Bill contemplates. A trustee can never set up the statute of limitation or lapse of time against the person for whom he is trustee. He has the possession of the legal title to, and the control over, the property for the benefit of another person, and he never can exclude that other person by the mode in which he has used the property. That is the sense in which courts of equity say there can be no presumption

against a trust. Against others time does run, and the rule is in full operation. I cannot feel very much surprised that the Right Reverend Prelate, though he has exercised his industry to a great extent, and though he has been very careful in his examination of the law, should have omitted to look into one law-book, in which he would have found all this explained. If he had happened in the course of his legal studies to light on a well-known case, called Lord Cholmondely's case, he would have found that all the law he has advanced has no reference to the present subject. He referred to an important case before Sir Wm. Grant thirty years ago, where Sir Wm. Grant fell into the same error, and was of opinion that, because the estate was a trust, the rule applied; but when that case came to be considered, first, by Sir William Grant's successor, and afterwards by Lord Eldon, it was determined that in the case of a trust time did run, though not against the owner of the estate. The cases in equity which have been relied upon to-night have really no application to the present subject-matter. My Lords, this is not a case between a trustee and his *cestui que* trust, nor is it a case between an individual and a particular class of persons; and what entitles this measure to the sanction of your Lordships is this,—that if it had not been for an equitable fiction out of which this litigation has arisen, according to all the principles of law, time would have run. If in this particular case there had been a class of persons named and another class named—persons capable in their own persons of suing—the possession for a number of years would have entitled the parties in possession to keep possession; but then comes a formidable person to deal with—her Majesty's Attorney-General, who files an information, alleging that the property has been given in trust for a charitable purpose. Against the Attorney-General no time will run, for he represents the trust, and the moment the Attorney-General has established himself in that position, he makes the trustees account to him for whatever property may be in their hands. Here, then, this property, the possession of which will be quite secure against any individual or against any class of persons, is not secure as against the Attorney-General; and that it is, my Lords, that constitutes one of the strong claims which these congregations have upon your Lordships' consideration. It is owing to that fiction of law that they have no defence; for, according to all the analogies of law, if it were not for that fiction, those who now hold the property would be entitled to take possession of it, and their right to it could not be called in question. Now, my Lords, the Right Reverend Prelate who spoke last, has intimated that which, notwithstanding his high authority, will not, I am persuaded, create any great alarm in the minds of those to whom it is addressed. He seems to suppose that, notwithstanding the Toleration Act, the congregations who are to be particularly affected by this Bill are liable to be prosecuted for heresy. Will the Right Reverend Prelate be good enough to inform me in what courts they are to be prosecuted?

The BISHOP of EXETER.—In the Ecclesiastical Courts.

Lord COTTENHAM.—The Right Reverend Prelate says that they may be prosecuted in the Ecclesiastical Courts. Will the Right Reverend Prelate try that experiment? It is announced to be the

opinion of the Right Reverend Prelate that that is the law, and your Lordships are also informed in what Court that law is to be enforced. I believe that the Ecclesiastical Courts' Bill is not yet through the House of Commons. I trust that the House of Commons will be informed of what has passed here, and of the use to which the Right Reverend Prelate wishes to put those Courts, however irregularly that sort of information may be communicated. But, my Lords, whether it be so or not, is quite immaterial for the present purpose, and therefore I shall leave the Right Reverend Prelate to instruct the House of Commons, and to inform them of his views on the subject hereafter. For the present, it is sufficient to say, that that is a matter which this Bill does not interfere with or affect at all. It may be as illegal as the Right Reverend Prelate imagines it to be. If it was legal before the passing of this Bill, it will be legal afterwards. If it was illegal before the passing of this Bill, it will be illegal still.

Now, my Lords, the Right Reverend Prelate who spoke last, gave a very clear and, as far as my knowledge goes, a very correct representation of the history of some of these congregations; not that the Right Reverend Prelate or any other person can know that it was so, but it may have been so—that is to say, certain opinions may have been preached and entertained in these chapels at the time of the original foundation of them, and, as time progressed, those opinions may have been gradually parted with, and other opinions adopted. But, my Lords, that applies only, if at all, to a comparatively small number, if we are to believe the allegations contained in the petitions which have been presented to your Lordships to-night. I have myself presented between forty and fifty of those petitions, and they, or a large proportion of them, state the origin of their foundation. They cannot all trace the origin of the foundations, but, as far as the recollection of living persons goes, they all state that their chapels have been used by congregations professing the same religious opinions as their own; and they state that from time to time large sums of money have been laid out on these chapels—that ministers' houses have been rebuilt, and that schools have been rebuilt, out of the money subscribed by the existing congregation—that is to say, by the congregation professing Unitarian opinions. Now, my Lords, if we are to permit these trustees to be displaced, are we take away from their congregations property created by their own subscriptions?—because, beyond all doubt, the persons who have supported them, and who have contributed their money to build them, and to establish schools and so on, must be entitled to the property in which their money is so invested.

My Lords, the Right Reverend Prelate who spoke first, said that—the statement of which I am rather surprised did not draw his mind to a different conclusion from that which it seems to have done—he stated that there were many congregations formed upon the principle of having no creed at all, though all professed implicit faith in the Holy Scriptures, but left each individual member of the congregation to put such a construction upon it as he might be able.

The BISHOP of LONDON.—I beg to say that I made no such statement.

Lord COTTENHAM.—It is beyond all doubt the fact, however.

It is proved (if the Right Reverend Prelate will permit me to say so) by many petitions which have been presented to your Lordships' House, that that was the origin of many of these congregations; and if so, you cannot charge the existing congregation with having departed at any particular time from the intention of the founder. The very essence of the foundation is, that the parties may entertain what religious opinions they please; and that may probably explain the absence of any manifestation as to what their tenets really were. If any number of persons entertaining Unitarian opinions, but being aware that they could not legally and openly profess them, and that no person could venture to preach those doctrines, wished to endow a chapel, in what way should we expect those congregations to be formed? They would have a common understanding as to the purpose for which they were associated, and of the doctrines which it was intended they should entertain, but there would be no public manifestation of what those doctrines were. When, therefore, we find no trace of any particular doctrine, we must be guided by common sense, and believe that, either to avoid the penalties of the law, they did not put forward what their doctrines were, or else that it arose from their being members of a body of persons who thought the best course was not to have any particular creed, but to leave each member of the congregation to form and entertain such opinions as he thought right. This Bill, your Lordships will remember, does not operate in cases where an express trust is declared. But then it is said, if there be no title declared, there may be other means by which you may ascertain the intention of the founders. No doubt there may be, and in the case of Lady Hewley's charity there were various means adopted; but the history of that charity is not very encouraging, and I can state another case which, perhaps, is still less encouraging: it was my misfortune to have to decide both cases. One of the cases, to which the Right Reverend Prelate referred, was a case from Wolverhampton. That case was before me when I had the honour of holding the Great Seal, pending Lady Hewley's case, and involving the same principle. Lady Hewley's case being at that time before the House of Lords, I felt bound to postpone giving my decision in the case to which I am now referring, until a decision should have been pronounced by the House of Lords in the case which was then before them—a course which, though inconvenient to the parties, was not expensive. When Lady Hewley's case was decided, I felt bound to decide this case in the same way; and the consequence of that decision was, that whereas the property was worth about £1400, the costs came to just double that sum,—so that not only was the whole value of the property spent in litigation, but the parties engaged in the suit had to pay a large sum of money themselves. But that was a large establishment compared with the greater number of those which are to be affected by this Bill. The Right Reverend Prelate has told your Lordships, that although these suits cost so much money, yet they are useful as tending to keep trustees to their duty. The trustees have in all probability been put in by the existing congregation; for the whole matter supposes the congregation to have been in possession for a considerable length of time. The trustees are from time to time renewed; and the great

probability is, that the trustees actually in possession of the property have been appointed by the congregation. Now, suppose these trustees are told by the decision in Lady Hewley's case that they ought not to hold the property for Unitarians—they are Unitarians themselves, in all probability—can they turn the existing congregation out, and say, Now we will have a congregation of Trinitarian Dissenters? They would not be justified in doing so. Lady Hewley's case was heard three times, and ultimately determined by this House, with the assistance of all the Judges. Could these trustees have said, "Lady Hewley was a Trinitarian—we will no longer have any Unitarians in the congregation"? They could not do it of themselves—there must be a suit in Chancery for the purpose. My Lords, when I shew what will be the obvious result of leaving matters as they are, I think I shew at the same time the absolute necessity that exists for the passing of this Bill. Whatever may be the number of these congregations in England, we know that there are great numbers of them in Ireland, and that the moment it is found that parties have the power in their hands, if the Attorney-General will sanction the proceeding, with his assistance an attempt will be made in every one of these cases to turn the parties out of possession which they have so long occupied and enjoyed. That is exactly what the Right Reverend Prelate must intend, for that will be the obvious effect of throwing out this measure; and I ask whether the Right Reverend Prelates expect that, after all the investigations which will take place into the rights of parties to hold these chapels, any considerable portion of the funds which were left to endow them will remain for the benefit of the new congregation? We have the history of some in which the experiment has been tried, and we know that the effect has been that nothing has been left. It is admitted that the trustees themselves cannot do it. There must be the sanction of a Court of Equity; and if the parties are driven there, the whole property will be expended.

I had the honour of presenting to your Lordships a great number of petitions in favour of this Bill. They contain, no doubt, the statements of the parties themselves; but we have no other evidence of what the real facts are. There are forty-seven petitions in all, and I will just state some few of them. One states that the congregation have been in possession of the chapel for a hundred years—another, a hundred and fifty—another, a hundred and forty—another, a hundred and thirty—and so on; and they all go through a history of their own chapels, and state the length of time, as far as they can obtain information, during which these congregations have been in possession of these chapels. They all state that great expenses have been incurred by the different congregations who have used the chapels. They state the establishment of schools for the instruction of the children of persons holding these opinions; and the fact of burial-places, in which the different members of their families have been for a long time interred, being attached to these chapels; and they ask your Lordships to protect them in that which they have for so long a period enjoyed, and to which nobody else claims to have a title. This is not a contest between Trinitarian Dissenters and Unitarians. It is a contest between the Attorney-General and the parties in pos-

session; the Attorney-General saying, "You at all events do not hold these chapels legally, and therefore I will turn you out." The noble and learned Lord on the woolsack has informed your Lordships to some extent what took place in the case of Lady Hewley's charity. I hoped that my friend, from the situation which he now holds, would have been able to state the history of that cause down to a later period; for I think it is now in a state which is not very encouraging for further litigation. My noble and learned friend has stated the amount of costs which have been incurred; but I do not believe that in that case the amount of the property belonging to the foundation appears; therefore I have not the means here, as I have in the Wolverhampton case, of stating that the value of the property in dispute was less than the amount of costs incurred. I know this, however, that before I gave up the Great Seal, the course the matter took was this —it was determined that Unitarians could not properly hold the trust, consequently the old trustees were discharged. It was then referred to the Master to appoint other trustees, but although the Court had so much difficulty in finding out whether Unitarian doctrines were or were not inconsistent with a right to hold the chapels, that turned out to be but a very small part of the difficulty, as compared with the difficulty of ascertaining who was to come in, supposing there was any thing remaining of which they could be put into the receipt. A more difficult task was never imposed upon any human being than that of finding out who was to come in. No rule could be laid down to regulate the discretion of the Master. Dissenters of every class put in a claim, and in each case a long inquiry was gone into. The case then came before me to consider whether the course adopted by the Master was correct or not. There were a certain number of trustees, some of one denomination and some of another. A more certain mode of producing dissension could hardly be conceived; and yet, if you take it away from the Unitarians, to whom are you to give it? You cannot say you are to give it to the orthodox Presbyterians or Baptists, or any other class of Dissenters, because it is left entirely open. But you appoint trustees. These trustees die, like other people; and when trustees belonging to one sect die, the others get a majority, and then you find another sect of Dissenters in possession. The result of all that is, that it is quite certain that in a few years the case will have again to be determined. But, my Lords, I am informed, and my noble friend will be able to state whether my information is correct or not, that all that has gone before has appeared so hopeless, that there has been recently an entirely new suit instituted between the same parties—that there is now pending in the Court of Chancery a new suit, instituted by some denomination of Dissenters, who think they can make out a case there which they did not make out in the Master's office. Surely, my Lords, these facts should put an end to all objection to this Bill, for that which has happened in Lady Hewley's case may happen in any other. The Right Reverend Prelates object to this mode of removing existing difficulties, but they do not suggest to your Lordships any mode by which they would apply a remedy.

My Lords, these petitions state some very grievous cases. There are two to which I wish particularly to call the attention of your

Lordships, because they are two congregations which have been the subjects of informations which have been put in motion by some persons, not claiming any title to the property, but merely as relators—that is, persons not coming forward to claim the property themselves, but persons who are put forward as the parties responsible for the costs of the suit, the suit being instituted by the Attorney-General, who asks the Court to say that the parties in possession are not entitled to retain that possession. Now, my Lords, there are two chapels in Dublin which have been the subjects of informations filed by the Irish Attorney-General—one called the Eustace-Street, and the other the Strand-Street chapel. The congregation of Eustace Street, carrying their recollection back to a period of eighty years ago, state that, at all events, ever since that period the doctrines professed by that congregation have been precisely the same as they are at this day, and that a very large sum of money has been laid out upon the minister's house and upon the school within that period of eighty years. Now I would ask your Lordships to attend to this point—who are the persons setting the Attorney-General in motion? Nobody connected with the city of Dublin—nobody connected with Ireland at all—but three Scottish Presbyterians, having no personal interest whatever in the matter. The information is filed by the Attorney-General of Ireland, who takes a relation of three Scotch Presbyterians. The Attorney-General always asks for somebody who will be responsible for the costs. The relator is merely put there as the party responsible for the costs. Is not that, I ask, a great grievance? Your Lordships will remember that I am not now discussing the question as to what the rule ought to be in cases where a party has been turned out of possession, and where he seeks to have that possession restored to him. This is a case where a congregation is in possession, and where a party, making no claim on his own behalf, seeks to deprive that congregation of property of which it has been in possession for a long series of years.

Now, my Lords, the other is the case of the Strand-Street chapel, which is stated to have been built by the present congregation in the year 1762. They say they can trace the doctrines now preached at that chapel as having been preached there for the last eighty years. They state that, by subscription among themselves, there has been a fund raised, called the Ministers' Widows' fund, and one of the petitions presented this evening is from the widow of the late minister of that congregation, whose husband was appointed in the year 1806, and to whom a pension has been granted out of this fund. That is one of the individuals who is to be turned out, unless your Lordships give your sanction to this Bill. Both these which I have mentioned are suits now depending in the Court of Chancery in Ireland. I believe that the Lord Chancellor of Ireland has abstained from finally disposing of those cases until it shall be ascertained what Parliament will do with respect to the present measure. If your Lordships should not give your sanction to this measure, these suits must proceed, and I am afraid that, with regard to one of them, there is such a case as will induce the Lord Chancellor of Ireland to give effect to the rule which has been laid down in other cases, and to dispossess these congregations of their chapels, their schools and their burial-

grounds. Now, my Lords, that these grievances should continue to exist where nobody is injured by removing them, appears to me to be a proposition to which it will be very difficult for your Lordships to assent, notwithstanding all you have heard. This Bill is merely intended to apply to these congregations and to their property that rule of protection which is applicable to all other property and to all other persons. It will inflict a hardship on no man. It will not interfere with any trust declared, but it will protect these several congregations in their possession of that property which they have, beyond all question, enjoyed for very many years. I trust that your Lordships will not think there is any hardship or injustice done to anybody in passing this Bill. By refusing to pass it, you would ultimately subject a great number of persons to the greatest inconvenience and loss, and in many instances to much misery, and all this for the reasons which have been assigned by the Right Reverend Prelate who spoke last, and with whose opinions I do not quarrel, for he has a right to entertain them. If the principles for which the Right Reverend Prelate has contended were the opinions of the legislature, then the Acts of Parliament which have been passed relieving this description of Dissenters from the penalties to which they were subject would not have met with the sanction of the legislature. The effect, however, of this Bill is not to alter the law with respect to religious toleration, or to make that legal which was illegal before. The object simply is to protect these parties in the enjoyment of property of which they have been for so long a time in undisturbed possession.

The BISHOP of EXETER.—My Lords, there are one or two things which I think it necessary to explain. The noble Lord has spoken of my inefficient knowledge on legal subjects. I feel the justice of the taunt, though not with regard to the point which he has stated. He has, though unintentionally, most grievously misrepresented me. The noble Lord supposes me to have said that usage does not run against trusts. Now I am in the recollection of your Lordships whether I did not qualify that, and whether I did not specially dwell on trusts for charitable purposes. Therefore, all the laugh which he could easily raise against me as to my ignorance of the law, and as to my not being wiser after the lesson of Sir William Grant, amounts to nothing. But the noble Lord has made some representations respecting what I have said, which are of a much more serious description, and likely to be productive of very grave consequences. The noble and learned Lord has gravely announced, that as soon as this Bill has passed, it is my intention to proceed against these parties for heresy. I said nothing that could at all excuse—or, if the noble and learned Lord will not allow me to use that word, I will say to justify—that expression. I will now tell that noble and learned Lord, and I should be glad if, by any of the accidents of life, it should reach the ears of persons in another place, not what I "intend," for I am not in a position to intend any thing on so grave a subject, but what I *wish*—and I heartily hope they will give effect to my wishes. I should rejoice if all power over Dissenters were taken from the Church, even in theory and in strict law, as it long has been in practice, on this one condition—that those who dissent from the Church are prevented by law from persecuting the

Church, by claiming privileges which belong only to Churchmen. When the noble and learned Lord takes occasion next to say what I intend, I beg to state that I intend nothing, though he may, if he pleases, announce what I wish.

Lord CAMPBELL.—My Lords, as I entirely approve of the Bill which has been introduced by Her Majesty's Government, I think I am bound not only to express that approbation, but to explain, which I will do in a very few sentences, the principles upon which I support it. I must say, notwithstanding the high respect I feel for the two Right Reverend Prelates who have addressed your Lordships, that I think they have made very little way in their opposition. I admire their talents as much as any man can do, and they have made, no doubt, the most they could of their materials.

Now, my Lords, I support this Bill upon the common principles upon which a law of prescription has been adopted by all civilized nations. It is not from any love to any particular sect, but it is for the sake of peace and quietness—it is to protect enjoyment.

My Lords, you are not to suppose that in every case those who petition for this Bill, and who wish that it may pass, are usurpers—that they have committed a wrong, and that they are liable to be proceeded against for a breach of trust. They say that after a certain length of enjoyment, that enjoyment ought to be respected, and that the law will not allow any inquiry to be entered into as to how that enjoyment began.

My Lords, the arguments which have been brought forward against this Bill might be brought forward against any statute of limitations or against any law of prescription. It might just as well be said in any other case, Shall wrong be protected, and shall the length of the enjoyment, or the length of the wrongful enjoyment, give that protection to it which it ought never to have obtained?

My Lords, I have the honour to be at the head of the Commission that was appointed respecting the law of real property; and one of the very first objects to which we applied ourselves was the law of prescription. That was particularly assigned to myself. I prepared a report upon that subject, which met with the approbation of the other commissioners, and upon which a law was passed, meeting the approbation of both Houses of Parliament, and which now regulates civil rights in this country. My Lords, I think it was an omission in that law that we did not take into our consideration what ought to prevail with respect to religious charities. It is to supply that omission that the present Bill is introduced; but the present Bill rests entirely upon the principles which we then proposed, and which met with the approbation of the legislature.

Now, my Lords, the Right Reverend Prelate who first addressed the House, seemed to me to rest his opposition merely upon the ground that this Bill alters the law. But that is the very reason why the Bill is introduced. The Right Reverend Prelate said that it was contrary to what the noble and learned Lord on the woolsack had declared to be the law in Lady Hewley's case. Why, my Lords, it is because of that, and to prevent the recurrence of a similar inconvenience, that this Law is introduced. The same feeling is entertained by the Lord Chancellor of Ireland, who intimates a very strong opi-

nion, to which I think your Lordships will be disposed to give great weight, that the law ought to be altered; and I beg leave to state to your Lordships what fell, in a similar case, from that very learned Judge. He said, "Whether it is advisable or not that congregations of Protestant Dissenters, of whatever denomination," &c. (Reads the passage.) He there intimates a strong opinion that the law is defective. My noble and learned friend's now proposing an alteration in the law is not at all inconsistent with any thing that he propounded in Lady Hewley's case.

As to what was said by the Right Reverend Prelate who secondly addressed your Lordships against the Bill, I must say I have heard his statement with "surprise and alarm," to adopt the language that has been employed by those who have petitioned against the Bill. The Right Reverend Prelate has intimated an opinion, which no doubt is entitled to great respect, that all who now profess Unitarian opinions are not only guilty of heresy, but are guilty of a breach of the law, for which they are liable to punishment. He says that heresy is a breach of the law — that where parties are guilty of heresy, you are to proceed by exhibiting articles against them in the Ecclesiastical Courts; and that as they are guilty of a breach of the law, they ought to receive no favour whatever. Now, my Lords, I speak of course with great diffidence after the opinion which has been expressed by the Right Reverend Prelate; but, according to my understanding, when the Act of 53 Geo. III. passed, repealing the Act of William, Unitarians were put upon the footing of all other Dissenters. They were not to be considered as guilty of a breach of the law, but were to be considered as Christians, entertaining opinions different from those which are entertained by the Established Church. That, however, is not merely my opinion. It is the opinion of the legislature; for if your Lordships will look at the Acts which have since been passed respecting marriages, respecting registrations, respecting places of religious worship, you will find that the professors of these doctrines are treated as being exactly on the same footing as any other Dissenters from the Church of England.

My Lords, I certainly do not at all participate in the doctrines and opinions of these religionists, but I do feel very great concern at the opinions which have been expressed by the Right Reverend Prelate, which (though he does not intend it) have a strong tendency to cast an odium upon men of high honour, of great learning, and of the most active benevolence. My Lords, to persecute them—and persecution would be the effect of throwing out this Bill—is not the way to convert them from their errors. But let me point out to your Lordships this most serious inconvenience that would arise if your Lordships were to throw out this Bill and leave the law in its present defective state. Why, congregations which now profess Unitarian doctrines, never could change those doctrines. If a congregation which has been formed upon the footing of the Unitarian persuasion were to renounce their errors and become Trinitarians and orthodox in all respects, an information, some hundred years hence, might be filed in the name of the Attorney-General with a view to costs by some pettifogging attorney; and those who entertained orthodox opinions

might be disturbed in the possession of their religious endowments, because, a hundred years before, this congregation had been founded by a person professing Unitarian doctrines.

I understand that the Right Reverend Prelate is to take the opinion of your Lordships upon this measure——

The BISHOP of LONDON.—I see so little chance of carrying my point, that I do not care about it.

Lord CAMPBELL.—I understood from the Right Reverend Prelate who addressed the House secondly, that it was his intention to do so, but I observe he has left the House. As one Right Reverend Prelate has left the House, and the other has abandoned all opposition to the Bill, I feel that I should be wholly inexcusable if I trespassed further upon your Lordships' time by adding another word.

Lord TEYNHAM.—My Lords, I need hardly say that I feel some diffidence in rising to address your Lordships upon this question, but I feel it incumbent upon me to make a few observations, in consequence of the determination which has apparently just been come to not to divide upon this question to-night. I say "to-night," for sure I am that, although in this summary manner the question may now be dismissed from your Lordships' consideration, it does not die to-night, and I would refer your Lordships to some of those very petitions, the importance of which some noble Lords appear to me much to undervalue. I need hardly remind your Lordships that some of them, though not many, are signed by clergymen of the Established Church, some of whose representatives have been addressing your Lordships to-night. I trust I may be permitted to express a hope that if this Bill reaches another, to that House likewise petitions from the same quarter will be addressed. I would remind your Lordships that some of these petitions are from orthodox Presbyterians, whose interests would be best promoted by the passing of the Bill, but who, deeming the Bill to be one of injustice and iniquity, feel bound to petition your Lordships against it; and whatever may be said or thought by the noble and learned Lord with reference to the merits of the petitions which have been presented by the great body of Dissenters, yet there are two petitions, which have been already referred to to-night, to which I would again call your Lordships' attention, as shewing the general feeling of Dissenters and Methodists as a body. There was a petition to your Lordships from what I believe they term their Committee of Privileges, signed, if I mistake not, by the Secretary thereof, and signed by the President of the Methodist Conference. I am aware that at the present time the leading gentlemen of that body are largely engaged with other matters; but though less concerned than any others in the immediate property at stake in the Bill now upon your Lordships' table, yet, possessing an exceedingly large amount of trust property, they feel deeply concerned in the matter, and strongly plead with your Lordships that this Bill may not pass into a Law. You have petitions likewise from the general body of Dissenters in London, who may be deemed to express fairly and honestly the sentiments of a large portion of Her Majesty's subjects in every part of the kingdom.

Having thus adverted to what the noble and learned Lord has said with regard to the quality of the petitions presented to your Lord-

ships against this Bill, I will state that I entirely concur with the noble and learned Lord who formerly held the Great Seal, in thinking that something ought to be done. I would quite assent to that. I believe that nobody who opposes the Bill would dissent for a moment from the proposition that something ought to be done. But is it a legitimate inference that because something ought to be done, this is the thing that should be done? I would say it is not, because this would be doing an act of injustice. Let me now refer unto what fell from another noble and learned Lord with reference unto the expressions used by the noble and learned Lord on the woolsack in giving judgment in Lady Hewley's case. It is said that it is not wrong, but that it may be wise, and often is most wise, that the sentiments of a noble and learned Lord sitting in your Lordships' House should be different from those which he previously had expressed when sitting as a Judge in a Court of Equity. My Lords, matters concerning judgment may divide themselves into these two portions,—those which involve expediency and those which involve simple truth, justice and equity. Granting it ofttimes may be wise that a change should take place, yet when a noble and learned Lord sitting as a Judge in Equity says it can scarcely be necessary to cite authorities in support of these principles, for that they are founded in common sense and common justice, is there any wisdom in a noble and learned Lord—I speak with all respect for the noble Lord personally, and only allude to his argument—is there any "common sense" or "common justice" in saying that that which it is proper for a Judge to say when sitting in a Court of Equity, is a matter which it is proper afterwards to alter, by expressing a different opinion when it comes before him in the character of a Legislator? I venture to say that the argument in objection to what fell from the Right Reverend Prelate with regard unto the former sentiments of the noble and learned Lord amounts to nothing. A point has been alluded to by a noble and learned Lord who appeared to misunderstand the matter—I mean the point as to there being no creed. If I mistook not the meaning of the expression made use of, it amounted to no more than this—it was not that the parties making the original grants—it was not that the parties who were in association with them, held no fixed opinions of their own, but that, believing in the Holy Scriptures, and fearing that, if they expressed their opinions in words of their own, they might express something not in accordance with Holy Scripture, they preferred that trusts should be made in the name of Congregationalists, and therefore it cannot in the slightest degree be imputed unto them that they were in any measure indifferent as to whether the creed subsequently propounded to the congregation was Unitarian or Trinitarian.

Notwithstanding all that has been said to your Lordships to the contrary, as that is the ground taken by the petitioners to your Lordships' House, you will allow me to take up the case as though it were indeed an unjust one; and I would now give two or three reasons why I believe that your Lordships would commit an act of distinct injustice if you were to pass this Bill into a Law. Grant it, my Lords, as has been said by many petitioners to your Lordships' House in favour of the Bill—grant it that they have been for a long period

of time in possession of the chapel and of the ground or property attached thereunto, and that during that time they have expended considerable sums in building and repairing,—still, let it likewise be borne in mind, as an off-set against that, that during that time they have been receiving the endowments—that during that time they have been enjoying the property free of rental—and that during all that time they have been using the cemeteries for the interment of their families from generation to generation. Let all these things be taken into consideration; and though on that ground, as I have said before, I think something ought to be done, yet this I would say—that all the matters that already I have stated, ought to have been placed on the opposite side of the balance-sheet in considering the question. And again, I would say, my Lords, upon this point, if we were to come to a conclusion, comparing the original value of the land or of the meeting-house with the monies that have been for a series of years expended thereupon—if in a court of arbitration it could be determined that so much had been expended that it would be right for the parties who held to continue to hold the property, yet let me put two cases—one a case where there is, and one where there is not, an endowment. If you come to the conclusion, that where there is not an endowment, because of the amount of monies that have been laid out, the parties in possession should continue to hold, are you therefore to hand over the endowments unto those persons? I say it would be an act of gross injustice to do it.

But, again, my Lords, a large portion of the difficulty consists in this—that these are trusts, not for Unitarians, but for Trinitarians; but they are trusts for truth; and if your Lordships should pass this Bill into a Law, my arguments would be equally valid if the question, What is truth in the matter? remained unanswered. These trusts, my Lords, were established, (wisely or unwisely, is a matter into which I enter not,) for the maintenance of certain doctrines and for the propagation of truth. If this Bill be passed into a Law, the object of the founders is not obtained; but that, my Lords, is the weakest part of the case. The object of the founders was not merely the maintenance and increase of the reception of certain truths, but the decrease of that which they esteemed to be error, and, it might be, its abrogation. What, then, is the result of passing this Bill? Not only that the trust is violated, but that that is gained which in part the trusts were formed to overthrow.

On these grounds, my Lords, I cannot but entirely join with those who deem this Bill a Bill of spoliation; and in uttering that word, I can but say—regarding the character of your Lordships' House, and regarding the reverence in which it should be our earnest desire that the seat of Justice should be held by every class of Her Majesty's subjects—waving the question, whether it be an act of spoliation or not, I would say—and on whatever other points your Lordships may differ from me, you will concur with me in this—that it is a matter deeply to be regretted that any honoured portions of Her Majesty's subjects should feel it necessary to say that a Bill passing your Lordships' House will commit spoliation. Whether it commit or do not commit spoliation, that it should have the aspect of doing so, is, I say, a matter deeply, deeply to be deplored.

And now as to the Statute of Limitations. In the first place, there is in that Statute a beauty (if I may say so) that is not visible in the Bill upon your Lordships' table; for as in mathematical problems there may be an elegant and an inelegant way of expressing a proposition, so I would say there is a beauty and a precision belonging to the expressions in the Limitation of Actions' Bill which is not to be found in the Bill now upon your Lordships' table; and the Bill, in consequence of that not being found in it, bears hard against those who argue, with your Lordships, that the adoption of this Bill will lead to a diminution in the number of suits in equity. In all the cases contemplated by the Limitation of Actions' Bill, the time from which the period is to be dated is set forth by its being a moment when somewhat which had previously existed came to a termination, and when somewhat that subsequently existed had its origin and birth; for example—rents were received up to a certain time, and then commenced a period when they were no longer received. Possession had been held: whether the parties were dispossessed, or however it came to pass, it matters not,—possession was no longer held, and then came a period of dispossession; so that, without mentioning another case, there is this peculiar advantage belonging to the perspicuity of that Act, that there is no difficulty whatever, comparatively speaking, in attaining to the commencement of the twenty years. But what, my Lords, is the case here? That the usage of so many years by a congregation frequenting a chapel, is to be deemed conclusive evidence of their right to such chapel. Will there not be insuperable difficulties in the way of attaining unto a knowledge that could or ought to satisfy a Judge, with reference unto the time when the specified period began?

But, my Lords, there are two other points which I would mention to your Lordships, in connexion with the Statute of Limitations. The noble and learned Lord, in introducing the measure formerly, if he will allow me to refer to his words, which are familiar to your Lordships, spoke of the uses of that Act, and mentioned among them, of course, that the great use was this,—that here were parties rightfully and bonâ fide in possession of certain properties, and that in consequence of lapse of time and so forth, there might be a difficulty in proving their title. The object and the use of that Bill was to prevent litigious persons from seeking to dispossess those persons who had been rightfully in possession for a long period of time. But what is the case here? The case of the petitioners against this Bill, as set forth in their petitions now upon your Lordships' table, is this, namely, that theirs is *not* a rightful possession; whereas the previous Bill was intended for the protection of those who were in rightful possession, and its object was to prevent fraudulent claimants from dispossessing them. The object of the Bill now before your Lordships is to maintain in possession those who, by the concurrent opinion of many noble and learned Judges in similar cases, are, and who are commonly and extensively thought to be, unjustly in possession of property which this Bill is to give them a title to hold.

My Lords, among the other advantages held out to accrue to the community from the Statute of Limitations, these are specified —that additional facility is given to the possessor of the property

to let it or to convey it, and that by the smallness of the limitation, the deed of conveyance being necessarily shorter, the expense of the conveyance is thereby diminished. But, my Lords, what has that to do with the Bill now upon your Lordships' table? Nothing—because the property here spoken of has subsisted in the form in which it now subsists for a century or two. If we compare this Bill with the Statute of Limitations, there is indeed a certain resemblance in the words and terms used in it; but if we look to the utility of the Statute of Limitations, and to the necessity for its enactment, and if we look to the advantages to be derived therefrom, we shall find that none of those advantages will attend the passing of the Bill now before your Lordships.

As to what has been said about the use of this Bill in abridging litigation, I question very much whether it will have any such effect. It is a fact, my Lords, that some of the deeds are made out conveying the property in trust for Congregationalists. Now is there not a question at once arising? Is there not a debate already, whether, the property being in trust for Congregationalists, they being well known to be Trinitarians,—whether that in equity should or should not be taken to include an express opinion as to their creed? I apprehend it would—others, and some of your Lordships and many of the petitioners in favour of the Bill, apprehend that it would not. There at once is a door open for litigation. The noble and learned Lord on the woolsack, in concluding his judgment in the celebrated case of Lady Hewley's charity, deprecated personalities, and yet found it necessary to use personality, in a measure, by expressing censure, more or less severe, with reference unto the malversation of the trusts of the charity. Your Lordships have had brought before you by the Right Reverend Prelate who spoke so ably about a recent case, wherein the religious opinions of a minister with reference unto property was made the subject of litigation in a court of justice. My Lords, if this Bill should pass into a Law, what will become the duty of the trustees? If in their honest judgment they feel that opinions contrary to those for which the trusts were established are being propagated, will it not become their duty to bring the party into court?—and is there not there, again, a door opened for litigation?

There is another point also calculated to give rise to litigation—it is, "the uses of the congregation." Does that mean the united opinions of the minister and the people?—or is it confined only to the doctrines of the preacher, or to the opinions only of the congregation? Here, again, I say, a door is open for litigation.

On these grounds, my Lords, I heartily concur in the opposition offered to this Bill; and I can only regret the conclusion that has been come to, not to take the sense of the House thereupon.

PROTEST OF THE BISHOP OF EXETER.

Dissentient,—1. Because usage has, with the best reason, never before been suffered to prevail against the purposes of a charitable trust, inasmuch as in such a case adverse usage is only a series of malversations of the trustees; and to give not only impunity but triumph to such proceedings, is to encourage by Act of Parliament the violation of all public trusts, and the perversion of all charities.

2. Because the Bill in its main provision proceeds on the principle of disregarding the intentions of the founders of the charities in question. It is only in cases where these intentions can be ascertained that the measure will have any effect. For in other cases, where the intention cannot be ascertained, usage would of course prevail, and so the Bill must be altogether nugatory, except to defeat the ascertained intentions of founders.

3. Because the distinction drawn between those cases in which the particular purposes of the trust are declared in express terms, and others in which, being ambiguous, they can be ascertained by the aid of external evidence, is contrary to the principle which has been declared by the present Lord Chancellor not only to be "uniformly acted upon in our courts of equity," but also to be "founded in common sense and common justice." To introduce an opposite rule, and apply it to existing trusts, is to make an *ex post facto* law, subverting the rights of the proper beneficiaries, as well as violating the intentions of founders.

4. Because the alleged grievance may be redressed by a much less extensive enactment. If there be any meeting-houses which can be shewn to have been founded for religious worship not tolerated by law at the time of their foundation, but which have since been admitted to toleration, and if it be deemed right to quiet the titles of the possessors of such meeting-houses, it cannot be difficult to devise a measure which shall secure that object, without violating principles which have hitherto been deemed inviolable.

5. Because the alleged reason for this measure (a wish to prevent litigation) ill accords with the provision for effecting it. "The usage of the congregations frequenting the meeting-house" during — years, is to "be taken as conclusive evidence of the religious doctrines or opinions for the preaching or promotion of which such meeting-house was founded." Yet of all conceivable incitements to litigation, none more stimulating can be devised than the uncertainty of such usage, and the facility of shaking the proof of it.

Neither can such a provision be satisfactory to those who demand an alteration of the present state of the law; for, to fix the religious doctrines to be taught in such meeting-houses by the usage of years past, which is, in effect, mere tradition—the tradition of a brief number of years, and the authority, it may be, of a single preacher—is not only unreasonable in itself, but contradicts the principle claimed by a large portion of the petitioners, that they shall use their meeting-houses according to the free exercise of their private judgment and the right of free inquiry in all matters of religion, unshackled by any rule of faith or worship.

It is, moreover, irreconcileable with the allegations of fact set forth

by the soberest advocates of the measure, that "in such bodies as Dissenting congregations, with no effective church government, and no power to lay down binding rules of faith, fluctuations of doctrinal opinion in long periods of years are in the nature of things unavoidable."

6. Because this measure, thus contrary to the established principles of law and equity, is notoriously introduced to quiet the titles of parties who have usurped meeting-houses built for the worship of the true God, and have perverted them to an use which their founders could not but have deprecated as profane and impious.

7. Because in avowed favour to a class of persons who deny the Deity of our Lord and Saviour Jesus Christ, a construction is by implication put on the 53rd George III., c. 160, which that statute never received in a court of justice, and which is contrary both to high legal authorities and to the known intention of at least one of the two Houses of Parliament which passed it—namely, that "to deny any one of the Persons of the Holy Trinity to be God," being "unlawful prior to the passing of that act," was thereby "made to be no longer unlawful." Whereas the statute 9 and 10 William III., c. 32, the provisions of which were then in part repealed—a statute enacted at a time when Lord Somers, the most ardent and enlightened advocate of true and just toleration, was Lord High Chancellor of England—did not constitute, but solemnly recognize the previous criminality of such a denial. It is an act entitled "An Act for the more effectual Suppression of Blasphemy and Profaneness." Its preamble characterizes the opinions against which it is directed as "blasphemous and impious opinions, contrary to the doctrines and principles of the Christian religion, greatly tending to the dishonour of Almighty God, and which may prove destructive to the peace and welfare of this kingdom." It proceeds to enact, that "for the more effectual suppressing of the said detestable crimes (thus manifestly implying that they were before, and if that act had never passed, unlawful,) whosoever having made profession of the Christian religion within this realm, shall, by writing, printing, teaching, or advised speaking, deny any one of the Persons of the Holy Trinity to be God," &c., shall incur certain heavy penalties which have been subsequently repealed.

8. Because, even if with all statutory penalities, all liability to indictment was removed by the 53rd George III., c. 160, yet the denial in question is notoriously a heresy of the gravest and most malignant character, and as such, is contrary to the common ecclesiastical law, which, according to every authority which can be cited, is as truly a part of the law of the land as the common temporal or statute law.

9. And, lastly, because the violation of such principles for such an object can hardly fail to excite in the people an apprehension of the readiness of the Legislature to sacrifice the most approved rules of law, and the most sacred interests of religious truth, to a temporary and fancied expediency. It not only wounds the conscience and outrages the feelings of those who adhere to the true faith as it has in all ages been held by the law of every one of the three realms comprised in this United Kingdom and empire, but it also contradicts

the fundamental and hitherto unquestioned principle that the Christian religion is the basis of the law of England; for this Christian religion is declared in the Act of Toleration itself to be the faith of the Holy Trinity. That act, in substituting a declaration in lieu of oaths to those who scruple the use of oaths, requires them to "subscribe a profession of their Christian belief in these words—'I, A. B., profess faith in God the Father, and in Jesus Christ his eternal Son, the true God, and in the Holy Spirit, one God, blessed for evermore.'"

H. EXETER.

NOTES ON THE DEBATE IN THE HOUSE OF LORDS, MAY 3, 1844.

By an Eye-witness.

The House presented a more animated scene than is wont in this usually still and aristocratic assembly. The gallery and the bar were at the opening of the House (5 o'clock) quickly crowded by the friends and foes of the Bill, with here and there an unconcerned spectator from the country, who, having the opportunity of attending the House of Lords, seemed to feel perplexed by the theological character which, on one side at least, the discussion assumed.

An unusually long time was occupied with the presentation of petitions. Lord Lyndhurst and Lord Cottenham presented not far short of one hundred petitions in favour of the Bill. Instead of being (as is often the case) hastily laid on the table in a mass, with a general statement of their prayer, both these learned Lords named emphatically the residence and religious profession of the petitioners. Piquancy, too, was given to this part of the evening's proceedings by the theological chivalry of that most religious Peer, Lord Mountcashel, eager, before the lists were formed, to shiver a lance with the author of the Bill. His Lordship, hearing petition after petition coming from "Presbyterians," English and Irish, could bear no longer, but impatiently rose and inquired whether the petitioners were Unitarians, or were really orthodox Presbyterians,—the thought, of course, being in his Lordship's mind, that, were the petitioners Unitarian in faith, they were appearing before their Lordships under false colours, and, if not guilty of a breach of privilege, yet were not entitled to the attention and regard of the House.

The benches on both sides of the House were well filled. The Bench of Bishops was crowded, there being no less than twelve of their Right Rev. Lordships present. Even during the presentation of petitions, it was evident who were to be the leaders of the opposition to the Bill. The Bishop of London took his seat, for a short time, at the table in the centre of the House, where the clerks of the House usually are, and cast an uneasy look at the huge bundle of petitions presented by the Lord Chancellor; and when, with rather more emphasis than usual, a petition was presented "from members of the Church of England residing in the city of Chester," the Bishop (who commenced his episcopal life in that city) took the petition into his hands and examined the signatures. The seat, which he soon left, was during the remainder of the evening occupied by the Bishop of

Exeter, whose countenance, which is in a remarkable degree the index of his well-known character, plainly shewed, as the debate proceeded, the nature of his thoughts.

When Lord Lyndhurst rose to make his long-promised explanation of the Bill, the House was unusually still. His Lordship moved to the left of the woolsack, and faced the long array of lawn-sleeves which the peculiar character of the discussion had brought together. The rich, clear and ringing tones of his voice, the manliness of his figure, his natural and not exuberant action, the variety of his phrase, and the beautiful succinctness of his oration, bespoke the finished orator. Before six sentences were pronounced, every person in the House was made aware that his Lordship was resolute in the determination to carry his Bill, and that he would not abate a jot to the formidable episcopal opposition that was threatened. He flung with amazing force the well-deserved sarcasm at the Bishop of London, congratulating him on his "new associates," and hoping "his Right Reverend friend would temper them with a portion of his own moderation." The whole Bench was discomposed by this unexpected attack, and even the calm demeanour of the metropolitan Prelate was for the moment disturbed: as though an eagle had lighted on a dovecot, all were fluttered. The legal argument embodied in his Lordship's speech is praised by lawyers as full and complete, and as such that no one "learned in the law" would choose to gainsay—and yet it was simple and perspicuous, and was listened to by non-professional hearers with pleasure and instruction. It was, when he was at the bar, the peculiar forte of Lord Lyndhurst to condense matters the most scattered, and to simplify that which was complicated, and to adorn statements, themselves accurate and beautifully arranged, with a rich and varied and powerful style. A scientific man, once subpœnaed as a witness in a trial in which Lord Lyndhurst (then Mr. Copley) led the plaintiff's side, declared that he had never in his life listened to a more clear, correct and comprehensive lecture on Chemistry than that contained in the advocate's speech—his client's interests requiring him to enter into various matters connected with gases and combustion. The speech of the Chancellor was at its close greeted with cheers from both sides of the House.—No one listened with closer attention to the Chancellor's exposition and defence of the Bill, than the Duke of Wellington. To all the speeches, indeed, except that of Lord Teynham, (in not listening to him his Grace was not singular,) the Duke listened with marked attention, changing his position once or twice, in order that he might the better hear. What impression the debate made on the mind of the gallant soldier, we may gather from the fact, that his Grace was one of the majority of forty-four Peers who so triumphantly carried the third reading.

The Bishop of London, in replying to the Chancellor, evinced in the outset a degree of soreness as to the nature of the company in which he found himself by reason of his opposition to the Bill, which must have been any thing but satisfactory to certain reverend and other gentlemen below the bar, who seemed otherwise disposed to chuckle amazingly at his hostility to the Government measure. His opening protest against the word "chapel," as applied to the places of worship used by Dissenters, and against the exclusive appro-

priation of the term "Unitarian" by those who were to be benefited by the Bill, was an instance of "littleness" which would have been less surprising, perhaps, in some brethren of the Right Reverend Prelate. His speech was, from beginning to end, the speech of one who longed to give full reins to his bigotry, but who knew that intolerance must be well disguised before it could be brooked by the majority of those whom he addressed, and by whom he evidently wished to be respected. The disguise was admirably managed, but told far more for the dexterity than the candour of the Right Rev. speaker. Instances of cruel persecution that disgraced the barbarous past, brought forward with a smooth tongue, and a mild, bland, well-meaning, and (one could almost have imagined) honest countenance, and recounted (to say the least) without disapprobation,—cutting sarcasms, wounding insinuations against those who claimed to be his fellow-christians, not indeed (to do him justice) couched in his own language, not adduced as his own opinion respecting those of whom he spoke, but compiled with care from the opinions and the words of "pious individuals," as he termed them, and with as much care *not disowned* by himself,—these things formed the staple of his observations, and displayed the policy of one conscious that such opinions, if presented as his own, were too far behind the spirit of the age not to call forth the disapprobation of the House. One thing his Lordship found it impossible to disguise—that, be his language cautious as it might, he virtually called upon the House to *perpetuate* by their votes a spirit of bigotry and persecution, such as he had laid before them as existing more than a century ago, and which he left the impression upon many present that he had neither the manliness to approve nor the desire to condemn. It was amusing enough to observe, from the tone and manner he assumed when he came to that portion of his argument in which he appealed from Lord Lyndhurst on the Woolsack to Lord Lyndhurst on the Bench, what an extremely high value he evidently, but erroneously, set upon the hit he was about to make,—altogether forgetting, in his zeal, that he could not have advanced a stronger argument in favour of the Bill, than the fact of the very men who in their judicial capacity had been *constrained* to enforce decisions in conformity with the hard and inflexible principles of Law, having thus unanimously felt themselves as much constrained by their duty as Legislators to lend their aid in altering a Law which they found sectarian animosity was so ready to strain and torture into an instrument of religious persecution.

The speech of Lord Brougham was useful and eminently prudent. Following as he did the Bishop of London, he might have gratified his own mental powers, and the taste of some at least of his hearers, by exposing the inconsequential logic and the intolerant spirit that pervaded that Prelate's speech. But, in these times of High-Church zeal, an attack, however richly deserved, on a Prelate of such influence as the Bishop of London, might have aroused in many of their Lordships' minds some of their most inveterate prejudices; and sympathy with an assailed member of the Church, might have ended in their recording their votes against the Bill. Self-denial, especially in his oratorical flights, is certainly not the habit of Lord Brougham, and therefore his remarkable exercise of that quality on this occasion,

entitles him to the sincere gratitude of every friend of the Bill. His speech contained a very suitable and powerful corroboration of the Chancellor's arguments. His closing quotation from Lord Plunkett was magnificently delivered, and was beautifully appropriate.

And how shall we describe the speech, and attitudes, and elocution of the Bishop of EXETER? His speech was certainly not the least powerful one delivered during the debate. Fierce in his invectives, unscrupulous in his statements, daringly intolerant in his sentiments, he presented, without the affectation of disguise, the spectacle of a man born two centuries too late. How memorable a figure would he have gained in the page of English history, had he lived in the days when, as an inseparable *appanage* to every episcopal palace, there was a dungeon, and there were instruments of torture! In such days had Henry of Exeter been destined to live, the laws against heresy would not have sunk into that repose over which he sings so feeling a lament. The speech of the Bishop was certainly powerful; but it was not powerful in opposition to the Bill. Scarcely a fact stated or an argument used by him, but might, by a well-informed and skilful opponent, have been turned against him. But it was powerful as a record of his intolerance of every thing not belonging to the Church of England; it was powerful as a record of his contempt or hatred of Dissent, especially in its more liberal forms. Not without study, either as to its subject-matter or as to its style, was that speech produced. The law-books in a tall pile, which, soon after the Bishop began to speak, an attendant placed on the table before him, were filled with papers of reference which bespoke painful preparation. It is perhaps to be regretted that his Right Rev. Lordship's first essay as an expounder of the law, met with so little commendation and encouragement from him who followed in the debate, and who is by common consent the first lawyer of the age. It is to be regretted, because as his Lordship's speeches contain little or nothing of the Gospel, we might in future and more successful essays have had some smattering of Law. It was very cruel in Lord Cottenham to make so merry with a Bishop's law—it was still more cruel in the House to laugh so provokingly with the learned Ex-Chancellor. We thought there was a rustling, indicative of suppressed laughter, even amongst the lawn-sleeves themselves. If this were so, it was most cruel! And now as to the worthy Bishop's elocution and action. If in these matters Lord Charles James of London is to be the model—if gentle tones and a staid carriage, arms meekly crossed upon the bosom, or the hands clasped and resting on the chest, so as to occasion the least possible discomposure to the delicate lawn in which holy men delight—if this is the model for episcopal elocution and action, the Bishop of Exeter must be altogether censured. But in a more catholic and less trammelled school of orators, he would have his partizans and admirers. Some parts of his speech were delivered with force and propriety—by propriety, we mean suitableness of tone and gesture to the sentiment. Never did Priest more earnestly hurl denunciations against a body of heretics, than did Henry of Exeter hurl his threats against the heretical Unitarians. Other parts of his speech were less successful as to manner—at least if it be a part

of finished art, *celare artem*. In the passages where he so insidiously complimented Lord Brougham for his Charity Commission, and where he affected to deplore the injury done to Lord Lyndhurst's lasting fame by the Bill of which he had that night appeared as the defender, there was a great effort and a studied solemnity, but the result did not correspond with the Right Rev. orator's wishes—a titter ran along at least one side of the house. In one respect we heard the Bishop of Exeter's speech with great satisfaction. It was a clear avowal of his love of persecution, and his determination to cling to every remnant of intolerance in the Statute-book with a Laud-like love. It manifested his ruling passion. He will not give up his *ideal* persecution of heresy, although he is compelled to admit that practically it is impossible. He is a Barmecide in bigotry, enjoying in idea a feast that has no existence save in his excited brain. And it is because it destroys his imaginary luxury that the Bishop dislikes this Bill. It is because it declares in unequivocal terms to all the world, liberty to those whom the Bishop would wish still to be allowed to regard as captives, that he gave it his fierce and unsparing opposition. At all events, the Bishop's conduct is manly and above-board, and is more worthy than that of the uncandid Dissenting opponents of the Bill, who in one sentence declare their hatred of persecuting statutes, and their willingness that Unitarians shall be free from penal liabilities for their faith, and in the next denounce this liberal effort of the Lord Chancellor to give reality to that legal protection of the Unitarian body which the legislature designed to bestow thirty years ago.

Lord Cottenham's observations were prefaced with a severe rebuke of the bigotry which had been displayed by the Bishop of Exeter, a rebuke not the less felt because administered with a mildness and gentleness greater than are usually to be found in the excitement of such debates. With a good-humoured and almost playful sarcasm, less apparent, perhaps, in the language he employed than the manner and tone with which it was accompanied, he succeeded in proving to the satisfaction of all present, if not of his Spiritual Lordship himself, that his legal studies had been commenced a little too late in life, and that the industrious ransacking of some dozen volumes bound in cream-coloured calf, and piling them up before him on the table of that House, had not been sufficient to transform the learned Prelate into a Lawyer, or shelter his ignorance on such subjects from so many who had filled and were filling the highest judicial stations, to which long lives of laborious application could alone entitle them to aspire.

Greatly as the abandonment, through despair, of his opposition to the Bill by the Bishop of London delighted us, as the first assurance of victory on the side of truth and liberty, we regretted that it abridged and almost stopped in its commencement the speech of that wise lawyer and liberal politician, Lord Campbell. But his speech is memorable and praiseworthy as containing, on the authority of a great lawyer, an explicit denial of the Bishop of Exeter's assertion, that Unitarians are still by their heresy guilty of a legal offence.

During Lord Cottenham's speech, several conferences took place

amongst the Bishops. It has since appeared that the Bishop of Exeter was earnestly solicited by his brethren not to divide the House. Some of the Prelates left before the close of Lord Cottenham's speech, and the rest, except the Bishop of London, left the House as soon as it was announced that there was to be no division. The Bishop of Exeter, however, soon returned, and gave utterance to a vociferous "Not content," when the Lord Chancellor put the question for going into Committee.

Of the merits of Lord TEYNHAM's speech (if merits it had), we will not profess to speak. The tedious drawl, the unnatural elongation of emphasis on certain words, and the perpetual introduction of quaint but unimportant words, more redolent of the pulpit of the Plymouth Brethren (amongst whom his Lordship is reputed to exercise his ministry) than of the dignity of the Senate,—these peculiarities, we confess, threw an air of ridicule over the speech, which prevented our listening to it with any gravity. Throughout it and the speeches of the two Bishops, we detected a strong smack of Mr. Cook Evans' pamphlet. Lord Teynham fairly exhausted the patience of the House, —so that Lord Mountcashel, whose religious zeal was boiling over and prompting him to speak, was compelled to defer the display, and to reserve it for the small but pious and charitable audience who, a few days after, assembled at a little chapel in Oxendon Street to make violent speeches and pass resolutions, not abounding in truth, against the Bill.—While Lord Teynham was addressing the House, two reverend and diplomaed opponents of the Bill, who had been grieved spectators of the whole night's proceedings, looked at one another in sorrow, and by mutual consent left the House, saying, "We have had enough."

PETITION TO THE HOUSE OF LORDS FROM THE NEW GRAVEL-PIT CONGREGATION, HACKNEY, PRESENTED BY THE MARQUIS OF LANSDOWNE, THURSDAY, MAY 2.

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Petition of the Ministers, Elders and Members, Subscribers and Worshipers, in the New Gravel-Pit Meeting-house, in the Parish of Hackney, in the County of Middlesex:

Humbly Sheweth,

That the Congregation to which your Petitioners belong, was formed more than a century ago, by Protestant Dissenters desirous of constituting themselves into a Protestant Dissenting Church, on the principle of Non-subscription to Articles of Faith of human composition.

That during the intervening period, they have, under a succession of able, learned and distinguished Pastors, zealously and faithfully upheld the English Presbyterian principle of liberty of conscience.

That in the year 1809, they were induced, from their number and their opulence, to erect for themselves a new and commodious Place of Worship, and to surround it with a spacious freehold Burial-ground, in providing which they have expended from first to last many thousand pounds, the whole of which was raised by themselves, without a single known contribution from any person holding what are called Orthodox opinions.

That so firmly has the Congregation adhered to the principle of Non-subscription to human Articles of Faith, that in preparing their Trust-deed

they resolved to insert no creed, as binding their posterity, but left the Meeting-house and its appurtenances to the operation of the English Presbyterian principle of the right of private judgment both to individuals and congregations.

That your Petitioners' Place of Worship is endeared to them, not only as valuable property, but also as connected with their deepest and most solemn religious feelings and expectations,—the ample Burial-ground which is inalienably attached to it being the sacred depository of the remains of upwards of three hundred and fifty of their nearest relations and dearest friends.

That at the time of the erection of the Meeting-house, there were penal Laws against Unitarians, whose general opinions the Congregation held and acted upon, standing in the Statute-book; but that your Petitioners felt themselves safe under the shelter of public opinion, and regarded all such Laws as a dead letter, which no party, of Protestant Dissenters especially, could possibly wish to revive.

That in the year one thousand eight hundred and thirteen, the penal Laws above alluded to were all repealed by the Legislature, and that your Petitioners thenceforwards considered themselves not only practically but also legally secure, in possession of religious property of their own creation.

That your Petitioners learn with surprise and dismay, that, in consequence of certain legal decisions in the Equity Courts, a construction is put upon the law whereby your Petitioners and others similarly circumstanced are rendered amenable to the aforesaid penal Laws, as if they were still in existence; and that they are liable to the annoyance and expense of litigation from the bigotry and cupidity even of strangers residing in distant parts of the empire.

That your Petitioners cannot for a moment apprehend that it is the will of the Government, the Legislature, or the People, of this free and enlightened Kingdom, that they should be thus deprived of legal toleration in their faith and worship,—and, as the consequence, be stripped of, or troubled in, the possession of their religious property; and they therefore pray that your Right Honourable House will cause to pass into a Law, the Bill now before your Right Honourable House for quieting congregations, such as that of your Petitioners, in the possession of property of their own raising, and to which no individual, and no party in the land, besides themselves, can have any just or even intelligible claim.

And your Petitioners will ever pray, &c.

Signed by ROBERT ASPLAND, Pastor of the Congregation Thirty-nine years, and nearly Three Hundred Members of the Congregation.

DEBATE IN THE HOUSE OF LORDS, MAY 9, 1844, ON THE THIRD READING OF THE BILL.

THE LORD CHANCELLOR moved the third reading of the Dissenters' Chapels Bill.

The BISHOP of EXETER said, before their Lordships read the Bill a third time, he was anxious to ask the noble and learned Lord on the woolsack a question in reference to what had fallen from the noble and learned Lord when this subject was under their Lordships' consideration the other evening. He wished to know what was the meaning of the words "usage of the congregation"?

The LORD CHANCELLOR replied, that he meant by the term "usage of the congregation," doctrines which had been preached

before that congregation, or in that chapel, for a series of years; doctrines which had been inculcated in that chapel for a certain period of time.

The BISHOP of EXETER said, he should have thought the usage of the congregation the usage of the preacher. He wished to state to their Lordships, before they agreed to the third reading of the Bill, a case of great hardship. The particulars of this case had not come to his knowledge until very recently. He had the best authority for his statement, viz., a clergyman of the Church of England, who took a deep interest in the question before their Lordships. It was stated that the Unitarians in the south of Ireland were, generally speaking, most hostile to the Church, and would go every possible length in their support of repeal at this moment. Therefore, he maintained that the gentleman who stated the facts to him (the Bishop of Exeter) did not go out of his way, notwithstanding he was a minister of the Church of England, having felt a deep interest in the question under the consideration of the House. He wished to state a fact connected with a chapel situated in the city of Cork. He thought the matter important, and wished the noble and learned Lord would direct his particular attention to it. In the city of Cork there is an ancient chapel, built in 1790. In Ireland, there was no Toleration Act for thirty years after the Toleration Act had been adopted in this country. In 1719, the Toleration Act passed, which allowed persons entertaining doctrines opposed to the Holy Trinity to publicly expound their views. The chapel in question was built by the Trinitarians, and five separate endowments were granted to it. At a subsequent period, two preachers were appointed to this chapel, holding Trinitarian opinions, the Synod of Munster requiring a subscription to those doctrines. Both ministers, up to a recent period, were Trinitarians. Thirty years ago, a gentleman was appointed as minister of this Presbyterian chapel, who launched out boldly in favour of Unitarian doctrines. He was followed by a minister who was more guarded in the statement of his opinions. He did not at first deny the doctrine of the Trinity, but he soon broached Unitarian opinions. The other minister had been strictly Trinitarian. According to the doctrine laid down by the noble and learned Lord in the Bill before the House, if certain uniform doctrine should have been preached for thirty years in a particular chapel, it should be considered tantamount to a legal right. Now, how would the doctrine of the noble Lord apply to this particular case? Here, in a particular chapel at Cork, were two ministers, one a Trinitarian, and another an Unitarian. How would he apply his principle to this case? The noble and learned Lord said that the preaching of the doctrine should be considered as conclusive evidence of the usage of the congregation. He trusted that the noble and learned Lord would gratify his curiosity by giving his opinion upon the anomalous case which he (the Bishop of Exeter) had cited. [From the position in which the Right Reverend Prelate stood when he addressed the House, it was with great difficulty that the exact import of his observations could be heard with any thing like distinctness in the gallery.]

The LORD CHANCELLOR said, that the question before their Lordships had nothing to do with the Repealers or the Anti-Repealers.

With reference to what had fallen from the Right Rev. Prelate relative to the feeling which existed among the Presbyterians in Ireland, all he (the Lord Chancellor) could say was, that a large body of the Presbyterians were opposed to the Bill, but by far the larger number were in favour of it passing into law. With regard to the particular case of hardship, as it was termed by the Right Rev. Prelate, he (the Lord Chancellor) knew nothing in relation to it. Should the statement of the Right Reverend Prelate be correct, the particular chapel referred to would come under the operation of the existing law, and not under this Act, unless there had been in the chapel for 25 years a uniform preaching of certain doctrines.

The BISHOP of EXETER said he had another question to put to the noble and learned Lord. (Laughter.) He was sorry to be so troublesome. Where there were no express doctrines taught in the chapel, and no deeds of trust, something else must be taken, What would be the rule under such circumstances?

The LORD CHANCELLOR.—I wish the Right Rev. Prelate to put all his questions at the same time. (Great laughter.)

The BISHOP of EXETER said he preferred taking a different course.

The LORD CHANCELLOR said, that the law at present in existence would apply to the case put to him by the Right Rev. Prelate; but he did not believe in the existence of such a case.

The BISHOP of EXETER regretted that the noble and learned Lord should, upon the anonymous authority of the noble Lord with whom he (the Lord Chancellor) had just been conferring, contradict the statement which he (the Bishop of Exeter) had thought it his duty to make to their Lordships. He hoped the noble Lord would have the manliness to rise in his place and state to their Lordships upon what authority he impugned the facts which he (the Bishop of Exeter) had brought under the notice of the House.

Lord MONTEAGLE said, that his contradiction of what had fallen from the Right Reverend Prelate did not rest upon any anonymous authority. It rested upon the authority of a public document which he (Lord Monteagle) had the honour to lay upon the table of the House in the shape of a petition. That document was upon the table of the House and was accessible to the Right Rev. Prelate, and he begged him (the Bishop of Exeter) to refer particularly to it, and he would find that it afforded a complete contradiction to the statement which he had made to the House. The Rev. Dr. Hincks was elected in the year 1790 by this particular congregation from a college in England, a place purposely appropriated for the education of persons professing Unitarian opinions. He was introduced as an Unitarian minister—as a person known to entertain those doctrines. He remained a number of years as the minister of that place. He was respected to the highest possible degree. Although that Rev. gentleman continued attached to his opinions, he had brought up two of his sons as clergymen of the Church of England. One of those clergymen (as we understood the noble Lord) was stationed in the north of Ireland, and the other was connected with an institution at Belfast. He had mentioned these facts to the noble and learned Lord

on the woolsack, but his (Lord Monteagle's) authority was not, as the Right Rev. Prelate represented, an anonymous one.

The BISHOP of EXETER said, the question was, whether the authority of the noble Lord would contradict the assertion of his (the Bishop of Exeter's) informant, that at this moment there were two ministers connected with a Presbyterian chapel at Cork, one holding Unitarian and the other Trinitarian doctrines.

Lord MONTEAGLE said that he could give a distinct contradiction to the statement made by the Right Reverend Prelate to the effect that a gentleman had been introduced as minister to the chapel, who had gradually and by degrees introduced Unitarian doctrines into the pulpit—doctrines opposed to those which he professed at the period of his appointment, and contrary to the express object of the founders of the chapel. Such was not a correct statement of facts. The gentleman in question was known to be an Unitarian—he came from a place established for the education of Unitarians; he was taken from that place and appointed to the chapel, and for many years he continued there, highly respected by the congregation.

The BISHOP of EXETER said he held in his hand a proof of the accuracy of his statement. When Dr. Hincks was chosen in 1790, the Munster Presbytery refused to ordain him, and, therefore, Dr. Hincks did not officiate as minister in this chapel at Cork. He was finally ordained by the Dublin Presbytery, and remained in Cork till 1814. He maintained that his statement was not proved to be contrary to fact. Two gentlemen preached in the chapel at Cork,—one a notorious Unitarian, and the other holding Trinitarian doctrines. The main allegation he had made was, that there were, for a long period of years, two preachers in the chapel at Cork, one of them being a Trinitarian, and the other an Unitarian.

The Earl of WINCHILSEA said that the Right Rev. Prelate (the Bishop of London) had the other night advanced arguments against this Bill which he considered unanswerable, and no attempt had been made to reply to them. The object he had in rising to-night was to place upon the records of their Lordships' House his decided hostility to this measure. He could assure their Lordships that, with great deference to the opinion of the noble and learned Lord on the woolsack, to whom he was, generally, most ready to give his support on questions of a judicial nature, nothing but a most conscientious conviction that this measure was not founded in equity and justice, and was at direct variance, in a civil and religious point of view, with the best interests of the country, would have induced him to put his opinion upon record. A wholesome practice had prevailed in the courts of equity, that where the intention of a testator could be discovered, that intention should be fully carried out. Now, he was prepared to contend that the great body of the meeting-houses affected by this Bill had been endowed by Trinitarians, and for Trinitarian purposes, although that might not be clearly expressed in the trust deeds. He made this assertion advisedly and distinctly, because he was prepared to shew that nine-tenths of these endowments were made before Socinianism or Unitarianism had a legal existence in the country. Could their Lordships conceive that the founders of these endowments had the slightest intention that those endowments should

be applied to the support of Socinianism or Unitarianism? He begged to remind their Lordships of a case in which two gentlemen had vested the sum of £10,000 in the hands of trustees, the interest of which was to be applied after their death to the relief of the widows of members of the corporation of Oxford. But, subsequently to the execution of the deed, the Test and Corporation Acts were repealed, and Dissenters were admitted members of that corporation, as well as of all other corporations in the kingdom. These gentlemen, who were then living, one of them, he believed, being 84 years of age, and the other 82, found that, under these circumstances, the widows of Dissenters would be equally entitled to relief from this fund with the widows of members of the Established Church; and they applied to a noble relative of his (Lord Winchilsea's) to ascertain how they might confine the appropriation of their property to the widows of members of the Established Church. It was suggested that the trustees might surrender their trust, and that a new trust might be created. This was done; and in the new trust a clause was inserted to prevent the property from being applied to the relief of Dissenters' widows, which otherwise would have been the case. He thought no one would suppose that any orthodox Trinitarian ever intended that his property should be applied to the support of Unitarianism. This measure might have been just and fair, if the noble and learned Lord had confined it to cases in which endowments had been made since the passing of the acts legalizing Unitarianism; because then it would have been the fault of the testators or founders that they had not taken legal means to prevent their property from being applied to the support of Unitarianism. He was, however, compelled to say that he did differ very materially from the noble and learned Lord on the woolsack as to the justice and propriety of this Bill, not only in a civil, but in a religious point of view. The orthodoxy of the Trinitarian Dissenter, who held the great doctrines of Christianity, was acknowledged. They held him to be, what he (the Earl of Winchilsea) would never allow the Unitarian Dissenter to be, as true a Christian—taking the Bible as his rule of faith—as any one could be. He (the Earl of Winchilsea) had always contended that a man who denied the divinity of Christ could not be considered a Christian. He who denied the divinity of the Son denied both Father and Son—the very doctrine of the Trinity, and they were expressly commanded in Scripture not to bid any one who preached such a doctrine God-speed. On these grounds, therefore, he opposed the present Bill.

Earl FITZWILLIAM said he thought their Lordships, as a body, were not very well constituted for the discussion of purely religious questions; but as Legislators, it was their duty to deal with the different religious sects into which the country was divided. He wished to express his gratitude to the Right Rev. Prelate (the Bishop of Exeter), who, as he conceived, had rendered a great public service on this occasion. He also considered that the noble and learned Lord on the woolsack had done a great public service in bringing forward this measure; and he conceived also that their Lordships had done a great public service in agreeing to the second reading of this Bill, and he trusted they would now concur in its third reading. He thought that, by agreeing to the second reading, they had borne

ample testimony to the solidity of their judgments and the firmness of their minds. He agreed with his noble kinsman opposite (the Earl of Winchilsea) that a more powerful speech had seldom been delivered in their Lordships' House than that of the Right Reverend Prelate (the Bishop of London) the other evening; and he thought their Lordships' firmness of mind was evinced by their agreeing to the second reading of this Bill, notwithstanding the powerful arguments brought to bear upon the question by that Right Rev. Prelate. He felt extremely grateful to the Right Rev. Prelate opposite (the Bishop of Exeter) for having exercised the office of catechist to-night; and he did not think the Right Rev. Prelate had pushed his questions at all too far. He quite agreed with the Right Rev. Prelate that the expression "usage of the congregation," in the present Bill, required explanation. He (Earl Fitzwilliam) was not prepared, certainly, for the answer which had been given to the questions of the Right Rev. Prelate. He could not think the usage of the congregation was, in the strict sense of the term, to be determined by the doctrine of a preacher who might either on a particular occasion, or during the course of a long ministry, expound his opinions to the congregation. Though it might be probable that a preacher of skill, of ability and of eloquence, might, during his ministry, bring his congregation to adopt the opinions he advocated, yet he (Earl Fitzwilliam) could not agree that the term "usage of the congregation" was to be construed to mean the doctrines inculcated by the preacher. He thought their Lordships were acting with great wisdom in placing in the hands of the congregation to whom this Bill referred—he had nothing to do with the question whether they were Trinitarian or Socinian—the chapels in which they had been accustomed to worship. He was glad that their Lordships had passed this Bill through its previous stages with so much unanimity. (A noble Lord made an observation which was inaudible in the gallery.) A noble Lord said, their Lordships had not concurred unanimously in the adoption of this measure. At all events, no division had taken place, the Right Rev. Prelates opposite even not having thought fit to divide the House.

Lord KENYON said, it seemed to him that the short statement of the case was this:—that the noble and learned Lord on the woolsack, for the sake of preventing litigation—which from that noble and learned Lord's own statement appeared as likely to be continued under the present Bill as it had been for a long course of years—wished to persuade their Lordships to enact that certain persons, using certain chapels, should retain those chapels for the inculcation of opinions differing from those of the persons by whom such chapels were founded. The noble and learned Lord had stated to-night that in a case mentioned by the Right Rev. Prelate this Bill would not apply. He (Lord Kenyon) conceived there were probably many cases to which the Bill would not apply. Their Lordships had already determined judicially that this principle should be acted upon —that these chapels should be placed in the hands of persons who entertained religious opinions in accordance with those of the founders, so far as the opinions of the founders could be ascertained. There were at least 300 chapels in the counties of Lancaster and Chester, with respect to which this question would probably be raised,

if their Lordships did not interfere legislatively to prevent justice from being done. He was determined to maintain the true Christian doctrine which had existed in this country for so many ages, and he should therefore feel it his duty to take the sense of the House on this question.

The Earl of MINTO wished to say a word as to the charge which had been made by the Right Rev. Prelate opposite (the Bishop of Exeter) against a very respectable portion of the community. He thought, as the Right Rev. Prelate appeared to have been misinformed on several points, he must have acted upon incorrect information when he asserted that the Unitarians in the south of Ireland entertained feelings of disaffection towards the Government, and were favourable to the repeal agitation. He (the Earl of Minto) was acquainted with many Unitarians in England who were able, temperate and learned men. He did not know how far the character of the Irish Unitarians might differ from that of the Unitarians of England, for he had never had the good fortune to mix with them; but he thought that the Right Rev. Prelate must have been misinformed when he stated that they were remarkable among Dissenters for the unfriendly feeling they entertained towards the Church, and for their support of the repeal agitation. He (the Earl of Minto) knew that one of the strongest opponents of repeal in Ireland was a gentleman who held Unitarian principles.

The Bishop of EXETER hoped he might be allowed to say a few words in reply to the charge that he had, without authority, made a statement affecting the character of individuals, of whom the noble Earl who complained of that statement admitted that he knew absolutely nothing. He (the Bishop of Exeter) had stated, upon the authority of the gentleman whose name he had before mentioned, that the Unitarians in Cork and in the south of Ireland were advocates of repeal, and that they were most prominent—speaking of them as a body—in opposing the interests of the Established Church. Whether or not his informant was worthy of credit, he left it to their Lordships to judge. The noble Earl had charged him with acting upon erroneous information; but the reverse had been the case. The noble Lord (Lord Monteagle) had contradicted him because he thought he was speaking of a Mr. William Hincks, who had been a minister of the chapel for only 10 months, while he was alluding to Dr. Hincks, who was minister of the chapel in 1790.

The Earl of MOUNTCASHEL said, he thought this Bill was not only a measure of spoliation, but one for the misapplication of trusts, and on these grounds he opposed it. He considered that it would inflict great injustice on a highly respectable, influential and orthodox body of Christians. In the lapse of years the same principle might be applied to the Established Church of this country. He begged to remind their Lordships that large sums of money had been collected for building churches, which had been vested in the hands of trustees. Did their Lordships know in what terms the trust-deeds were drawn? Were they drawn in such specific terms as to exclude from the possession of the churches supporters of a new doctrine which had lately been promulgated in the Church, and which was gaining considerable ground? With respect to the costs attending

the litigation of these questions, although the noble and learned Lord (the Lord Chancellor) had estimated them at £30,000 in Lady Hewley's case, he (Lord Mountcashel) had authority for saying that they amounted to a much smaller sum. He had an extract of a letter from a solicitor at Manchester, stating, on the authority of Dr. Cooke, Moderator of the Synod of Ulster, that the costs in that case were only about £6,000. If any argument, therefore, had been founded upon the expense, it amounted to nothing. He protested against the Bill, and, if no other Peer did, he would divide the House upon the question. He had pledged himself to do so, in order that the public and the world might know his opinion and that of other Peers.

Lord TEYNHAM said, he agreed that something ought to be done, and if any parties could shew that they were aggrieved, and would consent that the question should be settled by arbitration, some method might be devised for that purpose, that numerous properties might not be frittered away and lost in law proceedings. But this Bill was not the thing which in justice ought to be done. He opposed the Bill because it was an unjust one, and because the noble and learned Lord could not produce one single precedent or authority in favour of the Bill. He could not cite himself in favour of it, nor the opinions of the twelve Judges at the bar of the House, nor the opinion of the House itself sitting as a court of equity, nor the principle of the Toleration Act, nor that of the 19th George III. One strong objection to the Bill was, that, by passing it, the Legislature would deal with all trust-property of Dissenters, and in order to meet a case affecting a small minority of charitable trustees, all such trusteeships were to be interfered with. The Bill virtually repealed the 19th of George III., and limited the freedom of religious opinions. On these grounds he opposed the Bill.

Their Lordships then divided, when the numbers were—

Content	44
Not content	9
Majority in favour of the Bill	35

On our return, the LORD CHANCELLOR was putting an amendment moved by Lord COTTENHAM, which was agreed to.

The Bill then passed.

The BISHOP of EXETER wished to state the reason why he had not voted with the noble Earl against the third reading of this Bill. He knew that most of the Right Rev. Prelates were attending a charity festival, and he did not wish to appear over-zealous in recording his vote, which could have no effect upon the fate of the Bill.

The Marquis of CLANRICARDE thought it would be desirable that the 21st order of the House should be strictly observed, which required that after the question was put, no noble Lord should quit his place. In the House of Commons, if a member remained in the House, he was required to vote, and he thought the rule should be enforced in this House.

The Earl of WICKLOW observed that the Right Rev. Prelate had proceeded to the foot of the Throne, and therefore he was not properly in the House.

The Marquis of CLANRICARDE said, the Right Rev. Prelate was certainly in the House, though not in the body of the House.

The BISHOP of EXETER said, he had done no more than was done by noble Lords every night, and by the noble Marquis himself. If the noble Marquis, however, meant to be a purist, he might be so.

The Marquis of CLANRICARDE said, he did not pretend to be a purist, but wished to secure respect to their proceedings both inside and outside the House.

The Earl of SHAFTESBURY read the 21st order, to the effect, "that after the question was put, no noble Lord should go out of his place, unless there was a division upon the question." It was customary for noble Lords, when they did not mean to vote, to go to the foot of the Throne. In the House of Commons, the doors were shut on a division, and no member was permitted to go out of the House, and all members in the gallery, and even in the lobby, were brought in and compelled to vote.

The Marquis of CLANRICARDE thought it would be better for the Standing Orders Committee to take the matter into consideration.

The conversation here dropped.

LIST OF MINORITY.

Mountcashel.	Brownlow.	Boston.
Combermere.	Cholmondely.	Arden.
Winchilsea.	Teynham.	Kenyon.

PROCEEDINGS IN THE HOUSE OF LORDS, APRIL 26, 1844.

(We are obliged to bring in this Report irregularly, but we reckon it of too great importance to be omitted.)

The Marquis of Lansdowne, on rising to present some petitions in favour of the Bill, said it was not his intention to anticipate by his remarks the debate on the Bill fixed for its second reading on that night. He would, however, call their Lordships' attention to the petitions he held in his hand, some of which had this peculiarity—they came not from Unitarians, who were particularly interested in and to be benefited by the Bill, but from members of the Established Church, and from Dissenters holding orthodox opinions, who, differing most widely from their Unitarian neighbours in matters of opinion, were yet willing and anxious to protect them in the exercise of that important right which belonged to every Protestant,—the right of private judgment,—and in the possession of property which they had inherited from their fathers, and of which he must add he considered it very unjust that they should be deprived. He thought the conduct of these orthodox petitioners highly honourable to them ("Hear, hear," from Lord Brougham), and deserving of the highest praise. There was one petition he would now present of a different character. It came from a gentleman well known to several of their Lordships, especially to those connected with the north of England,—a gentleman who was probably the oldest living Dissenting minister,—the Rev. William Turner, late of Newcastle-on-Tyne. This gentleman, in petitioning your Lordships to pass the Bill for the protection of

Dissenters' chapels, states that he himself, his father and his grandfather, (the latter of whom was born in the year after the Revolution of 1688,) had exercised their ministry amongst the English Presbyterians—that he knew from conversations held with his father, and by family documents, that it had ever been the practice of the English Presbyterians to abjure subscription to creeds and articles of faith—and that he and they had always maintained the right of private judgment. His Lordship then proceeded to present the petitions.

PETITIONS.

THE following is an analysis of the petitions presented to the House of Lords, as appears by the votes of the House:

	In favour of.	Against.
English.....	187	47
Irish	85	144
Scotch	1	41
Unascertained	2	4
Total....	275	236

Total number of petitions, 511—Majority in favour of the Bill, 39.

THE BILL AS BROUGHT DOWN TO THE HOUSE OF COMMONS.

DISSENTERS' CHAPELS.

A BILL INTITULED, AN ACT FOR THE REGULATION OF SUITS RELATING TO MEETING-HOUSES AND OTHER PROPERTY HELD FOR RELIGIOUS PURPOSES BY PERSONS DISSENTING FROM THE UNITED CHURCH OF ENGLAND AND IRELAND.

(Brought from the Lords, 10 May, 1844.)

(Ordered by the House of Commons to be printed, 10 May, 1844.)

WHEREAS an Act was passed in the first session of the first year of the reign of King *William* and Queen *Mary*, intituled "An Act for exempting Their Majesties' Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws:" And whereas an Act was passed in the nineteenth year of the reign of King *George* the Third, intituled "An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters:" And whereas an Act was passed in the fifty-third year of the reign of King *George* the Third, intituled "An Act to relieve Persons who impugn the Doctrine of the Holy Trinity from certain Penalties:" And whereas an Act was passed by the Parliament of Ireland in the sixth year of the reign of His Majesty King *George* the First, intituled "An Act for exempting the Protestant Dissenters of this Kingdom from certain Penalties to which they are now subject:" And whereas an Act was passed in the fifty-seventh year of the reign of King *George* the Third, intituled "An Act to relieve Persons impugning the Doctrine

of the Holy Trinity from certain Penalties in Ireland :" And whereas prior to the passing of the said recited Acts respectively, as well as subsequently thereto, certain Meeting-houses for the worship of God, and Sunday or Day Schools (not being Grammar Schools), and other charitable foundations, were founded or used in England and Wales and Ireland respectively, for purposes beneficial to persons dissenting from the Church of England and the Church of Ireland and the United Church of England and Ireland respectively, which were unlawful prior to the passing of those Acts respectively, but which by those Acts respectively were made no longer unlawful: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That with respect to the Meeting-houses, Schools, and other charitable Foundations so founded or used as aforesaid, and the persons holding or enjoying the benefit thereof respectively, such Acts, and all deeds or documents relating to such charitable Foundations, shall be construed as if the said Acts had been in force respectively at the respective times of founding or using such Meeting-houses, Schools, and other charitable Foundations as aforesaid.

II. And be it enacted, That in all cases in which no particular religious doctrines or opinions or mode of worship shall, in the deeds declaring the Trust of any such Meeting-house as aforesaid, be in express terms required to be taught therein, the usage of twenty-five years of the Congregation frequenting such Meeting-house shall be taken as conclusive evidence of the religious doctrines or opinions or mode of worship for the preaching or promotion whereof the said Meeting-house, with any Burial-ground, Sunday or Day School, or Minister's house, attached thereto, and any Fund for the benefit of the Minister or other officer of such Congregation, or the Widow of any such Minister, was established, founded or given.

III. Provided always, and be it enacted, That nothing herein contained shall affect any right or title to property derived under or by virtue of any Judgment, Order or Decree already pronounced by any Court of Law or Equity; but that it shall be lawful for any defendant or defendants in any other action or suit which may be pending at the time of the passing of this Act, for whom the provisions of this Act would have afforded a valid defence if such action or suit had been commenced after the passing of this Act, to apply to the Court wherein such action or suit shall be pending; and such Court is hereby authorized and required, upon being satisfied by affidavit or otherwise that such action or suit is so within the operation of this Act, to make such order therein as shall give such defendant or defendants the benefit of this Act; and in all cases in which any action or suit now pending shall be stayed or dismissed in consequence of this Act, the costs thereof shall be paid by the defendants, or out of the property in question therein, in such manner as the Court shall direct.

THE BILL IN THE COMMONS.

The Dissenters' Chapels' Bill was brought down from the Lords to the Commons on Friday evening, May 10th. It was, on the motion of Sir George Clerk (Secretary of the Treasury), read a first time, and Sir Robert Peel named Friday, the 17th, as the day for the second reading. Mr. C. Hindley objected that the time was very short, and stated that the Bill was attracting much attention out of doors.

Tuesday, May 14.

Sir R. Inglis, in reference to this Bill, asked whether the right hon. Baronet (Sir R. Peel), who gave notice of moving its second reading on Friday, would place it amongst the orders of the day, or amongst the Government orders? He hoped the Bill would not be pressed on Friday, considering that it had been only a week in the hands of members.

Sir R. Peel.—Only one week! Well, I consider that a pretty good allowance for the consideration of the measure. It might happen that he should not be able to bring it on on Friday at all, but if he did not bring it on before 10 o'clock on that day, he would defer it to some future day.

Sir R. Inglis said, when he said a week, he meant it had been in that House only a week. The fact was, the printed Bill was not in the hands of members till within the last 24 hours.

Thursday, May 16.

Sir Thomas Wilde, alluding to the important changes which this Bill had undergone at the last stage in the House of Lords, inquired whether the right hon. Baronet would press the second reading of the Bill to-morrow, or would pospone it till after the Whitsuntide holidays?

Sir Robert Peel had arranged that the Bill should not be read on the 17th, unless it could be taken before 10 o'clock. As to the second reading, however, he trusted there would be no objection, and the discussion could be taken at a future stage, for which he would take care there should be ample time for consideration after the Whitsuntide holidays. He had been induced to bring in this Bill from his desire to prevent mischievous and harassing litigation between religious bodies; and he looked upon the question as one in which the Church of England was not affected.

Sir T. Wilde said it was very important that there should be time for discussion.

Lord Jocelyn reminded the right hon. Baronet that there were many Presbyterians from Ireland staying in town on this Bill.

Dr. Bowring hoped the right hon. gentleman would also recollect that very many persons hoped the Bill would pass without delay.

THE JOURNALS AND PERIODICALS.

The *Morning Advertiser*, the *Weekly Dispatch*, the *Bolton Free Press*, the *Northern Whig*, the *Inquirer*, the *Kendal Mercury*, the *Leeds Times*, the *Dover Chronicle*, the *Glasgow Chronicle*, have

published various articles in support of the Bill, which we regret that we cannot bring into our Reporter.

The following have contained articles against the Bill, with more or less of talent, misrepresentation and malignity ; viz., the *Times*, the *Patriot*, the *Morning Herald*, the *Standard*, the *Watchman*, the *Wesleyan Chronicle* and the *Record*.

The "*Inquirer*" of May 11th, 1844, contains an exposure and refutation of the charges brought by the Bishop of Exeter, on some clerical authority, in his speech in the House of Lords, May 9, against the venerable Dr. Hincks, of Belfast.

The *Patriot* of May 16, closes a furious article with asking, "Will even the present House of Commons sanction such VILLANY?" but, recollecting, perhaps, some of its former "predictions," it wisely withholds any answer to the question.

The *Congregational* for May fires guns of distress.

The *Christian Observer* (Evangelical Church) hopes the "most noxious Bill will be withdrawn or rejected."

The *Christian Guardian* publishes a letter from H. Cooke, Moderator of General Synod of Ulster, stating the grounds of his opposing "the so-called Dissenters' Chapels' Bill," and visiting London for that purpose.

RENEWED RESOLUTION OF DEPUTIES (TWO, CALLING THEMSELVES "THE THREE," DENOMINATIONS).

(From the "Patriot," May 13.)

At a Meeting of the Deputies of the several congregations of Protestant Dissenters of the Three Denominations, Presbyterian, Independent and Baptist, in and within twelve miles of London, appointed to protect their civil rights—JOHN REMINGTON MILLS, Esq., in the Chair,—it was resolved,

That this Deputation, having had its attention recalled to the Dissenters' Chapels' Bill, feels itself called upon to express its decided opposition to the passing of any such measure, and earnestly calls upon the several congregations and religious societies, both in the metropolis and throughout the empire, immediately to meet and adopt Petitions to the House of Commons against the passing of the said Bill, and to use all their influence, by memorial and personal application to their respective representatives, to prevent so unjust and unconstitutional a measure from obtaining the sanction of the House of Commons.

PROTEST OF DISSENTIENT DEPUTIES.

WE the undersigned *Deputies of Protestant Dissenting Congregations* of the Three Denominations in and near London, appointed to protect their Civil Rights, hereby enter our *Protest* against a Resolution passed at a General Meeting of this Body, held by adjournment on Thursday, 9th May, 1844, whereby, after debate and division, it was determined to continue the opposition of this Deputation to the passing of the above Bill into a law—for the following *Reasons:*

First:—Because this Body is united solely for the maintenance and advancement of the civil rights of Protestant Dissenters, and there-

fore any proceedings adverse and hostile to one of the three parties, whose mutual interests this Deputation is united to promote, is unconstitutional; and it is peculiarly improper and indecorous to employ the Funds of this Body in originating and sustaining among the English Dissenters an opposition to the measure now before Parliament—a purpose manifestly inconsistent with those for which the Funds were created.

Second:—Because the disunion among Dissenters, exhibited in such Resolution, and in the adverse proceedings thereby recommended, is calculated to defeat and obstruct the common objects for which this Body is constituted, and to injure the cause of Religious Liberty.

Third:—Because although the undersigned differ in theological opinion from each other, yet inasmuch as the present holders of the property affected by this Bill are the direct representatives of its Founders, and such property has been continuously handed down from one generation to another, and has, in the absence of any express doctrinal trust, for a long period of time been used for the religious purposes to which it is now devoted, it would in our opinion and judgment be a grievous injury and moral injustice to sacrifice the personal rights and feelings of living men to the *supposed* peculiar doctrines of their remote ancestors, and still more to the rigid exigencies of a technical rule of law.

(Signed)

John Cooper	Thomas Box, and for other Reasons*
James Coppock	Edward Lankester, ditto
John Evans	Ebenezer Clarke, for First, Second and another Reason*
Nathaniel Gill	Isaac Sewell, for the First and Second Reasons
George Eagles Marsden	Benjamin Cooke, for Second Reason.
John Pratt	
Thomas Ritchie	
William Rouse	
P. A. Taylor	

"USURPATION" BY THE INDEPENDENTS.

(From the "Inquirer," May 11, 1844.)

To the Editor.

Dear Sir,—The principle laid down by the Independents who oppose the "Dissenters' Chapels' Bill," is, "that the *intention of the founders*, where it can be ascertained by means consistent with the rules of legal interpretation, shall govern and regulate the administration of charitable trusts IN ALL FUTURE TIME." Allow me to give you an illustration of the mode in which they act out the principle for which they so strenuously contend.

On Thursday last I was at Modbury, (twelve miles from Plymouth,) and went into the old chapel in which Henry Moore used to preach, where I found a schoolmaster surrounded by his pupils. Mr. Moore became minister at Modbury in 1757, and removed thence

* These Reasons will be hereafter subjoined.

to Liskeard, in Cornwall, in 1788. He was the author of some of our most beautiful hymns, and of several articles in the two volumes of "Commentaries and Essays, published by the Society for Promoting the Knowledge of the Scriptures." (See Murch's "History of the Western Churches," p. 511.) I may also mention that Mr. H. Moore was an uncle of two ladies who are members of my congregation, on whose testimony, as well as that furnished by his writings, we can unhesitatingly assert that he was not a Trinitarian. The chapel in which he used to preach, however, has recently been "usurped" by the Independents, who have CONVERTED IT INTO A SCHOOL-ROOM. The *pulpit* is still standing, as if to proclaim to every visitor the inflexible honesty and unvarying consistency with which Independent trustees adhere to their avowed principle that "*the intention of the founders* should regulate the administration of trusts IN ALL FUTURE TIME." A gentleman of Modbury informed me that there were some funds connected with the chapel, which had been left by an old lady many years ago, doubtless for the support of *public worship*, and not for the maintenance of a *day-school*. But how these funds are applied I have no means of knowing.

Were the Independents to succeed in taking from us the chapels we now possess, they would probably, in other instances, adopt a similar mode of fulfilling "the intentions of the founders." And as for the endowments, we know who said—"We can take Unitarian money, and apply it to *better purposes*."

I am, dear Sir, yours truly,

Plymouth, May 8, 1844. W. J. ODGERS.

[We have been furnished by a friend with a list of the chapels of the Presbyterian denomination in and about London, with a view to shewing how many of them have been occupied by the Independents. ED. OF INQUIRER.]

Saturday, May 18, 1844.—IN closing the present No. (III.) of "Presbyterian Reporter," we hoped to be able to report some progress in the Bill in the House of Commons: other important matters of discussion, however, prevented its being considered last night, and we must now contemplate the Bill as lying over the Whitsun-holidays. A great number of Petitions, chiefly in favour of the measure, were presented last night. The opponents of the Bill, amongst whom we regret to say the Committee of the "Baptist Union" have now enrolled themselves, will, no doubt, make every possible exertion to prevent *the repealed penal statutes against* Unitarians being a dead letter.

Editor's P. S.—Amongst the mass of matter before us, we have found it difficult to make a selection, and have been constrained to leave out many articles and documents which we wished to bring in. So badly is the presentation of Petitions reported in the newspapers, and even so imperfectly in the Votes, of the House of Lords at least, that we have not been able hitherto to make out lists to our satisfaction. We shall attempt this for a future No.

THE PRESBYTERIAN REPORTER,

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. IV.

PROCEEDINGS IN THE IRISH COURT OF CHANCERY, ON THE EUSTACE-STREET MEETING-HOUSE, DUBLIN.

(From the Notes of the Short-hand Writer.)

THE ATTORNEY-GENERAL AT THE RELATION OF GEORGE MATHEWS AND OTHERS, *against* THE REV. JOSEPH HUTTON AND OTHERS.

(Continued from p. 129.)

Friday, February 23, 1844.

MR. HOLMES, for the Defendants.—I submit that this Information ought to be dismissed. It is material to consider the frame of the pleadings in this case. The proceedings are by information, not by information and bill. The relators do not state that they have any interest in this fund, nor do they claim any part of it. They state themselves to be Elders of the Presbyterian congregation of Fermoy; but they do not state that that congregation claims any interest in these funds; nor does it appear that any persons whatever, designated as a congregation, or a body known in any manner, claim any portion of these funds, or any interest in this question. No person is before the Court claiming an interest in this fund, or alleging that he is injured, either individually or as a member of a body, by the defendants having the administration of this fund, as an Unitarian body. The prayer of the information is, that the Court should decree the charities to be established according to the intent of the founders, *as expressed* (and this is material) in the several deeds, wills and other instruments, according to the true construction thereof. It calls on the Court to declare that Unitarian ministers and Unitarian congregations are not fit objects of these charitable funds or congregational property; and that the defendants, holding Unitarian doctrine and belief, should be declared not to be entitled to continue in the use, enjoyment or possession of Eustace-Street meeting-house, or of any other portion of the property; and that all the objects of the original donors of the property, as expressed in said deeds and wills, may be declared entitled to participate in such property, in such manner as the Court shall direct; and that it may be declared that such Presbyterian Protestant Dissenters alone as believe in the doctrine of the Trinity and the Deity of Christ can be considered as coming within the intent of the original donors of the property, and entitled to possess it or participate in its benefits; and that the

defendants may be removed from being trustees of this property; and for an injunction against assigning the property; and for a receiver.

Thus the Attorney-General files this information without shewing any interest whatever in any specific body, either congregational or otherwise; but asks the Court to declare generally that Unitarians, as such, are not entitled to it, and that none are entitled to it except such Presbyterian Protestant Dissenters as believe in the doctrine of the Trinity. There is nothing specific in that: the Court is not asked to say that those who subscribe the Westminster Confession of Faith, or some particular articles of belief, or even that some particular congregation is entitled; but generally to declare that those alone are entitled, throughout the entire kingdom, who are Presbyterian Protestant Dissenters, and who believe in the doctrine of the Trinity. What is to be the criterion of their belief is not stated.

This being the general nature of the information, calling on the Court to deprive the defendants of this property, because they are Unitarians, and to make a declaration in favour, not of any specific body or congregation, but that none are entitled except Presbyterian Protestant Dissenters who believe in the Trinity—under these circumstances, what is the state of the defendants? The first fund was created in 1718-19; that is Damer's fund. The only doubt in this case—for it is no more than a doubt—is, whether the ministers at the time of this donation, and the congregation, believed or professed a belief in the doctrine of the Trinity; for it is clear upon the evidence, and is beyond all question, there not being any evidence on the part of the plaintiffs to the contrary, that from the death of Leland, or at all events from the death of Isaac Weld, 66 years ago, the defendants have been in the undisturbed, unquestioned, peaceable possession and enjoyment of this fund—without controversy, or question, or dispute. And it is a strong measure to file an information of this description after such a length of what I may call adverse possession by a decided Unitarian congregation;—a possession of much more than half a century; and I submit that unless the Court finds itself coerced by authority, and by the evidence in this case, it will not disturb a long possession of that kind. It is not alleged, nor could it be with truth, that, however erroneously the trustees of this fund may have administered it, they have acted otherwise than with perfect honesty, uprightness and good faith. No imputation has been attempted to be cast on them, that they have not administered this property faithfully, honestly, and according to the best of their abilities and apprehension of their duty. It has been said with reference to the last statute of limitations, that charitable trusts are not within the scope of it; but it is a principle of every Court of Equity that long possession, undisputed and undisturbed, ought to carry and have great weight with it; and that unless a perfectly clear case be made out for disturbing the possession, a Court of Equity will not be active in doing so.

The case on the part of the Attorney-General is this, that, with respect to Damer's fund, at the time of that donation the ministers of this congregation, and the congregation itself, were Trinitarian, defining their conception of Trinitarianism to be that doctrine of the

Trinity which is laid down in the Westminster Confession of Faith, in the 39 Articles of the Church of England, and in the Athanasian Creed. They are all substantially the same. On the other hand, I state that the defendants are, and that this congregation has been, from that period, Unitarians, in contradistinction to that which, for the sake of argument, I shall call the orthodox doctrine of the Trinity; for there are several doctrines of the Trinity. And I submit that after such a long period of enjoyment by this congregation, as Unitarians, a most clear and satisfactory case in point of evidence ought to be made out on the part of the relators, to satisfy the Court beyond a reasonable doubt, that at the time of the donation by Mr. Damer the clergymen of this congregation, and the congregation itself, were orthodox Trinitarians. Mr. Warren insisted that upon establishing that fact, no matter though there might be afterwards a change in this congregation and in its ministers, and though they might become confessedly Unitarian, yet that all the funds given to this charity subsequent to their becoming Unitarian, must follow the fate of the original donation, and must be considered as accretions to it. That is a distinct question from the other; and I shall submit that the mere argument of counsel, (for no decision warranting such a position has been referred to)—that the mere argument of counsel, which is all that Mr. Warren has referred to in the case he has cited, can never be an authority for this Court to establish such an extraordinary proposition. For it comes to this—that though the donors, the congregation and the ministers, be all Unitarians, and though it must have been their intention to make their gifts to an Unitarian body, yet such their intention must be defeated by force of some legal principle, and that their gifts must abide the fate of a donation made, perhaps, centuries before.

Then the first question raised before the Court—and the only evidence which has been given on the other side applies to that question—is, what was the doctrine of the clergymen and congregation of New Row, in the year 1718-19? At that time there were two ministers of that congregation, Nathaniel Weld and Dr. Leland. On behalf of the relators, there is no positive evidence whatever with respect to Nathaniel Weld; the only evidence applies to Dr. Leland, and it rests on his published works. But the relators attempt to raise a presumption, that as in 1702, the then dissenting bodies in Dublin were Trinitarians—as it appeared in a former case, that when Emlyn, in 1702, broached the doctrine of Unitarianism, it was a novelty, and was considered as such, and he was treated accordingly—they would raise the presumption, that there was no change of opinion amongst them between 1702 and 1718-19.

Lord Chancellor.—They say that Nathaniel Weld joined in deposing Emlyn.

Mr. *Holmes.*—I will take it to be so. They conclude, therefore, that he was a Trinitarian in 1702. But it is the very nature of the human mind to change its opinions upon the most important subjects, and upon religious subjects more than others. The inquiries into the subject naturally occasioned by the prosecution of Emlyn, were calculated to arouse the human mind; and we have evidence in the works of Emlyn published by his son, that in the course of a very

few years a considerable change of opinion *did* take place upon this subject. Shortly after the prosecution of Emlyn, the celebrated Dr. Clarke published his work on the Scripture Doctrine of the Trinity,—confessedly an Unitarian work, advocating Arian principles. He was, in his time, one of the most distinguished divines of the Church of England. He was one of the chaplains of Queen Anne, who appointed him to be rector of St. James's; he was celebrated as a writer of works in support of natural and revealed religion; and a work from him, of the nature of his Scripture Doctrine of the Trinity, immediately produced, as might easily be supposed, a controversy on the subject: and several works were written in answer to him. I use this topic to shew that before Damer's donation was made, this question had been greatly agitated, at least in England. We all know from history, that a week's reading and study of a question will occasion a man to change his opinions upon the most important subjects. What is the history of the Reformation? Luther was a monk; he discovered by accident a copy of the New Testament in his convent; and upon reading it, he was immediately satisfied of the corruptions of the Church of Rome; and he accordingly publicly arraigned that corruption: and the Reformation in a very few years, —fewer than those which intervened between the prosecution of Emlyn and the donation of Damer, — was spread over Germany, Switzerland, France, England and Scotland. Therefore, no argument can be drawn from the fact that Nathaniel Weld was a Trinitarian in 1702; nor can it be inferred that because he was so in that year, he was also a Trinitarian in 1718-19; nor is the Court, in this case, to proceed upon inferences, or conjectures, or probabilities, to divest the defendants of property which they have so long enjoyed. To authorize the Court to do so, the relators ought to make out a case free from all doubt or difficulty.

But now come to the case of Dr. Leland. But I must first observe, that it appears in evidence that the son of Nathaniel Weld, that is Isaac Weld, was educated, of course in the lifetime of his father, under Benson, an Unitarian minister in England, the clergyman of an Unitarian meeting-house there. I therefore say that that fact furnishes strong evidence that N. Weld was an Unitarian; for he never would have sent his son to be educated by a known Unitarian,—the head of an Unitarian congregation,—unless he himself had changed his opinions upon this subject subsequent to the prosecution of Emlyn.

Lord Chancellor.—I rather think that Isaac Weld was under the tuition of Benson for two years only, which were after his father's death. That is the statement in the Historical Sermon. These two years must have been after his father's death; for the congregation of Eustace Street waited for him for two years while he was completing his education.

Mr. *Holmes.*—At least I am at liberty to use this argument, that the son would not probably have gone to be educated by Benson, if he had not imbibed from his father, in his earlier years, the principles of Unitarianism. This is sufficient to rebut the presumptive argument of the other side, which assumes that a man who thinks one way at one time, thinks so always. If that were the case, there never would be any improvement in natural or moral science;—the exist-

ence of the Christian religion depends on the change of opinion. An argument, if attended to, first forces itself on the mind; then convinces it. A man, when he turns his attention to a matter, may find reason to change his former opinions concerning it, and embrace new ones; and that merely because he has turned his mind to the subject. But if Leland was an Unitarian, then we have one of the clergymen of this congregation decidedly of that opinion; and the argument that Damer intended to give this charity to those who entertained Trinitarian opinions falls to the ground. For if one clergyman was Trinitarian and the other Unitarian, it is absurd to suppose that Damer intended his gift solely for Trinitarians. On the contrary, the presumption is that he embraced the doctrine of non-subscription; and that he intended to leave that an open question; and that though he was a Trinitarian himself, he did not desire to impose upon others a coincidence of opinion with himself.

Lord Chancellor.—I do not see how religious worship could proceed upon that principle. I can understand the claim to the perfect exercise of their own judgment in future, and that they should be at liberty to change their opinions; but I cannot understand that the minister should preach a doctrine in which the congregation do not agree. If there be two ministers, and one be a Trinitarian and the other an Unitarian, in what state are the congregation?

Mr. *Holmes.*—The doctrine of the Trinity is not considered an essential point in Christianity; it is a speculative question. At that time Unitarian worship was free; there might be some difficulty in preaching or writing against the Trinity; but Unitarian *worship* never was forbidden by law, as contradistinguished to preaching or writing against the Trinity. Neither in England nor Ireland has Unitarian worship, that is, the power of offering homage to One Supreme Being through one being, Jesus Christ, been contrary to law. All that was made penal was preaching or writing *against* the Trinity. I have therefore a perfect right to consider this doctrine of the Trinity as forming no essential part of the Christian religion; and on this ground: By the common law of the land, Christianity is a part of the law; and writing to impugn the truth of Christianity, or treating it with contumely or disrespect, is punishable at common law by indictment. But a statute has been passed a few years since, leaving every man at perfect liberty to write or preach or speak against the doctrine of the Trinity, as not being any part of Christianity.

Lord Chancellor.—That Act rather assumes that the common law protected that doctrine as part of the Christian religion.

Mr. *Holmes.*—The contrary, I believe, has been decided.

Lord Chancellor.—I believe not.

Mr. *Hutton.*—The sixth question referred to the Judges in Lady Hewley's case was, whether the ministers and persons professing Unitarian doctrine were, in the present state of the law, incapable of partaking of the charity; and the answer was, that they were not.

Lord Chancellor.—That refers to the present state of the law.

Mr. *Holmes.*—It was only by statute that the doctrine of the Trinity was established. It was a doctrine of the Roman Catholic Church; and after the Reformation, it was adopted by the Established

Church, with others of the Roman Catholic Church. By statute it has been made penal to preach or write against that doctrine; first it was made one of the 39 Articles; but I cannot find any authority in which it was considered, at common law, to be contrary to the Christian religion to preach or teach against it.

Lord Chancellor.—I rather think it was so decided in this very country in Emlyn's case. I think Emlyn was indicted at common law, and was found guilty and punished. I do not mean to speak in favour of the mode in which Emlyn was treated; but that has nothing to do with the question, What was the law?

Mr. *Holmes.*—I should hope that the Court would not consider a decision had under the circumstances of Emlyn's case, as an authority.

Mr. *Hutton* again called the attention of the Court to the 4th and 6th questions in Lady Hewley's case, and read them and the answer of the Judges, and was proceeding to read at length, when he was stopped by the Court, who desired Mr. Holmes to proceed.

Mr. *Holmes* cited the King *v.* Woolston, 2 Str. 834. The Court declared that to write against Christianity *in general*, was an offence punishable at common law; and "they desired it might be taken notice of, that they lay their stress upon the word *general*, and did not intend to include disputes between learned men upon particular controverted points."

Lord Chancellor.—Nor do I give any opinion on the point.

Mr. *Holmes.*—The legislature, including in it the Bishops of the Church of England, never would have made it legal to write against Christianity; and when they allowed persons to write against the Trinity, they in effect decided that they considered the doctrine of the Trinity to be a speculative point, and no part of the essentials of Christianity.

Then with respect to Leland. The true principles of non-subscription would not make it inconsistent in Damer, though he was a Trinitarian, to make a donation to a society that was free to entertain the question as to the doctrine of the Trinity as they pleased; for the principles of non-subscription claim a liberty for ourselves to think as we please upon those subjects, and leave others to do the same. But it would be inconsistent in him, if he were a non-subscriber, to impose as a condition on his gift, that the person to whom he made it should entertain a specific opinion similar to his own upon the subject. The position of the relators is extraordinary; for their case is this with respect to Damer, that he intended to make this donation to this congregation with a condition annexed to it, that they must be Trinitarians, and must continue to be Trinitarians, or that his gift should cease. If that was his object—if he did not intend to leave them quite free as to their opinions, or did not know that at the time they entertained Unitarian doctrines—he would have specified in the deed such an important intention. The prayer of the information calls on the Court to decide upon the appropriation of the funds according to the true construction of the instruments of gifts; that is the specific relief prayed by these relators.

Mr. Moore has called the attention of the Court to Damer's fund; I therefore shall but shortly refer to it. The deed recites that £1700

had been given by Joseph Damer, the donor, to the parties of the second part, upon certain trusts; viz. that £200, part thereof, should be applied towards building a new and convenient meeting-house for the Protestant Dissenting congregation then of New Row, in the city of Dublin, without any allusion to any particular tenets or doctrine. At that time, what was the state of the law? That description was the common appellation of all Protestant Dissenters, used in Acts of Parliament, without any reference to their entertaining any particular opinions upon controverted points whether upon the doctrine of the Trinity or otherwise.

Lord Chancellor.—Did not the Act of 1719 exclude from its benefits those who denied the doctrine of the Trinity?

Mr. *Holmes.*—No; only those who preached or wrote against it. That is quite consistent with my argument. It rather shews that Unitarians were included under the term Protestant Dissenters.

Mr. *Warren.*—Reads the title of the 6 Geo. I. c. 15, and the 13th sec.

Lord Chancellor.—It was because of its title that I called Mr. Holmes' attention to it.

Mr. *Holmes.*—Protestant Dissenters embrace both Trinitarians and Unitarians.

Lord Chancellor.—No doubt; and that Act excludes Unitarians from its benefits.

Mr. *Holmes.*—It does not except them out of the term Protestant Dissenters, but merely subjects them to certain penalties.

Lord Chancellor.—I will not dispute with you that Unitarians are Protestant Dissenters.

Mr. *Holmes.*—I only say that the words of this deed, in themselves, include both Trinitarians and Unitarians.

Lord Chancellor.—That is the question.

Mr. *Holmes.*—And that no argument can be drawn from the words in the deed as to the question. Presbyterians at that time exercised free worship, so did Unitarians; they were only prohibited *preaching* against the doctrine of the Trinity. Also, that Act of Parliament was passed after the deed in question, and therefore cannot be brought to bear on its construction.

Lord Chancellor.—My observation was made upon one of yours. I understood you to assert, that there was no Act of Parliament in which Unitarians, being first included as Protestant Dissenters, were afterwards excluded.

Mr. *Holmes.*—And so I do say—that when Protestant Dissenters are mentioned in an Act of Parliament, no distinction is taken as to their opinions. Any distinction taken by the 6 Geo. I. cannot affect this deed, for the Act was subsequent to the deed. How are we to ascertain the meaning of the words, Protestant Dissenters, except by Act of Parliament or published works? But neither in the Statute-book, nor in any historical work, is a distinction made as to the term Protestant Dissenters, whether they were Unitarians or Trinitarians. They were called Protestants, because they dissented from the Church of Rome; and Dissenters, because they dissented from the Church of England; and it has been proved that many of them dissented from the Established Church, not merely upon the question of church

government, but also upon doctrinal questions. I therefore submit, that the term Protestant Dissenters, used in Damer's deed, cannot be confined to Protestant Dissenters entertaining the doctrine of the Trinity. If this deed is to be construed by itself without reference to surrounding circumstances; if you are to construe the instrument by itself, it is impossible under the general term, Protestant Dissenting congregation, to say that Damer intended a Protestant Dissenting congregation entertaining the doctrine of the Trinity. And if the Court is not to go out of the deed, it is impossible to annex to the gift this condition, which the donor did not annex to it; or say that it was given upon the condition that this specific Protestant Dissenting congregation, then worshiping in New Row, must be Trinitarians at the time, and must continue to be Trinitarians or forfeit the gift. If such was his intention, why did he not say it? It is most dangerous to go out of an instrument, clear upon the face of it, and admit evidence *dehors* the deed. The deed then declares, that the meeting-house was to be erected "for the service and worship of God in that way," that is, in the way of Protestant Dissenting congregations. The other parts of the deed relate to other subjects—the support of children and widows. Is it to be annexed as a condition to this gift, that these children must be brought up in the belief of the doctrine of the Trinity? or are none of the widows to have the benefit of this charity, save those who believe in the Trinity? I think the whole deed, taken together, shews to demonstration that the donor himself meant generally, to give this fund of £1700 to those objects generally, without annexing any other condition to his gift than what appears on the face of the deed, and without reference to any belief or non-belief in the doctrine of the Trinity. It also appears that part of this sum of £1700 was to be appropriated in aid of a subscription already begun by several pious and well-disposed Christians. How does it appear that this fund was for those exclusively who believe in the doctrine of the Trinity? And observe, with respect to the boys, for what purpose the fund is to be applied. It is for the instruction and training up such boys in reading and writing, and fitting them for honest and useful trades and employments, in such manner as should be by them respectively so directed; it does not say that it was to be for their instruction in Trinitarianism; and £20 per annum to the support of Weld and Leland, the then ministers; and to apply the residue in binding out the boys to trades, and for the support of poor widows inhabiting the city of Dublin; all general objects of charity, and not limited to those who professed belief in the Trinity. Looking at the deed alone, it is plain that the donor did not annex to his gift the condition that the ministers of this congregation, and the congregation, should entertain those particular opinions upon the doctrine of the Trinity. But if the Court is to go out of the deed and to decide upon the object of it upon the parol evidence, I have, with respect to that part of the case, already made such observations as occurred to me with respect to N. Weld; but as to Leland, I submit that upon his writings as cited on the other side and as quoted by us, it is impossible to say that Leland believed in the doctrine of the Trinity as laid down in the 39 Articles, the Westminster Confession of Faith, or the Athanasian Creed.

And in order to enable the Court to decide this question, it is necessary—without making any observations upon the doctrine itself, but in order to enable the Court to form an opinion whether Leland (in his works) entertained this doctrine of the Trinity laid down in the 39 Articles, the Westminster Confession of Faith, and the Athanasian Creed—it is necessary, I say, to state to the Court how that doctrine is laid down in the Athanasian Creed. It is the fairest to refer to, for it goes more at large into this doctrine than either the Westminster Confession of Faith or the 39 Articles. (Reads the Athanasian Creed, so far as it relates to the doctrine of the Trinity.) Taking that to be a plain exposition of the doctrine, I say that, on reading the works of Leland, you cannot come to the conclusion that he believed in that orthodox doctrine of the Trinity, or that he does, in his works, speak of Christ as equal to the Father, or in accordance with that doctrine of the Trinity. It is not necessary to go over the several passages which have been cited; but I submit that, so far from its appearing by these works that Leland believed in the doctrine of the Trinity as explained in the Athanasian Creed, it is plain that he held the Arian doctrine of the Trinity. He believed in one Supreme Being, and in Jesus Christ as the first-begotten Son of that First Cause, and in the Holy Ghost; and he offered up supreme adoration to that ONE GOD ONLY, through one Mediator only, which is the doctrine of the Arians, and which is the same as is held by the defendants in this case, and which Dr. Ledlie positively swears to be his belief. It was also the opinion of Dr. Clarke. It is also proved that Isaac Weld entertained the same opinions; that he spoke of Christ as not the same as the Father, but inferior to the Father; and the consequence necessarily follows, that the congregation was not at the time of the first gift Trinitarian; and if we succeed in establishing that fact, we must succeed on the whole case. I think it is impossible not to see from those writings that Leland and Isaac Weld did not entertain the doctrine of the Trinity as laid down in the 39 Articles and the Westminster Confession of Faith; and the relators' whole case is founded on their proving satisfactorily to the Court, that at the time of Damer's donation the doctrine of the Trinity was entertained by the ministers of that congregation, and by the congregation itself. It further appears on the evidence, that Lord Bolingbroke assailed Christianity, not upon the ground of want of evidence, but because of the doctrine of the Trinity, and because, as he alleged, Christians were Polytheists. How does Leland answer that objection? Not by stating that he himself believed in those creeds, but that, according to the true construction of the Scriptures, there was no reason to say that Polytheism was the religion of Christians; that Christians believed in one God, that they believed that Christ was subordinate to God, but not that he was co-eternal or co-equal with God in all respects. In that way he answers the objection of Bolingbroke; and that proves to demonstration that Leland himself was, in our sense of the word, an Unitarian, an Arian Unitarian, and not a Trinitarian, in the sense in which the relators say he was.

Lowton's fund was created in 1741, by will and by instructions given in a letter. The testator gave to three persons, in trust, a sum of £1800, to be laid out in the purchase of lands in Ireland, and to

apply the interest of that sum and the rents of the lands to be purchased therewith, "to assist in supporting and maintaining a Gospel minister or ministers of the Presbyterian persuasion, to preach the Gospel to the Presbyterian congregation whereof he was a member, usually meeting for divine worship in Eustace Street, Dublin, and to instruct them and their successors for ever in the true principles of the Christian religion." There is nothing in that to shew that these Gospel ministers must be orthodox Trinitarians, or that this congregation must entertain those opinions, or that he included the doctrine of the Trinity amongst the true principles of the Christian religion. And to shew what was meant by Gospel worship at that time, I refer to a passage in a work of Leland's, entitled, "A Summary of the Christian Religion," pp. 265, 266. That shews that what he meant by Gospel worship was the offering up worship to God the Father in the name of Jesus Christ the great Mediator, whom he had appointed for the great work of redeeming mankind. Lowton was a member of the congregation while Leland was the pastor of it.

With respect to the subsequent donations, they all took place when the whole congregation were confessedly Unitarians. No weight can be laid upon the concluding words of Lowton's will; they are but the date of the instrument and the language of the solicitor who prepared it.

Lord Chancellor. — They are evidence to shew that he called Christ by the name of the Lord God.

Mr. *Holmes.*—So do the Arians: *they* also call him Lord and God; but in the *scriptural sense*, not that of the Athanasian Creed.

Lord Chancellor.—You now seem to think it necessary to distinguish Unitarians. An Unitarian, properly so called, would not address him as Lord God.

Mr. *Holmes.*—By those high terms they do not mean that WORSHIP is to be offered to him. Though Leland makes use of the words Trinity and Holy Trinity, he meant them in senses of the Scripture doctrine of the Trinity, which he believed in; not that Christ was entitled to Supreme worship. That is what the defendants say;—they believe in Christ as an inferior being: the Arians believe that he pre-existed in a state of great glory and beatitude, and that he was the messenger of Christian truth to mankind, but not that he was God himself; but according to the doctrine of the Athanasian Creed, he was at the same time different from God, and God himself. The Socinians do not believe in his pre-existence. I do not presume to impugn any man's belief who believes in the doctrines of the Athanasian Creed; I give to every person the same liberty I claim for myself; all I contend for is, that the relators have not made out their case; on the contrary, I submit that at the time when Damer made his donation, it is proved from the writings of Leland that he did not entertain the doctrine of the Trinity, as it is stated in the Athanasian Creed, the 39 Articles, and the Westminster Confession of Faith. That he believed in the Divinity of Christ, in the Gospel sense, is true; but he was an Unitarian.

Then you have this congregation for a long time professedly Unitarian, in the enjoyment of this property—from the death of Leland at least; for Taylor was decidedly an Unitarian; we have the oldest

witnesses corroborating the evidence derived from his acts. We have the ministers educated at Unitarian academies; recommended by Unitarian congregations. We have the testimony of the oldest witnesses, that they have constantly attended this place of worship, and that during the whole period of their lives the congregation and the ministers have been Unitarian.

Again, we have no person claiming this fund, which is the peculiarity of the case. No person says that he is injured by this fund being enjoyed by its present possessors: and it is sought to turn this congregation out of this meeting-house, where they and their ancestors have worshiped for more than a century, and to deprive them of every shilling of their property, upon such a case as this! And this, for not believing in a doctrine which is stated in the Athanasian Creed to be incomprehensible!

Lord Chancellor.—I do not sit here to give any opinion upon the subject. I am simply to inquire what were the doctrines held by these persons.

Mr. *Holmes.*—I am aware of that; and all the use I would make of the statement is, that it does not appear that any essential of religion—any thing affecting morals or the public good, is involved in this case. And I do also say, that a suit of this kind is calculated to produce amongst the several bodies of Presbyterians in this country, ill-will, dissensions and bickerings; and therefore I press on the Court that, unless it be coerced, it will not carry into effect a suit of this nature, where no person complains of being injured, and where no person claims any portion of the fund. The Court is called on by this information to declare generally, that those amongst the Presbyterian body who believe in the doctrine of the Trinity, as set forth in that Creed, are alone entitled to this fund. How is the Court or the Master to ascertain who believe in that doctrine? Is it to be taken that every person who *says* that he believes, is to have a share in this fund? I cannot see how this is to be decided, unless a man's statement of what his belief is, is to be taken as true. We cannot judge of the real sentiments of any man. If a test were mentioned, then there would be something certain upon which to proceed; but here there is nothing certain; and I feel strongly, and cannot help expressing it strongly, that this information is not founded in the promotion of any public good, or in the cause of justice. It is a crying grievance to deprive these defendants, without any moral fault being attributed to them, of this property, which they and their ancestors have enjoyed for such a length of time, and which they hoped to leave to their posterity. It is the duty of every Government, and of every Attorney-General, and of every Court, to support Christianity as part of the common law of the land: but when I speak of Christianity as part of the common law of the land, I speak of it as it is promulgated in the pages of the New Testament—of that Christianity which extends its gracious benefits, not to professors of mysterious doctrines, but to all its sincere and faithful votaries, who receive with gratitude and thankfulness its divine promises. It is this Christianity of which I speak, and in which I am an humble believer. Its armour is truth, and its ensign is charity. With respect to that particular class of Christians to which the defendants in this case belong, and to

which I belong, namely, non-subscribing Protestant Presbyterian Dissenters, we deny the authority of Popes, of Councils, of the Fathers, of Creeds, Articles, or Confessions of Faith. We admit of no authority in matters of religion but the Bible. This rejection of all human authority in matters of religion, this appeal to the Bible as the only sure and authorized ground for Christian faith and practice, is the rock on which Protestantism has been erected: and when Protestants shall remove that rock, they will be like the "foolish man who built his house upon the sand; and the rain descended and the floods came, and the winds blew and beat upon that house; and it fell; and great was the fall of it."

Mr. *Brooke*, for the Relators, in reply.—I should be sorry if it was any part of my duty to advocate any principle hostile to those so eloquently laid down by Mr. Holmes, but there is nothing in this information to derogate, in any manner, from the great principles upon which we all, as Protestants, agree—that there is no human authority to bind the conscience, or to which we are bound to submit; nothing to bind us but the Word of God. Those principles have been strongly set forth in the works of Bishop Jewell, one of the Reformers of the Church of England. (Reads an extract from his works.) But in this case, we are not disputing as to which is the right principle, which is the true interpretation of the Scripture; we are here upon a mere question of property, not in any way connected with the truths of the principles of Christianity. If a party has made a plain declaration, or we can collect that he has devoted a fund to a particular purpose, not for the general purposes of Christianity, but for some particular portion of it—it is but common justice that other persons, however we may respect them, should not be allowed to interfere with what is not their own. If I were to make a gift for the education of Protestant clergymen, and all Protestants were to disappear from off the earth, still it would be gross injustice, and a perversion of the fund, to apply it to purposes for the benefit of the Roman Catholic faith: for the word Protestant would exclude that application of the gift. But I admit I have not a word of that antagonist nature in this case; but there are words here which shew that the party who executed the deed of 1719, was just as zealous to exclude every Unitarian from the benefit of this fund, and that those who took the benefit of his gift should be defenders of what he considered to be the true faith, against Arians and Unitarians. That is the thing to be proved; and we think that we have demonstrated it. It is a simple question of fact. If we fail in proving it, the information fails: if we succeed, then the question is, as Lord Eldon says, whether the money intended for A should be transferred to B.

As to the evidence, I shall select those points only which appear to me to be most important. The Solicitor-General used this argument, that in this case the Court is put in motion by relators who have no interest in the subject; and that the Court has here to deal not with a divided, but an united congregation, all of whom repel the aggression. In answer to the Court, the Solicitor-General said that he did not object to the form of the information, but said that it was matter for observation. It would have been as just a matter of observation in

the Wolverhampton case, where it was not used. There it appeared that from 1783, there had been one unbroken succession of Unitarian ministers in the chapel, until Mr. Stewart was elected. He changed his opinions and became a Trinitarian, whereupon the congregation left him. As to Manders, he had in 1783 ceased to be a member of the congregation, and had become a Baptist. So in Lady Hewley's case, she and all her trustees were Presbyterians, and the relators were Independents. So in the Attorney-General *v.* Drummond, the relators were the same persons as the present. They were members of the Southern Association, and they asked relief as to the funds of the Dublin Presbytery. In the Attorney-General *v.* Pearson, Lord Eldon acknowledges the difficulty; but he again and again says that there is no reason why the Court should not act. (Refers to the Attorney-General *v.* Pearson, 3 *Mer.*, pp. 418, 368, 373, 374, 396, 397, 402 and 403.)

The next argument was urged with great force by Mr. Moore. He felt pressed by the consideration that the founders of the trust and the trustees were originally Trinitarians; and his argument was, that their minds were so engrossed by the principle of non-subscription, that they deemed their Christian liberty of changing their opinions, and adopting any other form of faith, as of much greater importance than the maintenance of any particular doctrine: and that the Court was to look to that as their bond of union, and as the principle of their association; and that it was to be carried out, no matter what the consequence might be. If that could be established, it would carry the case with it. But against it there are several arguments. First, so far were the founders of this charity from deeming the principle of non-subscription as paramount to the promulgation of those doctrines, which we say they abhorred, that we find them in 1702 and 1710, joining in terms of fraternity with those who held different opinions on the subject, viz. with subscribers. But on the subject of the doctrine of the Trinity, they joined in a most intolerant manner. Those who joined in the prosecution and condemnation of Emlyn, cannot be supposed to have held his opinions as less mischievous than any thing derogatory from this principle of non-subscription. Again we find those two principles come into question upon the face of the Toleration Act. That was an Act in the preparation of which, it is well known, the Dissenters were consulted. In England, all those who held Unitarian opinions were excluded from the benefit of the Act, and subscription was required. The Irish Act was not passed for more than twenty years after the English Statute; and when the matter was discussed in Ireland, it is a matter of history that the Dublin Dissenters received it with joy. This appears from the preface to Abernethy's "Seasonable Advice," which is signed by Weld, Boyce and Choppin. Subscription was not required from them, but they accepted the other restriction, viz. that with respect to persons denying the Trinity in preaching or writing. They consented to be restrained from wandering so far from the road of freedom. How different was their conduct from that of Dr. Moody, who praised Mr. Hutton for not declaring what his opinions were, in order that he might be the more at liberty to change them at a future period! The third reason why Mr. Moore's argument does not hold with

respect to this fund is, that upon the documents given in evidence I find that in the great contest between subscribers and non-subscribers, that with which the non-subscribers were most pressed was, how they were to avoid the danger resulting from those very heresies springing up amongst them; and the non-subscribers repel with indignation the suspicion that, by refusing to subscribe, they were opening a door for such mischievous heresies to enter, and they alleged that their plan of avoiding subscription left the matter to the correction of the church by its discipline, when occasion should arise. This appears from 2 Boyce's Sermons, p. 259, which was read by the defendants, (reads it,) and also pp. 357 and 66. Boyce expressly declares that the Socinians, and those who deny the Divinity of Christ, are heretics, and their opinions are dangerous. And he speaks of the Deity of Christ as the grand article of the Christian faith. (Mr. Brooke here referred to the resolution of 1710, signed by Boyce and Hemmingway; and to a letter of Weld, Boyce and Choppin, 20th November, 1721, p. 699; also two Ex. U., a letter of 1724, to James Kirkpatrick, p. 61; and a printed sermon preached before the Synod of Ulster, June, 1720; and also to 3 Leland's Sermons, pp. 198 and 199.) The defendants referred to a sermon of N. Weld, in which the narrowing the bonds of Christian communion more than they are narrowed by Christ is condemned, but in the page before that from which they quoted, it appears that he is speaking of what he calls "lesser matters;" and he shews what he considers lesser matters; for in a former letter he speaks of the grand matter, of the essential Divinity of Christ. And in the preface to Abernethy's "Seasonable Advice," p. 140, it is said that the Westminster Confession of Faith is justly esteemed by all churches as an excellent summary of all Christian doctrine. Those quotations shew that the Presbyterians of that day did not intend to establish such an absolute liberty, that a clergyman who was elected to a pulpit as a teacher of the Gospel might, if he pleased, change his mind and opinions, and teach that which they considered to be directly opposed to the doctrines of the Gospel. The second volume of the records of the Synod of Ulster has been entered as read, which shews that Leland was present at the pacific overture.

Then, the defendants relied on Colville's case, that he was received by the Dublin Presbytery, though excluded by the Synod of Ulster. But the records of the Synod shew that he was excluded solely on the ground of contumacy.

Next, they relied on the case of the Presbytery of Antrim: but it is not necessary for me to dwell upon it; for it clearly appears that the cause of its separation was non-subscription, and not because of doctrine.

Mr. *Holmes.*—What evidence is there that Colville was expelled for contumacy?

Mr. *Hutton.*—If they chose to go into a rebutting case, they should have done so after we closed our case.

Mr. *Brooke.*—The records of the Synod are in evidence. (Reads from the records to shew that Colville was expelled for contumacy.)

As to Abernethy's sermons—it appears that he abstained from expressing any strong opinions upon disputed points; but the best

passages were, I presume, selected by the other side. It is clear that at one time he enjoyed communion with Weld; what he may afterwards have become, I do not know. But they produced a passage from his private journal, in which, speaking of his own state of mind, he says he was often disturbed upon the subject of doctrine. There is a wide difference between a man whose mind is disturbed as to doctrines, and a man who preaches contrary to what he once professed. His statement, that he was disturbed in his mind, suggests that there are three distinct states of the mind as to those great doctrines: the first is, that state of doubt and disturbance, when he, who has once professed a belief in certain doctrines as essential to salvation, begins to doubt as to them, and fears that he is about to fall into errors fatal to his salvation. Such a person is not likely to divulge his state of mind—the doctrine not being established in his mind. There is a second state, when a person has got such an apprehension of the mystery of the Christian religion as to deem that there is no mystery at all in it, and boldly preaches it as a doctrine in which there is no mystery. As an illustration of that state, I would refer to the sermon of Dr. Moody, MS. p. 10, in which he says, "The Gospel creed has no inscrutable perplexity in it; it is simple and intelligible to the meanest capacity." That appears to be the state of mind of the defendants, and that is the view of the doctrine of the Trinity which they put forward. There is a third state of mind, which appears to be that entertained by the founders of this charity and the original ministers of this congregation; that is, in which a man is aware of the deep difficulty of comprehending those sublime doctrines, and acknowledging it freely. When he finds depths which he cannot fathom, thankfully acquiesces in the revelation which God has been pleased to make of Himself, and submits to be ignorant of that which he cannot know. That was Leland's state of mind, as I shall shew. One word more as to the terms of the trust-deed; for it contains much that has an important bearing on this case. (Reads the deed.) The trust is, "for the service and worship of God *in that way*." In what way? Mr. Holmes says, in the way of Protestant Dissenters. I would say, that it is for the service and worship of God in the way the congregation had been accustomed to worship God in that place, to which they had been accustomed for over 60 years. It is therefore important to look at the period of time, from the accession of Charles II. to 1719, during which time their way was undisputed, and the congregation were united. The deed is not to establish a new congregation, to be associated together and governed in a particular manner; but the worship and service of God is to be performed in that way—the old and accustomed way. Here it is confessed that the worship has been altered; the defendants glory in that alteration. It is no longer a worship of God in the way he was worshiped at New Row in 1719. And the question is, what was the worship of God used at that time? Mr. Holmes says, that it never was illegal to worship God according to Unitarian belief; but the worship of God includes preaching, as well as prayer.

Now, what was the worship of God in New Row at that time? It is conceded that down to 1716, (the accession of Leland,) it was

in the way we allege; but the admission of the defendants in that respect does not come up to the evidence; for the evidence shews that the congregation were extremely zealous, almost to the extent of intolerance, in that way. They had the deepest sense of the vitality of the doctrine of the Deity of Christ, and of the Trinity. Never was a case better got up than that of the present defendants. They have all the MS. sermons of the several preachers of this chapel to refer to, and its records were in their possession; what then is the amount of their evidence with respect to Leland, upon which they contend that he held the same opinions as Dr. Clarke? I have looked through the volumes of his sermons. It is difficult to investigate the subject, by reason that the defendants do not point out what are the terms which they admit to be evidence that a party holds opinions upon this subject different from their own. I thought that "Trinity" was one of these words; but it now appears that that word is by no means a test; they have given evidence that they themselves are just as good Trinitarians, in their own sense of the word, as we are. But I believe I may say, that he who speaks of the Son as an uncreated Being subsisting from eternity, is not an Unitarian. He that declares that the Son is not a created Being, does not hold the same opinions as the defendants. That appears from Evans' Sketch, which they adopted as containing a correct definition of Arianism. Another test is, if I find a writer asserting that the Son of God was of the same nature as God, he is not a person who agrees in opinion with the defendants. Or if he offer direct worship to him, he differs in opinion with the defendants. I will apply these three tests to Leland's writings. The four volumes of Leland take up different subjects. The first contains Discourses on the Being and Attributes of God. The second, on his Providence. The third, on the Joys of the Christian Religion; and the fourth, on the Dignity, Perfection and Excellency of Christ. Now when a subject lies near a man's heart, you may gather his opinions on it from casual expressions, incidentally introduced, when he is discussing other topics, better than from passages where he is expressly treating on the matter. In the first volume, Dr. Leland, in nine passages, goes out of his way to assert the atonement of the Son of God; not merely using the word atonement, but atonement through his blood, sufferings and death—and for sinners; and that we are purchased by his blood;—expressions the same as those used by orthodox divines upon the subject. Four times he states the great difficulty which the Scriptures shew exist as to the nature of the Son of God; without attempting to explain them away, he cites those passages of Scripture, admitting their difficulty. He also names the doctrine of the Trinity, without any observation connected with a Calvinistic creed; and he advocates the doctrine of eternal punishment; and tells his hearers that they were what they were by the grace of God and divine predestination. He speaks of the sin of the human heart, and says that the Holy Ghost is sent by the Father and the Son. And in p. 184, speaking of the final judgment, he declares that the Judge is omniscient, and that the Judge is Christ. Vol. III. pp. 108-9, has been read to the Court: in p. 112, he says that Christ was not a mere dignified man, but was the eternal Son of

God, (reads the passage,) and using that as the foundation of his argument, he says, that it is that which gives such weight and authority to him; and makes him the proper object of our confidence and trust, "who hath the power and sufficiency of God, in connexion with the tenderness of man." I ask, is there any sermon of Mr. Hutton's or Dr. Ledlie in which they speak of Christ as the eternal Son of God? So in p. 122, he calls him the Lord of nature, and says that his actions became the Divinity in human flesh. The defendants rely much upon the first sermon in the 4th volume, upon the word "subordinate." It appears that Dr. Leland was dwelling upon the character of Christ as a teacher; that is, upon his character as a man while amongst us; and he uses this argument (p. 6, to the end of the sermon,) that his teaching ought to be regarded, because he came with an authority higher than any other ever possessed. In p. 8, he says, that he is an uncreated being; and he uses the same phrase three or four times in these volumes. There he collects twenty or thirty texts commonly quoted for the Trinitarian view of the subject, without objecting to them; and tells his congregation, not that they are to be understood in a qualified sense, but that our Saviour does not use those expressions in a too high sense—(reads the passage). The same expression of Christ's Divinity, and that he is above the highest order of created beings, is also used in the second sermon. That is very different from the sermon of Dr. Armstrong, in which similar texts are cited, but with a qualification. Where the word "subordinate" is used, Leland is referring to the xviith chapter of John, where Christ had denuded himself of his glory, and was in a state of temporary debasement. The Athanasian Creed, though maintaining the perfect equality of the Father and Son in their nature, speaks of the inferiority of the Son as touching his manhood, which is according to what Dr. Leland says. In pp. 35 and 88, the same expression of Christ being of the highest order of created beings is used: and in p. 88, upon which I lay great weight, Leland says that the most proper and eminent divinity of his character seemed to shew the most intimate union with the Father, and that he is a partaker of the same divine nature—(reads the passage). In pp. 91 and 92, he speaks of him as sharing all the perfections of the Father, of which eternity is one. There is no such preaching as this in Eustace-Street chapel now. The defendants rely on three or four passages from Leland. I have mentioned the first. The second only speaks of the order of Christian worship, in which all parties, Trinitarian as well as Unitarian, agree. The third is the third volume, p. 171, in which Leland refers to the xvth of 1st Corinthians, in which it is said that Christ shall give up his mediatorial kingdom. We all believe in that, though we cannot explain it.

But there is another collateral argument as to Leland's opinions, derived from the volume of Hymns given in evidence by the defendants. They say that volume was in use from 1740 to 1800.* Twice in that book, pages 15 and 19, Christ is called the eternal Son of God.

* This is a mistake: the congregation of Eustace Street adopted another Hymn-book in 1779.

Lord Chancellor.—Mr. Armstrong seems to assent to his being eternal.

Mr. *Armstrong.*—Yes; eternal, not co-eternal; eternal in the sense of *everlasting;* that is, from the time of his creation.

Mr. *Brooke.*—In that sense, we are all eternal. But using the word in that sense is not good English.

Mr. *Armstrong.*—Then the New Testament is not good English, where our Saviour promises his servants *eternal life.*

Mr. *Brooke.*—In these Hymns, there are prayers specially addressed to the Son, pages 99, 293, and the 45th Psalm; also the 202nd Psalm and the 9th Sacramental Hymn. It is rather remarkable that this Hymn-book, abounding in evangelical sentiments, should be used in this meeting-house, while we only use Tate and Brady's version of the Psalms, which do not refer to Christ at all.

The word "Trinity" is used in Leland's works; therefore it became most important for the defendants to explain it in an Unitarian sense. For that purpose they have produced Biddle, who wrote in 1648, an author not much heard of or read: all agreed in persecuting him. When they desired to shew that the word, in their sense of it, had got into the theological literature of England, they refer to Clarke, who, in 1712, published his Scripture Doctrine of the Trinity. But they have not shewn that he uses the word Trinity in the sense they allege, though he makes use of the word in the title-page. Their next witness is Ben Mordecai, in 1786, long after Leland's death. It is to be observed, that both Clarke and the editor of Ben Mordecai were clergymen of the Established Church, and would be responsible for writing against the Trinity, and therefore they may have desired to explain it away. I therefore say that Leland's works will stand the severest investigation; and that what has been stated as to his opinions will be found to be a mistake.

Then as to Isaac Weld. He, in 1769, published the sermons of Dr. Leland; and in his preface, he gives an account of Leland. He states the motives and views of Leland as a minister (p. 9), that he was determined to know nothing amongst them but Jesus Christ and Him crucified; and he says that such is the duty of a Christian minister. If such be the case, Leland, according to them, kept back the truth from his congregation. All agree that in 1716, the congregation was Trinitarian: Isaac Weld being called to the office of minister by this man, whose piety and knowledge he commends, their case is, that he differs from him on a vital point, and secretly undermines his opinions in the congregation. Isaac Weld describes Leland's mode of preaching to be, to keep close to scripture terms (and that explains why no such words occur in his sermons as consubstantial or co-eternal). Isaac Weld has left but few traces behind him. He published Leland's sermons, therefore I conclude that he entertained the same opinions. He also used the Hymns; the two witnesses who were examined in this case——

Lord Chancellor.—They swore positively as to Taylor and Thomas, but had only a slight recollection of Leland. They swear generally that the congregation were always Unitarian, and that they did not offer supreme religious worship to Christ.

Mr. *Holmes.*—The time Mrs. Hone speaks of must cover part of Isaac Weld's time.

Mr. *Brooke.*—She does not allege that he was an Unitarian: she is pointed in her evidence as to Taylor and Thomas; but all she says as to the others is, that they were reputed to be Unitarians, and that no supreme religious worship was offered to Christ; the Hymn-book contradicts that part of her evidence. The defendants say that Isaac Weld was an Arian, because he received his education from Benson, that was from 1730 to 1732. I will suppose that to be true; but to shew that Benson was an Arian at that time, they produce Wilson's History of Dissenting Churches. But he states that Benson had many pupils; and that in 1729, he was put out of his situation by reason of his *then recent adoption of the principles of Arminianism.* He had not then got as far as Arianism. He then went to London, and was the friend of Dr. Watts, who revised the two or three first works which Benson published. Now it appears that Benson's first work was published in 1731, and his second in 1734 (p. 119). In 1747, he published a volume of sermons which the Archbishop of Canterbury highly approved of. It is plain from all this that Benson did not profess Unitarianism until long after 1732.

Mr. *Armstrong.*—Those sermons were in defence of Christianity *in general*, against the objections of the Deist; and it is well known that Unitarian writers have been the ablest and most learned defenders of the evidences of Christianity; for which I need only refer to the works of Dr. Nathaniel Lardner, who was the colleague of Benson during the time he superintended the theological studies of Weld.

Mr. *Brooke.*—It was also said that Isaac Weld was an Unitarian, because he joined in the invitation to Taylor. But the question is, not what these ministers believed in their hearts, but what they professed to the world. In 1773, he united with Drs. Moody and Dunne in reviving the Dublin Presbytery; but it is not shewn that Dr. Moody at that time preached his opinions; on the contrary, they have proved a subsequent commendation by Dr. Moody of Mr. Hutton's conduct in keeping his opinions secret. Out of all Isaac Weld's sermons for 48 years, two only have been produced; and nothing is in either of them inconsistent with the opinions we say he professed. One of them is a manuscript sermon without a date, and in it is a passage, not that we are to pray only to the Father, but that we were to acknowledge our obligations to the Father alone. That makes it necessary to look to the context; and then it appears that he is speaking of the obligation of persons to return thanks to human benefactors, and says that they ought to acknowledge their obligations to God alone. The total absence of evidence on the subject shews that his opinions were not what the defendants allege.

We have no evidence as to what were the opinions of Mr. Rogers. The only thing in respect to them is that, in 1829, Mr. Taylor wrote a letter to Dr. Armstrong, in which he says that Rogers was, in 1764, disposed to become a Unitarian. Mr. Taylor may believe that; but it is not evidence: it is not a matter of fact within his own knowledge; and I do not believe it; for there are two letters in evidence in which Leland writes that Rogers gave him great satisfaction.

Then as to Thomas—they have proved that he was, in his mind,

an Unitarian. But when did he openly profess Unitarianism? They have examined Dr. Hincks, a man much advanced in life. He says that, when he was a boy, he went to this place of worship; that the ministers were Taylor and Thomas; that he knew Thomas to be an Unitarian by repute, and Taylor from conversations he had with him. Though he attended their sermons, he does not say that he understood from them that Thomas or Taylor were Unitarians; and it is remarkable that none of Taylor's sermons proved in this cause, shew that he preached Unitarian doctrine.

Lord Chancellor.—I asked for any sermon of Taylor's in which he expressly denied the Trinity or the Supreme Deity of Christ, and I was told they had none.

Mr. *Brooke.*—We think that he was only a strong Anti-Calvinist. As to Thomas, Mrs. Frith speaks of his professing, not preaching, those doctrines; so also does Mrs. Abigail Hone. Then they relied on this, that Thomas was recommended by Dr. Chandler; but it turns out that Chandler was a moderate Calvinist.

Then as to Taylor; he was minister from 1777 to 1828. The three ladies and Dr. Hincks give evidence of the same nature as to him. We produced his ordination sermon at Kaye Street, Liverpool, which, though not very distinct, was not Antitrinitarian. His education by Priestley was classical, not theological. Then as to his correspondence, in 1786, with Price and Priestley; it is to be remembered that Priestley, though now a high name, was not so then. Price has also since obtained a high name as a pamphleteer in civil matters. It was a work of his which occasioned Burke to write his Essay on the French Revolution. There is no evidence, however, that in 1786, those persons were celebrated as Unitarians. But they have given in evidence a volume of Price's Sermons, published in 1787, which was after this correspondence; so that, in fact, the congregation here may have been kept in ignorance of their sentiments. The first sermon in which Unitarian doctrines were expressly avowed was that preached by Mr. Hutton in 1797, an example not followed by Dr. Moody or Mr. Taylor. Dr. Moody's sermon appears to have been preached four times. I have read it through, and it cautiously abstains from any thing which would alarm a Trinitarian. It adopts a construction of a text according to the Unitarian view, but it is such as does not startle any person holding Trinitarian belief.

Lord Chancellor.—Mr. Armstrong says that there is another sermon of Dr. Moody's in which he expressly denies the Divinity of Christ—and that is the fact.

Mr. *Brooke.*—The zeal for the propagation of their opinions which has existed since 1730, did not exist before. It does not appear that this doctrine was publicly preached, in general, before that period. They kept the original Hymn-book until 1800—then altered it.* They again altered it in 1830 to suit their views. Their sentiments are clearly connected with the publication of the Improved Version of the Scripture. The Solicitor-General says that no man is answerable for the tenets contained in all the books in his library; but that is not the case here; for we charge them with having this

* See note, p. 209.

book *for sale*, and with recommending it for sale. This appears from p. 32 of their catalogue. And in order to give it circulation, it is published in a cheap form. I do not think it possible that any person could say that his opinions entirely coincided with those of Dr. Leland, who received the new version of the Scriptures as an authentic record of the truth.

I shall not say any thing on the subject of the accretions. This congregation, down to the death of N. Weld, in 1777, having been Trinitarian, and proved to be such by the only formulary they possessed, viz. the Hymns, and having that character stamped upon them, the Court will not believe, without direct evidence on the subject, that any of the donors intended to give their bounty to Unitarian purposes. It is rather remarkable that the defendants, who say that the donors never intended those funds for Trinitarians, as such, should take the opposite view as to the accretions, and say that it is most hard that those subsequent funds should be taken from them, when they were clearly intended for Unitarian purposes.

Mrs. Singleton died in 1780. She was then 90 years of age (though there is no proof of that fact). She had lived through the days of the zealous Antitrinitarian spirit, in the reigns of Queen Anne and George I. She remembered Emlyn; and there is no evidence to shew that she departed from the faith of Leland. There is no evidence that she or the congregation had changed before her death. The evidence of the peculiar opinions of the donors has been rejected: the Solicitor-General has not availed himself of your Lordship's permission to argue the question. Then each particular donation, standing upon its own basis, is so framed as to constitute an accretion to the existing funds; and it must follow the nature and destination of its principal. If it could be shewn that any particular gift was made for the purpose of maintaining Unitarian doctrine, I admit we ought not to ask for the application of such fund to our purposes: but the only person who propounds a principle in the application of her gift is Miss Crosthwaite, and that principle is equally applicable to Trinitarians and Unitarians: it does not exclude Trinitarians.

Lord Chancellor.—This case, which has been argued with great talent, eloquence and zeal, has engrossed my whole attention in Court, and my consideration when out of Court. It is not my intention finally to dispose of it until the first day of next term, in order that I may have an opportunity, in the mean time, of considering the various questions which arise in it: but as I entertain a strong impression upon the case, it may not be undesirable that I should now state it.

The way in which this case has been brought before the Court is by information only; and to that course of proceeding an objection has been taken. It has been made upon popular grounds; and it is said that the Government and the Attorney-General are to be blamed for allowing such an information to proceed. It is not my office to justify the conduct of the Government, or of the Attorney-General; but I may say, that the Bar very well know that the Government have nothing to do with the matter; they never interfere with a duty of the sort. The Attorney-General alone is responsible: but con-

sidering that this is the case of a charity, involving a question of property, I am not prepared to say that the Attorney-General could do any thing else than allow that question to be discussed and decided according to the rules of law. The permission to file the information in his name is not a decision on the subject by the Attorney-General; he has no power to decide the question between the parties; he merely authorizes his name to be used in the prosecution of the individual rights of the parties; and in my mind, he would be greatly to blame if he had prevented the discussion of the questions in this case in a Court of Justice.

It is truly said, that this not being an information and Bill, there is no person before the Court claiming in opposition to the defendants; that this congregation has always been unanimous; and therefore that the present is distinguishable from other cases in that respect: but I apprehend that it will be found that this case is not distinguishable in substance, in this respect, from that of the Attorney-General *v.* Pearson. It is not, however, denied that this information is now properly before the Court for the adjudication of the rights of the parties. Whether it is advisable or not that congregations of Protestant Dissenters, of whatever denomination, who have so long worshiped in one place, and have been led, by permission or error, to consider this property as belonging to themselves, and dedicated to the worship of God in their own peculiar way,—whether it is desirable that such a congregation should be disturbed or not, is not for me to say. It is not my duty to answer that question. I have merely to deal with a question of property, and am not called on to declare whether the doctrines entertained by the one side or the other are the true doctrines of Christianity. I have only to see whether this property—the land and the sums of money contributed to the support of the chapel—do by law belong to the defendants or not.

The first and principal question is, to whom does the chapel and the ground upon which it has been erected belong?—and as to that, the case lies within a very narrow compass. I find no fault with the amount or extent of the evidence laid before me, with so much ability and, I will add, forbearance; but it has gone to an extent never equalled, which has arisen from this, that the defendants, desiring to shew the peculiar doctrines entertained or believed by the successive ministers of this chapel, have not been able to produce direct evidence of that which one would have thought they could have done at once, namely, the precise doctrine which has been preached by them for more than half a century. In no one instance, until of late days, has there been direct evidence given of the doctrine preached by the ministers of this chapel; and therefore the defendants were under the necessity of resorting to the acts of the parties, to shew that this minister had communion with A, and that another minister had been recommended by B; and I have had, at every turn, to try a new issue as to what were the religious opinions entertained by A or B, and have been obliged to get at the religious opinions of the ministers of this chapel, not by that which they preached openly to their congregation, to whom they were bound by their office to communicate what they believed to be the true faith, but by examining into the religious opinions of others, as if the question to be tried were the religious opi-

nions of those third persons. The result of the case, however, has been, that I do not conceive that I shall have that difficulty to contend with. In the view I have taken of it, that difficulty does not arise. I am first to consider to whom, in law, does this chapel belong. It appears that this congregation met originally at a chapel in New Row; and it has been proved in evidence, and is, I think, incontrovertible, that that congregation resulted from Dr. Winter and some others having at a very early period been nonconformists. It is clearly proved—it is not in fact controverted, that the founders of the chapel at New Row were Trinitarians in the sense of the 39 Articles. It is not controverted, that after Dr. Winter there was a succession of ministers in that chapel of the same persuasion. It is therefore impossible to doubt—it has been clearly proved, that the chapel at New Row was a foundation by Trinitarians. In 1702, attacks were made on Emlyn, in consequence of the Unitarian doctrine which he had imbibed and inculcated: he was deposed; and Nathaniel Weld, a name well known amongst Presbyterians and Dissenters, concurred in that act. If ever there was a marked act, it was that. Boyce also concurred in it; so did Choppin; and they all were Trinitarians. Whether Nathaniel Weld afterwards changed his sentiments on this point or not, I will presently consider; but it admits of no doubt, that at that time he was a strict Trinitarian, and followed in the steps of those who preached before him in that chapel. In that state of things the deed of 1710 was executed, which established the fund for the five congregations, one of them being this very congregation of New Row, which afterwards, in 1728, was removed to Eustace Street. That deed has already received a judicial determination; upon which, however, it does not become me to place any greater weight than belongs to its character as a judicial determination, unappealed from. But as the decision upon that deed has been submitted to me, I must now consider it as settled by judicial authority, though not higher than my own, that the trusts of that deed were for the benefit of Protestant Presbyterian Dissenters, believing in, though not subscribing, the Westminster Confession of Faith; that Confession of Faith containing the doctrine of the Trinity, according to the 39 Articles, and asserting the co-equal Deity of our Lord Jesus Christ with God.

Up to this period of time, the state of things does not admit of doubt. But in 1718-19, Old Style, a deed is executed, by which a fund is provided for building a new chapel, (which was accordingly erected in Eustace Street, in the year 1728,) and for the ministers and the religious worship of the congregation, and for educating boys, and for the maintenance of widows; and I am asked to believe that N. Weld, in the interval of seventeen years, between 1702 and 1719—but I should say that the period ought to be confined to nine years, between 1710 and 1719—that he in that interval became an Unitarian; and I am asked to do so on the ground that he became the associate of Leland, who is said to have been an Unitarian. Now as this was originally a place of worship established for the worship of God according to the doctrine of the Trinity, as expressed in the Westminster Confession of Faith, I must expect clear and decisive evidence of some change which would operate as a breach of trust—

for I am speaking of property, not of faith—I cannot hold that a breach of trust has been committed, unless I have clear evidence of it. Where is that clear evidence to be found in this case? When did Nathaniel Weld, at any time before 1719, express opinions which were Antitrinitarian? No attempt has been made to prove that he ever did so. On the contrary, I find that shortly after 1719, that is, in 1721, he was a clear and strict Trinitarian. I find him a party to certain proceedings of the Presbytery of Dublin, and signing an entry in the record of their proceedings, in which they speak of the "great and glorious article of the Supreme Deity of Christ." Nothing can be more express than the homage paid by him to this doctrine by his signature. Again, at a later period, you have Nathaniel Weld, after the Act had passed for the relief of Protestant Dissenters, which was shortly after the execution of the deed of 1719—you have him not only approving in the strongest terms of that Act, which he never could have approved of if he were an Unitarian; for the 13th section of that Act excludes from the benefit of its provisions those who should preach or teach against the doctrine of the Trinity—and how he could express his approbation of that Act, if he were one of those who were excepted out of its benefits, I am at a loss to know—but also, in that same document (for the matter does not rest on inference alone), he again expresses in the strongest terms his complete adherence and belief in the doctrine of the Trinity, according to the Westminster Confession of Faith. Therefore, if evidence were wanted to shew that no change took place in the opinions of N. Weld, I have it just about the very period in which it is suggested that he did change his opinions. I therefore take it that, in point of evidence, it stands uncontradicted, that at the time when the deed of 1719 was executed, the congregation in question was a Trinitarian congregation, according to the Westminster Confession of Faith; following in that respect the old congregation whose foundation was that which I have mentioned. I also think the observations made by Mr. Brooke upon the words of this deed are very just. The intention of the donor was, that divine worship should be celebrated in the way in which, at that place, it had been celebrated; and as a Judge, I can come to no other conclusion. It is observable also that one of the trusts of the deed is for the benefit of N. Weld himself, and for Dr. Leland; at all events, therefore, the author of the trust was prepared to sanction the appointment of a Trinitarian minister.

But then it is said, look at the latitude in which the donor has conferred his benefits. He has provided for boys and widows; did he intend them to be Trinitarians? He has not imposed such a condition. It is not necessary for the admission of a boy or a widow into a participation of his bounty, that either of them should profess a belief in the doctrine of the Trinity; but I need hardly say, that the selection of the boy or the widow would, in all probability, depend very much upon the persons who were to administer the charity as trustees. But let the funds of the charity be vested in whom they may, whether they would consider themselves, or be held to be, faithful stewards of the fund, if they required a particular faith in the person to be selected, is a question I am not called upon to decide.

I must therefore consider the chapel to have belonged to a Trini-

tarian congregation, and to have been solely dedicated to the use of such a congregation. Has any thing happened since to divest them of that right? I agree with Mr. Holmes in his eloquent and able address, that I am not bound to transfer this property from one party to another, unless I be satisfied of the grounds upon which I am proceeding; and that I ought not lightly to disturb the possession of half a century. But I must give this property to the persons to whom it belongs. What has divested their right to this property? The only ground relied on, as I understand the argument, is, that all the ministers of this chapel since the time of Nathaniel Weld, and including Leland, were Antitrinitarians. Suppose it to be so, will that divest the character and alter the nature of the original foundation? The law is the other way. When you have established the intention of the donor, you have imposed on the property a particular character; and you are not at liberty to destroy it, and substitute another for it. But this case does not rest upon that alone; for it has this peculiarity, which relieves it from all difficulty. A portion of the fee-simple in the lands was originally left in the grantor;*—a lease was made for a long term of years to the trustees, reserving a rent:—that reversion in fee was ultimately given up, and has been transferred from time to time, for the benefit of the congregation; and it now belongs to the same congregation to whom the chapel interest belonged. Now, certain deeds have been given in evidence, coming down to so late a period as 1829, conveying this property from time to time to new trustees, and with those conveyances there are accompanying declarations of trust. What are those declarations of trust? That the persons to whom this property has been conveyed, shall stand seized of it upon the trusts of the deed of 1718-19. So that, without any attempt or colour of changing the trust, the persons who have had dominion over this property, down to the present time, have executed declarations that the trust was the same as that in the deed of 1718-19. Where, then, is the question in this case? I do not at present feel pressed by any difficulty in point of law or fact as to this property; for it is clearly established, as I am at present advised, that this is a foundation by a Trinitarian, for the purposes of Trinitarian worship, and the legal estate has been conveyed to the present defendants upon that very trust. Upon that part of the case, therefore, I should say there was not any great difficulty.

The question as regards the ministers has a different and secondary bearing. There have been from time to time various donations, and it is said that these cannot belong to and go with the original fund, because as the ministers, at the time when these donations were made, were Antitrinitarians, the congregation must be considered to have been so also, and therefore the gifts must now be considered, not as accretions to the original fund, but as belonging to the persons for whom the donors intended them. In point of law, how does that question stand? I am at liberty—nay, I am bound, to consider what was the foundation of the charity, and to receive evidence of

* This is what the Lord Chancellor said; but I believe he was not quite correct as to the fact. It does not, however, appear to be material.

what were the doctrines preached in the chapel, and that the donors were members of the congregation. But it is now admitted that the evidence which was tendered yesterday—of the religious opinions of the individual donors—is not admissible. I have therefore only to consider the question with reference to the evidence which has been admitted, to shew the surrounding circumstances in which the donor was placed at the time he made the gift. But before I approach those gifts, in order to clear the way as to the ministers, I would inquire whether it is true, as a fact, that Leland was an Unitarian? Now, I have no hesitation in saying that I think that has not been made out. I am not drawing a distinction whether he was an Arian or Socinian—which he clearly was not—but whether he was an Unitarian. That he may have subsequently become inclined to Arian doctrines, is possible; and there is a passage in his writings which would seem to lead to that conclusion; but I think I am bound on the evidence to consider him a Trinitarian. I am asked to believe that Nathaniel Weld, who is proved to have been a Trinitarian—elected by, and preaching before, a Trinitarian congregation, based upon a Trinitarian foundation—that he became an Unitarian, because he became associated with Leland. I should rather draw the contrary inference; and as Nathaniel Weld clearly was a Trinitarian, I would infer that the person chosen as his assistant in this chapel of Trinitarian foundation, which had an unbroken succession of Trinitarian ministers up to that time—that he must be considered to have been of the same belief as the person to whose assistance he was called; and not that he converted the elder pastor to his own opinions, which, instead of assisting, would have been to perplex him.

A passage from Leland's works has been relied on by the defendants, as shewing that he was an Unitarian. How extraordinary it is, that with respect to a man of so great notoriety and fame as Leland was, I should ask, in vain, to hear some sermon of his, clearly and explicitly denying the Trinity according as it is laid down in the Westminster Confession of Faith, or the Supreme Deity of Christ, as co-equal and co-eternal with God! Nothing of the kind is produced. Is not that in itself a strong argument against the view taken by the defendants of his opinions; and am I to spell out his opinions from extracts taken from his works? Now, there are some things quite settled in this case. It is settled, that up to the time when Leland entered upon his ministry in this congregation, it was a Trinitarian congregation and a Trinitarian foundation: and I must have some distinct proof that a minister preaching there was not of the same belief as his predecessors; that the succession of Trinitarian ministers was broken; and that this congregation, which from its foundation had been Trinitarian, worshiping in a Trinitarian place of worship, became Unitarian. There are some passages in Leland's works, one especially in his 4th volume, which I freely admit are not reconcileable with the doctrine I have referred to; but, first, I do not know that the sermon in which that passage occurs was ever preached; and, secondly, it is not that clear and explicit denial of the doctrine which I have a right to expect. Am I to believe that Leland presided over this congregation for more than half a century, and never once announced to them this great leading truth, which he believed in his

conscience, and which it was his duty, if he believed in it, to communicate to his congregation? But in the 1st volume of his works, I find the most express recognition of the doctrine of the "Holy and Ever-blessed Trinity," as he calls it, which could be expected to be found in the works of any man who believed in the Westminster Confession of Faith, or the 39 Articles. It would be a reproach to the memory of any man who used such language,—it would be a reproach to the memory of Leland, to believe that those words were used by him in any other than their ordinary acceptation by Trinitarians. I have had a most ingenious argument addressed to me upon what is now called Socinian Trinitarianism—(Unitarian is objected to by the counsel for the defendants). Did any one ever hear of Unitarian Trinitarianism? It would be rather a novelty. It is true that Biddle—I am not called upon to decide upon what his belief was, but from what I have read of his writings, I should suppose he was an Unitarian in the strict sense of the word—a Socinian: but he talks of the three Persons of the Trinity; and lowers or degrades the second Person of the Trinity, according to the view of Trinitarians—I need not say orthodox Trinitarians, for the whole world knows what is meant by a Trinitarian, and a prefix is not necessary. Biddle wholly disbelieved in it; he wrote upon the subject; but that does not prove, and I never before heard it asserted, that Unitarians considered themselves as admitting a Trinity at all. They acknowledge One God, as we all do; and the Lord Jesus Christ in an inferior sense—inferior to God the Father, and also the Holy Ghost, but in an inferior degree. But I never, before this argument, heard of the distinction which is now endeavoured to be pressed upon the Court, and which is referred to only for the purpose of persuading me that Leland, when he speaks of the Trinity, meant the Trinity according to the view of Biddle. Judging with such lights as I possess, I am strongly impressed with the opinion that Leland used those words in their common and ordinary sense, and as I should have expected him to use them. Again, Leland's sermons were subscribed for by a great number of the Bishops of the Established Church. I can well conceive how a work in the defence of the Christian religion may find favour with men who differ from the author on some minor points; but if Leland was at the time an Unitarian in the ordinary sense of the word, I can hardly believe that the Heads of the Established Church would have sanctioned his sermons as they have done.

Then it is said, that even if I cannot come to the conclusion that Leland was an Unitarian, I must believe that Isaac Weld was one. It is singular that Isaac Weld edited Leland's sermons, which were published after his death, and in the preface to that work, written by him, he speaks of the great kindness and attention which Leland received from the members of the Established Church, which shews that he did not greatly depart from the principles of the Established Church. I have read that preface with great attention. Some persons of learned and acute minds may perhaps find out from it that he had an inclination to Arianism, but there is nothing in it which would lead a person of ordinary apprehension to draw that conclusion from it. There is no allusion in it to that most important fact, if it

were true, that Leland was an Unitarian. If those doctrines were openly preached by him, why was it not openly asserted of him after his decease? What so natural, in publishing the works of Leland, as to state that he dissented from the Presbyterian connexion as regarded the great doctrine of the Trinity and the Deity of Christ? I therefore cannot believe that he ever did dissent upon this subject; for if he did, to write the life of such a man as Dr. Leland, and to omit the mention of the most important part of it, would indeed be strange. I cannot find in it a statement that Leland was, or that Isaac Weld himself, speaking of that period, was an Unitarian. It is said that Leland, like Dr. Clarke, was an Arian. I do not well understand what are the doctrines professed by the defendants. I understand that Dr. Ledlie states himself to be an Arian, but I do not understand his co-defendants to be Arians. On the contrary, I understand them to be Unitarians in the proper sense of the word, believing in the divine mission of Christ, but that they do not worship Him. They state by exclusion, that they do not believe in the Trinity, or the Supreme Deity of Christ; but there is not a word that agrees with the declaration of faith made by their pastor. I should therefore rather have collected that these defendants are not agreed in their faith, and that their pastor is an Arian, and the other defendants are Unitarians; and I would suppose that their doctrines are very much opposed to each other, or, at all events, that the pastor places Christ in a higher position than his congregation are willing he should occupy.

As to Isaac Weld, I am not satisfied. There is not that direct and clear evidence which there ought to be in establishing a fact of this nature—evidence of his opinions openly delivered in the course of his ministrations. As to Thomas, it is clearly proved by parol evidence that he was an Unitarian; and Taylor says he is an Unitarian. I apprehend he was an Arian, for he complains that the Socinians had appropriated the term Unitarian to themselves; and placing Christ in a higher place than Socinians, he yet claims the term Unitarian as applicable to himself. It is impossible to deny that he was an Unitarian; but it is singular that as to both these persons, no sermon by them has been produced in which they have denied those doctrines. Mr. Hutton clearly is an Unitarian; there is no dispute as to that fact. Then the question is, what am I to do with these different gifts in this state of circumstances?

Mr. *Holmes* observed, that it was not to be expected that the ministers should in their sermons avow their disbelief in the doctrine of the Trinity or the Supreme Deity of Christ, as it was illegal to teach or preach contrary to those doctrines.

Lord Chancellor.—You say they held doctrines which they did not and could not avow. If they did not avow them, how can I consider that they held them? That view of the subject renders your case rather more difficult.

Mr. *Holmes.*—The faith of the ministers would appear from their worship, though it might not from their preaching. If they worshiped One Supreme Being through Christ, that would shew that they were Unitarians, though they might not preach the doctrine; for to preach their doctrine would be against law.

Lord Chancellor.—What was the meaning of producing the sermons, if that be the true view of the case? They have no bearing on the case. I have no doubt that Thomas and Taylor were Unitarians; when they became so, is another question. If they could not express their opinions, I cannot act upon that which was not avowed. I am not called upon to spell it out from circumstances. I am called on to declare that there has been a change of this congregation from a Trinitarian into a Unitarian congregation. But if I decide that this was a Trinitarian foundation, then every piece of evidence shewing that Unitarian doctrines were held by the ministers of it, establishes the case of the plaintiffs, and the evidence can only go to the point, to whom do the donations belong? I am told that the doctrines in question are not of the essence of Christianity. I cannot so treat them. I am bound to consider them as essential, and that this Trinitarian foundation was founded upon the belief of the 39 Articles, and that this was a trust for persons holding that belief. I have been asked, how am I to establish the charity; how is it to be ascertained that the persons to participate in it are Trinitarians? The Court never has been pressed by such a difficulty as that suggested. It would have equally applied to Lady Hewley's case. There will be no difficulty if I retain my present opinions, which I am rather discussing than pronouncing; for I shall consider the matter, not affirmatively, but negatively; not declaring who are entitled, but excluding those who hold Unitarian doctrines. The Court has no difficulty on the matter; it can make its decree without pointing out the particular mode in which the belief of the parties is to be ascertained.

Then as to the particular charities. The important one is that of Lowton in 1741. Lowton gives the property in a way which no person can dispute would give it to a Trinitarian congregation, if that was the proper mode of worship in this chapel. (Reads his letter of instruction.) The boys certainly are not required to be of any particular faith; in that respect, this gift is circumstanced in the same way as Damer's. How then am I to construe this gift? I do not know any thing of the private opinions of this donor; I only know that he was a member of this congregation. By law, that is a Trinitarian congregation, according to my present opinions; and I cannot see, anxious as I have been—for I have felt anxious, if I could find an intention expressed to devote any particular sum to Unitarian purposes, to give effect to it—for I should not consider myself bound by any authority which has been referred to, to give it to Trinitarians—but I repeat it, I can see nothing of that kind; nothing in the will which does not exactly adapt itself to the precise foundation, which is a Trinitarian foundation; nothing in it which would shew that it was not a good gift to the congregation, supposing that it had never altered its opinions, but had always continued Trinitarian. It is therefore impossible for me to say that this gift is to be separated from the old fund and carried to a separate account. I have not before me the particulars of the several funds, and the precise charities to which they were to be applied, but they appear to me to be governed by the same principle. Take Mrs. Singleton's. (Reads the terms of the gift.) It will be found exceedingly difficult to separate the sums given by her from the foundations to which they

were attached. The principle which I go on is, that there is nothing on the face of these gifts to shew that they would not be exactly fitted to the congregation, if they had at all times been Trinitarians; and I cannot go into the particular religious opinions of the individual donors, though I must receive evidence as to the fact that they were members of this congregation. In some instances the donors have expressly shewn their intention, as in the case of the congregational subscription in 1786. There the words of the gift referred to the original fund of Damer, and consolidated their gift with Damer's fund. That is a strong fact; for, in 1786, the persons now claiming against the gift of Damer's fund——

Mr. *Holmes.*—That congregational subscription was not a gift to Damer's fund, but a purchase of an annuity from the trustees of the fund.

Lord Chancellor.—I am aware of it. They gave the money to Damer's fund, and that fund became liable to pay an annuity of £40 to the widow. They mixed up the two funds; for the trustees of Damer's fund had no right to grant that annuity.

The next subscription was in 1792, and that was carried back to Mrs. Singleton's bequest and consolidated with it.

Mr. *Holmes.*—That was in the time of Thomas, when they were all Unitarians.

Lord Chancellor.—So I understand; but they carry back that subscription, and consolidate it with that particular fund.

There are no other donations of consequence, except that of Miss Crosthwaite. I have read her will, which at first seemed to introduce considerable difficulty apparent upon the face of the instrument itself; but on reading it over again, it appears to me that the testatrix has referred her gift to the old foundation.—[Reads the will.]

The whole of that statement (viz. in the will) goes to the right of the exercise of private judgment; and there is nothing in it opposed to the view I have already taken. I am therefore apprehensive—for if I found any thing in those instruments shewing that the gifts were made for Unitarian purposes, I would sever them from the original fund, and not include them in the decree; but I am apprehensive that I must decree the entire of these funds to the plaintiffs.

It has been said in the argument, that I must consider those original gifts as if they were given in this way. They say there was a free right claimed and exercised by these Dissenters that they should be at liberty to change their private opinions according to their judgment, and that the congregation at large should also be at liberty to change its opinions; that I must consider the original gifts as subject to this right; and that the congregation might change its opinions, and still carry with it the right to the property, notwithstanding the change; and that this was not a gift upon condition that the congregation should continue Trinitarians; and that I ought not to impose such condition on them. I do not impose such condition on them; I only read the trust as I find it, and deem it to be a trust for Trinitarians. Those who do not answer that character are not entitled to the benefit of the trust. The other objection is different. It is said that, according to the doctrine held by these Dissenters, they are at all times at liberty to change their opinions; that such is their great

principle, the right of private judgment. Then it is said that there is no penalty for doing so; and that if one was to give his property to Unitarians to-day, and they were to become Trinitarians to-morrow, they should carry off the property with them, in consequence of this great principle; in fact, it comes to this, that if one were to give property to the Presbyterian Unitarian congregation of A, and they were to become Trinitarians, they would take the property. But what is the real state of the case? They teach and preach the free and uncontrollable right of private judgment; but the moment the right of private judgment leads a man, in the exercise of it, to dissent from them, they will not retain him as their minister. It has been proved that in the Synod of Munster, some of the congregations are Trinitarian and some are Unitarian; and that at their annual meetings the Unitarian and Trinitarian ministers mutually preach in the pulpits of the others. That may be so; but I take it for granted that when they preach from the pulpit of a minister of a different persuasion, they avoid those subjects upon which they disagree, and preach only upon those which are in common to them; otherwise, I fear that the union which seems to have existed amongst them, would not have lasted so long. It only shews that there may be a Synod of congregations of different faith; but it is not evidence that there may be a mixed congregation of Unitarians and Trinitarians, or that either would tolerate a minister of a different belief: and that consideration introduces the difficulty of believing that Isaac Weld could have preached Unitarianism, and Leland Trinitarianism, to the same congregation.

The evidence clearly shews that subscription and non-subscription was not the bond of exclusion; that, provided the belief was declared, there might be a perfect bond of union between subscribers and non-subscribers: but the evidence also shews, that if a man became infected with error,—for example, if he believed in the doctrines of Unitarianism, those who professed Trinitarianism would no longer hold communion with him as a congregation, and if he were a minister, he would be deposed. That is the clear result of the evidence; and what is more, it is the inevitable working of every system. No congregation, having the free choice of their ministers, will sit under a minister who preached doctrine in which they did not concur, and especially a doctrine because of which they had separated from the original body, in order that they might be at liberty to entertain their own belief. They could have had no other object in separating from the original body. I apprehend, therefore, that this point has been pushed too far, and that it cannot be maintained. Another argument of considerable weight urged for the defendants was this —it was said that these were gifts to Protestant Dissenters, and that those words are used generally, and include both Trinitarians and Unitarians. I am not disposed to deny *that*, in an abstract point of view; but it is clear that I am bound to resort to extrinsic evidence, within a limited range, for an explanation of those terms; and upon the evidence in this case, I am of opinion that those terms must be held to mean persons professing Trinitarian doctrine, according to the 39 Articles and Westminster Confession of Faith. Therefore my impression is, that the Attorney-General is entitled to the entire decree; but I will not

part with this case until next term; nor would I have made the present observations but for the attention I have paid to the case, both in Court and out of Court. I will finally dispose of it on the first day of next Term, and in the mean time will give it my best attention.

A PROTESTANT PRINCIPLE.

If there is one principle of the Protestant faith more unequivocally settled by the practice of Protestant Churches than another, it is that religious endowments are bestowed and held for the sustentation of *the Church*—not of any particular dogma that may have been held by the granters. The Protestant Episcopal Church of England, the Presbyterian Church of Scotland, the Lutheran and Calvinistic Churches of the continent, all have accepted without scruple of conscience the portions allotted to them by their respective Governments, of the endowments orginally conferred upon the Romish Church. They have made no demur on the legal ground that these emoluments, having been invested for the support of the mass and auricular confession, were tied down *in sæcula sæculorum* to be expended in upholding these dogmas. If they have grumbled at all, it has been that the laity have taken the lion's share of what belonged to the Romish priests. And even those churches which deny the right of the state to tax its citizens for the support of the church, maintain the right of the state to withdraw from the Established Church its wealth, and apply it to educational or other purposes. In the teeth of all this, we find the most Protestant of Protestants, the General Assembly of Orthodox Dissenters in Exeter Hall, meet to protest against this doctrine when it is applied to their own case. Many years ago, Lady Hewley and other pious persons granted or bequeathed certain lands or manors for religious purposes. According to the practice of the Protestant Churches, these endowments must be considered as having been granted for the support and edification of *the Church*, and "the Church" is an associated body of worshipers in full communion. But the orthodox Dissenters maintain, on the contrary, that they were invested for the upholding of a dogma—that they are the property of this dogma, and belong to it even though all should cease to believe it. With the theology of the question we do not presume to meddle—"*Davus sum, non Œdipus;*" or, as Chaucer hath it, "We are borrel men." But looking to the civil effects of recognizing such a doctrine, we confess that we are a little startled. Carrying it to its full but legitimate extent of application, it would bind down nations in perpetuity, not only to particular forms of Christianity, but to any systems of idolatry, however gross, which had once contrived to get themselves liberally endowed. No state, and no citizens of a state, would ever be able to shake off the yoke of a superstition which had once succeeded in inducing their grandfathers to put their hands in their pockets. Men may laugh at the rites of Fo and the mysteries of Fum, but they must continue to pay their priests and buy incense for their altars.—*Spectator.*

DEBATE IN THE HOUSE OF COMMONS, JUNE 6, 1844, ON THE SECOND READING OF DISSENTERS' CHAPELS' BILL.

(From the Notes of the Short-hand Writer.)

The ATTORNEY-GENERAL. — In rising, Sir, to propose the second reading of this Bill, I will endeavour to make the House aware, as briefly and as clearly as possible, of the objects it is intended to accomplish by it; and, Sir, I am the more anxious to do so because I am perfectly satisfied, from what we have seen taking place out of doors, and from the language of many of the petitions which have been presented against it, that some great misapprehension exists with regard to its scope and tendency.

Sir, petitions have been presented against this Bill from various denominations of Dissenters who claim to have an interest in the property which is the subject of it, and those petitions state that the petitioners are aggrieved by this Bill, because but for its provisions they would be entitled to property on which the Bill is intended to operate. Sir, I will deal with those allegations in another part of what I shall have to address to the House. But there are petitions also from another class of Dissenters—the Wesleyan Methodists. I do not see any provision in this Bill which will in any way whatever affect their property. I do not believe that there is any provision in the Bill which can in any way touch the Wesleyan Methodists, or the property of any Wesleyan congregations; and, Sir, as regards the members of the Church of England, some of whom have petitioned against the Bill, it is perfectly plain that they have no interest in the question of property affected by the Bill, because the provisions of the Bill are confined exclusively to Dissenting chapels, and because upon this point a decision has been given in that cause of which the House will probably hear a good deal in the course of this debate—I allude to the proceedings which have taken place with respect to Lady Hewley's charity. The cause relating to that property has now been for fourteen years in litigation, and the costs of that suit have been so great as almost to have destroyed the property which formed the subject of it. The House of Lords have decided that the Unitarians are not entitled to the benefits of that property, and the House of Lords have decided also that the members of the Church of England are not entitled to it. But the House of Lords have not decided who is entitled to the property, and at this moment it is as much a disputed question what class of Dissenters are entitled to the benefit of that charity, as it was when that suit was instituted fourteen years ago. I do not know whether honourable gentlemen are aware of the position in which that cause stands now. The parties litigating for the benefits of that charity have not been content with contesting their rights in the Master's office, but a fresh information has been filed on behalf of the Independents, alleging that the Presbyterians do not agree in doctrine with the doctrine of the foundress of that chapel, and that they are no more entitled to the benefit of that charity than the Unitarians; and therefore that suit may now probably go through

all its stages of litigation, and may last another fourteen years, if the funds of the charity are found to be sufficient, before any ultimate decision is come to as to the parties entitled to the property. I refer to this case, Sir, now only for the purpose of shewing that the members of the Church of England are not affected by this Bill, and that they clearly have no interest in the property in question. But there are petitions also from members of the Church of England, and from the Wesleyan Methodists, not founding their objection to the Bill upon any matters of property, but on points of doctrine. Now I have every respect for those conscientious feelings which have induced these parties to present petitions against a Bill which they think likely to encourage the propagation of a faith the most hostile to that which they themselves profess; but, Sir, I feel at the same time that it is too late for us to be now inquiring whether the Legislature have done wisely or not in extending a complete system of toleration to all religious sects. Sir, that has been the spirit of legislation in this country now for some years. It was in that spirit that the Legislature passed the Bill of 1779, which relieved the ministers of Dissenting congregations from the necessity of subscribing to the doctrinal Articles of the Church. It was in that spirit also that the Bill of 1813 was introduced, which repealed the excepting clauses of the Toleration Act against the Unitarians, and also the Act of William, which made it blasphemy to deny the divinity of our Lord. The same Statute also led to the passing of the Act of 1817, for Ireland, which extended complete toleration to the Unitarians. The professed intention of the Legislature in passing those Acts was to put the Unitarians upon the same footing of toleration as regarded all civil rights—as regarded all civil property—as regarded all chapels—as regarded all schools, and as regarded all charities, as all other classes of Protestant Dissenters; and, Sir, I cannot help thinking that we should not be acting in the spirit of that complete toleration, or in the spirit in which those Acts were passed, if we were to allow any feeling against the particular creed of a particular sect of Dissenters to interfere with an act of justice, or to prevent our legislating for them in the same spirit as we do for other classes of Dissenters. I do believe, Sir, that the alarm which is felt as to this Bill encouraging Unitarianism is wholly unfounded. I do not think that the passing of this measure will have any effect one way or the other. But if there were any grounds for supposing that the spread of Unitarian doctrines is to be kept back by pains or penalties, or by legislating for them in a different spirit than for other classes of Dissenters, the time when you ought to have resisted toleration was in the years 1813 and 1817, and not now, after those Acts have been for so many years in operation.

Now, Sir, passing for a moment from that, let me call the attention of the House to the circumstances which have induced Her Majesty's Government to introduce this Bill. It must be admitted that this Bill comes down to this House with every recommendation. It comes down here after having received the concurrent support of every legal authority in the other House of Parliament—my Lord Brougham, my Lord Cottenham, and my Lord Lyndhurst—all of whom were Judges in Lady Hewley's case. It comes down here

recommended also by Lord Campbell, who was counsel in that case; by Lord Denman and Lord Langdale, and by every legal Member of that House. It is wholly impossible to suppose that Her Majesty's Government, in adopting the Bill, could have any other possible object than that of doing justice—of supporting a measure of peace, and of putting an end to grievous, vexatious and ruinous litigation.

I will now state to the House the nature of the different clauses of this Bill. I am told that to the first clause not much opposition is made; but at the same time I should be wrong if I did not state to the House that that first clause is a most important one.

Now, Sir, the House will perhaps pardon me if I allude to the position in which Unitarian Dissenters stood prior to the passing of the Act of Toleration. Honourable Members are aware that after the passing of the Act of Uniformity and prior to the passing of the Toleration Act, there were penalties imposed on the professors and teachers of doctrines differing from those of the Church of England. Prior to the passing of the Toleration Act, therefore, any gift for the purpose of founding a chapel or a school or any charitable foundation to propagate any doctrines other than those of the Church of England, would not have been upheld by the courts of law—they would have been held to be illegal and not to be tolerated. Before the passing of the Toleration Act, every class of Dissenters—I speak not of Protestant Dissenters alone, but Roman Catholics and Dissenters of all denominations—stood upon the same footing. All their foundations were illegal. None of them were tolerated, and none of them would have been acknowledged by a court of law. Then came the Toleration Act, by which Act toleration was extended to Protestant Dissenters generally. There were exceptions in that Act, and, among others, Roman Catholics were excepted by name. It excepted also Unitarians, by requiring all Dissenting ministers to subscribe, not the Thirty-nine Articles of the Church of England, but that portion of them which embraced the doctrines of the Church of England, and it excepted by name persons who denied the doctrine of the Trinity. After the passing of that Act, all classes of Protestant Dissenters to whom the exception did not apply could have founded their schools and chapels, and could have established any charitable foundation for the benefit of their own sect, and the courts of equity and courts of law also would have recognized those foundations, enforced the trusts, and given the same effect to charities founded for Dissenting purposes as to foundations devoted to the promulgation of the doctrines of the Church of England. It was not so, however, with regard to charities founded either by Unitarians or by Roman Catholics. Now I will just state the different provisions which have been passed at different times to relieve the Dissenting body from those excepting clauses in the Toleration Act. I am extremely anxious to avoid any thing which may have the appearance of leading to a theological discussion, but it would appear that very early indeed there was a repugnance felt by persons dissenting from the Church of England to subscribe the doctrinal Articles of that Church, and I find as early as the reign of Queen Anne that an Act was passed, not indeed relieving the ministers of Dissenting congregations expressly from the necessity in future of subscribing those Articles, but giving

them in effect relief from the penalties imposed by the Toleration Act. In 1772, a Bill was introduced into the House of Commons to exempt Protestant Dissenting ministers from subscribing to the Articles of the Church of England. Now it will be clear to any honourable Member who will read the debate upon the introduction of that Bill, that it was introduced for the purpose of giving relief to those who professed what are now called Unitarian doctrines. It was discussed upon that ground, and in the House of Commons it was resisted upon the ground that the effect of the Bill would be to encourage a sect who denied the doctrine of the Trinity. Sir, that Bill passed the House of Commons in 1772, by a very large majority, but it was thrown out by the House of Lords. In 1779, it was again introduced, and then it passed into a Law; and ministers of Protestant Dissenting congregations are not now required to sign any doctrinal Articles of the Church of England. All that they are now required to do is to affirm that they are Christians and Protestants.

Now, Sir, the Act of 1813, every one knows, repeals the excepting clauses of the Toleration Act, and the Act of William, which made it blasphemy to hold Unitarian doctrines. After the passing of that Bill, any foundation of Unitarian chapels or schools would have been held legal by the courts of law, because the excepting clause was gone, and those professing Unitarian doctrines would stand, therefore, upon the same footing as other Protestant Dissenters. But then this question arose—foundations may have been made, as we know many were made, for Unitarian purposes prior to the year 1813; and if you find foundations prior to the year 1813, at a time when they were excepted out of the Toleration Act, could you take from the body you now tolerate, which you now say is legal, and which you now say may endow chapels and schools, that which they are in possession of, merely because the foundation was made prior to the passing of the Act which authorized such endowments? I think it could hardly be said that you were giving full effect to the Act unless you gave it a retrospective operation. When the Roman Catholic Act passed, all Roman Catholic chapels and schools were put upon the same footing as those of Protestant Dissenters. That Act was made retrospective in its operation, and therefore foundations in favour of Roman Catholics, though made prior to the passing of that Act, were held to be legal. The first clause of this Act not only puts Unitarians, but all Protestant Dissenters, upon the same footing as Roman Catholics. It gives a retrospective operation to the several Toleration Acts. It says, That which we now declare to be the law of this country, we will assume always to have been the law, and we will not interfere with property of which you are in possession merely because you became possessed of it prior to the passing of the Act. That is the first clause of this Bill, and I am at a loss to know what fair objection can be raised to it. It is an important part of this measure—it is a most important part of the relief sought by Dissenters—it is a most important part of that measure which has been sanctioned by high authorities in the other House of Parliament, and I trust it will meet with the unanimous approbation of this House.

Having stated to the House the circumstances which have rendered it necessary to introduce the first clause, I come now to the second.

That clause has been introduced for the purpose of preventing litigation like that which has occurred with respect to Lady Hewley's charity. I ought to have stated with regard to the first clause (because even here it is clear that there has been a misapprehension), that the first clause relates to all charitable foundations. It is not confined to chapels, but relates to all charitable foundations for the benefit of Protestant Dissenters. The second clause of the Bill relates to Dissenting chapels only, not to general charitable foundations, but to chapels in the possession of Dissenters. Then with respect to the existing law it is said, that as the law now stands there is no lapse of time which can be pleaded where a breach of trust is shewn. In one sense that statement is perfectly true, and if the breach of trust be of a description which affects a charity in which the public have an interest in such a way that the Attorney-General has a right to interfere on behalf of the charity, then the lapse of time is not allowed to be set up; but in the case of private breaches of trust the case is different, and in those cases lapse of time may be set up, as in all other cases of private rights; and it might in this case, if the question of the doctrines taught in any particular chapel were brought before the Court in a suit instituted by members of the congregation, and to which the Attorney-General was not a party. I shall be extremely happy to be followed by any members of the legal profession who take a different view of the question from that which I have taken, but I trust to satisfy the House that there is no violation in this Bill of any principle of law, but that its provisions are in strict conformity with those which the existing law applies in other and analogous cases. Now, by the law of this country as it stands at present, there is no doubt that a party may, if he thinks fit, give money for the purpose of a religious trust, and stamp on that trust, as it were, the character of permanence. For instance, if a person when creating a trust said, "I found this chapel as a chapel to be used by Roman Catholics, and Roman Catholics alone," the will of the donor in such a case would be binding. But, Sir, I do not think (and I say this with great deference) that where you find a charity founded for religious and Dissenting purposes, and that charity is not stated to be for the benefit of a particular sect of Dissenters, you have a right to assume that the founder intended it to be for the benefit of a particular sect, although you prove that the founder himself professed to entertain the doctrines of that sect. I say you have no right to assume it, and I say so for this reason. Any person who knows the history of Dissent in this country knows that large bodies of Dissenters have at all times repudiated subscription to particular articles of faith and the profession of particular creeds—the refusal to subscribe, or to be bound by any particular profession of faith, has been the very bond of union between them—and these persons would have shrunk from imposing any such burthen on their successors, but would have allowed to them the same liberty they claimed for themselves, and to appeal for their faith to the Bible alone; and if, therefore, you do not find upon the face of the deed itself a statement that the charity is intended permanently for the benefit of the doctrines of a particular sect, it is a gratuitous assumption to say that the intention of the founder was that its benefits should be confined to those who followed the faith which he professed.

But, again, where you find a congregation making a purchase of land for the purpose of building a chapel, and it sufficiently appears upon the face of the deed that they intend that chapel to be used for the purpose of promoting the doctrines of a particular sect, with such a chapel this Bill will not interfere. This Bill will not interfere in any case where it appears upon the deeds creating the trust that the trust was intended for the furtherance of the doctrines of a particular sect. I think it is quite impossible that the nature and object of this Bill can have been understood. It has been said that this Bill has been introduced for the purpose of allowing trustees to violate their trusts, and that the effect of it will be to encourage those who have property given to them for one purpose, to apply it to another; whereas in point of fact, as I have already said, the Bill will not interfere in any case where it appears on the face of the deed that the chapel has been founded with reference to a particular sect. Take the case of an Unitarian chapel. Unitarian chapels are not founded (I speak now generally) by an act of benevolence, or by parties wishing to establish a particular faith. These chapels originate, generally speaking—I believe I may say universally—in this way. A congregation dissenting from the Church of England wish to establish a place of meeting or a chapel for their worship. They form together a voluntary association—they subscribe funds, and with those funds they purchase land and build a chapel. The chapel, in the first instance, is vested in trustees, and it is necessary that it should be so vested, because there is no corporate body to take. But I have been told that so little have the trustees of these chapels to do with their management or control, that in a great majority of cases the original trustees have died off and no fresh trustees have been appointed; it was not necessary because the congregations do not wish to part with the chapels, and rely upon their possession of them as sufficient evidence of their title to them. Who is it, let me ask, that appoints the ministers of those congregations? because one of the breaches of trust alleged is, that the trustees have taken this property in trust to appoint ministers who should profess a particular faith, and that they have handed it over to ministers of a different religion, and that thus the congregations have come to profess a different faith from that which it was the intention of the founders to promulgate. Who appoints the minister? Not the trustees, but the congregation. Who provides his stipend? Who removes him? Not the trustees, but the congregation. The trustees have no more power over the doctrines to be preached in Dissenting chapels than the most perfect stranger. If, therefore, there be any breach of trust, it is not by the trustees, but by the congregation, for whose benefit the chapel was founded. Now a Right Reverend Prelate in another place has stated the mode in which he conceives these congregations came to be Unitarian. Whether that Right Reverend Prelate is correct or not in his supposition, I do not profess to know; but he supposes that the congregations purchasing ground and afterwards building a chapel by degrees relax into Arianism, and ultimately become Socinians. Now let me just suppose for a moment that that is a correct statement of the fact—to what does it amount? A certain number of persons purchase land and build a chapel. They appoint a preacher. Father and son attend that preacher. Genera-

tion after generation go on attending that chapel and subscribing to pay the minister. They are all in unison. There is no dissent among them, but on the death or retirement of one minister, they appoint another, who preaches a doctrine different from that preached by his predecessor, no one of the congregation objecting to the substitution of the one doctrine for the other. Suppose generation after generation continued to maintain the chapel—to repair it—to buy burial-ground, and to pay the ministers, and suppose it to be admitted that all this has been done by an Unitarian congregation,—would it, I ask, be consistent with justice to dispossess them because it could be proved that a hundred and fifty years ago the original founders of the chapel professed Trinitarian doctrines, although for the last century the doctrines openly preached in that chapel were Unitarian, and although money has been subscribed and benefactions made to support it as a Unitarian place of worship? Is it just or right that congregations possessed of these chapels, which have been handed down from generation to generation, together with the faith they professed, and which they contributed to support and looked on as their own, should be called upon to hand over those chapels to perfect strangers? And it must be borne in mind also that it is not the original foundation alone which is to be taken from them, but all additions made to that foundation, although made by professed Unitarians—and if, therefore, money has been given for the enlargement of the chapel, for the increase of the minister's stipend, for a pension to his widow, and all given by professed Unitarians, and since Unitarian doctrines have been openly preached in the chapel, they will all follow the fate of the original foundation, and with it be taken from the present possessors and handed over to strangers. If this be a legal right, is it a moral or an equitable one? But, Sir, I think it right to say that it ought not to be assumed that the law on this subject is clear. I believe is the very uncertainty which prevails with regard to it that has induced all the lawyers without exception, whatever may be their politics or religious bias, to recommend the introduction of this measure. Let it not be supposed that by passing this Bill you are depriving either Presbyterians or Independents of property to which they are entitled. I say that the object of the Bill is to do that which is fair and right. If you have upon the face of your deed a declaration that the trust shall be for Trinitarian doctrines, or for the doctrines of a particular sect, this Bill will not interfere with that trust. But supposing it is not so, are you to assume that the founders of the chapels meant to bind down all posterity to the same faith which they themselves professed? If you are to assume that, then I ask, how are you to find out what that faith was? This is one of the difficulties which I know not how to grapple with. What occurred in the case of Lady Hewley's charity? The will of Lady Hewley, certain documents relating to her family, and certain Catechisms, were produced for the purpose of shewing that Lady Hewley was a Trinitarian. Suppose she was a Trinitarian,—has she declared that this trust shall be for Trinitarian purposes? But is it clear that such evidence is admissible? I have no right to refer to it as an authority, because it is merely the opinion expressed by one of the Judges in the House of Lords, though one entitled to the greatest respect and

reverence. But let me read to the House the opinion of Lord Chief Justice Tindal upon this point. Speaking with regard to the admissibility of evidence for the purpose of shewing the meaning of particular words in a deed, he says,

"The general rule I take to be, that where the words of any written instrument are free from ambiguity in themselves, and where external circumstances do not create any doubt or difficulty as to the proper application of those words to claimants under the instrument or the subject-matter to which the instrument relates, such instrument is always to be construed according to the strict, plain, common meaning of the words themselves; and that in such case evidence dehors the instrument, for the purpose of explaining it according to the surmised or alleged intention of the parties to the instrument, is utterly inadmissible. If it were otherwise, no lawyer would be safe in advising upon the construction of a written instrument, nor any party in taking under it; for the ablest advice might be controlled, and the clearest title undermined, if at some future period parol evidence of the particular meaning which the party affixed to his words, or of his secret intention in making the instrument, or of the objects he meant to take benefit under it, might be set up to contradict or vary the plain language of the instrument itself."

He then speaks of exceptions to the rule, such as instruments in foreign language, where terms of art are employed, and so on; and continues,—

"But whilst evidence is admissible in these instances for the purpose of making the written instrument speak for itself, which without such evidence would be either a dead letter, or would use a doubtful tongue, or convey a false impression of the meaning of the party, I conceive the exception to be strictly limited to cases of the description above given and to evidence of the nature above detailed; and that in no case whatever is it permitted to explain the language of a deed by evidence of the private views, the secret intentions or the known principles of the party to the instrument, whether religious, political or otherwise, any more than by express parol declarations made by the party himself, which are universally excluded; for the admitting of such evidence would let in all the uncertainty before adverted to; it would be evidence which, in most instances, could not be met or countervailed by any of an opposite bearing or tendency, and would in effect cause the secret, undeclared intention of the party to control and predominate over the open intention expressed in the deed."

I think it right to state that there is a difference, a conflict of opinion upon this point, and that there is an opinion of the Lord Chancellor of Ireland apparently opposed to that judgment. But why do I refer to this? For the purpose of shewing the uncertainty and mischief of litigation of this kind; for mischievous it is in every sense of the word. In the first place, it is wasting those funds which were intended to be devoted to charitable purposes. But besides that—although I by no means mean to say that the most solemn points of the Christian religion were discussed with levity—(for I believe that none of my learned friends engaged in that discussion would be guilty of such an act)—I do say that it is impossible to argue questions of this sort in a court of law with that solemnity which ought to be observed with regard to them; the tribunal is not a fit one for such discussions; and when I find that these great questions of religious faith were in the end taken back to the Master's office, for discussion there, I ask

whether the continuance of these suits is not a scandal which every true friend to religion would wish to see removed?

Well then, Sir, what is it that is sought to be effected by this Bill? That you should not leave parties to speculate upon what were the intentions of the founder, but that you should apply the same certain test which you have applied to other analogous cases. There is no single case of private right that is independent of usage. Whether it be wise or right that the law should be so with regard to charities, we are not now discussing. This Bill does not interfere with that. The House will bear in mind that there is no case whatever involving a private right of property in this country, in which the question does not turn upon usage. Twenty years' possession of your estates will give you a title against all the world. Not only that, but a possession of twenty years may give a title even against the Church. I do not now speak of a recent law, but according to the old common law, if you set up a modus against the Church, that modus is supposed in law to have existed from time immemorial. And how is it proved? By modern usage—a usage for twenty years will establish it. By the Act now introduced, you cannot set up any thing to contradict that modern usage, and a usage of a certain number of years will give a title that cannot be disturbed. If you want to find the contents of a lost deed or charter relating to any right of any sort or kind, how do you do it? If I shew a usage under that deed or charter for twenty or thirty years, or farther back, the Court will assume it. Take the ordinary case of a lost deed. You prove it by usage. I understand it has been said in another place, that if you want to shew by usage what are the contents of a deed, it would be much better to shew what took place twenty years after the execution of the deed than what took place twenty years prior to the present time. No doubt it would be better, if you could get such evidence. But why does the law take the last twenty years? First, because the law does not suppose that parties will slumber over their rights; and, in the next place, because modern usage affords the only criterion to which the contending parties can refer. That being the principle adopted in other cases, why should not the same principle extend to the case now under the consideration of the House, and why should there not be the same test of modern usage to which parties might have recourse? There is this advantage in passing such a measure—that you do not disturb existing interests—there is this advantage, that you do not take from congregations these places of worship of which they have been in possession now for centuries—there is this advantage, that you do not take from congregations the benefit of those sums of money which they have themselves expended on their chapels or contributed for the support of their ministers. But I am told that the consequence of passing this Bill may be, that property now possessed by Presbyterians, or other Dissenters from the Church of England, may in the lapse of time fall into the hands of Unitarians. But how could it be so?—because by this Bill the usage must be the usage of the congregation, and not of a portion of them. Let me suppose for a moment that here is a trust for the benefit of Presbyterians—if the minister went into the pulpit and preached Arian or Unitarian doctrines, any single member of that congregation might immediately

apply to have that minister removed. Unless, therefore, the congregation itself sanction the appointment and the doctrines preached by a minister, no such case as that apprehended could arise, and Presbyterians could not be ousted and have their property handed over to Unitarians.

One word more, and one only, I think it right to say. I certainly think there is a total misapprehension on the part of the Wesleyan Methodists, if they suppose that this Bill applies to them; and with regard to the wording of the Bill, I may say that the promoters of it will be ready to receive and take into consideration any suggestion which may be for the purpose of making more clear the principles upon which the Bill is founded. I repeat, that as the Bill now stands, if upon the face of the deed it appears that the original intention was that in any chapel the doctrines of any particular faith or sect should be taught, to such a case this Bill does not apply.

I have now stated to the House—I fear but imperfectly—the principles upon which this Bill rests, and I think I may venture to ask the House whether the measure is one which is open to those charges which have been made against it—whether it be not a Bill which Her Majesty's Government were justified in bringing forward, in the belief that it was founded on justice? I do hope it is a measure which will meet with the concurrence of the House, as being one which would benefit the great body of Dissenters in this country by putting down that spirit of litigation which has been engendered among them, and which must be so fatal to these charities.

With respect to the third clause of the Bill, and whether it should be rendered applicable to existing suits, I should say that that would be more properly a subject for discussion in Committee than on the second reading of the Bill. There are no suits now pending in England to which this clause will apply, and the facts relating to the suits which have been instituted in Ireland are stated in the paper now before the House, and they certainly do seem to make out a strong case for interference on the part of the Legislature, because I understand that, as regards one of those cases, Unitarian doctrines have been taught for the last sixty years, and as regards the other for about a century.

Sir, I will not in this stage of the Bill do more than move that it be now read a second time, and I feel confident in doing so that it will meet with the concurrence of the House.

Sir R. H. INGLIS. — Sir, whatever difference of opinion may prevail with respect to the propriety of passing this Bill, I believe that I am only giving utterance to a feeling in which every Member of this House participates, when I express the gratification I feel at seeing my honourable and learned friend among us again. However strongly opposed I am to the measure my honourable and learned friend has introduced, I am glad to bear my testimony to the zeal, to the eloquence, and to the power of his address. But, Sir, here I must stop; for I am still unconvinced by the arguments which my honourable and learned friend has so ably brought forward, and it will be my duty to urge the House to come to a totally different conclusion. No one in this House can be more aware than I am of the

great disadvantage under which I rise, when I rise to oppose a measure supported by my honourable and learned friend. I should feel that disadvantage if I were rising to advocate the cause to which I now devote myself upon grounds irrespective of law, and taking merely a general view of the subject. But though I will not disown those general religious views which have formed the groundwork of so many of the petitions to which my honourable and learned friend has just referred, I do not rest upon them in the opposition which I design to offer to the present measure, because I feel that it is not necessary in the present instance to decide upon the relative truth or falsehood of particular views of the Christian scheme. I view this measure as a measure of law and of property, which I believe to be violated by that measure, and upon that ground, and that ground chiefly, though not exclusively, I am prepared to oppose it. I am quite aware that in so limiting myself, I deprive myself of a certain portion of the sympathy of persons out of this House, and, I believe, of some within it; but I am unwilling to make this House the arena of theological discussion; and although I cannot divest myself of my own strong and individual convictions upon the subject, I hope that nothing which I may say may provoke an angry feeling on the part of those to whose religion I am myself opposed. My endeavour certainly will be to conduct this discussion without the slightest reference to any question on which we may conscientiously differ.

My honourable and learned friend began by asking, "What have the Wesleyan Methodists to do with this question, and what have the members of the Church of England to do with it, because their foundations are unaffected by any of the provisions of this Bill?" My answer is, that the members of the Church of England and the Wesleyan body claim to be heard on the ground of common truth and justice, which they believe will be compromised and sacrificed by this measure. But I will not limit myself to this, because I believe that the members of the Church of England at any rate have a direct interest in the maintenance of those principles which, as I contend, the present Bill violates, because, at least since the passing of the Municipal Corporations' Act, there have been placed in the management of charity-foundations originally created for the Church of England, persons who certainly did not profess to be even nominally members of that Church; and if they be permitted to hold property now vested in them as trustees for a period of twenty-five years, is there any man—certainly not one possessed of the acuteness of my honourable and learned friend—who will deny that in such a case there may be considerable danger to the permanency of those foundations, as foundations connected with the Church?

My honourable and learned friend has said that this Bill was supported by all the lawyers in the Upper House of Parliament. Now I am willing to admit that that gives a considerable prestige of authority in favour of the Bill; but I would oppose the authority of those noble Lords as members of the Upper House of Parliament, to their authority sitting, as every one of them has done, as a Judge in the cause which has led to the introduction of this Bill. I would appeal from Lord Lyndhurst sitting as Lord Chancellor on the Woolsack, to Lord Lyndhurst sitting as Lord Chancellor in the Court of Chancery.

But I need not go so far as that; for I may appeal from Lord Lyndhurst sitting in the House of Lords as a legislator, advocating the present measure, to Lord Lyndhurst sitting in that House judicially, and declaring that common sense and common justice required him to give the judgment which he pronounced in the case of Lady Hewley's charity. My objection is not to the authority of Lord Lyndhurst, Lord Cottenham, or Lord Brougham, as judges. My objection is rather to their authority as statesmen. If my honourable and learned friend could tell me that any one of those noble and learned Lords dissented from the judgment pronounced in the case of Lady Hewley's charity, then I would admit his title to place him as an authority on his side of the question; but until that is done, I am entitled to uphold Lord Lyndhurst as a judge, and appeal from his authority in the one position to his authority in the other. I admit that no sordid motive of interest of any conceivable kind could have induced my right honourable friend at the head of the Government, or the noble and learned Lord who introduced this Bill into the other House, to adopt this measure. Of that I entirely and fully acquit them; for it is a measure that is more acceptable to those who are generally found among their political opponents than it is to their supporters. The measure, therefore, comes forward with the prestige of the authority of great lawyers in the other House, aided by the weight given to it by the sanction of Her Majesty's Government, without the possibility of its being alleged against them that in bringing it forward they are pandering in the slightest degree to low or sordid popularity. But I contend that the question is not to be decided by mere authority. It is not the exposition of an existing law. If it were, it would be grosser presumption than I hope I should be guilty of to oppose my opinion to the opinion of those noble and learned Lords. But it is not a question as to the exposition of an existing law that is now at issue—the question at issue is as to the propriety of creating a new law. If it were the exposition of an old law, it would have the highest English authority in its favour; but as it is a question with regard to the propriety of introducing a new law, I contend that the only authority those noble and learned Lords can have is that authority which they possess as statesmen only, and that no additional weight is to be given to it from the high judicial character of the individuals expressing those opinions.

My honourable and learned friend stated, with reference to the first clause of this Bill, that the history of Protestant Dissent in this country justified him in coming to the conclusion, that, however little that clause might have excited opposition and observations in the petitions presented with reference to the general measure, it was not only one of the most important, but in itself absolutely essential to the Bill; and he deprecated opposition to the whole measure, inasmuch as that clause was not opposed by the great body of petitioners.

Now in reference to the history of Dissent, I am very willing to admit that when Parliament had relaxed the penal laws, and in the year 1813 had given legal sanction, or at least permitted a legal existence to those who denied the doctrine of the Blessed Trinity, it may follow, and perhaps ought to follow, that those foundations which previously to that Act were illegal, ought to receive the sanction of law; and

therefore if the first clause had been limited to that object, it would neither have provoked nor justified the opposition which is now raised against the Bill. Further than this, I, for one, could not go. The utmost concession I can make is, that if the present Bill had been limited to the enactment contained in the first clause, I should not have felt it my duty to rise up to move its entire rejection. But I take the first clause as part of the whole Bill, and observing in the second and in the third clauses matter so infinitely objectionable, I feel that my only course is to urge upon the House to get rid of the whole Bill.

My honourable and learned friend applied the greatest force of his argument to a defence of the second clause, and said that the waste of property which took place in Lady Hewley's case, the angry feelings to which it had given rise, and the scenes which had been displayed in the different Courts during the progress of that cause, were matters which no person possessing Christian feelings could desire to perpetuate or extend; and on the ground, therefore, not only of preventing litigation generally, but, above all, on the ground of preventing litigation with regard to matters so unsuitable to public discussion, he prayed the House to give its assent to the second clause of this Bill. Now he admitted that there was a difference between property held by private persons and property held in trust. He said that property held in trust did not appear to him to require any greater protection than property held by private individuals. Now I cannot but think that the strength of our case consists mainly in this, that whereas you might safely take an uninterrupted possession for twenty-five years as a sufficient guarantee of the soundness of the title of a person in possession of property, inasmuch as his next neighbour would not be likely to suffer an undisturbed possession of that to which he might himself be entitled, the case is very different in respect to trust property, where the interest is so divided that out of twenty individuals named in a trust-deed, it is very improbable that half of that number are aware that their names are included in it at all; and so, by little and little, the whole character of the trust may be changed by those who are on the spot electing persons of their own more immediate persuasion, and so gradually changing the trust from Trinitarian to Arian or Unitarian uses. Such cases have occurred perpetually, and I will give one instance which has occurred within the last week. I received a letter from a friend asking whether I was not a trustee of a particular chapel connected with the Established Church. My friend was a co-trustee. He said, "There is to be a vacancy in this chapel, but I think you and I are quite safe, because Mr. A. and Mr. B.—excellent men—recommend Mr. So-and-so to be the incumbent." My friend did not know that I was a trustee. He asked me whether I knew that I was a trustee; and it was very possible we might each of us be ignorant of the fact; and I ask any honourable Member whether it is not very possible that he might be ignorant of the fact of being a trustee of a chapel, though he might not be ignorant of being the owner of the advowson of a chapel. I give this instance, which occurred only last week, to shew how a body of trustees might be induced to change the character of a trust by appointing a person holding opinions different from those of the founder of the trust. I

say that the protection which the law has given to private property has been wisely extended to trust property of this description.

But my honourable and learned friend says that this Bill does not affect any trust property where the intentions of the founder are specifically marked out; that where the intentions of the founder are distinctly marked out in the trust-deed, this Bill is perfectly inoperative; and that all the parties aggrieved by the abuse of the trust, may apply to remove the trustee who has violated his duty. But my honourable and learned friend has omitted to state to whom the application should be made. I venture, with submission, to supply that omission, and to say that the application must be made to the Court of Chancery; and I ask my honourable and learned friend, therefore, how far this Bill will effect the great object for which it is framed, namely, the prevention of litigation? I believe, on the contrary, that, so far from litigation being prevented, it is likely to be greatly increased by this measure. On this point I may take the opportunity of stating, that even this very day a meeting was held of persons much interested in the progress of this measure—the Committee associated for opposing the Dissenters' Chapels' Bill—when it was resolved unanimously,—"That, on a deliberate review of all the circumstances connected with this extraordinary interference with the jurisdiction of Courts of Equity, this Committee is clearly of opinion that the Bill, if carried, will be an act of plain and palpable injustice, involving a direct and intentional breach of trust, as far as regards the religious views of founders, and indicating a disregard on the part of the Legislature of the paramount principles of the Christian faith." I have read the last clause without intending it, because I was anxious to avoid the discussion of such matters; but I beg my right honourable friend the First Lord of the Treasury's attention to this clause of the memorial: "That in this belief the Committee, in the event of the measure passing, will proceed to form themselves into a permanent body, and will enrol among them members of the Established Church, the Wesleyan Methodists, Orthodox Dissenters and Presbyterians of Great Britain and Ireland, with the view of making the real character of the measure known throughout the country, and calling forth such an expression of public opinion as will in the ensuing session procure its immediate and entire repeal."

Sir JAMES GRAHAM.—By whom is that resolved?

Sir R. H. INGLIS.—I thank my honourable friend for reminding me of that which I ought not to have omitted to state—that this memorial bears the signature of one who was formerly a Member of this House, and who has long been known as one of the leading organs of orthodox Dissent in this country. The signature to this paper which I hold in my hand, is that of John Wilks, as Chairman of the meeting; and this, I believe, will satisfy my right honourable friend the First Lord of the Treasury, that this as a legislative measure will not be final, if, unhappily, it should pass; and I think, even upon the admission of my friend the Attorney-General, I am justified in coming to the conclusion that it will not prevent litigation in the courts of law. Absence of litigation will not be its result; and certainly, as a measure of popular acceptance, there has

been no one measure that the present Government has introduced which is less entitled to that character.

My honourable and learned friend, in a speech to which I have already endeavoured to do such little justice as my own phrase would allow, has omitted, as I hope he will excuse me for saying, all reference to the third clause of this Bill. There was no good reason why he should lay stress upon the first and second clauses of the Bill, rather than upon the first and third. The third clause is very important, and quite as fit for discussion, in this case, as the first and second clause; and I believe it to be quite unprecedented. The clause, as it was brought into the House of Lords, was a very simple one, the marginal note of which was rather longer than the clause itself. The House will permit me to read it: "Provided always, that nothing herein contained shall affect any right or title to property derived under, or by virtue of, any judgment, decree or order already pronounced by any Court of Law or Equity, or affect any property, the right or title to which was in question in any action or suit pending on the 1st of March in the present year." That was the last printed form in which this Bill appeared in the House of Lords. Now, I am betraying no secrets here when I state, that while the Bill was actually passing, a most important alteration was made in that clause; and it was made with such breathless haste, that the Bill when it came down to this House retained that very marginal note, notwithstanding that the whole effect of the clause was altered. The whole effect of the clause was changed by the alteration which was introduced during the last moments of the existence of the Bill in the House of Lords, and yet the marginal note remains the same—that the Act is not to affect any suit pending on the 1st of March in the present year. The House would scarcely believe, if it were not in the power of any individual Member to verify what I state, that the clause as it now stands completely stultifies the marginal note, and provides—"That it shall be lawful for any defendant or defendants in any other action or suit which may be pending at the time of the passing of this Act, for whom the provisions of this Act would have afforded a valid defence to such action or suit, if commenced after the passing of this Act, to apply to the Court wherein such action or suit shall be pending; and such Court is hereby authorized and required, on being satisfied by affidavit or otherwise that such action or suit is so within the operation of this Act, to make such order therein as shall give to such defendant or defendants the benefits of this Act." Now, I beg to ask any honourable Member, whether he be a member of the legal profession or a plain country gentleman, if this is not an *ex post facto* law, legalizing, under a very flimsy pretence, that which but for this clause would be utterly unlawful? I was going to use a phrase which might appear disrespectful to those noble Lords in the Upper House who introduced the measure, or to those honourable Members of this House who give their support to the Bill; but I will say that there never was a measure more completely opposed to the original design of the framers of the Bill, as appears from the index they gave of their intentions, which still remains in the margin of the Bill, than the clause as it now stands.

I have already said that I think my honourable and learned friend

will be deceived in his expectation that the effect of this Bill will be to prevent litigation. Why, one phrase alone of the Bill (even admitting that the principle is correct, which I utterly repudiate and deny), must prove a fruitful source of litigation—"the usage of the congregation." What is the usage of the congregation? If I were to admit that usage for the last twenty-five years should decide the construction to be put upon the original intention of the founder, I would still ask, what is the meaning of the phrase? I believe the Lord Chancellor of England stated that the usage of the congregation meant the preaching of the minister. But what is the preaching of the minister? We have all heard of a case in the city of Cork, where a question has arisen as to what were the doctrines preached by an individual a certain number of years ago. He contends, that when preaching his present Trinitarian doctrines, he is merely expounding the profession of his former creed. The parties opposed to him, on the other hand, say, "You have never used such expressions before as those you now use: it is only within the last year that you have used any truly Trinitarian expressions." The Lord Chancellor's construction of the phrase, "usage of the congregation," is—"the preaching of the minister." But how can you ascertain what was the usage of the congregation in reference to a particular article of faith? On the other hand, the minister would say, "Here is a sermon which I preached many years ago, which is strictly Trinitarian;" while against him there are produced the notes of his congregation in the year 1820, in which Antitrinitarian expressions are found. I do not know the facts, but I assume that such may possibly be the case; and then I say there may be good reasons for introducing this Bill, though I have not been able to discover them; but I am sure no good reason can be found, coincident with the project of stopping litigation, for referring to the usage of the congregation. My honourable and learned friend says, you need not have recourse to usage where the founder has left any written evidence of his intentions; but I hold that a great many foundations not intended to be operated on by this Bill may be affected by it; and I beg to ask my honourable and learned friend whether, with respect to the larger number of the institutions to which this Bill is more immediately applicable, the doctrines which are now popularly called Unitarian were not entirely and absolutely prohibited by law at the time of their foundation?

The SOLICITOR-GENERAL.—No.

Sir R. H. INGLIS.—My honourable and learned friend the Solicitor-General contends that that is not the case. If I were to put my own authority on a matter of law in opposition to his, I might be considered presumptuous; but it should not be forgotten that two or three of the first Judges who ever sat in this country have said that at a particular period certain particular doctrines were absolutely unlawful. If that be so, it is rather hard to insist that the founders of these institutions intended to specify doctrines, the preaching of which was at that time contrary to law. But, says my friend the Attorney-General, you have no right to assume that they intended any specific doctrine to be preached. Now I say, be it so,—but I ask, (and here I quote the words of Lord Chancellor Lyndhurst,)

"Can it be believed that this pious lady would have bequeathed her substance for the purpose of endowing a chapel for the preaching of a creed which she herself would have deemed heretical?" Is it consistent with common sense to believe that a person endowing a chapel would willingly permit that her endowment should ever go towards the furtherance of that which she would consider heresy? I say it appears by the books which she desired to be used, that her own doctrines were those which she desired to be promulgated. It is not necessary for us to look to particular clauses in a deed or will. The Court of Chancery has admitted the same means of interpreting intentions in the case of religious trusts and charitable foundations as with regard to any other subject-matter which comes before it for decision; and if it appears to have been the intention of the party creating the trust, though that intention be not expressed in a deed or will, that the particular doctrine should be preached, it is not in the power of the trustees or of the congregation to alter the designs of the institution. If the intentions of the founder are not to be collected from express words, they may be collected from other evidence, as in the case of Lady Hewley, from the books which she desired to have used, from the sermons which were preached in her lifetime, and from the hymns which she required to be used. If you have such evidence as to the intentions of the founder, it is too much to say that a Court of Equity, which has hitherto acted on such grounds of decision, should no longer be permitted to do so, and that this Bill should be introduced.

My honourable and learned friend has said, how can we tell when the breach of trust commenced?—that such changes take place in the opinions of parties, that you cannot tell at what period the breach of trust first commenced; and he said that for seventy years at least you have had the concurrent opinion of the present generation expressed and preached in these chapels. But does not that very circumstance prove that up to that period the congregations consisted of persons who did not hold those opinions which are entertained by the present race of Dissenters? If you could shew that the doctrines preached to-day are the doctrines which were preached at the time of the first foundation of the chapel, however hostile they might have been to the views of the Legislature at that time, I should be willing to give to those chapels so circumstanced the benefit of the first clause of the present Bill, to legalize that which was not legal at the time of the foundation of those chapels. But the case is very different when, after these chapels have been dedicated to what he believed to be the truth by the founder and those who immediately followed him, and after they have been maintained for seventy years or eighty years upon those principles which he believed to be the truth, the parties who profess the same views should now be deprived of the benefit of those foundations, not by a decree of a Court of Justice, but by an Act of the Legislature. I am not aware that any person who takes the same view that I desire to take on this occasion has ever objected to an appeal to a Court of Justice; but I do object to an *ex post facto* law regulating the position of these funds upon principles totally different from those which have been hitherto acted on. I do contend that the proposition of Her Majesty's Ministers to make possession

for twenty-five years conclusive evidence against the intentions of the original founder, is unsatisfactory in point of law and equity; and if you talk of it as a means of preventing litigation, I have already, I think, sufficiently shewn, not merely by pointing out the loop-hole that there is for litigation, but by the declarations of the Dissenters, of whom Mr. Wilks is the Chairman and the organ, that even if litigation in a court of equity be prevented, the matter will not rest here; for the object and effect of this Bill will engage the attention of the country, and this subject will again have to occupy the attention of Parliament.

Now, I would not in the presence of Sir Edward Sugden, if he were still a Member of this House, say any thing inconsistent with entire and perfect respect; still less will I say any thing that can be construed to bear that character in his absence; but I think I may call upon his friends to point out any instance in which a Judge, after having intimated his intention of delivering his judgment on a given day, and every thing being ready for his decision, has postponed the delivery of that judgment on the ground that a measure was already, or was about to be, introduced into Parliament which might affect such decision. My impression was, that a Judge was bound to administer the law as he found it. I thought it was no part of his duty either to improve that law, or to consider how others might improve it. He had only to decide the case which he had proceeded a considerable way in deciding, leaving his judgment to be reversed, if it could be reversed, either on appeal, or by means of the special interference of the Legislature. I am informed by those who take a personal interest in this Bill, that there is no objection on their part to make such an arrangement, under the provisions of the third clause, as shall secure to the parties beneficially interested as annuitants or pensioners under any of the charities which may be affected by the Bill, the benefit of all the interests to which at this moment they are entitled. I know that that feeling exists from some of the petitions which have been presented to this House, and from information which I have received out of doors also. The ground, therefore, which has been taken, that by rejecting this measure gross injustice would be done, and great hardship would be inflicted upon persons in possession of these chapels, is not one which need decide the vote of any honourable Member, inasmuch as the interests of those parties might be protected by some provision to be introduced into the Bill.

I feel much indebted to the House for having heard me so far. I can most unfeignedly say that no man in this House feels more strongly than I do the great disadvantage of rising after my honourable and learned friend; besides which, I cannot help fearing that I am addressing an assembly the majority of whom are not prepared to support the views I advocate. I will merely conclude by moving as an amendment, that this Bill be read a second time this day six months.

Mr. PLUMPTRE.—I rise, Sir, to second the amendment proposed by my honourable friend, the Member for the University of Oxford. And, Sir, if there has been a subject which has occasioned my deep regret in the course of the present session, it has been that Her

Majesty's Government have not felt it to be their duty and their wisdom to set their faces against this Bill, and to withdraw it from the consideration of Parliament.

Sir, although this Bill may be carried by the acclamation of the House, which may not perhaps have given it that consideration which I think it deserves, the passing of the measure will, I believe, inflict a wound upon the Christian feelings of this country, to which it will be very difficult, if not impossible, to apply a remedy; and I very much fear also that the patronizing of such a measure by Her Majesty's Government will have any effect rather than that of raising their character in the estimation of the public. I say this with deep regret, but still I feel called on to say it, because I do think that the demonstration of public feeling that has been made against this Bill is such as ought to have commanded the respect of Her Majesty's Government.

The right honourable and learned gentleman who first addressed the House has said, that he conceives much misapprehension has existed upon this subject. It is possible that there may have been misapprehension with regard to a matter as to which men cannot at once enter into legal niceties and subtleties; but I would ask this House, are the parties who have presented petitions strongly worded against this Bill possessed of no intelligence? Why, Sir, honourable gentlemen who have been present in this House day after day, and have heard petitions presented in great numbers against this Bill, must know that they have proceeded from most respected and most intelligent parties — not merely from Dissenters, but from every class of professing Christians. It is only yesterday, I think, that I heard the noble Lord the Member for Suffolk present petitions signed by about two hundred of the clergy of that county. Three days ago, I myself presented a petition signed by the Archdeacon of Wells and one hundred and twenty-five of the clergy of that archdeaconry. If I mistake not, my honourable friend who preceded me presented a petition signed by a hundred and twenty-six of the clergy of this Metropolis, signed in a very short space of time and without any particular pains being taken to procure their signatures. Sir, petitions from different bodies of the Established Church, and petitions from the Wesleyan Methodists also, have thronged this House; and I own I was surprised to hear it stated by the Attorney-General, that neither the Wesleyan body nor the members of the Church of England have any interest in this matter. No interest in the matter! Why, are we come to this, that men must not move in a matter in which they have not a pecuniary interest? I trust that the Church of England is not so much debased, and that the Wesleyan body is not so much debased, but that they can come forward to oppose a measure in which they have no other personal interest than that which arises from their reluctance to have any thing done which shall injure the cause of the religion they profess. Both those bodies, Sir, are actuated by far higher and far better motives than mere personal interest, and I think that when they see a measure of this moment brought forward and patronized by Her Majesty's Government, which they regard as evil in principle and as giving encouragement to error, they do well to take the part which they have boldly and conscientiously taken of declaring their opinion

with regard to it. Sir, I cannot coincide with the opinion expressed by the right honourable gentleman, the Attorney-General, when he says that this Bill has met with opposition because its objects have been misunderstood. Sir, the Bill is well enough understood, and if under the patronage of Her Majesty's Government the Bill be carried, as I fear it will and must be, still I say again that the intelligent part of the community, and above all, the Christian part of the community, will have received a wound which will not very soon be healed. That, Sir, is my deliberate opinion. And, Sir, I must beg to make another remark in reference to the unwillingness that has been expressed, and in my opinion too often and too loudly expressed in this House, to refer to religious doctrines. Sir, I say that the Christian public of this country is insulted by this measure. I say that the Christian feeling of this country is much wounded and offended by this measure; and I ask whether it is not both right and natural that those who entertain such feelings as these should desire to represent to the House what is the state of Christian feeling in this country on occasions such as the present, when that which they hold most dear is assailed and threatened? My voice, I am well aware, is very feeble in this matter, and my influence in this House, I am well aware, is very insignificant; but this I do say, that so long as I have the opportunity of holding a situation in this House—so long as I entertain the feelings which actuate me on great religious subjects, I will not shrink from lifting up my voice, as long as strength shall be given to me to do so, when I consider that Christian principles are assailed in this House. Sir, this is a religious country—a country holding dear as her own existence the great vital doctrines of Christianity, and when those doctrines are assailed, as we believe they are assailed by the encouragement given by this Bill to error, I hold that this is the place in which we are bound to do all in our power to uphold and defend them. I do believe that this Bill offers an insult to the Christian feeling of the country. I entertain an honest and conscientious belief that it is calculated to do much injury to the cause of religion. I am convinced that I speak the sentiments of thousands and tens of thousands of the religious population of the country when I say, that the Christian feelings of a very large mass of the community are insulted by the Bill now before the House; and therefore, Sir, I shall most cordially give my support to the Amendment which has been proposed by the right honourable Baronet, the Member for the University of Oxford, and which I beg leave to second.

Mr. MACAULAY.—Sir, if ever there was an occasion on which I should be anxious to imitate the most admirable example which has been set by the calm and temperate manner in which this subject has been discussed by the honourable and learned Member by whom this measure has been brought forward, and the honourable Baronet who has moved the Amendment, and to take warning from the tone and temper of the honourable Member who has last addressed the House, it is the present.

I despair, Sir, of adding much to the very powerful and luminous argument of the honourable and learned gentleman who, to our

great joy, has again appeared among us,—but I was unwilling that this debate should proceed further without offering some considerations to the House; for I thought it desirable that, at an early period of the discussion, some person should rise on this side of the House, which is ordinarily occupied by those who are most strongly opposed to the existing Administration, for the purpose of declaring his cordial approbation of this most wise and excellent Bill, and his firm conviction that none but the best and purest of motives can have induced the Government to bring it forward. I am glad, Sir, to bear my testimony to the exceedingly mild and temperate manner in which my honourable friend, the Member for the University of Oxford, has discussed this subject. Most highly do I approve of the resolution which he formed, and to which he so faithfully adhered, of treating this subject as one of mere property, and not as a theological question. What, however, the honourable Baronet omitted, has since been amply supplied by the honourable gentleman who seconded his Amendment. We have heard from that honourable gentleman a speech in which the most utter and complete absence of every thing that looks like argument, of every statement of fact and of every shadow of reason, has been supplied by nothing but the language of theological animosity. In too many of the petitions which lie upon the table, I grieve to say I discover a similar feeling; and when the honourable Member opposite asks me why I do not suppose these petitioners competent to judge of the question, my answer is, that they have treated it as a question of divinity, when they should have looked upon it as a question of property. And when I see this, I am then certain that, however numerous they may be, they are not competent to judge of this question. If, Sir, the persons who desire that this Bill should pass are orthodox, that is no reason why we should plunder other people to enrich them; and if they are heretics, that is no reason for our plundering them to enrich other people. I do not think I could give an honest support to this Bill if I could not conscientiously declare, that whatever the religious persuasion might be of those interested in the passing of this measure, my language and my vote would be precisely the same. If, instead of the Unitarians, with whom I have no peculiar sympathy, it were a Bill in favour of the Catholics, the Wesleyan Methodists or Baptists, or if it were in favour of the old Secession Church of Scotland or of the Free Church of Scotland, my language and my vote would be precisely the same. It seems to me, Sir, that that on which the greatest stress is laid, is the second clause of this Bill. I can hardly conceive that any gentleman in this House is prepared, on account of the marginal error in the third clause, to refuse a second reading to the Bill; and to the first clause I hear no objection made. I believe my honourable friend the Member for the University of Oxford declared that if the Bill were confined to the first clause alone, he should not have thought it necessary to oppose it. Indeed, it would not be easy for my honourable friend, with his candour and humanity, to find any argument in opposition to that clause, after the clear, powerful and able manner in which this part of the case has been stated by my honourable and learned friend the Attorney-General.

We come, then, to the second clause, and here lies the whole stress of the matter. That clause evidently rests on the plain and well-recognized principle of law—a principle of the highest importance to all classes,—that prescription, as a general rule, ought to confirm the right of parties in possession of property—that, as a general rule, there ought to be a period of limitation, after which a title, though it may have originated wrongfully, cannot rightfully be set aside. Sir, a few years ago I should not have imagined that in any assembly of civilized and educated men it could be necessary to offer a defence of that general principle. I should have thought that in doing so I should be wasting the time of the House, as much as if I were to entertain them with a speech against the burning of witches, the trying a right by wager of battle, or testing the guilt or innocence of a party by making him walk over red-hot ploughshares. But, Sir, a body of sages, lately assembled in conclave at Exeter Hall, have done me the honour to communicate to me those profound views of legislation which they entertain. Among other things, they have been pleased to resolve that the principle of legislating for the purpose of terminating litigation and quieting possessions, is a principle which is altogether untenable and unworthy of a British Legislature, and they have been pleased to add this most extraordinary proposition,—that it is inconsistent in the present Government to bring forward Bills of limitation, because the present Government has created two new Vice-Chancellors. These gentlemen appear to me to be both bad logicians and bad jurists. I stand here as the advocate of prescription, and therefore I certainly shall not so far forget my part as to dispute the undoubted prescriptive right which gentlemen who stand on the platform of Exeter Hall possess of talking nonsense. That is a privilege largely exercised, but which *may* be abused, and in the present case I think it has been abused. At all events, if these gentlemen are in the right, they must admit that all the masters of philosophy and jurisprudence, and that all the bodies of law by which civilized men throughout all the world are governed, are fundamentally in the wrong: for where can you turn to see, or how can you conceive, a civilized society existing without the aid of this "untenable" principle—this principle "unworthy of a British Legislature"? No. It has been found in every part of the world and in every civilized age. It was familiar to the old tribunals of Athens—it was an important part of the Imperial jurisprudence—it was spread wherever the Imperial power extended—it was recognized throughout Europe; and after the French Revolution, when the French law was being reconstructed in the Code Napoleon, there appeared this principle of prescription. Go East or West, you find it recognized. You find it recognized in tribunals beyond the Mississippi. Go to countries which never heard the name of Justinian, and into which no translation of the Pandects has ever found its way, and there you will find this principle recognized and established as a sacred principle of legislation. The Hindoos even acknowledge it as a principle of legislation. And as to our own country, this principle was introduced into our law when first our law existed. It is found in the Statute of Merton, the first of our written Acts, and the principle has been carried on and extended, and the law has been made more stringent

by a succession of great legislators and statesmen down to our own time. We have seen it constantly advancing nearer and nearer to its full perfection, and we have found that where there were particular parts omitted, or particular points left unguarded, great oppression and gross evil has been the result. Sir George Saville brought in a law which barred the claim of the Crown, and it was Lord Tenterden who brought in a Bill which barred the perpetual claim of the Church. And, Sir, when I look at a principle such as this—when I see it in the legislation of every civilized country—when I find that there is a perfect agreement between it and the great body of law framed by our ancestors and forming part of the Great Charter—when I find it in the time of Justinian—under the Imperial authority, among the Greeks, and among the Pandects of Benares,—how is it possible for me not to believe that some universal sense of a great good and a great evil has led men, by perfectly distinct paths, to one and the same conclusion? And, Sir, is it not perfectly clear that this principle of prescription is absolutely essential to the institution of property itself —that it rests on all the grounds on which property itself rests—and that if you take it away, you produce the same kind of evil which is produced by a general confiscation? Suppose you adopted in Westminster a great part of the wisdom of Exeter Hall—suppose you struck out of your Statute-book this "untenable" principle—suppose you had no Statute of Limitation, so that any man among us might be liable to be sued on a bill of exchange accepted by his grandfather in 1760—or suppose you imagine the case of a man in the possession of an estate, or occupying a manor-house which has been held by his father and his grandfather and his great-grandfather before him, being turned out of that possession because some old will or deed, made in the time of Charles the First, has been discovered in some forgotten chest or cranny,—should we not exclaim that it would be better to live under the rule of a Pacha, and should we not all feel that this enforcement of an obsolete right was nothing less than an infliction of the foulest of wrongs? Should not we all feel that this extreme rigour of the law, without a limitation of time, would be nothing less than a grave, systematic, and methodical robbery? If this be the general principle —if it be generally desirable that a time of prescription should be established to limit rights, I wish to know how it will be made out that that principle is not to be applied to the case before us? I have read the petitions which have been presented here—I have heard the arguments of my honourable friend the Member for the University of Oxford—and I should have heard, if there had been any, the arguments of the honourable Member for Kent,—and what is there, I ask, to take this case out of the general principle? The arguments which I have heard are arguments against the general principle. One person says, Will you consecrate that which has been obtained wrongfully? Another says, This is an *ex post facto* law. What Act of Limitation is there throughout the whole of our English history which has not, to a certain extent, a retrospective operation? Go to the Statute of Merton, passed in 1235—to the Statute of Westminster, in 1275—to the Statute of James the First, in 1623—or take Sir George Saville's Act or Lord Tenterden's Act; is there a single one of those Acts which had not a retrospective operation? Is there any one

of those Acts which did not heal existing defects in titles, and that did not take away some right which would otherwise have existed? Is there a single one that did not operate upon the past as well as upon the present? The good and the wise approved of this, and until religious bigotry came in aid of chicane, no one found objection to it. The second clause of this Bill differs not at all from the other statutes of limitation I have mentioned. But it is urged as an objection to this Act—and the petitions are full of this reasoning—that you make the length of time during which people have been doing wrong (which is a material aggravation of the injury done to those who suffer), a reason for consecrating it. Does not every Act of Limitation having an *ex post facto* operation do the same? It is a greater wrong to my tailor if I keep him without payment for twenty years, than if I paid him at the end of twelve months; but the law says, that at the end of twelve months I must pay him, and that if he does not sue me for twenty years I am not bound to pay him. It is a greater evil for a family to be deprived of its property for five generations than for five days; but the law says, that after you have been out of possession for five generations your claim is barred, while if you have been ejected only for five days you may recover your possession. The only arguments I have heard brought forward against the passing of this Bill are arguments which apply, if at all, to the whole principle of limitation. But, Sir, the truth is, that this is not only a case in which the principle of limitation ought to be applied, but it is a case peculiarly calling for the application of that principle. Suppose you drove a man out of a private house, or out of an estate which he had in the first instance acquired wrongfully, but which he had held for sixty or ninety years (which is about the time that the members of Unitarian congregations are said to have held their chapels)—then, bad as that would be, and strongly as I would resist any attempt so to alter our law, still you would take from him nothing that was his own. But the real truth is, that the property of the Unitarians is so mixed up in this case with the property which they have acquired under these trust-deeds, that I believe it would be impossible, in almost every case, to take from them the original soil, without taking also something of greater value, and which is indisputably their own. This is not the case of ordinary property, where a man gets rents and profits, and expends nothing which increases the value of the ground. But have honourable gentlemen bestowed upon the petitions for this Bill the attention which they have given to those which have been presented against it? The petitions against the Bill abound with vague declarations and theological invective, while those in favour of the Bill contain simple and plain statements of a great practical grievance. Take, for instance, the case of Cirencester. The meeting-house was built in the year 1730, and there is positive proof that in 1742 there were preached there Unitarian doctrines. That was twelve years after the chapel was founded, when we must suppose that a great many of the original subscribers formed part of the congregation, and many of the present congregation also are shewn to be lineal descendants of those original subscribers. Large sums of money have been laid out in embellishing and enlarging the chapel. Then, again, there is the case of Norwich, where, in 1688,

a great Dissenting meeting-house was established, and there at an early period Antitrinitarian doctrines were preached; and so it went gradually on, until at length, in 1754, it is certain that both the preacher and the congregation were Unitarians. There is round the meeting-house a burial-ground, which is filled with the monuments of eminent Unitarians. There is also a library attached to the school-house;—and all this has been done at the expense of the Unitarians. All these expenses have been incurred, and at this moment they are sitting with their hands before them, declaring that they dare not build until they know what is to be done with the property of which they are in possession. Such is the common and ordinary history of these congregations. Go to Manchester. I am not certain that I have got the dates correctly, but of this I am certain, that for seventy years at least Unitarian doctrines have been taught at Manchester—that large sums have been laid out upon the chapel there—and that it is moreover the place where Priestley himself once taught. I am assured also that a sum of no less than £4000, which has been subscribed for the purpose of fresh repairs to the important Unitarian meeting-house at Leeds, is lying idle, because they dare not repair a single pew within the walls of that meeting-house until they know whether this Bill shall pass into a Law. At Maidstone again—I have written down the names of several places, but every where you will find it to be the same—there Unitarian doctrines have been taught for seventy years at least, and £700 has been subscribed for the repair of the chapel within a very short period. At Exeter, too, Unitarian doctrines have been preached for eighty years, and £2000 have been expended; and so with regard to many other places I could mention. It matters not where you go, you find it still the same. Now are these places which the British Legislature will consent to rob?—for I can use no other word. How should we feel if such a proposition were made with regard to any other property? Would it be borne for a single moment? And more—what are those who oppose this Bill to get, in comparison with what those who are injuriously affected by it are to lose? What feelings of regard must they not have for Priestley's pulpit or for Dr. Lardner's—for the monuments of eminent Unitarian divines—for the gravestones which the piety and the love of four or five generations have placed over the remains of wives beloved, of sisters dearly prized, and of fathers—brothers—children! And are these associations to be rudely disregarded and wrenched from them? To them these places are most valuable from the old and dear associations connected with them—to those who seek to intrude into them they are of no value beyond that which belongs to any place where men can have a roof over their heads. If we throw out this Bill, we shall rob one party of that which they consider to be invaluable, to bestow it in a quarter where it can have no other value but as a trophy of a most inglorious war, and as an evidence of the humiliation and mortification of those from whom the property has been wrested.

Sir, an imputation has been thrown out—not by my honourable friend, but in many of the petitions on the table, and it was thrown out also in some sense elsewhere—that the Unitarian body have been guilty of fraud, inasmuch as they have taken possession of many of

these chapels, knowing all the time that they were intended to be applied to Trinitarian purposes, and that the founders of them were attached to Trinitarian doctrines. It has been said that they have been guilty of a fraudulent misapplication of the funds, and of a fraudulent misapplication of lands and buildings, and it has been stated by a great authority that the ministers of the different congregations must necessarily and inevitably have been, down to a late period, either Trinitarians, or that they must at least have counterfeited Trinitarian doctrines, because until the year 1779, every Dissenting minister was bound to subscribe the Articles of the Church of England, which, if an honest man, he could not subscribe, being also a Unitarian, and therefore that the inference was clear, that down to 1779, these persons must have been either Trinitarians or rogues. Now I believe that they were neither the one nor the other, and that the very eminent person who said this, and who is intimately acquainted, no doubt, with the history of that Church of which he is an eminent ornament, knew very little of the history of Nonconformity. The truth is, that it was not from a very early period the practice of Dissenting ministers to sign the Articles of the Church of England. We know that it was not done by them all, and that a man so eminent as Calamy refused to subscribe them. This was at a very early period of the history of Nonconformity, when penal laws were most strict—when, as the vulgar proverb has it, new brooms might be expected to sweep clean; and is it not to be supposed that at a later period those laws would have become still more lax? As early as 1711, when the Whigs, by means I suppose of their coalition with Lord Nottingham, got the Occasional Conformity Bill through the House of Lords, they inserted, by way of shewing favour to the Dissenters, a clause which provided that if anybody informed against a Dissenting preacher for not having subscribed the Articles of the Church of England, the Dissenting preacher might, at any time before judgment, sign those Articles, and so defeat the information and throw all the costs on the informer; so that it is not very likely that many informations would be laid against parties for non-subscription; and the fact is, that it was distinctly stated in 1773, in Parliament and in papers put forth by the Dissenting party, that the majority of Dissenting preachers then alive had never subscribed the doctrinal Articles of the Church of England. The argument, therefore, drawn from the supposed insincerity of Unitarians at that time, must be considered as of no weight or value. Can it then be necessary to prove (although the honourable and learned Attorney-General has done it with great ability) how simply and how naturally these congregations, having (as was indeed the very principle of the early Presbyterians of that day) no precise form of worship pointed out in their trust-deeds to fix the sect to which they should belong—non-subscription being in fact the bond which held them together — what, I say, can be more conceivable than that they should have gradually gone on from one opinion to another, hardly knowing that the doctrine preached this Sunday was not the same as that which was preached the last? My honourable friend seems to treat this supposition with great disdain; will he allow me to refer him to a part of the ecclesiastical history of this country, with which, I believe, he is perfectly intimate? I would

refer him to the history of the great Scotch Secession—are the doctrines now preached the same as those which were preached originally? I have talked with many men belonging to that persuasion who are most eminent for their learning, ability and piety, and they all acknowledge that some points which were considered as essential and fundamental by the first Secessionists are utterly disregarded now. There is the principle of the connexion between Church and State. The Seceders of 1732 held that such connexion was proper and sound and desirable; and the first General Assembly held in the strongest possible terms the union of Church and State, and subscribed the Solemn League and Covenant. When George Whitfield also went to Scotland, though those Seceders agreed with him in his Calvinistic opinions, and though they admired his ability and his eloquence, yet they would hold no communion with him because he held and taught that such a connexion was sinful. Is that the doctrine of their descendants now? Are they not all crying out for the voluntary system; and is not the great point they now make, that the Church should not be interfered with by the State? Here is an instance of gradual change of opinion; and will you call it villany, and brand a great body of good men, who have lived through many generations, with the charge of dishonesty, because their congregations have gradually altered and shaped and modified their doctrine? My honourable friend may not consider that doctrine so important as the doctrine of the Trinity, but he will find that the original Seceders thought it so. In their opinion, the question of the connexion of Church and State was one of the most vital interest and of the most deep importance. But then there are the Wesleyan Methodists, who are so very eager in their opposition to this measure. Is there nothing, Sir, in their history to make them a little uneasy? I think I could point out some matters very well calculated to afford grounds for recrimination. What were the doctrines of that great and good man who was their founder upon the subject of lay administration of the Sacraments? What was the answer which he made to his congregation with respect to lay administration? He said, "It is a sin which I can never tolerate." Those were his own words. With his consent, it never was done. It was never done, I believe, in his lifetime; but soon after his death the feeling in favour of it grew strong and general. They applied to the Conference, and at last permission was granted. Every building, therefore—every chapel and every plot of ground which belonged to the Wesleyan body in the time of John Wesley, is at this moment, every Sacrament Sunday, applied or misapplied to the performance of rites which John Wesley, the founder of the sect, pronounced to be a sin and a heresy. Such are the persons who are now crying out so loudly against the passing of this Bill, and who consider it a fraud that a congregation should change its opinions with the progress of time—that its doctrines and its practice should become modified by circumstances, and that they should still keep their original endowments. I believe, Sir, that if we refuse to pass this Bill, the quantity of litigation to which that refusal will give rise, will be such as the Wesleyan Methodists little dream of.

I own, Sir, as I have said before, that it is painful to me to see the

manner and the spirit in which this Bill has been opposed. The opposition it has met with from members of the Established Church is mild in comparison with that which it has received from other quarters, although the opposition from the Established Church would have been infinitely more excusable. Nothing is more natural than that the power of dominion, the habit of exercising authority, and of treating religious bodies out of the Church as inferior to its members, should produce some faults which perhaps are hardly separable from human nature. That the Church of England,—strong in its dignity—rich in its endowments—represented in Parliament—having its great universities—and being accustomed to look with something like disdain on other sects,—should set itself up in opposition to the principles of religious liberty, might not be a matter of much wonder. Though I am from defending it, still I think it might be pardoned. But to see men, who within my own memory have been over and over again compelled to invoke the principles of religious toleration, produces, I must say, an astonishment, not unmingled with some harsher feelings. But, Sir, what above all astonishes me is, to see those who at this moment, and in a case strictly parallel, are imploring Parliament to pass an *ex post facto* law for their protection, crying out loudly against the passing of a similar law for the protection of others. I refer to the Irish Presbyterian Marriages. See how parallel the cases are! They have gone on marrying according to their own forms and rites during a long course of years—the Unitarians occupying certain property as their own during a long course of years. Neither in the one case nor in the other was ever any question raised, nor could any doubt arise in the mind of the most honest and scrupulous man in either case. Well, then, about the same time came those two questions for legal decision. The courts of law, with deep regret—overpowered with pain at the necessity under which they lie of administering the law according to the letter of the law—are nevertheless compelled to say, that neither in the case of the marriages nor in the case of the chapels is there such a prescription as can be set up against the letter of the law. Then the Trinitarian Dissenter begins to abuse at once the lawyers who have decided against him, and the Legislature which wants to relieve not only himself, but other Dissenters also. To my indescribable amusement, I saw the other day an oration by an eminent person among the Irish Presbyterians, on the subject of the Presbyterian Marriages, in which it was said, "Is it to be endured that old and forgotten laws are to be dug up and unswathed?" And yet in the course of a few hours, this very same person is doing all he can do to dig up and unswathe old and forgotten laws, in order to apply them to another body of Christians! I should like to know how the Presbyterian Dissenters would like it, if the High-Church party in England chose to assume the same tone towards them which they have thought proper to adopt with reference to the Unitarian body. Suppose the High-Church party were to say, "We have got the law on our side—if the Unitarians are heretics, you are schismatics, and we will not give you the relief you want, and which you are not willing to have extended to them. You object to *ex post facto* laws. You shall have none. If they are turned out of their burial-places and out of their chapels,

which have been built with their own money, and which have been supported by them alone, your marriages also shall remain invalid." I should like to know what answer the Presbyterian orthodox Trinitarian Dissenters would make to such an appeal as that. I should much wish that some of those who oppose this Bill would remember that the doctrine to which they attach such high and just importance, is not, however important and awful it may be, the whole sum and substance of Christianity. I wish they would remember that there is a text about doing unto others as you would wish them to do unto you. In one sense, indeed, there is a distinction between the two cases. The Trinitarian Dissenters are a far more opulent and powerful body than the Unitarians. They are a body which may have it in its power at some future election to unseat some of those Members who vote against them this night. The Unitarians, on the other hand, are, we know, but a small body. Their creed, we know, is unpopular, and to say that we are not supported by them is, we know, the best road to public favour. If, therefore, there be any person of an arbitrary nature who wishes to enjoy the pleasures of persecution with perfect impunity, he cannot have a better opportunity of gratifying that feeling than the present, by opposing this Bill. But, Sir, for my own part, I have upheld the principles of religious liberty, not because they were popular, but because they were just; and the time may come, and it may come soon, when some of those who are now crying out against this Bill, may themselves be compelled to appeal for their own protection to the principles on which this Bill rests. When that shall be the case, I will attempt to prevent others from oppressing them, just as I attempt now to prevent them from oppressing others; but in the mean time I contend against their intolerance in the same spirit as that in which I may hereafter have to battle for their rights.

Mr. COLQUHOUN.—I am anxious to state, Sir, and I will do so in a very few words, the grounds upon which I cannot assent to the arguments which have been so ably and so eloquently brought forward in favour of this Bill. It has been remarked how easy it is for the faith and doctrines of particular sects imperceptibly to alter, and the attention of the House has been called to the case of the Secession Church of Scotland, and to the case of the Wesleyans. It is said that this Bill is introduced for the purpose of preventing litigation, and of preventing hereafter the institution of those wretched and ruinous law-suits which now waste the funds of different charities and set the members of different sects by the ears; but it has been shewn, and I think satisfactorily, that whatever may be the object, that will not be the effect of this Bill. The right honourable gentleman who has just sat down gave us an example by a reference to his tailor's bill. That is a very tangible matter. It is a matter which is very easily inquired into, though not always very easily settled, but it is not a matter which can be applied to elucidate a question of theology. I say that so far from this Bill preventing litigation, it will foster and encourage it. The right honourable gentleman says, "Are you opposed to prescription?"—and he refers to the doctrines which he says are propounded at Exeter Hall. My answer is, that I view prescription as the doctrine of all countries and all ages. It is a principle which

no man in this House opposes. What we contend is this—that prescription as it refers to private property is a very different thing from prescription as it refers to a public trust. In the case of private property, each individual is most anxious to guard his rights and is prepared to defend them, but that is not the case where a trust is concerned. I am no lawyer, and therefore it may perhaps be considered presumptuous in me to make the statement, but I believe that if a person is a minor, or an infant, or a lunatic, or absent from the country, prescription will not run against him. On the same ground does the law rest when it bars prescription in the case of trusts; for the original intentions may be departed from by slow and gradual degrees by those who are in possession of the best evidence on the subject, and who would therefore have the best means effectually to defeat the claimants, and therefore the rule of law is a wise one which says that prescription in the case of trusts should not apply as it does apply in the case of private property. Now the right honourable gentleman who has just sat down has brought before our minds, in his usual eloquent and impressive manner, the poignant distress and the disappointment which would be felt by persons of the Unitarian persuasion at seeing the pulpit of Priestley and other eminent divines occupied by divines holding tenets directly contrary to those which they professed. Allow me to put another case. What will parties say when they see the pulpit of Matthew Henry, of Chester, and of Newcombe, of Manchester, and other eminent Presbyterians, occupied by men preaching doctrines which they have denounced, and holding tenets which they considered erroneous? If we could in these cases call up the donors from their graves, would they say that their bequests have been followed, and that the funds which they have left behind them have been applied to the purposes for which they designed them? I think it is very desirable that in considering this matter, no improper motives should be imputed to any party. I think that the law, and not the legislature, ought to adjudicate between the contending parties. If you step in with this Bill, the effect of it will be to benefit the few at the expense of the many. The right honourable gentleman has stated that the Unitarians are not a wealthy or a powerful body. I beg to say that, as far as my knowledge goes, the Unitarians, though small in number, are distinguished by their position in society, and by their general acuteness; whereas the parties who are most likely to suffer through this Bill by the loss of their chapels are neither affluent, nor persons occupying a high station in society. I freely confess that I can see no just ground for the introduction of this measure. I think it is a measure which is unjust, because it interferes with the operation of a principle of law which is equitable—I think it impolitic also, because the effect of it is to take away the property of the poor and to apply it to the purposes and for the interest of the wealthy—and I think it unwise, because it will defeat the intentions of donors by applying their property, which they originally bequeathed for the purpose of religious worship, to objects which during their lifetime they considered to be erroneous.

Mr. BERNAL.—When I took the opportunity of rising before, I had it in my mind to compliment the honourable Member for the

University of Oxford, from whom I certainly differ, for the moderation of his views and the excessive temperance of his expressions. My honourable friend stated that he would not object to the first clause of the Bill. Now when he states that, he gives up, I think, a most important part of it. My honourable friend also proceeded to state that he was ready to adopt and frame a third clause, which, if not *ipsissimis verbis* the same as the existing clause in the Bill, would meet cases of peculiar existing hardship. There is, therefore, but a slight difference between the views of the right honourable gentleman and those which I entertain. My right honourable friend said that he was anxious to avoid all polemical argument, and he kept to what he stated in the outset of his speech, and I am very glad to find that nothing has been stated in this House calculated to add to or encourage that prejudice against this Bill which exists out of doors. The only petitions which I have presented with reference to this measure have been petitions against the Bill, and that makes me the more anxious to address a few words to the House. I cannot coincide with the sentiments stated in the petitions which I have had the honour to present. I look on this measure as an honest measure on the part of Her Majesty's Government, and I, in common with others who all our lives have been opposed to the honourable gentlemen on the opposite side of the House, have felt called on manfully to step forward, and not merely to aid their honest efforts by giving to the measure a silent vote, but to say publicly, and in opposition to the petitions we have presented, that we do not agree in the justice or propriety of the sentiments therein expressed.

Now, Sir, this is not a robbery of the poor to benefit the rich, as it has been stated to be. On referring to the language of petitions which have been presented against the Bill, you will find not a small infusion of the *odium theologicum*. It is idle to say that the arguments founded on a supposed breach of trust can influence us. I am sure that the clear and lucid argument of the Attorney-General must have set that at rest. Do the petitioners expect that highly respectable and learned persons in the other House are to be regarded as legal automata and as judicial mannikins, and that because they have felt bound to pronounce certain opinions while sitting as Judges, they are to be held absolved from all the rules of common sense, justice and equity, when they address that other House in their character of Legislators? Are they to forget that they owe something to the nation besides what they owe to their judicial station? I take leave to differ from those who think that this Bill will operate only in favour of Unitarians. It may apply to many others who dissent from the doctrines of the Church of England, and even to that great body who have been so active in presenting petitions to this House—I mean the body of Wesleyans. Can the Wesleyans say that the doctrines professed by the Wesleyan body at the present day may not be entirely different from those which were professed and expounded by their great predecessor, John Wesley? Will any gentleman take upon himself to tell me that all the Wesleyan congregations of this kingdom profess so exactly the identical doctrinal tenets which animated the mind and conscience of their great predecessor, John Wesley, as that their property cannot be taken from them and appro-

priated to other purposes? It is well known to all of us that great difference of opinion exists with regard to the doctrines of predestination and election, and that where those doctrines are professed, their profession is often at variance with the religious views of the founder; and is it desirable that in such cases it should be in the power of any obscure intruder, or of any interfering fomenter, to set the Attorney-General in motion, with a view to eject those who for many years have been in the possession of these chapels? I would wish those who look at this question with reference to the interests of Wesleyan Dissenters, to bear in mind that unless this Bill passes, it will be in the power of any troublesome intruders to file an information, in the name of the Attorney-General, for the purpose of wresting from the Wesleyan congregations themselves the chapels which they hold, in order that they may appropriate them to their own purposes. I say that the Wesleyan Methodists, in many instances, will stand in a position of equal danger with that of the Socinians and Unitarians. I think that this point has not been sufficiently considered by the Wesleyans who have petitioned against this Bill. I say that the argument does not hold that this is a measure for the benefit of Unitarians. Admitting, however, for the sake of the argument, that it was framed with that object, will any gentleman say he is prepared to see litigation, day after day, pouring in upon the devoted funds of any ecclesiastical institution, and to see, as in the case of Lady Hewley's charity, the greater part of the funds of the charity frittered away in costs incurred, first in the Court of Chancery, and afterwards in the House of Lords on appeal? If I remember right, in the case of Lady Hewley's charity, no less than £20,000 was expended in costs. The matter has been litigated in every possible way; first in the Courts, then in the Master's office; and at the present moment no one can say whether the Baptists, or the Anabaptists, or any other class of Dissenters, are entitled to share in the benefits of the fund left by Lady Hewley for religious purposes. Is this a state of things that you would wish to see continued? My honourable friend opposite states that this Bill would not have the effect of preventing litigation. I cannot agree with him in that. My honourable friend knows perfectly well that in most of these meeting-houses there is a regular form of prayer observed. In the chapel in Essex Street there is a regular form of prayer printed and used by the congregation; and in other chapels and meeting-houses also throughout the kingdom there is a form of prayer printed and in use by the congregation who attend those chapels. Now, would it not be perfectly easy, when you appeal to a usage of twenty-five years, to refer to those books, and to ascertain what doctrines have been there promulgated? I cannot, therefore, see how the effect of passing this measure will be to open a door to litigation. But can my honourable friend deny to me the actual existence of that state of facts in those two Irish suits which are now pending? The right honourable Baronet has been rather severe in his remarks upon the conduct pursued by a legal friend of mine, the present Lord Chancellor of Ireland. My right honourable friend never states any thing with ill-nature, but with a certain degree of seriousness he says he is astonished to find a Judge of the High Court of Chancery pausing in the execution of his

duty, and delaying to pronounce judgment in a cause in which his mind is made up, and until he sees the result of this Bill. But if you will only turn your mind to the case of the Strand-Street chapel, a case of extreme hardship, and which embraces the case of the widow Armstrong, can you blame Lord Chancellor Sugden for pausing on the threshold of his judgment? Now, what is that case? Some honourable Members may not be aware what was the case with respect to that chapel. That was a case of eighty years' uninterrupted adaptation to the purposes of Socinian worship. It was built in 1760—endowments were made for the benefit of the widows of the successive ministers by people, some of whom, I believe, are now in existence; and I think the sum of £1200 or £1500 has been proved to have been spent upon that principle. The Synod of Ulster have sought to dispossess those in possession. There were three relators, and the solicitor employed was a gentleman in immediate connexion with the body professing tenets and doctrines opposed to those held by the congregation. How did the Court of Chancery manage to grasp this unfortunate chapel? There was no deed or writing declaring or limiting the sacred purposes to which the original congregation intended the chapel to be devoted; but the ground of objection taken was merely that the chapel had been originally built at a time when preaching the Unitarian doctrines was against the law of the land, and when severe penalties attached to those who promulgated such doctrines. Every brick and every lath which formed part of the original chapel has perished in the course of time, and a new chapel has been built upon the site of the old one. Now there are certain stern truths immutable in their nature, most useful in the effects they produce, and which are in harmony with the precepts of religion, to whatever creed or to whatever sect parties may belong, and I should be the last man to quarrel with my right honourable friend for the opinions he entertains with reference to the value of those principles or their use. But if my honourable friend finds that a great many years ago a chapel was built by a congregation of religionists of whose doctrines we know nothing, and when he finds that the bricks and mortar of which that chapel was composed have long since been annihilated, and that a new chapel has been built upon the site of the old one by parties professing, and whose successors continue to profess, certain doctrines—when he finds that every vestige of the old chapel is annihilated, and a new chapel has been built by Unitarians, endowed by Unitarians, and beautified by persons professing those doctrines—is my honourable friend prepared to say he would wrest that property from the present possessors of it—that he would deprive the widows and children of successive ministers of the advantages which they derive from it, and give it to whom? To the Church of England? No. To the Anabaptists? No. To the Baptists? No. To the Muggletonians? No. To the Society of Friends? No. To whom would you give it? God knows to whom—I am sure it is more than any of us can say. Then, will the cause of religion be benefited by this? Do you think you will annihilate these pernicious doctrines, if they be pernicious, by taking away the chapels devoted to those doctrines? Has not the experience of the past taught us that opposition and persecution always fan the flame of heresy, more especially if accom-

panied by hardship or injustice? The common experience of the world teaches us this, and sure I am that my right honourable friend will not advance the Trinitarian cause by the opposition which he has raised to the passing of this Bill.

Now my right honourable friend said he was willing to agree to the first clause of this Bill—that he was willing to allow that all chapels now existing shall be considered to have been founded after the Toleration Act, and after the Acts repealing the penalties levied against the professors of these creeds. But I ask my right honourable friend, whether by so doing he is not going counter to the will of the founder? If the founders of these places of worship were so bitter in their opinions as to the enormity of those heresies which were then groping about in embryo, and which had then hardly come into public existence, is not my right honourable friend himself, I ask, counteracting the *voluntas* of the donor at the present moment? But do not let it be forgotten that we do not propose to meddle with existing chapels, or with existing schools or burial-grounds, where there is the slightest indication as to the intention and will of the original founder. Although you may shew an uniform usage of eighty years, and an uniform preaching of Socinian doctrines, that will not avail if the original deed or will creating the foundation can be shewn. If you can shew me one word in a deed or will which points to a Trinitarian form of worship, or to any form of worship not in harmony with the doctrines and usages of the last sixty years, in that case usage will not prevail, but the original intentions of the founder will be carried into effect. Where, then, are all these perilous contingencies to which my right honourable friend refers? I am sorry to say it, but I am afraid that the doctrine of breach of trust is only put forward as the *cheval de bataille*, and that the *odium theologicum* remains behind. If the law should remain as it is at present, then the door of litigation would be left wide open; and I am fully persuaded that unless you pass this Bill, there are those who will take pretty good care that that door shall not be closed; and I am sure also that one great evil which would arise from the encouragement given to a spirit of litigation would be, that a spirit of religious animosity and intolerance would be kindled to an extent much greater than exists at the present moment—a spirit to which neither the kind intentions of my right honourable friend opposite, nor those of any other gentleman or set of men, will be able by any exertions of theirs to put a stop. My right honourable friend has made some observations upon the course taken by the great legal authorities in the other House, who have sent down this Bill for our consideration. My right honourable friend has seen in the course of his useful life the law of limitation in this country extended by successive enactments. I can remember, and so may many other hon. Members, when the law *nullum tempus occurrit ecclesiæ* was overruled. And who was the originator and author of that measure? Why, Lord Tenterden, one of the most sober, serious and constitutionally-minded Judges who ever sat upon the Bench—not a man who was generally the advocate of change—not a man who yielded to the impression of the moment—but a man who fortified his decisions and his opinions by the practical rules of good sense and sound policy. Well, then, I ask, what is

there which in this case should prevent us from applying the same general principle of prescription to foundations with respect to which there is not a single scintilla of evidence as to the intentions of the original founders? Where for twenty-five years there has been a congregation assenting to doctrines such as are now preached in a particular chapel or meeting-house—where those doctrines have been preached without objection—where there has been a burial-ground attached to that chapel, in which repose the remains of the departed relatives and friends of the present possessors—where there has been a seminary added and attached to that chapel—and where you have no evidence to shew what were the doctrines held by the original founder of the chapel, or what were his intentions as to the doctrines to be preached there,—what have you, I ask, in the shape of cogent argument to shew that that uniform usage of twenty-five years should not prevail? I feel that I could expatiate upon this subject at great length, and refer you to other laws in harmony with this, but I will not detain the House by doing so. I appeal to your justice, to your good sense, and to your love of peace and tranquillity; and when my right honourable friend says he is willing to agree to a limited third clause, I think that there is really such a little difference between us, that I do hope that when the Bill shall get into Committee, my honourable friend will be found on the same side of the House with me.

Mr. MILNES.—Sir, I rise to add a few words to what has been already said in favour of this Bill, and I am in some measure led to do so from motives almost of a personal nature.

Sir, this evening I presented to the House a petition against this Bill, signed by all the clergy of the borough which I have the honour to represent. A few nights ago, my noble friend and colleague presented a petition to the same effect from almost all the leading inhabitants of that borough; and therefore, Sir, compelled as I am by a sense of simple justice to support Her Majesty's Government on the present occasion, I do hope that the House will permit me, as shortly as I can, to explain to them what motives have forced me to come to that decision, and in so doing I will do all in my power to avoid any repetition of the many admirable arguments which have been already urged.

I own, Sir, that my first impulse in this matter has been derived from that great principle enunciated by my right honourable friend the Member for Edinburgh—that this is a case in which, above all others, our first consideration and our first determination should be to do as we would be done by. I think that theological peculiarities are not for a moment to be put in comparison with such a principle as that, and that if I and other honourable Members were to indulge our own theological predilections by throwing out this measure, we should act in contravention of that principle; while, on the other hand, by acceding to it, we are practically carrying out one of the highest principles of Christianity.

When, Sir, I, as a member of the Church of England, examine the tenure by which the Church of England holds that property which

she administers for the benefit of this country, I can discover no ground whatever on which it holds it that does not involve the acknowledgment of the principle of development in religious communities, and therefore, Sir, for that among other reasons, I am led to vote to-night with Her Majesty's Government.

When, Sir, I find that large sums of money left by our Roman Catholic ancestors for the declared purpose of having masses said for the benefit of the souls of individuals, left for the purpose of endowing a peculiar chantry, and for purposes which cannot be brought within the comprehension of our ecclesiastical scheme—when I find that I can only reconcile to myself the application of those funds for the purposes of the Church of England by a reference to the principle of development in religious communities, and to such a development as has rendered those funds inapplicable to the purposes for which they were originally intended—I am led to apply the same principle, as I think I ought, to the case before me; and when I do so, I am compelled to admit that that same principle of development, the benefit of which I crave for that community to which I belong, ought to extend to Dissenters, whose religious views differ from those which I as a Churchman am compelled to entertain; and therefore, Sir, I cannot refuse my assent to the present measure.

Sir, it is very clear to me that this question would never have come before us, but for one practical abuse which has been so admirably pointed out by my honourable and learned friend the Attorney-General. I think we shall find that the general process of legislation in this country has been to allow laws to lie dormant until some strong case of injury arises, and then we set about repealing them. I believe that at this very moment there are laws existing against Roman Catholics of the most extravagantly penal nature, and which remain peacefully upon the Statute-book, because nobody attempts to apply them. I know of a law imposing a penalty on persons for not going to church on Sunday. I had the pleasure of bringing that matter before the House, and if the House permit the Government to carry the Ecclesiastical Courts' Bill, it will be found that that remnant of ancient bigotry is done away with. I think that Lady Hewley's case brought the matter plainly and simply before us; and when we find the conclusion which was come to by different Judges, and by the House of Lords itself, with reference to that case—a conclusion which could not be avoided, as the law stood and now stands,—when we find that followed by at least forty suits against the possessors of similar institutions—when we find a case so plain, so simple, and so repugnant to our notions of natural justice, as that of the Strand-Street chapel in Dublin,—I say that Her Majesty's Government could not do less than bring forward this Bill, and I only hope that they will persevere in passing it, notwithstanding all the opposition which has been and which may yet be offered to it.

I am sure, Sir, that when this measure is clearly before them, and when it is clearly understood by them, the Dissenters themselves will feel it to be one in which they are as much interested as the Unitarian body. When they understand that this Bill involves one great principle of religious liberty, and one which is the basis of all

their institutions, I do hope that they will at least abandon that violent tone which they have now assumed, and come to a calmer consideration of this measure.

But, Sir, we find it stated occasionally in petitions presented to this House, that there is no occasion for this Bill, because it is not the intention of any of these bodies to wrest from the Unitarians any of their present chapels. If that be so, what harm is done by the Bill? If that be so, will not things remain, after this Bill shall have passed, just in the same state as they were before its introduction?

Then, Sir, we find statements made in the newspapers and elsewhere that the proper title of this Bill should be, "The Unitarian Endowment Bill." It does not endow anybody with a single shilling, and a denial of the measure would be in effect a robbery of the Unitarians of all the sums which for years they have expended on these chapels.

I do hope, Sir, that the feelings of opposition and dislike with which this Bill has been regarded, will, when the circumstances which have led to its introduction are more generally known, disappear, and that the erroneous views which are entertained with regard to its application will be cleared away. Let me for a moment direct the attention of the House to the effect which would be produced upon the religious feelings of the community if such proceedings of ejectment as have been alluded to by the honourable Member who last addressed the House should be carried out. What would be the feeling engendered if these chapels were really taken away from the present holders of them, to be shut up, or at best delivered over to some other body? What natural feelings of indignation arise in our minds when we hear of people being ejected harshly from any property which they have long enjoyed! I do believe, Sir, that so far from such proceedings tending to the benefit of Orthodoxy in this country, their tendency would be to excite a sympathy for Unitarians and Unitarianism, such as is not felt at present. I think it would be felt by a large body in this country that the Unitarians were oppressed because they were weak, because those opposing them were strong, and because Parliament had not the courage to come in and protect them. My honourable friend rested very much on the very gradual process by which these changes have been brought about. Now that argument appears to me to have a much stronger application on our side. He said, "Would not the donors of these chapels have shrunk with horror from the notion of any misapplication of their funds to Antitrinitarian purposes?" Now I have paid considerable attention to the history of this matter, and I do say that every step I have taken in that inquiry has confirmed me in the belief that the course I now take is the right one. I find that in the early part of the last century, which may be considered as the birth of the Unitarian controversy in England, that principle insinuated itself so gradually, not only into the Dissenting body, but into the Church itself, that I defy any one to tell at what period it came into our theology. I find that even Richard Baxter, when the matter was brought before him as to the necessity of creeds, and when he was told that a Socinian or a Papist would subscribe the Lord's Prayer, the Creed and Decalogue, answered, "So much the better, and the fitter to be a matter of con-

cord,"—shewing distinctly that he did not attach the same importance to that ceremony that was attached to it by the Church. I find the poet Milton, too, denying that the doctrine of the Socinians was sinful. I also find that in the early part of this century, these opinions had so far come into our theology, that even the Church of England itself was likely to become largely impregnated with Unitarian doctrines. I find Dr. Hey, the Professor of Divinity in Cambridge, saying, "We and the Socinians are said to differ—but about what? Only about what we do not understand." I say, when these were the feelings of the prebends and dignitaries of the Church of England, is it unfair to believe that this opinion and this doctrine was developing itself among the Presbyterian Dissenters, at all events to such an extent as to afford a good foundation for the argument on which we now stand?

Upon all these grounds, therefore, I am compelled to give my vote for Her Majesty's Government; and when I remember that I can number among my own ancestors some distinguished members of the Presbyterian party, who afterwards adopted these Unitarian opinions, I do hope that, in my full belief in and my loyalty to the Church of England, I do not allow myself to be influenced by those opinions further than is just and natural, and that I shall be protected by that knowledge and by that connexion from falling into the snare which I must presume to call bigotry, into which so many persons whom I hold in high esteem have fallen.

I implore the House to remember that this question is not now as if it had never been before brought forward. Whatever may be the decision of this House to-night, the question has been deeply agitated throughout the country. Virtuous and impassioned men will take it up; bad and dishonest men will take it up also. Unless you pass this measure, you will have in your great religious communities such a play of religious fanaticism as has not for many years been witnessed in this country. You will have false suits instituted by all sorts of parties, who have no interest in the matter, except the chance of deriving gain; and I am afraid that on all sides you will have acts of recrimination also,—the Unitarians inquiring how far the Wesleyans carry out the doctrines of John Wesley, and how far the Independents carry out the doctrines of Harrison and the Independents of the Commonwealth. I see no means of escaping from all this, unless the House shall be pleased to adopt the measure which has been proposed by Her Majesty's Ministers.

Mr. F. MAULE.—I wish, Sir, to offer a few remarks to the House, because, differing as I do on this occasion from those with whom it has been my pride to act in a great many measures in the course of my political life, I stand in a somewhat painful position. But, Sir, I have not put myself in that position without duly considering the question with which I have to deal, and it is from a conviction that if I agree to this Bill I shall be agreeing to an act of injustice, that I feel it my duty to oppose it. Nothing has given me more pleasure than to find that the opposition to this measure was rested by my right honourable friend, the Member for the University of Oxford, upon the simple and plain ground of its being an act contrary to and incom-

patible with the law of the constitution, and that he did not attempt to throw into it any ingredients of polemical discussion. I am far from wishing to depart from the course which my right honourable friend has adopted, and in the remarks which I have to address to the House I shall endeavour strictly in that respect to follow his example. I perfectly agree with him that this is no arena for polemical discussion, but I own that I shrink from the discussion of this question when I see arrayed in support of this Bill such a display of legal talent as that which has sent it down from the other House of Parliament. However much I may differ from some of those noble and learned persons in political matters, yet with regard to their legal acquirements there can be entertained but one opinion. Speaking, Sir, in the face of their express decisions, and ignorant as I must confess myself to be to a considerable extent as to the real position of the law, I still feel that my own individual opinion upon this subject leads me to look upon this measure as an act of injustice, and that being my view of it, I, as an independent Member of Parliament, claim the privilege of voting according to my conviction.

Sir, this Bill appears to me to have for its main principle the introduction of a prescription of twenty-five years in matters to which the law of prescription has hitherto not been applied, and to make a prescription of twenty-five years supersede the intentions of the founders of trusts for religious and charitable purposes. Now, as far as I am informed, there exist at this moment means within the law, and within the constitution of England, of ascertaining, as far as it is possible to ascertain, the intentions of the founders of these trusts, and of appropriating them to their original purposes. It is said that this would lead to expensive litigation. I should think that that would operate rather to deter parties from unnecessarily instituting suits for the purpose of disturbing the present possessors. If you tamper with the existing law by passing this Bill, my opinion is, that you will prevent benevolent persons in future from leaving their money for religious purposes, because no one will feel assured that his intentions will be carried into effect after the lapse of a few years applies the law of prescription to property of this kind for the first time; and I think it professes to apply that law according to the same principle which is applied to the tenure of other property, such as estates and manorial rights. Now, if that be the intention, I deny that you are following this out in justice to the parties concerned. My right honourable friend stated that he knew of no law of prescription that was not retrospective in its operation. It seems that he and I differ as to the term prospective. I consider prospective to mean, that in the application of the law of prescription, no title shall be taken from parties which they possess at the time of the passing of the law to assert their rights, and that the new law shall not affect pending suits. Now, Sir, all laws of prescription, so far as I am informed, (and in some instances I know it is so,) have been prospective, and not retrospective further than this—that whereas the right of the parties to institute a claim might have existed through all years, it has been cut down in some instances to one period, and in other instances to another period. Now, when I look to the Act for the Limitation of Actions in the time of James the First, I find it stated upon

the face of it, that from and after the passing of it, any person having any title to pursue any claim such as that alluded to in the Act, shall be bound to pursue it within a certain number of years after the passing of the Act. If the present Bill contained such a provision as that, I would not oppose it. But in the Statute of Limitations under which property in Scotland is enjoyed, we have the law more definitely laid down; for I find it there specially stated that his Majesty, being careful that no person who had any just claim should be prejudged of his action by the prescription of forty years, already run and expired before the date of the Act, granted full liberty and power to them to institute their action within the space of thirteen years prescribed by that Act. In both those Acts regulating the law of prescription, a right is given to parties to follow up the interests they may have in any suit or action within a given time after that law was enacted. That is not the case with the Bill now before the House. I grant that that was once the intention of the Bill, but the Bill has been altered; and it is now so framed, that no parties having a claim under the law at present to ascertain the intentions of the original founder of a religious establishment, can have that right after this Bill shall have passed into a Law. By such a measure, then, I say, you will be doing an act of injustice to which a very large portion of this nation is extremely and decidedly hostile. But, Sir, it is said that if this Act is not passed, it will lead to an enormity of litigation. Now, confining ourselves to the simple question to be discussed to-night, namely, the claims made against the Unitarian bodies, and judging from what has taken place in the past what may be expected to take place in future, I must deny that it would lead to any great system of litigation. I believe that, in England, there has not been instituted more than one suit for the recovery of trust property from Unitarians. There occurred in the year 1817, before Lord Eldon, a case which I believe was the only one in which the practice sought to be set aside by this Act was brought into question; and, if I am rightly informed, that suit was not by Trinitarians against Unitarians, but it was only brought before the courts of law upon an attempt being made by the Unitarians to eject from one of their chapels an individual minister who had returned to Trinitarian doctrines. That, I believe, is the only case which has been mooted in England; and when you consider the interminable maze into which a person gets when he goes into those courts, I think that will furnish a sufficient guarantee that no person would go there unless he had a full assurance that his cause was a just one, and that the law was on his side. I confess, Sir, that I can see no reason why this House should lend its assistance to depriving parties of rights which they possess, and that in a manner so solemn and decided that they have no means of appealing against it.

Then, Sir, it appears to me that Her Majesty's Government have not been very decided about this Bill. There is no question that when the Bill was first introduced, its sting, as far as regards the rights of property possessed by certain persons, was not so malignant as it is at present. When it came into the House of Lords, it did not touch the rights of parties as it does at present. It was not until after the Bill had been read a third time, that, quietly and in a corner, the

third clause was so altered as to be made stringent without precedent, and I say notoriously unjust. I am informed that when the Bill was first introduced, it did not even extend to Ireland. I am informed that so late as August last, a deputation consisting of the Moderator of the Synod of Ulster and some others waited upon the Lord Chancellor of England, who informed them that his mind was not at that time made up to legislate upon this question, but that when it was made up he would inform that body, who, as I shall shew you, have some interest in this Bill. The first intimation which he gave to them was a copy of the printed Bill after it was brought into the House of Lords, when the fact had superseded his intention. But, moreover, the Lord Chancellor stated that the Bill should not be made to extend to Ireland before he gave to that body an opportunity of being heard against it before a Committee of the House of Lords. That body has never had the smallest opportunity before that House of being heard, either by themselves or by their counsel, against that clause in the Bill which so materially affects them.

But, Sir, it has been said, and I believe it to be the case, from all that I can gather from the facts attending upon it, that this Bill is introduced mainly to meet two cases which are at present before the Courts of Ireland. There are no such cases in England which it can affect. It is a Bill in anticipation of cases in England, and against existing cases in Ireland. Now an hon. friend on this side of the House has dwelt upon the hardship of cases in which suits have been instituted. It has been said that the parties who are the relators are unconnected with the property for which they are disputing, and that they are in fact little better than common informers. Now, if I am rightly informed, this is very far from being the real fact. If I am rightly informed, although the suit with regard to Eustace-Street chapel was commenced by parties from Fermoy—parties clearly having but little connexion with the locality—yet they had some connexion with the funds which the trustees of the Eustace-Street property administered. I have been so informed, and the facts were told to me by an individual whose word I have no reason to doubt. It appears that in 1815, a Presbyterian congregation was formed in the town of Fermoy—that the minister of that congregation settled there for many years—that the minister removed from Fermoy in the course of time, and that the congregation became dispersed—that in 1836, a Trinitarian minister came to the same place and settled there—that he was invited by several Presbyterian families to become their minister at Fermoy, and that a grant of £20 a-year was given to this minister from the funds which the trustees of the Eustace-Street chapel administered, being a portion of those funds which were applied indiscriminately, sometimes to chapels having Trinitarian ministers and sometimes to those having Unitarian ministers, the trustees themselves thus ratifying to a certain extent the original intentions of the donors of those funds. But, Sir, they went further. They stated to that Trinitarian minister that if ground was purchased for the purpose of building a chapel, they would out of the same fund give him an allowance of £100 for so doing. Upon the faith of this the ground was purchased by a party in Dublin, and this is one of the persons who is represented as having instituted a suit without any right. When the minister went to Dublin to claim

the £100 which was promised to him by the trustees of the chapel, he found that there prevailed, as I am sorry to say is too often the case, a great deal of polemical discussion as to matters of creed, and in the bitterness to which this gave rise, the trustees of the chapel refused to ratify the bargain which they had made with him. Hence arose a determination to try by what right and title those who refused him that which they had promised were administering to those very funds. Out of that transaction arose the suit with reference to the Eustace-Street chapel, which has gone so far towards a decision by the Lord Chancellor of Ireland, that he has stated publicly in Court the impression on his mind as to what that judgment ought to be, though he has not affixed to it his official seal; and I ask whether it is usual or right—I will not say decent—that after having publicly declared the opinion at which he had arrived with reluctance and regret, and after stating the course which the law forced him to follow, he should hang up his judgment until this Bill should pass, and so supersede the rights which his judgment, if delivered, would declare an individual to possess? I do not at all question the purity of the motives of the Lord Chancellor of Ireland, but at the same time I own it does appear to me—and this is one of the reasons why I vote against this Bill—that he is manifestly withholding justice from parties who are suitors before him.

Now, there can be no doubt that the funds both of the Eustace-Street chapel and the Strand-Street chapel emanated from parties who were Trinitarians. There can be no doubt that the original founders of these bodies held Trinitarian doctrines, inasmuch as many years ago—and this I am sure no one can reflect on without pain and regret—any person preaching Unitarian doctrines became subject by law to punishment. That, I think, affords the clearest proof that in Lady Hewley's time, at all events, Unitarian doctrines could not have been preached in these chapels.

But, Sir, some honourable Members here, and some individuals out of doors, say, that those who oppose this Bill are guilty of a want of toleration. Now, with all due deference, I must beg to say I deny that proposition. If I understand the meaning of toleration rightly, it is, that I am willing to concede to all sects, no matter what their religious opinions may be, the same civil privileges that I enjoy myself. I am perfectly ready to do so, but I am not prepared to give to any parties—I care not what creed they may profess—that to which they are not entitled, and to take from others that to which a course of legal decisions has declared they have a right: I allude more particularly to the case of Lady Hewley's charity. I believe that if you pass this Bill, so far from its having a tendency to diminish litigation, the effect of it will be to create litigation without end, and that you will not only do that, but that you will introduce into congregations elements of discord which you would be the last to desire and the first to regret. I know it is quite in vain, considering the present feeling in this place, to attempt to dissuade the House from passing this Bill. I am quite ready to admit that, without my statement being confirmed by the cheers of any honourable gentleman. I do not mean to pass any presumptuous censure on this House for agreeing to the Bill; but I have felt it my duty to state publicly the grounds

on which I differ from those who have introduced it, and from those on this side of the House who have given it their support. I have by so doing satisfied my own conscience, and I have fulfilled the wishes of those who have done me the honour to entrust to me their petitions against this Bill — a Bill which I consider to be fraught with injustice.

Mr. GLADSTONE.—I am bound, Sir, to offer my sincere apologies to the House for presuming to address them in relation to a subject which does not come within my own peculiar official department; but, as this is a question which is considered by the public to bear an intimate relation to the interests of religion—as it is a question with respect to which my right honourable friend at the head of Her Majesty's Government and his colleagues have been supposed—I believe in perfect sincerity—by many parties to have shewn a most culpable disregard of the interests of religion—as I have thought it my duty to look into the question and to examine the whole subject with the most scrupulous anxiety and with the best attention in my power,—and as I have made up my mind that this is a Bill which it is absolutely incumbent upon this House to pass, unless they are willing that it should be believed that they are indifferent to the sacred principles of justice, I desire to take my share in any responsibility which may attend the proposal and support of this measure.

Now allow me to say, in the first instance, that I distinguish broadly between the substantial purpose which we have in view and the precise form of the legal instrument by which it is proposed to effect that purpose. It would be most presumptuous in me if I were to deliver any opinion as to the particular language in which the Bill, or the particular clauses of the Bill, are framed. Into those questions I shall not venture to enter. I have before me a great question of justice. That question I apprehend to be, in substance, whether those who are called in England Presbyterian Dissenters, and who were, I believe, a century and a half ago, universally of what are called Trinitarian sentiments in religion, ought or ought not, being now generally Unitarians, to be protected at the present moment in the possession of the chapels which they hold, with the appurtenances to those chapels. Now that is a substantial question of justice, and upon that question I venture to entertain the strongest opinion.

Now, Sir, let me observe, that really the speeches against the Bill delivered in this debate by my honourable friend the Member for the University of Oxford, and by the right honourable gentleman the Member for Perth, have not contained, I would almost say, one syllable of argument against the principles of the Bill. I bear a most willing testimony to the temper of those speeches. Nothing could be more satisfactory than the spirit which dictated them, and it is not from those gentlemen that we shall have the religious character of Unitarianism brought in and urged upon us as a reason for rejecting this measure. I heard the honourable Member for the University of Oxford, and the right honourable gentleman opposite, make use of various arguments as to the effect which particular parts of this Bill would have on particular parties, but neither of them at all approached the question in a general view, whether or not Unitarians ought to

be protected in the possession of their chapels. Now, I wish to throw aside every issue which is unimportant, or with respect to which we are not in dispute. I do not enter at all into the inquiry whether Unitarians ought to be protected in the possession of property originally given specifically for Unitarian purposes. Of that I apprehend there cannot be a doubt. But what I am prepared to argue is, that though the original founders of these meeting-houses may have been, and were, in the vast majority of instances, persons entertaining Trinitarian opinions, yet that on principles of justice the present holders of the property, being Unitarians, ought to be protected in the enjoyment of it.

But, Sir, there is an exception to the general statement I have made, that the objections to the Bill have been confined to matters of detail. My honourable friend, the Member for Kent, did touch the principle of the Bill; but he touched it, he must allow me to say, in the way of mere assertion and assumption. He used indeed strong, very strong language. He first said that the opposition offered to this Bill was an opposition of a character to which the Government ought to pay respect, and out of respect to which they ought to withdraw the Bill. I trust that the Government do pay respect to every opposition which is conscientiously offered and fairly conducted. I believe that this opposition has been so offered, and I believe that it has arisen much less from a disposition to theological animosity than from misapprehension and unacquaintance with the facts. I therefore respect the opposition to the Bill; but I deem it nevertheless my duty to support it upon its merits.

But, Sir, my honourable friend went on to say that this Bill offers an insult to the feelings of religious persons. I know that no particle of bitterness enters into his composition; but if this be a Bill required by the principles of justice, then, so far from the passing of it being an insult to the Christian feelings of the people of England, the Christian feelings of the people of England should require us to pass the Bill. And I am persuaded that the Christian feeling of the people, when they possess more full and adequate information upon this subject, and when it shall have been further discussed, would induce them to call upon the House to give full effect to the principles embodied in this Bill. I must say I think that great prejudice has been excited in the public mind from some undefined association between the purposes of the Bill and the case of Lady Hewley's bequest. I think it has been hastily and rashly assumed—one cannot be surprised at it—that this Bill is intended substantially to prevent the doing again what was done in Lady Hewley's case. Without pretending to look with a legal eye upon this question, I am sure that I shall be borne out by lawyers when I say, that there is a broad distinction between the case of Lady Hewley's charity and the general class of cases to which this Act is to apply. Lady Hewley was a foundress. There can be no doubt of that. She devoted a large portion of her property in trust to be administered according to her will, and for certain purposes. But are the parties who instituted the chapels to which this Bill refers, founders at all? I ask that question—whether they are in the eyes of the law entitled to be considered as founders at all? I apprehend that they were parties not devoting their pro-

perty for the benefit of others, but parties devoting it to their own purposes during their lifetime, though undoubtedly after their death that property would descend to others. I believe that the difference between the cases is broad and practical, and that the right which a founder has to have his intentions ascertained, respected and preserved, is a right of a nature entirely different from that which may be possessed by any persons who associate together to form a body, who are to be the first to enjoy the benefits arising from that association, and which body is to be propagated by the successive entrance of new members, in the natural course of mortality, through the following generations. I must be permitted to say also that, in the case of Lady Hewley, it cannot be said, as I think, that there was no indication of the intentions of the foundress. Lady Hewley made reference to the Apostles' Creed, to the Ten Commandments, and to the Lord's Prayer, and not only to these, but to the Catechism of Mr. Bowles, a Catechism of Anti-Unitarian doctrines, and one going extensively into detail upon those doctrines. This at least applies to one of the deeds which she executed—the deed of 1707, connected with the almshouses. But we are now dealing with cases in which there are no clear intentions of the founders specified; therefore I do trust and beg that honourable gentlemen will put altogether out of their mind the case of Lady Hewley, and that they will consider this question quite apart from the merits of that case.

Now let me state to the House the main and summary allegations which are principally relied on both by the Defenders and by the Opponents of the Bill. In a petition from a body entitled "The General Assembly of General Baptist Churches," which I have to-night presented to the House in favour of the Bill, the parties state their case to be, that they have a good moral title to the property in question, which good moral title is at present endangered by a mere technical rule of law. The parties who oppose the Bill (I quote from the pamphlet of Mr. Evans, who states his case very clearly) hold the following language:—"The Law says that the will of the founder is to be observed—this Bill says that the will of the founder is not to be observed." For the moment, I pass by the question whether these parties were founders or not founders, only observing, that if they were not founders, it is impossible for you to make out that any change in the form of doctrine professed in the chapels, can constitute a breach of trust. If they were the mere representatives of the first partners or associates in these congregations, I believe it would be impossible for you to raise even the faintest presumption that there was any obligation whatever incumbent upon the congregations in succeeding times to perpetuate the presumed opinions of those first associates. But I am not content to stand upon that ground. I do not think it necessary even to stand upon the ground taken by my right honourable friend, the Member for Edinburgh. I think that in a part of the very able speech which he has made to-night, he appeared to allow that there might originally have been a case of fraud, and yet that the parties in possession might be permitted to retain that possession. This may be true, but I confess I do not think that in taking our stand upon such a proposition, we do full justice to the case. I confess, for my own part, that if it could be shewn to my

satisfaction that there was a case of fraud, even though committed long ago, I should view the matter as one of considerable difficulty. If, indeed, this were proved, there would still remain many matters which I could not dismiss from my mind. I should still have to consider the position in which the present holders stand—I should consider that they, and even those who have immediately preceded them, are on all hands allowed to be innocent both in act and in intention—I should take into view the length of time during which their opinions have prevailed—I should not forget that they are the personal successors and the personal lineal descendants of the original institutors of these chapels, and that they are naturally and laudably attached to the memorials of their dead and to the place of their remains—I must remember, too, the enormous difficulty, at the present moment, of finding a claimant with a good title to the property—I should consider also the gross scandal to which litigation on such matters is likely to give rise, and to which, as it appears, it has actually given rise;—and I must say, without wishing to give offence to any man, that I should also have to consider this—that while for a hundred years, upon the average, Unitarian principles have been preached in these chapels, the classes of persons now coming forward and claiming to be the rightful possessors of them, have endured in silence that abuse (as they deem it) of the trusts—have fought side by side and shoulder to shoulder with Unitarians in their struggle for civil franchises—have derived great benefit from the co-operation of Unitarians in the acquisition of those advantages, and have not taken any step during three or four generations to put an end to a misapplication of the funds of those chapels which have been originally endowed for other than Unitarian purposes; and therefore, Sir, I should still feel that if there has been a breach of trust, the case was one of a most painful and difficult description. But the main question still is this—has there been a breach of trust and a violation of the intentions of the founder? Now, the custom out of doors has been, not to *shew* what have been the intentions of the founder, but to *assume* them. The custom has been to say, that the first institutors of these chapels believed in the doctrine of the Holy Trinity, and then at once to pass to the conclusion, that therefore Unitarians are disqualified from holding them. But that is leaping over the whole argument. Upon that subject I join issue with them. So far from saying, as Mr. Evans says, that "the present Law says the will of the founder is to be observed, whereas the present Bill says that the will of the founder is not to be observed," I say that, according to the present Law, the real will of the founders will be set aside unless the Legislature interfere to prevent it by passing this Bill. That position, I am aware, raises an historical question of great importance. It appears to me that if you intend to shew that the Unitarians are disqualified, you must shew in the first place both that the trustees hold under the original institutors of these chapels as under founders, and over and above that first question, which I pass by as a question bearing more of a legal character—it is likewise absolutely necessary you should shew that the intention of those parties who first associated together was to bind their posterity permanently to the same profession of faith as that which they themselves possessed. Now it is there that you will

find, as I am persuaded, an insuperable difficulty. You are dealing with the case of a body which, if you examine its history, you will find was from generation to generation, almost from year to year, during the seventeenth and eighteenth centuries, in a state of perpetual change; and it affords no argument at all, and will only tend to bewilder and mislead the judgment, if you go back to the writings of the ancient Puritans, and ask what they thought upon these great questions of Christian doctrine. You must go on from year to year, and consider the direction which religious inquiry was taking, and its progress from time to time, as well as its condition at a given time. May I venture so far to presume upon the patience of the House as to ask their attention to some historical particulars which I consider to be essential to the matter in issue? Although I know that there is a great indisposition in this House to resist the Bill, and debate may therefore be of less importance with a mere view to the division, yet I am well aware that there is a strong feeling against it out of doors, and I am, on the other hand, quite sure that if we can shew to the people of England that justice is concerned in the passing of this Bill—not only justice to the present holders of these chapels, but justice likewise to the real intentions of those who first established them—I am persuaded that the opposition which is made to this Bill will dwindle into nothing.

Now, first of all, I would ask, who are the parties into whose views we ought to institute an investigation? Not the Presbyterians preceding the period of the passing of the Act of Toleration. It is clear that the opinions of that body were in a progressive and fluctuating state; great changes had even already taken place in their doctrines and opinions antecedently to the passing of that Act, and the signs of still further and greater changes were visible. The Presbyterian body, which originally held the tenets of Calvin, had adopted Arminian doctrines at the period of the Act of Toleration. This change of itself was no small one. But over and above this, the Presbyterian body, which in 1643 actually composed the Westminster Confession, in 1690 had virtually abandoned it; and I do not find that since that period the use of the Westminster Confession has been resumed by them. Now I ask the House, whether that is not an important point? If you find men in the habit of conducting their religious matters without reference to creeds, the fact does not of itself necessarily justify any strong inference: it may be that it is because they have not found any necessity for creeds; but if you find the children of those who have framed a creed departing from that creed and casting aside the use of it, you cannot resist the inference that they had some reason for it, and that that reason was in their view some strong and cogent one. Then, Sir, as early as in 1657, Mr. Baxter wrote a work in which he declared distinctly that he objected to all confessions of faith not couched in scriptural phraseology, and stated that there never would be peace in the Church until creeds were reduced to the language of Scripture. I am almost tempted to read a curious passage, extracted from a well-known work, Mr. Cotton Mather's History of the Pilgrim Fathers in New England. There you have the Puritan body in its purest form, and no man will say that those men were not highly conscientious. I speak of them as individuals; and I must say, differing

from them as I do, and lamenting the course they took, I believe not only that they were sincere men, but likewise that the main motive of which they were conscious in their proceedings was a desire to realize what they thought the whole will and word of God in a form more unmixed than, as it appeared to them, it could be found in the existing church. But now observe the idea of Christianity, as a shifting, changing and advancing subject, contained in this passage. This was the address of Mr. Robinson, the leader of the colony of New England, delivered in the year 1620 to the first planters of that colony, and I quote it in support of my argument, that you will fall into the greatest error if you look at what was the actual belief at a particular period, and apply that belief to a period a century afterwards :— "For my part, I cannot sufficiently bewail the condition of the Reformed Churches, who are come to a period in religion, and will go at present no further than the instruments of their first reformation. The Lutherans can't be drawn to go beyond what Luther saw. Whatever part of His will our good God has imparted and revealed unto Calvin, they will die rather than embrace it. And the Calvinists, you see, stick fast where they were left by that great man of God, who yet saw not all things. This is a misery much to be lamented; for though they were burning and shining lights in their times, yet they penetrated not into the whole counsel of God ; but were they now living, they would be as willing to embrace further light as that which they first received. I beseech you to remember it; it is an article of your Church-covenant, that you will be ready to receive whatever truth shall be made known unto you from the written Word of God. Remember that and every other article of your most sacred covenant." There you have the seed of all those progressive changes, of the effects of which you are now considering the course. I will only further remind the House on this part of the inquiry, that Mr. Hallam tells us in his History of the reign of William III., that the feeling of the Dissenting body, which originally resisted particular forms and particular impositions by high authority, had even at its commencement become rather a feeling of opposition to all creeds and to all human interpretations of Scripture.

I come now to the Toleration Act. And here I must ask, when were these foundations really made?—for that is a point of considerable importance. There were very few before the Toleration Act, and those we may reject. The great mass, according to a statement made on behalf of the Unitarians in the Lady Hewley case, and adopted, as I perceive, by the Bishop of London, an eminent authority in opposition to this Bill, may be taken to have been made between 1690 and 1710. But those who made these foundations, did not die until some time after they were made. They remained in the natural course of things for many years the natural guardians of their own foundations. We must allow, therefore, to the parties who founded these chapels the usual term of human life, and assuming them to have lived some thirty years after those dates, they were themselves, for the most part, alive and approvers of what took place after the year 1690, and before the years from 1720 to 1740. Of course these dates do not admit of the utmost degree of precision, but I say it is upon the whole the state of opinion in that body

between the years 1690 and 1740 that it is my business to look at. I look at it as a question of history, and I endeavour to form a judgment from that history as impartially as I can. It is clear that at the commencement of that period there were two great antagonistic principles engaged in deadly conflict—the one, a regard to authority in matters of religion, and a view of religious truth as something permanent, substantive, independent and immutable; and the other, the supremacy of private judgment. I say that these two great principles were struggling together at the time of the Toleration Act, and that a regard for the supremacy of private judgment, and a disinclination to tolerate human interpretations of Scripture, was even at and before that time rapidly gaining the upper hand over the old principle, of which I have shewn that some records might be found. Now may I be allowed to give the House historical proofs of that important position? The House is very well aware that it was required by the Toleration Act that parties, before they could take the benefit of that Act, should subscribe a declaration which involved indeed a great deal more besides, but which required, among other things, a confession, in the most explicit form, of their full belief in the Holy Trinity. Now the first point I put is, that that Act was not universally subscribed. The case of Dr. Calamy, which has been mentioned as a remarkable one, because he was an eminent and devout man, and a sincere believer in the Holy Trinity, is an instance; it appears that he never subscribed. I again appeal to the authority of Mr. Hallam, who acquaints us that the measure of liberty accorded by the Toleration Act was but a scanty measure, but he says it proved more effectual through the lenient and liberal policy of the eighteenth century; the subscription to articles of faith, which soon became as obnoxious as that to matters of a mere indifferent nature, having been *practically* dispensed with. It is pretty evident that soon after that time, among Dissenting bodies, subscriptions to articles of faith were practically dispensed with; but at the period of the Toleration Act, it appears clear that the great mass of Dissenting ministers then intending to officiate did subscribe the declaration. There is still extant one of the latest works of Mr. Baxter, one of the most distinguished men belonging to them—a man of great learning, great piety and great genius, and one who, as far as his personal qualities were concerned, certainly did deserve the high position and the great influence which he exercised among the Nonconformists. Baxter, in 1689, published a work called, "A Sense of the Articles of the Church of England," the object of which was to reconcile Dissenting ministers to this subscription; shewing that already the elements of repugnance to subscription were powerfully felt. In that work Mr. Baxter wrote thus: "Wishing that God's own Word were taken for the sufficient terms of our consent and concord, in order to union and communion, and knowing that the ambiguity of words, and our common imperfection in the art of speaking, do leave an uncertainty in the sense of most human writings till explained, and yet supposing that the authors of the Articles meant them orthodoxly, that I may not seem needlessly scrupulous, I subscribe them; and that I may not be unconscionably rash in subscribing, I here tell all whom it may concern how I understand the words which I subscribe." Thus, Baxter was willing to

subscribe, yet not without stating his regret that any subscription whatever was required beyond an acknowledgment of the Canon of Holy Scripture, and not without also putting his own sense upon the Articles. That sense is also in some particulars not a little remarkable; as, for example, where, upon the article which affirms the Athanasian Creed, he actually excepts from his assent a part of that Creed. And although it is a deviation from regular order, I must here revert to an instructive circumstance which had already happened, and which shews the tendency which was already operating, to fall back from all creeds upon the simple volume of Scripture, and for the greater security to fence about that volume, by requiring its reception under the severest penalties. In the year 1648, an ordinance was passed in the Long Parliament, by which it was actually made an offence, punishable by death, to deny that which is manifestly only a question of historical inquiry — the authenticity of any one of the books contained in the Canon of Scripture. I question if a more singular enactment was ever passed.

I must now call upon the House to observe, that although a great number of ministers subscribed, it appears that no less than eighty of them, in and about London, subscribed in the sense and with the reservations of Mr. Baxter.

Now, I admit that some of the pamphlets upon this subject have introduced one or two facts which appear at first sight to bear in a contrary direction, and to favour the principle of subscription. They have not been referred to here, but I think it right just to allude to them. There is a document described as "Heads of Agreement assented to by the United Ministers in and about London, formerly called Presbyterian and Congregational; not as a measure for any national constitution, but for the preservation of order in our congregations, that cannot come up to the common rule by law established." Now, I wish to give my honourable friend the Member for the University of Oxford the benefit of a stronger fact than any he has stated. In the 8th of those Articles there is this: "As to what appertains to soundness of judgment in matters of faith, we esteem it sufficient that a Church acknowledge the Scriptures to be the Word of God, the perfect and only rule of faith and practice, and own either the doctrinal part of those commonly called the Articles of the Church of England, or the Confession or Catechisms, Shorter or Longer, compiled by the Assembly at Westminster, or the Confession agreed on at the Savoy, to be agreeable to the said rule." I am not, therefore, in a condition justly to assert that, at this time, subscription was repudiated. But, on the other hand, I must offer some qualifying remarks. In the first place, this is not intended in any manner to guarantee the profession of a permanent belief. It was not the foundation of a permanent decree, but rather a treaty of co-operation for immediate and practical purposes. In 1694, on account of doctrinal differences which kept swelling and struggling upwards, such a project as the union was found to be quite impossible, and those Articles of Agreement came altogether to an end, and upon them of course depends the virtue (if there be any) of what I have quoted. But here again I must observe, that the willingness of parties even to subscribe for themselves does not necessarily imply that they are anxious, or

even that they would consent, to bind their posterity. Assuming that these parties were willing at that time to subscribe, that might be because they themselves believed in these particular doctrines, but it may still be true that they meant to leave to others the means which they had themselves put in action, of departing from the belief of their predecessors. But when I look at these chapel deeds, I find, according to the best accounts I can obtain of the terms in which the trusts are commonly declared, that the most general words are used; and if the parties who themselves were willing to subscribe, when they came to found meeting-houses, which of course were intended to be used by their posterity as well as by themselves, no longer referred to doctrinal tests, but framed their deeds in the largest and most general language, does not that raise a strong presumption, that though they were themselves believers in particular doctrines, yet they objected, on principle, to binding their posterity to the maintenance of them for ever?

I have no motive to bias me, that I am aware of, in this matter, and I wish to state strongly to the House, and to bring strongly before my own mind, the arguments on the other side. There are two other points urged by them. One argument which has been used by those who oppose the Bill (though it has not been made in this House) is as follows:—Those who declared these trusts, and who associated themselves for the purpose of establishing these chapels, never could be expected to specify the particular doctrine of the Holy Trinity, because it was at that time forbidden by law to deny that doctrine. Now, does any man seriously think that that is a compliment to the foresight, the sagacity and common sense of those who drew these deeds, or of the parties for whom they acted? Does any man think that those who had seen the changes which took place in the 17th century, calculated on the permanence until doomsday of that declaration which, under the Toleration Act, ministers were required to subscribe? They had seen the Canons of 1640, passed under Archbishop Laud—they had seen the Act of 1648, denouncing the penalty of death against any person questioning the authenticity of the canon of Scripture—they had seen, in 1661, the Act of Uniformity passed—they had seen, in 1689, Nonconformity legalized and permanently established under the shelter of the law—and is it to be supposed that, with such experience, those men were so unobservant as to imagine that the great movement which they had themselves used all their strength to impel, and which manifestly embodied the prevailing sentiment and spirit of the time, had reached the extreme limit of its progress—that they applied, in fact, the doctrine of finality to that particular form which the policy of the Legislature had assumed in the Toleration Act? It is obvious that they could have done no such thing. But, again, some say that the doctrine was so fixed, not merely by law but by religious faith, in the minds of men, that it never occurred to them that it could be doubted, and therefore that they never thought of predicating it expressly in the trust-deeds. But this ground is cut away from them, because it so happens that at this very period the keenest controversies were raging with regard to that doctrine. Even before the Toleration Act, those controversies had commenced. The works of foreign Unitarians had been brought into

England. Men of very considerable eminence—Mr. Biddle, Mr. Firmin, and others,—persons, I am bound to say, of great individual virtue—were professors of those doctrines; and I do not suppose that years would suffice to read the tracts that were published on the subject of this controversy during the very period in which these chapels were instituted. How, therefore, can it possibly be said that the reason why these parties excluded all reference to the doctrine which they wished to promulgate was, because it was a doctrine as to which no doubt was entertained by any of the religionists of the day?

Now my honourable and learned friend, the Attorney-General, and likewise my right honourable friend, the Member for Edinburgh, have referred to the Act of Queen Anne, in 1711; and the provisions of that Act, exempting non-subscribers from the penalties they had incurred under the Toleration Acts, lead to the inference, both that they were a considerable class, and likewise that the offence they had committed was a light one in public opinion; that is, that subscription to the Articles, by Dissenters, was falling into disrepute. But some honourable Member has quoted to-night a case which occurred in the year 1702, when Mr. Emlyn, an Irish minister, adopted Arian opinions, and became the object of universal reprobation among his brethren. That is the history of 1702; but the peculiarity of this case is, that the history of 1702 is not good for 1703, nor is the history of 1703 good for 1704. I will shew that a few years after that date, liberty or licence, call it which you will—and we might differ perhaps upon that question—had come to such a height, that the whole Presbyterian body had become divided. What took place in 1718? A Bill was then brought forward by the Ministry of that day for the purpose of repealing the restrictive Acts passed in the reign of Queen Anne—that is, those portions of the Schism Act and the Occasional Conformity Act which were restrictive in their operation. That Bill was called, "A Bill for strengthening the Protestant Interest," and while it was before Parliament, an attempt was made to introduce into it the following declaration. The Bill passed a second reading in the House of Commons in January by a majority of 243 to 202. On going into Committee, a motion was made by Lord Guernsey, "That it be an instruction to the said Committee, that they have power to receive a clause that any person, when he comes to take the oath of abjuration and other oaths subsequent to the receiving of the Sacrament in order to his qualification, shall acknowledge that the Holy Scriptures of the Old and New Testament were given by Divine inspiration, and shall acknowledge his firm faith and belief in the ever-blessed Trinity." But the previous question being put, "that the question be now put upon the said motion," it passed in the negative by 90 voices, several Members who voted against the Bill "for strengthening the Protestant Interest," &c., having, notwithstanding their opposition to that Bill, voted also against the Amendment proposed by Lord Guernsey. Now, here was a declaration of the doctrine, reduced to the most naked and unobjectionable form. It is not involved in a multitude of scholastic terms or refined definitions, but it is a simple proposition that a plain and perfectly intelligible declaration of belief in a particular doctrine, reduced to the most naked form, shall be made

the condition of holding office. The Bill had been carried by a majority of 41 only. The motion was rejected by a majority of 90. All those who supported the Bill and represented the united Dissenting interest in Parliament opposed that clause. Does not the right honourable gentleman think that that is a pregnant fact to shew what was taking place in the minds of Dissenting ministers and of Dissenters generally at that time? And be it remembered, too, that at that period the greater part of these founders, as my honourable friend, I think inaccurately, calls them, on whose behalf, or on behalf of whose descendants, he is interesting himself, must have been themselves alive to take care of their own foundations.

But now, Sir, I come to what is a still more important matter, and to what I say is an absolute charter of freedom of opinion with respect to these questions, so far as the Presbyterian body are concerned—I mean that which is well known as the Salters'-Hall controversy. In 1718, two Dissenting ministers, named Hallett and Pierce, of Exeter, were charged before the committee who governed their congregation with having preached Antitrinitarian doctrines. The committee examined the case, and they decided against their ministers. But it is a very remarkable fact that those doctrines were not condemned by a declaration that they were contrary to the Christian faith, but it was simply stated that a denial of the blessed Trinity was an error such as to justify the withdrawal of the congregation from the preachers. That was the whole extent of the assertion made. Having before them distinctly the case of their own ministers, who had abandoned the preaching of the doctrine which they professed, and who had adopted an opposite doctrine, they passed a resolution that there were some errors of doctrine which afforded a sufficient ground for congregations to withdraw from ministers holding such doctrines, and that a denial of our Lord's divinity was, in their view, a doctrine of that nature. But, Sir, there was much more than that. The Dissenters of London acted by means of a central body, which regulated the proceedings of all other Dissenters throughout the kingdom. A formal reference was made to them upon the schism between the ministers and congregation of Exeter. They met in large numbers. All the Dissenting ministers in London and its vicinity met to consider this great question in Feb. 1719, and they had a very solemn consideration of it. It was debated whether a declaration concerning the doctrine of the Trinity should be inserted in the letters of advice which it was resolved to send down to Exeter, and it was carried by a small majority—by 73 to 69—that that doctrine should not be conveyed to the congregation at Exeter. Is it possible, then, to deny that in 1719 the opinion of a majority, although a small majority, of the Dissenting body was, that this doctrine should not be made a term of communion? And if so, how can it be said that no doubt was entertained with regard to the doctrine itself? How, above all, can it be held that the denial of it is a disqualification for succeeding to the use of the chapels *now*, if it was not a bar to communion *then?*

But, Sir, the case is still stronger. That meeting was composed of Presbyterians and Independents together. The Independents were not possessed, like the other class, with a tendency to Unitarianism, and therefore the minority was in point of fact in a great part made

up of the Independent body; but the historians of the Dissenters, Messrs. Bogue and Bennett, fairly admit that the majority of the Presbyterian body who assembled on this occasion were hostile to any declaration as to the doctrine of the Trinity. Now if we keep in view the fact, that that was a period when the majority of these founders of chapels, or partners or associates in them, were still alive, is not that fact of itself almost conclusive upon the question as to whether by passing this Bill we are violating the intentions of those founders?

Sir, I have troubled the House already at such length, that I am very reluctant further to trespass on its attention; but I deem this subject to be so important, and what I have to say upon it still is so brief, that I cannot prevail upon myself altogether to omit it. There is a most singular testimony upon this subject. It goes further than I should venture to go, because I should not presume to go up to the point of saying that non-subscription was a fundamental principle before the Toleration Act. I do say, however, that from 1718 it was established. But I find that Mr. Wilson, who plays a great part in the Lady Hewley controversy, as relator, has said in express words (unless he has been misquoted), "It is equally a matter of historical notoriety that the English Presbyterians of the time of Lady Hewley's charity, and subsequent thereto, refused to subscribe any tests, creeds, or declarations of faith, because they objected to bind themselves to the words and phrases of any human composition, as the Scotch Presbyterians of the Church of Scotland then did, and as the reverend Scotch petitioners in full communion with the Church of Scotland, and the said reverend Scotch petitioners in connexion with the Secession Church, now do." Mr. Wilson, therefore, comes forward and says, "It is true that you Scotch Presbyterians are subscribers, but we English Presbyterians were always non-subscribers," and thus he establishes the very position which, if it be made good, renders the argument for this Bill, not as a question of compromise, or of settlement by way of limitation, but *upon its merits*, in the strictest sense, quite irresistible.

But, Sir, I am going to quote to the House the sentiments of two individuals upon this most important question, expressed within the periods to which I have referred. First, I will refer to the sentiments of Dr. Calamy, and then to those of a man who perhaps stands higher in reputation among religious persons of the Dissenting body than any other individual of the 18th century—Dr. Doddridge. Dr. Calamy wrote in 1718 upon the subject of this Salters'-Hall controversy. He was delivering a course of lectures on that great doctrine to which I am sorry to have had occasion so often to refer by name—he was solicited to join in this Salters'-Hall controversy, but briefly refused to do so, and he gives this very clear account of that refusal. He says, "I told him" (that is, the person who applied to him) "that as for the true eternal Divinity of the Lord Jesus Christ, I was very ready to declare for it at that time or any other, and durst not in conscience be at all backward to it. But I could upon good grounds assure him that was not the point in question among those that were to meet together on the day following; that certain gentlemen behind the curtain had so influenced their respective friends

for two different ways and methods to which they severally inclined, that, as they appeared disposed, a fierce contention and a shameful breach was in my apprehension unavoidable. As to the grand matter which they contended about, I was entirely of the mind of the celebrated Mr. Chillingworth, who closes his preface to 'The Religion of Protestants a Safe Way to Salvation,' with these memorable words: 'Let all men believe the Scripture and that only, and endeavour to believe it in the true sense, and require no more of others; and they shall find this not only a better, but the only means to suppress heresy and restore unity. For he that believes the Scripture sincerely, and endeavours to believe it in the true sense, cannot possibly be an heretic. And if no more than this were required of any man to make him capable of the Church's communion, then all men so qualified, though they were different in opinion, yet, notwithstanding any such difference, must be of necessity one in communion.'" So much for Dr. Calamy. Now let us hear the words of Dr. Doddridge, with whose testimony I will close my examination of the sentiments and the doctrinal movement of the Presbyterian body between 1689 and 1740. In a letter dated December 1737, he uses this remarkable language: "I think we cannot be too careful not to give any countenance to that narrow spirit which has done so much mischief in the Christian Church. And what confusion would it breed amongst us, if those who were supposed to be of different sentiments, either in the Trinitarian, Calvinistical or other controversies, were to be on both sides excluded from each other's pulpits!"

Now, by what has taken place in Parliament, by what has taken place at meetings of Dissenting ministers, and by what has been stated by the greatest oracles of those Dissenting ministers, it is established, that before the deaths of the very parties who first of all associated themselves together in order to establish these chapels, it had become entirely an open question whether or not a man should hold the orthodox and ancient belief with regard to the doctrine of the Trinity. It is needless to go beyond the year 1740, but if there were occasion for detail, it might be easily supplied. In 1772, the movement became so strong against the principles of subscription, that an application was made to Parliament upon the subject, and in the year 1779, a Bill was passed which relieved the parties from the existing form of subscription, and substituted another, though even that latest form of subscription by Dissenters was not, I believe, complied with. Upon that I do not stand, because if you could shew that the transition took place at a period so long after the deaths of the parties founding these chapels, you might create dissatisfaction in the public mind, though I do not think you would prove thereby that this Bill ought not to pass.

But, Sir, to me it appears that this is not a question on which there is justly any room for difference of opinion. I cannot admit that it is subject to the smallest doubt whether these parties ought to be regarded, or not, as qualified successors of the early Presbyterians in their chapels. If you are satisfied to look at nothing but the mere external view of the case, and to say, Here were certain persons who founded these chapels entertaining one creed, and the present possessors of those chapels profess another creed, I admit that that sounds startling. But if you take the pains to follow the course of events

from year to year, it is impossible to say that at any given period the transition from one doctrine to the other was made. It was a gradual and an imperceptible transition. There can be no pretence for saying that it was made otherwise than honestly. I at least do not hold myself entitled to say so. The parties who effected it made a different use of the principle of inquiry by private judgment from those who had preceded them; but they acted on a principle fundamentally the same; and though I may lament the result, I do not see how their title is vitiated because they used it to one effect, and others to another. I do therefore hope, not only that this Bill will be passed by the House, but I hope also, and I cannot entertain much doubt, that the feeling which unfortunately prevails against it out of doors will also be allayed. I think it is our duty to set ourselves against that feeling, and to endeavour to bring about a mitigation of it, if we are convinced it is unjust and ill-informed: and I do not believe that my honourable friend the Member for Kent will be content to tell us, when this measure comes again before the House, that we are passing a Bill for the encouragement of error. If my honourable friend were a Judge, and there came before him two parties litigating for an estate, one of whom was an infidel and a profligate and every thing that was bad, and the other a most pious, virtuous and benevolent man, would he be deterred from giving the estate to the infidel and profligate, if justice lay on his side, because he encouraged error? or would he be deterred—I well know he would not—by such a reproach, from the resolute discharge of his duty? But I apprehend that the duty of a Judge, in such a case as that, much resembles the duty which my honourable friend is here called on to perform; for he is now called on to remedy a defect in the law, and to adapt the law to the general and larger principles of equity and justice. And, again, I am not in the position at which my honourable friend the Member for Pontefract seemed to glance in his speech of to-night. I feel no competition or conflict between my religious belief and the vote I am about to give. I am not called upon to do that which I could not do, namely, to balance the weight and value of a great moral law, against that of some high and vital doctrine of Christianity. Our religious belief should guide us in this as in other acts. But I contend that the best use you can make of your religious belief is to apply it to the decisive performance, without scruple or hesitation, of a great and important act—an act which, whether the consequences to arise from it may be convenient or inconvenient, (and I believe the balance will be found to be greatly on the side of convenience—but that is the second question, not the first, of those now before us,) I hope I have in some measure proved to be founded on the permanent principles of truth and justice.

Mr. SHEIL.—I am delighted to hear from such high authority that this Bill is perfectly reconcileable with the strictest and the sternest principles of State conscience. I cannot doubt that the right honourable gentleman, the champion of free trade, will ere long become the advocate of the most unrestricted liberty of thought. It is very much to be regretted that the arguments which he has pressed upon the House to-night were not urged in Lady Hewley's case,

for if they had been pressed with the clearness, the force and the irresistible historical evidence which he has adduced in such powerful array, I cannot help thinking that the decision in Lady Hewley's case would have been different.

I should not have ventured to interfere in this debate if any other Roman Catholic Member had spoken; but I think it right to avail myself—and I will do so with great brevity—of the opportunity which you, Sir, have given me, to state that the entire of that great and powerful community of which I have the honour of being a member, are, I believe to a man, in favour of this Bill. Not, it is obvious, that they have any interest of a sectarian character, or that there is any question at stake in which they have any concern, but because they think that this measure is founded upon the great principle of religious toleration. Of whatever sins the Catholic Church may have been guilty when connected in an impure political contact with the State, the Irish Catholics are most thoroughly tolerant: for my own part, (and I am utterly Athanasian,) I endeavour to associate with the lofty faith of the illustrious Bossuet, the gentleness and the charity of the merciful Fenelon. The Member for the University of Oxford, almost at the outset of the remarks which he made, intimated that the Prime Minister was about to incur the panegyric of those parties who were not his habitual supporters. Two things are plain—that the right honourable Baronet has no sort of motive in courting our support, and that we on the other hand have no sort of motive for making him the object of our unwonted panegyric. But, Sir, I have so thorough and complete a sense of the merits of this Bill, and of the pure and high and most honourable motives which have led to its introduction, that I cannot refrain from expressing my strong approbation of a measure, in the promotion of which, be it remarked, (as the Attorney-General stated at the commencement of his admirable speech, which was heard with so much gratification on all sides of the House,) every one of the noble and learned persons in the other House who have held the office of Lord High Chancellor of England, by a rare coincidence of opinion, and with an almost emulous unanimity, zealously concurred. Although that fact has been adverted to before, I refer to it again, because, as it has been well said in the course of this debate, the great object is not to carry a majority in this House, but to carry a majority out of this House, and to disabuse the public mind of the erroneous impressions which, from the number of petitions presented, must, I conclude, exist with regard to the propriety of passing this Bill.

The object of this Bill is to confirm the principle of toleration by which this great country is so eminently distinguished, and to put an end to those controversies in courts of justice which bring the most sacred subjects into a desecrating familiarity. The object of this Bill is to quiet possession where a number of years have elapsed exceeding by five the period within which the right to bring an action in the case of private property is strictly confined. This Bill is founded upon the principle of analogous limitation. It is a Spiritual Act of Settlement, of which in Ireland we stand in great need, and of that need what stronger proof could I have than the case to which the honourable Baronet, the Member for the University of Oxford, reluct-

antly adverted—the case of Mary Armstrong? It is a principle of equity, of subtle equity, that if there be an original trust, every subsequent donation, though it may be made with a different intent, attaches to and is attracted (if I may use the phrase) by the original trust. What is the consequence? That when once it is proved that a trust was Trinitarian, a subsequent Unitarian gift becomes identified with and is to be applied to the purposes of that trust. That is the case of Mary Armstrong. Her husband became the pastor of an Unitarian congregation in 1806. He died in 1839. A small fund for pastors' widows was created in the interval, in a great measure by the sisters of the present Lord Plunket, who is the son of a distinguished Arian minister. Out of that fund Mary Armstrong and her four daughters have received just enough to maintain the painful struggle between decency and privation. If this Bill is not passed, Mary Armstrong and her four daughters will be cast out, with Providence for their guide and Predestination for their comfort, upon the world. The honourable Baronet felt the force of that case. His good-nature—for in him the milk of human kindness has not been soured—got the better of his habitual predilections, and he suggested that a special clause should be introduced into the Bill for the protection of Mary Armstrong. The honourable Baronet will see upon reflection that that is a proposition which cannot be sustained. The case of Mary Armstrong is not a solitary instance. Hundreds of clergymen and their families will be deprived of the means of sustaining life if this Bill is not passed.

But really, Sir, it is not of so much importance to shew what this Bill does do, as what it does not do. This Bill will not interfere with express trusts. Let the House bear that in mind. If a donor shall make an *explicit declaration* of his opinions on religious subjects, no matter how fantastical—if in any deed or will that he may execute, his intention is manifest, a court of equity, though a century shall have elapsed, will, *after* this Bill shall have passed, carry that intention into effect, and *no* time will run against that express trust. The law is not changed in this regard. But if a trust be not express—if it is to be elicited from circumstances—if it be mere matter of conjecture—the subject of judicial surmise, which it is not always easy to form, and resulting not unfrequently from a slight preponderance of probabilities, in a balance which it is difficult to adjust,—in that case, after the lapse of twenty-five years of uninterrupted possession and of uninterrupted doctrine—in that case, and in that case only, will this Bill operate—in that case only will possession confer a title; and thus will the most iniquitous litigation be put down.

Sir, this Bill is not confined to Unitarians. It does not make Unitarians the objects of especial favour. There is a cry against Unitarians through this country. At one time, you did not pursue an Unitarian when you had a Papist for your game, but now the sport is capital if a Socinian is to be hunted down. The object of this Bill, however, is not to extend privileges to any particular sect, but to confer equal protection upon all classes. There is no exception against the Unitarians—there is no provision, on the other hand, in their favour. All are placed on a perfect level—and, by the bye, let me remind the House, that the distinction between Uni-

tarian and Trinitarian in Ireland is an erroneous one. The separation of the Presbyterian body in Ireland was not connected with the question of the Trinity, as the right honourable gentleman who has just sat down has distinctly proved. It was not on a question as to the Trinity that the Presbytery of Antrim separated from the rest of the Synod, but on the question of non-subscription. It was not a question between Trinitarians and Antitrinitarians, but between subscribers and non-subscribers, one portion of the Presbyterian body considering it necessary to subscribe the Confession of Westminster, and another portion being of opinion that the act of subscription was a relinquishment of liberty, and was at variance with the right of private judgment. But the conformers have taken advantage of the decision in Lady Hewley's case against the non-conformers, and, because they differ in their interpretation of the Apostles' Creed, (though they both admit it,) the conformers are determined to avail themselves of a court of equity to reduce them to the lowest state of apostolical destitution. This is a religious luxury in which the Trinitarians ought not to be indulged.

This Bill, then, does not interfere with express trusts. It does not interfere with the Established Church. I cannot help being surprised that the honourable Baronet, the Member for the University of Oxford, not indeed the visible Head of the Church, but its fearless, undaunted and dauntless champion, should have thought it his duty to interfere in a case in which the Church has no concern. "From the vantage-ground of Truth,"—if I may venture to use an expression employed by Lord Bacon in translating from, or rather imitating, a passage in Lucretius, (which the right honourable Baronet, the Secretary of State for the Home Department, quoted so happily a few nights ago when the House was threatened with a calamity which there were 138 reasons for not inflicting,)—"From the vantage-ground of Truth, all Dissenters should be viewed with equal disregard." And if by the right honourable Baronet, the Secretary of State for the Home Department, the words of the Latin Poet were justly quoted when he intimated that he would retire to the temple of the Wise, (situate, I suppose, in Cumberland,) whence he would look down upon us in a spirit of philosophical commiseration, how much more aptly might the maxim of the great follower of Epicurus be adopted by the honourable Baronet, the member for Oxford, who from the heights of Orthodoxy, so clear and so serene, should look down upon the wanderers in Dissent with a feeling not unmingled with disdain, and should not condescend to mark the mazes in the labyrinth of aberration in which the wanderers have unhappily lost their way! From the summit of St. Peter's, the Catholic divine sees every conventicle upon a level; and from the cross of St. Paul's, (an imitation so close that it is almost a copy,) the Member for Oxford, although not placed quite so high, should not be able from so great an elevation to distinguish, among the crowd of sectaries below, their different degrees of diminution. But I will venture to put a question to the honourable Baronet. What I am about to suggest to him has been brought under my consideration by a notice which stands in the Order Book in the honourable Baronet's name—"Sir Robert Harry Inglis to insert in Section 7 (saving Royal Residences, Cathedrals, &c.),

after the word 'erected,' the words, 'and the College of the Blessed Virgin Mary near Winchester.'" Does not the honourable Baronet know that William of Wykeham was the founder of St. Mary's College in Oxford? Does he not know that William of Wykeham selected the Virgin Mary as his peculiar patroness?—that he gave directions that a ritual should be performed in honour of the Virgin, and that her statue should be placed in some high spot as a conspicuous intimation of his peculiar piety?—that he directed mass to be said three times a day for the repose of his soul, and that an Ave Maria and Salve Regina should be every night performed in the choir? If in the case now before the House there has been a breach of trust, has there been no breach of trust in the case of William of Wykeham? At a meeting lately held at Exeter Hall, and under very peculiar auspices, a gentleman named Hamilton said, that if the saints in heaven (meaning thereby, no doubt, the Presbyterians) could only guess the desecrating purposes to which their donations were applied, their eyes would be dimmed with tears such as immortals weep. If William of Wykeham knew that the statue of the Virgin had been the subject of iconoclastic profanation—that his masses had been suppressed—and that a ritual in a modern tongue had been substituted for the ancient and imperishable language of Rome — if he were to hear—oh! worse than the demolition of the Virgin's statue—worse than the fall of her altars—worse than the suppression of the mass!—that his own College, founded by a Bull of Urban the Sixth, was now represented in the House of Commons by the terror of Cardinals, the dismay of the Vatican, the scourge of Rome,—how would William of Wykeham be amazed!—To the defrauded Spirit of William of Wykeham, (worth a hundred Lady Hewleys,) let restitution be made, and then you may consistently become the abettors of the orthodox Presbyterians; but until that be done, do not become the auxiliaries of men who desire to avail themselves of a court of equity to do a very signal wrong. Let us, for God's sake, put a stop to a spirit of litigation of a very peculiar character—litigation in which controversy and chicane are combined—in which the mysteries of Calvinism are rendered darker by the mystifications of jurisprudence —and in which the enthusiasm of orthodox solicitors is associated with the rapacity of acquisitive divines!

It is surprising that men who are complaining of the existing law of Marriage, and calling for a repeal of it by which property may be affected, should themselves shew so little forbearance. It is wonderful that they will allow so small a portion of liberty to others, while they themselves demand it in so large a measure—that they, whose ancestors heroically suffered persecution almost to death for their honourable adherence to that which they believed to be the truth, should be prompt to inflict pains and penalties — that they should seat themselves in the iron chair of Calvinistic infallibility—and that they should read the Book of Mercy by that lurid light with which Geneva was illuminated when Servetus was consumed!

Sir R. PEEL.—Sir, notwithstanding a preponderance of argument on one side of the question unexampled within my recollection in any former debate, I still should be unwilling to permit this debate to

close without briefly expressing the grounds upon which I have determined, with my colleagues, to give to this Bill the most decided and persevering support. I undertook to give that support under very different impressions with respect to ultimate success from those which I now entertain. I undertook to give my support to this Bill at a time when I had good reason to doubt whether it would be conducted to a successful issue. But I did entertain so strong a belief with respect to the justice of the principles upon which this Bill was founded, that I and my colleagues were prepared to make every other consideration subordinate to the fulfilment of that duty which appeared to us to impose upon us the obligation of supporting a Bill founded upon those principles. Sir, I am bound to say that my opinion was formed without any very elaborate consideration of the historical truths or of the legal doctrines that are presented to us in this consideration. With respect to the legal doctrines—I am not about to undervalue the great legal doctrines which are to be found in the law of England—that great doctrine of trusts, I dare say, ought to be held in great veneration and respect—but I say this, that if that or any other great doctrine imposes the necessity of inflicting wrong, I will look out for a mode of applying a remedy,—first, because I think individual justice requires it; and secondly, because in proportion to the importance of the doctrine, and in proportion to the necessity of maintaining it, so in proportion is increased the necessity of not subjecting it to the odium of being made the instrument of inflicting wrong.

Sir, I think it would be unjust to permit any rule of law to be so applied that chapels now held by certain Dissenters from the doctrines of the Church of England shall be taken from them and applied, I know not to whom; for after we have taken them away from their present possessors, will arise a most complicated question—to whom these possessions shall be given. I find that before the year 1813, there were a number of chapels founded with trust-deeds, some of which deeds express that the doctrine of the Trinity shall be preached in those chapels, founded by those who dissented from the Church of England, but who agreed with the Church of England in the maintenance of the doctrine of the Trinity. Where those deeds are so expressed as to shew that the intention of the founder was that the doctrine of the Trinity only should be preached in that endowment, we do not want this Bill to disturb those intentions. The intention of the founder will still remain. But there are other chapels founded where there is no express declaration in the trust-deeds as to the nature of the doctrines to be preached there. In the great majority of those trust-deeds the words are simply these—that the chapel is for the worship of Almighty God by Protestant Dissenters of the Presbyterian denomination. Would it be consistent with justice, I ask, that, those being the words, I should now presume (there being nothing more express as to the intention of the founder) that it was the purpose of the founder that the doctrine of the Trinity should be preached, and that, notwithstanding usage and notwithstanding prescription, I should dispossess those who are now in possession of the chapels, and confer them on others? Am I to be called on, in deference to any great principle of English law, to violate the first principles of justice in order

to maintain the technical application of the law? I can understand why a Unitarian founder should have said nothing as to his intention. The principle of the law was against it. There was a motive for the concealment of his intentions. It was wise in him to deal in generalities, because a law existed which told him, "If you contravene the doctrine of the Trinity, your endowment is forfeited." But why should Trinitarians remain silent as to their intentions? The doctrine of Unitarianism was repugnant to their feelings. The law would respect their endowments if their intentions were expressed. What motive could they have for only expressing that a chapel was founded for the worship of Almighty God by Protestant Dissenters of the Presbyterian denomination? Is it not much more probable that the founders of those chapels were hostile to any subscription—that they wished to maintain freedom of opinion—that they objected to conformity to any particular class of doctrines—and that, therefore, they objected to bind their successors by any formula of particular doctrines, but respected in their successors that freedom of opinion they claimed for themselves? And (presuming that to have been the original intention of the founders) can I with any justice impute, and would it be a veneration for the intention of the founders to impute, to them opinions which they may never have entertained?

Sir, my determination to support this Bill was founded on a belief in its justice, and on a knowledge of the injustice that would arise from the application of the existing law in particular instances. Every one who may consult the records of the place he represents, may find, in some small retired nook, some unpretending little chapel, to which, if you choose to apply the technical rigours of the law, grievous injustice may be done. Each honourable gentleman is of course conversant with his own locality. For myself, I represent a town. There is a Unitarian chapel there. It was founded in 1724. It was founded by Unitarians. There never was a suspicion that it was founded for the promotion of Trinitarian doctrines. For fifty-three years, there was a minister holding Antitrinitarian doctrines. I recollect the close of his life. There was but one single bequest for the endowment of that chapel, which was left by the daughter of that Unitarian minister. There is religious peace in the constituency I represent. We have Roman Catholic, Unitarian and Church-of-England chapels connected with it. We are altogether undisturbed by religious discord. But if, under a professed veneration for the doctrine of trusts, you let in a speculative attorney, who for the sake of costs will bring this Unitarian chapel, circumstanced as I have described, with but one bequest, and that the bequest of the daughter of a professed Unitarian minister, into the Court of Chancery, the costs of the suit to be paid out of the endowment, the speculative attorney will be the only person who will profit by it, because it is impossible that Independents or Baptists or Wesleyan Methodists can establish their title to that property,—you will extinguish the funds of that institution, and introduce religious discord into a community to which religious discord is a stranger.

But, Sir, what is the case of Ireland? What is the case of the Remonstrant Synod of Ulster? Is it possible that the House of Commons will permit the grievous infliction of injustice which will

be the consequence if every chapel in communion with the Remonstrant Synod of Ulster, in Ireland, is to be dispossessed of its property as the result of a suit in a Court of Chancery? Now what is the history of that Remonstrant Synod? It has lost two chapels already, at the expense, in one case, of costs to the amount of £2000. Two chapels have been already forfeited, and further suits are threatened if this Bill does not pass. In 1829, a separation took place. The Remonstrant Synod of Ulster, having professed Unitarian opinions up to that time, separated from the general Synod of Ulster, and some seventeen or eighteen congregations severed the connexion. That severance was made in peace, with the distinct understanding that the Remonstrant Synod of Ulster should remain in possession of its privileges and immunities. The chapels were then in decay. The members of the congregations, however, since 1830, have repaired the chapels—rebuilt them—taken fresh sites—added to the chapels—formed additional burying-grounds—and not a word was heard of disturbance until the decision in Lady Hewley's case, and then the principle which pervaded that decision induced persons, who appeared to have no direct interest, to bring actions against this Remonstrant Synod. To do what? To recover Trinitarian property? No; but to take from the Unitarians the chapels which they had built or enlarged, and the burial-grounds in which their wives, their fathers and their children had been buried. The right honourable gentleman says the general Synod of Ulster wished to reduce them to the lowest state of apostolical destitution, but not upon the principle that apostolical destitution is a good thing. If the principle were that the rule of apostolical destitution ought to prevail—that all ought to exist in poverty and derive their influence from preaching, and not from the possession of property, there might be something to respect in the determination to invade this property. But the object is to reduce one party to a state of apostolical destitution, in order that another party may be benefited at their expense. Now that is manifestly contrary to the first principles of equity.

Sir, an appeal was made to Her Majesty's Government last session by the Unitarian body in Ireland. They came at the instance of my noble friend (Lord Eliot) near me, and stated that they represented congregations to the number of 30,000 persons. They frankly and openly stated that they were opposed to the general policy of the present Administration, but that they felt confident that we, as an executive Government, could never tolerate such a wrong as that of which they complained. They told us their story of the separation in 1829. They told us of the loss they had sustained. They told us the story of the widow, whose case has been alluded to in this night's debate; and upon the hearing of their statement I felt assured that the Legislature must ultimately prevent injustice being done by a strict application of the existing law

I can assure the House that Her Majesty's Government never contemplated separate legislation for England. When the honourable Member for Kendal last year urged us to bring in a Bill for the relief of Unitarians in England, the Irish Unitarians said, "Do not postpone relief to the Unitarians of England on our account. We know the formidable opposition that is about to be raised against us—we know

there will be a combination of opponents if you attempt to give relief at the same time to both classes of Unitarian Dissenters. Let the English Unitarians have the benefit of the Law, and we will be content to have our claim postponed." But Her Majesty's Government said, "We think that it would appear to be, and that it would be, so manifestly unjust that a rule should be applied to the Unitarians of England which should not extend to Ireland, that we deprecate altogether passing the Bill at present. We will postpone it till next session. Let the House of Lords consider the case on the great and comprehensive principles of justice, and we entertain the hope that justice will ultimately be done to the Unitarians both in England and in Ireland." In the mean time, I did what I could to settle the matter by amicable arrangement. I asked the representatives of the Synod of Ulster to leave the question to be decided by four Members of Parliament, to be selected from men of opposite parties. That proposal was rejected. I then earnestly advised that the Crown might be allowed to appoint a Commission to consider what ought to be done upon the principle of equity—that the facts might be laid before Parliament, and that we might have before us the history of the separation, and a statement of the amount contributed by the Unitarians. I asked the consent of both parties to the appointment of such a Commission, and it is right I should state that that proposal also was refused. The representatives of the Synod of Ulster would not consent to the appointment of any Commission unless the Crown stipulated that it should be composed of Chancery barristers, and that those barristers should decide according to the strict principles of equity. I said, "Of course I have read the decisions of the different Lord Chancellors in the case of Lady Hewley, and also the decision of Lord Chancellor Sugden in another case in Ireland; and I know that if three Chancery lawyers have to determine the question, there can be no doubt what their decision will be; and therefore I, on my part, decline your proposition." If, then, Her Majesty's Government are now compelled by a sense of duty and a sense of justice to ask for the interference of the Legislature, it is not until they have exhausted every effort to bring about a settlement by amicable arrangement.

Sir, I will not enter into further discussion upon this matter. I will only say, that if you choose to apply the strict principles of law, you will in many cases do grievous wrong. You will not be securing veneration for the great principles or doctrines of law, if by a persevering maintenance of them you inflict injustice upon any parties.

Sir, I do not believe that by the part which I and my colleagues are taking, we are inflicting any injury or throwing any discredit upon that great establishment, the Church of England, whose interests and whose welfare we are bound to protect. I believe it will conduce to the character and to the strength of the Church of England to exhibit it in the amiable light of an arbitrator between sects who dissent from the Church itself. The Church has no interest whatever in the adjudication of this measure. To the Church the funds cannot belong; but is it not better for the character of the Church of England to say to these parties, "We do not want to profit by your weakness and by your dissensions—we do not want to send you into a court of

law—we do not want to 'refer to the Master' the religious opinions held by men some hundred years since—we do not want to see repeated the exhibition which occurred in the case of Lady Hewley"? I do not believe it to be the interest of the Church or the interest of Religion that the religious opinions entertained by the founders of these chapels should undergo discussion in a court of law, but I do say that it well becomes the character of the Church of England, having no interest in this question, to act the part of a mediator—to endeavour to do justice, and to refuse to benefit by the dissensions of those who differ from her doctrines.

Sir, notwithstanding all the obloquy thrown on those who support this Bill, notwithstanding the imputations so freely cast upon their religious principles and opinions, I do not believe that, after the lapse of a short time, those imputations will carry with them any weight. This is not the place for the profession of religious faith, nor can the sincerity of religious opinions be ascertained by mere professions. The sincerity of our religious opinions is much better established by our acts and by the tenor of our conduct than by our declarations in any place, much less in the House of Commons. Our faith—the faith of the Church of England—differs from the faith of those whose interests we are here to protect; our hope of salvation rests upon a different foundation; but it is not inconsistent with the spirit or with the precepts of that religion which we profess, always to bear in mind, that though Faith be great and Hope be great, there is one thing greater still,—that comprehensive Charity which teaches us to be tolerant even of the errors of others, and which should now warn us to take especial care, while we deny all intention of inflicting civil penalties on account of religious opinions, that we do not practically the very thing which we disclaim, under the cover of veneration for some rule of law, and the necessity of maintaining unaltered the harsh letter of some existing statute.

Lord JOHN RUSSELL.—I entirely agree, Sir, with the right honourable Baronet who has just spoken, that there never has been a question heard in this House—at least within my experience—in which the weight of argument was so overwhelming on the one side and against the other. I therefore think it unnecessary to enter into any arguments in support of this Bill, and I merely rise, Sir, from the strong feeling that I have that this Bill, having been brought in upon sound principles of policy and justice, I could not refrain from giving my testimony in behalf both of the measure itself and of the conduct of Her Majesty's Government in bringing it forward.

Sir, after the clear and able statement of the honourable and learned Attorney-General,—whom I, in common, I am sure, with the rest of the House, was delighted to see resuming his place among us,—brought forward with that power of lucid argument which, whatever be the subject upon which he treats, so pre-eminently distinguishes him,—it was scarcely necessary that there should be made the brilliant speeches which have been delivered by my right honourable friends near me, and by the right honourable gentleman opposite, in favour of this Bill. I cannot but allude a little, however, to what have been the prevailing feelings on this subject out of doors. My honourable friend,

the Member for the University of Oxford, with great judgment declared at the commencement of his speech, that this was not a place for theological controversy, and that he should treat this question as one of property and justice. But my honourable friend must be aware that it has not been so treated by those who have presented petitions to this House against the Bill; and I observe, as a sample of all the rest, that the meeting over which a right honourable friend near me presided, comprehending members of the Church of England, Wesleyan Methodists, members of the Free Church of Scotland, and others, declared in their first resolution that they were opposed to this Bill because it tended to shake the rights of property, and because it tended to maintain and propagate a dangerous heresy. Now I say if this Bill tends to shake the rights of property, throw it out upon that ground. If that proposition could be maintained with any truth—if any argument sufficient to induce the House to throw it out on that ground could be urged, let the House reject it on that ground, and that would be a sufficient reason for the rejection of the measure. But, on the other hand, if justice is in its favour—if it tends to maintain and support the rights of property, do not reject it on the other ground that is taken, namely, that its tendency is to maintain and propagate a dangerous heresy. Do not think that if you act inconsistently with justice, your acts can be useful to religion, or to the establishment of religious truth. I say, therefore, Sir, that those who have opposed the Bill have done it upon two grounds, when one ground ought to have been sufficient. And with respect to that ground—namely, the ground of the rights of property—I cannot conceive that it can be right with respect to individuals that the rights of property should have prescription in their favour, and that there should be no prescription in cases of this kind;—because, in fact, the question is much more difficult—the law-suits would be much more intricate—the decision infinitely more perplexing—and the ultimate result would tend to far more confusion. Suppose, for instance, some person were claiming as the proper heir of Sir Edward Coke. That would be a question which might be settled between individuals, and however one family might be deprived, there might be some other families and individuals who by the decision of a court of equity might take the property; but if in this case, after persons have held a chapel for upwards of a hundred years—after they and their fathers and grandfathers have continued in the uninterrupted possession of it for a great length of time, you are to take it away from them by the decisions of courts of equity, it has been shewn that there is no heir to whom you could properly transfer that property. You cannot say there are any persons who would be entitled to enter into possession of that property, or that there is any claim which would entitle them to enjoy it. What, then, would be the consequence? Nothing but endless confusion and endless litigation, comprehending the discussion of various creeds, and a representation of what had been the opinions of Presbyterians, of Wesleyans, and of various other sects at different periods, and what were their opinions now. I say therefore, Sir, that, as a question of property and as tending to settle the rights of property, this Bill is entitled to the support of the House. I have said already that I do not intend to enter more fully into the question, after the very able

arguments which have been addressed to the House, and it only remains for me to say that I give to this measure my most cordial support.

Lord SANDON.—I only wish to trespass on the House for a few moments. My object merely is to point the attention of the House to one consideration, which I hope will receive the attention of Her Majesty's Government before the third reading of this Bill.

I came down to the House with a strong bias in favour of the Bill, and that bias has not been shaken, but has been, on the contrary, confirmed. What, however, I wish to point to the attention of the House is this. We must take care, while we are intending to maintain the freedom of private judgment in these congregations, that we are not in the meanwhile imposing a new test. We must take care, while we make the usage of a certain number of years the interpreter of the original intentions of the founder, we are not binding congregations professing particular opinions in such a manner that they will never be able to depart from these opinions hereafter. I merely wish to call the attention of the House to this point. I am not prepared to suggest a remedy—I merely throw it out as a matter fit to be considered.

The House then divided, when there were—

For the Second Reading.....	309
Against	119
Majority.....	190

RESOLUTIONS OF COMMITTEE OF PRESBYTERIAN UNION ON THE SECOND READING OF THE BILL IN THE HOUSE OF COMMONS.

At a Meeting of the United Committee of the Presbyterian Union and of the Deputies attending in support of this Bill from Liverpool, Manchester, Bolton, Leeds, Sheffield, Dukinfield, Nottingham, Mansfield, Leicester, Birmingham, Coventry, Warwick, Norwich, Bristol, Bath, Taunton, Ilminster, Exeter, Brighton, Newport (Isle of Wight), Dublin, and Belfast, held at Fendall's Hotel, Old Palace Yard, Westminster, on the result of the Debate on the Second Reading of this Bill becoming known,—MARK PHILIPS, Esq., M. P., in the Chair,—the following Resolutions were unanimously adopted: —

Moved by THOMAS W. TOTTIE, Esq., of Leeds; seconded by JAMES HEYWOOD, Esq., of Manchester:—

That we are bound at the earliest moment to express our unfeigned and earnest gratitude to Sir Robert Peel, the Lord Chancellor, Mr. Gladstone, the Attorney-General, and the rest of Her Majesty's Government, for the noble and disinterested protection which they have afforded, on the simple ground of justice, to bodies small in their numbers, comparatively unmfluential in their position, chiefly politi-

cal opponents, and widely obnoxious for their dissent, and their peculiar tenets.

Moved by THOMAS BOLTON, Esq., of Liverpool; seconded by JOHN ASHTON YATES, Esq., of London:—

That our deep and heartfelt thanks are also due to the Marquis of Lansdowne, Lord Brougham, Lord Cottenham, Lord Campbell, Lord John Russell, and Lord Sandon, Mr. Macaulay, Mr. Sheil, Mr. Bernal, and Mr. Monckton Milnes, and to the other eminent men who have given to this measure so much and such energetic support.

Moved by SAMUEL SMITH, Esq., of London; seconded by HORATIO BOLINGBROKE, Esq., of Norwich:—

That we cannot but look on the marked concurrence of all the great Statesmen and Lawyers of the day, in a measure for the relief of a small and unpopular sect, and on the determined disregard to the dictatorial and bigoted denunciations of so many of their constituents, which 309 members of the House of Commons have shewn in its support, as an animating proof that the great principles of Civil and Religious Liberty are not retrograding in this country, nor are likely to retrograde.

Moved by THOMAS REYNOLDS, Esq., of Bristol; seconded by JOSEPH DAVY, Esq., of Exeter:—

That although it would be a disgrace to treat this measure as being, in any degree, the victory of a sect, yet after all the foul aspersions so unsparingly thrown on our ancestors and ourselves, for the mode in which they and we have dealt with our religious and charitable property, it is with extreme delight we have heard the complete and triumphant vindication which their acts and our own have at last received from men unfettered by legal technicalities—unbiassed in their position — and pre-eminently competent to judge upon the question.

MARK PHILIPS, Chairman.

ERRATA ET CORRIGENDA.

P. 233, line 3 from bottom, for "Presbyterians," read "Trinitarians."
234, line 3 from top, for "Presbyterians," read "Trinitarians."
246, line 2 from bottom, for "the first of our written Acts," read "one of the first," &c.
247, line 13 from top, for "Pandects," read "Pundits."
249, line 16 from top, "the place where Priestley himself once taught," should follow "meeting-house at Leeds," p. 19.
252, line 15 from top, after the word "men," add, "opposing this Bill."
257, line 12 from top, for "£1200 or £1500," read "£3000."

THE PRESBYTERIAN REPORTER

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. V.

THE ACT.

AN ACT FOR THE REGULATION OF SUITS RELATING TO MEETING-HOUSES AND OTHER PROPERTY HELD FOR RELIGIOUS PURPOSES BY PERSONS DISSENTING FROM THE UNITED CHURCH OF ENGLAND AND IRELAND.—[19th JULY, 1844.]

WHEREAS an Act was passed in the first session of the first year of the reign of King *William* and Queen *Mary*, intituled *An Act for exempting Their Majesties Protestant Subjects dissenting from the Church of* England *from the Penalties of certain Laws:* And whereas an Act was passed in the nineteenth year of the reign of King *George* the Third, intituled *An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters:* And whereas an Act was passed in the fifty-third year of the reign of King *George* the Third, intituled *An Act to relieve Persons who impugn the Doctrine of the Holy Trinity from certain Penalties:* And whereas an Act was passed by the Parliament of *Ireland* in the sixth year of the reign of His Majesty King *George* the First, intituled *An Act for exempting the Protestant Dissenters of this Kingdom from certain Penalties to which they are now subject:* And whereas an Act was passed in the fifty-seventh year of the reign of King *George* the Third, intituled *An Act to relieve Persons impugning the Doctrine of the Holy Trinity from certain Penalties in* Ireland: And whereas prior to the passing of the said recited Acts respectively, as well as subsequently thereto, certain Meeting-houses for the worship of God, and Sunday or Day Schools (not being Grammar Schools), and other charitable Foundations, were founded or used in *England* and *Wales* and *Ireland* respectively for purposes beneficial to persons dissenting from the Church of *England* and the Church of *Ireland* and the United Church of *England* and *Ireland* respectively, which were unlawful prior to the passing of those Acts respectively, but which by those Acts respectively were made no longer unlawful: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That with respect to the Meeting-houses, Schools, and other charitable Foundations so founded or used as aforesaid, and the persons holding or enjoying the benefit thereof respectively, such Acts, and all deeds

or documents relating to such charitable Foundations, shall be construed as if the said Acts had been in force respectively at the respective times of founding or using such Meeting-houses, Schools, and other charitable Foundations as aforesaid.

II. And be it enacted, That so far as no particular religious doctrines or opinions, or mode of regulating worship, shall, on the face of the will, deed, or other instrument declaring the Trusts of any Meeting-house for the worship of God by persons dissenting as aforesaid, either in express terms, or by reference to some book or other document as containing such doctrines or opinions or mode of regulating worship, be required to be taught or observed, or be forbidden to be taught or observed therein, the usage for Twenty-five years immediately preceding any suit relating to such Meeting-house of the Congregation frequenting the same shall be taken as conclusive evidence that such religious doctrines or opinions or mode of worship as have for such period been taught or observed in such Meeting-house may properly be taught or observed in such Meeting-house, and the right or title of the Congregation to hold such Meeting-house, together with any Burial-ground, Sunday or Day School, or Minister's House, attached thereto, and any Fund for the benefit of such Congregation, or of the Minister or other officer of such Congregation, or of the widow of any such Minister, shall not be called in question on account of the doctrines or opinions or mode of worship so taught or observed in such Meeting-house : Provided nevertheless, That where any such Minister's House, School, or Fund as aforesaid shall be given or created by any will, deed, or other instrument, which shall declare in express terms, or by such reference as aforesaid, the particular religious doctrines or opinions for the promotion of which such Minister's House, School, or Fund is intended, then and in every such case such Minister's House, School, or Fund shall be applied to the promoting of the doctrines or opinions so specified, any usage of the Congregation to the contrary notwithstanding.

III. Provided always, and be it enacted, That nothing herein contained shall affect any Judgment, Order, or Decree already pronounced by any Court of Law or Equity; but that in any suit which shall be a suit by Information only and not by Bill, and wherein no Decree shall have been pronounced, and which may be pending at the time of the passing of this Act, it shall be lawful for any Defendant or Defendants for whom the provisions of this Act would have afforded a valid defence if such suit had been commenced after the passing of this Act, to apply to the Court wherein such suit shall be pending; and such Court is hereby authorized and required, upon being satisfied by affidavit or otherwise that such suit is so within the operation of this Act, to make such Order therein as shall give such Defendant or Defendants the benefit of this Act; and in all cases in which any suit now pending shall be stayed or dismissed in consequence of this Act, the Costs thereof shall be paid by the Defendants, or out of the Property in question therein, in such manner as the Court shall direct.

DEBATE IN THE HOUSE OF COMMONS ON THE MOTION FOR GOING INTO COMMITTEE ON THE BILL, JUNE 21, 1844.

Sir JAMES GRAHAM.—Sir, I move that the House resolve itself into a Committee of the whole House on the Dissenters' Chapels Bill. I move that the Speaker do leave the Chair.

Mr. PLUMPTRE.—Sir, I had clung to the hope, the earnest hope, that Her Majesty's Government would have only moved the Order for going into Committee on this Bill with the view of discharging it. I had hoped that what had taken place since the introduction of the Bill into this honourable House, would have induced the Ministry to abandon all intention of carrying the measure further. This honourable House cannot forget, that Petitions against the Bill, to which not less than 350,000 signatures were attached, have been presented to this honourable House against it, from various denominations of orthodox Dissenters, praying that such a Bill might not receive the sanction of the Legislature. This circumstance, coupled with the fact that many of those who usually gave their support to Her Majesty's Ministers, had opposed them in the earlier stages of the Bill, makes it surprising to me that the Government should still persist in bringing it forward. To my mind, the appropriation clause in the Irish Church Bill is absolute honesty when we come to compare it with the enactments of this proposed Bill.

Now the Attorney-General stated, when the Bill was first before the honourable House, that the design of it was not understood. Not understood! I apprehend it is tolerably clear that this Bill will violate sacred trusts, and it will operate with partiality in favour of that class of men who are politically opposed to Her Majesty's Government, and who, in the opinion of the great majority of the Christian community, entertain most dangerous doctrines. The right honourable Baronet at the head of Her Majesty's Government expressed a hope that the feelings which existed against this Bill would soon subside; but I beg leave to assure the right honourable gentleman, that it will inflict no superficial wound, nor one which can soon be healed; it is a wound that will be felt keenly, and not speedily healed. I would tell the right honourable gentleman that to hunt down Socinians is one thing, but to endow them with property they have wrongfully possessed is another; and I cannot help thinking that that part of the Bill relating to them, is a blow struck at the vitals of the Christian community. In fact, you are by this Bill about to remove the key-stone from the arch of Christianity. The right honourable gentleman, the Member for Edinburgh, who succeeded me on the last occasion when I addressed the House, endeavoured then to hunt me down; but while I feel as I do—while I am actuated by the feelings which now animate me, I shall deem myself unworthy of the station I have now the honour to fill, if I fail, however feebly, to express the sentiments I feel with regard to this Bill, from the bottom of my heart. As I have already expressed the sentiments I entertain relative to this measure, I will not now divide the House upon the question; but although I do not think it necessary to adopt that measure, still if any honourable Member thinks it to be his duty to

do so, I will most cordially support him in such a step. Sir, having said so much, I will conclude by thanking the House individually for having listened to me with so much attention.

Lord JOHN RUSSELL.—Sir, I feel it necessary, after what the honourable Member has stated, to say a few words. I am sure none will doubt the sincerity of the honourable gentleman who has just sat down, but it appears to me that he is in error. I know many among my own constituents who entertain similar opinions with equal sincerity; and I have received letters from some of them, in which they inform me that they must withdraw their support from me, if I continue friendly to the measure. Notwithstanding these objections, however, I must say, that it appears to me, after a good deal of consideration, that there never yet was a Bill introduced before this honourable House, of the propriety of which I entertain a stronger conviction. I cannot help thinking, that the honourable gentleman, the Member for Kent, as well as those who have exclaimed so loudly against the Bill out of doors, did so, because they allowed two matters to be mixed up together, which, in my opinion, are perfectly distinct. Both the honourable Member and the individuals to whom I allude, have laid a stress upon their religious objection to the doctrines held by the Unitarians. If that were an objection which should be allowed to interfere with our political discussions, if it were an objection to be brought to a practical decision, then the Legislature ought to have interfered to exclude this class of Dissenters, who deny the doctrine of the Trinity, from the Act of Toleration; for if they were of opinion that the Unitarians ought not to be countenanced, the Legislature ought not to have allowed them to have the benefit of that Act. But I think that Parliament has rightly decided, when it allowed them to have the benefit of the Act of Toleration; and that being my opinion, when I came to give my opinion upon the question of trusts, I said, that there ought to be no difference in the treatment of Unitarians and of any other class of Dissenters. I cannot see any justice in making a distinction between them and others, in respect of these funds or trusts. If the question was one affecting Independents, or Baptists, or Wesleyan Methodists, I say that they ought to be treated in the same way as the Unitarians on this question. The honourable gentleman is not of that opinion. He does not think so. But then, I say, if that were not to be the case, let religious liberty and toleration not be your rule. Make such laws as you think fit to discourage such opinions. I should call it persecution to do so. I should say such laws were inconsistent with religious liberty. But at least they would be direct, and to the purpose. They would not be dormant. They would enact that such opinions were not to be tolerated by law, and would take such precautions as were necessary against them. But if you do not give to Unitarians, with respect to property, *any* advantage you would give to other Dissenters, you are *indirectly countenancing* persecution, which you do not *directly avow*. Such is the opinion I entertain with respect to those parts of the honourable gentleman's speech in which he stated his strong repugnance to any advantage being given to the Unitarians.

As a question of property, that question has been already most

fully argued. That question has been argued upon grounds I think perfectly just. With respect to many of these sects, changes of opinion and of doctrine must be constantly taking place. These religious denominations are not bound together as the Established Church is bound together. Where there is no direct test pointing out what doctrines should be selected to be taught, you must look to a certain period of time which should be allowed to give the prescriptive right; and if you are to adopt any other principle, I have yet to learn from any honourable gentleman to *whom* the property is to be given. In most cases,—I believe in those cases as to which the strongest objections have been made,—the changes from the former doctrines have taken place at least a century ago. The present congregations are the successors,—in many places the direct descendants,—of pastors who preached immediately after the Revolution. I say, if *they* are not the persons entitled to hold this property, how can it be proved that any denomination of Baptists, or Presbyterians, or Wesleyans, or Independents, are entitled to hold it? Sir, although, *by law*, toleration was not given to the Unitarian Dissenters till the Act of 1813, yet, *in practice*, there was that toleration existing during the last century; and I am convinced, if such cases as the present had been brought forward in the time of Sir Robert Walpole or Lord Chatham, they would never have permitted these parties to have been divested of their property by the rigid rules of law. With these opinions, differing as I do, from conscientious motives, from those who are opposed to the Bill, I must say that I never was more convinced that a Bill was *necessary* for the purpose of doing justice to a class of our fellow-subjects. The question of religious differences is a question that ought to be kept out of view. The Queen's subjects should be all allowed by law to hold their religious opinions, and to hold their property; and you ought to give to all, the same protection as you would to members of the Church of England.

Sir ROBERT PEEL.—Sir, after the observations of my honourable friend, for the sincerity of which I give him every credit, I feel myself bound to say, after subsequent reflection, and a mature consideration of the arguments that were used in the course of the debate by very able gentlemen, that nothing has been brought forward to induce me in the slightest degree to vary my opinion. My honourable friend has said that, after what has recently passed, he entertained a confident opinion that Her Majesty's Government would have only moved the order of the day for going into Committee on this Bill, for the purpose of having it discharged. Now, Sir, I must say that if the Government had taken such a course on account of any thing that has recently occurred, they would have been discredited and disgraced in public estimation. At any rate, my honourable friend, who claims credit, and to whom credit is due, for the sincerity of his motives, has, I think, in the course of his observations, conclusively shewn that Her Majesty's Government could have no other object in assenting to this Bill, but the object of proposing that which they believed to be right and just. My honourable friend has stated very truly, that the parties who felt themselves chiefly interested in the Bill, were to be found generally among the opponents of the Government; but the Govern-

ment had no view of conciliating them by this measure, and could have no other motive whatever in consenting to this Bill, than that of supporting religious liberty, and promoting that which they believed to be just. I agree with my honourable friend, that many of the most zealous members of the Church of England, and of those classes of Dissenters which are distinguished by their adherence to its religious faith, are opposed to this Bill. But Her Majesty's Government have considered this to be a question, not of *faith*, but of *property;* they have allowed no disapprobation of, no assent to, the religious opinions which they or any sect may hold, to actuate them in the line they have thought it right to pursue in respect to this Bill; but seeing that, for a very long period, those who entertain Unitarian doctrines have not been disturbed in the possession of their places of worship,—seeing that chiefly in consequence of legal construction, if Parliament did not interfere, there would be, or might be, a legal crusade directed against those who possess property and who hold Unitarian doctrines, they believed it to be for the interest of peace, of religious peace, and of justice, that Parliament should interfere, not to "*endow Unitarians*," but merely to enact, with respect to all Dissenters who have possessed this sort of property for twenty-five years, and have not been disturbed, that they should not be disturbed unless by a party who chose to commence their suit within that time; and to declare that where, by toleration, or ignorance of the law, Dissenting congregations had for that period of time held the property, had remained undisturbed for a long series of years in the possession of the property, the same state of things should continue to endure;—and that the same principle of prescription which has quieted so many disputes, and has led to so much peace, should apply to such cases also without reference to faith. That is the course Her Majesty's Government propose to follow. If Parliament had been prepared to express disapprobation of the *faith* of Unitarians, they ought never to have consented to the Bill of 1813, previously to which their profession of Unitarian doctrines subjected them to heavy penalties. In that I agree with my right honourable and noble friend. But it relieved them only to a certain extent. They were not protected in the possession of the property they held at the moment that Parliament consented to that Bill; and it appears to me therefore that Parliament is now bound to extend the same principle to the property of those who entertain those opinions. After the appeal made to me, I fully admit to my honourable friend that the course taken by Her Majesty's Government has certainly been misunderstood, that it has necessarily subjected them to unpopularity; but there are certain questions in which a sense of justice is involved, and which leave no alternative to a Government; and the Government must, if they cannot now effect a proper appreciation of their motives and a removal of misconstructions, be content with believing that justice will be done to them hereafter, which is not done to them by many at the present moment. I have heard, with great regret, that my honourable friend could think it possible that any reference to recent circumstances could influence Her Majesty's Government to withdraw their support from this measure, considering the principles upon which they have been acting, and on which I trust it will be believed the Government

must be acting, and that nothing but a conviction and a sense of the justice of the measure could have induced them to have taken the course they have adopted on this occasion. I would ask my honourable friend for what reason he thinks it possible Her Majesty's Government could have been induced to swerve by any such circumstance as that to which he refers?

Mr. SHAW.—Sir, I do not think this is a proper time to discuss the *principle* of the Bill, and therefore I should not have addressed the House upon the present occasion, but for some of the observations which have fallen from the noble lord opposite. I admit, Sir, there may have been misapprehension with respect to this Bill *out of the House*, but I do feel that there is a great deal of misapprehension *in the House* also. In much of my right honourable friend's argument I entirely concur. I do think it is a question of *property*, and not a question of *faith*; and I think it is not matter upon which we should discuss religious opinions at all. I think it should be put upon the strict grounds of justice, and it is because I think that *that* is not done, I object to it. To the first clause, however, I do not object; and yet every argument before this House, all the eloquence, all the declamation we have heard, has, I think, been applicable only to the first clause. The noble lord mentioned the very fact, that when the Act of Toleration was extended to Unitarians, it should have been extended in *every respect*, and (so far as I understand the first clause) the first clause *is* an extension of it. I think it is reasonable and right that by law Unitarians should have the benefit of toleration to remove every technical difficulty to their possessing that property which is strictly their own, every thing which they themselves endowed, all their foundations and their expenditure, just as if the Act had been in force at the time the expenditure was made or the foundation endowed. To that I agree; I believe that is but justice; and I would not refuse it to them or to any other class in this kingdom. And, therefore, if the Bill had been confined to the first clause, or even if upon the second reading of the Bill a discussion had been taken upon the first clause, I should not have voted against it. I thought the right honourable gentleman, the Member for Edinburgh, put the Bill upon the right footing: he passed by the first clause as one that did not require discussion; he said the whole stress was to be found in the second clause, and that that was the important principle. Now then, with respect to the second clause,—for, with respect to the first, that is merely a matter of justice,—with regard to the second clause, it may be right, it may be expedient, it may be just, to extend indulgence to particular classes, without reference to their religious opinions; but I do say, that by this clause you are extending a benefit for the first time to one class of religionists, Unitarians, not indeed *expressly* as Unitarians, but I say this, that they are the only persons who, as regards the first clause, will be much benefited by it, and therefore, so far as it goes, (I am not now arguing on the ground of expediency, but of right,) so far as it goes, it does countenance and encourage Unitarians. I certainly admit that this is not wrong, but I say the effect of the *second* clause is to give to them in effect a right which they had not before, and to take from others that which the law

held these others were entitled to, and the Unitarians were not. Now that is the second clause. Now I have myself an amendment to propose to the second clause, but I do not intend at present to anticipate the arguments in its favour. The first amendment is to exclude from the operation of this clause the Synod of Ulster, perhaps the most important in point of number, in point of wealth and respectability, and the longest established in the United Kingdom. What I shall endeavour to do is, to put them on the same footing as the original founders thought they would be, and in their last moments declared their trusts; and on the same footing as you have placed the Wesleyan Methodists. I should propose to put the Synod of Ulster in the same condition, and I hope to satisfy the House that they ought to consent to it. The next amendment which I shall have to propose will be to extend the period from twenty-five to sixty years, but I am not now arguing why I do that. And now I am quite willing to admit the principle, that possession should perfect possession, and put an end to litigation by establishing a certain usage. All I want is this, that you should not by that second clause give an unreasonable latitude to one small class of religionists in this country, against existing laws; and that you should be cautious of introducing new laws to enable parties to violate trusts; though I am willing to introduce a certain principle of limitation in regard to all those cases where there are no means existing of ascertaining what was the will of the founder, or of the persons who endowed it originally; or where there are no established doctrines of some particular body to which the chapel is belonging. I say, if that does clearly appear, the question of usage ought to prevail, and after a reasonable time I think it should. All I contend for is, that while I think there is no fatal objection to the first clause, I do not wonder an outcry is raised against the second clause, upon the ground (no matter what the religious faith is of the party) that, *in point of fact*, it is giving an advantage to the Unitarians which by law they do not now possess. Where you shew me a claim of strict justice, or even of equitable justice, I think in strict law that claim should be granted, and to that I will not object. But I do make objection to it where it is to interfere with existing rights. And when I come to argue the case of the Irish Presbyterians, I will shew you it is a direct interference with existing rights, and so far from putting an end to litigation, I believe if you do not exclude from the second clause the case of the Presbyterians of the North of Ireland, you will give the greatest possible encouragement to litigation in three or four hundred cases. Perhaps I may be allowed to add this, that no case was ever brought forward before the House under greater disadvantages than the present. An honourable and learned gentleman, a most distinguished Member of the House, the Member for Worcester, one who is competent to do justice to the cause, had undertaken—as I am informed—I am only informed by others, but I am so informed—that he had undertaken on the part of the great body of Dissenters in England to bring their case before the House. I have been informed that he was in communication with the Wesleyan Methodists and the Irish Presbyterians. I have been informed by two gentlemen who are here, that the honourable and learned gentleman, the Member for Worcester, gave them advice or recommended them

the course they were to take; that he received all their instructions, and was to state their case for them on the second reading; and on the night before the second reading, and *not until* the night before, did he inform them that his opinion had changed. I do not impute any blame to him, but certainly it was a great disadvantage to those who expected otherwise from him. So with regard to the case of the Synod of Ulster; I feel it very strongly. An honourable gentleman, a Member who was acquainted with the history, and character, and constitution of the body, and informed of the whole of the facts, and which he intended to bring before the House, has been obliged, in consequence of the sudden illness of a member of his family, to leave town, and, therefore, certainly their case comes under very disadvantageous circumstances before you;—but I hope the House will not consider the want of a full discussion, under those circumstances, as any serious argument against the rights of others. It will be necessary to give great attention to the points to be raised on each of the proposed amendments, and this it will be impossible to do without a full discussion of the objections that may be anticipated. Under these circumstances, I trust the honourable Member for Kent will not press his motion to a division.

Mr. PLUMPTRE.—Perhaps in explanation I may be allowed to say, that when I alluded to "what had taken place," I can assure the right honourable Baronet I wished to make no allusion whatever, foreign to this Bill, to any recent division of the House; and when I used the term "recent circumstances," I only alluded to the petitions which day by day have come into this honourable House against the proposed Bill.

Mr. Sergeant MURPHY.—Sir, I would wish to know if the right honourable and learned Recorder for Dublin had given any intimation to the honourable Member for Worcester of his intention to bring forward the facts he has alluded to? In the absence of any such intimation, I should beg leave to say, that the inference I should draw is altogether opposite to that which is deduced by the right honourable gentleman. If the honourable and learned Member for Worcester, who it is well known is a person who devotes such immense pains and attention to any subject that is brought under his notice, and who is also remarkable for the disinterested manner in which he throws aside any private or professional business to attend to his Parliamentary duties, should, with all his zeal brought to bear upon the question, after receiving communications from persons who have a deep interest in opposing this measure, and who have supplied him with all the information and arguments in their power in support of their views; if he at the last hour, after having fully investigated the question, has then refused to undertake their case, I say that that is a triumphant argument in favour of the Bill. Now, that is the conclusion I draw. I beg to assure the House, that when I rise upon the present occasion, it is not to make a speech upon the subject of the Bill. I would merely mention, that since the decision in the Lady Hewley case, the Unitarians have felt that the possession which they have had for a considerable period of years, is liable to be disturbed, not only on account of religious prejudices, but by the

intervention, in many instances, of persons who had no object whatever in disturbing that possession, but for the benefit of increasing litigation; and I think that is well exemplified in the case of Lady Hewley's charity. But I say there is nothing upon the face of the Bill to prevent the Wesleyans, the Independents, the Baptists, or any other sect professing Trinitarian doctrines, if they by usage of twenty-five years can prove they have held their Trinitarian doctrines, to come and avail themselves of this Bill; and, therefore, it is impossible to say the object of the Bill is directed in favour of that small portion, the Unitarians, alone. But I think, if they be a small body, that is rather an argument more strongly in favour of this measure; because, if the great and influential bodies of Dissenters,—so powerful numerically, and in the ratio of wealth, as compared with this small body,—shall have supinely slumbered upon their rights, and allowed this small body to obtain an advantage over them, they shall not say, because their own neglect has caused it, that the whole sources of litigation shall now be open to them, when they had an opportunity of trying the question over and over again. It appears to me that the right honourable Member for the University of Dublin, and the honourable Member for Kent, do not agree, when the former gives this up as a question of religious objection. The honourable Member for Kent rests his objection upon the first and second clause alike; and, no doubt, the "rankling wound" of which he spoke is in reference to the religious feeling, placed in antagonism to the doctrine of the Unitarians. Well, on the other hand comes the honourable Member who represents the Synod of Ulster, who says, not that it would be on outrage to their religious feelings, if they should find themselves thrown from their strongholds, but that the only thing they want is not to be interfered with in a religious point of view, but to get a larger limitation of their rights, and the principle and protection of the measure should apply to no one sect more than to another. As I said before, I did not rise to make any statement with regard to the Bill now before the House; I was only anxious, in the absence of my friend the Member for Worcester, to remark upon the course he has taken; and there is nothing else necessary to shew me that the principle of this Bill is right, than the fact that one of his powers of mind has seen how generally beneficial will be its operation upon all sects and all persuasions.

Mr. DARBY.—Sir, I shall not take any party view upon this question; but I must say that the noble lord the Member for London has not, in my opinion, correctly represented the feelings of some of the Dissenters of the country; because, if I understood the noble lord, he said this,—that the Dissenters wished particularly to exclude Unitarians from the benefit of the Bill, and that the object of those who have objected to the Bill is to exclude the Unitarians. Now I do not believe that is what the Dissenters represent as their wish, nor their views. As I take it, what they say is this, and what they say is true, that you exclude a particular kind of evidence admissible in all other cases, but which you make not admissible in the particular case of parties under this Bill. That is what you do: you admit evidence in all other cases now according to law, and you are going to

exclude it in a particular case, and one which has arisen from circumstances which respect Unitarians particularly, and that is in reality and principle the way it stands. Are you then to bring in a Bill to exclude evidence with respect to a particular class of persons in this case, and leave it admissible with respect to every other class? That is really the question which is now before the House, and I am sure that the House will deal with that question justly. I believe that the honourable and learned gentleman the Member for Worcester came to the conclusion he did, from the investigations he made; but I must say, that in reading the Lord Chancellor's judgment upon this matter, I certainly should have thought he entertained opinions that the court *ought* to be able to exercise the power which was exercised in the Lady Hewley case, and not only that, but in that particular case the misapplication of the funds was not accidental. Then I say this Bill has arisen out of a case where the application of funds was not accidental, and where the judge of the court said it was for the benefit of the public that the court should exercise the power it did. It was on this I grounded my objection to the Bill; it was for this reason I voted on the last occasion against it; because I believed that you were introducing a Bill to exclude evidence in a particular case as regards Dissenters, whereas you still left such evidence admissible in every other case in a court of law. Now with respect to the adverse possession for twenty years, I deny still more the analogy of the case. In the case of an adverse possession for twenty years, if a man takes possession of land, *it is a notorious fact;* and therefore if he does take possession of the land, and holds it adversely against a party, and that other party does not bring an action to recover it against him, he is precluded from doing so at the end of twenty years. But in this case he is not in possession of *what is notorious*, for by the very terms of the Bill it is a thing which grows on from day to day, and from time to time, and I would ask the honourable House if you will prevent litigation by this Bill? The right honourable Baronet at the head of Her Majesty's Government stated on a former occasion that you would prevent litigation, and that in the case which he mentioned, in the borough which he represented, they were not parties who had any interest who would try to recover the property, but parties who had no interest in it, attorneys of a low class, who would bring actions to recover the costs only. Admitting for a moment that this is the only reason why suits have been instituted;—when you talk of a congregation holding particular opinions, I would ask whether that would not give opportunities for attorneys to bring suits to investigate what part of a congregation during twenty-five years have held a particular tenet? And will not the courts have to decide what is an express deed, and what is not an express deed? And in point of fact, I cannot say I perceive that in any way you put a stop to a set of persons who are determined to bring actions for the sake of the costs. I cannot conceive how under this Bill the litigation is to be put an end to, one bit more than if it did not pass. Very well, then; would you get rid of the litigation? The objection I have to the Bill is, that you legislate for a particular class; that you have taken a particular case that has been brought before you, and exclude that evidence which you admit you do not exclude

elsewhere, and ought to be admitted in every other case. And why are particular persons—I do not care whether they are Wesleyans or any other class—why should you give them a right to make out their title by evidence which no other subject has a right to? Now with respect to what my friend the Recorder for Dublin has stated—I admit he was open to objection. As I understood what he said, he said, "Pass this Bill if you must, but exclude the Synod of Ulster from the operation of it." I must say, to exclude them and give up every one else, makes the exception still smaller. He says then, "Take sixty years; sixty years will give them greater protection, while at the same time I admit the principles of the Bill." If I understand this, it makes the exclusion more particular. With respect to what my friend the President of the Board of Trade stated with respect to subscription and non-subscription among the Presbyterians, —that, in point of fact, the Presbyterians were non-subscribing persons, who derived their doctrines from the Bible alone, and would permit any doctrines to be preached in their places of worship,—I do not think that shews because they permitted that, and so came the admission of Unitarianism as a consequence of their not subscribing, —he should now say, no other doctrine shall be preached; I do not see why that should exclude the proper parties from recovering their property. I admit the difficulties of the case undoubtedly, but believing that the Bill will lead to as great litigation, I must confess I do not think it right to sacrifice the principle in the first place, without having done something at least which you may reasonably suppose will get rid of the evil which exists. I must say (I may indeed be mistaken, but I believe there is no doubt about this) that if the Unitarians did originally possess that property, they cannot be deprived of it; and the only object of this Bill can be, when they have held the property for a certain time, that you should prevent the parties entitled from recovering back the property, because if it turns out to be their property, they could have recovered it in time; and if it is not, you see in this instance that you would exclude evidence which in every other case may be used. That is, Sir, my objection to the Bill, and I hope I have made myself understood to the honourable House. I have now, Sir, made my statement, and I trust that the House for once will be with me.

Colonel SIBTHORP.—Sir, fully agreeing with every word that has fallen from the lips of my honourable friend the Member for Kent, I can only say, that if he should be disposed to take the sense of the House upon the question, I shall cordially join with him in the measure. At the same time it will be for the honourable Member for Kent to consider, after the language that has fallen from the right honourable and learned Member for the University of Dublin (and I would leave it in his hands), whether he will withdraw his opposition to the Speaker leaving the chair, and see whether it is possible to amend the Bill in committee, though I much question whether that is possible, as *upon principle* I object to the Bill. At this stage of the proceedings I would still say, that if the honourable Member for Kent should be of opinion that he should divide the House on the question, I shall support him in that measure.

Mr. J. COLLETT.—Sir, I will occupy the House but a few moments. Religious liberty is a phrase that has been addressed to this honourable House over and over again in the most constructive sense, and as a principle that we should at all times support. Sir, the opposition that has been offered to the Bill now before this honourable House, has been led on, the House should remember, by the honourable Baronet, the Member for Oxford, and renewed by the honourable Member for East Kent, both of the honourable Members representing the high church interests. It should not also be forgotten that the Bill was opposed too in the other House by two Right Reverend Prelates, who represent no one but themselves, and who advocate the power and supremacy of the Church. I am opposed to these doctrines. I consider that religion ought to be an affair between man and his Maker, and that no person whatever has a right to interfere in religious questions, and that every person should have the right to *choose his own Minister*. I believe this Bill to be a good Bill, and as I consider it so, for that reason I shall give it my warm and cordial support.

Sir WALTER JAMES.—I hope that the honourable Member for the Eastern Division of Kent will not press the House to divide upon this question. I give credit to those gentlemen who are opposed to this Bill upon a feeling which their conscientious feelings dictate; but, indeed, I do not see any advantage which would arise from dividing the House. Sir, I am very much gratified at the general provisions of the Bill, and I feel that no persons can object to the first clause of this Bill. The first clause of the Bill practically explains these relieving Acts; these Acts of 1813 and 1817 were to take away the penalties that existed against the Unitarians, but now you make use of these very penalties to deprive them of their property. There is a technical difficulty arising in it in courts of law, which I contend it is incumbent upon this House to remove; but the second clause is the pinching point, and it is that upon which the opposition of the country has been raised, and nothing would give me greater satisfaction than to hear from the right honourable Baronet at the head of the Government, that he would withdraw the clause; because I think he could do it from the innate sense of justice which he possesses, and which unquestionably has induced him to form the measure. Now, what was the statement of the learned Attorney-General in the very able speech in which he introduced this Bill? The learned Attorney-General said the first clause applied to chapels, and also to charitable trusts, but the second clause applied only to chapels. What I want to ascertain is this—why should we put them on different principles? If you take the first part of the clause, why not adhere to the principle of the first clause, and say that principle should be the guide for your legislation? What can be more uncertain than a congregational prescription for twenty-five years? What did my friend the right honourable Member the President of the Board of Trade declare? That that history which was good for 1702 was not good for 1703, and what was good for 1703 was not good for 1704! How then can you establish the doctrine of prescription? It is a clear and intelligible thing that a person takes possession of an estate, or a person takes possession of a house; but a clergyman or minister

may broach a certain doctrine at his chapel, and may go on encroaching upon it, and in six months time again may leave it off. This Bill, therefore, I say, will bring confusion into our courts of law, and will not prevent litigation. Again, with regard to express terms. What can be more difficult than an express term? These are reasons which are very plain to me, and I think before we pass such a Bill, we ought to be quite satisfied that we shall do good by it. For my own part, I do not feel it will stop litigation. I think, too, there will be a difficulty in ascertaining the intentions of the founders. It appears to me that the Bill will not simplify matters. You must recollect that it has been said these dogmas are shifting and changing about, and these individuals have a right to change their doctrines. That is the very ground of the objection, and if I wanted an argument against the second clause of the Bill, I would take the speech of the President of the Board of Trade. That would furnish me with one. I would draw a distinction between a substantial act of justice and the uncertain effect of a legal instrument. I say I am willing to go with him into the justice of the case, but I do object to the character of the Bill, involving us, as it tends to do, in litigation even more than is the case at present; and I think before we amend a bad law, we should be certain the amendment would be an *improvement*. Having made these few remarks, nothing would rejoice me more than to be able to support the Bill; but as it now stands, I am decidedly opposed to it.

Mr. WARD.—Sir, I am afraid if the second clause is withdrawn, the whole Bill may as well be at once withdrawn, though it is the only clause to which there is the slightest objection. I should not have troubled the House with a single remark upon the clause, concurring, as I do, with much that has been so much more ably stated by my honourable friends, if there had not been a speech from one of my honourable friends behind me, who alluded to the right reverend prelates who were opposed to the Bill in the other House. Now, I must say, and I am bound to say, that I think the intolerance he has alluded to has been exhibited much more pre-eminently in other quarters than among those connected with the Church of England. I would also add, in common with other members of this honourable House, that I must say that it is amongst the Dissenters themselves the greatest opposition to this Bill has been exhibited. I can answer for the Dissenters among my constituents, that I find among them the strongest objections to the proposed measure, and upon those grounds that have been stated to the House by the honourable Member for Kent. I may add, also, that I have given to those constituents the same answer that my friend the right honourable Baronet opposite gave. He said very truly, that it is a Bill virtually affecting *property*, not *religious faith*: it is a Bill to stop litigation, and not to legalize Articles of Faith: it is a Bill in favour of a small section of the Dissenters from the Church: but, on the part of the Government, I apprehend there can be no political grounds to be gained by it. I support the Bill upon the ground of conviction of its justice, and from a belief that if the second clause is maintained and strictly adhered to, it will have the effect of putting an end to those painful and fruitless litigations that have so long harassed these parties.

I think, Sir, that it is a Bill that will do credit to the Government, and I am happy to find that it is the intention of the Government to persevere in it.

For these reasons, Sir, I shall support the Bill.

Mr. LAWSON.—I ought to apologize, Sir, for troubling the House on this occasion, but, on a former evening, and in the hearing of those who oppose the Bill, it was said, that no one who had opposed the Bill had offered any reason for his opposition. Now I feel it my duty, as an independent Member of this House, to offer those reasons which induce me to oppose this Bill, and in which I am happy to say that I have the unanimous feeling of those whom I have the honour to represent. I have not only presented petitions to this honourable House from the Wesleyans and other Dissenters, but also from members of the Church of England, all of them being unanimous in their hostility to the measure. It is not in consequence of having received these statements that I am here,—the advocate of opinions which I do not otherwise hold; because I consider it to be my duty, on all occasions, while I am in this House, to represent their opinions; yet, on this occasion, I am particularly anxious to do so on this point, for I shall hold up my hand *with* them, and therefore I am most happy in coinciding with their opposition to this Bill.

Now, in the first place, I always abstain, and I hope always shall abstain, upon points of religion, from acting a part which may seem to savour of bigotry or any appearance of intolerance. I have always abstained from pursuing any course in this House that could in the slightest degree tend to that, and I have willingly abstained, on all occasions, from bringing religious animosity into discussion, because I consider that this is not the proper arena for such subjects. I do not oppose the Bill because it is in favour of Unitarians; for I think whatever trusts have been left by Unitarians for the benefit of Unitarians should be devoted to them, and I do not enter into that question now. If upon this question I were disposed to take up the Bill as a religious Bill, I would say that no Bill has ever yet been introduced into the House which, in my opinion, would more injure the interests of Dissenters, and I should think in this case the Dissenters, by making their modes of worship and opinions dependent upon usage, would prevent any religiously-disposed persons from leaving any property to them. All persons so disposed would prefer to leave their property towards some sect or some persons who have more decided and well-known opinions. And thus may be brought to the Church, as being the most defined, these funds, which would otherwise go to the Dissenters; and, in that point of view, I would support the Bill, because I believe it would be a great benefit to all our Church Establishments. But if twenty-five years is to carry the trust, I think it will do an injury to any religious foundation, for there would be no certainty as to any legal usage in which there may be now some stability. I, myself, am not a Dissenter, but a Churchman, and I should be disposed to give support to the Bill, if I could without foreseeing evil; but I think, as far as I can see, that the trusts will be entirely, by this Bill, made subservient to the twenty-five years' practice of the congregations. What is a congregation in

itself? Is a congregation itself any thing? If, therefore, there is neither certainty in one or the other, in my opinion it leaves property on the most uncertain foundation in which it is possible to be. Where shall I find any mode of faith to which I could attach any certainty of not changing? I think that the nature of the Bill involves so many things, that it strikes at the foundation of every thing that we have considered hitherto to be the proper mode of administering trusts. However unwilling I am to trespass upon the patience of the House, I have thought it my duty to state my opinions, but I do not oppose the Bill on account of any religious hostility to the Unitarians. I oppose it on legal grounds,—upon the ground that I think it gives an uncertainty to all property, and more particularly to that property which is held in trust, and which I am unwilling should be thus uncertain.

I feel much obliged to the House for their patience and kindness in attending to these few observations.

Colonel VERNER.—Sir, I should not have addressed the House upon this occasion, on this Bill, if my attention had not been called to it by so many Members. But connected as I am with that great body, the Presbyterians of the North of Ireland, for so many years, I feel I should not be discharging my duty to them now, if I did not trouble the House with hearing from me one or two words relative to this clause in the Bill.

I listened with great attention to the speech of my right honourable friend, the Attorney-General. I heard his observations—as every one must who listens to him—with admiration. He laid down the law upon the subject, what I understood to be the law of the case. Now, I must confess my ignorance altogether of the law. I am no lawyer. But though I am no lawyer, I do understand what equity and justice mean. From all the information which I have endeavoured to obtain out of the House, I cannot but consider that this proposed measure is an act of great injustice.

An honourable gentleman has stated, that there is a misconception upon this question *out of doors*. Now it struck me, on the discussion on the Second Reading of the Bill, that the misconception in question was *in the House*, and not *out of the House;* and I do believe if honourable Members had been in full possession of the true nature of this Bill, the majority would have been very different from what it was. It was stated also, that but one or two honourable gentlemen on the other side were heard; that the arguments were mostly on one side. Now, Sir, I am as much opposed to this Bill being considered in the light of a political measure, or a party measure, as any individual soever now in the House; but still, at the same time, I cannot but bear in mind the observation that was made by an honourable Member in this House, upon the Second Reading of the Bill. I think—if I am not greatly mistaken—the words of the right honourable gentleman were these, that the great body of the Catholics were, to a man, in favour of the Bill. Now I think that no honourable gentleman should state in this House that any body of persons were, to a man, either in favour or opposed to a measure; and therefore I must say that it struck me, when the right honour-

able gentleman made that assertion, it was done with a view to influence the opinions of honourable Members. I regret exceedingly that I am compelled to vote against the Bill, and I am sure my honourable friends will feel I could not conscientiously vote except against the Bill, and I have felt it my duty to make these few observations, situated as I am, and I beg pardon of the House for having detained them.

Mr. MARK PHILIPS.—I think it is almost needless to trouble the House with a speech at all upon this subject. Indeed, Sir, it was not my intention, as I cannot but feel that I must concur in every part of the Bill; and I would only say this, that I hope I have proved that I have too great a regard for those who are associated with me in religious opinions, to come to this House, or to ask this House for their support to a measure either of robbery or spoliation, as this Bill has been by some considered (incorrectly, no doubt,) out of doors; but I believe the Bill to be a matter of simple justice and of equity, if not of right, and not at all a matter of religion.

Now the simple circumstances in connexion with the matter are these. In the course of time there has been a change in the opinions of those individuals who have held these chapels, and I know of nothing more opposed to the principles of religion or tolerance, than by leaving the law as it now is, to allow persons to be turned out of possession of their chapels, which they have held for years for the purposes of their worship. I wish not to make use of the term "founders," for if I do I might lay myself open; but are these people to hold possession of these chapels for so many years, and now to be turned out in order to transfer them into the hands of those of a different religious faith? When I talk of founders of a congregation, I mean to say, those who associated themselves together, and selected a minister to preach the doctrines which they themselves believed in, but without binding themselves to, or subscribing to, any articles of faith. In the course of time, the sons of these parties might have become more desirous of perfect freedom, and the sons and descendants of these again might naturally have become of a very different opinion from the original subscribers. Having constructed these chapels in many instances, and their own burial-grounds, they merely ask you if, where there is no trust-deed, and nothing to shew that these chapels were founded on a different trust, they may be permitted to keep possession of that which is already their own property: if you do not thus legislate, I conceive any thing less calculated to promote the cause of Christianity than turning these people out of their possessions, cannot well be. I am certain, if the numerous possessors of these chapels are removed, there is no possible means of knowing into whose hands, at this time, they should go. Sir, I believe that neither the cause of Christianity, nor the cause of religion, would be promoted by permitting them to be thus attacked; and I am sure the cause of charity and toleration would not. If there be those who doubt the equity of the case; if they choose to view this matter through such a medium, I would ask whether they think, by wresting these places of worship from the present occupants, they would put a stop to their honest endeavours to promulgate the

doctrines which they conscientiously hold? I ask whether, by taking away all their places of worship, they would put down those doctrines which they now conscientiously hold? I believe that would not be the case, and I do trust honourable Members will view this case, not in the light in which it has been viewed out of doors, but will view it as a question of equity, and will endeavour to disabuse their minds of that somewhat rancorous feeling which now exists against this Bill.

I believe, Sir, no one has been more pressed to oppose this Bill than I have been; but let me say this, that I value my honour and my independence much more than I do a seat in this House. I shall give my support to the measure, and I tender my best thanks to the present Government for having risen upon this occasion superior to petty influences. In my opinion, they have placed themselves in a position which, I am sure, will be a most enviable one for them to look back upon. They have endeavoured to reconcile religious differences amongst various classes of the community, and thus striven to carry out the true principles of civil and religious liberty.

Mr. STUART WORTLEY.—After the full discussion which was given to the Bill on the last occasion by the House, I cannot help thinking my honourable friend might, without taking any further step, suffer the Bill to go into committee. Upon that occasion I gave my support to the second reading of the Bill; but not at that time feeling, or even professing to feel, entire satisfaction with all parts of it; and when we come into the committee, I think there are portions of the Bill which will still require full discussion. But I think it is more desirable to allow it now to pass into committee, and for this reason—that the essence of the Bill is confined to one clause, and moreover the essence of that clause is very much comprised in one line. For it is impossible not to feel that we are dealing with an enactment which is to apply to some very different classes of cases; and the question is, how you should construct or form that clause so as to give every measure of protection in cases which deserved it, without throwing the shield of this House over bad cases to which it is not applicable. The honourable Member who has just sat down has, I believe, very truly described the case of the Presbyterian societies in England. I believe what he has given as the description of these societies is the truth; and feeling that they are as he describes them, and that they have the right upon their side, for my part I should be ready to give protection to the cases of which he speaks. But, Sir, I am sure the House will allow me to remind them that there are other cases. I look to this question as it has been stated by other Members of the honourable House, as a question not of religion or theological doctrine, but as a question only of property and of law; and it is in respect of doubts as to the legal effect of this Bill upon rights of property, that I feel a very considerable hesitation as to applying the second clause of this Bill in its present form to all the cases which may occur. There are no less than three cases which may be discussed as likely to arise in this Bill. There is, first, the case which is understood very well to have been the origin of the legal proceedings upon which this Bill in reality has been framed,—

I mean the case of the Lady Hewley charity. That stands upon a different footing from the religious trusts to which the honourable and learned Attorney-General alluded in his opening speech, and which has since been described by the honourable Member for Manchester. Next, there is the case of the Presbyterians in the north of Ireland, whose case stands upon a ground essentially different. This being the case, I cannot help thinking that the real and precise effect of the second clause of the Bill, and which every one admits to be the essence of the Bill, would be far better discussed when we come into committee upon the Bill; and therefore I do hope the House will, after the whole of the discussion which has been given to the principle of the Bill, and the very decisive approval of its provisions, suffer the Bill, on this occasion, to pass into committee.

Mr. B. ESCOTT.—Sir, I am in support of the Bill, and I support it as a measure of peace and justice; and I do hope that no alterations will be made in it in committee but such as are calculated to further the objects of peace and justice. That I do most sincerely hope. With respect to the rest that has been stated, I have only one other remark to make. I have heard a good deal of the opposition to this Bill in the country, and I have heard it stated from the other side of the House, and from this side also, that the nature of the opposition is such as to afford an additional proof of the disinterested conduct of Her Majesty's Government in bringing forward and supporting this measure. But the House will allow me to say that I cannot take it so; for, in my honest belief, if any Bill has ever yet been brought forward more calculated than another to extend their power with the people of this country, it is the Bill now under discussion.

Mr. PLUMPTRE.—Sir, having originally opposed this Bill, after what has occurred, I do not think it is necessary that I should press my motion to a division.

The House then went into committee upon the Bill.

Mr. GREENE, Chairman.

CHAIRMAN.—Clause 1.—*(Reads it.)*

Mr. HARDY.—Sir, I am quite satisfied it would be better if the clause were to express what really is meant. By the very title of the Bill, it is said to be, "An Act for the Regulation of Suits relating to Meeting-houses and other Property held for Religious Purposes by Persons dissenting from the United Church of England and Ireland." These are the words used, in giving a description of the parties. It is notorious that the great body of the Dissenters, or the parties dissenting from the Church of England and Ireland, are opposed to this Bill; that is, they are opposed to certain provisions of it; they do not wish to take any advantage of it; and, under these circumstances, I think it is only fair that that particular denomination of Christians who do mean to take advantage of it, should be described in that first clause as the persons taking the benefit of it; all the others repudiate the benefit of it; they say they do not want such a Bill, and, therefore, I do not see why it should not be, either that the expression should be,

"A Bill for the Relief of Dissenters, commonly called Unitarians," or that these words should be used, "by *certain* Persons dissenting from the United Churches of England and Ireland." It is beneficial to *certain* persons only, dissenting from the United Churches of England and Ireland. I think that the foundation of these chapels has not been beneficial to the Dissenters. They come here to oppose the Bill, and, therefore, under these circumstances, they do contend that the words, "*certain* persons" ought to be introduced, inasmuch as it is not a matter which can affect the Dissenters *generally*. I should be very sorry to occupy the time of the committee, but I really think that when we find the Bill is intended for the relief of a particular sect and denomination of Christians, it ought to state that on the face of it, and not appear on the face of it to be a Bill for the relief of Dissenters in general, when the general body do not reap any benefit from it. I see that in a meeting held after the second reading of the Bill, it was stated in these words——

A MEMBER.—I think my friend is under a mistake. He is speaking of the preamble.

Mr. HARDY.—Then, Sir, I will come at once to the words of my motion. I propose to insert after the words "meeting-houses, schools, and other charitable foundations so founded or used as aforesaid, and the persons holding or enjoying the benefit thereof respectively"—I propose after these words to introduce, "being Unitarian Dissenters," because I agree with every Member who has spoken before me, that perfect justice should be done to them, if it can be shewn they are in possession of property for which there is no claim on the part of other persons, and if that property has been founded at any time by Unitarians. Now that the law is repealed, I would give them the benefit of it, and am willing that, with respect to property, they should be in the same state as if Parliament had not prevented them formerly from holding it. That is the object of the parties; and we have no objection that the Unitarians should be put in possession of the property, but not that the evidence of it should be curtailed. But, at the same time, I would make it more clear, and particularly when we come to the preamble by and by. Therefore I propose, that after the words I have mentioned, be inserted, "being Unitarians, and the persons holding and enjoying the benefit thereof being Unitarian Dissenters."

The SOLICITOR-GENERAL.—Sir, I could not have a better proof that this Bill was thoroughly misunderstood than is afforded by the observations addressed to the committee by the last speaker, the Member for Bradford; because it is quite clear, if the committee will attend to these observations, that my honourable friend has not the least notion of what is the scope and effect of that clause to which he has addressed himself. My honourable and learned friend is the first, I believe, who has stated that this clause ought not to remain in its present state as part of the Bill. It is the first objection that I ever heard urged with respect to this particular provision. But my hon. and learned friend probably is not aware of this fact, that this clause is *absolutely necessary for the protection of all denominations of Dissenters.*

From the year 1662 down to the year 1689, in England, all Dissent from the Established Church was illegal. From the year 1665 down to the year 1719, in Ireland, the same state of things existed. Now there were many congregations which were established both in England and Ireland during that time. With regard to Ireland especially, there were many Presbyterian congregations which it is a matter of historical fact were established between 1665 and 1719, and *all of them were illegal* according to the law. Now suppose any question were to arise at the present day, without the protection of this Bill, upon trusts generally framed and generally expressed;—suppose, for instance, any of those congregations should have deeds which expressed the intention of the founders, that the meeting-houses or chapels should be established merely in these general terms, "for the worship of God;"—if any question arose as to the extent and application of that trust upon any establishment founded between the periods I have mentioned in Ireland and England respectively, the Lord Chancellor would be bound to decree that it must be a trust for a particular kind of worship which was legal at the time;—and, therefore, these chapels and meeting-houses would be taken away from the Presbyterian congregations. And does my honourable friend so utterly misunderstand the protective effect of this clause, that he is absolutely disposed to reject the benefit which is offered to him, to say, "Exclude us from the operation of this provision, which will have the effect of quieting our possession, the possession of the Trinitarian Presbyterian congregations, as well as the possession of the Unitarians—exclude us altogether from the benefit of the Bill"? And will my friend really thus leave those for whom, on the present occasion, he is the advocate, exposed to all the consequences of not being included in the Bill? And yet my honourable and learned friend proposes that the clause should be so moulded and so modified that the Unitarians should be selected as the object of especial favour and protection, the only Dissenters who are to be protected. That is what my friend proposes by his amendment. Sir, this measure is intended to be a measure of *general justice*, and it is intended to protect the rights of all, and to interfere with the interests of none. But I apprehend, if my friend's amendment were to be introduced, it certainly would be a complete invasion of the spirit and the principle upon which this Bill is proposed. I cannot suppose, therefore, that my friend will seriously persevere in his attempt to introduce this amendment; and I do trust the House will see it is essential that the clause should stand as originally framed, there being no objection offered to the clause until this objection on the part of my honourable friend; and I trust I have shewn the committee that this objection is utterly groundless, and indeed is only founded on a mistake.

Mr. HARDY.—After what has been stated, I withdraw my amendment.

The CHAIRMAN then put Clause 1 to the committee.—Agreed to.

CHAIRMAN.—Clause 2.—*(Reads it.)*

Mr. SHAW.—Perhaps the committee will pardon me for one moment, but there seems to me to have been a change in the wording of the clause as now read and the words of the original clause. I observe in the first printed Bill the words are "*in all cases;*" here it is, "that *so far as* no particular religious doctrines or opinions, or mode of regulating worship." Now my attention has been drawn to this. I do not mean to give any opinion upon it, but there is a difference in a wording of the clauses undoubtedly, and if the honourable and learned Attorney-General or Solicitor-General would state the cause of the difference, I am sure I should be most happy to receive the explanation; but as it stands at present it certainly is remarkable, and it would certainly look as if there had been a difference of opinion as to the wording in the first instance. The point perhaps is hardly worth mentioning, as the great point is, whether certain religious opinions should be favoured, and whether they should prevail against the usage, but only so far as they were set out by deed. As I understand the meaning of it, wherever deeds express a real opinion, they are to be abided by. This is not a point of my own. I should not have mentioned it, but that it was pointed out to me by the honourable Member for Durham, who, I regret, is not in his place to-night. I understood he would have mentioned it himself, and I should not have mentioned it to the House to-night, but from not seeing him in his place.

The SOLICITOR-GENERAL.—I think I can explain very shortly the reason why the alteration that my honourable friend mentions came to be made. Previous to the alteration it was, "in all cases in which no particular religious doctrines or opinions shall in the deeds declaring the trust of any such meeting-house as aforesaid be in express terms required to be taught therein, the usage of twenty-five years of the congregation frequenting such meeting-house shall be taken as conclusive evidence of the religious doctrines, or opinions, or mode of worship for the preaching or promotion whereof the said meeting-house, with any burial-ground, Sunday or Day school, or minister's house attached thereto, and any fund for the benefit of the minister or other officer of such congregation, or for the widow of any such minister, was established, founded, or given." Now it was suggested by the General Baptists that in their deeds *all* their doctrines are not stated, but it frequently happened that *the doctrines* which peculiarly distinguished this sect were stated;—that they did not introduce the whole of the doctrines which they preached, but only a portion. For instance, in general their deeds distinctly state the doctrine of adult baptism, and also the doctrine of general redemption. The General Baptists pointed this out, asking to have the words so modified that they should not be excluded from the benefit of this Bill, because of these two doctrines appearing; and that "*so far*" as there were no doctrines in their deeds, the usage of their congregations might be evidence. Upon that it was considered necessary, in order to meet all views, to introduce these words; and the honourable and learned gentleman will see it refers particularly to their case; and it was to include those cases in the operation of the Act that the words were introduced.

Mr. J. S. WORTLEY.—Perhaps the insertion of the words may give me the best opportunity of making a few observations with respect to the operation of this portion of the second clause, and I do so the more especially, because, as I stated lately, I cannot look at the clause without having reference to the very cases to which it was intended to apply.

In the first place, the clause appears to me to have undergone very considerable improvement, certainly, since the second reading of the Bill, in many respects. As the words stood in the former Bill, the effect would have been, not merely to quiet the present possessors of this religious property in the use of their property according to the terms upon which they held it, but it would have had an effect which could not have been intended, and would have been totally inconsistent with the view which the Bill had in contemplation. It would have secured the property for all future time to those who certainly had no claim to have it so secured. That would not have promoted religious liberty; therefore that, of course, was inconsistent with any principle of the Bill. The Bill proceeds upon the assumption that the change which has taken place in the religious opinions of those who make use of the religious property, has been a legitimate change, and, therefore, the property is not unfairly applied to the uses to which it is. But then we ought to leave the property upon the same footing for the future, and leave the same room for changes to take place, as has existed in past times. In this respect the clause is very materially improved. As it now stands, the effect of the clause is, that you protect those who are in possession of the property on account of the doctrines they teach, but at the same time you leave the congregations at perfect liberty to modify their religious opinions in all future times without any hindrance; and that, I think, is the right principle of legislation. Now we come to the words as they stand at present, and which are calculated to protect those cases in which parties are now in possession of property where their titles are somewhat doubtful. The Bill assumes that the party to whom the provision is applied have a legitimate right; that is to say, that there is no just cause to disturb them.

Now let us advert to the different classes which come under the operation of the clause. In the first place we must look to that great case which has been decided by a Court of Law, and has given rise, *in fact*, to this Bill,—I mean the case of the Lady Hewley charities. That case appears to stand on a different footing from the case of the trusts belonging to the Presbyterians of this country. In Lady Hewley's case, it was a bequest from the individual for specific purposes, though not accompanied with the expression of specific doctrines, but still with words from which the courts were able to infer the distinction and the unquestionable opinions of the original founder. Now, Sir, when we look, and I think we are bound to look, to the grounds upon which the decision has been given in all the courts before which this case has gone,—I cannot help drawing the attention of the House to the language of the present Lord Chancellor in the judgment he pronounced in that case. He says,

"If we are correct in the conclusion we have come to, as to the intention of Lady Hewley, the funds have been misapplied, and misapplied for a

long series of years, and to a very great extent. This alone might be a sufficient ground for removing the Trustees. But it has been said, that this was unintentional upon their part, that it was an error of judgment, that they put fairly and *bonâ fide* a construction upon the instruments that would have justified their acts. But looking at the evidence in this case, I am compelled to come to a different conclusion, and to say, though I do not wish to enter into detail upon the subject, because I am desirous, as far as possible, to abstain from every thing that is personal on this occasion,—I am compelled to say, using the most gentle terms, that there has been, in my judgment, a strong and undue bearing, in the administration of the funds, towards the Unitarian doctrines and Unitarian purposes."

I must certainly avow, that strongly disposed as I am to give this protection to parties exposed to vexation in suits against trusts of the former description, I do shrink from throwing the protection of this House over that case, or other similar cases, in which the Judge, who has decided the case, has come to the unquestionable conclusion that there has been not only a misappropriation, but an intentional misappropriation, occurring, too, in a case where the original foundation was not one established by the parties who were themselves to make use of the property, but where the individual endowing it indicated a strong desire for a particular description of doctrine. Under these circumstances, I should be glad to know from my honourable friend, the Solicitor-General, or his colleague, how far these words must be taken to apply. For my part, should I be told that the words in this portion of the second clause are to cover cases like Lady Hewley's, I should object to their operation. However averse I should feel to leave parties exposed to questions of this description, I cannot think the Legislature is justified in proceeding by fresh enactment to protect parties in possession of property which they have obtained by a course which, by a most solemn declaration of the highest Judge of the land, they have obtained (as he has said) in a manner that very nearly amounts to a fraudulent misappropriation of the funds. Under these circumstances, I conceive, there is a great objection to the clause.

Then we come next to the cases alluded to, and, it appears to me, they stand upon a totally different footing. These were cases, not of bequest, but of trust establishments, and arranged by parties wishing to form a congregation among themselves; united together, as I firmly believe from the history of those times, upon avowed principles that there should be no subscription to creeds, but that all the parties thereafter who used the property should be at liberty to draw their own conclusions in that respect. If that be so, it appears to me that these parties, who conceive that they represent the original founders of the trust up to this moment, have no right to complain, if they find these congregations, having had the property vested in them upon such terms and principles, have departed from the original doctrines. In the first place, I do not think it is quite clear that all the parties who formed the original congregations were Trinitarians. No doubt they were all taken to be, and considered and deemed as Trinitarians, for this plain reason, that in those days, during a great portion of the time, the doctrines of Unitarians were illegal, and, therefore, of course not likely to be publicly acknowledged. However that may be, I must say, I conceive the parties who placed pro-

perty in trust upon such a basis as that, which is clearly the condition of these trusts, placed that trust upon the avowed principle that it is not to be confined to any particular religious doctrine, but must be prepared for every possible variation from the particular doctrines which were held by the original founders of this property. For these reasons, I, for my part, should be extremely anxious to know what is the precise force of the words in this clause? I am perfectly willing to pass this Act, for the purpose of protecting those parties who are in possession of such religious trusts, and who, I believe, form the larger portion of the Unitarians of this kingdom, but I do feel a strong objection to passing any words which shall exclude the right of those who have no right to keep at present the use of property under trust.

Then there comes another class of cases, which, for the present, I will not touch upon, as we shall hear about them; but I own, as far as I know, it does appear to me that the case of the Presbyterians stands upon a footing which it is difficult to reconcile with justice. I have from the beginning insisted upon looking at this question, as I do now, not as a religious question, but as one of law and property, and all I ask is, that in passing the second clause, we shall not take any step to set aside the law without being quite clear that we are proceeding upon safe grounds, and not laying any ground for any precedent which may hereafter lead to very serious consequences.

Mr. SHAW.—Now, if the House will allow me, I will make this a question of property and of strict right to property. The Presbyterians of the North of Ireland belonging to the Synod of Ulster are entitled to the amendment, which I hope the House will pass on that account. We have now passed the first clause; that is, (as I apprehend the first clause,) we have placed all classes of Dissenters on the same footing in respect of property—those who did and those who did not come within the operation of the Act of Toleration, and against whom, on that account, actions were brought to recover the property upon technical grounds. As this belonged always to Unitarians, I, therefore, thought it was a very hard case that they should lose that property. I quite agree with my honourable friend, that, in point of fact, the class of persons served by that clause are the Unitarians. I certainly should have objected to his amendment, although I believe it to be the fact; but, whether it is or not, I think it would be just as regards those, whoever they might be. I would require that they should not be excluded when we are introducing by legislation a principle that ought to be equally applicable to all. I believe it is to them the benefit will apply, and I think they are entitled to that benefit. Now, for the sake of argument, supposing the first clause, as passed, to have placed them on the same footing in that respect as all other classes, let us consider the object of the second clause. The object of the second clause is to keep all classes on the same footing, and to give them the same benefit in respect of property. It assumes that difficulty arises in particular cases to ascertain what was the peculiar doctrine of the founder or establisher—I ought not to use the technical term *founder*, but of those who first instituted meeting-houses, or chapels, or school-houses, or any thing of that kind. It is admitted (and rightly, I apprehend,) that the

principle of the clause is, that the opinions which were the opinions of the founder should continue; if these were distinctly stated, there would be no difficulty; and what you want in practice is, to secure the possession of the property. The clause itself mentions two classes of cases where there is evidence independent of that which is introduced in the latter part of the clause to supply evidence where evidence is wanting; when it is not clear upon written documents, or by any other means, to avoid the necessity of resorting to the prescription, because the clause of prescription does not arise until the condition of the want of evidence arises. In the case of a deed, if a deed expressly declare what are to be the opinions of persons who are to enjoy the property, we know the clause does not apply to them—that is, the case of deeds. The Wesleyan Methodists (as I understand them) say, "We have not deeds declaring our trusts, which set out our original doctrines; but we have documents which are as satisfactory as those deeds, which are referred to in the deeds; and we ask you to exclude our case from the operation of this clause." The Government think that must be done. Why? Because there are many cases independent of mere vague evidence, depending upon evidence; depending upon a long course of practice for years, they have been established by means of documents and certain evidence, and they say, "As you can produce that, we exclude you also from the operation of the clause; we say, the usage only applies where it does not appear in a deed by reference to the documents."

Well, now I come to the case of similar persons, to the Presbyterians of the North of Ireland—that large and important class of persons. What they say is this: "We have no deeds of trust to our meeting-houses, and our property, generally speaking, is not held by deed, but we have just as good evidence; we can produce that to you which is just as good, a permanent record of our proceedings; and if we satisfy you of that, we claim the application of the principle." The Synod of Ulster has existed for upwards of two hundred years in Ireland, or more than a hundred and fifty; from the year 1691, they have perfect records of their proceedings—they are in the nature of a Court of Justice—they are in form and discipline much the same as the Church of Scotland—they are in doctrine, and in practice, and in feeling, almost identical with the Church of England; they are, in short, a sort of demi-church establishment—they have existed from that time to the present. I say they have records setting forth their religion clearly and indisputably—records as satisfactory, in the way of evidence, as it is possible for any deed declaring what the particular religious opinions of the meeting can be, or those of a charitable foundation could be; and I am able to quote from the report of a law case, where they were received in a court of law as evidence of such title, and upon that evidence there was a decision in their favour. I think here the important question is this—whether or not they require subscription, and always have required subscription, to a particular creed, about which there can be no doubt; and if they have documentary proof of this, then, I think, they have a right to claim exemption from the application of this clause. My honourable friend the Member for Sussex says I want to exclude them, and mean the Bill to apply to others whom we do not take care of. I do no

such thing. What I want to contend for, is a principle applicable to them, and, therefore, I say we must deal with that case where there is written documentary evidence, independent of those objections which alone that clause is framed to meet. I say that sect is one class, the Wesleyan Methodists;—and the case of the Synod of Ulster is another; and I am endeavouring to shew that their evidence is just as clear on the face of the documents, and not subject to the slightest objection affecting these documents,—they are preserved, and it is impossible they could have been made up for the occasion, and they prove as clearly as any deeds can, that from the establishment of this body in the North of Ireland, they were a subscribing body, and required subscriptions to a particular doctrine, and these records appear from that time to the present to have been well preserved. Now they begin in 1691, but, from 1698, upon the face of these records will be found the clearest evidence of Trinitarian doctrines, and the clearest proof that they at all times required subscription to those Trinitarian doctrines, and no one instance has ever occurred in which a clergyman connected with the Synod of Ulster has not subscribed either to the Westminster Confession of Faith or something equally strong. It appears that at Antrim, in June 1698, it was proposed that young men, to be licensed to preach, should be obliged to subscribe to the Confession of Faith, and to all the Articles thereof, which proposal amongst others was considered by the brethren, and was unanimously approved. That is in 1698. Now, in 1705, there was a regulation to preach the doctrine and subscribe to the Westminster Confession of Faith as the confession of their faith. I need not weary the House with any historical facts, unnecessarily, in this case. The House are probably aware there was a Scotch Confession of Faith originally, then the Westminster Confession of Faith, and these were subscribed to in the first instance; although differing in many points from the members of the Church of England, they agreed with them in holding the same doctrine of the Trinity, and such were the opinions of those who established the first congregations connected with the Synod of Ulster. In 1705, then, it was declared, that all persons licensed to preach the Gospel should promise to subscribe to the Westminster Confession of Faith, and promise to adhere to the doctrines laid down in it. In 1703, there is a remarkable instance, and in 1716, with regard to the Toleration Act which has been referred to, it became a question with the Presbyterians of the Synod of Ulster, upon what terms they would accept it, and these were the terms they themselves agreed upon, and without which they would not consent to accept of the Act of Toleration, or to take any benefit under it:—"Resolved, that the first thing that we shall have to propose and insist upon as to the terms on which we shall accept toleration, shall be on our subscribing to the Westminster Confession of Faith." That was in 1716, and from that time to the present they have been a subscribing body to the Trinitarian doctrines. Generally, the Westminster Confession of Faith in any particular Presbytery, in respect of any particular doctrine, was to be set down in the shape of question and answer, and subscribed by the party before he was admitted to the ordinances of the Church; and the best proof of that is, that, first in 1726, and

again in 1829, which is as near as possible a century after, some few of the congregations objected to subscription, though they had originally joined in subscription, and broke off from the Synod of Ulster. The Presbytery of Antrim was thus formed in 1726, and the Remonstrant Synod in 1829. But I say that there is the clearest proof that the Synod of Ulster is a subscribing body, with a defined Trinitarian faith, about which there can be no doubt, and which appears in the clearest manner that well can be, from the records of 1690 down to the present hour. I say in this case, surely they have the best possible proof of what their doctrines were, from the necessity of subscription; and no prescription is wanting, no other right by usage could be acquired. Now, in the first place I must beg my honourable friend will look to the words as they appear here, and he will see it must either be a deed in trust in express terms, or by reference to a book or document. That is the case of the Wesleyan Methodists, but not so with the Synod of Ulster. The Wesleyan Methodists have deeds referring to documents, the Synod of Ulster have no deeds. Though they were endowed originally, it is difficult in every case to trace back the foundation, they are so old foundations; they began by small beginnings, and from meeting together they built meeting-houses or small places of worship, with small buildings attached to these houses, and they sometimes got a lease from the owner, and sometimes a lease from the party not having himself the estate, and for two hundred years down to the present time, had the property vested in them, and no one can question it. But from the first to this last moment, there cannot be the slightest difficulty in ascertaining, by their rules of subscription, as clearly as by the clearest documentary evidence, what were the doctrines of the Synod of Ulster, the doctrines necessary to be preached by every member and minister. What then I now ask Her Majesty's Government to consider is this:—they for whom I appear are not an unimportant body in point of numbers. They consist of about 700,000 persons. They have about 500 congregations. They were about that number in the last century and about as many in this, and they have 500 congregations spread over the entire population. I say it is a monstrous thing to tell that large Established Church in that country, that the foundations of their property are to be endangered by this Bill. What they say is this: "There is no doubt of our property; no one ever denied the property of the Synod of Ulster; these congregations are connected with us; they acknowledge us as the Supreme Court of Appeal, just as much as the component parts of the Church of Scotland acknowledge the General Assembly, and the opinions of the different ministers and different congregations are as clearly ascertainable as those of the Church of Scotland." Then they say this: "We do not want—we have never wanted—to take an atom of property that belongs to Unitarians, but we know the infirmities of human nature, and that men will change their opinions." There is hardly one of these Presbyterian establishments in Ulster that has a trust-deed, (I should say there are but twenty-two deeds out of five hundred congregations,) therefore I say that their property is as well established as the property of any corporation or any body in the United Kingdom. They do not want any thing from Unitarians. They go upon the principle of this Bill,

the principle upon which you have already put the Wesleyans; it is upon the same footing that I ask you to put the Synod of Ulster. There is no difficulty if a clergyman who originally subscribed as they require, shall afterwards *join a Unitarian Synod*. That is open to all the world and known at once. But there are cases of *silent transition*, very often from one doctrine to another. This has happened in point of fact. And what this Act may effect with respect to the Presbyterians of the North of Ireland is this: if there be any minister belonging to that body who entertains Arian or Socinian doctrines, you encourage him by this Act to preach morality quietly and avoid doctrinal points for a certain number of years, and then if it be their object to get possession of these meeting-houses and property, they have nothing to do but in twenty-five years to turn round, and by that clause as it now stands they would be secure in that property against the rightful owners. I say that is a monstrous proposition, and it is the case of the Synod of Ulster. They want nothing that does not belong to them, but they do not want you to put them in that position; all they want is to be secure in their own property; that in a certain number of years a man may not have it in his power to turn round and say, "I belong to the Unitarians, and the meeting-house and all the property is mine," and thus wrest it from the rightful owners. I say nothing can be more monstrous than that. I really cannot conceive it possible that her Majesty's Government intend to persevere in such a scheme. I admit there may be some difficulty in wording the amendment; I will not cavil about words; all I want to know is, do they mean to put the Synod of Ulster in that condition? If they do not, and if, for the sake of introducing an Act to give relief to the small extent this professes to do, they are to shake the foundations of property of such a body as the Synod of Ulster, which has existed for 200 years, with 500 congregations and 700,000 members, I say it is a monstrous thing to alarm these persons, and to tell them that if for twenty-five years undisturbed possession is to give almost conclusive evidence of right to a Unitarian minister, if he even *holds* these doctrines (for it does not appear plain that he is to *teach* them), but if, in point of fact, he *holds* these doctrines, and has preached in the chapel for twenty-five years, he may deprive the rightful owner of the property! I should be very glad to have defined the first time when the Irish became Unitarians. The most eminent man among the Irish Unitarians, and who, I believe, has been the means of urging this measure forward, subscribed to the Trinitarian doctrine. I would ask my honourable and learned friend to inform me when he became Unitarian? I say it is extremely difficult to ascertain in any case the precise moment of such changes of doctrine, and you would hold out a premium to such changes, if you say, that becoming a Unitarian shall, in the course of a few years, be conclusive evidence of the right to property. I should argue that the period is too short to allow the limitation. As to non-subscription, I admit the same period of limitation would be just in cases where you have no doctrines to refer to; all the infirmities of human nature require you should supply the want of evidence, but that is not this case; that is not the case where there is a subscription to ascertained doctrines, for there can be no

doubt of what the doctrines have been that are held by the Synod of Ulster. I say, your Bill in principle, so far from *preventing*, will *stir up litigation* in every parish in Ireland. In two or three instances, in which they have recovered back their property by action, it was with great difficulty, and after seven or eight years of expensive litigation, and they were driven to it by persons who do not pretend that the origin of their foundations or the endowers of it were Unitarians. They admit they were Trinitarians, but they insidiously got possession; and after the lapse of many years, we know how difficult it is to discover that they profess the doctrine of the Church to which they belong. It would be a very nice matter to say which was Unitarian and which was not, and then it would be difficult to get the property separated. This question does not arise in our church, but it might arise in the Presbyterian church, if a minister be, in point of fact, a Unitarian, though he does not openly profess it. I say, under this term of twenty-five years, it would become conclusive evidence, *and the Synod of Ulster would lose* THEIR *property.* And I say the case has already occurred. I say, in two or three cases it has occurred. This is not a very rich body, but they are a very ancient and a highly important and most respectable body; and it is not easy to bring actions where they only suspect that the opinions of their clergymen have varied. And you would force them to try every case and litigate every case; or if you do not, by lapse of time you render it impossible to recover back their property. And here I cannot avoid saying that I think some observations have been misunderstood that applied to a particular gentleman who conducted these suits. I understand that he did so without the slightest regard to professional emolument. He did so, being a member of the Synod of Ulster, and without receiving one farthing for it. On the contrary, I know that he has lost considerably by conducting the suits; so that at all events it cannot be said in this case, or in the case of the Synod of Ulster at all, that there has been an unnecessary degree of litigation or getting up of suits on the part of mercenary men for the sake of costs. Now, with respect to the Presbyterians, as my object is strictly to keep to the business of the evening, and the amendment I now propose, I say it would not apply to the two cases in Dublin, both of which would be unaffected by the amendment, inasmuch as they were never connected with the Synod of Ulster. They were always connected with the non-subscribers, and I say, though originally that Synod of Munster to which they belong held Trinitarian doctrines within their meeting-houses, yet I acknowledge where there is non-subscription, a difficulty arises, as in that case, and that case alone, which must be met. I do not say I have any particular fear upon the subject, but I am anxious to provide a principle for every case, and bring forth clear and unsuspected written documents to prove what doctrines are to be set forth; and I say if any class of persons are to be taken by some such side principle out of the operation of this Bill, the Synod of Ulster is as much entitled as any. I acknowledge there ought to be something which should put an end to strife; but then all difficulty should be removed, and you should not take away the property of others. I put that case of the Synod of Ulster as an old establishment. There are a certain number of congregations, and in the

course of time the property would find its way into different hands, and the rightful owners would be excluded by process of law, and there would be no security for their property. I say in this case of the Synod of Ulster I want *some* protection, but don't let us be objecting as to the words which are to effect it. I will read my words to the House, as I consider them at present the best means of effecting this object; but if my honourable and learned friend will use better words to effect the same object, if he will agree to the substance of my proposition, if he will say he thinks the Synod of Ulster have made out such a case as that they should be exempted from the operation of that part of the clause, as I imagine they should be, then I shall leave it to the framer of the Bill to supply any words he thinks best to carry out the object. I will state the words of my amendment; and if my honourable and learned friend can suggest any better form of words to carry out the object, I shall be glad if he will do so. The words I propose to introduce after the words which do provide for the Wesleyan Methodists are these. (I do not know of any other class to which they would apply besides the Synod of Ulster: I believe the words will sufficiently provide for their case.) After the word "therein," I move that the following be inserted,—"Where no particular religious doctrines or opinions are contained in any book or other documents preserved among the authentic records of any recognized Synod or religious body, or preserved by the congregations attending their meetings." These words I believe will effect the object; but I do not want to argue about the words. But what I want to know from my honourable and learned friend is, whether, in justice, he thinks that the Synod of Ulster are entitled to have their property secured, or whether by persevering he will excite litigation in every parish in Ireland, and effect that great loss of property which it is not denied will take place.

The CHAIRMAN put the motion to the committee.

The SOLICITOR-GENERAL.—Sir, I must object to the insertion of the words proposed; and I cannot conceive, in principle, that any words can be framed which, meeting my right honourable and learned friend's objection, will be consistent with the spirit of this Bill. Now the committee will understand what it is that he proposes to except out of the operation of the Bill. In the first place, wherever there is a deed or will, or other instrument, in which the wish of the founder is expressly declared, or where there is any deed or other instrument, which refers to documents or to books, which contain certain doctrines, and which are therefore to be incorporated into the deed,—in these cases the intent of the founder is to be entirely observed; the trust is to remain to the end of time; and no one can interfere in the smallest degree with the original intention of the bequest. But my right honourable friend proposes now to enlarge that exception, and to enlarge it to an extent which, according to my view, would introduce a principle of very great injustice. Now the words which my friend proposes to introduce are these: "That where the particular religious doctrines or opinions appear in documents contemporaneous with the endowment, and preserved amongst the authentic records of the congregation, the usage shall not be taken as

evidence contradictory of such documents." In the first place, it is very difficult to construe the expressions of my learned friend. What is the meaning of "preserved amongst authentic records"? What are authentic records? Who is to be the judge of what the language means? What means will the Court have of ascertaining what are the records of the congregation? What are authentic records, and what is the meaning of documents preserved among them? My friend will observe this does not refer in the smallest degree to the will of the founder—not in the smallest degree. Any document which is found amongst the authentic records is to be expressive of the religious doctrines which were maintained at that particular period. So that according to the proposition of my right honourable friend, the intentions of the founders may have been entirely different from those which are contained in the documents which are to be preserved amongst the authentic records, and yet my right honourable friend proposes where any document is found at any period of time, by its being among the authentic records, that it is to be a governing evidence upon the subject, and is to manifest the peculiar religious doctrines at that period. Now my right honourable friend says, "I shall not quarrel about words." "If," says he, "there is any form of expression which can be suggested, I am ready to adopt that, provided it meets my object." Now I think it is rather hard upon those who are disposed to object to the insertion of any other words, that they should be called upon to frame an amendment which is to satisfy the view that he has. I will take my friend's case; I will meet him upon his own grounds; I will assume his objection is what he has stated it to be, and I say that if these words were inserted, or any thing equivalent to them which would reach the objection of my friend, they would produce the most monstrous injustice.

Now I take the case of the Synod of Ulster—*his own case.* My friend says that that Synod of Ulster has existed for two hundred years. The first document which I find amongst their authentic papers is of the date of 1691.

Mr. SHAW.—1698.

The SOLICITOR-GENERAL.—Then 1698. That is not expressive of the will of the founder, that is no evidence of the intention of the founder, because, according to the statement of my friend, the Synod of Ulster existed for at least half a century before the year 1698. I take it for granted then that my right honourable friend has no documents which contain any intimation of what the intention of the founders was with regard to the peculiar religious doctrines to be preached in the different congregations. What has my friend proposed? He proposes to take a document which is not expressive of the will of the founder, which is no evidence of what the intention of the founder was, and he proposes to allow that document as proof of the religious doctrines which are to prevail in the particular congregation. Now see what would be the result of that state of things. The Synod of Ulster was in existence prior to the passing of the Toleration Act in Ireland in the year 1719. My friend says they always required subscription to some confession of faith. I believe in consequence of their requiring that subscription in the year 1726,

several congregations seceded from the Synod of Ulster. These seceders refused to be bound by any subscription, and they formed themselves into the Presbytery of Antrim, and in the very case to which my friend has referred, which is the case of *Hill* v. *Watson*, in the Irish Court of Exchequer, the Lord Chief Baron there says there is evidence that the Presbytery of Antrim was Arian from the beginning. And, therefore, from the year 1726 to the present moment, Arian or Unitarian doctrines have been always preached in the different congregations of that Presbytery. They have never been disturbed in the possession of their chapels, and in a great variety of cases they have actually rebuilt them. They have contributed the funds necessary for the establishment, and until the decision in Lady Hewley's case, no idea was entertained of the possibility of stripping them of these chapels and meeting-houses. Now my friend says, "Do you mean to commit this grievous injustice? do you mean to take from the Synod of Ulster their property?" What property does my honourable friend mean? What property have they? I do not know that the Synod of Ulster has acquired any property that they may have in their meeting-houses in any other way than the Presbytery of Antrim have acquired their property. My friend cannot say that it is by any will of any founder that the Synod of Ulster has any property; yet my honourable and learned friend proposes by this Bill to take away from the Presbytery of Antrim *their* property. I will tell you what he proposes by his amendment. If these words were introduced into this second clause, I tell the committee what would be the effect of it. It appears by reference to some of the documents which are contained among their Synodical records, that the Synod of Ulster always required subscription. If my friend could obtain the insertion of the words which he proposes as an amendment of the clause, the effect of it would be, that all the property which has been enjoyed by the Presbytery of Antrim from the year 1726 downwards, would be within the grasp of the Synod of Ulster. They would be able to refer to the documents contained among their "authentic records"! The Synod of Ulster was constituted in the year 1691, and now they may say, "Although you have been preaching Arian or Unitarian doctrines from 1726 without interruption, yet inasmuch as you once formed a part of our body, and agreed in its particular doctrines, we have a right under the provisions of this Bill (a right which they could not have enjoyed before, but by means of the amended clause of my right honourable friend), we have the right to strip you and make your property our own."

Now, Sir, I think I have met the objection of my right honourable friend. He asks the whole House to commit that act of injustice, to deprive this class of their property, which they have hitherto enjoyed without interruption, and *to leave them completely in the power of the Synod of Ulster*. I am anxious, as far as I can, to confine myself entirely to the question before the committee. The question is upon the insertion of the proposed words of my right honourable friend. My friend says he has made out a strong case as to the rights of property. I say I meet your case and I meet you upon your own grounds; and I say that you are endeavouring to work a very great injustice and a cruel wrong. And it is upon these grounds that I refuse to

accede to the amendment of my friend, and I trust that the committee will be of the same opinion.

Mr. SHAW.—I really cannot help expressing the satisfaction that I feel at the opinion which has been just expressed. I do not want to quarrel about words. I want that we should clearly understand what the learned Solicitor-General is willing to consent to, so as to adjust matters without having any appeal to the House upon the injustice to one or the other. I cannot tell exactly what the case is with regard to the Presbytery of Antrim. That is a substantive case for Her Majesty's Solicitor-General. If it would apply to either, I would at once accede to the terms. It appears that seventeen congregations seceded in the year 1829, and about 500 now remain; the Presbytery of Antrim being as many more in point of number as the Remonstrant Synod. The Synod of Ulster had never taken proceedings against either, and never intend to do so, and therefore do not want the power. All they say is, "Put in what words you please to save that clause. We never wanted the property, nor tried to get it, nor claim it now, but to secure us in the right that we always enjoyed, and that is *the right of bringing actions against those of our own body who are endeavouring to get away our property.*" I am endeavouring to make it very plain. I say, out of 500 congregations, about seventeen formed the Presbytery of Antrim, and about seventeen have formed the Remonstrant Synod, and now preach the Unitarian doctrine. I want you to provide for both those cases; and there can be no difficulty about it if they have formed themselves into separate Synods. But don't do injustice by way of preventing them from doing that which they never attempted to do. I say this, you are introducing a Bill to do justice to a very small class of people. I say that if the Government undertakes to do that, the Legislature must provide against injustice to others. I am willing to put in whatever words they please to keep the Synod of Ulster in the rights they now possess, and to maintain the rights of the Presbytery of Antrim and the Remonstrant Synod, both small bodies. It is but just and right on the part of the Government, on a subject of so much importance as this Bill, that they should legislate without doing injustice to large existing bodies. All I am anxious for is, to introduce words to prevent injustice being inflicted. And I am sure they do not desire to take any advantage of those words. All they ask is, "Let us have our property. We do not want upon any technicality of law to get possession of Unitarian property." I say again, let us not quarrel about words. Let my honourable friend whose Bill it is, (it is a Government Bill,) prevent injustice to the Synod of Ulster. I appear on behalf of 700,000 persons. I do not know that that argument makes any difference; but, however, it is an observation, and I claim that you should legislate without doing them injustice. I say, you, the Legislature, have no right to give relief to the smaller body, unless it can be done without doing injustice to the larger. I do not believe there is any difficulty in point of form. I tell you what it ought to be, and when you tell me the way you will embody it, I will tell you whether I am content.

The ATTORNEY-GENERAL.—The committee will observe what

my right honourable friend proposes is, to except from the operation of the clause cases where particular religious doctrines appear in documents contemporaneous with the endowment, and preserved among the authentic records of a congregation, or any religious body or synod connected with that congregation. That is the proposition. Now when my right honourable friend stated his case, he made no exception whatever with regard to the congregations in Ulster. My right honourable friend has illustrated his proposal by raking up the records of the Synod of Ulster. If the amendment succeed, the Presbytery who have seceded for 120 years, the Presbyters of Antrim, will be deprived of their property. The amendment is inconsistent with the intentions of the Bill. Complaint has been made that the measure will deprive the Synod of Ulster of its property. *The Synod* were not the founders of the chapels which they occupied. They had no property in the chapels; and the committee is dealing with a question of property, not religion. The object of the amendment appears to be this—that the Synod of Ulster might if possible be enabled to preserve the faith which they profess in the several congregations and chapels which now form that body. The committee could not deal with that object as one of property, but only as one of faith. Considering the question as a question of property, the committee must observe that these chapels were purchased or founded either by individuals, or purchased by congregations, which is very common in this country. All that the right honourable and learned gentleman could by possibility prove by the documents to be found amongst the ancient records of the Synod of Ulster is, that at one period or other the body was connected with the Trinitarian faith, and that the different chapels conformed to the government of that body. But such records could not shew the intentions of the founders of the chapels. I will beg to draw the attention of the committee to this, that the Bill before them proceeds upon this principle, that although the original congregations no doubt professed some particular doctrines for themselves, yet they did not intend that their successors should be bound by their doctrines to all time. The committee are aware that there were two secessions from the Synod of Ulster. It was stated by my right honourable friend that the Synod had not taken, and did not intend to take, any steps against these bodies with a view to getting possession of their property; that is to say, with respect to those congregations who had become Unitarians no step is intended to be taken. Why should those who have become Unitarians be placed upon a different footing from those who have become or have remained Trinitarians? The fact is, that the Synod of Ulster think that if there exists any tendency in the Protestants of the North of Ireland towards Unitarianism, this provision, if introduced into the Bill, would tend to put a check to it. I can assure my right honourable and learned friend that if such a tendency exists, no Act of Parliament will or can stop it. Under these circumstances, therefore, I object to the introduction of the words suggested by my right honourable friend.

Mr. SHAW.—I will not trespass long upon the time of the committee, but I trust the committee will hear me whilst I make a few

observations in answer to the argument of my honourable friend the Attorney-General. And I must again, on behalf of the Synod of Ulster, submit that the treatment proposed by this present Bill to be adopted towards them is exceedingly hard. Their impression is that their property is in danger; and under those circumstances, and appearing in their behalf, I must, however unpleasant to myself, divide the committee upon the amendment.

Sir ROBERT PEEL.—I will only call the attention of the committee to one point, which appears to me of no small importance, as clearly demonstrating the necessity for the intervention of Government in the cases which have been brought under discussion. The point to which I allude is this—that the Remonstrant Synod and the Presbytery of Antrim, to which reference has been made by my right honourable friend who proposed the amendment, had seceded at two different periods from the Synod of Ulster. My right honourable and learned friend has made no mention of this in his first speech; and yet that right honourable gentleman now proposes an amendment which, should it be carried, will be the means of giving to the Synod of Ulster a most complete control over the property of the two Presbyterian bodies in question. The separation of one occurred upwards of a hundred years ago, from which period they have professed Arian doctrines, being contrary to the principles of the Synod; and the other separated *by consent* in 1829. My right honourable and learned friend, whose attention has been called to this circumstance, has stated that the Synod of Ulster never intended to interfere with those two bodies. That declaration will, I have no doubt, relieve them from *great apprehensions, for which I cannot help thinking they have very good grounds.* It was the very fact of a knowledge of these apprehensions on their part, which made the Government aware last year of the necessity for the interference of the Legislature, because, though the Synod of Ulster *now* disclaim all intention of interfering with these two seceding Synods, yet on the 1st of March, 1843, knowing the decisions on the Wolverhampton case and Lady Hewley's charity, the Synod of Ulster came to this resolution—"The committee declare, in their deliberate judgment, it is competent for all congregations or individuals so spoliated, to take the necessary legal steps for the recovery of all such property as can be *evidentially traced to Trinitarian origin.*"

And the third resolution is this—"Resolved, that copies of this resolution be transmitted to the Remonstrant Synod and the Presbytery of Antrim." These resolutions did certainly excite great apprehensions in the minds of these two communities, which will no doubt be greatly relieved by the declaration that they have just heard.

The committee then divided—

For the Amendment	43
Against it	161
Majority against	118

Mr. SHAW.—With regard to the period of twenty-five years, there was the case of adverse possession of property. No man could lie out of his property, and no man could be wrongfully in possession,

without being fully aware of it. In the case of the limitation of actions in this country in 1833, sixty years was the period of limitation in the case of advowsons. I think that is a case very analogous to the case of a minister of any particular congregation. I think twenty-five years would not be any check at all. I certainly think, looking to the motives of those who are bringing this Bill forward, that it would produce a great hardship. I certainly think sixty years a much more reasonable hint, and in the case of twenty-five years there would be no protection at all. I cannot refrain from saying, that this Bill, instead of putting an end to litigation, will encourage it. It would encourage litigation, because in the case of twenty-five years—in the case, for instance, of the Synod of Ulster, they would think it necessary to introduce inquiry in every parish as to the doctrine of every congregation. I am afraid I cannot expect a successful result, and I therefore think it would be unreasonable in me to give the House any further trouble upon the subject.

Mr. HARDY. — Sir, I will not intrude myself long upon the patience of the House, but I am anxious that this clause should be amended. It appears by the provisions of the clause as it originally stood, that the doctrines to be taught in those chapels were in some way or other to be ascertained by usage; but what are we to understand by usage? It could not be the usage of a congregation with respect to the doctrine. The usage must be on the part of the minister, the person who propounds the doctrines to be preached; he is the person on whom alone you can call. Observe what the effect of that clause would be—that in every case you make the minister create the usage. It has already been said, in another place, that the usage of the congregation is the preaching of the minister. The minister is to be called upon, therefore, to say what sort of doctrines have been preached by him for the last twenty-five years. It rests with him, then, to say whether he has been preaching Unitarian or Trinitarian doctrines, and the question being whether it be a Trinitarian or a Unitarian chapel, depends entirely upon the evidence of the minister. It is therefore in the power of the minister to *make* the evidence which he himself is afterwards to give, at the conclusion of twenty-five years, for the purpose of fixing the religion for which that chapel was erected. Under these circumstances, I contend that there ought to be a longer period of time, and some decisive evidence, some longer period than in the ordinary course of nature it was to be expected that any individual clergyman could be expected to live.

Colonel SIBTHORP.—I will not trespass upon the attention of the House more than a very few minutes. I have listened very attentively to the debate, and I have most carefully read the Bill, and having done so, I fully concur with my honourable friend who addressed the House last, that the period of twenty-five years is too short a time. I wish to say though, first of all, that I am opposed to the Bill altogether.

The amendment was then negatived without a division.

Lord JOCELYN.—Sir, if the Bill is brought in to redress existing evils, those evils would be redressed by the Bill without giving it the

latitude contended for. It will undoubtedly tend to get up opposition under the colour of Trinitarian and Unitarian doctrines. I have given notice of an amendment, but I do not intend to divide the House upon it. The amendment is this—that in this clause, instead of the words, "any suits relating to such meeting-house," be substituted the words, "the passing of this Act." I was anxious that this amendment should be passed, but, after the fate of the last two amendments, it appears to me that I should be unsuccessful, and therefore I will not press it to a division.

The SOLICITOR-GENERAL.—Such a limitation would be prospective, and until twenty-five years had elapsed there would be an opportunity open for litigation during the whole time: it would have that effect.

The amendment was negatived without a division.

Mr. S. O'BRIEN.—As the usage of congregations has been referred to, I should like to ask one of the law-officers of the Crown to explain the meaning of "the usage of congregations."

Lord JOHN MANNERS.—Sir, I must say that I support the view of my honourable friend, and I think it incumbent on the law-officers of the Crown to explain the meaning of the "usage of congregations."

The ATTORNEY-GENERAL.—With regard to the usages of congregations, it seems to me that the object of the clause is to ascertain whether a particular religious congregation followed a peculiar mode of worship for a given time; and the phrase to which my honourable friend alluded is intended for the purpose of establishing that fact, by the usage of the congregation for twenty-five years.

Mr. COLQUHOUN.—After the answer to the question of my honourable and learned friend, I am really anxious to ask the law-officers of the Crown what will be held to be the usage in the case of the Rev. Mr. Mottershead, of Cross-Street chapel, who at first professed strong Calvinistic principles, then became a Roman Catholic, then an Arian, and finally came back to his original faith? Now, I beg to ask the law-officers of the Crown what will be held to be the usage of the congregation in the case of Mr. Mottershead?

The SOLICITOR-GENERAL.—I beg to ask my honourable friend if the reverend gentleman was ever for twenty-five years of the same opinion?

Sir R. PEEL.—Some difficulty may arise in special cases with respect to the word "usage." I can only say that in deciding cases of this nature, the very highest authority made use of this phrase. In the case of the Attorney-General and Pearson, Lord Eldon lays it down, that when a trust is granted for the purpose of religious worship, the form of which cannot be discovered by law, as to what was the nature of the original endowment, it must be implied from *the usage of the congregation*. In ordinary cases, therefore, the opinion of Lord Eldon should determine it. If we are to suppose the peculiar case where a clergyman changes his opinion, an usage cannot be proved in such case: it could not be received.

Mr. HARDY.—I wish to draw the attention of the right honourable Baronet to this. The first part of the clause relates to deeds connected with the meeting-house; and if the doctrine appear, or if it do not appear rather, on the face of the deeds of trust connected with the meeting-house, then the usage of the congregation, or of the minister, (take it as you please,) for twenty-five years, shall decide what doctrine is to be taught, or what doctrine has been properly taught within the chapel. But, Sir, the case of trust-deeds and of chapels are very different. Look at the case of Lady Hewley; that was not with respect to the deed of the chapel. The chapel had been Unitarian for a long time, but she left certain property by deed. Now, I will suppose a case in which a chapel is left, but for the purpose of the Protestant religion; that is so general that it does not want any peculiar doctrine, but a doctrine generally. There is a case in which the twenty-five years' usage of the congregation would apply, and there it will be decided that that chapel, and the foundation on which it stood, must have its rights determined, not by the deed, because the deed was too general. I will suppose that in addition to the foundation of the chapel, as in the case of Lady Hewley, an individual gives a fund or an endowment to the minister of that chapel, and in the deed or will giving that endowment, the party making that endowment states, "I give this for the preaching the doctrine of the Trinity and of the Atonement in the said chapel"—that being the doctrine preached there at the time that his deed or will was made. In the course of twenty-five years afterwards, a dispute arises whether or not there had been a change of doctrine. The minister is called upon to prove that for twenty-five years he has preached Unitarian doctrines. That will satisfy you with respect to the foundation of the chapel. But what becomes of the deed of endowment, of the hundred or two hundred a-year given to that minister for preaching the doctrine of the Atonement or the doctrine of the Trinity? That money is given by deed or will as express as it could possibly be expressed, but what is the effect of this clause upon them? This clause says, that any fund for the benefit of such congregation, or of the minister or other officer of such congregation, or for the widow of any such minister, shall not be called in question on account of doctrines, opinions or modes of worship. Therefore, supposing that the party who claims that property produces a will and says, "By this Will, A. B., who endowed this chapel, requires the doctrines to be that of the Trinity or of the Atonement—you have not been preaching that doctrine, but the contrary,"—why, the answer is this: "It is true, we have been preaching the contrary of that doctrine; but this clause says, that all funds given for the benefit of the minister, or of the chapel, should be construed according to the doctrines that have been preached in the chapel, however positive the deed may appear." Now, I do put it seriously to my honourable and learned friend, whether it would not be a very great hardship indeed, that a party of private individuals should give two or three hundred a-year, or £50 or £60 a-year, to the minister of a chapel for the preaching of a particular doctrine, that that minister should for twenty-five years afterwards not preach that doctrine, and determine therefore that, as far as relates to that chapel, the endowment in

question should belong to that doctrine, the preaching of which for the last twenty-five years could not be supported by the deed constituting the endowment in which the doctrine is pointed out, and which doctrine cannot be enforced because this clause steps in and says, the whole must be according to *usage*. Therefore, there is a manifest injustice; and I think that no proper provision can be made with respect to those endowments, unless you use the same language with respect to those endowments which are totally distinct from the foundation of the chapel, as is used in a former part of the clause with respect to the chapel itself. Therefore, I propose to alter the latter part of the clause, and that it should remain in this way—"And any fund for the benefit of such congregation, or minister, or widow of such minister, shall nevertheless be applied for such purposes, and for promoting such doctrines as are expressed in the deed or instrument by which such fund is given." I wish my honourable and learned friend will tell the committee whether what I have pointed out would not be the effect of this clause on a separate deed granting an endowment, and whether an endowment which is as clear and express in its intention as words can convey, would not thus become subject to usage?*

The SOLICITOR-GENERAL.—I do not understand what the honourable gentleman proposes by these words. How could an endowment for the benefit of a widow be applied to the advancement of any particular religious doctrine? Will my learned friend explain what he means?

Mr. CARDWELL.—Sir, I am desirous to offer one suggestion. I sympathize with the meaning of the clause, and clearly desire to carry out what I believe to be the principle of the clause. In the 25th line, these words occur—"shall be taken as conclusive evidence of *the* religious doctrines," &c. Now it has occurred to me, (perhaps it may be considered that lawyers sometimes are peculiarly sensitive,) the object of this clause is to prevent the possibility of suits; and it appears to me that the definite article may decide that those should be the only doctrines that could ever after be taught in such meeting-house. I wish to avoid the possibility of such a meaning being attached to this clause; and I suggest that it should be as conclusive evidence that such doctrines as have for such a period been taught or observed, may be lawfully taught and observed.†

Mr. PLUMPTRE.—I consider that this clause is a violation of a most sacred trust, and I object to the clause and the Bill altogether.

Mr. J. S. WORTLEY.—I have no wish to vote against this clause. My wish is to effect what is the main object of this clause, namely, to give security to those who hold a chapel, such as are described to be the greater number within this kingdom. But in the course of the few observations I took the liberty to make at an earlier part of this evening, I alluded to a point upon which I must say I still entertain

* The proviso at the end of the second clause was inserted to meet this objection.

† The clause was afterwards amended, to meet this and other observations to the same effect made by Lord Sandon and Mr. J. Stuart Wortley.

some little difficulty. I have abstained from making any further allusion to it in the course of the discussion, because that discussion has turned mainly upon the Irish Presbyterians. Before this clause is finally disposed of, I should be very much obliged to my honourable and learned friend the Attorney-General—if it is not giving him too much trouble—if he would just state precisely the way in which this clause bears upon cases such as Lady Hewley's. I have already taken the liberty of reading to the House the language of Lord Lyndhurst in passing judgment in that case. He stigmatizes the management of Lady Hewley's trust as one in which there has not been a general misappropriation of funds, but one in which that misappropriation has been extremely culpable; and it does appear to me that, while we are undertaking to give protection to parties who are in possession of trust property, we should bear in mind what the first Judge in this country has said in that case—that they had misapplied, intentionally and culpably, the funds of the charity which they were appointed to manage.

The ATTORNEY-GENERAL.—With regard to the question put by my honourable friend—in the first place, it bears no application whatever to the case, and I can explain why it does not. The case of Lady Hewley was this: she left by her will certain monies and certain property to trustees. Those trustees were to apply the proceeds of that property among Dissenting congregations—I am not using the actual words, but amongst Dissenters. The trustees had, in fact, a discretionary power in one sense—that is to say, they applied the funds amongst Dissenting congregations. They had, to a certain extent, a discretion as to the amount that they would apply for those congregations. In lapse of time the majority became Unitarians, and they applied portions of these funds to Unitarian endowments; and the Lord Chancellor, I think, thought that the Unitarians applied a much greater portion for the benefit of Unitarians than they ought to have done—the Lord Chancellor expressly said that they had misapplied the funds. Now, with regard to the second clause of the Bill, it does not apply to any case of that sort; it does not apply to congregations, but simply to the case of Dissenting meeting-houses, and not where trustees can in any way interfere by way of discretional gift: it applies only to Dissenting meeting-houses—it does not apply to other cases—simply to meeting-houses and congregations.

Strangers were ordered to withdraw.

The House then divided—

For the Clause.....	188
For the Amendment	62
Majority for the Clause	126

CHAIRMAN.—Clause 3.—*(Reads it.)*

Lord ASHLEY.—I believe there is some difficulty in point of form on the wording of the third clause, and I should be glad to know if I could not propose an entirely new clause, in pursuance of the notice I have given?

CHAIRMAN.—It will be necessary first to negative Clause 3, and then you can propose one.

Lord ASHLEY.—Under those circumstances I do not wish to put the House to the trouble of a division. The delay would make it almost impossible for me to bring up the clause to-night. I am sorry I am unable to bring up the clause, because I assure the House I am very anxious to do it. I desire no more than to place the Bill in the same state that it was when read a third time in the House of Lords. After it had passed through committee, and been read a third time, every one knows what occurred,—that very considerable alterations were made in the clause. In the clause as it stood originally, all pending cases were reserved; whereas the clause came down to this honourable House as it now stands, and, with no explanation given, we find that no exception is made in favour of suits pending. My object is, if possible, to restore the clause in the very same words and position in which it originally stood when it was read a third time in the House of Lords. My only object is to except pending suits from the operation of the clause. The Lord Chancellor of Ireland has given his decision—indeed I may say he has given his judgment. I will not detain the House by reading the language of the Lord Chancellor to them, but he stated most distinctly that the foundation of Eustace Street was a Trinitarian foundation, and that being the case, that the Attorney-General was entitled to a decree. I have to propose a clause, because we have been charged with a desire to lay violent hands upon all the additions made by Unitarians. Now as to those two cases of the Eustace-Street and Strand-Street chapels, let us make a distinction between the property given by Trinitarians, and those for Unitarian purposes; and I have therefore added to that clause certain provisoes enabling the Court to sever Unitarian from the Trinitarian property, and to apportion it to each party. That was the object I had in view; but as I understand there is such a difficulty in point of order, that it will be necessary first to divide the House upon the clause as it stands, and after all I should be unable to bring up the clause I propose to-night, I will not put the House to the necessity of dividing, having stated to the honourable committee the object I had in view; and I will only again express my deep regret that I am unable to bring up the clause this evening, and I shall not put the House to the trouble of dividing. I must withdraw my motion.

Mr. SHAW.—I am sorry that I did not hear my friend on the last occasion, and I do not intend myself to occupy much time. I would merely make one observation, that I believe it introduces a new state of things. I do think the whole of this Bill offers great facilities, and evinces a strong partiality for one party over another. It has always hitherto been held that pending suits should not be interfered with. I would mention a strong instance of that in the very case mentioned by my noble friend in the Court of Chancery in Ireland. It so happened that £2000 was reserved from a fund which had been decided in an antecedent case to belong to a particular body; by consent of the professional gentleman acting for that body, the sum of £2000, which virtually formed a part of a larger sum awarded in a

former suit, was allowed by his consent, as a matter of feeling, to stand over until one of these suits should be decided. Now that would belong to the party declared entitled to it; and further than that, I understand from parties now conducting this suit, that they will not get any thing like the costs, and they have had to go to extra expenses, and that they will be actually losers out of pocket. I think that is an unjust and unfair principle, and I think is one that is quite unprecedented.

The SOLICITOR-GENERAL.—Sir, I did not mean to say a single word about the clause respecting which my noble and honourable friend gave notice of motion; but after the observations which have been made, I think it is necessary that I should explain to the committee how it is that the clause was altered as it now stands, in the House of Lords. The day after the Bill was introduced, two petitions were presented, one from the North of Ireland, praying that Ireland might be included in it, and the other from the Strand-Street and Eustace-Street chapels. These petitions were referred to a select committee, of which Lord Cottenham was the chairman. The committee reported that what was the law in England ought to be the law for Ireland, and accordingly a clause was introduced by the Lord Chancellor merely providing that the law should extend to Ireland, but making no provision for these chapels; upon which Lord Cottenham stated the intention of the committee was, that these cases should be introduced into the Bill, and Lord Cottenham accordingly moved its introduction, and it now comes to this honourable House under these circumstances. Now, one word in order that it may not be supposed there was any injustice in introducing the clause, and making the Bill equally applicable to existing suits.

Now I will take the case of the Strand-Street chapel. With regard to that chapel, the congregation of Strand Street were originally established in Wood Street in Dublin; when their lease expired they took a new lease upon a piece of ground in Strand Street, and they built their chapel there; and from the year 1762 down to the time when the suit was instituted, they enjoyed that chapel without any condition, being Unitarians from the time when the establishment began in that year 1762. One of the pastors of that congregation had been the pastor for thirty-three years: they had remained unmolested during the whole time I have mentioned; but unfortunately Lady Hewley's case, (which although it has no reference whatever to the circumstances which are embraced by this Bill, yet gave hints to parties of what they might do,) Lady Hewley's case suggested to parties who had *no* manner of interest in the congregation, and who were *not connected with it in the slightest degree*, who were parties, most of them, residing at a considerable distance,—to institute suits; not suits like those in which parties may be interested, not suits *by a Bill*, but *as relators through the Attorney-General;* the parties themselves not having the slightest interest in the matter. Well now, is it right,—I put it to the committee,—is it just, that parties under these circumstances should be disturbed by persons not forming any part of a congregation, complaining that they have departed from the original foundation, and have violated some trust? If they have, let

the congregation institute their suit. Let them proceed *by Bill*; but do not let strangers interfere in that way; don't let them, after a length of possession of that kind, say, "We will disturb you in your quiet possession, and wrest from you that property that you have enjoyed during the whole of this long time you have been endowing from time to time your establishments" (I believe to the extent of £15,000). And what did the Lord Chancellor say? He said a question might arise in a suit which was instituted, as to whether £2000 of the funds which clearly belong to the Strand-Street congregation might not belong to another establishment, of which its ministers were trustees,—upon which that question was reserved. But there can be no doubt at all that the funds belonged to the Strand-Street chapel; and the question is this, Is it a matter of justice or not that you should quiet the parties in their possession? If you were taking away any interest in the suit, that is a different question; but where the parties are mere strangers, and who can have nothing if they bring their suits to a successful termination but the costs of it, surely it is no injustice to say to them, "You shall not vex and harass these parties; you shall not go on with the suits to the utter ruin and destruction of the funds of the establishment;—but, at the same time that we prevent you from doing that injustice to the congregations, we will do you complete justice: we will give you all you could possibly obtain; we will give you the entire costs of that suit to which you would have been entitled if brought to a successful termination." I need not trouble the committee, but I really was particularly anxious that the committee should understand this is a measure of complete justice to the different congregations which are assailed: it works no injustice at all to those parties, who, I must say, ought never to have instituted the suits, and who really will obtain all they could have obtained if they had brought those suits to a successful termination.

Mr. SHAW.—One word:—I am not personally well acquainted with the fact, but I believe the suits were not commenced by strangers. I know one gentleman who was the principal promoter of these suits, and who had advanced a sum of money himself, with the view of providing for a son of his own; and they were commenced on behalf of the Synod of Munster, the majority of whom were Trinitarians; and they proposed, and I believe would have carried it out, that whatever was the property belonging to Unitarians it should go to them, and what part belonged to Trinitarians should belong to them.

The SOLICITOR-GENERAL.—Will my friend tell the committee, if this gentleman had an interest, why did not he proceed *by Bill*, if he was interested by suit? If my friend will explain that, it will be satisfactory.

Mr. SHAW.—I cannot explain that: I know nothing of that. I can only say this, that I know nothing of the proceedings or their origin. I know the name of the gentleman who promoted the suit, Mr. Matthews, and he was no stranger—he had a pecuniary interest in it,—he was no stranger, and he did it on behalf of the Synod of Munster, with the particular object of providing for his son.

Mr. GROGAN put a short question to the House, of which, from the noise and confusion existing, the import could not be caught.

The SOLICITOR-GENERAL.—Will the honourable gentleman inform me whether it is *an information*, or if it is a *suit instituted by the congregation*. The honourable gentleman is not aware of the difference. Where a party is interested, and where he complains of a breach of trust, he files *a Bill;* but where a party has no interest, he becomes *a Relator, and proceeds in the name of the Attorney-General.* That is the distinction. I believe in the case the honourable gentleman alludes to, there is a suit by Bill; and if so, this Bill will not in the slightest degree interfere with it.

Lord ASHLEY.—May I be allowed to say a word, for I do not intend to go into this matter at any length. But as my learned friend has replied to some of my observations, I may be allowed to make a remark to the House upon this fact, that he has not touched upon the Eustace-Street chapel—he has not touched upon that. It was heard before the Lord Chancellor of Ireland, and he gave his judgment upon it, but he reserved his decree; and he reserved his decree, not that he had any doubts, but that he might arrange the terms of it; and his judgment was in these words: "I must consider the chapel to have belonged to a Trinitarian congregation, and to have been solely dedicated to the use of such a congregation." His Lordship reserved his decree. Meanwhile this Bill was brought into the House of Lords, and the Lord Chancellor said he should not proceed to the terms of a decree; and this Bill will now stand between the Lord Chancellor's judgment and the decree. That is the ground upon which I wish to call it to the attention of the House.

The SOLICITOR-GENERAL.—I did not mention that case, because I did not wish to trespass at length; for my friend the Recorder for Dublin had only adverted to the Strand-Street case. Now the Eustace-Street case is *stronger*, because the Lord Chancellor states that he has evidence before him that for seventy-seven years Unitarian doctrines had been preached there. Now my noble friend says the Lord Chancellor has suspended his decree, and he seems to complain of that as being an injustice to some parties. My friend behind says, "No." I am glad to hear that, because it appears to me that nothing can more strongly indicate the sense which the Lord Chancellor entertained of the injustice of that proceeding; and I should like to know who is injured by it. Again I press upon the attention of the committee that fact, that there is no person among the congregations who has made a complaint as to these chapels. They are mere relators, parties living at a distance, and parties, as it is suggested, who can have no other object than what they obtain by this Bill. They could only obtain costs—we give them their costs. We do complete justice to them now: and what reason is there to complain of this clause by these parties? I really am sorry that I have trespassed so often upon the time of the committee, and I would not have ventured in this instance, if I had not been told that I had not referred to the Eustace-Street chapel case. But, according to my view, that case is stronger than the other; and I do think that

the two cases together will furnish as strong a case as possible for the interference of the House.

Mr. GODSON.—My honourable and learned friend the Recorder for Dublin has stated that this clause is without precedent. Now many actions have been brought, and have formed precedents for this Act of Parliament, and I think these statements ought not to go to the public uncontradicted. I am anxious to have this stated, because it affects two chapels in the borough that I have the honour to represent, which were built in 1672 and 1778, both of which were built with the monies of their own congregation, and which are their property, and they conceive they may be affected; all I want is justice done to the congregations.

The CHAIRMAN then put Clause 3.—Agreed to.

Also Preamble.—Carried.

Report ordered to be received on Monday next.

REPORT OF COMMITTEE, HOUSE OF COMMONS, JUNE 24, 1844.

The Report of the Dissenters' Chapels Bill was brought up.

The SOLICITOR-GENERAL stated that he had several amendments to propose in the second clause, some of which were merely verbal, and to which he thought there would be no objection. First, he had to propose, that after the words "declaring the trusts of," instead of the words "any such meeting-house," should be substituted "any meeting-house for the worship of God by persons dissenting." This had been thought necessary by some, who feared that the words, as they at present stood, might limit the operation to such cases only in which the chapels, &c. were illegal in their formation; and although he himself thought it not open to this construction, still he thought it advisable that the matter should be placed beyond all doubt.

The second amendment was in accordance with the suggestion of the honourable Member for Clitheroe, made upon Friday during the discussion in committee; it consisted in the substitution of "such religious doctrines, &c. as have for such period been taught or observed in such meeting-house," for "*the* religious doctrines," &c.; and its object was the more ample recognition of the power of such Dissenting congregations as had no tests or creeds, to change their opinions, as they saw fit, in the lapse of time.

The third amendment was introduced to meet the views of the honourable Member for Bradford, and provided for cases in which there should be express trusts as to endowments of chapels with open deeds.

The amendments were severally agreed to, and made accordingly.

Lord SANDON expressed the great pleasure he felt in the introduction of the second amendment; it completely met the views he had thrown out on the Second Reading. He would deem it a very great hardship indeed if usage or any other thing should be taken as

imposing a test, where there was no test of any kind originally imposed, or that opinions should thus be *crystallized* at any one particular period of thought.

Mr. PLUMPTRE wished to know at what time the Third Reading was to take place, as it was his intention to take the sense of the House upon that stage of the Bill.

Sir JAMES GRAHAM stated that the time should be fixed in the afternoon.

DEBATE IN THE HOUSE OF COMMONS ON THE THIRD READING, JUNE 28, 1844.

Mr. COLQUHOUN.—Sir, I am anxious to consult the convenience of the House, by compressing into a few sentences the reasons why I object to the passing of this Bill. There is one very remarkable circumstance attending it, which is, that whilst undoubtedly all the weight of authority in this and in the other House of Parliament is in favour of the Bill, the feeling existing out of doors with respect to it is quite as strong as ever the other way, and is growing stronger every day. Not only is the great dissenting body opposed to this Bill, but a large proportion of the members of the Church of England also are decidedly hostile to it, and they all concur in opinion that it is a measure calculated to do great injustice. If my right honourable friend had done what was originally proposed—if he had issued a commission to investigate the condition and foundations of many of these chapels, I am quite satisfied that no objection would have been offered on the part of the great body of Dissenters to such a course; but the opposition which they make to the present Bill is founded upon this, that it goes greatly beyond the alleged grievance. We admit perfectly that the state and condition of many of these chapels call for legislation. We admit that where an Unitarian has rebuilt a chapel originally belonging to Trinitarians, or where there have been endowments attached to such chapels for the benefit of Unitarians, although it might be consistent with strict law, it would not be consistent with equity, to deprive the Unitarians of that possession. But what we contend for is, that the remedy for such an evil might be found in a commission, which would have had power to investigate each case, of specifying what were the evils requiring a remedy, and of applying a remedy to those cases. We contend that the Bill in its general scope, as it now stands, is in the majority of cases to which it applies wholly unnecessary, and that it leads to great practical injustice. That is the position which we take.

Now, Sir, as to the Bill being unnecessary, my honourable and learned friend the Attorney-General stated at the commencement of this discussion, that there might be three hundred law-suits instituted to recover three hundred Unitarian chapels. My answer to that is, (and I think it is a most valid answer,) that the thing is impossible, because no man in his senses would institute a law-suit which could lead to no possible advantage. In the first place, in the case of a great majority of these chapels which are now Unitarian, though they were

originally Trinitarian, it is evident that the expenses of the law-suit would be infinitely greater than the value of the chapel. I dismiss therefore all these cases at once. I say that in the great majority of cases these chapels would be protected, not by law or by any positive prescription, but by common sense and the common interests of mankind, which would prevent them from embarking in law-suits from which they could reap no advantage.

Now, Sir, a very remarkable conversation took place in the committee on this Bill, between my honourable friend the Member for the West Riding of Yorkshire and the Attorney-General. My honourable friend the Member for the West Riding of Yorkshire said to the honourable and learned gentleman, "Does your Bill affect the case of the Hewley charity?" that charity being the endowment of a considerable property for the maintenance of certain religious teachers? The answer which my honourable and learned friend gave—and a most valid answer—was, that that case is not within the scope of the Bill. The Bill does not touch Lady Hewley's charity. My honourable and learned friend says it would have been unjust to have applied the Bill to such a case as that, for I find in the judgment of the Lord Chancellor (a portion of which he read) an allegation that the property has been diverted from its original uses, and diverted by fraud, and I never would sanction (was his argument) the application of the Bill to such a case as Lady Hewley's charity. Now then let the House take an actual case. Lady Hewley founded this charity for the maintenance of religious teachers; but Lady Hewley also built a chapel which is now in the hands of Unitarians. She appointed her own chaplain to be the minister of that chapel. Whatever evidence you have as to the purpose which Lady Hewley had in view in giving her property for the maintenance of religious teachers, the same evidence you have precisely as to her intentions in founding a chapel for the purpose of religious worship; and I ask how it can be consistent with reason or with justice, that you should say in the one case that Lady Hewley's trust shall be preserved for the purposes for which she intended it, and in the other case that Lady Hewley's trust shall not be preserved for the purposes for which she intended it? In the one case, if this Bill passes, you exclude any evidence except a deed, a will or strict legal evidence. If that evidence had been required in two cases decided by the courts of Ireland, those cases could not have been decided in the manner in which they were decided by the highest courts of justice there. Why then do you exclude from the case of Lady Hewley's charity, that class of evidence which you admit to be binding in another case? Why do you say, in the case of Lady Hewley's charities, that the same rule which is applied to one of them is not to be applied to the other?

Now, Sir, I beg to put another case, which I think will illustrate strongly the injustice of the present Bill. In a parish near Halifax there was a chapel founded about the middle of the last century by Trinitarians. About the year 1813, the majority forming the congregation became Independents, and wished to change the form of worship. The minority however said, This is inconsistent with the original foundation of our chapel, and we call upon you to continue the form of worship according to the terms of the Church of England. The

majority on that occasion acted the part of honest men, and left the chapel in the hands of the minority, following, perhaps, not the legal instrument in words, but the evident intention of the founder, and leaving that chapel in the hands to which the original founder destined it. Contrast that case with a case which occurred at Wolverhampton,—a case which comes under the scope of this Bill. A chapel there was founded about the same time as the chapel to which I have adverted, and at the time of its foundation it was destined to Trinitarian purposes. In 1781, a majority of the congregation was in favour of Trinitarian doctrines, but the trustees possessed a deed excluding the majority from the chapel, and excluding the Trinitarian and Calvinistic minister, who was appointed by the majority. The majority of the congregation were unhappily poor, and the minister was poor also. They were unable to plead their rights before a court of law, and in that case these parties were excluded from their chapel, contrary to law and contrary to equity; not by fraud, but by force.

Now, Sir, respecting the case of the Presbyterians of Ireland, that case was quoted by my honourable and learned friend, as an instance of the advantage to be derived from the present Bill. I know no case which shews more plainly how useless for all those purposes for which the Bill is devised, the present Bill is, how important it is that no such Bill, should pass, and how certain it is that if you pass it you will do a much greater amount of wrong than can be done as the law stands at present. My honourable and learned friend says the Synod of Ulster is not affected by this Bill; but the Presbytery of Antrim is. Certain parties seceded from the Synod of Ulster in the year 1829, and, says my honourable and learned friend, "would you interfere with these parties?" There are five hundred Presbyterian chapels in Ireland—there is not one of those chapels which is safe under the operation of this Bill; there is not one of those chapels with respect to which a law-suit may not be instituted: and therefore by passing this Bill you will be providing for the industrious lawyer that food for litigation which it is the professed object of this Bill to prevent. The right honourable the President of the Board of Trade has used a very ingenious argument to shew how Trinitarian opinions may become Unitarian. If that argument is correct, is it not plain that you will have active attorneys watching for, and trying to shew, a departure from the doctrines originally taught, and bringing cases before the courts, alleging that a minister has been for many years past preaching doctrines inconsistent with those recognized by the Synod of Ulster, and inconsistent also with the original intentions of the founder? My honourable and learned friend the Solicitor-General took hold very ingeniously of the case I quoted as to Cross-Street chapel, Manchester, and said with regard to that case, "how can you prove that the minister of that chapel ever held for twenty-five years the same class of opinions?" But in that case the minister was the incumbent of the chapel for fifty years. If, however, he was a person whose opinions it was so very difficult to ascertain, if they were alleged by some to be Trinitarian and by others to be Unitarian opinions, is it possible to conceive any state of circumstances which would be more likely to give rise to litigation, or that any Bill could be framed to encourage it more, than one which lets in a question at the end of twenty-five

years, as to the doctrines which may have been preached in various Dissenting chapels? Now I must say that the great Dissenting body have no wish to make their chapels the sources of such painful litigation as that to which this Bill will give rise.

But, Sir, I would beg the House to consider what will be the effect of this measure upon the intentions of the original founder. I will just mention to the House the case of a gentleman who many years ago, in Scotland, endowed a great number of chapels, and laid out for that purpose no less a sum than £30,000. He did this in early life. His intention was to go into India, and spend the greater part of his life there. Now, just consider the bearing of this Bill in such a case as that. Suppose he had laid out that £30,000 in the endowment of chapels destined for Trinitarian purposes—if this Bill had been in operation, and he had returned from India, at the end of twenty-five or thirty years, and found all those chapels perverted from the destination to which he originally assigned them, it would have been impossible for him to restore them to that state in which he originally intended they should be and continue, for he would be concluded by this prescription of twenty-five years. Now I have always held it to be a most wise and useful principle of our law, that whilst private property is guarded by private interests, and whilst those private interests do not induce a person, during the period for which prescription runs, to bring forward his claims, and to plead them before a court of law, that party, whoever he might be, if he was present in this country, and of full years, and sane, is concluded by prescription, and is excluded from asserting his right. But look at the case of trust property. In the case of trust property, the Legislature has, I think very wisely, made a difference in the law. Trust property is set apart by the beneficence of individuals for purposes of charity, either for the relief of the body or for the instruction of the mind. A person in order to accomplish that object, must give his property to trustees. Those trustees may deviate from the intentions of the founder, and may divert that property from its original purpose; therefore, Sir, the law has wisely defined that no time shall run against a trust—that no interference whatever shall take place with that trust, and that, at whatever time the party may come forward for a restoration of the property to its original purposes, it shall be applied to those original purposes under the sanction of the law. Now the first step ever taken by the Legislature in this country to overturn that principle is taken by the present Bill, the effect of which is to break in upon, and overthrow, that wholesome system on which the law has rested with regard to trust property; and to find that such is the case must inevitably strike terror into the mind of any donor of property in future. I say, Sir, that the great majority of the cases to which this Bill applies ought to have been left to the protection which the existing law affords, and that with respect to cases in which a real and tangible grievance exists, those cases might have been dealt with by a commission, which might have applied a practical remedy to a proved evil. It is because this Bill goes beyond that, by introducing the most dangerous precedent with regard to trust property, and because it does violence to the rights and the intentions of donors, that I cannot be satisfied without taking the sense of the House as to

the propriety of its passing into a law, and without feeling it my duty to move that it be read this day six months.

Sir R. H. INGLIS.—Sir, I rise to second the amendment proposed by my honourable friend. I confess that my feelings with regard to this Bill have not been at all changed by the eloquent speeches which were made in favour of it on the Second Reading; and having been absent when the Bill was in committee, I am anxious for the indulgence of the House while I state the ground upon which I support this motion, which is similar to that which I had the honour of submitting to the House on the former occasion, and which has now been brought forward again so elaborately and so conclusively by my honourable friend who has just sat down.

The Bill, Sir, has been altered in committee,—on re-commitment,—and on bringing up the Report; but I believe that its essential character remains unaltered, and that its advocates can take no credit to themselves for having conceded to us any one principle. The Bill contains but three clauses, and every one of those clauses is practically unaltered. The first clause, notwithstanding some verbal alterations, legalizes every foundation which, at the date of the foundation, was illegal. To that, I have already said, I do not object, and I should not, perhaps, have felt it necessary to have troubled the House for a single minute on the subject. The second clause of the Bill is in every respect unaltered, so far as the principle of it is concerned. The second clause still requires nothing more than that a party should have been in possession of the property, whether in accordance with, or contrary to, the intentions of the founder, for twenty-five years, to give him a good title to hold it. The third clause has not been in the least degree improved. It is still at variance with every principle of justice and equity, and altogether disregards the intentions of the founders.

Sir, those who know the state of public opinion out of this House, will be the first to admit that, whatever may be the merits of the case, and however this measure may be regarded within these walls, it is regarded with pain, apprehension, and I might almost say with abhorrence, by the great religious body of this country. On the former occasion I did not treat this as a religious question, nor am I willing even now so to regard it. I feel that the objections made to this Bill would have been quite as strong, even if there had been no peculiar tenets which this Bill is supposed to favour, and to which I am utterly, deeply, and conscientiously opposed. I regarded it when I first discussed it in this House, and I am content to regard it now, as a mere question of law and of property. In one of the several able pamphlets which the introduction of this Bill has called forth—I allude to the pamphlet published by Mr. Evans, of Bristol—the whole subject has been so exhausted, that, perhaps, even now, no better address could be made to the House than to draw from that source nearly all one's facts and nearly all one's arguments. But having already stated the general views I entertain, and having listened to the very elaborate and excellent speech of my honourable friend the Member for Newcastle, I feel that, having received the indulgence of the House while I have stated thus briefly my own

opinion, I should only abuse that indulgence if I trespassed further upon them. I will content myself, therefore, with simply seconding the motion, that this Bill be read this day six months.

Lord ELIOT.—Sir, I will trespass on the attention of the House for a very few moments only; but having taken some part in the discussion in Ireland which preceded the introduction of this Bill, I think I ought not to allow this question to be disposed of without offering to the House a very few observations. I can assure my honourable friend that when this matter was first brought to my notice, about eighteen months ago, by the Remonstrant Synod and Presbytery of Antrim, I had no bias in their favour, and I had no sympathies certainly with those professing Unitarian doctrines. I had various communications both with the non-subscribing Presbyterians, and also with the deputation from the Synod of Ulster, and I may venture to observe in passing, that that deputation was headed by a gentleman for whose talents and character I entertain a high respect. I was most anxious to effect, if possible, an amicable arrangement; and it will be acknowledged that I used my best endeavours to attain that object. Unfortunately, those endeavours altogether failed, and I am bound to say, that, with the most calm and attentive consideration that I could give to the subject, it was my impression that legislation was absolutely necessary to remedy a grievous wrong.

Now, Sir, I do not so much rely upon the fact that the original founders of the establishments—the non-subscribing Presbyterians of Ireland—had recognized non-subscription as their principle, and that therefore it was to be presumed they would not seek to bind their successors by rules which they themselves disregarded; but I did feel that an attempt was being made to revive an obsolete law which it had never been attempted to enforce in Ireland. It is clear that had it not been for the previous state of the law on the passing of the Act in Ireland, and the repeal of that Act in 1817, it would have been impossible for the Synod of Ulster to have established their case. Now, Sir, I endeavoured to ascertain what had taken place at the time of the discussion of the repeal, so far as regarded the Presbyterians, and I found that there was a great and general assent to it in both Houses of Parliament. The only trace that I can find of a discussion is a few words spoken by two distinguished prelates of the Church, the Archbishop of Canterbury and the Bishop of Chester, who say they ought not to inflict penalties to impede the worship of Unitarians, to whom full liberty of conscience was extended as amply as to other Dissenters. Such were the views of those distinguished prelates. Had they been aware that that Act was in force, and that it might be brought into operation against Unitarians, they would not have said, as they did say, that the Act was not one that required to be repealed. But, Sir, further than this, I rely upon the fact that the Unitarians themselves have, in a great majority of instances, rebuilt the meeting-houses of which they are in possession, and have raised funds for charitable purposes attached to the chapels; besides which it is clear that if the funds are taken away from those now in possession of them, it is impossible to say to whom those funds shall go. The effect therefore of leaving the law as it stands at present,

would be to lead to long and expensive litigation. For these reasons I have no hesitation in recommending this Bill as strongly as I can for the adoption of the House. I trust my honourable friend behind me will not suppose that I do not give him credit for all that he is entitled to, when I say that most of his arguments have been answered by anticipation by many of my honourable friends, particularly by my honourable and learned friend the Attorney-General. My honourable friend who first addressed the House to-night, alluded to the case of a gentleman who went to India, having endowed some chapels previously. All we require is, that the intentions of the founders should be specified in the trust-deed. This Bill does not interfere with trusts *declared* by deed or will, therefore I do think that no injustice whatever is done. My honourable friend said that by this Bill that which was a wrong would become a right. I do for my own part believe that it was the intention of many of these founders to leave the congregations of the chapels unrestricted, and although in many instances the religious views of different congregations have changed in the lapse of time, those congregations have unanimously adopted certain opinions, and I think it is a little too much to look back, and by indirect evidence to endeavour to ascertain what was the intention of the founder, he himself having refused to be bound by subscription.

For these reasons, Sir, without wishing to occupy the time of the House any further, I conceive that this Bill is one which ought to pass, being grounded, as I believe it to be, on principles of strict justice.

Sir THOMAS WILDE.—Sir, I am happy to have an opportunity of occupying the House for a very short time upon the subject of this Bill. Sir, this Bill has had a considerable portion of my attention. Originally, there is no doubt, I entertained an impression adverse to the Bill, in consequence of my attention having been drawn to it, first by a communication which I received from some of my most respected constituents, and secondly from my having had a deputation wait upon me, composed of most respectable gentlemen, some of them the representatives of Wesleyan Methodists, and others of various other bodies, and I believe among the number there came some gentlemen from Ireland. My impression at that time was certainly upon the whole adverse to the Bill, but I differed from the gentlemen who waited upon me upon several points connected with it. I felt it my duty, in consequence of this application being made to me by my constituents, and in consequence of the deputation having waited upon me, to look diligently into the Bill. I conversed with many persons upon it, and found that very strong opinions were entertained in favour of the Bill by persons whose judgment I was bound to respect, and in the result, Sir, I am satisfied that this Bill is a Bill to *prevent the confiscation of property*, and that it is a Bill to *prevent the defeat of the intentions of the founders.*

Sir, much misapprehension seems to prevail upon the subject of this Bill. In the first place, all that the honourable gentleman on the opposite side of the House has stated respecting the law upon the subject of trusts, is, I may say with great respect to him, totally misap-

plied to this case. This is no question whether a trustee shall obstruct property, convert it to his own purposes, and so defeat the trust. It is a question, *for whom* certain persons are trustees. The title of a trustee remains perfect and entire. There is no dispute on the part of the trustee whether he is bound to apply this property to the purposes for which it was destined. The trustee has only to inquire here for what class of persons he is a trustee. Should he be of opinion that he is not a rightful trustee of that class of persons on whose behalf he has for some time past administered the funds, he has no power now to convert those funds and to apply them to any other purpose. No trustee could be advised so to do; he would act on his own peril, and would have to stand the test of a Chancery suit,—a Chancery suit which, in the case that has been tried, has been said to have cost, I think, £30,000. I believe that there is a great mistake as to the amount, but I certainly do believe that the amount has exceeded £10,000. The question, therefore, whether trust property shall be abstracted from the purposes of the trust, does not arise, nor is it in any respect touched by this Bill. It was trust property. It has been treated as trust property, and it will remain trust property.

Sir, in every other branch of the law it has been the object of the law that possession should strengthen a title. It is not the object of the law by prescription to take property from the rightful owner, and to give a firm title to a person who has obtained it by wrong. The object of the law is to give the estate and to give the property to those to whom it properly belongs, but inasmuch as the persons who are in possession may be defeated by others lying by, and then attacking them at a distance of time when their evidence may be imperfect, the law, for the purpose of securing the rightful owner, and not for the purpose of defeating his title, requires that the legal remedy shall be pursued within a certain time; and in truth it has always been considered one of the great and useful peculiarities of the English law that a title becomes firm as it grows older, while the tendency of time is to destroy evidence of title. It is therefore, Sir, the application only of a universal principle of law to the particular case that is the object of this Bill, an object which has been applied very recently to the Established Church. The House is well aware that the Statute of Limitations did not formerly run against the Crown, but that was found to inflict much injustice. It was found that in the case of compositions real, and various other matters, by reason of questions being discussed which had relation to a long by-gone time, great injustice was sometimes done, and the Church and the Crown therefore are now restrained in point of time. Upon the present occasion it is thought right to apply that principle of limitation to the different sets of persons claiming to be trustees. Now, Sir, what are the cases to which this is to be applied? The honourable gentleman has referred to Lady Hewley's case. Lady Hewley's case appears to be one in which there is reason to suppose the evidence was more certain than it will be found to be in a great majority of the cases to which this Bill may apply. But, Sir, unhappily, what is the degree of certainty that attached to the most certain case? It took years to discuss it. I have stated upon the information I have received, that the costs have amounted to £10,000. My Lord Chancellor has stated that the

amount was vastly greater. But is that cause ended? By no means. They are now only on the threshold of a new inquiry. Have the Government done wrong, when they have found in one of the strongest cases that a sum like that which I have stated has been spent in costs, that litigation has continued for years, that it has been discovered and decided that neither Unitarians nor the members of the Church of England are entitled to the funds of that charity, and that they are now going to discuss who are entitled to the funds, that a new Bill has been filed and a new suit has been entered into, which I am afraid there is great probability will last as long as the former one. That suit seems to have stimulated, not the respectable gentlemen who oppose this Bill, not the various classes, I may say, of respectable persons who oppose this Bill, but others having no interest in the question at all,—persons who are mere speculators have had their cupidity stimulated by the success of that suit, and there is every reason to suppose that that which I have called confiscation will be the result unless this Bill should pass.

Sir, what is the value of a very large proportion of the establishments which this Bill is intended to protect? Not at all equal to the costs which will be incurred. How will the founders' intentions be carried into effect by allowing the whole fund to be absorbed in law? How will their wishes be promoted? How will the Christian feeling of good-will be encouraged by allowing people to be in angry contention for years, and expending in law that fund which was destined to be applied to the honour and worship of God? Sir, gentlemen take individual cases. The law is not made, and cannot be made, for individual cases. Is it true that the inquiry relating to the *cestui que* trusts in charities of this description, and that the litigation respecting it, must necessarily occupy a considerable time, and occasion the expenditure of a large sum of money? There is no doubt of it.

Sir, what is the case of Lady Hewley's charity? Lady Hewley set apart a certain sum for certain preachers of the Holy Gospel of Christ, and for certain other religious persons referred to. Inquiry was set afoot to ascertain what was the class of persons and what were the particular doctrines that Lady Hewley was desirous to have supported. In her case the deed refers to certain rules and regulations, which by that reference become a part of the deed;—but, notwithstanding all those rules and regulations, notwithstanding that among those rules and regulations it was required that a certain Catechism should be learned, and that certain other books there referred to should be used, yet still the uncertainty was so great, that the length of time was occupied which I have stated. The case passed from court to court and from judge to judge, until it came up to the House of Lords, and there at last it was decided that neither Unitarians nor the Church of England were entitled. But with respect to the great majority of these chapels it will be found that there is no evidence of the endowments at all. There is an absence of evidence with respect to a great many of them, and, even where they do exist, those endowments will be found to be in general terms, leaving it entirely uncertain what was the precise object of the founder beyond that of its being intended for public worship. Sir, what has the argument been? That if at a certain time you find funds destined for the endowment of a chapel,

for the worship of God, or for the maintenance of ministers, and if you should find that at a particular time certain opinions were unlawful and could not be preached, you are therefore to infer that the founder had an exclusive object that in that place the worship should be according to a particular set of opinions. I apprehend that Lady Hewley's case has settled nothing applicable to this subject. That case is all at sea. If there be an endowment for the worship of God in general terms, I apprehend it will be found to be just as much open to the argument that the object of the founder was the general purposes of religion, and that, in whatever form the worship of God might have been exercised at a particular time, the deed would not warrant its being confined to the former worship exclusively, that is, to that worship which existed at the time of the endowment, but that whatever became lawful worship of God by the course of alteration of the law, would be within the intention of the founders. Then, Sir, what is it that is proposed to be done? That if for twenty-five years there has been the usage and practice of particular doctrines, and there be no deed which upon the face of it, or which by reference from it to other documents, furnishes you with some certain test, you shall then be satisfied with the evidence of the usage of the last twenty-five years. What says the honourable gentleman opposite? That that would strike dismay into the hearts of persons benevolently and religiously disposed, and prevent them from founding endowments, because they would anticipate that a contrary usage for twenty-five years would in after years turn the charity and the purposes of it into a different channel from that which they originally intended. Sir, the very contrary will be the effect. When it is understood, as it will be after this Bill shall have passed, that a usage of twenty-five years will be certain evidence to establish the right, the consequence will be that every man who does found a chapel, and who does make an endowment, will take care to insert in his deed the particular purpose for which it is founded; and, instead of having his funds misapplied for the purpose of discussing, a century and a half after his death, what his intentions were, those intentions (if he has any particular intentions) will be found upon the face of the deed. My honourable friend is very much mistaken in his supposition with regard to the evidence in Lady Hewley's case. The evidence to which he referred was (it is true) received, because in the Court of Chancery you cannot prevent its being received by the party whose duty it is to take the evidence. The evidence is received in secret by the Examiner, and the Judge has to decide afterwards what is admissible and what is not admissible. And the fact is, that Lord Cottenham excluded a large portion of the evidence which had been taken in the first instance, and referred only to that description of evidence which would be found wanting in a great majority of the cases to which this Bill will apply. The honourable gentleman, therefore, is quite mistaken in supposing that Lady Hewley's case has in any respect facilitated the decision of future cases.

Sir, I was a little surprised to hear one remark made by the honourable gentleman, who said that this Bill would set the lawyers watching the chapel for twenty-five years to see what doctrines were preached there. I hope that an attendance of twenty-five years will

be attended with this benefit—that those who go to hear will learn to pray, and that those who begin attending the chapels with the view of getting business, will end in subscribing to them. All that this Bill determines is, that if there be twenty-five years constant usage, that shall be evidence that the charity has not been misapplied. It is therefore a fallacy, and a great fallacy, to suppose that this question has any particular application to the case of Trinitarians and Unitarians. It is a general principle now, that whatever may be the appropriation of the particular chapel, an usage of twenty-five years shall conclude the right where there is an absence of that species of evidence which the law looks to in every other case. I do not conceive therefore that this Bill will have any other effect than that of preventing the entire misapplication of the funds. Who are the persons who are likely to institute proceedings in these cases? Persons using the name of the Attorney-General. *They* will *gain* all, while *the Charity* will *lose* all. Those who file their informations in the name of the Attorney-General, if there be a reasonable ground of dispute and uncertainty, will get their costs out of the fund, as was the case with regard to Lady Hewley's charity; and the consequence will be that litigious attorneys and persons who may engage in suits merely for mercenary purposes will entirely defeat the objects of the charities.

But, Sir, the honourable gentleman was quite mistaken in one fact which he stated. He stated that the trustees of Lady Hewley had been guilty of a fraud. I beg leave to tell the honourable gentleman that the Judges took great pains to state that there was NO fraud; and Lord Cottenham, in stating the grounds why the House of Lords did not reverse that portion of the decision which removed the trustees, said, it was no impeachment of the character of the trustees, upon whom some remarks had been made, and who had been removed when they merely meant to do their duty: but Lord Cottenham said, "Inasmuch as the House is of opinion that the funds of the charity have not been applied to the real objects and intentions of the founders, it is better that the administration of those funds should pass into other hands:" but there was no suggestion made by any noble Lord of any thing like fraud on the part of the trustees.

Sir, I think that the discussions which must necessarily arise in these cases, if the Courts of Law have to consider whether one class of Dissenters or another is entitled, will have the effect of injuring the cause of religion. My honourable friend says, that at Wolverhampton the congregation and their minister were thrust out, and were too poor to prosecute their remedy. This Bill does not in the slightest degree affect them. It seems to me, Sir, that if you wish the general intention of the founders of these chapels to be carried into effect, that portion of their intentions which relates to public worship and to private charity, this Bill is necessary and essential. By the passing of this Bill, the funds will be prevented from being wholly dispersed in law, and the Bill will tend to that very desirable object, of promoting peace and good-will, instead of encouraging feelings of a very different description.

Sir, I came to an investigation of this subject with a strong impression on my mind against the Bill; but having given it my best attention, the result has been, that I have felt it my duty, against the opinion of some of the most learned, intelligent and upright men, and against the opinion of some of my best friends, to give it my support.

A right honourable Member of this House has thought himself at liberty, without making to me the slightest communication of his intention, to complain that certain persons have sustained inconvenience, in consequence of its being expected that I should take a particular part in the opposition made to the Second Reading, and of their having learned only at a late period that it was not my intention to do so. I do think it was due to me, in justice, if not in courtesy, that I should have received some intimation that such a communication would be made to the House. If Members of this House are to have their names introduced, and if they are to be charged with impropriety of conduct, for which there is no foundation, and of which charges they have no previous intimation, such a course must be attended with considerable inconvenience. I regret to say that the right honourable gentleman has not acted by me as I should have supposed he would have done, and, as I hope, I should have done, if I had been in his position. I beg to say that that which the right honourable gentleman has asserted is wholly unfounded. The right honourable gentleman stated that I had undertaken to lead the opposition in this House. I never did, Sir, to anybody. What occurred was this:—A deputation waited upon me, which I saw once: I discussed the Bill with them: I differed from them in some particulars. My impression was adverse to the Bill. The honourable gentleman says that I had their papers. I have received no papers but such as have been distributed generally. Those gentlemen applied to me, as an individual Member of Parliament. I was not asked even to take any leading part. My impression being adverse to the Bill, I put a question to the right honourable Baronet at the head of the Government, asking him to give more time to those who were opposed to the Bill to consider the matter. With the utmost courtesy and readiness, the right honourable Baronet gave me that time. From that moment, I had no communication with the gentlemen who had waited upon me. To my surprise, I heard afterwards that I was going to take a particularly active part in the opposition to this Bill. I had mentioned to two or three honourable Members that my opinion was adverse to the Bill in the outset. The moment I heard it said that I was expected to take an active part in the opposition to the Bill, I stated that it was not my intention to do any such thing. As to my having promised to take an active part in the opposition to the measure, I say that is wholly unfounded. I promised nothing of the kind, nor did I receive any papers whatever, but such as I have alluded to. While I was in the Court of Common Pleas, the day before the Bill was to be read a second time, I received a note, asking me to attend a meeting to be held in Palace Yard. I returned an answer within half an hour, in which I begged to say that my impressions with regard to the Bill were altered, and that I should state my reasons to the House. So far from there being any foundation for saying that I put them to any inconvenience, or that I threw any impediment in the way of an opposition to the Second Reading, I did not even know that the Second Reading was to be objected to. There was an important clause, which was not the subject of opposition, and upon what ground was the Second Reading to be opposed? The right honourable gentleman, who has made this charge against me, learned at all events by the part I took in this House, and by my vote, that I was no longer an opposer of the Bill; and there was abundant information,

before the right honourable Member addressed the House, to supply him with materials as to the views I entertained with regard to it. I beg to repeat that I never undertook to any human being to lead any opposition in this House. I stated very early to two or three honourable Members that I intended to oppose the Bill, and afterwards I communicated to everybody who spoke to me upon the subject, the fact that I intended to support it. I should have been happy if I could have reconciled it with my sense of duty to support the views of my constituents, but I felt that I could not conscientiously do so, for I think that the Bill is a wise Bill. It will gain for the Government no popularity; but I think that by introducing it they have assisted the cause of benevolence, and the cause of religion also.

Mr. SHAW.—After the allusions which have been made to me, Sir, by the honourable Member who has just addressed the House, I wish to say a very few words only. In the first place, I did not in the slightest degree censure the honourable and learned gentleman for the course which he pursued. What I said was in answer to observations which had been made by my right honourable friend, the First Lord of the Treasury, on one side of the House, and by a noble Lord on the other, as to the great scarcity of argument against the Bill that there was on the Second Reading, and as to the weight of the argument having been all in favour of the Bill; and I merely stated that this arose very much, I conceived, from the part which had been taken by my honourable and learned friend. I said that if he had taken, as it was expected he would, a part in the debate, I had no doubt he would have taken a very leading part in it; and I stated that I had been informed by a most respectable deputation that they had expected him to bring forward their case in this House, with that ability and zeal for which he is so justly distinguished. I did not say that they had given him any papers; I said that he was aware of their case; that he had given them the benefit of his advice; and that being under the expectation of his speaking in support of their views, and only being acquainted with the fact of his having changed his mind the night before, I thought their case had been presented to the House on the Second Reading under circumstances of great disadvantage. When I said that, I did not intend to make any imputation against the honourable and learned gentleman, who I was persuaded acted from the purest and most conscientious motives.

Sir, before I state, which I will do in a very few words, the reasons why I intend to vote against the Third, as I did vote against the Second Reading of this Bill, I beg the House will grant me a few minutes' indulgence, while I explain some observations which I made the last night that this question was before the House, respecting a gentleman of very great eminence, connected with the Remonstrant Synod of Ulster. I allude to the Rev. Dr. Montgomery. I had been informed by some gentlemen then in town, that several of the leading members of the Remonstrant Synod of Ulster, and among them Dr. Montgomery, had on their original ordination subscribed the Trinitarian confession of faith. I was informed of that by the deputation from Ireland. I have before stated to the House that I could not speak to the fact from my own knowledge, but I spoke from the information of gentlemen from Ireland. I did not do this for the

purpose of casting the least censure on those ministers who had so changed their opinions. I did not name Dr. Montgomery; but as I meant to include him among the number to whom I referred, I feel it due to him to read to the House an extract from a letter which I have received from him on the subject, in which he says, "I was licensed by one non-subscribing Presbytery and ordained by another, and consequently I was never called upon to subscribe; nor would I have subscribed, being then, as now, an Arian,—and almost the whole of my brethren were similarly circumstanced."

I will now, Sir, state to the House, and I will do so in the briefest possible manner, the grounds upon which I intend to vote for the amendment which has been proposed by my honourable friend. With every respect to the House, I verily believe that one in ten of those who have supported the Bill by their votes are not aware of its real principle. I am persuaded that the great majority of them think that the effect of this Bill will be merely to place the Unitarian Dissenters upon the same footing as the other Dissenting communities of the country. Now, *that* I utterly deny. The first clause of the Bill does that, no doubt. It gives the full benefit of toleration to the Unitarian body, and places them exactly in the same condition in respect of every property they enjoy, by gift, endowment, or of their own creation, as all other classes of religionists. To that clause but few persons object, and for my own part I would willingly have supported a Bill containing that clause, and securing also to the Unitarians all additions they might have made to property originally intended for Trinitarian purposes. But the objectionable principle of the Bill, the stress of it (as it has been emphatically called by the right honourable gentleman the Member for Edinburgh), lies in the second clause; the avowed and indispensable object of which is to continue in one class of Dissenters property of which they are wrongfully in possession, and which the law of the land has declared rightfully to belong to another. I admit that it is a principle, and a just one known to our law, that long possession should quiet titles, and to a fair extension of that principle by the present Bill to the few excepted cases where there is an obscurity in the original foundation on the one hand, and long possession on the other, I would have consented. But against the second clause in its present form I protest, as a gross misapplication of that principle. It indeed allows declarations in deeds of endowment to prevail against the short usage it establishes; but in the vast number of cases in which there are no such deeds, and frequently no endowments by founders, it shuts out documentary evidence as clear (such as that upon which I have in the committee dwelt, in the instance of that great body of Irish Presbyterians comprised in the Synod of Ulster, where the ministers of every congregation, in fact, subscribe a Trinitarian confession of faith), the proof of which is preserved in the authentic records of the body, and permits the doubtful usage of twenty-five years only, which may occur twice over in the life of a single minister, to prevail against the most positive and incontrovertible written testimony. This I pronounce to be positive injustice towards the great mass of the Dissenting religious communities of the United Kingdom. Instead of quieting possessions and settling the minds of the congregations, I think it will render unquiet and unsettle the religious feelings of the community, and excite jealousies and suspicion in the minds of the congregations

against their ministers. So far from stopping litigation, it will force it upon all prudent Dissenting bodies which have not deeds of trust, lest otherwise the lapse of time should operate against them. Without attributing any such object to the Government who introduced the Bill, and without meaning offence to any class of Dissenters, I must be permitted to observe, that the obvious tendency of the measure will be to encourage and favour one small body of the Dissenters, namely, the Unitarians, who alone desire the Bill, while the great and overwhelming majority of the Dissenting community of all parts of the kingdom warmly oppose it, as injurious to their just rights of property, and offensive to their conscientious principles in religion.

ANALYSIS OF DIVISION ON SECOND READING IN HOUSE OF COMMONS, 6TH JUNE, 1844.

[The classification of the House into Conservatives and Liberals is made on the authority of Vacher's Lists.)

MAJORITY—309.

CONSERVATIVES—123.

ENGLISH—112

Acland, Sir T. D.
Acland, T. D.
A'Court, Capt.
Adare, Viscount
Allix, J. P.
Arkwright, George
Astell, William
Baillie, Colonel
Baring, Hon. W. B.
Baring, H. B.
Baring, T.
Barneby, John
Barrington, Viscount
Beckett, Wm.
Bentinck, Lord George
Bodkin, W. H.
Boldero, H. G.
Borthwick, Peter
Bowles, Admiral
Bramston, T. W.
Bruce, Lord Ernest
Campbell, J. H.
Cardwell, Edward
Charteris, Hon. F.
Chelsea, Viscount
Chute, W. L. W.
Clerk, Rt. Hon. Sir Geo.
Clive, Hon. Rob. H.
Courtenay, Viscount
Cripps, William
Davies, D. A. S.
Denison, E. B.
Douglas, Sir C. E.
Douglas, J. D. S.
Dowdeswell, Wm.
Dugdale, W. S.
Duncombe, Hon. Capt.
East, J. B.
Eaton, R. J.
Eliot, Lord
Entwisle, Wm.
Escott, Bickham
Flower, Sir James
Forester, Hon. G. C.
Forman, Thomas S.
Fremantle, Sir T. F.
Gardner, J. D.
Gaskell, J. M.
Gladstone, Rt. Hon. W. E.
Gladstone, J. N.
Godson, Richard
Gore, Montague
Goulburn, Right Hon. H.
Graham, Rt. Hon. Sir J.
Granby, Marquis of
Grimston, Viscount
Hale, R. B.
Halford, Sir H.
Hanmer, Sir John
Harcourt, G. G.
Heathcote, Sir Wm.
Herbert, Hon. S.
Hodgson, F.
Hogg, J. W.
Hope, G. W.
Jermyn, Earl
Johnstone, Sir John
Knatchbull, Rt. Hon. Sir E.
Knight, Henry G.
Lascelles, Hon. W. S.
Legh, G. C.
Lennox, Lord A.
Liddell, Hon. H. T.
Lincoln, Earl of
Mackinnon, W. A.
Maclean, D.
Mainwaring, T.
Marsham, Viscount
Martin, C. W.
Master, T. W. C.
Mildmay, H. St. John
Milnes, R. M.
Mordaunt, Sir John
Nicholl, Right Hon. J.
Owen, Sir John
Packe, C. W.
Patten, J. Wilson
Peel, Rt. Hon. Sir Robert
Peel, Colonel J.
Pennant, Hon. Col. E. G. D.
Powell, Colonel
Praed, W. T.
Pusey, P.
Reid, Sir J. Rae
Repton, G. W. J.
Rushbrooke, Colonel
Sanderson, Richard
Sandon, Viscount
Seymour, Sir H. B.
Somerset, Lord G.
Stanley, Rt. Hon. Lord
Sturt, H. C.
Sutton, Hon. H. M.
Thesiger, Sir F.
Tollemache, Hon. F.
Tomline, George
Trench, Sir F. W.
Whitmore, T. C.
Wodehouse, E.
Wood, Col. T.
Wortley, Hon. J. S.
York, Hon. E. T.

SCOTCH—9.

Baillie, H. J.
Campbell, Sir Hugh
Drummond, H. H.
Gordon, Hon. Capt.
Hope, Hon. Charles
Mackenzie, W. F.
M'Neill, Right Hon. D.
Pringle, Alexander
Wortley, Hon. James S.

IRISH—2.

Corry, Right Hon. H.
Young, John

Liberals—186.

English—139

Aglionby, H. A.
Ainsworth, P.
Aldam, W.
Anson, Hon. Col.
Arundel & Surrey, Earl of
Baring, Right Hon. F. T.
Barnard, E. G.
Bell, J.
Bernal, R.
Blewitt, R. J.
Bowes, J.
Bowring, Dr.
Bright, John
Brocklehurst, John
Brotherton, Joseph
Bulkeley, Sir R. B. W.
Buller, C.
Buller, E.
Byng, G.
Byng, Right Hon. G. S.
Cavendish, Hon. G.
Christie, W. D.
Clay, Sir W.
Cobden, Richard
Colborne, Hon. W. N. R.
Colebrooke, Sir E. T.
Collins, W.
Crawford, W. S.
Currie, Raikes
Curteis, H. B.
Denison, J. E.
D'Eyncourt, Rt. Hon. C. T.
Divett, Edward
Duncan, Viscount
Duncannon, Viscount
Duncombe, Thomas
Dundas, Hon. J. C.
Easthope, Sir John
Ebrington, Viscount
Ellice, Right Hon. E.
Ellis, Wynn
Elphinstone, H.
Evans, William
Fielden, John
Fitzroy, Rt. Hon. Lord C.
Fitzwilliam, Hon. G. W.
Forster, Matthew
Fox, Colonel
Gibson, T. M.
Gisborne, T.
Greenaway, C.
Grey, Right Hon. Sir G.
Grosvenor, Rt. Hn. Lord R.
Guest, Sir J. J.
Hawes, B.
Hayter, W. G.
Heathcote, J.
Heron, Sir R.
Hill, Lord M.
Hobhouse, Rt. Hon. Sir J.
Hollond, R.
Horsman, E.
Hoskins, K.
Howard, Hon. C. G. W.
Howard, Hon. J. K.
Howard, Lord
Howard, Hon. E. G. G.
Howard, P. H.
Howard, Hon. Capt. H.
Howick, Viscount
Hurst, R. H.
Hutt, W.
Labouchere, Rt. Hon. H.
Langston, J. H.
Langton, W. G.
Leader, J. T.
Lemon, Sir C.
Leveson, Lord
Mangles, R. D.
Majoribanks, S.
Marsland, H.
Martin, J.
Metcalfe, H.
Mitchell, T. A.
Morris, D.
Muntz, G. F.
Napier, Sir C.
Ogle, S. C. H.
Ord, W.
Paget, Colonel
Paget, Lord A.
Palmerston, Rt. Hon. Visct
Parker, J.
Pattison, J.
Pechell, Captain
Pendarves, E. W. W.
Philips, M.
Philpotts, J.
Plumridge, Captain
Protheroe, E.
Pulsford, R.
Rice, E. R.
Roebuck, J. A.
Rumbold, C. E.
Russell, Lord John
Scholefield, Joshua
Scott, Robert
Seymour, Lord
Shelburne, Earl of
Smith, Benjamin
Smith, J. A.
Smith, Right Hon. R. V.
Stanley, Hon. W. O.
Stansfield, W. R. C.
Stanton, W. H.
Staunton, Sir G. T.
Strickland, Sir G.
Strutt, E.
Talbot, C. R. M.
Tancred, H. W.
Thornely, T.
Towneley, J.
Trelawny, J. S.
Tufnell, H.
Vane, Lord H.
Villiers, Hon. C. P.
Vivian, J. H.
Wakley, T.
Walker, R.
Wall, C. B.
Warburton, H.
Ward, H. G.
Wilde, Sir T.
Williams, W.
Willshere, W.
Wood, C.
Worsley, Lord
Wrightson, W. B.
Yorke, H. R.

Scotch—16.

Bannerman, Alex.
Craig, W. G.
Dalmeney, Lord
Dalrymple, Captain
Duncan, G.
Dundas, F.
Ewart, W.
Ferguson, Colonel
Hastie, A.
Hume, J.
Loch, J.
Macaulay, Rt. Hon. T. L.
Morrison, J.
Trail, G.
Wallace, Robert
Wemyss, Captain

Irish—31.

Acheson, Viscount
Archbold, Robert
Barron, Sir H. W.
Bellew, R. M.
Browne, R. D.
Browne, Hon. W.
Butler, Hon. Colonel
Butler, P. Somerset
Cavendish, Hon. C.
Chapman, B.
Collett, J.
Ferguson, Sir R. A.
French, F.
Gore, Hon. R.
Layard, Captain
Maher, N.
Murphy, F. S.
Norreys, Sir D. J.
O'Connell, Maurice
O'Connell, M. J.
O'Conor Don
O'Ferrall, R. M.
Rawdon, Colonel
Redington, T. N.
Ross, D. R.
Sheil, Right Hon. R. L.
Stuart, W. V.
Stock, Sergeant
Watson, W. H.
White, H.
Wyse, T.

MINORITY—119.

CONSERVATIVES—105.

ENGLISH—83.

Adderley, C. B.
Antrobus, E.
Ashley, Lord
Baskerville, T. B. M.
Beresford, Major
Blackburne, J. I.
Blackstone, W. S.
Blandford, Marquis
Brisco, M.
Broadley, H.
Bruges, W. H. L.
Buck, L. W.
Burrell, Sir C. M.
Chetwode, Sir J.
Cholmondeley, Hon. H.
Colquhoun, J. C.
Colville, C. R.
Copeland, Alderman
Creswell, A. J. B.
Darby, George
Dawnay, Hon. W. H.
Dick, Quintin
Dickinson, F. H.
Duncombe, Hon. O.
Duprè, C. J.
Farnham, E. B.
Fellowes, E.
Feilden, W.
Fitzroy, Hon. H.
Fuller, A. E.
Gore, W. O.
Goring, C.
Greenall, P.
Hamilton, C. J. B.
Hardy, J.
Harris, Hon. E. J.
Heneage, G. H. W.
Henley, J. W.
Henniker, Lord
Hornby, J.
Hughes, W. B.
Hussey, T.
Hussey, A.
Inglis, Sir R. H.
James, Sir W. C.
Jocelyn, Viscount
Kemble, H.
Law, Hon. C. E.
Lawson, A.
Lopez, Sir R.
Lowther, Hon. Colonel
Lygon, Hon. General
M'Geachy, F. A.
Manners, Lord C.
Marton, G.
Masterman, J.
Miles, P. W. S.
Neeld, J.
Newdegate, C. N.
Norreys, Lord
O'Brien, A. S.
Palmer, G.
Plumptre, J. P.
Polhill, F.
Pollington, Viscount
Rashleigh, W.
Rendlesham, Lord
Richards, R.
Rolleston, Colonel
Round, C. G.
Russell, C.
Russell, J. D. W.
Ryder, Hon. G. D.
Sheppard, Thomas
Sibthorp, Colonel
Smith, A.
Smyth, Sir H.
Thompson, Alderman
Tollemache, John
Trollope, Sir J.
Turnor, C.
Tyrell, Sir J. T.
Williams, T. P.

SCOTCH—2.

Forbes, W.
Smollett, A.

IRISH—20.

Acton, Colonel
Bateson, R.
Boyd, J.
Brooke, Sir A. B.
Gore, W. R. O., jun.
Grogan, E.
Hamilton, G. A.
Hamilton, Lord C.
Hillsborough, Earl of
Jones, Captain
Kerr, D. S.
Kirk, P.
Lefroy, A.
Maxwell, Hon. J.
Newry, Viscount
Northland, Viscount
Shaw, Right Hon. F.
Shirley, E. P.
Verner, Colonel
Vesey, Hon. T.

LIBERALS—14.

ENGLISH—11.

Berkeley, Hon. C.
Bernal, Captain
Dashwood, G. H.
Drax, J. S. W. E.
Granger, T. C.
Hall, Sir B.
Heathcote, G. J.
Humphery, Alderman
Matheson, James
Phillips, Sir R. B.
Wawn, J. T.

SCOTCH—2

Maule, Rt. Hon. Fox
Stewart, P. M.

IRISH—1.

Howard, Sir Ralph

PAIRED FOR THE BILL—6.

CONSERVATIVES—3.
ENGLISH—3.

Collett, W. R.
Follett, Sir W. W.
Wynn, Sir W. W.

LIBERALS—3.
ENGLISH—2.

Philips, G. R.
Vivian, Hon. Capt.

SCOTCH—1.

Stuart, Lord J.

PAIRED AGAINST THE BILL—6.

CONSERVATIVES—3.

Archdall, Capt.
Hayes, Sir E.
Taylor, E.

LIBERALS—3.

Berkeley, Hon. G.
Dundas, Admiral
Turner, E.

ABSENTEES—215.

CONSERVATIVES—149.

ENGLISH—112.

Ackers, J.
Alford, Viscount
Ashley, Hon. H.
Attwood, J.
Attwood, M.
Bagge, Wm.
Bagot, Hon. W.
Bailey, Josh.
Bailey, Jos., jun.
Baldwin, C. B.
Bankes, Geo.
Bell, Matthew
Benett, John
Blakemore, R.
Botfield, B.
Bradshaw, J.
Broadwood, H.
Brownrigg, J. S.
Buckley, E.
Buller, Sir J. Y.
Burroughes, H. N.
Carnegie, Hon. Capt.
Cartwright, W. R.
Chapman, A.
Christopher, R. A.
Clayton, R. R.

Clive, Viscount
Cochrane, A. B.
Cockburn, Rt. Hon. Sir G.
Codrington, Sir C. Wm.
Compton, H. C.
D'Israeli, B.
Dodd, G.
Douglas, Sir H.
Douro, Marquis of
Eastnor, Viscount
Egerton, W. T.
Egerton, Sir P.
Egerton, Lord F.
Emlyn, Viscount
Escourt, T. G. B.
Ferrand, W. B.
Filmer, Sir E.
Fitzmaurice, Hon. Capt.
Fox, S. L.
Glynne, Sir S.
Greene, T.
Grimsditch, T.
Hamilton, W. J.
Hampden, R.
Hawkes, T.
Hervey, Lord A.
Hinde, J. H.
Hodgson, R.
Holmes, W. A'Court
Hope, A.
Hotham, Lord
Houldsworth, T.
Ingestre, Viscount
Irton, S.
Jolliffe, Sir W. H.
Kelly, F.
Kerrison, Sir E.
Knight, F. W.
Knightley, Sir C.
Lindsay, H. H.
Long, W.
Lowther, J. H.
Lyall, G.
Mahon, Viscount
Manners, Lord J.
March, Earl of
Maunsell, T. P.
Miles, W.
Morgan, O.
Morgan, C. M. R.
Mundy, E. M.*
Murray, C. R. S.
Neeld, Joseph
Neville, R.
Newport, Viscount
Ossulston, Lord
Paget, Lord W.
Pakington, J. S.
Palmer, R.
Pigot, Sir R.
Price, R.
Round, J.
Rous, Hon. Capt.
Shirley, E. J.
Smythe, Rt. Hon. T. B. C.
Smythe, Hon. George
Somerton, Viscount
Sotheron, T. H. S.
Spry, Sir S.
Stanley, E.
Stewart, John
Stuart, H.
Taylor, J. A.
Thornhill, G.
Trevor, Hon. G. R.
Trotter, J.
Vernon, G. H.
Vivian, J. E.
Vyvyan, Sir R. R.
Waddington, H. S.
Walsh, Sir J. B.
Welby, G. E.
Wellesley, Lord C.
Wood, T., jun.
Wyndham, Colonel C.
Wynn, Rt. Hon. C. W. W.

English—32.
Barclay, D.
Berkeley, Hon. Capt.
Berkeley, Hon. H.
Busfeild, W.
Cayley, E. S.
Childers, J. W.
Clive, E. B.
Cowper, Hon. W. F.
Denison, W. J.
Duke, Sir James
Etwall, Ralph
Fleetwood, Sir P. H.
Gill, T.
Heneage, E.
Hindley, C.
James, W.
Jervis, J.
Johnson, General
Lambton, H.
Listowel, Earl of
Marshall, W.
Ponsonby, Hon. C.
Pryse, P.
Ramsbottom, J.
Ricardo, J. L.
Russell, Lord E.

Scotch—11.
Arbuthnot, Hon. General
Baird, W.
Balfour, J. M.
Bruce, C. L. C.
Hepburn, Sir T. B.
Johnstone, J. W. H.
Lockhart, W.
Mackenzie, T.
Oswald, A.
Ramsay, W. R.
Scott, Hon. F.

Irish—16.
Alexander, N.
Bernard, Viscount
Bruen, Colonel
Bunbury, T.
Castlereagh, Viscount
Cole, Hon. A. H.
Conolly, Colonel
Coote, Sir C. H.
Damer, Rt. Hon. Colonel
Ffolliot, J.
Gregory, W. H.
Hamilton, J. H.
Irving, J.
Leslie, C. P,
Meynell, Capt.
Tennent, J. E.

Liberals—76.
Scrope, G. P.
Seale, Sir J. H.
Standish, C.
Troubridge, Sir E. T.
Wimmington, Sir T. E.
Wood, Benjamin

Scotch—12.
Bouverie, Hon. R. P.
Dennistoun, J.
Duff, J.
Dundas, D.
Ellice, E.
Hallyburton, Lord F. G.
Hay, Sir A. L.
M'Taggart, Sir J.
Morison, General
Murray, A.
Oswald, J.
Rutherford, A.

Irish—32.
Armstrong, Sir A.
Blake, M.
Blake, M. J.
Blake, Sir V.
Bodkin, J. J.
Bridgeman, H.
Callaghan, D.
Carew, Hon. R. S.
Cave, Hon. R. O.
Clements, Viscount
Corbally, M. E.
Dawson, Hon. T. V.
Esmonde, Sir T.
Grattan, H.
Hatton, Captain V.
Macnamara, Major
Martin, T. B.
O'Brien, W. S.
O'Brien, C.
O'Brien, J.
O'Connell, D.
O'Connell, J.
Pigot, Rt. Hon. D. R.
Powell, C.
Power, J.
Roche, Sir D.
Roche, E. B.
Somers, J. P.
Somerville, Sir W. M.
Tuite, H. M.
Westenra, Hon. Colonel
White, S.

* Mr. Mundy states that he voted in the minority.

THE PRESBYTERIAN REPORTER,

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. VI.

DEBATE IN THE HOUSE OF LORDS ON THE THIRD READING, May 9, 1844.

[From the Parliamentary Reports in the Daily Papers.]

The LORD CHANCELLOR moved the Third Reading of the Dissenters' Chapels Bill.

The Bishop of EXETER said, before their Lordships read the Bill a Third time, he was anxious to ask the noble and learned Lord on the woolsack a question in reference to what had fallen from the noble and learned Lord when this subject was under their Lordships' consideration the other evening. He wished to know what was the meaning of the words "usage of the congregation"?

The LORD CHANCELLOR replied, that he meant by the term "usage of the congregation," doctrines which had been preached before that congregation, or in that chapel, for a series of years; doctrines which had been inculcated in that chapel for a certain period of time.

The Bishop of EXETER said, he should have thought the usage of the congregation the usage of the preacher. He wished to state to their Lordships, before they agreed to the Third Reading of the Bill, a case of great hardship. The particulars of this case had not come to his knowledge until very recently. He had the best authority for his statement, viz., a clergyman of the Church of England, who took a deep interest in the question before their Lordships. It was stated that the Unitarians in the south of Ireland were, generally speaking, most hostile to the Church, and would go every possible length in their support of repeal at this moment. Therefore, he maintained that the gentleman who stated the facts to him (the Bishop of Exeter) did not go out of his way, notwithstanding he was a minister of the Church of England, having felt a deep interest in the question under the consideration of the House. He wished to state a fact connected with a chapel situated in the city of Cork. He thought the matter important, and wished the noble and learned Lord would direct his particular attention to it. In the city of Cork there is an ancient chapel, built in 1790. In Ireland, there was no Toleration Act for thirty years after the Toleration Act had been adopted in this country. In 1719, the Toleration Act passed, which

allowed all persons, except those entertaining doctrines opposed to the Holy Trinity, to publicly expound their views. The chapel in question was built by the Trinitarians, and five separate endowments were granted to it. At a subsequent period, two preachers were appointed to this chapel, holding Trinitarian opinions, the Synod of Munster requiring a subscription to those doctrines. Both ministers, up to a recent period, were Trinitarians. Thirty years ago, a gentleman was appointed as minister of this Presbyterian chapel, who launched out boldly in favour of Unitarian doctrines. He was followed by a minister who was more guarded in the statement of his opinions. He did not at first deny the doctrine of the Trinity, but he soon broached Unitarian opinions. The other minister had been strictly Trinitarian. According to the doctrine laid down by the noble and learned Lord in the Bill before the House, if certain uniform doctrine should have been preached for thirty years in a particular chapel, it should be considered tantamount to a legal right. Now how would the doctrine of the noble Lord apply to this particular case? Here, in a particular chapel at Cork, were two ministers, one a Trinitarian, and another an Unitarian. How would he apply his principle to this case? The noble and learned Lord said that the preaching of the doctrine should be considered as conclusive evidence of the usage of the congregation. He trusted that the noble and learned Lord would gratify his curiosity by giving his opinion upon the anomalous case which he (the Bishop of Exeter) had cited. [From the position in which the right reverend Prelate stood when he addressed the House, it was with great difficulty that the exact import of his observations could be heard with any thing like distinctness in the gallery.]

The LORD CHANCELLOR said, that the question before their Lordships had nothing to do with the repealers or the anti-repealers. With reference to what had fallen from the right reverend Prelate relative to the feeling which existed among the Presbyterians in Ireland, all he (the Lord Chancellor) could say was, that a large body of the Presbyterians were opposed to the Bill, but by far the larger number were in favour of it passing into law. With regard to the particular case of hardship, as it was termed by the right reverend Prelate, he (the Lord Chancellor) knew nothing in relation to it. Should the statement of the right reverend Prelate be correct, the particular chapel referred to would come under the operation of the existing law, and not under this Act, unless there had been in the chapel for twenty-five years a uniform preaching of certain doctrines.

The Bishop of EXETER said he had another question to put to the noble and learned Lord. He was sorry to be so troublesome. Where there were no express doctrines taught in the chapel, and no deeds of trust, something else must be taken. What would be the rule under such circumstances?

The LORD CHANCELLOR.—I wish the right reverend Prelate to put all his questions at the same time.

The Bishop of EXETER said he preferred taking a different course.

The LORD CHANCELLOR said, that the law at present in existence would apply to the case put to him by the right reverend Prelate; but he did not believe in the existence of such a case.

The Bishop of EXETER regretted that the noble and learned Lord should, upon the anonymous authority of the noble Lord with whom he (the Lord Chancellor) had just been conferring, contradict the statement which he (the Bishop of Exeter) had thought it his duty to make to their Lordships. He hoped the noble Lord would have the manliness to rise in his place and state to their Lordships upon what authority he impugned the facts which he (the Bishop of Exeter) had brought under the notice of the House.

Lord MONTEAGLE said, that his contradiction of what had fallen from the right reverend Prelate did not rest upon any anonymous authority. It rested upon the authority of a public document which he (Lord Monteagle) had the honour to lay upon the table of the House, in the shape of a petition. That document was upon the table of the House, and was accessible to the right reverend Prelate, and he begged him (the Bishop of Exeter) to refer particularly to it, and he would find that it afforded a complete contradiction to the statement which he had made to the House. The Rev. Dr. Hincks was elected in the year 1790 by this particular congregation, from a college in England, a place purposely appropriated for the education of persons professing Unitarian opinions. He was introduced as an Unitarian minister—as a person known to entertain those doctrines. He remained a number of years as the minister of that place. He was respected to the highest possible degree. Although that reverend gentleman continued attached to his opinions, he had brought up two of his sons as clergymen of the Church of England. One of those clergymen (as we understood the noble Lord) was stationed in the north of Ireland, and the other was connected with an institution at Belfast. He had mentioned these facts to the noble and learned Lord on the woolsack, but his (Lord Monteagle's) authority was not, as the right reverend Prelate represented, an anonymous one.

The Bishop of EXETER said, the question was, whether the authority of the noble Lord would contradict the assertion of his (the Bishop of Exeter's) informant, that at this moment there were two ministers connected with a Presbyterian chapel at Cork, one holding Unitarian and the other Trinitarian doctrines.

Lord MONTEAGLE said that he could give a distinct contradiction to the statement made by the right rev. Prelate, to the effect that a gentleman had been introduced as minister to the chapel, who had gradually and by degrees introduced Unitarian doctrines into the pulpit—doctrines opposed to those which he professed at the period of his appointment, and contrary to the express object of the founders of the chapel. Such was not a correct statement of facts. The gentleman in question was known to be a Unitarian—he came from a place established for the education of Unitarians; he was taken from that place and appointed to the chapel, and for many years he continued there, highly respected by the congregation.

The Bishop of EXETER said he held in his hand a proof of the

accuracy of his statement. When Dr. Hincks was chosen in 1790, the Munster Presbytery refused to ordain him, and therefore Dr. Hincks did not officiate as minister in this chapel at Cork. He was finally ordained by the Dublin Presbytery, and remained in Cork till 1814. He maintained that his statement was not proved to be contrary to fact. Two gentlemen preached in the chapel at Cork,—one a notorious Unitarian, and the other holding Trinitarian doctrines. The main allegation he had made was, that there were, for a long period of years, two preachers in the chapel at Cork, one of them being a Trinitarian and the other an Unitarian.

The Earl of WINCHILSEA said that the right rev. Prelate (the Bishop of London) had the other night advanced arguments against this Bill which he considered unanswerable, and no attempt had been made to reply to them. The object he had in rising to-night was to place upon the records of their Lordships' House his decided hostility to this measure. He could assure their Lordships that, with great deference to the opinion of the noble and learned Lord on the woolsack, to whom he was, generally, most ready to give his support on questions of a judicial nature, nothing but a most conscientious conviction that this measure was not founded on equity and justice, and was at direct variance, in a civil and religious point of view, with the best interests of the country, would have induced him to put his opinion upon record. A wholesome practice had prevailed in the courts of equity, that where the intention of a testator could be discovered, that intention should be fully carried out. Now, he was prepared to contend that the great body of the meeting-houses affected by this Bill had been endowed by Trinitarians and for Trinitarian purposes, although that might not be clearly expressed in the trust-deeds. He made this assertion advisedly and distinctly, because he was prepared to shew that nine-tenths of these endowments were made before Socinianism or Unitarianism had a legal existence in the country. Could their Lordships conceive that the founders of these endowments had the slightest intention that those endowments should be applied to the support of Socinianism or Unitarianism? He begged to remind their Lordships of a case in which two gentlemen had vested the sum of £10,000 in the hands of trustees, the interest of which was to be applied after their death to the relief of the widows of members of the corporation of Oxford. But, subsequently to the execution of the deed, the Test and Corporation Acts were repealed, and Dissenters were admitted members of that corporation, as well as of all other corporations in the kingdom. These gentlemen, who were then living, one of them, he believed, being 84 years of age, and the other 82, found that, under these circumstances, the widows of Dissenters would be equally entitled to relief from this fund with the widows of members of the Established Church; and they applied to a noble relative of his (Lord Winchilsea's) to ascertain how they might confine the appropriation of their property to the widows of members of the Established Church. It was suggested that the trustees might surrender their trust, and that a new trust might be created. This was done; and in the new trust a clause was inserted to prevent the property from being applied to the relief of

Dissenters' widows, which otherwise would have been the case. He thought no one would suppose that any orthodox Trinitarian ever intended that his property should be applied to the support of Unitarianism. This measure might have been just and fair, if the noble and learned Lord had confined it to cases in which endowments had been made since the passing of the Acts legalizing Unitarianism; because then it would have been the fault of the testators or founders that they had not taken legal means to prevent their property from being applied to the support of Unitarianism. He was, however, compelled to say that he did differ very materially from the noble and learned Lord on the woolsack as to the justice and propriety of this Bill, not only in a civil, but in a religious point of view. The orthodoxy of the Trinitarian Dissenter, who held the great doctrines of Christianity, was acknowledged. They held him to be, what he (the Earl of Winchilsea) would never allow the Unitarian Dissenter to be, as true a Christian—taking the Bible as his rule of faith—as any one could be. He (the Earl of Winchilsea) had always contended that a man who denied the divinity of Christ could not be considered a Christian. He who denied the divinity of the Son denied both Father and Son—the very doctrine of the Trinity, and they were expressly commanded in Scripture not to bid any one who preached such a doctrine God-speed. On these grounds, therefore, he opposed the present Bill.

Earl FITZWILLIAM said he thought their Lordships, as a body, were not very well constituted for the discussion of purely religious questions; but, as legislators, it was their duty to deal with the different religious sects into which the country was divided. He wished to express his gratitude to the right reverend Prelate (the Bishop of Exeter), who, as he conceived, had rendered a great public service on this occasion. He also considered that the noble and learned Lord on the woolsack had done a great public service in bringing forward this measure; and he conceived also that their Lordships had done a great public service in agreeing to the Second Reading of this Bill, and he trusted they would now concur in its Third Reading. He thought that, by agreeing to the Second Reading, they had borne ample testimony to the solidity of their judgments and the firmness of their minds. He agreed with his noble kinsman opposite (the Earl of Winchilsea) that a more powerful speech had seldom been delivered in their Lordships' House than that of the right reverend Prelate (the Bishop of London) the other evening; and he thought their Lordships' firmness of mind was evinced by their agreeing to the Second Reading of this Bill, notwithstanding the powerful arguments brought to bear upon the question by that right reverend Prelate. He felt extremely grateful to the right reverend Prelate opposite (the Bishop of Exeter) for having exercised the office of catechist to-night; and he did not think the right reverend Prelate had pushed his questions at all too far. He quite agreed with the right reverend Prelate that the expression "usage of the congregation," in the present Bill, required explanation. He (Earl Fitzwilliam) was not prepared, certainly, for the answer which had been given to the questions of the right reverend Prelate. He could not think

the usage of the congregation was, in the strict sense of the term, to be determined by the doctrine of a preacher who might, either on a particular occasion, or during the course of a long ministry, expound his opinions to the congregation. Though it might be probable that a preacher of skill, of ability, and of eloquence, might, during his ministry, bring his congregation to adopt the opinions he advocated, yet he (Earl Fitzwilliam) could not agree that the term "usage of the congregation" was to be construed to mean the doctrines inculcated by the preacher. He thought their Lordships were acting with great wisdom in placing in the hands of the congregation to whom this Bill referred—he had nothing to do with the question whether they were Trinitarian or Socinian—the chapels in which they had been accustomed to worship. He was glad that their Lordships had passed this Bill through its previous stages with so much unanimity. A noble Lord said, their Lordships had not concurred unanimously in the adoption of this measure. At all events, no division had taken place, the right reverend Prelates opposite even not having thought fit to divide the House.

Lord KENYON said, it seemed to him that the short statement of the case was this—that the noble and learned Lord on the woolsack, for the sake of preventing litigation—which from that noble and learned Lord's own statement appeared as likely to be continued under the present Bill as it had been for a long course of years—wished to persuade their Lordships to enact that certain persons, using certain chapels, should retain those chapels for the inculcation of opinions differing from those of the persons by whom such chapels were founded. The noble and learned Lord had stated to-night that in a case mentioned by the right reverend Prelate this Bill would not apply. He (Lord Kenyon) conceived there were probably many cases to which the Bill would not apply. Their Lordships had already determined judicially that this principle should be acted upon —that these chapels should be placed in the hands of persons who entertained religious opinions in accordance with those of the founders, so far as the opinions of the founders could be ascertained. There were at least 300 chapels in the counties of Lancaster and Chester, with respect to which this question would probably be raised, if their Lordships did not interfere legislatively to prevent justice from being done. He was determined to maintain the true Christian doctrine which had existed in this country for so many ages, and he should therefore feel it his duty to take the sense of the House on this question.

The Earl of MINTO wished to say a word as to the charge which had been made by the right reverend Prelate opposite (the Bishop of Exeter) against a very respectable portion of the community. He thought, as the right reverend Prelate appeared to have been misinformed on several points, he must have acted upon incorrect information when he asserted that the Unitarians in the south of Ireland entertained feelings of disaffection towards the Government, and were favourable to the repeal agitation. He (the Earl of Minto) was acquainted with many Unitarians in England who were able, temperate and learned men. He did not know how far the character of the

Irish Unitarians might differ from that of the Unitarians of England, for he had never had the good fortune to mix with them; but he thought that the right reverend Prelate must have been misinformed when he stated that they were remarkable among Dissenters for the unfriendly feeling they entertained towards the Church, and for their support of the repeal agitation. He (the Earl of Minto) knew that one of the strongest opponents of repeal in Ireland was a gentleman who held Unitarian principles.

The Bishop of EXETER hoped he might be allowed to say a few words in reply to the charge that he had, without authority, made a statement affecting the character of individuals, of whom the noble Earl who complained of that statement admitted that he knew absolutely nothing. He (the Bishop of Exeter) had stated, upon the authority of the gentleman whose name he had before mentioned, that the Unitarians in Cork and in the South of Ireland were advocates of repeal, and that they were most prominent—speaking of them as a body—in opposing the interests of the Established Church. Whether or not his informant was worthy of credit, he left it to their Lordships to judge. The noble Earl had charged him with acting upon erroneous information; but the reverse had been the case. The noble Lord (Lord Monteagle) had contradicted him because he thought he was speaking of a Mr. William Hincks, who had been a minister of the chapel for only ten months, while he was alluding to Dr. Hincks, who was minister of the chapel in 1790.

The Earl of MOUNTCASHEL said, he thought this Bill was not only a measure of spoliation, but one for the misapplication of trusts, and on these grounds he opposed it. He considered that it would inflict great injustice on a highly respectable, influential and orthodox body of Christians. In the lapse of years the same principle might be applied to the Established Church of this country. He begged to remind their Lordships that large sums of money had been collected for building churches, which had been vested in the hands of trustees. Did their Lordships know in what terms the trust-deeds were drawn? Were they drawn in such specific terms as to exclude from the possession of the churches, supporters of a new doctrine which had lately been promulgated in the Church, and which was gaining considerable ground? With respect to the costs attending the litigation of these questions, although the noble and learned Lord (the Lord Chancellor) had estimated them at £30,000 in Lady Hewley's case, he (Lord Mountcashel) had authority for saying that they amounted to a much smaller sum. He had an extract of a letter from a solicitor at Manchester, stating, on the authority of Dr. Cooke, Moderator of the Synod of Ulster, that the costs in that case were only about £6,000. If any argument, therefore, had been founded upon the expense, it amounted to nothing. He protested against the Bill, and if no other Peer did, he would divide the House upon the question. He had pledged himself to do so, in order that the public and the world might know his opinion and that of other Peers.

Lord TEYNHAM said, he agreed that something ought to be done, and if any parties could shew that they were aggrieved, and would consent that the question should be settled by arbitration, some me-

thod might be devised for that purpose, that numerous properties might not be frittered away and lost in law proceedings. But this Bill was not the thing which in justice ought to be done. He opposed the Bill because it was an unjust one, and because the noble and learned Lord could not produce one single precedent or authority in favour of the Bill. He could not cite himself in favour of it, nor the opinions of the twelve Judges at the Bar of the House, nor the opinion of the House itself, sitting as a Court of Equity, nor the principle of the Toleration Act, nor that of the 19th George III. One strong objection to the Bill was, that, by passing it, the Legislature would deal with all trust-property of Dissenters, and in order to meet a case affecting a small minority of charitable trustees, all such trusteeships were to be interfered with. The Bill virtually repealed the 19th of George III., and limited the freedom of religious opinions. On these grounds he opposed the Bill.

Their Lordships then divided, when the numbers were—

Content	44
Not content	9
Majority in favour of the Bill ..	35

On our return, the LORD CHANCELLOR was putting an amendment moved by Lord COTTENHAM, which was agreed to.

The Bill then passed.

The Bishop of EXETER wished to state the reason why he had not voted with the noble Earl against the Third Reading of this Bill. He knew that most of the right reverend Prelates were attending a charity festival, and he did not wish to appear over-zealous in recording his vote, which could have no effect upon the fate of the Bill.

The Marquis of CLANRICARDE thought it would be desirable that the 21st order of the House should be strictly observed, which required that after the question was put, no noble Lord should quit his place. In the House of Commons, if a Member remained in the House, he was required to vote, and he thought the rule should be enforced in this House.

The Earl of WICKLOW observed, that the right reverend Prelate had proceeded to the foot of the Throne, and therefore he was not properly in the House.

The Marquis of CLANRICARDE said, the right reverend Prelate was certainly in the House, though not in the body of the House.

The Bishop of EXETER said, he had done no more than was done by noble Lords every night, and by the noble Marquis himself. If the noble Marquis, however, meant to be a purist, he might be so.

The Marquis of CLANRICARDE said he did not pretend to be a purist, but wished to secure respect to their proceedings, both inside and outside the House.

The Earl of SHAFTESBURY read the 21st order, to the effect, "that after the question was put, no noble Lord should go out of his place, unless there was a division upon the question." It was customary for noble Lords, when they did not mean to vote, to go to the

foot of the Throne. In the House of Commons, the doors were shut on a division, and no Member was permitted to go out of the House, and all Members in the gallery, and even in the lobby, were brought in and compelled to vote.

The Marquis of CLANRICARDE thought it would be better for the Standing Orders Committee to take the matter into consideration.

The conversation here dropped.

EDITOR OF BAPTIST MAGAZINE'S REVIEW OF DISSENTERS' CHAPELS BILL.

[We have, perhaps, done some injustice to the Baptist denomination by representing them, without much qualification and many exceptions, as having been active in opposition to the Bill. If we have done them wrong, it is partly their own fault; for while the Hintons and innumerable others of obscure name were "breathing out threatening" at Exeter Hall and elsewhere, we heard of no movement in the contrary direction by the Murches, Coxes and Prices, whom we knew to be on this point, *as on most others*, steady and consistent friends of religious liberty, and jealous guardians of the good name of their body in respect of the pure principle of Protestantism. We did not suspect them of being seduced into the ranks of the spiritual lords and the temporal lordlings by Mr. John Wilks's eloquence, who in former days won the applauses of thousands by denouncing the least hateful doings of the persecutors by profession; nor did we rate them so low as to suppose that their minds were mastered by the legal subtleties of a Barrister of a week's standing, the speaking powers and charms of the successor of the honoured William Smith in the Chair of the Deputies, or the catholic spirit and disinterested zeal of the Thelwalls and other platform gentlemen of the Exeter-Hall knot, including the itinerant orators of the Wesleyan priesthood; but we did apprehend that they were silenced, if not awed, by what they themselves call "denominational influence," of which Robert Robinson's "Letters," just printed in the Christian Reformer, give so lively and, we must add, so odious a picture. We rejoice to find, however, that the spell is broken, and that they have recovered themselves sufficiently to proclaim in the face of the world that they prefer Liberty to the Denomination,—

Libertas, quæ, sera, tamen respexit inertem:
* * * * *
Respexit tamen, et longo post tempore venit.

Ed.]

There is no other body of Christians, we believe, whose appeal to the Scriptures is so direct, and whose care to avoid all extraneous influences in deducing their creed from the inspired volume is so habitual, as that body with which we have the happiness to be connected. Having ourselves imbibed this spirit among the English Baptists, we deem it an important part of our duty to cherish it, and recommend it to all to whom our words gain access. Through the infirmity of human nature, however, the most conscientious men occasionally fail in the application of their principles to practical

cases, especially when an apprehension is excited that strict adherence to them would be injurious to the interests of truth and piety. Then it is that a good man is in the greatest danger of swerving from principles of extensive application, when it appears likely that their immediate operations will interfere with the progress of religion, or subserve some form of error. And though the body to which we belong is, in our judgment, far in advance of any other in implicit submission to the Christian rule of faith and practice, we have occasionally seen among some who maintain the authority of that rule, symptoms of a disposition to stoop to the use of means for opposing error and defending truth, which are more in accordance with the practice of Churchmen and of some other Dissenting communities, than with the simple and exclusively spiritual principles on which their own system is founded.

Nothing can be more essential to the triumphs of truth—those triumphs for which all Christians pray—than that its examination should take place under circumstances which occasion the least possible bias. What saith the Scripture? should be not only the principal question; it should be a question standing alone before the mind; a question with which no subsidiary thought must interfere. In the examination of this question, not the slightest reference must be made to the dictates of inclination or the fashion of the times, the wishes of friends or the inducements of worldly interest. The mind of the inquirer must not even glance at the Articles of Queen Elizabeth's establishment, the Confession of the Westminster Assembly, or the Catechism that happened to be committed to memory in youth. Scriptural precept or precedent must be inflexibly demanded in reference to rites, and inspired declarations or principles in reference to doctrine. The determination must be formed to follow truth, whithersoever she may lead. Though this should displease the most beloved relatives, grieve the most venerated teachers, or blight the most attractive prospects, it is thus only that the prize is to be gained. "Buy the truth;" whatever may be its price, it is worth the purchase: "sell it not," whatever may be the inducement offered you to part with the inestimable treasure. And, especially for a religious instructor, how important is it that he should not be required to take either the affirmative or the negative side of a disputed question by worldly interest; but that as a minister of Christ he should be swayed only by spiritual influences and conscientious belief! If £2000 per annum be dependent on the rector's continued conformity, how greatly must it indispose him to give the arguments against church establishments a fair consideration! It is not necessary to suppose him to be a mercenary man; he is a man, and that is enough: he cannot fail to be influenced by his position. If he be a good man, who values his station because of the extensive means of usefulness that it affords him, the conflict in his breast will be the more severe, before he can leave it in obedience to the dictate of newly-discovered truth. How strong must the love of truth be in the hearts of some popular ministers of wealthy Dissenting congregations, accustomed to worship in large and elegant chapels, to induce them to give patient and candid attention to the criticisms of Carson; especially if they happen to be acquainted with the privations endured by the pastors

of most Baptist churches, and the style of architecture that their places of worship generally exemplify! And should any one of them read and be convinced; should he yield to what we believe to be the evidence of truth, and begin to preach it with his usual sincerity and eloquence, how unfavourably are his people circumstanced for receiving his instructions, if they remember, as they probably may, that pædo-baptism is essentially wrought into the trust-deeds under which their spacious edifice is held! Nothing, we are persuaded, would so much promote the spread of truth as that all congregations should be at full liberty to yield to the force of evidence, and act according to their own conscientious belief. Every church is indeed bound by its allegiance to the Lord Jesus Christ to exert itself for the manifestation of what it believes to be his truth, and the support of what it believes to be his ordinances. It is a breach of obligation towards him to submit to be restricted by the state, or by its own deceased members, or by its mistakes in earlier years: the dissemination of its present convictions is its present duty. Any arrangements that impede this are violations of that liberty with which Christ has made his people free, and in which he has commanded them to stand fast; and treasonable interferences with his prerogative, as the sole Ruler in Zion, from whom light, guidance and direction are to be daily sought.

This liberty is liable to be abused. So is every other blessing. The liberty of the press may be abused by the publication of falsehood, the liberty of preaching by the promulgation of heresy, and the liberty of a church to choose its own pastor by an injudicious selection. Arguments against all liberty, particularly against liberty in religious matters, have been drawn in past ages from the abuses to which it is liable; but it is now generally acknowledged that the evils arising from unauthorized restrictions upon liberty, are greater than those which arise from its misuse, as well as that they are wrong in principle. We say the same in this case. The evils of closing the windows of our meeting-houses against the light of heaven, are greater than those which result from opening them. But especially, as every individual, so every church, is bound to desire growth in divine knowledge, to pray for it, to hold itself open to conviction, and to profess what it believes to be revealed truth. If we attempt to protect divine truth by contrivances of human device, we may expect that God will shew that our wisdom is foolishness; but if we work divine institutions in conformity with their original simplicity, we may safely expect that divine power will be exerted to illustrate their efficiency. Though the oxen stumble, the ark will not fall if we refrain from obtruding our officious support. "Truth certainly would do well enough," says Locke, "if she were once left to shift for herself." Remembering that the patron of Christian truth is almighty, we need not fear to adopt the sentiment.

The right of men in former days to adopt measures the tendency of which should be to interfere with the free working of evidence among the men of the present generation, may also be fairly questioned. An endowment may be highly prized by its possessors, and may excite the cupidity of by-standers, but it is very doubtful whether its operations are in any case quite innocuous, and whether the principle of

endowments is defensible. The property that an individual has received by inheritance, or acquired by trade, he is bound to make use of for the glory of God and the good of society, and this according to his best judgment, without regard to the opinions of his ancestors. The estate may have descended to him from Bishop Bonner; but it will be generally admitted that he is entitled to make use of it for the promotion of that faith which Bishop Bonner endeavoured to destroy. Bishop Bonner had no right, we believe, to encumber it with conditions that it should be employed for the extirpation of heresy, or the maintenance of Romish ceremonies; and if such conditions constituted a part of his will, we do not think that they are morally binding on this generation. Had all the estates in England been bequeathed to the court of Star-chamber, for its purposes, the testators would have exceeded their natural rights in making such an assignment, and the men of this generation would have been under no obligation to conform to the mischievous arrangement. No man of the seventeenth century had a right to compel men of the nineteenth century to maintain his opinions, or to determine that if none of us could be found to maintain his opinions his lands should remain uncultivated and barren. Nor do we think that any living man has a right to withdraw from posterity the control of property which now belongs to him, but which, when his breath leaves his body, will be no longer under his stewardship, in order to maintain among them what were, when he dwelt on the earth, his opinions.

The calling in of the state to see to the strict appropriation of the legacy, is a part of the system of endowments assigned to the maintenance of specified doctrines which deserves very serious attention. For the civil magistrate to intermeddle with any thing pertaining to the worship or teaching of Dissenters, is an evil of such magnitude, that nothing but the sternest necessity could induce us to invite it. If in some cases we request a policeman to stand at the door of a place of worship, it should be simply to protect the persons assembled from violence, without any reference to the orthodoxy of their creed, or the acceptableness of their adorations. If in some cases questions relating to the property of our churches come before civil courts, the utmost care should be taken that they should be of such a nature that the decision does not require any spiritual discernment. No part of our proceedings should imply that we gave credit to the judge, either at a civil or ecclesiastical tribunal, for the slightest discrimination in reference to the things of God. If he have to determine the identity of the religious sentiments of one of the parties with the sentiments of a deceased Christian, or even of an ancient document, he is called to a work for which he is probably quite unfit. Religious sentiments are not so definable to a worldly man as at first sight may appear; there is great danger of his mistaking form for substance, and confounding words with things; and great probability that his own religious or irreligious opinions may unconsciously bias his decision. Do we not hear the most ludicrous mistakes from our senators whenever they open their lips on matters relating to the opinions and practices of Dissenters? Do we not perceive with regret that the bulk of them, when they speak of religion, are as much in the dark as Nicodemus was when he went to talk with our Lord of the affairs of the

kingdom of heaven, with the nature of which he was totally unacquainted? In the recent debates on the Bill before us, even, how much gross ignorance have many of them displayed!

Believing, then, that every Christian church ought to have the entire control of the property it has acquired, whether by the contributions of its members or by the bequests of those who have sought to promote its welfare;—that it is at once its privilege and its duty to desire the teaching of the Holy Spirit and to profess those sentiments, whatever they may be, that it believes to be taught in the sacred oracles;—that all endowments, whether consisting of money, lands or houses, which are attached to the profession of certain sentiments, are adapted to restrict the progress of truth, and encourage dissimulation;—that good men who left such endowments for the support of their religious views, however excellent their motives, adopted a mistaken course, exceeded their rights, and violated the rights of posterity;—and that the evils of a litigated inquiry, before either civil or ecclesiastical courts of judicature, into the conformity of the creed of the occupants of endowed chapels with the creed of the first worshipers and supporters, would far exceed any benefit that could arise from it, we abstained, conscientiously and advisedly, from taking any part in the recent opposition to what was called the Dissenters' Chapels Bill. Though it did not recognize fully those principles which we believe to be founded in equity and congenial with the kingdom of Christ, it applied some of those principles to certain cases. It was an approximation to what we deemed the right course, and more accordant with religious freedom than the law as it previously stood or was supposed to stand. That strenuous opposition should be made to it by the most intolerant of our legislators; that every man of note in the upper and the lower houses of Parliament who had been habitually distinguished as an enemy to Dissenters should be loud in its condemnation; that such long-sighted personages as the Bishops of London and Exeter, and such zealots for state-church principles as Earl Roden and Sir Robert Inglis, should take the lead in endeavours to impede it, seemed natural and consistent. That separatists from the church who disavow Dissenting principles, and timid Dissenters who have no great confidence in the principles they acknowledge, should have readily taken alarm at the alleged tendency of the Bill to encourage Unitarianism, did not surprise us. But Paul could not have been more astonished when he found that even Barnabas was carried away by the dissimulation of the Judaizers at Antioch, than we were when we learned that petitions against the Bill were adorned with some names, names which we hope never to mention but with the most sincere respect. It is indeed matter of congratulation to us that the Baptists generally were in this movement unusually slow and sluggish; that some of those whose reputation stands highest for practical wisdom and public spirit stood aloof from it altogether; that some of those who had affixed their signatures acknowledged afterwards that they had done so incautiously; and that some who had even got up petitions on the subject, on further consideration refrained from forwarding them for presentation. We believe that others were deceived by incorrect representations of the nature of the Bill, and of the effects it would produce. But it was with sincere

regret that we saw the congregational ministers of the metropolis, collectively as well as individually, overlooking principles in which we hope that they participate with us, and amidst the plaudits of the Record, the Herald, the Standard, and the Morning Post, lowering their own dignity in the eyes of statesmen, who naturally wondered at what they deemed Dissenting inconsistency. We have no doubt that the Bill was brought in by the cabinet with the expectation that it would be generally acceptable to the Dissenters. Remembering the signal discomfiture of last year in reference to the Factories' Bill, and the alienation at which the unsuccessful attempt to restrict our liberties had caused among some who had supported them at the last election,—desiring also, according to their present policy, to conciliate their opponents, the ministers brought in this measure, believing it to be intrinsically just, and expecting it to be popular with a great and influential body, which they may dislike, but cannot despise. The recollections of the past, however, predisposed the Dissenters to receive with suspicion whatever came from such benefactors; an outcry, raised in the first instance by high churchmen against concession to Unitarians, excited some who are justly zealous for those truths which Unitarians deny; a hankering after endowments which Unitarians possess, and in the possession of some of which the measure would confirm them, aroused others; and these causes, co-operating with some which it may be as well not to specify, raised a species of whirlwind, violent while it lasted, but happily not very enduring. The anticipations of a cabinet may easily be baffled, however, when such coalitions take place as this spring has witnessed. If Cicero thought it impossible for the augurs at Rome to meet without laughing in each other's faces, we may be pardoned perhaps for supposing that certain gentlemen felt it difficult to maintain their gravity when they found themselves actually seated at the same table deliberating on matters pertaining to Dissenting interests, and subscribing their names to the same document; and it does not require much poetic fancy to imagine that one of them, when he quitted the apartment, after such harmonious co-operation, exclaimed with a sigh,

"When shall we three meet again!"

* * * * *

It is right that we should explain the course which we have adopted in reference to this measure during its passage through Parliament. Editorially, we have done nothing, either to obstruct or to promote it. The subject has not been mentioned till now in our pages. Some who have attributed this to supineness, and censured us for indifference to passing events, will now understand the reasons of our silence. It will probably be said, on the other hand, that with views so decided we ought to have declared our sentiments. In his private capacity, the editor has not been backward to avow his opinions. At the meeting of the general body of London ministers of the three denominations, very few Baptists happened to be present, and he fought the battle alone, speaking against the resolutions which were passed quite as long as some of the Independent brethren were willing to hearken. But in the Magazine, he did not think it right to use the power which his office gave him to counteract what he supposed to be the prevalent feeling. It would be an abuse of the power entrusted to him for

the public benefit, if he were to avail himself of it to oppose the general consent of the wise and intelligent members of our community. Great confidence has been reposed in him for several years by those who have entrusted the management of the Magazine to his individual discretion, and this binds him more strongly than any regulations could, to make use of the influence of the Magazine for those objects alone which may be presumed to have their general concurrence. At first, he was apprehensive that the denomination, as such, took a different view of the Bill from his own; he bowed, therefore, deferentially, in silence. He has subsequently been delighted to find that he was mistaken. During the progress of the Bill, he was not requested to record resolutions adverse to it by the officers of any society. He did not receive one sentence against it from any correspondent. He has been assured by men of eminence in our denomination that their opinion coincided with his own. It will not, he trusts, be deemed improper by any, that he has expressed his views of the whole general subject so freely in the preceding remarks; if true, they are important. Let them be taken as quite unofficial—the views of an individual; but they are views which he has entertained for many years, and of the correctness of which he has a firm persuasion. The whole denomination will, however, he is sure, agree with him in the great principle which is the basis of his argument, that the acquisition of truth is more important than the acquisition of endowments, and that the spiritual interests of the churches are of far greater value than their earthly possessions.

BRISTOL RESOLUTIONS.

At a general meeting of the Congregation of Protestant Dissenters of the English Presbyterian denomination, assembling in Lewin's Mead Chapel, Bristol, held on Sunday, August 25th, 1844,—John Bishop Estlin, Esq., in the Chair,—the following Resolutions were passed:

Moved by Arthur Palmer, Esq.; seconded by Samuel Worsley, Esq.—

1. That this Meeting rejoices in the opportunity of expressing its deep sense of obligation to Her Majesty's Government for their recent successful introduction of the "Dissenters' Chapels Bill," and to the able supporters in both Houses of Parliament, who generously united in sustaining, in the face of a pertinacious opposition, a measure of justice and protection, chiefly demanded by the exigencies of the religious denomination of which it forms a part.

Moved by Edward Harley, Esq.; seconded by M. H. Castle, Esq.—

2. That for the high moral tone assumed by the Premier in the debate on this memorable occasion, in which he declared that the substantial ends of law ought not to be sacrificed to its rigorous technicalities, and disclaimed for *Religion* protection by means of unseemly litigation, and the infliction of legal injustice and oppression,—the religious and right-minded portion of the nation cannot fail to entertain a proportionate measure of gratitude, respect and admiration.

Moved by Samuel Lang, Esq.; seconded by Edward Harley, Jun., Esq.—

3. That while it becomes us to manifest our sense of the services achieved by the wise direction and energetic exertion of human means, we feel peculiarly called on to recognize, at this crisis, the influence of a Gracious Providence which has thus overruled the hearts of men, and in the midst of many discouragements and discontents, made known the existence of a Moral Force in the heart of the community, strong enough, it is humbly hoped, to cope with every injustice, and, at no distant day, to bring ALL our institutions into harmony with enlightened principles and pure gospel truth.

Moved by WM. HARWOOD, Jun., Esq.; seconded by JAMES PROWSE, Esq.—

4. That, while regarding the protection of property in all its rights, as among the most important of the blessings of civilized man, we cannot but deem the freedom of human thought a privilege too sacred to be relinquished in favour of any extreme interpretation of those rights; and that, in the absence of express conditions defining and limiting their exercise, we rejoice in the legislative sanction which has recognized the claims of mind as well as of property, and, so far as the operation of this measure can affect them, made provision for the mental as well as material interests of the present and future generations.

Moved by M. HINTON CASTLE, Esq.; seconded by ROBERT BRUCE, Esq.—

5. That, regarding the right of private judgment as alike essential to the Protestant principle, and the liberty with which Christ would make us free, and thankful for the extended security with which it has been invested, this meeting deems that the most suitable evidence of its gratitude to Almighty God will be the devotion of its strenuous and increased exertions to the maintenance of religious freedom, the investigation of sacred truth, and the diffusion of those principles, practical and doctrinal, which may appear to be most consistent with the divine teaching, and most conducive to the happiness of man for time and for eternity.

Moved by R. V. WREFORD, Esq.; seconded by JOHN DAVIS, Esq., M.D.—

6. That, in reflecting on the efforts which have been successfully made to impress upon Parliament and the country the necessity and justice of the measure, now become law, this meeting cannot withhold the expression of its cordial acknowledgments to that portion of the public press, especially the *Leeds Mercury*, the *Nonconformist*, the *Inquirer*, the *Belfast Northern Whig*, and the *Christian Reformer*, whose services were so zealously and ably exerted for its promotion.

Moved by H. A. PALMER, Esq.; seconded by G. P. HINTON, Esq.—

7. That the grateful acknowledgments of this meeting be given to Edwin W. Field, Esq., and all those gentlemen who so ably and indefatigably acted on the Committee formed in London for the purpose of aiding the progress of the "Dissenters' Chapels Bill" through both Houses of the Legislature; and that this meeting also entertains a strong feeling that the thanks of the whole body of English Presbyterians are eminently due to the Rev. Joseph Hunter, F.S.A., the Rev. Thomas Rees, LL.D., F.S.A., the Rev. R. Aspland, and other learned and distinguished advocates of religious liberty, whose researches, writings and active services, at a former period, contributed so much to enlighten the public mind on the history and principles of our religious denomination, and to prepare the way for the accomplishment of that great measure of justice which we are this day met to celebrate.

Moved by the Rev. GEORGE ARMSTRONG; seconded by H. A. PALMER, Esq.—

8. That in reference to a resolution adopted by the General Committee in London, at its meeting of the 16th of July, as to the propriety of commemorating, by some permanent memorial, "educational or otherwise," the passing of the "Dissenters' Chapels Bill," this meeting, while hesitating to pledge itself on a matter as yet so unexplained, desires to express its readiness to entertain the subject of that resolution, when more fully and formally made known, with every disposition to concur in any wise and practicable plan that may be recommended to the general support of our religious body.

JOHN BISHOP ESTLIN, Chairman.

WE shall conclude the PRESBYTERIAN REPORTER in another No., in which we propose to insert *a complete List of all the Publications, pro and con*, on the subject of the Bill. We shall be obliged to our readers to assist us by the communication of the titles of any such works as they may think likely not to have fallen under our observation, especially any against the measure, of which we have seen only Cook Evans's legal pamphlet.

ERRATUM.

In the Division on the Second Reading of the Bill in the House of Commons, in the last No., the name of Lord F. Egerton is placed amongst the *Absentees*. We are informed that this is a mistake, and that his Lordship paired off *in favour* of the Bill with Mr. J. J. H. Johnstone, Member for Dumfriesshire.

THE PRESBYTERIAN REPORTER,

BEING A REGISTER OF PARLIAMENTARY PROCEEDINGS AND PUBLIC DOCUMENTS RELATING TO THE DISSENTING CHAPELS' AND ENDOWMENTS' BILL, FOR THE PROTECTION OF THE PRESBYTERIANS IN ENGLAND AND IRELAND, NOT SUBSCRIBING TO ARTICLES OF CHRISTIAN FAITH OF HUMAN COMPILATION.

No. VII.

PROCEEDINGS IN THE HOUSE OF LORDS, ON THE BILL BEING BROUGHT UP FROM THE COMMONS WITH AMENDMENTS.

FRIDAY, June 28, 1844.

[From the Votes of the House.]

Dissenters' Chapels Bill returned from the Commons agreed to with Amendments—and Bill with Amendments ordered to be printed 1st July.

[From the Parliamentary Reports in the Daily Papers.]

MONDAY, July 1.

Petitions against the Bill were presented by the Earl of WICKLOW. The noble Earl stated that he had received at least one hundred letters, stating that, if there were sufficient time, the petitions would be signed by thousands instead of hundreds, and complaining that the measure was one of spoliation and robbery. He thought a more unjust measure had never been brought before the House; and that it would be a reflection upon the character of Parliament hereafter, and might be made the foundation of other breaches of trust in future.

MONDAY, July 8.

In the course of the evening, the Bishop of DURHAM presented three petitions on the subject of the Dissenters' Chapels Bill (two against, and one in favour of the Bill). The right reverend Prelate stated that he concurred with the prayer of the petition in favour of the ministerial measure, and that of course he differed with the petitioners against the Bill. He explained that he earnestly and decidedly advocated the principle of the Dissenters' Chapels Bill, not approving the ground of dissent, or doctrines, of any particular sect of Dissenters, but because the Bill was simply a legislative security of civil rights and of simple justice.

TUESDAY, July 9.

The Bishop of NORWICH presented petitions against the Bill, stating that if he believed, with the petitioners, that it would have the effect of promoting Socinianism (as they alleged), he would oppose the measure; but, believing it to be a simple act of justice, he should support it.

The Bishop of EXETER presented several petitions against the Bill; one from some of the Baptists of Banbury; in which, he said,

he did not concur, seeing that it gave as its ground of opposition the Amendments of the Commons. Now, he should certainly rejoice if the prayer of this petition—that the Bill should be postponed for six months—were acceded to. But if not, and if the question came to be whether the Bill as originally passed by their Lordships, or the Bill as now altered by the Commons, were preferable, he should decidedly vote in favour of the latter. He freely admitted that the Bill, as thus altered, came up strangely inconsistent with itself—grossly absurd—and utterly stultifying the decisions of their Lordships—greater and grosser stultifications of their Lordships' decisions never had occurred. Upon that point, however, he had not a strong feeling, for their Lordships' decisions were not always regarded in quarters where they might most reasonably be expected to find respect. His sensitiveness on that score then was small indeed. But the Bill as it had been altered greatly mitigated, inconsistent and absurd as it was, the iniquity of the measure, as originally agreed to by their Lordships. When the Bill came before the Commons (he was aware he was not in order in alluding to what had passed there, but somehow or other their Lordships did become aware of it, and what had passed in their Lordships' House on the subject had been referred to in the other House), it had been a great argument in favour of the Bill that it should have received the approval of all the law Lords—none of whom were now present, by the bye. Oh, I beg pardon, my Lords!—one of the greatest of them is here.* And another noble and learned Lord is, I am happy to see, here also;† but only those two. He was about, however, to observe, upon what had been said of the concurrence of the law Lords, if what he had gathered from the usual channels of information was correct (and really the country gained most of its information now-a-days from those sources), without wishing at all to undervalue the authority of those learned Lords—they did not concentrate in themselves all the learning of the law; and he could state that several of the most eminent Judges were adverse to the Bill. It might be said, indeed, that Judges were good authorities for what the law was, but not for what it ought to be. And he heard the observation cheered, nor did he wonder at it; but what then became of the authority, on the other side, of these law Lords, who, though not now Judges, derived their authority from the fact of their having been so?—so that really the subject should be treated on its own merits. Now, if the reports published were correct as to what had passed in another place, the Bill as agreed to by their Lordships had been advocated by one of the most learned, the ablest and the clearest reasoners this country ever saw—the same learned gentleman (the Attorney-General) whom their Lordships were so delighted to hear on the preceding night (in the arguments on the Writ of Error), and that learned gentleman recommended the measure on the ground upon which it had passed their Lordships' House,—that where there were no express declarations of trust, then certain usage should be received as evidence of the objects of the trust. And it might have been expected, surely, that those who supported the measure would have done so on the

* Lord Campbell. † Lord Cottenham.

same grounds as those thus taken by the Attorney-General. Not so, however; for it appeared that a right honourable gentleman,* whom nobody knew in private without loving him, and nobody knew in public without respecting him, threw overboard these reasons for adherence to the measure, and said he supported it with no intention of having any specific doctrines to be taught, but on the principle of the "freedom of opinion;" and upon this argument arose the Amendment which essentially distinguished the Bill in its present from its previous form. I must really throw myself on the indulgence of the House.

Lord KINNAIRD came down to the table, and spoke to order. He appealed to the House whether the right reverend Prelate was himself justified in going at length into a discussion when the measure was not before the House, and he was only presenting a petition.

The Bishop of EXETER said, the petition prayed their Lordships to postpone for six months the consideration of the Commons' Amendments; and he apprehended that, before moving that the petition do lie on the table, he had a right to shew his reasons for that motion.

The Earl of SHAFTESBURY said, that there was no question before the House, and it would be extremely inconvenient if, on the mere presentation of a petition, the whole subject was to be gone into, more particularly at the present moment.

The Bishop of EXETER said, after what had fallen from the noble Earl, he must of course give way.

THURSDAY, July 11.

The Earl FITZHARDINGE presented a petition against the Bill, and observed that there was a very strong feeling in Gloucester against the Bill.

Lord CAMPBELL presented petitions upon the Bill. He begged to say that he had heard that there was a rumour that some of the supporters of the Bill had altered their opinions with respect to the measure. He would not answer for the truth of the rumour, but this he could affirm, that he for one retained his opinion as to the justice of the measure.

The Earl of WICKLOW observed, that as the noble and learned Lord had alluded to an intention on the part of noble Lords to move the postponement of the consideration of the Commons' Amendments for six months, he begged to say that he should be glad that the Bill had never passed; but then, having passed, he said that nothing could be more injurious than this being done. What, then, would be the result? For, suppose a majority should determine that the Amendments of the House of Commons were postponed to that day six months——

Lord KENYON rose to order.

The Earl of WICKLOW observed that he was speaking upon the petition.

Lord KENYON rose to order. It was because the noble Lord

* Mr. Gladstone.

was speaking upon a petition that he interrupted him. The Bill was fixed for a regular discussion on Monday night, and it was quite contrary to the practice of their Lordships to discuss matters on a petition.

Lord BROUGHAM rose to order, because he totally differed from his noble friend on the cross-benches. With the greatest respect he differed from him, as there was not a more constant practice in their Lordships' House than that very one of anticipating a discussion by taking it upon petition. He found that he himself was very much out of order the other night when he deprecated that course being taken.

The Earl of MOUNTCASHEL rose to order. He wished to observe that——

The Marquis of CLANRICARDE rose to order. He conceived that the noble Earl was in order in the observations he was addressing to the House.

The Earl of WICKLOW continued by saying that he had constantly observed in that House, that those who most frequently called others to order, were those who were the least acquainted with the rules of the House, and the worst qualified to give an opinion on the subject. If his noble friend on the cross-benches (Lord Kenyon) could have convinced him he was out of order, he would not have said a word more on the subject. He knew that he was not out of order when speaking upon a petition on which the noble and learned Lord who presented it had made an observation, and when it was by reason of that observation that he now addressed a few remarks to them, which were applicable now, but could not be applicable on Monday, because they must come too late if made on the day the discussion was to take place. What he then wished to point out was the mode proposed for defeating the Dissenters' Chapels Bill. He had objections to the measure; but he had greater objections to such a mode of defeating it as that of proposing that the Amendments of the Commons should be postponed to that day six months. Those who opposed the Bill considered the Amendments of the Commons an improvement. According to their view, then, this was a point of very great importance; for suppose they came to that determination, and rejected the Commons' Amendments, then a message might come from the Commons that they did not press their Amendments, and the result of this must be, that the Bill, in its most objectionable form, must pass. In spite of any opposition to it, the Bill must now pass—(cries of "No, no"). He was quite convinced that that must be the result.

Lord BROUGHAM wished to state to the noble Earl that in that supposition he was in error. The effect of suspending the consideration of the Commons' Amendments for six months would be this, that they would never hear any more about it. It would be a different thing if the Commons' Amendments were absolutely rejected. All that the Commons could do in the case supposed by the noble Earl would be to move for the appointment of a committee to search the journals; but that, too, must end in nothing, even though the

consideration of the Amendments should not take place for six months. He did think that the mode proposed would be an unworthy one for defeating the Bill. He could say, as to those who supported the Bill being now opposed to it, if the rumour applied to him, there never was any thing more without foundation. He knew, too, and could answer for his noble and learned friend on the woolsack, that he had never said any thing that could give the least colour or pretence for the fabrication of the monstrous fiction.

The Earl of GALLOWAY said that the noble Lord had stated the mode proposed for defeating the Bill would be a most unworthy mode of doing so. He did not think so, but he must at the same time say that he had heard that means the most unworthy had been adopted as to the third clause of the Bill. Under these circumstances, he conceived that persons who had a conscientious objection to the Bill were perfectly justified in defeating it.

The Earl of RODEN had been absent on the former discussion of this measure. He was anxious to offer his opposition to it, and he certainly should not consider that an unworthy mode of acting, whatever might be the means by which he might defeat one of the most dangerous measures that had ever been proposed.

The Earl FORTESCUE presented petitions in favour of the Bill. He could not help expressing his concurrence with the sentiments expressed by the noble Earl. He hoped the Bill would, having received the sanction of both Houses, be now passed, and that it might not be defeated by what he would not call an unworthy, but an unusual, certainly, if not an unprecedented course of proceeding.

DEBATE IN THE HOUSE OF LORDS ON THE COMMONS' AMENDMENTS.

MONDAY, July 15, 1844.

[From the Votes of the House.]

ORDER of the Day for taking into consideration the Amendments made by the Commons to the Bill, and the Lords summoned.—Read.

Moved—To agree to the first Amendment made by the Commons to the Bill—Objected to. An Amendment moved—That the said Amendment be taken into consideration on this day three months—After long debate on question that the said Amendment be taken into consideration on this day three months—Resolved in the negative.

Then the original motion was agreed to, and the other Amendments were also considered and agreed to, and a Message sent to the Commons to acquaint them therewith.

[From the Short-hand Writer's Notes.]

The LORD CHANCELLOR.—My Lords, in performing the duty I have to discharge on the present occasion, it will be necessary for me to occupy a very few minutes of your Lordships' time. Indeed,

my Lords, I should, under ordinary circumstances, have merely mentioned these Amendments, and prayed your Lordships' concurrence in them; but in consequence of some intimations which have been thrown out in different quarters, and in consequence of what passed in this House on a former night—intimations made by a noble Lord, for whom I entertain the greatest respect—I feel it my duty to call your Lordships' attention to the progress of this Bill, and to the position in which it actually stands at this moment.

My Lords, when this Bill was brought into your Lordships' House, and submitted to you for a Second Reading, it met with a very warm and able opposition from my right reverend friend,* and was also most eloquently opposed by another right reverend friend of mine,† but whose opposition to the Bill was chiefly founded upon what I conceive a misapprehension of the law as far as related to charitable trusts; which misapprehension was exposed, replied to, and satisfactorily answered by my noble and learned friend who sits near me.‡ After the close of the debate upon this motion, your Lordships agreed to the Second Reading of this Bill without any division. Those noble Lords and those right reverend Prelates who opposed the Second Reading of the Bill by their speeches, did not venture to divide your Lordships' House on the Second Reading, because, I presume, they were of opinion that if they had taken that course it would have shewn, in a marked manner, that your Lordships approved of the principle of the Bill. Afterwards, my Lords, in the progress of this Bill through its subsequent stages, it met with no further opposition. It was passed by your Lordships with unanimity, as I understood, and went down to the other House of Parliament for its adoption.

A NOBLE LORD.—There was a division on the Third Reading.

The LORD CHANCELLOR.—I understand, my Lords, that there was a division, and the case is still stronger than I had supposed it to be; because on the Third Reading of this Bill there was a division which marked the strong opinion which the great majority of your Lordships entertained with respect to the justice and the policy of this measure. The Bill then went down to the other House of Parliament. It was, according to report, actively opposed in that House; but, my Lords, upon the Second Reading, when it came to a division, the opinion of that House, which represents the opinion of the people of this country, was marked in the strongest manner by the division which on that occasion took place, the majority being in the proportion of three to one in favour of the Bill. My Lords, the opponents of the measure, however, were not discomfited. They again rallied on two successive occasions. The House was again divided on the occasions to which I refer, and upon those occasions the same marked majority was declared in favour of the principle of this Bill. Such then, my Lords, is the history of the progress of this Bill through both Houses of Parliament. The House of Commons, when the Bill was in the committee, thought it right to move certain Amendments, which have now come up to your Lord-

* The Bishop of London. † The Bishop of Exeter. ‡ Lord Cottenham.

ships' House for your consideration, and to which I shall presently call your Lordships' attention.

Now then, my Lords, in what position do we stand? Your Lordships have approved, in the manner which I have stated—in the most marked and emphatic manner—of the principle of this Bill. That approval has been re-echoed in the same decisive manner by the other House of Parliament;—and now the question, and the only question, as I apprehend, for your Lordships' consideration is this—(for both Houses of Parliament have approved of the principle of this Bill)—Whether your Lordships are of opinion that the Bill should pass in its *original* shape in which it was approved of by your Lordships,—or whether you will adopt those *Amendments*, or some of those Amendments, which have been proposed by the House of Commons? There can be no other question for consideration; and this is the point to which your Lordships' attention must be directed—Was the Bill better for accomplishing the object to which it is directed, in its original shape; or has it been improved by the Amendments introduced by the other House of Parliament? If your Lordships should think that the Bill in the shape in which it originally *went* from this House is better than in the shape in which it *returns*, in that case your Lordships will disagree with the House of Commons' Amendments, and you will have a conference with the other House of Parliament. If, on the other hand, your Lordships approve of those Amendments, you will adopt those Amendments, and the Bill will immediately pass into a law. The question therefore, as I apprehend, for your Lordships' consideration is this—What is the nature and character of those Amendments, and have they or have they not improved this Bill?

My Lords, a very extraordinary course, as I understand, is intended to be adopted. I am not speaking merely from surmise or conjecture, but a noble Lord, to whom I referred just now, and for whose opinion and whose character I entertain the most profound respect, has told us that he intends to move that the Amendments of the Commons shall be considered this day three months. The noble Lord has told us that in fact he will not consider the Amendments of the Commons: for that is the effect of the motion which he intends to make—that we are to pass that slight upon the Commons—that, in a Bill of this description, the principle of which has been adopted by both Houses of Parliament, we will not even consider the Amendments which have been proposed by the Commons. Now, my Lords, there are cases undoubtedly where that course might be pursued; and I remember cases of that description. If a Bill was to go down from this House to the other House of Parliament, and they were to accede to the principle of the Bill, but were to introduce an Amendment infringing upon the privileges of your Lordships' House, you would not consider such an Amendment. My Lords, there is another case to which I can refer—a case in which I myself, I believe, formerly was an actor—and which is of this description, that when a complicated Bill goes from this House to the other House of Parliament, and it comes back with provisions and amendments of a complicated description, requiring great caution and great deliberation, and it comes up so late in the session as not to afford time for due

deliberation and care, then I say that is a reasonable state of things in which a motion of this sort might be made. But, my Lords, no other case suggests itself to my mind; and I can hardly believe that, after due deliberation and reflection, any noble Lord will think it right to adopt such a course. In this case, when there has been ample time to consider these Amendments—when they are not of a complicated description,—when they fall within the principle and object of the Bill,—I can hardly think any noble Lord will pursue the course which has been intimated to us by the noble Lord to whom I have referred; and which amounts to this—that, after both Houses of Parliament have agreed upon a measure of this importance, as to its principle, they will not even take the Amendments of the Commons into their consideration.

Now, my Lords, undoubtedly something like a reason was assigned by the noble Lord to whom I have referred, on a former night; but that reason is founded on the assumption of a fact which really has no existence. The noble Lord said he should be justified in pursuing this course, because he thought something passed on the Third Reading of the Bill which he did not entirely approve of. The noble Lord did not tell us what it was to which he referred; but nothing, my Lords, did pass on the Third Reading of this Bill except the adoption of an Amendment which was proposed by my noble and learned friend who sits near me. My noble and learned friend proposed that Amendment in accordance with the principle of the Bill. He gave me notice of his intention to move that Amendment. I considered and approved of the terms of it. When the motion for the Third Reading was made, my noble and learned friend stated the nature and object of the Amendment to your Lordships. The motion was made and regularly put from the woolsack, and it was adopted without any opposition from your Lordships. Now that is the real history of the transaction to which I presume the noble Lord refers. Nothing could be more regular than my part of the transaction; nothing could be more free from complaint than the whole of that transaction, upon which, and upon which alone, as I understand, he means to found this extraordinary motion.

Having said thus much with respect to the progress of this Bill, and with respect to the position in which this House now finds itself, and with respect to the course which it ought to pursue, permit me to call your Lordships' attention for a very few moments to the Amendments which have been sent up from the other House of Parliament. And here I confess I feel some little difficulty: for unless the Bill is in your Lordships' hands, it will be extremely difficult, from the nature of the Amendments, and the refined character of some of them, to make them perfectly intelligible to your Lordships. But I will go through them shortly, in order that your Lordships may understand their general nature and character.

The first Amendment (and they almost all apply to the second clause of the Bill), was an Amendment suggested by a class of Dissenters who are called by the name of the "General Baptists." Their principle is the principle of adult baptism. In their deeds they insert no *other* part of their creed; but *that* part of their creed *is* inserted in the deed. The consequence would have been that, as far as relates

to their opinions on other doctrinal points, they would not have fallen within the protection of this Bill, and therefore it was they applied to the gentlemen who had the conduct of the Bill in the other House of Parliament, to adopt this Amendment, which they considered necessary in order that they might have the benefit of this Bill. And the first alteration contained in the Bill was introduced.

The next alteration that has been made was suggested by the Wesleyan Methodists. The words in the Bill were, "mode of worship," —"mode of worship as mentioned on the face of the deed." They said, We have no mode of worship mentioned on the face of our deeds, but we have a mode of *regulating* worship, which is by reference to the Conference; and therefore they prayed that, in order to adapt the Bill to their particular case, the word "regulating" should be introduced. My Lords, that is the second Amendment contained in this Bill.

The third Amendment is also an Amendment at the suggestion of the Wesleyans. According to the Bill as it originally stood, the form of the religious opinions, mode of worship, and so on, must have been contained in the body of the deed—on the face of the deed itself. The Wesleyans said, *that* will not apply to our case; and, in order that we may have protection, some further words must be introduced. None of our deeds have on the face of them our particular mode of worship, or our religious opinions; they are all by reference to another document. That document consists of the four volumes of Mr. Wesley's Sermons; to which book, as manifesting our religious opinions, our deeds have reference. Therefore they prayed that, for their protection, and in order that they might have the benefit which they thought they were entitled to, these words should be introduced —"either on the face of the deed, or by reference to some other document, or some other instrument."

Now, my Lords, those are the three first Amendments that have been introduced by the Commons into this Bill; and I am sure they must all meet with your Lordships' concurrence.

The next is a very trifling Amendment. It adds to the word "meeting-house," the words "*for the worship of God.*" As the Bill originally stood, the words were, "such meeting-house;" but the word "such" was considered as having relation to the meeting-houses mentioned in the previous clause, and it was supposed that the meeting-houses in the previous clause might be considered as confined to those meeting-houses that were affected by that clause, that is, those that existed before the last Act of Toleration; and, therefore, in order that there might be no ambiguity in that respect, instead of the word "such," (which word was omitted,) the words "meeting-houses for the worship of God," in order to give them generality, were introduced. That is the fourth Amendment.

Another Amendment of no very great consequence, because I think it was implied in the Bill as it originally stood, was the introduction of the word "forbidden." "Any religious opinion declared or forbidden." By the express declaration of the religious doctrines or opinions to be taught or observed, you could "forbid" or exclude other opinions which are inconsistent with them; but for the purpose

of removing all doubt and ambiguity in those respects, the word "forbidden" has been introduced. That is another Amendment.

Now, my Lords, another ambiguity, as it was supposed, was in the Bill as it went from your Lordships' House, of this nature. "Religious opinions which have been professed for a period of twenty-five years." It was said it does not appear to what period those twenty-five years relate. There must be some words fixing the termination or commencement of the twenty-five years. They have assigned and identified the period by saying, "twenty-five years from the commencement of any suit that shall be instituted relative to the matter in question." So that that ambiguity is made clear.

As the Bill originally stood, it was contended that if persons —for instance, Socinians, Unitarians, or Arians—have once passed the term of twenty-five years, they would have no power of altering their opinions and becoming orthodox; and for the purpose, therefore, of obviating that difficulty and giving them a *locus penitentiæ* in that respect, some words have been introduced to this effect—"that it shall be lawful to preach those doctrines and opinions at the meeting-house in question;" but not precluding the preaching of other doctrines at any future period.

My Lords, there is another alteration extending the object and principle of this Bill, but in the same sense, in the same spirit, in which the Bill itself is framed. That alteration is directed to charities for the benefit of a minister of a congregation, or the widow of such minister, or any officer of the congregation. The Bill, by the operation of the Amendment, extends now to the congregation itself.

Now, my Lords, further than this, there is some alteration, and I think a judicious alteration, in what I may call the *legal* operation of the Bill. As the Bill went down from this House, it was not to affect any right or title to property founded upon any judgment. Now, there are cases actually depending where the judgment has been pronounced, but where no right or title to property has been acquired; and therefore, by striking out the words "right or title to property," and retaining the words "judgment or decree," they in effect retain all the beneficial objects of the Bill as it went down from this House, and get rid of any objection.

The last Amendment to which I am to call your Lordships' attention, is this—that in order that it may not be supposed to affect any pending suit in which private individuals are concerned or interested, the word "suits" is struck out, and "proceedings by information" introduced. So that it relates only to pending proceedings by information instituted at the suit or instance of the Attorney-General.

These, my Lords, are the Amendments. I have stated them in detail; I have stated the effect of them. If I am asked my judgment with respect to them, I consider some of them as unnecessary, I consider some of them as material and important; but they are all in the spirit of the Bill; they do not contravene any part of the principle of the Bill as it went down from this House; and I advise your Lordships, therefore, to adopt them. It would be very inconvenient, on account of any trivial variation of opinion as to any one of these Amendments, that the Bill should go down to the other House of Parliament for the purpose of renewed discussion. I advise your Lordships,

therefore, having stated what is the nature of the Amendments, to adopt the Amendments and to pass this Bill into a law.

My Lords, after what I stated in the outset, it will not be supposed for a moment that I mean to touch upon the *principle* of the Bill. It has already been discussed and decided by the House, and therefore I should think that I acted an improper part—that I went out of the course which this proceeding has suggested, and the shape in which it now presents itself—if I said a word as to the principle of the Bill. But I must be allowed to say this, that it has been suggested that those persons who introduced or concurred in the introduction of this Bill, introduced it for the purpose of giving encouragement to Unitarians. Nothing could be more foreign to the intentions of those who introduced this Bill. It was meant as a Bill giving relief, and was intended to give relief, to the whole body of Dissenters. It might at one period affect the interest of one class; it might at another period affect the interest of another; but the principle of the Bill, the ground of its being introduced into this House, was for the purpose of establishing peace as to these points;—for the purpose of preventing expensive litigation;—for the purpose of applying to the Dissenting Church, if I may so express myself, that principle which is applied to all other property of every description in this country;—for the purpose of preventing property that was given to charitable purposes being diverted from those objects, and put into the pockets of lawyers, of the danger of which there is abundant evidence.

My Lords, I regret very much that there should be so warm an opposition on the part of my right reverend friend. I am, however, consoled with this reflection, that there are right reverend Prelates present who will support this Bill by their opinions, or by their votes, on this occasion. And, my Lords, with respect to those who are absent, I cannot forbear stating, that a right reverend Prelate of great learning and varied attainments; of the same University with myself; from whom I differ in political opinions; and who gave us so splendid an example of his eloquence not long since in this House,* has manifested his attachment to this Bill, and the principle of it, by putting his proxy into my hands on this occasion. I am proud of the confidence. But, my Lords, the great opposition to this Bill has proceeded, I am sorry to say, from the Dissenting body—from persons who, at no very distant period of time, complained that they were the victims of persecution. They have obtained all that they desired, and now they withhold from their brethren, or desire to withhold from their brethren, *that* toleration which has been imparted to themselves. Some of your Lordships may recollect a remarkable speech by a wise, eloquent and philosophical Statesman, in the other House of Parliament—I mean Mr. Burke—upon a question something similar to the present. I do not dare to quote the whole of that eloquent passage to which I allude—it is too warm for the temperament of this House. I will confine myself to the last sentence of it. He says, "If, instead of puzzling themselves in the depths of the Divine counsels, they would turn to the mild morality of the Gospel, they would there read their own condemnation—'O! thou unworthy servant, did I not

* Dr. Thirlwall, Bishop of St. David's.

forgive thee all that debt thou owedst me, because thou didst desire it? Shouldst not thou also have compassion on thy fellow-servant, even as I had pity on thee?'"

My Lords, I have said as much as I think I can venture on the present occasion. I have been frequently tempted to take a larger view of this subject, and to enter again into the principles of it. I have been tempted to do so in consequence of various petitions that are now upon your Lordships' table, explaining the hardship to which different individuals are subjected, the injustice that has been wrought against them; but I abstain from doing so, because I think I should infringe the principle I laid down if I took that excursive course. I conclude, therefore, my Lords, on this occasion, by earnestly exhorting your Lordships to adopt the Amendments.

The Bishop of LONDON.—My Lords, I can assure your Lordships that I entertain all the embarrassment and difficulty which may be supposed to attach to the position of a person who rises to oppose, on a question of such vast importance, so grave an authority as that of my noble and learned friend. I feel that difficulty to be greatly increased by what I may denominate the novelty of the situation in which I stand, because I really admit, my Lords, that the course which I intend to pursue, in compliance with the prayer of many of the petitions which I have lately had the honour of laying upon your Lordships' table, is one which has not usually been pursued in this House, except in cases of extreme urgency. Nor should I, my Lords, think myself, unworthy as I know myself to be of your attention in general, warranted in coming forward and in assuming an attitude of hostility to the Bill so unusual, did I not feel that the emergency which calls me forth is of itself of a most unusual character. My Lords, I am no indiscriminate panegyrist of all the measures which your Lordships, in your legislative wisdom, may think fit to carry into a law, as being stamped with all the character of that attribute—the attribute of consummate wisdom; yet I do think, and the experience of twenty years in this House has confirmed me in this opinion, that it is not usual with your Lordships to pass a measure which contravenes the plainest dictates of reason, and is opposed to the maxims of common sense. My Lords, I wish to use the softest language in speaking of the measure now before your Lordships, coming before you as it does with such high authority; but I venture to say that your Lordships have now a last chance of saving yourselves from the reproach of passing a measure which is contrary to the maxims of reason and common sense. I say so, my Lords, because it contravenes, it infringes, it sets aside for the future, those rules upon which courts of equity have hitherto interpreted the law of charitable trusts—rules to be drawn, as my noble and learned friend himself declared in one of the most luminous judgments that ever was delivered from the Chancery bench, to be drawn from the maxims of justice and of common sense. I am, therefore, justified in saying that a Bill which is in direct opposition to those rules, is contrary to the principles of common sense and common justice. My Lords, I think, therefore, it justifies an unusual course of proceeding; but I hold that any member of this House is perfectly justified, if he thinks that the emergency

of the case is such as to demand it, in having recourse to any course of proceeding to defeat the final success of a measure which he himself believes to be injurious to the character of your Lordships, to the interest of the country, and to the still more important interests of eternal truth. I admit that if this be not the case, I am not justified in taking that unusual course which the noble and learned Lord has denounced in terms of such eloquence as would have made me, if I had not felt supported by a conscientiousness that I stood forth as the vindicator of the truth, quail beneath him, and desist from the purpose which it is my intention now to bring forward.

My Lords, I admit that I am precluded by the usage of your Lordships' House, and indeed by the obvious nature of the case, from entering at large into the principle of the measure itself, which may fairly be considered, as the noble and learned Lord has said, to have been settled as far as your Lordships are concerned, when the Bill was passed in this House and sent down to the Commons. But if the Amendments of the Commons be such as necessarily to involve the principle of the Bill—if they have introduced Amendments which considerably affect the principle of the Bill—it will be wholly impossible to do justice to the cause I have taken in hand, without some passing allusion at least to the main principle of the Bill; and in this I shall be justified by the example of my noble and learned friend, who towards the conclusion of his forcible address, summarily it is true, and not at any length, entered upon the principle of the Bill, and stated to your Lordships with great emphasis and perspicuity what the principle of the Bill was. Now, my Lords, I think it the less necessary to enter before your Lordships into the abstract principle of the Bill, as separated from its application to particular cases, —I think it the less necessary to enter into any discussion of the abstract principle of the Bill, because I must say—I hope I may be permitted to say it without incurring a charge of presumption or vanity—that the arguments urged by others and myself, when the Second Reading of the Bill was proposed in this place—have not yet, either here or in any other place, received a satisfactory answer. I feel the almost impropriety of alluding to any former argument used by myself, but I must be permitted to notice one somewhat curious allusion made to the speech which I had then the honour of addressing to your Lordships. It is reported,—for I was not present myself at the time, but I believe it is correctly reported,—that a noble Lord whose character stands deservedly high in the estimation of your Lordships, was pleased to allude in somewhat complimentary terms in the course of his argument, and he finished his compliment by saying that the arguments were so strong, that it was highly creditable to the House to pass the Bill in spite of them. It is perhaps unnecessary to allude further to that, but I must say that after all that has passed, and feeling the immense importance of the question—I have read a great deal, I have heard a great deal, and have thought more on the subject—I do not see that the arguments urged against the fundamental principle of the Bill have yet received by any means a satisfactory answer. My Lords, I fear that many of your Lordships, judging from the reception which was given to the allusion of the noble and learned Lord to the course it was intended to pursue on

the present occasion, will think that the opposition which I offer to the measure is somewhat pertinacious. I admit it is pertinacious, and I hold that in such a cause as I in my conscience believe to be here involved, pertinacity becomes a virtue. I feel myself justified in availing myself of all the forms which your Lordships' House permits me to avail myself of, in endeavouring, I will not say absolutely to defeat the measure, but to postpone the consideration of the great question which is involved, the great interests which it touches—interests, my Lords, not merely of a pecuniary kind, but interests of truth and justice, to a more distant period—that your Lordships, and the Government who have proposed this Bill, may have fuller time for inquiry, and a longer opportunity for deliberation. For, my Lords, this is not the least remarkable feature of this important measure, that touching as it does the established rules of law and equity, and the interests of religious truth, it was brought into your Lordships' House without any previous inquiry; it was not even known, my Lords, I believe, at the time it was brought in, whether there were any suits pending which it would touch; your Lordships had no opportunity afforded you by going into a select committee, and inquiring what was the real nature of the evils to be remedied, and what was the proper remedy to be applied; the Bill was carried down to the House of Commons, where most indubitable evidence was given of the haste with which the measure was concocted, by the most important alterations there introduced, which most materially changed the character of the whole measure as it went down from your Lordships' House. I say, therefore, that I desire not so much from any wish to achieve a triumph, as to afford a longer time for consideration to those who have supported the measure, and who might, I doubt not, after due inquiry and deliberation, propose some measure to your Lordships which might obviate what I admit to be in some cases a substantial injustice, without doing that which is of far greater importance than any case of individual injustice—injustice to the eternal interests of truth and the principles of equity and justice.

Now, my Lords, the first clause comes before your Lordships unamended. In truth there was good reason why there should be no amendment—namely, that the clause itself was quite superfluous, the clause doing nothing more than enacting that to be the law which is in fact the law at the present moment, because it has been held unanimously, in the great case of Lady Hewley, that since the repeal of the Acts which made it penal to teach Unitarian doctrines, Unitarians are just as much the objects of charity—charities now founded, as well as charities founded in former times—as though no such penal Acts had ever existed as part of the law of the land: therefore the first clause I consider to be superfluous and supererogatory.

My Lords, with regard to the third clause,—(forgive me, if for a moment, as I feel the whole pith of the question is upon the second clause, I pass over it to say a few words on the third clause,)—the third clause is exceedingly important, and I think contains in itself substantially the essence of injustice. I think that the persons who are most interested in the question, and whom I shall shortly mention more particularly to your Lordships, have great reason to complain

of that third clause. That third clause did not exist in the Bill as it was originally introduced, and as it went through the committee. As the Bill went through the committee there was a reservation of all suits pending on the 1st of March last: a very proper reservation, usually introduced by your Lordships into all Bills of a similar kind, except where acts of gross injustice are intended to be prevented. On the Third Reading, my Lords, or when the Bill was passed, I am not sure which—I was called by official duties away from London, and was not present—but a clause was introduced by my noble and learned friend opposite entirely altering it, and putting a bar at once to all pending suits of a particular kind, which in fact comprehended all the suits that are now pending. The real object of that clause was to bar the Relators in a most important suit—that great suit in Ireland, which may not inaptly be termed the Lady Hewley's case of Ireland, the case of Eustace-street chapel, where an income of not less than £2,400 had been left for the purpose of propagating Trinitarian doctrines, but which is now used by Unitarians or Arians. My Lords, the Relators to that Bill might justly have expected to be heard before their title was barred by such a clause, because they were in such a condition as I think I shall satisfy your Lordships that no such clause ought to have been passed without giving the Relators the opportunity of being heard: for the Relators had all but obtained a judgment in their favour. That eminent and learned person who is so conversant with the rules of equity and the law of the country—the present Lord Chancellor of Ireland—had virtually given his judgment in favour of the Relators. He had taken great pains to make himself master of the case, and he had intimated in the plainest terms that his judgment would be for the Relators; he postponed his judgment for a time—he fixed, I think, the 15th of March or April for giving his judgment; and when the Relators came into Court they found the judgment was put off. In the mean time this Bill was brought in; but still the Relators had no idea their suit would be barred, because all suits pending before the 1st of March were reserved by the Bill, and their suit was pending before the 1st of March. They, therefore, would have had a right to prosecute their suit, and judgment would infallibly have been given in their favour. But, my Lords, a clause was introduced into the Bill at the last moment, in this House, before it went down to the House of Commons; and mark the fact I am now going to state, because it shews the hardship to the Relators. The Bill was ordered to be printed on the 10th of May; but it was in fact not printed and delivered till the 14th of May. The Relators, therefore, never heard of the clause until the 14th of May, the very day for which the Second Reading of the Bill was fixed in the House of Commons. Now, my Lords, I confess, looking to the fact that the Lord Chancellor of Ireland had, on one occasion at least, declared his opinion that the law and equity of the case were plainly with the Relators; that nothing remained in order to put them in possession of the property but his final judgment or decree; that they are thus, without having any opportunity of arguing the injustice of the proceeding, barred from the prosecution of their claim—I think they have a right to complain. At all events, my Lords, they have a right to lament the chronological difference between their suit and that of

Lady Hewley's Trustees: because, if they had had the good fortune to bring their suit in the Irish Court of Chancery a year or two ago, and it had been prosecuted by an appeal to your Lordships, your Lordships would infallibly have given judgment in their favour. And if you are, by what I cannot help designating an *ex post facto* law, to bar the plaintiff, or pursuer, or relator, by a Bill, where they have all but obtained the judgment of the Judge, when they have had his clearly-expressed decision, I think it would be a very little greater stretch of injustice if you made it retrospective—if you annulled your own decision in the case of Lady Hewley, and gave back to the Unitarian Trustees that property they had been so long in the enjoyment of, but which your Lordships thought fit to deprive them of, on principles based, as my noble and learned friend then stated, on the plainest rules of common sense and common justice.

My Lords, I have pointed out, on the third clause, the great injustice done towards the suitors in the Irish Courts of Law; and I wish to remind your Lordships that in the Bill as originally introduced, where a very proper reservation is made of all suits instituted on or before the 1st of March, there is no mention made of Ireland. The committee was then called on to decide whether the same measure which is good for England might not be good for Ireland; and upon an abstract principle undoubtedly it would, and I believe there is no difference of opinion upon the subject. The committee having come to the conclusion that the Bill was to apply to Ireland, then came in, at the last hour, this clause—which takes away from the Relators in the suit in Ireland that benefit which they would have had if Ireland had not been included in the Bill; all the Relators in the English suits which were pending on the 1st of March being exempt from the operation of the Bill. So much with regard to the third clause.

My Lords, I now come to the second clause, which I have all along dealt with as the most objectionable to the principle of the Bill, which involves a principle which I hold to be contrary to all principles of law and equity, on which trusts have hitherto been administered by the eminent and learned Judges who have for centuries adorned the woolsack and the bench. My Lords, as the clause went down from your Lordships' House, it was enacted that the usage of the last twenty-five years should be conclusive evidence of the intention of the founder. My Lords, really this was on the face of it so unreasonable and absurd, that it was found necessary in the House of Commons to alter it. It would in some cases act unjustly, and in all cases I conceive it to be a most absurd principle. My Lords, as amended, it now stands thus:

"That so far as no particular religious doctrines or opinions, or mode of regulating worship, shall on the face of the will, deed, or other instrument declaring the trusts of any meeting-house for the worship of God by persons dissenting as aforesaid, either in express terms, or by reference to some book or other document as containing such doctrines or opinions or mode of regulating worship, be required to be taught or observed, or be forbidden to be taught or observed therein, the usage for twenty-five years immediately preceding any suit relating to any such meeting-house of the congregation frequenting the same, shall be taken as conclusive evidence that such religious doctrines or opinions or mode of worship, as have for such

period been taught or observed in such meeting-house, may properly be taught or observed in such meeting-house."

My Lords, I for one am far from considering this as an improvement. I confess that upon the whole I would rather that the Bill should have gone forth with its original absurdity, for so I must treat it, that of making twenty-five years conclusive evidence of what the founder intended; I would rather it had gone forth in that form, than that the Legislature should step in to say that such doctrines may now properly be taught; that where it can be clearly proved, if not by the conclusive evidence of the deed, by the inferential evidence of historic testimony, and by other extrinsic evidence, that certain doctrines should be preached—doctrines of the most vital and essential importance—where it can be proved that the founder intended those doctrines should be preached, the Legislature should step in and say that doctrines of an opposite character, impeaching those doctrines and denying them, may properly be taught in such places. I confess, my Lords, I should have been desirous of some such provision as this,—that no action or suit shall be allowed against any person or persons whatsoever for any doctrine or doctrines whatsoever taught in any meeting-house or meeting-houses whatsoever. I am aware, my Lords, that that clause probably would, as I am afraid that the clause even as it now stands will do, have opened the door to enormities in doctrines of the most frightful kind, and that some meeting-houses might come into the possession of Socialists, Chartists, Atheists and Blasphemers, but it might not have been difficult for them in such a case to retrace their steps. It is said that under the amended clause it is not difficult. I think I shall shew your Lordships that it would be exceedingly difficult for them to retrace their steps, but at all events we should not have the Legislature declaring that Unitarian doctrines—doctrines denying what we consider to be the fundamental truths of our holy religion, upon which our hope of salvation rests—*may properly be taught* in any place of worship whatsoever within Her Majesty's dominions. I am aware of the interpretation that may be given to the word "*properly*;" it may be said it means no more than that it may be taught without subjecting them to penal consequences, or to be ousted from the enjoyment of their property; but the common sense of the country will understand the word "properly" in a different sense, and I confess upon the whole I should have preferred the original clause, encumbered as it was.

But now, my Lords, with respect to the possession of these trusts by persons who may properly teach any doctrines which it can be shewn have for twenty-five years preceding the institution of any suit been taught in that church. My Lords, suppose the case of a Unitarian minister, having for more than twenty-five years taught the doctrines peculiar to that denomination; that at the expiration of that time he sees reason for altering his opinion, and that many of the congregation are disposed to go round with him, and to take their stand on the orthodox principle. He will not be prepared to do it in case a claim can be set up by some of the Unitarian trustees; he will not be prepared to prove the orthodox doctrines, the doctrines of the church, have been preached for the preceding twenty-five

years; and therefore I imagine if the question is brought before a court of equity, he will of necessity have preached Trinitarian doctrines, and be ousted of his possession of the chapel. So that in such a case as that, as far as I see, your Lordships leave things where they were—with this difficulty, that having rejected the best evidence, you now are prepared to receive the worst; rejecting all evidence *dehors* the deed, which in many cases is really evidence equivalent in value to the very express terms of the deed itself; rejecting the testimony of history, of contemporary title, rejecting the testimony of the usages of one hundred years, you have recourse to the testimony of the congregation, many of whom perhaps are very incompetent judges to speak on the matter, and it is by no means an improbable case that some of the congregation may say, "Oh, we remember such and such a doctrine being taught within the last twenty-five years;" while a still greater number will say, "No such thing—we never heard such a doctrine preached;" and how is a court of equity to decide to which of those parties the chapel will belong? My Lords, I say therefore that the clause, even in its amended shape, will not answer the purpose which those of your Lordships who supported the former clause had in view when it went down to the other House. I say, therefore, the present clause is so far worse than the former clause, inasmuch as it rejects the best possible evidence and takes the worst possible evidence.

Now, my Lords, that such evidence, which is effectually excluded by this Bill, ought to be taken by those who wish to conciliate the interests of equity and truth, will appear to your Lordships, if I read a sentence from the very luminous judgment of that very learned person to whom I have already referred as occupying, with so much credit to himself and the satisfaction of the suitors in his court, the bench of the highest seat of judgment in the Irish Court of Chancery. My Lords, Sir Edward Sugden says—

"I shall admit evidence, or, if not furnished, I will, if necessary, look for evidence in history, in records and Acts of Parliament, in the knowledge of the times, in the writings of men of different persuasions on ecclesiastical subjects. I will seek from all these sources for evidence to ascertain what, at the time of the execution of the deed, was the meaning of the word 'Christian,' and the meaning of the words 'Protestant Dissenters,' and that, not for the purpose of putting a construction on these words which would do any violence to the deed, but, if I can, to enable me to put a construction on them that shall at once be consistent with the deed, and accord with the intentions of the founders."

My Lords, these are the views taken by that very learned authority, and they appear to me to contain the very essence of the principles of justice and equity which it is the object of the present Bill, whether your Lordships take the original clause or the amended one, to disregard.

Now, my Lords, I have already stated to your Lordships that I feel myself debarred from entering upon the principle of the Bill; but it is my duty to point out one or two instances of the hardships which will follow from the Bill, if it is passed without the amended clauses or with the amended clauses. I have already touched upon one or two imaginary cases. I will now present to your Lordships one or

two real cases, because I have always observed, whether in this or in any other assembly, that the examples which are faithfully subjected to the eye, find readier acceptance than those which are only transmitted through the ear. I have stated that the words I have read from the judgment of Sir Edward Sugden seem to me to convey the essential principle which ought to regulate Judges in the administration of the law with respect to charitable trusts. I need hardly remind your Lordships that the rule has been laid down by a greater man than that eminent Judge, and in fewer and not less perspicuous words. The rule of equity which Lord Eldon laid down was briefly this: "If it appears to have been the founder's intention, though not expressed, that a particular doctrine should be preached, it is not in the power of the congregation or the trustees to alter the designed object of the institution." Now, my Lords, I will state to your Lordships one of the cases to which I alluded. A meeting-house was opened at Chester, in October 1700. A sermon by a very eminent Dissenting minister, whose name is well known to your Lordships, Mr. Matthew Henry, was preached on that occasion. It was published a few years afterwards, in 1728, with a preface by a not less eminent divine, Dr. Watts. The preacher said—"Those that build altars for maintaining and propagating any heresy, spoil the acceptableness of the altars they build; and it will be construed to be done in transgression against the Lord." Of the intention with which that chapel was built there can be no doubt. He then states the agreement between the Presbyterians and the Church of that day. That chapel, my Lords, is now occupied by a congregation of Unitarians, and the pulpit is held by an ultra-Socinian. I use the word "ultra-Socinian," because the Socinians, properly so called, whose consistency I do not stop to consider, hold that our blessed Lord and Saviour was an object of divine worship. The ultra-Socinians, or Unitarians, of the modern day deny that notion altogether: therefore, my Lords, the pulpit in that chapel is now occupied by an ultra-Socinian. By the second clause, as it comes up amended to your Lordships' House, it will be enacted that those very doctrines which that eminent person denounced from the pulpit, when that chapel was opened, as a heresy—such a heresy as would render the building of altars in that chapel, with its endowment, unacceptable to God—I say the Bill now before your Lordships, as amended, would declare that those very doctrines may "*properly* be preached," and on the clearest evidence before your Lordships; that is to say, the clearest evidence where there is no express deed; and under the second clause of the amended Bill, it will be impossible for any person to oust the Unitarians from property which may have been unjustly usurped.

My Lords, another case is this:—At Stannington, in Yorkshire, a chapel was endowed. Here we have the case of an endowment. It was endowed by the will of Richard Spoone, "for the maintenance of a minister approved by certain persons for honesty of life, soundness of doctrine, and diligence in preaching." "*Soundness of doctrine.*" What is now to be the test of "soundness of doctrine"? Why, the usage of the last twenty-five years! What the testator meant by "soundness of doctrine," which I should think a much

more important element in the question, when it comes to be determined on the usage of twenty-five or fifty years—what the testator meant by "soundness of doctrine," was quite clear from the preamble of his will—a document in which, if in any document, a man's meaning may be supposed to be obtained. "I desire," he says, "in the name of Jesus Christ, to bequeath my soul into the hands of God that gave it, hoping assuredly to be saved by the death and precious blood-shedding of Jesus Christ my Redeemer, and by no other merits." This chapel, my Lords, is now in the hands of Unitarians. Is it possible to conceive that it would be consistent with the plainest principles of equity and justice, that those Unitarians should be perpetuated in the usurpation of a chapel which, by the plainest inference at least, the testator dedicated to the honour of God, as he understood the term—designating the three persons of the blessed Trinity? That chapel, by the usage of the last twenty-five years, resounds every week with a denial of those fundamental doctrines of Christianity which the testator, and many others with him, I might say the Presbyterians of all times with him, have believed to be the very foundation of our hope, from which if we depart we can have no hope whatever of final salvation. And notwithstanding this, and Unitarian doctrines being doctrines which he would not have shrunk from designating as "a soul-destroying heresy," now, under a clause of this Bill, it is to be declared by your Lordships and the other House of Parliament that they may be properly preached.

Now, my Lords, this leads me to a question which I hope will not be considered as trenching upon the principle of the Bill; but it goes to shew in a still stronger point of view the injustice of the second clause as to what doctrines may or may not be properly preached in these places. My Lords, I cannot recede from the position which I took on a former occasion, which all reading and reflection have tended to confirm me in, that the only doctrines which can properly be preached in this or that chapel, are the doctrines for the preaching of which the chapel was founded.

My Lords, I know it has been urged with great force of language, and with great apparent accuracy of reasoning, that we have no right to conclude any such intention on the part of the founders of these charities; that we have no right to say, if they were at the present moment in the land of the living, they would themselves declare that the doctrines preached in the chapels founded by them, albeit diametrically opposed to their own most sacredly-cherished opinion, are not properly preached in these chapels. My Lords, it is said that amongst the Presbyterians of that day there was a great latitude of opinion and belief; and this, as far as I can judge from reading the debates of the other House of Parliament, was one argument which carried with the mover and the seconder of the Bill many members who otherwise, I believe, were inclined to think that the measure was fraught with injustice to the cause of truth. It was an argument, I say, my Lords, by a right honourable friend of mine,* whom it is impossible to mention except in terms of the highest respect, and, I may add, with regard to those who know him, with affection—it was

* Mr. Gladstone.

argued by him, with that learning, ingenuity and clearness which clearly shews the energy of his mind, that no such intention really could have been entertained by the Presbyterian founders of these charities, and that they never would, if they could, have fettered future holders of them by an interference with any change which may be supposed to exist.

My Lords, I say it is not historically true, as I think I proved on a former occasion to your Lordships, and I will not again go over the ground I then travelled; but I must add one or two observations, to shew the accuracy of the position which I then assumed, and the accuracy of the conclusions I drew. I say, at the time these charities were founded, which was between the year 1635 and the year 1700, or thereabouts, during all that time the Presbyterians were of necessity orthodox in their doctrines; that they were strong Trinitarians; that they not only held those opinions themselves, but they insisted on their absolute necessity as vital doctrines of the Gospel—that without them there could be no faith unto salvation. They designated opposers of them as blasphemers, infidels, and by every other term which theological hatred has invented to characterize its opponent. But, my Lords, I do not base this my assertion merely on one set of Dissenters having called another set of Dissenters names: I base it upon the deliberate declarations of their most learned, amiable and most Christian ministers. I will adduce to your Lordships an authority which has been adduced, to my great surprise, on the other side of the question; but I think I shall easily shew your Lordships that mine is the scale upon which the weight of truth is placed, and which I think will have some influence on your Lordships' minds in determining the question. Dr. Calamy, whose name is well known to your Lordships, writing in the year 1717, says of the Presbyterian candidates for the ministry—and I beg your Lordships' attention to that, because it is, after all, an important feature strangely overlooked in the House of Commons; he says of the Presbyterian ministers—I beg your Lordships' pardon—he says the *Protestant Dissenters* generally, candidates for the ministry—"Candidates for the ministry are solemnly ordained, after making a public confession of that faith in which they make it their business to instruct others." Dr. Priestley states, that "among the Dissenters called Presbyterians, a particular profession of faith was formerly required of all candidates for the ministry, their soundness in which was then deemed essential." Here are two most important witnesses. Again I beg your Lordships to observe that that testimony goes to the qualification of persons for the ministry, which is the whole gist of the question. It is very true they do not insist with equal strictness on confession and creeds; and that is the real difference in the case. But as far as the propagation of doctrine was concerned, they considered the ministry to be a sacred trust, to be guarded with the greatest jealousy for the interests of truth; and they did not then, nor for long afterwards, admit any person to the exercise of that function who did not make a solemn and public confession of his faith in the vital doctrines of Christianity, as contained in the Articles of the Church.

If I wanted higher authority than Dr. Calamy and Dr. Priestley, I should find such authority again in my noble and learned friend on

the woolsack, who, in that luminous judgment to which I have so many times referred, says, "It is stated by the witnesses, and there is no contradictory evidence, that the Presbyterians of that day" (in Lady Hewley's) "were believers in the Trinity, and in the doctrine of Original Sin, as contained in the Articles of the Church of England."—"I am justified, I think, in coming to the conclusion that the great body of the Presbyterians were in their opinions Trinitarians." It is true that the noble and learned Lord does not touch upon the question, whether or not they bound their successors to the same opinions as themselves; but they did intend to bind their successors in the ministry. It is very true that at a later period, Presbyterians became indifferent, or rather I should say hostile, to the creed of confession; but I doubt even if, at a much later period, they were indifferent to the creed of confession in candidates for the ministry. All along their objection has been, and it has been an objection upon which thousands have separated themselves from the Church, namely, to imposing creeds of confession as terms of communion.

My Lords, I know it has been said, by the same authority to which I have before referred, that Presbyterians of those days were men of a catholic spirit. I will not enter upon the question, in the sense that the Church of England attributes to that word, whether they can properly have been said to have been men of a catholic spirit. The question is not before us. But strange indeed would be that catholicity—catholicity rejected and scorned by no man with greater emphasis than by those pious men who should hold the vital doctrines of the Trinity, the sinfulness of man and the necessity of grace, as matters of indifference! My Lords, it is not the principle of real catholicity to treat any essential feature of the truth as a matter of indifference, even with respect to the principles of those who hold them, much less with regard to the doctrines of those who preach them. And with regard to the catholic spirit which is assumed to have animated many of those pious men who instituted those religious endowments, here again I am able to appeal to an authority, not identical to that which I have named, but co-ordinate with it, and one to which I am sure my noble and learned friend will pay due respect; I mean, the authority of two eminent Judges—Mr. Justice Pattison and Mr. Baron Alderson—in Lady Hewley's case. Mr. Baron Alderson and Mr. Justice Pattison say as follow:—"We were much pressed with quotations on this point by the learned and ingenious gentlemen who argued for the defendants; but they have failed to satisfy us even as to the probability of any such catholic intention as that for which they contended having been entertained by Lady Hewley. Such views may have been entertained" (and this is a sufficient answer to the isolated and detached quotations from Presbyterian divines, which seem to be evidence on the other side of the question)—"Such views may have been entertained by a few speculative divines of great benevolence of feeling, but were never very generally received." Undoubtedly, I do not mean to deny there may be some cases in which such a spirit may have actuated the founders of these charities; but undoubtedly, and that even our opponents will not deny, in by far the greater majority of cases, no such spirit animated them. Does it not become a question of historical

evidence whether the founders of such chapels were actuated by the spirit of catholicity which has been attributed to them?

My Lords, I do feel extremely reluctant to trouble your Lordships further, and nothing but the extreme urgency of the case—an urgency involving what I consider to be a most sacred and important question—would have induced me to trouble your Lordships; but, my Lords, there is a point on which I feel myself bound to touch; and I do it with the most unfeigned reluctance, because it is one of extreme delicacy and difficulty, and I am not sure I shall treat it with sufficient perspicuity to enable your Lordships fully to comprehend the bearing of the argument. It is this:—in the second clause, as it went down from your Lordships' House, there are the words, "such meeting-houses"—such meeting-houses as are described in the first clause. In the other House—at what stage I have not been able to ascertain, because it does not appear to have been done during the regular stages of discussion—these words were changed to "meeting-houses *for the worship of God*;" a most important change, although a change only of a few words. My Lords, hitherto, if the words "worship of God" have occurred in our statute-book, they have been always and must be interpreted to mean the worship of God as that Divine Being is defined in the Articles of the Church of England. I defy any noble Lord to adduce an instance from the statute-book where Unitarian worship is spoken of as the worship of God. My Lords, on looking back to the statutes which repealed the penal acts against Unitarians, I find the question avoided; there is no mention of divine worship; they are simply exempted from the operation of those acts as to their penal consequences. Now, my Lords, your Lordships will be pleased to observe, I do not give any opinion as to whether that worship is or is not the worship of God; I have my own opinion on the subject, but I do not give it; I only say that hitherto, looking to the constitution of this country, of which Christianity is part and parcel, I do say that the words "worship of God" have not been used by the Legislature in any sense than the worship of the Triune God. Now, my Lords, the reason of my adducing it is not this objection; but it appears to me a very delicate, and I may say dangerous, question may arise from the insertion of these words; because I can easily conceive—I have spoken to legal advisers on the subject, and there can be no doubt about it—that a legal objection may arise on the interpretation of those words, "chapels for the worship of God;" and that the persons who have the chapels which were originally endowed for the preaching of Trinitarian doctrines, now occupied by Unitarian preachers, if an action is brought to oust them, it will be met by that clause, and said, "Oh, but your chapel is not for the worship of God—it is not for what we consider to be the worship of God." It would come, therefore, before a legal tribunal; it would be for the Judge to decide what is meant by those words, "the worship of God," and it may ultimately come before your Lordships by appeal—and very probably it would come before your Lordships by appeal—and your Lordships would be called upon to determine, as the court of ultimate appeal, what is meant by the words, "the worship of God;" and then you would be reduced to this alternative, which I describe to your Lordships to be a fearful and dan-

gerous alternative. I know that your Lordships would in that case be pressed by the meaning of the framers of the Bill. We have had within the last few days the declaration of the Judges in a remarkably luminous judgment, which I have read with great instruction and satisfaction, that in determining the meaning of certain expressions of an Act, it has always been customary to have recourse to the intention of the framers of the Bill. This is a Bill to secure to Unitarians the perpetual enjoyment of their chapels; if it is not confessedly so, it is notoriously so, because every other class of Dissenters disclaims the Bill. It appears that no other class of Dissenters can be affected by the Bill in that formidable array of suits to which my noble and learned friend referred, when he spoke of his having heard that it was likely that two or three hundred suits would be brought; but I say, this Bill will be necessarily brought under the consideration of your Lordships on appeal, and you will be called upon to decide that question, as to what is meant by the worship of God in conformity with the intention of this Bill. The intention of this Bill is to quiet Unitarians; and if you do not determine what is the worship of God, you must then, of necessity, throw it open so widely as to embrace not only Unitarians, but Jews and Mahomedans. Now, I say it is dangerous for your Lordships to approve of any clause which exposes you to the possibility of being called on to decide such an alternative. My Lords, if my view of the clause is wrong, I should be glad to have it corrected; but it is a view which I have derived from those who adorned, while they filled, some of the most eminent legal stations in this country, and who are of opinion there can be no doubt the view I have taken is the correct one.

Well, then, my Lords, this leads me in the last place to say, having alluded more than once to other persons who are deeply interested in the fate of this measure, that although I feel dismayed by the array I see against me, comprehending not only my noble and learned friend on the woolsack, but all those distinguished legal personages who have achieved for themselves a seat in your Lordships' House by the use of those eminent talents which have conferred so much benefit on the country, and so much lustre on the national honour—while I am appalled, I say, at the array which I see marshalled against me, I feel at the same time no little confidence in the knowledge that out of doors the vast majority of the legal profession are most hostile, and amongst them not a few of the most distinguished Judges of our land, both in courts of equity and in law. I say this, knowing it to be true; I speak it of my own personal knowledge; as to the rest of the community, when the noble and learned Lord describes the other House of Parliament as the representatives of the people at large, and therefore infers that there was no considerable objection in the community at large to the passing of this most important Bill, am I to be told at this time of day, that that House of Commons, of which I would not speak otherwise than with all the respect that is due to it, but constituted as it always is, and as it has long been, are the representatives of the religious feeling of the country? Is it, in the very constitution of that House, possible that it should be so? My Lords, I would not even say that your Lordships' House is the true representative of the religious feeling of the

country, although there are elements in this House which, perhaps, give it a preferable title to such a character; but I do say, that no just inference can be drawn from the vote of the House of Commons upon such a measure,—a measure, as I have already presumed to say, conceived in haste, imperfectly put together, inconsistently amended in the House of Commons,—that on the merits of such a measure the House of Commons are the faithful representatives of the religious communities of England. My Lords, I should rather say, although I will not even appeal to that tribunal, knowing the artifices which are frequently resorted to, to inflame the public mind,—but I should rather say that the thousands and thousands of pious men who have signed the almost countless petitions which load your Lordships' table, are better interpreters of the feeling of that part of the community in which I make bold to say, without any disrespect to your Lordships, the Christianity of this country is principally to be found—the middling and lower classes! My Lords, those petitions comprise persons of every religious denomination, except that one which is numbered at about two per cent. of the Dissenting community, for whose especial benefit—for whose sole benefit—this measure is intended. In the course of my Parliamentary experience—and I came into your Lordships' House at a time when the public mind was agitated to a degree almost unprecedented by the probable fate of the Roman Catholic question—I never remember the public mind to have been more agitated than it has been upon the present question, considering the very short time that has elapsed since it was first made known; and I do not scruple to declare that your Lordships will do just the contrary than rise in public estimation, if after the expression of feeling with which you have now been made acquainted—feeling not on a topic of every-day interest or ordinary occurrence, but one of truth, equity and religion—if you pass a measure which in my opinion contravenes all the maxims on which they rest.

My Lords, with regard to myself, I trust your Lordships will do me the favour to believe that I have not treated the subject more in a polemical spirit than was absolutely necessary, considering the peculiar nature of the case. I have endeavoured to discuss it with reference to the great principles of equity and justice, which I consider to be infringed by the Bill. But at the same time I ought not to conceal from your Lordships the conviction that I feel, that in passing this measure your Lordships will also, unintentionally I am sure, inflict a severe injury on religious truth. That point, however, I will not advert to. I trust your Lordships will think that I have not exhibited a factious spirit of opposition. I should not have followed that course, on which I entered with great reluctance, and which I have trodden with pain, except on the deepest conviction of the duty incumbent upon me. My Lords, I have been the instrument—I have been the organ—through which an expression of opinion has been made known to your Lordships, of many thousands of my fellow-christians; but I have in no instance sought to procure a petition; I have not even in my own diocese intimated, even by a single word, that petitions should be multiplied. If I had, my Lords—if I had breathed a wish to that effect—every petition which I have laid upon your Lordships'

table would have been multiplied tenfold. My Lords, I have been desirous of discussing the question on its own intrinsic merits; but at the same time I did feel it was a duty incumbent upon me to call upon your Lordships at large to pay some respect to that deep religious feeling which pervades the great body of the community. That feeling, my Lords, will be greatly outraged, whilst I think the fundamental principles of equity and justice will be violated, if your Lordships should ultimately pass the Bill.

My Lords, it may be asked after all, is this a proper time to moot that question? For the reasons I have already pressed upon your Lordships, I approve neither of the Bill nor of the Amendments; I think, although the Amendments in some respects are an improvement, they are in other respects a worstening of the Bill; I therefore cannot accept them; but neither on the other hand can I accept the Bill. It appears to me to have been a hasty measure, adopted without sufficient inquiry on the part of those who proposed it for your Lordships' adoption. I have wished to save your Lordships what I really believe to be the discredit of passing such a measure, and affording those whose province it is to introduce it, another opportunity of considering some course of proceeding which shall prevent substantial injustice without violating the first principles of justice. My Lords, I therefore take the liberty to move that the Commons' Amendments to this Bill be taken into consideration this day three months.

The Bishop of DURHAM.—My Lords, I am satisfied there was no intention on the part of the framers or supporters of this Bill, of favouring one body of Dissenters more than another, but of extending equal protection to all, and of placing all under shelter of the law for the administration of that justice to which all her Majesty's subjects are entitled. My Lords, I most undoubtedly have no sympathy with the religious opinion of the sect to which my right reverend friend has alluded; and I will do him the justice to say that he has treated the subject with great moderation, as far as relates to religious interests. But, my Lords, although I have no sympathy in the religious opinion of the sect which has been alluded to, I have a great sympathy with the rights of conscience and the rights of property.

My Lords, I have very little intention, even if I could say any thing that was worthy of your Lordships' attention—I have very little intention of saying much, because I have not that ability which would reward your attention, and because I feel that, the principle of the Bill having been admitted in both Houses of Parliament by a large majority, our attention is now confined to the question of Amendments. Upon those Amendments my right reverend friend has descanted with his usual ability;—indeed, I may say that some of his arguments contain a little sophistry, particularly in the use he has made of the word "properly;" but that is a legal and technical term, and will not, I think, admit of the construction put upon it. Upon the question of the "worship of God," the argument has been extremely ingenious, and is worthy of attention; I cannot presume to give an opinion; I think it is a question for the consideration of lawyers; at the same time I do not believe, that either in that respect

or in any other, there is that danger which my right reverend friend anticipates, and I do not believe that the sect alluded to will derive any advantage by way of favour, though they may be protected in those rights which they now enjoy. My Lords, I will not trespass further on your Lordships' attention, but give my vote in favour of the Bill.

Lord BROUGHAM.—My Lords, it is necessary that I should set right the right reverend Prelate who spoke first, in his statement of the nature of the Amendments and of the Bill. I entirely agree with my noble and learned friend on the woolsack, and with my right reverend friend who spoke last, that we have the discussion now narrowed to the consideration of the Commons' Amendments, and that we are no longer in a condition, with any regularity, to go at large into the original principle of the Bill. These principles have been adopted and sanctioned by the unanimous vote of the House on the first night, and on the Second Reading; and when I say "unanimous," I mean without a division on the Second Reading, and by a very large majority at a subsequent stage. In the other House of Parliament it has met with at least the same proportion of assent from the representatives of the country. We are therefore now called upon to agree or disagree with the Commons' Amendments, if indeed we do not, in entire inconsistency with our former proceedings, and in entire inconsistency with the very arguments upon which the proposition of the right reverend Prelate itself is founded, agree to the third middle course, of hanging up for six months the consideration of the Commons' Amendments. Now, my Lords, that proposition was (my right reverend friend will forgive me for saying) the only part of his speech (in all other respects one of perfect candour and fairness) in which I did not perceive the same marks of his character; because if my right reverend friend really objects to some of those Amendments—he admits he approves of some, he says he disapproves of others which he thinks are worse—what should be his course? To agree to the Amendments which he approves of, which he holds to be improvements, and to disagree with the Amendments which he thinks injure the measure instead of mending it. Then what would have followed? The Commons then would have said (at a conference, as is usual,) whether they persisted in those Amendments or not. If they persisted in them, the case would be remediless; but if they did not persist in them, then they would be expunged. But says the right reverend Prelate, I do not approve even of the Amendments which make the Bill better: "I had rather it had come back from the Commons with all its imperfections on its head." That is what I say is not quite so candid on the part of the right reverend Prelate. He says, "I like the Bill all the worse for its having been made better." Why? Not because the measure is not amended; he admits that of those Amendments three make it worse and three make it better; but he says he would rather have the Bill worse than better. Why? "Because it gives him a better argument against the Bill." That is the argument of the right reverend Prelate, which I think savours more of some of those proceedings in courts of law, with which I am better acquainted than

with the courts in which he practices—I mean it savours of the secular courts of common law, which are enlightened by the learning, and agitated by the astuteness and subtlety and the advantage-taking zeal of the advocates on either side, who would their client's case were worse rather than better; who would rather have a grievance whereon to found an argument against their adversary, than have that grievance reduced by concession, because it gives a better chance of a verdict.

My Lords, I must really object to one view which has been taken by the right reverend Prelate of the scope of the measure. He says it is all in favour of Unitarians, and of Unitarians alone; and how does he prove it? Not by reference to the measure, for that would disprove it, but because he says all other Dissenters, to whom the Unitarians are in the proportion of two to ninety-eight, are against the measure. My Lords, I positively deny this from the facts. My Lords, I have presented petitions, not so numerous as my right reverend friend, but I have presented very many petitions; so has my friend the noble Marquis;* so has my noble and learned friend Lord Cottenham; so have other noble Lords,—we have all presented very many petitions, not from Unitarians, but from orthodox Dissenters and from Church-of-England men and from Catholics, in favour of this measure. Now, my Lords, I have an illustration of my position in point of fact which I am proud of having the opportunity of stating. I hold in my hand a letter from a most eminent orthodox Dissenter of the Independent denomination, Mr. Baines of Leeds. Now, Mr. Baines is one of the most respectable persons in the West Riding of Yorkshire: he is a person of great influence; he was formerly the proprietor of a widely-circulated journal, the *Leeds Mercury;* he has now retired from business, enjoying a large fortune, which he has obtained by his industry. Mr. Baines says—"I consider this to be a wise and healing measure, quite as valuable to the orthodox Dissenter as to the Unitarian, and I consider we *all* ought to feel grateful,"—*all*, the orthodox Dissenters as well as Unitarians—"we all ought to feel grateful to the Government that introduced it, and to the enlightened statesmen on both sides of the Legislature by whom it has been supported."

Now, my Lords, it is usual in arguing this case to say—"Here is a very great hardship likely to be produced; for suppose there is a deed that gives a chapel to Trinitarians, which may come into the possession of Unitarians, and they possess it, and preach the heterodox doctrines, as they are called, for 25 years, there is an end to the right of the Trinitarians altogether." But take it *vice versâ*, and will not the Bill apply to that just as well? There may be a foundation for Unitarians, a foundation excluding Trinitarians; there may be a foundation in which the words in the will or deed distinctly prove, as plain as language can make it, that it was the design of the parties that it should go to one particular class, namely, Unitarians. There may be the clearest evidence, there may be the strongest evidence, alluded to by the right reverend Prelate, on the deed of foundation itself; or there may be proof of opinions; there may be contemporary

* Lansdowne.

evidence; there may be such evidence as we had in Lady Hewley's charity, that it was the intention of the party that Unitarians should have it, and not Trinitarians. Twenty-five years' possession by Trinitarians takes it away from Unitarians altogether and for ever; therefore the Trinitarians will benefit by this Bill just as much as in an ordinary case Unitarians will benefit by it.

Now, my Lords, the right reverend Prelate puts a case where nothing can be clearer than the intention of a party that the Trinitarian doctrines alone shall be preached and used in a chapel, where you have among other evidence that can be produced, that of his own writings and his mode of living; he may have exhausted all the technical vocabulary of theological hatred against Unitarians, so that no doubt whatever shall remain what his intention was, and yet, upon this Bill, twenty-five years' possession frustrates all those intentions, and gives the chapel, the burying-ground, and the property, to the Unitarians, upon whom he exhausted the violence of his controversial opinions. And this is said to be a gross and crying injustice, and not only so, but a grossly unreasonable Bill, and a Bill contrary to common sense, senseless and unreasonable on account of its discrepancies between the event and the intention of the parties. My Lords, this is an argument not against this measure, but against every measure in the nature of a statute of limitations. It is an argument against all acts to quiet possession, it is an argument against all suits to quiet possession, it is an argument against all statutes of limitation whatever, and it applies not only to charitable foundations, not only to trusts, but it applies to all property, as I shall presently shew to the right reverend Prelate. I am going to put a case that happens every day; I am going to put a case where the absurdity is precisely the same, not similar, but identical; I am going to put a case which makes the law of limitation just as liable to be deemed contrary to reason, just as liable to be deemed contrary to common sense, as the right reverend Prelate has argued with respect to this. My Lords, I will suppose that a person—in the most distinct and express terms—not to be gathered from matter *dehors* the instrument; not to be gathered from circumstantial evidence, from the writings, or the words, or the conversations, or the known habits and opinions of the founder, but from the will of the party. I will suppose the will states, "that I, Thompson, having a just and great hatred and indignation against all persons of the name of Jackson, leave to a person of the name of Thompson my family estate, upon express condition that he shall marry no person of the family whom I denounce—on express condition that he shall never take in any way the arms or names of that family—upon express condition that he shall never, on any account whatever, hold any communion, hold any intercourse, with that denounced family—and on express condition that they shall never profit with his knowledge by one farthing of the rents, or by one single perch of the land." Nothing can be clearer, nothing can be plainer, than the ground of the provision, than the intention which led to it, than the intendment of the party who makes this will against this one family, and in favour of the other. And yet what will happen, if by any means whatever, if by any collusion on the part of the heir and the denounced family, that estate, that identical

property, gets into the possession of the family excluded, and remains in their hands for the period of limitation—which has not since the reign of James the First, the beginning of the seventeenth century, been more than sixty years, and has recently been reduced to twenty years in some cases, and thirty years in others? Now my noble and learned friend's Bill takes the medium between the two, and makes it twenty-five, on the analogy of the statute of limitations. If for thirty years at the utmost, as the law now stands—the common law of the realm, regulating the rights of property—that estate gets into the possession of the family intended, and expressly intended, to be for ever excluded, there is an end of the restriction contained in the will of the founder of the estate (if I may so call him): and the estate remains in the hands of those whom he intended to exclude for ever from enjoying one farthing of the rents, and from ever having one acre of the property. That is the state of the law of limitations: it is a consequence of that law. So that the argument of my right reverend friend applies against every limitation: it is an argument which applies against all prescriptive rights whatever; and precisely the same absurdity and unreasonableness is imputable to that law upon which many titles in this country are held.

My Lords, I was very much surprised to hear the right reverend Prelate object to the expression which has been inserted in the second clause: I mean "for the worship of God." If he will look to the preamble of the Bill as he originally had it before him, as it was originally before the House when the Bill was in committee, he will find the very same expression, "worship of God," stands in that clause. Consequently there was precisely the same reason for objecting to it then that there is now for objecting to the enacting clause, because the argument might have been raised, as the right reverend Prelate well knows, from that preamble, which would have affected the construction of the enactment. My Lords, I certainly regard this Bill, as I did originally, as a Bill of peace. It does not espouse one sect more than another, but it enacts what is for the common and equal benefit of all; it prevents interminable litigation; it prevents jarring; it prevents needless, endless, and boundless expense to the funds for the support of education and of religious worship; and it takes such a period as may be abundantly sufficient to enable parties during so many years to have brought their action, or to have brought their suit in equity, to have disputed the possession, to have disputed the title of the holders—but it says that where they have lain by for twenty-five years they shall no longer be heard to dispute that title; precisely as the law says with respect to every estate where there has been an adverse possession for thirty years at the most, or twenty years at the least, where a party has lain by he shall not come in to disturb by litigation the title of those whom he has allowed so long to hold the property.

My Lords, one word more with respect to the argument constantly used on this Bill, that no length of time will cure a breach of trust. As between the trustee and the *cestui que* trust, the party beneficially interested, interested past all doubt, there is no limitation; but as between two conflicting *cestui que* trusts, as between two parties who both claim the benefit of the trust, every one in the profession, and I

believe every one out of the profession of the law, knows that the statute of limitations will run, and the practice of the courts of Chancery built on the analogy of the statute of limitations runs in favour of the one party and against the other, who has slept on his rights.

My Lords, on these grounds I retain my predilection for this Bill. I agree with the correspondent whose letter I have read to your Lordships, that it is a Bill in favour of all Dissenters, and beneficial to Churchmen as well as Dissenters; that it is a Bill of peace—a Bill for the prevention of legal chicanery and endless litigation and boundless expense upon charitable funds. I therefore continue to give my hearty support to this Bill.

The Bishop of NORWICH.—My Lords, I am unwilling at any time to intrude myself upon your Lordships' attention, but after the able and eloquent speech of the right reverend Prelate who followed the noble and learned Lord on the woolsack, I trust I may be allowed, considering the station I hold in the Church, and my position as a clergyman of the Establishment, to say a few words in justification and explanation of the vote I am about to give.

My Lords, my intention, in the first instance, was to oppose this Bill, relying on the testimony of persons in whom I placed implicit credit, knowing them to be religious men. I had determined to oppose the Bill, because I had been informed that it was not a Bill for the Dissenters generally, but a Bill designed for the exclusive benefit of Socinians and Unitarians. On looking into the measure, I found that I had been misled; that it was no question of theology and doctrine, but one of equity and justice. I found that others had been misled like myself, and had in consequence signed petitions against the Bill, acting on the same erroneous opinions upon which I, in the first instance, had been disposed to give it my opposition, and who, on discovering their error, deeply regretted the course they had been induced to take. Did I, then, persevere? No; for my pertinacity would be, not like that of the right reverend Prelate, a virtue, but a culpable perseverance in opposition to my conviction. Many petitions have, undoubtedly, been presented to your Lordships' House against the measure; but I have never known a case in which so many petitions of a contrary character have been presented within the same time. I have glanced over many of these petitions against the measure, and have found that, although numerous, they have comparatively few signatures. For instance, last week I presented a petition from certain Baptists of one of the most populous towns in England, with only eleven signatures. This very evening I have presented a petition in favour of the Bill from a borough town, signed by Baptists and orthodox Dissenters, and by Churchmen also, to the number of 150, which shews that the feeling of Dissenters and Churchmen is not only not against the Bill, but that there are many, very many, of them anxious for it. I quite agree with the noble and learned Lord on the woolsack, that it never could be his intention to support Socinian and Unitarian doctrines. It would be a libel on her Majesty's Government—on the noble Duke in this House, and on the right honourable Baronet in another place, as well as on every member of the Cabinet—to suppose that they could ever have advised

the introduction of a Bill so utterly regardless of the true interests of religion and of that Established Church which it was their duty to protect. I, therefore, determined no longer to oppose the Bill; but, on looking more closely into it, I found myself rather in a dilemma, for I was unwilling to allow my name to be in any degree associated with Unitarians and Dissenters. But then came this difficulty—With what consistency could I oppose it? How do I hold my own preferment? Do I not derive it entirely from those who advocated doctrines to which I am opposed? In another place it was said, that the tears of Protestant saints would flow in rivers if this Bill should pass; but would not the tears of Roman Catholic saints flow in equal abundance on viewing the question on another side? I am well aware that I hold my preferment by Act of Parliament. An Act of Parliament regulates and ensures me possession of the preferment I hold. With that I am satisfied. But then comes another question. The Methodists do not depend on an Act of Parliament. Their founder, John Wesley, was an ordained churchman, and was at all times, from the beginning of his ministerial career to the end, friendly to the church. It was a fatal policy when, in those days, we rejected him and made him our enemy. Almost his last prayer was, that his followers should not depart from the church. They have, however, departed; and what would they say, if we now were to insist on their emoluments, their foundations, and all the money they have expended on their schools and chapels? The Methodists, and your Lordships too, I apprehend, would stigmatize such a step as an act of injustice. This, I repeat, therefore, is no question of theology and doctrine; but I will maintain it to be a religious question. It is religious in this most essential quality, because it is a question of equity and justice; and it is not for man to put asunder principles which God has joined together.

It is for this reason that I am most anxious to support this Bill; and I should deem myself swerving from my duty as a member of the legislature, and inflicting an injury on the cause of justice, if I did otherwise than give it my unqualified support. There is a principle, but too often forgotten in theological and doctrinal strife, which teaches us to do unto others as we would be done by. It is on this principle that I would ever yield to Unitarians those rights to which they are justly entitled; for I have yet to learn that the legislature of this country is accustomed to draw a difference between religious tenets, and on that account to deprive men of their rights and liberties. For these reasons, therefore, I support the Bill. We are enjoined to lay aside all self-interest, all prejudice, and all partial affections. My interest would lead me to oppose the Bill, because I know that I should thereby be more akin to the feelings of a great body of my fellow-countrymen. My prejudices would induce me to oppose it; for I will frankly acknowledge that there is no sect of Dissenters, no religious tenets, to which I am more hostile than those of the Unitarians and Socinians. My prejudices are, therefore, against it; my partial affections are alike opposed to it, because I should, by opposing the Bill, have the gratification of being associated with those with whom I wish to agree. I felt myself compelled, however, to lay all these feelings aside, and administer impartial jus-

tice to all. I must, then, express my gratitude to the noble and learned Lord for introducing this Bill, and tender him my cordial assistance and support.

Lord RODEN.—My Lords, I rise to offer my sentiments to your Lordships on this subject. I am anxious to express the extreme regret that I felt when I found that my noble and learned friend had introduced into Parliament a measure which tended more to wound the feelings of the great majority of the religious community of England than, perhaps, any measure that I remember to have been introduced. My Lords, I think if I were to appeal to those numerous petitions which have been presented to your Lordships, and which have expressed the sentiments of all classes and all denominations in the country, the great majority of them have been opposed to this Bill and the principles of this measure which is now upon your Lordships' table. My Lords, when I look into those petitions I find that the expressions in them are to this effect:—that they conceive this Bill to be a Bill of injustice, a Bill which gives property to individuals who at present by law have no right to it, and which property was left by certain pious persons for certain objects, which objects are directly contrary to those to which this Bill will apply it. My Lords, this Bill has come again to your Lordships' House, amended by the other House of Parliament, and we now have an opportunity of reconsidering this measure; and I trust that no taunts which have been thrown out by any noble Lord with respect to doing all in our power to throw out this measure, will have any effect on the minds of any of those noble Lords who may have changed their opinion on this subject; and I believe there are some now within my hearing who have changed their opinions on the subject since the Bill was first introduced to your Lordships' notice.

My Lords, I trust that what has been stated by my noble and learned friend on the other side of the House (Lord Brougham) with respect to the unusual course which it is said the right reverend Prelate has taken on the present occasion by proposing that these Amendments should be postponed—I trust, my Lords, it will not be the means of inducing your Lordships to adhere to an opinion of which you have now seen the fallacy: for if this Bill passes, when once this measure has been put upon the statute-book, I cannot but conceive there will be a blot on that book, which many who witness it will hereafter deeply deplore. But, although this may be an unusual mode, I think I am justified in saying that it is by no means an isolated mode in which Bills in Parliament have been met; and I think noble Lords who may find fault with the right reverend Prelate for his course, will bow to the authority which I shall bring forward on the subject to shew that noble Lords high in office, belonging to the other side of the House, followed the same course when they found it their convenience, or when they found it their duty, to do so a short time ago.

My Lords, it will be in your Lordships' recollection, and I believe it was in this very House, in the year 1834, the Justices of the Peace Bill was introduced; when a noble Lord of high authority, and filling so worthily that woolsack which is now filled by the noble and learned

Lord, moved that the Amendments of the Commons to that Bill be read that day six months. My Lords, that course was then adopted as proposed by the noble and learned Lord; the motion was agreed to, and the Bill was consequently lost. My Lords, another instance, which is an authority to which I think noble Lords will bow, was in the year 1836, upon a Bill well known to your Lordships, and which at the time made much noise in this House and in the other House of Parliament: I mean the Irish Church Bill. Your Lordships will remember that that Bill came up to this House with a certain clause, called the Appropriation Clause; and your Lordships will remember the course that was then pursued, when Amendments were made in this House with respect to that Bill, and returned to the House of Commons. My Lords, "Lord John Russell moved that the Lords' Amendments be taken into consideration this day three months, which was agreed to," and the Bill was consequently lost. My Lords, I think I have shewn your Lordships sufficiently that both in this House and in the other House of Parliament there have been two occasions when this course, which is now condemned by the noble Lords opposite out of office, was pursued when they were in office, acting according to the best of their judgment, and according to what they thought was for the benefit of the country. My Lords, I claim therefore for the right reverend Prelate the same forbearance in the motion he has made with respect to the Amendments now before the House. I think he is right in not meeting them with a direct negative, but in proposing that the consideration of them should be postponed, in order that the whole of this important measure may come under the consideration of Parliament again; and I am sure that if your Lordships could be induced to follow that course, at a future period a very beneficial result would arise in the passing of this measure.

My Lords, the course which the right reverend Prelate has pursued on this occasion appears to me to be one which calls for the approbation and gratitude of every man in this country who feels with him, and with those innumerable petitioners whose petitions have been brought before your Lordships, the deep importance of this measure, not merely as a measure of common justice, but as a measure nearly connected with the first principles, with the very groundwork, with the very basis of that religion which they profess as Christians, whether as Churchmen or Dissenters. My Lords, I am happy to think that this is a measure at all events (I mean the motion of the right reverend Prelate) in which all are agreed except one class of Dissenters, and we find amongst them members of the Wesleyan church, members of the Presbyterian church, members of the various Dissenting churches, as well as the Church of England.

My Lords, I think that the right reverend Prelate, from the course which he has pursued on the present occasion, has evinced that he has not stood here merely as a partizan of that Church of which he is so bright an ornament, that he has not stood here merely to defend the rights of the Established Church to which he belongs; but that he has come forward, independent of all sects, as the champion of that truth which he knows should be upheld as all-important to the interests of religion. Therefore, my Lords, I cannot agree with those noble Lords who conceive that the right reverend Prelate has taken a course on

the present occasion which he was not called upon to take, or that he has chosen that line for adoption with respect to this Bill which was not for the best interests of religion.

My Lords, I have read many pamphlets and many speeches upon the subject of this measure, and I have heard many disquisitions upon the subject of the Bill now before your Lordships. I have listened to the noble and learned Lord, as well as a learned person elsewhere, speaking in favour of this measure—men of the most acknowledged talent, men no doubt bringing arguments entitled to the greatest consideration—but I have often found that their talent is so great that they often make the worse appear the better cause: so that I am obliged to put aside what I have heard and what I have read upon the subject, and to use my common sense to come to a final decision upon what I conceive to be the proper course to pursue with regard to the measure. What are the results, and what will be the results, likely to be produced? My Lords, when I inquire into this, I find that the object and the result will be this: that it will be the means of taking property left by pious persons to Dissenters or members of the Presbyterian Church, for the upholding and maintaining of Christian truth, taking that property away from them; and, if it has fallen into the hands of individuals who once belonged to their community, but who are now directly opposed to their tenets—if they have been for twenty-five years in possession of those chapels, although by law they are not entitled to them—when this Bill passes they will be entitled by law to that property which they have wrongfully obtained: and therefore I conceive this to be an unjust measure.

My Lords, I will mention one case with respect to the Presbyterian Church, because I think perhaps they have greatest force upon this subject. The right reverend Prelate has already alluded to the suit which was going on in the Court of Chancery in Ireland, for some time, in order to recover a meeting-house in Dublin, in which judgment was about to be given by the Lord Chancellor, but which judgment had been arrested until the passing of this Bill, and which Bill, when it passes, will be the means of doing away with all the advantages which those individuals will receive from the judgment which the Lord Chancellor may think fit to give.

My Lords, these Amendments which have come up to your Lordships' House, I find, from what has fallen from my noble and learned friend upon the woolsack to-night, have been introduced for the purpose of meeting the case of certain Dissenters belonging to the Wesleyans and Baptists. If it had been a question with me whether I would have the Bill with these Amendments, or without these Amendments, I could not have hesitated a moment as to the course which I should have pursued; but I must beg leave, when these Amendments are proposed by my noble and learned friend, to ask why they should not have been carried further, and why should not relief have been given to the Presbyterian Church, as well as to the Church of the Wesleyans? Why is the relief not to be extended to them? There is not to be found in the country a class of persons more respectable, or more to be admired in every point of view, and why are they not to have the benefit which is given to others by the Amendments? My Lords, I have heard no reason attempted to be

given by the noble and learned Lord who spoke in favour of the Bill. I say, therefore, there is gross injustice, if you relieve the Wesleyans and the Baptists of the pressure upon them of this measure; and yet leave the Presbyterian Church, as high and respectable a class of men as any class of men in the country, under the injustice, I may say, of the operation of this Bill.

My Lords, I presented to your Lordships to-night a petition from this body, the Presbyterians of Ireland; and as they express, in much better language than I could do, their feelings upon the subject, I will take the liberty of reading to your Lordships a few extracts from what they have said. It is the petition of the ministers and elders of the General Assembly of the Presbyterian Church of Ireland. The petitioners are most strenuously opposed to the passing of the law commonly called the Dissenters' Chapels Bill, now before your Lordships' House, &c.* My Lords, knowing, as I do personally, many individuals who belong to the Presbyterian Church of Ireland, and having a high respect for them, I could not help reading what their sentiments are upon the subject of this Bill. I only hope that your Lordships may be induced, before it is too late, to agree to the motion of the right reverend Prelate, and postpone the Amendments, and thereby postpone the Bill, so that your Lordships may have another opportunity of reconsidering it.

My Lords, I cannot help expressing my sincere regret that Her Majesty's Government have thought it their duty to introduce such a measure. Whatever may be the opinion of the majority of the noble Lords in this House upon this matter, the opinion out of doors is such that your Lordships may rely upon it, your vote to-night will be strongly and powerfully canvassed. I sincerely lament that it is the measure of a Government which it has been my privilege to support now for many years; I think it is contrary to the principles which a Government calling itself a Conservative Government ought to pursue, because it appears to me that this measure is based on any thing rather than Conservative principles. Little did I think, some seven or eight years ago, when I sat on the opposite side of the House, and when, in conjunction with my noble and learned friend on the woolsack and other noble Lords, I opposed that measure of spoliation which was brought in, and which was at that time called a measure of spoliation — little did I think, that in six short years I should live to see the day, when my noble and learned friend now on the woolsack, and another noble Lord, would introduce into this House a measure far more injurious, and far more objectionable, and far more spoliating—because the extent of spoliation, in that case, went merely to take Church property for objects certainly not immediately connected with the Church, but certainly not opposed to the Church; whilst here we find my noble and learned friend introducing a measure which is to spoliate persons of their property, and to apply that property, not to any thing connected with the objects for which it is left, but for the propagation of what is conceived to be a dangerous heresy —the propagation of that which is directly opposed to the object of the testator.

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* The noble Lord here read the Petition.

My Lords, I feel deeply therefore on such an occasion as this to be obliged by a sense of duty, and what I owe in fairness to my noble opponents on the opposite side of the House, to acknowledge the experience I have learned from my noble and learned friend on the woolsack, and some of my noble friends with whom I have been so long associated. I lament I should have lived to see this day, but I have seen it; and if the power of the Government is to be exerted in order to carry this Spoliation Bill, the country certainly will only have to acquiesce in the measure, and lament the uncertainty of man.

My Lords, I cannot help pressing this opinion upon your Lordships, because I feel most strongly upon the subject. I have felt so strongly that I have thought it my duty to attend and give my vote upon it, and at all events to use every means in my power to stop the progress of a measure which I feel to be most detrimental to the best interests of religion; and having said thus much I shall not trouble your Lordships further, but merely thank you for the kind attention with which you have listened to my observations.

Lord COTTENHAM.—My Lords, I rise to offer my humble assistance in protecting her Majesty's Government from the very severe attack that has been made upon it. I have sometimes been a little puzzled in knowing exactly the meaning attached to the word "Conservative," but I certainly consider this as purely a Conservative measure. It is for the purpose of doing justice—preserving property in the hands of those who have for a long period enjoyed it. It is to prevent the spoliation of property from those who are in the enjoyment of it, and for the purpose of transferring it to those who have no perfect title to it. My Lords, the noble Earl, and I thank him for it, has read the statements and allegations in a petition presented, I believe, by the orthodox Presbyterians of the North of Ireland. The statements in that petition will go very far to explain what exists to a great degree, although it has been very much exaggerated in the statements which have been made, namely, the feeling out of doors against this measure; because a greater misrepresentation of the objects of this Bill, and the possible effect of this Bill, than are stated in that petition, could not possibly be conceived. My Lords, that petition states, what indeed has been stated in argument in this House, which House may be assumed to understand a little of the nature of the Bills which are discussed. Out of doors there may be misapprehensions, and no doubt misapprehension exists. What, then, is the representation in that petition? That this Bill has for its object, and will have the effect of transferring property from those who, by the terms and gifts of the donors, ought to enjoy it, and will give it to those who ought not to enjoy it, and were never intended to enjoy it by the author of the gift. If any noble Lord will take the trouble of reading this Bill, he will find it is carefully guarded that no such results shall follow from the enactments. It is expressly provided, that where those trusts are declared not only in the instrument transferring the property, but in any other document to which it may refer,—if, in short, there be proof of the intention of the donor that the property should be held and enjoyed by a particular description of individuals, those persons are secured in the possession of that

property, and the courts of law and equity are open to them, and there is no enactment in this Bill that the trusts declared by such a donor are not to be carried into effect. But if gentlemen out of doors, and if noble Lords in this House, will continue to state that that is not the object of the Bill,—if they will continue over and over again to reiterate the proposition that this Bill is for the purpose of defrauding those who are entitled under the terms of the gift, and that it is for the purpose of diverting property from the trusts for which it was destined,—there can be no great surprise that misapprehension should exist out of doors, and that that should give rise to a considerable number of petitions.

My Lords, my principal object, however, in rising was personal to myself, because I have been attacked, I do not say uncourteously, but I have been censured by the noble Earl and my right reverend friend also, as the author of that third clause—

The Bishop of LONDON.—Not censured.

Lord COTTENHAM.—Observed upon kindly. The third clause was very much censured, and I regard that as a censure upon its author.

The Bishop of LONDON.—I censured the clause, but not the author.

Lord COTTENHAM.—My Lords, I apprehend that if that clause is wrong, it was wrong to introduce it; if there is any objection to the thing itself, or the manner of its being introduced, I am the author of it, and I stand before your Lordships ready to defend myself.

The Earl of GALLOWAY.—It is rather late now to do that.

Lord COTTENHAM.—My Lords, it never is too late to make a defence, if you wait until you are accused; and if the noble Lord means to accuse me, perhaps I had better wait until I hear what the accusation is. As the author of the clause, I am exposed to observation, and I think it right to explain and justify the course which I thought it necessary to adopt. I am in some difficulty, however, here; for although the censure has been passed either on the clause itself or upon the author of it, or upon both, I have been not very distinctly told in what the censure consists or what was the fault. Was it that there was any irregularity, according to the course of proceedings in this House, to propose a clause communicated beforehand to the author of the Bill on the Third Reading? My Lords, I can only say, if I was wrong, the fault is in the practice of the House, and not in the individual who acts upon that practice, for this course is the established practice of the House. Amendments are frequently made on the Third Reading.

But, my Lords, what is the clause of which complaint is made? I would request noble Lords again to take the trouble of reading the clause, for it is very short. I am sure noble Lords will feel that there is not only no objection to the clause itself, but that, considering the provisions of the Bill, such a clause was absolutely necessary, and that your Lordships have in various instances given effect to similar clauses. My Lords, a great deal of complaint has been made by the right reverend Prelate on the subject of this clause, but he will permit

me to suggest to him that the complaint arises very much from a misapprehension of the nature of these proceedings. It is not very likely that the right reverend Prelate should be well informed of the nature of proceedings in a court of law, upon an information supported by Relators; and the right reverend Prelate seems to suppose that those Relators are parties who have an interest in the matter—that is, that they are parties claiming the property for themselves. Nothing can be further from the nature of an information. The information is the act of her Majesty's Attorney-General. He has a right, where property is devoted to public purposes, of instituting proceedings, by filing an information, for the purpose of having those funds properly regulated and properly applied, according to the purposes for which they were destined. Relators are introduced for the protection of the Defendant, not because they assert any interest, or *have* any interest in the property, but for the protection of the Defendants, inasmuch as the Attorney-General never pays costs; for if a suit is filed, and the Defendant is found to be right, they would have no person to resort to for the payment of costs if there were not Relators. For this purpose only Relators are introduced by the Attorney-General, that they may be parties responsible for costs in the event of the Court being of opinion that the Defendants ought to succeed.

But any one who is competent may be a Relator; he may be a total stranger to the property; he is there merely as a person to pay such costs as the Court awards to the Defendant. How then can it be represented that these Relators have any interest? I have always thought it would be much better if instead of the Attorney-General lending his name to individuals who think they have an interest in the subject-matter, upon their applying to him for leave to file an information, he would look a little into the nature of the case before the information was filed. I think many cases of litigation might have been avoided, if that caution had been used by a public officer. It has been the practice, however, freely to institute informations. Now, my Lords, in that way these informations were filed in Ireland, not claiming the property for any description of persons, but informations were filed by the Attorney-General, complaining that those who are now in possession of these chapels were not the individuals who were intended to have the benefit of them. The first suit proceeded to a hearing, but judgment was not pronounced. Now, my Lords, how very extraordinary a course it would have been if, after Parliament had declared that twenty-five years' possession was to give a good title to a congregation, that these particular congregations were to lose their meeting-houses, were to lose the property, were to lose the funds which they themselves had subscribed, for the purpose of maintaining these establishments, on account of the over-zeal, the too much rapacity, of those who set the Attorney-General in motion, on account of their having instituted the suit, and brought the suit to a certain stage before Parliament interfered. Why were these parties to be in a better situation than all other congregations? Why were those individuals who were in possession of these establishments to be deprived of them more than any other individuals? Really because there had been more activity on the part of those who attempted to spoliate them of their property in this particular instance

than in any other; that is, I presume, because there was something more to gain, some more valuable property, which therefore became the object of the suit.

But, my Lords, let me remind the House of what has been done in this case. Now here the Defendants are called upon to pay all costs, that is, they are to apply to the Court, and it is in the discretion of the Court. Any costs that the Court thinks the Relators entitled to, are to be paid by the Defendants, and upon those terms, and those terms only, the suits are to be stayed; that is to say, the Court has been dealing with the only responsible person prosecuting the suit, namely, the Attorney-General, and those who have become his Relators are to be entitled to their costs, if the Court thinks they ought to have them.

But, my Lords, there is another description of suits, called *Qui tam* actions, where the Plaintiff, the moment he commences an action, has an actual interest in the result and produce of it: he is to participate in the plunder in that case. Have your Lordships never interfered with *Qui tam* actions? My Lords, it is not a very great tax on one's memory to bring to recollection an instance in which that has been done. I do not say wrongly, or that it ought not to be done—I say in many cases that has been done; but there is no comparison between the cases, because there the Plaintiff has an interest in the object he is pursuing—he participates in that which the Defendant may be ordered to pay: but here the Relators can get nothing; they may have to pay costs, but they can get nothing. Your Lordships recollect what has been recently done, but that was not the first instance by a great many. Your Lordships may recollect the case of *Qui tam* actions against clergymen for not residing. It was a very great hardship that those *Qui tam* actions should be permitted to proceed, and accordingly they were stopped. But there is no resemblance between what was done in this case and what has been done in those cases. Now if a judgment has been pronounced a great many years ago, and property enjoyed under that judgment, nobody can say that that judgment ought to be set aside, and all the interest created under it ought to cease to exist. The distinction, therefore, and the line taken, is not to interfere with judgments actually pronounced; but in all cases where judgments have not been actually pronounced, where the suit therefore is still pending, where the matter was still in the discretion of the Court, there to interfere and put an end to the suit, paying the costs in such manner as the Court might think proper. My Lords, this clause would appear to me to be almost useless, because I cannot conceive the case of the Attorney-General in those causes, after Parliament has declared their opinion of the impropriety of having the property so disturbed and the congregation turned out, asking the Court to pronounce judgment. Are your Lordships aware that the suit is entirely under the control of the Attorney-General? He may stop it at the last moment. When the Court is about to pronounce judgment, he may say, "I do not ask for judgment—I will dismiss my information. I did not consider the subject sufficiently, and therefore I permitted the suit to be instituted—I now think it not right to proceed with the suit, and I will dismiss my own information." Could the Attorney-

General for Ireland, after Parliament has pronounced this to be an improper mode of proceeding, and that the congregation should be protected—could he ask the Lord Chancellor to pronounce judgment, to carry into effect a course of proceeding which both Houses have declared to be illegal? The clause was right—but it was right out of tenderness to the Relators themselves, because this Bill provides for the costs. If the Attorney-General had been left to himself, and judgment had not been pronounced, the Defendants must have escaped the payment of the costs; but this clause says No; that would not be just, because the suit was instituted at a time when this opinion was not pronounced; therefore it is right that those who have come forward and become responsible for the costs, namely, the Relators, should be indemnified by the Defendant; and the Defendant, indemnifying the Relators the costs of the suit, ought to have the benefit which it is the intention of Parliament to afford, of protecting property of this description. My Lords, the clause was prepared, the clause was founded upon a variety of precedents: it did that which was best between all the parties; it did it according to the regular forms of the House; and I cannot feel that I have much to answer in having moved the insertion of that clause.

My Lords, it is not my intention to go into the general discussion of this matter. I had an opportunity on the Second Reading of the Bill to state very fully the view I took of this subject, and I do not now think it would be expedient to prolong the discussion on the subject, for the same reason for which my noble and learned friend avoided entering into that discussion—that it is not consistent with the practice of Parliament to re-discuss the principle of a Bill after it has received the sanction of both Houses of Parliament. Now, the right reverend Prelate felt the same thing, for he very properly felt the difficulty of asking the House now to enter into the consideration of the principle of this measure; but, with an inconsistency arising only from the difficulty of the case, the right reverend Prelate makes a motion which can only be justified upon the principle of rejecting the Bill. We know that moving that a measure be considered this day six months, is a form of the House by which a measure is rejected. The right reverend Prelate says, I feel the difficulty of discussing the principle; Amendments have been made, of some of which I approve, and others I do not like; but I move that we do not consider them at all, that is to say, I move that this House, having by a very large majority passed the Bill through all its stages, the Bill having received the sanction of the other House of Parliament, and coming here merely on Amendments—I move that this House do not take those Amendments into consideration. And why? Because I do not like the principle of the Bill. Your Lordships will consider the Amendments: if you prefer your own Bill, you will reject the Amendments of the Commons; at all events, you will consider them; you will look at the Bill and see what the Amendments are. If you do not like the principle of the Bill, the first thing is to get rid of it; but the right reverend Prelate, feeling the propriety of not discussing the principle in this debate, yet dealt with it upon the principle, and upon the principle only.

My Lords, I abstain, therefore, from discussing the principle of the

Bill, except to say that I think one of the great errors that have prevailed in the discussions on the subject, and the opinions that have been expressed, in and out of Parliament, is, that this Bill has to do with theology; that it has to do with a question between different sects of Dissenters or Churchmen. My Lords, it is not founded upon any such distinction; it leaves questions of that sort entirely untouched; it deals only with property; and the sole object is to protect congregations. A multitude of persons meet together for religious purposes, whether mistaken in their views or not; and the object of the Bill is to give that protection which if, instead of being a number of persons congregated together, they had been one individual, the law could already have afforded; it only gives to congregations, as a body of persons, that protection to which individuals are entitled.

My Lords, a point upon which the right reverend Prelate has made various observations has already been the subject of debate on a previous night, namely, the supposed evasion of the rules of equity with respect to trusts. I am aware that the right reverend Prelate was not present. But another right reverend Prelate * gave us the benefit of his opinion on a former night, and that part of the subject was then descanted upon. My Lords, there never was a greater fallacy, there never was a ground, less tangible ground, for opposition, and I believe it is not opposed on any such grounds. My Lords, all questions of doctrine are equally inapplicable. It is merely a question whether those who have been in possession of the property for a period of twenty-five years, a longer period of limitation than applies generally to property between individuals—whether they shall or not be protected in the enjoyment of that property where there is no trust declared—where there is no intention manifested by the author of the gift, either by writing or by any document to which he may refer; whether twenty-five years' possession shall not be a good title against those who seek to turn the congregation out of the enjoyment of their chapels and their schools. My Lords, there is a circumstance connected with these chapels which makes the hardship infinitely great, if the law was permitted to take its course. There may be cases in which evidence may be adduced to raise a doubt, at least, as to whether the existing congregations held the same doctrines as those from whom the gifts proceeded. In an establishment of many years' duration, it is obvious that those who constitute the congregation, or who have constituted it at an intervening period, have themselves, by their own expenditure, very much improved, very much enlarged the property; and, in many cases, a very large part of the existing property does not come from the original founder, but has been laid out from time to time by those who constituted the foundation. My Lords, I am told it appeared in those suits in Ireland—in the Eustace-Street suit—that a great part of the property sought to be recovered, now altogether producing not more than £1000 a-year, more than £15,000 of the capital was subscribed, from time to time, by persons who constituted the congregation after a period at which the Lord Chancellor stated it to be quite clear that the congregation was Unitarian. It was held in Ireland, that these accretions were

* The Bishop of Exeter, in Debate on going into Committee.

affected by the title of the original property; so that if the case succeeded against them, not only would the original property have been taken from them, but all the additions which from time to time have been made. It is a grievous hardship, because, with regard to those additions and accretions to the property, it cannot be doubted what were the doctrines held by those who subscribed them. I only mention that to shew how impossible it would be to let the law take its course without doing the greatest conceivable injustice.

My Lords, upon one of the observations of the right reverend Prelate, growing out of the principle of the Bill, I cannot avoid making some observations. He says, you take twenty-five years; how, at the end of twenty-five years, are you to shew what has been the doctrine during those twenty-five years? The right reverend Prelate will permit me to remind him that if you cannot look back to a period of twenty-five years, how are you to look back to a period of one hundred and twenty-five years?—because you have to look to the origin of the gift, and you must trace the origin of the property from the time it came to the congregation. In Lady Hewley's case, it was endeavoured to discover after many years what the original author of the gift intended, and what had been the practice during the intervening period. It was stated to your Lordships on a former occasion what that inquiry cost, and it was also stated, not only what that inquiry cost, but that all those costs were thrown away, because after the litigation has been going on for many years, and has travelled through the Court below, and ultimately come into this House,—after a very large portion of a very large property has been spent in litigation, the result is, that one body of beneficiaries is turned out, and then comes another question, what the new beneficiaries shall be; and there the difficulty, in point of fact, arises. It was not comparatively difficult to find out who was not entitled, but when you come to ascertain who is entitled out of all the different classes of Dissenters—I am not sure whether the Churchmen come in—a great variety of Dissenters rush in and make a claim, and now the Court of Chancery will hereafter have to decide between these various classes of Dissenters, which of them approximates the nearest to the opinions supposed to be entertained by Lady Hewley at the time she made her deed. The property is now under the care of the Court of Chancery, and I have no doubt that the Court of Chancery will have the care of it for a very indefinite period of years, because a new suit has now been instituted; and as numerous as are the classes of Dissenters, so many different claimants may there be to this unfortunate fund, and, great as it is, it is not a very hazardous prophecy to announce that no congregation whatever will hereafter derive any benefit from it. It certainly is a large fund, but it being open to attack from various quarters, it will probably soon become very small.

My Lords, when we are told that there are but one or two cases, let me remind you that there are at present only one or two to try the right; but as soon as the right is ascertained, the cases will be numerous enough. I think your Lordships will see, from the number of petitions presented from Dissenters, that there is no want of zeal on the part of Dissenters to attack these different descriptions of property.

My Lords, I have one or two observations to make, in reply to the right reverend Prelate, upon the Amendments of the Bill as proposed by the Commons. The Bill as amended is, in principle and in spirit, precisely the same as it was sent down from this House. The Amendments may be thought more effectual to carry out the obvious intention of the author of the Bill, but there are some I cannot help observing upon. First, my Lords, what is the meaning of the words, "may properly be taught"? It is this: twenty-five years shall be proof that such doctrines may be properly taught there—proper, as not opposed either to the intention of the donor, or contrary to any rule of law; that is to say, that that chapel may be supposed to be properly used by that particular species of Dissenters; and it is impossible, I apprehend, to attach any other meaning to the expression.

My Lords, with regard to the other, I was really grieved to hear the right reverend Prelate quote some authors on the subject. I hope I may exempt my profession from participating in that doubt which the right reverend Prelate suggested, namely, the meaning to be attached to the term, "worship of God;" and the right reverend Prelate referred to some particular authority which he had communicated with, and was told there might be some doubt on the meaning of the words. My Lords, the first clause is this:—"And whereas prior to the passing of the said recited Acts respectively, as well as subsequently thereto, certain Meeting-houses for the worship of God,"—following the recital of the Statute of 1813, which relieved Unitarians from certain Penal Acts. Can any man doubt what that means? Are not those meeting-houses used by Unitarians as well as others for the worship of God? Then the next section takes up the very same words; and we then have meeting-houses described, not as it originally stood, "such meeting-houses," because those meeting-houses, it was suggested, might be only those meeting-houses existing before the year 1813; and therefore, in order to make it clear what was meant by the word "such," the term is repeated. If the word "such," according to the construction of the first clause, had referred to the meeting-houses before mentioned, then a difficulty might arise whether it related to those which had just before been mentioned, and included those which were referred to afterwards; and in order to prevent ambiguity, the word was repeated. It is repeated in order to avoid ambiguity or doubt as to what meeting-houses were meant.

My Lords, the right reverend Prelate* who addressed your Lordships the other night, and who is not now present, stated in strong terms how much improved the Bill had been by the Amendments sent from the Commons; and in expressing his approbation of those Amendments, he did not express himself in very courteous terms of the Bill as it was sent to the Commons. I do not like to repeat expressions of that character, but they were expressions used with regard to the Bill as it stood; and I only refer to them now to shew that these Amendments are, I believe, universally approved of, and approved of by a right reverend Prelate not now present; but nobody, I believe, has yet stated any objection to the Amendments themselves; and as far as I have considered this subject, my opinion is,

* Bishop of Exeter.

that the Amendments are considerable improvements to the Bill; and on the question, and the only question, which your Lordships have now to consider, namely, whether you will assent to these Amendments, or will insist on the original Bill—if that were the question in form which in substance it ought to be—I apprehend there could not be a difference of opinion in the House, but that your Lordships will assent to the Amendments by the Commons.

My Lords, this is a very important measure; it is a measure of justice; it is a measure which will prevent spoliation of property and of possessions. Whether you approve of the doctrine of the possessors or not, is perfectly immaterial; they are by law put on the footing of all other Dissenters; they do not labour under any incapacity; and I ask your Lordships whether you will put this incapacity upon them, namely, that they shall not be permitted to hold these chapels for the worship of God, according to their notion of what worship ought to be, or whether you will permit them to be destroyed by an endless litigation, which will follow if you refuse to give your assent to this Bill. I hope your Lordships will think this is not the right time for the consideration of the principle of the Bill, your Lordships having already sanctioned the principle of the Bill, and that it would not only be contrary to form, but contrary to all good practice, to renew the discussion on the principle after the Bill has received the sanction of both Houses, and that your Lordships will consider the Amendments only.

The Bishop of LONDON.—Will the noble and learned Lord allow me to ask him whether, with respect to the words "worship of God," he is prepared to say that the preamble of the present Bill follows the preamble of the Bill of 1813?

Lord COTTENHAM.—I have not said any thing about it. I said, if there is any ambiguity in the expressions, it is perfectly cured by the first clause. There can be no doubt upon the first clause, what it means.

Lord BROUGHAM.—My noble friend opposite stated that I had, in the year 1834, made the same motion which I now complain of being made by the right reverend Prelate. No doubt there is on the journals, on the 13th of August—the day but one before the prorogation of Parliament—the 13th of August, 1834, my motion, that "the Amendments of the Commons to our Bill be considered this day six months." But now just observe. I do not mean to read it, but I will hand the book over, and leave it to the candour and fairness of my noble friend; and he will there find, if he will be pleased to read the speech which I made, which was very short, in proposing the postponement and the amendments, this to have been the case. The Bill came from the Commons respecting the justices of the peace, containing some very important clauses; but containing two, one of which would have put a stop to all justices of the peace and their proceedings all over England and Wales, after the 1st of November then next ensuing, because it required every justice of the peace to take down in writing every word of evidence on all subjects, and in all cases that were brought before such justice of the peace, he having no clerk, no short-hand writer, and no means of doing so. The next

was in the other direction, as to the restraining Act. The next was one which apparently the magistracy in the Lower House put in as a set-off against the restraining Act, for it gave them the power to annul and abrogate any penal Act of Parliament passed by the Legislature, giving them power of inflicting penalties. When it came before my noble friend at the table and myself, we both agreed that it was utterly impossible, though we thought the Bill was improved in other respects, that we could agree to those clauses: consequently we rejected them; we passed the Bill, rejecting those clauses. The Commons were obstinate in favour of the clauses, and they sent back the Bill again with other clauses, by way of amendment on our leaving out their clauses. What happened? A conference between the two Houses. And a conference took place, and the Commons would not give up on their part, and we would not give up on our part, so that it was a totally opposite course from that which is now taken. The two Houses irreconcileably and incurably differed on the subject, and that being so, this House being in possession of the Bill, your Lordships postponed indefinitely the consideration of it. I think that is not only not the same case with the present, but the very opposite.

Lord TEYNHAM.—My Lords, with regard to the case in Ireland, where accretions to the original property have been made by those who are now unjustly in possession of that property, that case certainly does require an alteration in the law; but that case does not require that alteration in the law which is contemplated by the present Bill.

My Lords, I entirely concur with what has been said by nearly every noble Lord who has addressed your Lordships to-night, that considerable improvements have been made in the Bill by the Amendments of the Commons. Were I willing to consider (which I am not), were I willing to consider that every one of those Amendments were advantageous—were I willing to consider they were faultless—if they were faultless Amendments, thinking the principle to be utterly faulty, utterly injurious, utterly unjust, utterly irreligious,—should I not be bound to take that step which your Lordships are called upon to do by the motion of the right reverend Prelate? Surely I should, my Lords.

My Lords, the noble and learned Lord has said that the two first Amendments of the Bill were intended, by the former to protect the Baptists, and by the latter to protect the Methodists. But how to protect them? To protect the former by bringing them within the verge of the Bill, and to protect the latter by excluding them from the operation of the Bill; and I would say that it is much to the honour of the body of Wesleyan Methodists, that their opposition to the Bill, as evinced by the multitude of petitions and the large number of petitioners who have presented themselves before your Lordships in opposition to the Bill, has been increased since they have themselves been excluded from the pernicious operation of the Bill. Why, then, is the opposition increased? Because of the abhorrence in which the principle is held by that denomination of Christians. My Lords, we are called upon not to consider the principle of the

Bill; I wish not to consider the principle of the Bill, but let me plead with your Lordships for a few moments, as to why your Lordships should accede to the motion of the right reverend Prelate, and not sanction the passing of the Bill. I would press upon your Lordships the strong aversion to the Bill which is felt by the religious community at large. It is quite true, that taking the bare surface of the Bill, taking the words that compose the Bill, there is very little indeed referring simply to religion; it is a matter of property. But can your Lordships conceal from yourselves this, indeed, which has been incidentally referred to in the legal argument with reference to the meaning of the term, "worship of God"—can your Lordships conceal this from yourselves, that you are seeking to gain your object in the settlement of these trusts, by doing great violence to the feeling of large numbers who would shrink from terming the worship of God that which is the worship of Unitarians? Why should your Lordships do violence to such feelings, when you can gain your object—when you can gain your legal end, and not have that expression to dissatisfaction? It has been stated heretofore, and I will reiterate it, and your Lordships cannot conceal it from yourselves, that there are numbers who feel this within themselves, that they who originally created and gave these gifts—these trusts—would rather have been consigned to prison, would rather have suffered fine and confiscation, would rather have been expatriated, would rather have died in Smithfield, than have given their property to purposes to which they will have been devoted if this Bill passes into a law. You cannot conceal from yourselves, my Lords, that many most respectable, most honourable, most upright, most amiable individuals, do feel that a deep wound is inflicted upon religion by this Bill. Whether they are right, or whether they are wrong, is not the question; but surely their feelings are not to be trifled with, their petitions are not lightly to be passed by; yea, I would say, my Lords, let this Bill pass into a law, let this property be settled in the manner in which this Bill would settle it, and what is the worth of the Bill, and what is the worth of the property? The worth of the property is nothing to the Unitarian petitioners in favour of the Bill; it is nothing to them with respect to their own personal interest; they only care for the trust property, they only care for the endowment; it is not a farthing's worth to them, saving as for the propagation, promulgation, and perpetuation of Unitarianism. Can this be denied? If this Bill passes into a law, is there any doctrine so erroneous, is there any practice so abominable, that would come within the precincts of the common law, which might not be promulgated and perpetuated under the authority of this Bill?

My Lords, I have but one observation to make with reference to the third clause. I do object, and strongly object, to one of the Amendments that the Commons made. It is in these words—That it shall be a suit by Information only, and not by Bill. What is the operation of this? What are the facts brought into existence by these Amendments of the Commons? Why just these; that independent of the passing of this Bill, independent of these words becoming a part of the law of the land, the property concerned in these suits, whether by Information or by Bill, in both cases would be determined,

not by the inferior Courts only, but by your Lordships' House, as the highest Court of Appeal and the highest Court of Equity; these properties would be, under one form of suit or under the other form of suit, both of them would be determined according to what has been promulgated by the noble and learned Lord, upon principles of common sense and justice. But let this Bill become the law of the land, and what then takes place? Why, if there be at that time a suit by Information, and there be at that time a suit by Bill, (I say not that there is—I believe there is not, I believe there are only suits by Information, and not by Bill)—but if at that time there were in progress suits by Information and suits by Bill, the result would be that the suit by Bill would be determined according to the principle of common sense and justice; but the suit by Information would be determined on opposite principles, principles opposed to common sense, but principles in accordance with the Bill, namely, with reference to suits subsequently instituted, both by Information and by Bill,—in that case both of them would proceed in opposition to common sense and justice, both of them in accordance with the Bill. Is that legislation, my Lords? On what principle? Certainly not on the principle of common sense and justice. Is there any other matter that your Lordships would be prepared to treat in the same way? On these grounds I concur with the motion of the right reverend Prelate.

The Earl of GALLOWAY.—My Lords, may I be allowed to explain? The noble and learned Lord on the woolsack alluded to the humble individual who has the honour of addressing your Lordships, at the outset of his speech. I assure that noble Lord that he made a mistake, and that I would not be so presumptuous as to threaten to put myself forward in a matter like this; I think I know too well my own parliamentary stature, and can venture to say that I had no thought of the kind. It is perfectly true I did enter my remonstrance against an observation made by the noble and learned Lord on the other side of the House, when he said to postpone the Commons' Amendments would be an unworthy mode of rejecting the Bill. I certainly did, in answer to that, say that I thought it not so unworthy a proceeding, as report stated had been adopted with regard to the third clause of the Bill. Now the right reverend Prelate, who expressed himself with so much force on this subject, stated so perfectly what took place upon that occasion, that I should not have referred to it, had it not been for the observation of the noble and learned Lord on the other side of the House. He was explaining what he had done with regard to that third clause, and I certainly did venture to say, it was rather late to do that. The noble Lord said surely it was time to defend himself when he was accused. I meant, in reference to the time it was brought forward; and as he challenged me to say why I made this observation, I will take the liberty to read to your Lordships the sentence to which I alluded. It was from a petition to the House of Commons from the Moderator of the General Synod of Ulster, in which I find this passage:—"To the third clause of this Bill the petitioner objects, because it contains a retrospective enactment, forming no part of the Bill as originally printed, before it came to your honourable House, and upon it bears the marks of its

hasty origin, by actually contradicting the marginal reference, which still remains unchanged; secondly, because the parties interested in pending suits were lulled into security by the original form of the Bill, and were ignorant of the alterations affecting their rights until it was printed by your honourable House, and, consequently, were thereby prevented from petitioning to be heard against it by counsel in the House of Lords;—and, thirdly, because it appears to the petitioner, that to give to any Act such retrospective effect as to reverse, at the request of interested parties, a judgment not technically pronounced, but yet arrived at and publicly declared, and that under a solemn obligation, and under the highest Court of Equity in Ireland, cannot tend to prevent litigation where litigation has already arisen." There is the passage to which I refer.

Now, my Lords, having observed so much of the excitement that has been created in the country with reference to this Bill, and not having been present at the prior discussion upon it, I certainly have listened with great attention to what has been said, and I will not at this time of night say more, than that I have not heard any thing whatever to reconcile me to this measure, against which I have the strongest conscientious objection. I am sorry that I cannot vote with Her Majesty's Government upon this question; but I remember, on a recent debate, a noble Lord stated, that although he had originally supported the Government, he felt it his duty to vote against the Government. I feel it my duty to vote against Her Majesty's Government on this occasion. I do believe that what Her Majesty's Government would desire would be an honest, independent, and not a servile support; and, therefore, having a conscientious opinion against the Bill, I shall vote against it.

Lord LYTTLETON.—My Lords, I beg leave to say a few words in explanation of the vote which I feel compelled to give in support of the Amendment of the right reverend Prelate. I am abundantly satisfied with the case of the Unitarians. I conceive that this case was conclusively proved by the right honourable gentleman to whom the right reverend Prelate referred in the House of Commons; and if any Bill could be introduced which provided for this especial case (and I am not convinced that such a Bill might not be introduced), I should give it my support. But that case was placed by my honourable friend on its own peculiar foundation, and upon that foundation, as I conceive, it properly stands. I cannot but think that the second clause of this Bill goes considerably further than the case of the Unitarians.

My Lords, I must speak with the greatest diffidence on the question of law: still I cannot but think (and I have not heard it contradicted by any of the legal authorities supporting the Bill) that this clause establishes a new general principle of law in the construction of Charitable Trusts. Upon the question of the admissibility of evidence extrinsic of the deed on any particular trust, I find it stated by Lord Chief Justice Tindal, in delivering the opinion of the Judges, in Lady Hewley's case, that "where any doubt arises on the true sense and meaning of the words themselves, or any difficulty as to their application on the surrounding circumstances, the sense and meaning of

the language may be investigated and ascertained by evidence *dehors* the instrument itself." My Lords, I apprehend, speaking under correction, that evidence *dehors* the instrument and evidence on the face of that instrument are two exact opposites. The words of this clause are that no evidence shall be admitted to stand against the usage of twenty-five years, except the express terms on the face of the will or deed, or referring to some other document in that same will or deed. My Lords, I think the words of this clause greatly narrow the field allowed to the Courts for discovering the intention of the founder; and the introduction into the law, of a new principle of this breadth is neither necessary nor safe.

The LORD CHANCELLOR.—I move that this Bill do now pass.

Their Lordships then divided.

For the Motion, Present,	100	—Proxies,	102	= 202
Against „ „	27	„	14	= 41
		Majority .		161

The Commons' Amendments were then agreed to.

JULY 19, 1844.

On this day the Royal Assent was given; and the Statute will be found in the Statute-Book, 7 and 8 Victoria, cap. 45.

DIVISION OF THE HOUSE OF LORDS ON MOTION FOR AGREEING TO THE COMMONS' AMENDMENTS.

MAJORITY.

PRESENT 100

Lord Chancellor	Harrington	Auckland	Lilford
DUKES.	Warwick	Belfast	Crofton
Norfolk	Hardwicke	VISCOUNTS.	Gardner
Richmond	Delawarr	Hereford	Redesdale
Buccleugh	Radnor	Torrington	Rivers
Leinster	Clarendon	Gage	Colchester
Wellington	Talbot	Melbourne	Ravensworth
Cleveland	Fortescue	Hawarden	Forester
MARQUISES.	Beverley	St. Vincent	Wharncliffe
Winchester	Liverpool	Melville	Tenterden
Lansdowne	Besborough	Canning	Brougham
Bute	Courtown	Canterbury	Templemore
Exeter	Charlemont	BISHOPS.	Carew
Camden	Wicklow	Durham	Abinger
Clanricarde	Leitrim	Norwich	Hatherton
Normanby	Lucan	LORDS.	Strafford
EARLS.	Rosslyn	Camoys	Cottenham
Shaftesbury	Manvers	Beaumont	Langdale
Scarborough	Lonsdale	St. John	Bateman
Jersey	Harewood	Saltoun	Sudeley
Morton	Minto	Kinnaird	Lurgan
Home	Verulam	Polwarth	Colborne
Haddington	Morley	Montford	De Freyne
Dalhousie	Somers	Sondes	Monteagle of Brandon
Aberdeen	Cawdor	Foley	Campbell
Dartmouth	Ripon	Suffield	
Cowper	Effingham	Carrington	

PROXIES 102

[A list of Proxies given in favour of the Bill has not been published, but it is believed those of the following Peers were used.]

DUKES.
Beaufort
Bedford
Devonshire
Hamilton
Rutland
Somerset
Sutherland

MARQUISES.
Anglesey
Bristol
Conyngham
Donegal
Ely
Headfort
Hertford
Northampton
Westminster

EARLS.
Albemarle
Burlington
Camperdown
Carlisle
Clanwilliam
Clare
Cornwallis
Craven
De Grey
Devon
Donoughmore
Ducie
Dunraven
Enniskillen
Errol
Fingall
Fitzwilliam
Gainsborough
Glengall
Gosford
Granville
Harrowby
Howe
Leicester
Longford
Lovelace
Meath
Mornington
Powis
Roseberry
Sefton
Shannon
Spencer
Stair
Stradbroke
Suffolk
Tankerville
Uxbridge
Westmoreland
Wilton
Yarborough
Zetland

VISCOUNT.
Strangford

BISHOPS.
Hereford
St. David's
Worcester

LORDS.
Abercromby
Arundel
Ashburton
Beauvale
Berners
Carrington
Colville
Crewe
Dacre
De Mauley
Denman
Dinorben
Dormer
Dunalley
Dunsany
Dunfermline
Ellenborough
Godolphin
Heytesbury
Keane
Lauderdale
Lovat
Methuen
Mostyn
Petre
Plunket
Portman
Saye and Sele
Sandys
Sherborne
Stanley of Alderley
Stourton
Stuart de Rothesay
Stuart de Decies
Talbot de Malahide
Vaux
Vivian
Wenlock
Western
Wrottesley

MINORITY.

PRESENT 27

ARCHBISHOP.
Armagh

DUKES.
Manchester
Buckingham

MARQUIS.
Cholmondeley

EARLS.
Cardigan
Galloway
Mansfield
Egmont
Roden
Mountcashel
Bandon

VISCOUNTS.
Doneraile
Combermere

BISHOPS.
London
Llandaff
Gloucester
Chichester
Lichfield

LORDS.
Teynham
Boston
Kenyon
Lyttelton
Calthorpe
Bayning
Blayney
Carbery
Bexley

PROXIES 14

DUKE.
Newcastle

EARLS.
Carnarvon
Onslow
Clancarty

VISCOUNTS.
Lorton
O'Neill

BISHOPS.
Winchester
Lincoln
Rochester
Salisbury

LORDS.
Walsingham
Grantley
Feversham
Wynford

PAIRS 12

MINORITY.	MAJORITY.
Earl of Denbigh	Marquis of Ormonde
Earl of Essex	Earl Mount-Edgecumbe
Earl of Dunmore	Marquis of Abercorn
Earl of Mayo	Earl of Limerick
Earl of Cadogan	Earl Bathurst
Earl Brownlow	Marquis of Salisbury
Viscount Maynard	Marquis of Huntly
Viscount Sidmouth	Lord Rollo
Lord Willoughby de Broke	Lord Downes
Lord Castlemaine	Viscount Lake
Lord Rayleigh	Earl Beauchamp
Lord Hood	Lord Leigh

A LIST OF THE PROPORTION OF MEMBERS OF THE HOUSE OF COMMONS WHO VOTED FOR OR AGAINST THE BILL, IN EACH COUNTY OF ENGLAND, IN WALES, SCOTLAND, AND THE PROVINCES OF IRELAND.

County	*For*	*Against*	*Absent*	*County*	*For*	*Against*	*Absent*
Bedfordshire	1	1	2	Nottinghamshire ..	7	2	1
Berkshire	5	2	2	Oxfordshire	4	4	1
Buckinghamshire .	1	8	2	Rutlandshire	—	2	—
Cambridgeshire ..	5	1	1	Shropshire	5	2	5
Cheshire	6	2	2	Somersetshire	9	2	2
Cornwall	9	3	2	Staffordshire	10	4	3
Cumberland.....	7	—	2	Suffolk	4	4	1
Derbyshire	4	2	—	Surrey	5	3	3
Devonshire	15	4	3	Sussex	11	6	1
Dorsetshire	8	3	3	Warwickshire	9	1	—
Durham	7	2	1	Westmoreland....	1	1	1
Essex	2	6	2	Wiltshire	10	5	3
Gloucestershire .	8	3	4	Worcestershire ..	5	1	6
Hampshire	11	2	6	Yorkshire.....	24	7	6
Herefordshire	4	1	2	Wales	20	4	5
Hertfordshire	2	3	2	Scotland	29	5	19
Huntingdonshire ..	2	1	1	Leinster	15	10	11
Kent	11	3	4	Ulster	6	15	8
Lancashire	16	6	4	Connaught	3	1	9
Leicestershire	4	2	—	Munster	15	—	12
Lincolnshire.....	5	5	3	TOTAL.			
Middlesex	11	2	1	England & Wales	288	115	95
Monmouthshire ..	2	—	1	Scotland	29	5	19
Norfolk.....	8	2	2	Ireland	39	26	40
Northamptonshire.	4	1	3		356	146	154
Northumberland ..	6	2	2				

This includes the Divisions in Committee and on the Third Reading—only that it considers as *against*, two or three who voted in the Majority on questions in the Committee. Of course, amongst the *non-voters* were the Speaker and Chairman of Committee; and when the great exertion used out of doors by those who could influence elections is considered, we may readily account for the absence of so many Scotch Members; whilst the state of the Repeal question kept away many Irish Members who would undoubtedly have voted for the Bill. Ulster, where the Irish General Assembly have so much influence, Buckinghamshire, Essex, Rutland and Hertfordshire, had a majority against the Bill: in Lincolnshire, Oxfordshire, Suffolk, Westmoreland and Bedfordshire, the numbers were equal: in every other part of the United Kingdom, there was a majority, and in some of the most important a great majority. The Representatives of great towns were in most instances favourable.

Δ.

PETITION OF MARY ARMSTRONG.

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled:

The further Petition of MARY ARMSTRONG, Widow, a Member of the Protestant Dissenting Congregation of Strand-street, in the City of Dublin:

Humbly Sheweth,—That your petitioner's husband, the late Rev. James Armstrong, Doctor of Divinity, was elected Pastor of the said Congregation of Strand-street, in the year 1806, at which time the said Congregation held opinions identical with those it at present professes.

That, some years subsequently to the election of her said husband, a large fund was contributed by the members of said Congregation (several of the contributors being still alive, and members of said Congregation), for the support of the widows of the ministers thereof; of which fund your petitioner's said husband, since deceased, was appointed one of the first trustees.

That nearly one-third of the said fund was contributed by the sisters of the present Lord Plunket, who were personally much attached to your petitioner's said husband; and your petitioner is confident that, in the creation of such fund, they and the other contributors were greatly actuated by a desire to promote the personal interest of himself and his family.

That since her said husband's decease, in the year 1839, your petitioner has, in accordance with the intentions of the originators of said fund, been in the receipt of the annuity, payable to her, from the same, as his widow.

That your petitioner is a widow, with four daughters resident with her, and that the said annuity forms a very important portion of her means of subsistence.

That an information has recently been filed in the Irish Court of Chancery, at the relation of three persons, not even natives of Ireland, and two of whom are in low circumstances of life, and reside more than one hundred and twenty miles from Dublin, and all of whom are total strangers to said Congregation, and have never been in any way connected therewith, seeking to deprive the said Congregation of their house of worship, and all the funds and endowments connected therewith, on the ground of an alleged diversity between their religious opinions and those of their predecessors, upwards of one hundred years ago, and that said cause is now ready for hearing.

That the above-stated facts as to the said annuity were first disclosed by the Answer of the Defendants in the said suit, and that such facts were sworn to by the said Defendants, and that there is no controversy respecting the same.

That, notwithstanding the strong moral title of your petitioner to the said annuity, the Relators in the said information, after the said Answer was put in, deliberately amended the said information, so as to make it particularly embrace and claim the said annuity and fund; and that one of the results of said information as now amended, in case there should be a decree against the Defendants, would be, to deprive your petitioner of that annuity which the originators of said fund (many of them her intimate friends) intended for her support.

That the said suit is, on the part of the Relators, under the management of Mr. Macrory, who is solicitor to the General Assembly of the Presbyterian Church in Ireland, and also one of the Deputation in England conducting the opposition to the Dissenters' Chapels Bill, and that said amendment of the information, claiming said annuity, was made by his direction.

That the Right Honourable the Lord Chancellor of Ireland has of his own accord been graciously pleased to postpone the hearing of said cause, till the result should be known of a Bill, then before the Right Honourable the House of Lords, intituled, "An Act for the Regulation of Suits relating to Meeting-houses and other Property, held for Religious Purposes, by Persons dissenting from the Church of England."

That your petitioner presented a Petition to the House of Lords praying to have the said Bill extended to Ireland, and to the said pending suit affecting your petitioner's said annuity, and that such Bill was amended accordingly, and that the third clause of the said Bill as it now stands before your Honourable House was introduced for the accomplishment of that purpose.

That although your petitioner has already presented a Petition on this subject to your Honourable House, yet as the same did not fully state the facts with respect to the said annuity, she now begs leave to present this further Petition.

And your petitioner prays that the said Bill, as it now stands, and especially the third clause thereof, may be speedily passed into a Law, and your petitioner thereby secured in the enjoyment of that maintenance which was provided for her by the Congregation of her said late husband, and as to which they never could have believed it possible that any question could ever arise as to your petitioner being entitled, as his widow, to receive the same.

And your petitioner, as in duty bound, will ever pray.

MARY ARMSTRONG.

PETITION OF DR. COOKE.

The Petition of the Rev. Henry Cooke, D.D., LL.D., Moderator of the General Synod of Ulster,

Humbly Sheweth,—That your petitioner has read a Bill, now before your Honourable House, for the regulation of suits relating to Dissenting Chapels, and that petitioner most heartily approves of the first clause, inasmuch as he is, and always has been, of opinion, that the effect of every penal exception from the Toleration Act should be unequivocally removed; but, to the remaining clauses of the Bill, petitioner most decidedly objects, and begs leave to submit the following reasons why these clauses should not pass into a law:—

First—Because the Bill supersedes the immemorial principle of equity, that every lawful trust should be administered according to the intentions of the founder.

Secondly—Because it supersedes the immemorial rule of equity for ascertaining the intentions of the founders of trust property—a rule which has hitherto never required the existence of any deed whatever, or demanded the production of the "*express terms*" of any positive writing, but allowed the intentions to be established by collateral proofs and documents, by the testimony of historic facts and other circumstantial evidence, which, in many cases, exceed in force the conclusions derived from deeds and writings exposed to all the mutations of time and phrascology.

Thirdly—Because it appears to contravene the principle of limitation, on which, in all cases of other property, time is allowed to quiet the title of the possessors, inasmuch as the Bill does not legislate against the claims of parties guilty, or presumed to have been guilty, of an abandonment of a right, or some neglect of incumbent duty, but in favour of the parties themselves who have unrighteously availed themselves of a legal possession, to abandon the rights of others, to neglect their own duties, and to violate the confidence reposed in them by the original founders.

Fourthly—Because, under the prospective operation of this Bill, all confidence will be shaken in the stability of property devoted to charitable or religious purposes, inasmuch as the Legislature having interfered to supersede the principles of equity, in regard to charitable trusts, principles which the present Lord High Chancellor of Great Britain has judicially pronounced to be founded "on common sense and justice," there will henceforth be no limit to the extension of this dangerous precedent; and persons disposed to allocate their property to the purposes of charity or religion, will see the means provided whereby their foundations may hereafter be employed in direct opposition to the objects for which alone they were originally bestowed and intended.

Fifthly—Petitioner further objects to this Bill, because it not only enables parties to frustrate the intentions of the dead, but also to abstract, and misappropriate, the property of the living; for your petitioner is prepared to prove to your Honourable House, that, within the last sixteen years, the Trinitarian Presbyterians in Ireland have been violently expelled from several of their houses of worship, and that, from others, they have been compelled to withdraw, in some cases slowly, as the Unitarianism of their Ministers began to be suspected; and, in other cases, *en masse*, when Unitarianism was openly professed; being thus subjected, not only to the loss of their own and their fathers' property, but to the heavy expense of erecting new buildings for themselves, while every attempt at obtaining restoration, or amicable compensation, having hitherto been evaded or denied, the present Bill will perpetuate the wrong and legalize the usurpation.

Sixthly—Petitioner further objects to this Bill, not only on the ground of what he believes to be present injustice, but on account of its prospective effects upon the ecclesiastical property and discipline of the Trinitarian Presbyterians of Ireland, who constitute, as petitioner believes, ninety-nine of every hundred Presbyterians in that part of the United Kingdom. Your petitioner is prepared to prove to your Honourable House, that, previous to the year 1703, Unitarianism was totally unknown among the Presbyterians of Ireland, and never, except in one instance, so far as he knows and believes, acknowledged in the Synod of Ulster before the year 1827. Hence it has come to pass that a departure from Trinitarianism, being neither anticipated nor dreaded, Presbyterian trust-deeds in Ireland have, until lately, been formed without any guard against a system of doctrine comparatively unknown, and, in fact, without any express specification of the doctrines to be taught. Your petitioner also believes that, for a great number of Presbyterian Chapel properties, there never have been either deeds or trustees, but a mere possession,

founded on the generosity of landlords to their tenantry, whereby the occupiers are absolutely debarred from any defence of their rights, arising from the provision of "*express terms*," as set forth in this Bill.

To the third clause of this Bill, petitioner begs leave still further to object. First, because it contains a retrospective enactment, forming no part of the Bill as originally printed before it came to your Honourable House, and one which bears the marks of its hasty origin, by actually contradicting the marginal reference to its contents, which still remains unchanged. Secondly, because the parties interested in pending suits were lulled into security by the original form of the clause, and were ignorant of the alteration affecting their rights, until it was printed by your Honourable House, and, consequently, were thereby prevented from petitioning to be heard against it by counsel in the House of Lords. And, thirdly, because it appears to petitioner, that, to give to any Act of Parliament such retrospective effect as to reverse, at the request of interested parties, the judgment, not indeed technically pronounced, but yet arrived at and publicly declared, and that under the most solemn of obligations, and in the highest Court of Equity in Ireland, cannot be intended to prevent litigation, where litigation had already terminated.

But, while petitioner thus humbly objects, as aforesaid, he would rejoice to see a Bill pass into a law, whereby the property of Unitarians should be unquestionably set free from all the penal exceptions of the Toleration Act; whereby the ancient and well-tried law of religious trusts should be preserved inviolate; whereby the Courts of law or equity should be enabled to distinguish, in every case, what proportion of Unitarian property had accrued to any Trinitarian foundation, or what proportion of Trinitarian property had accrued to any Unitarian foundation, to allot to each party, as the case might be, their just and respective shares, and even to invest such Courts with a discretionary power of continuing all annuities, during the incumbency of living possessors. In the way of such a measure of impartial justice and respect for personal interests, your petitioner can discover no practical difficulty, while he humbly suggests that it is founded on the principles of the purest equity, provides for the exercise of a considerate but measured generosity, would extend undue favour to none, and afford substantial justice to all parties, in every religious trust.

Your petitioner, therefore, prays that your Honourable House will be pleased to reject the aforesaid Bill, and, if necessary, introduce another, which shall not supersede the established principles of equitable jurisdiction, or contravene the ancient and righteous maxim of English law, that *no man shall take advantage of his own wrong*. And, as in duty bound, will ever pray, &c.,

HENRY COOKE,
Moderator of the General Synod of Ulster.

RESOLUTIONS OF PRESBYTERY OF ANTRIM.

At the Quarterly meeting of the Presbytery of Antrim, held in Belfast, on Wednesday, July 3, 1844, the following Resolutions were unanimously agreed to:—

That we feel it incumbent on us, at this meeting, to record our deep sense of gratitude for the success which has attended the progress of the Dissenters' Chapels Bill, which has now been read, for the third time, in the House of Commons.

That we are called upon, in particular, to express our grateful thanks to the Lord High Chancellor of England, for the kindness, firmness, perseverance and magnanimity displayed by him, in the introduction and advocacy of this Bill, as well as for the unanswerable reasons with which he supported the measure that he had thus introduced; as, also, to Lords Brougham, Cottenham, Campbell, and the other Law Lords, for so strenuously supporting the same by their high authority, without regard to political differences.

That Lords Lansdowne, Clanricarde, Monteagle, Beaumont, and the other Peers who supported the Bill, are also entitled to our gratitude for the interest which they took in its behalf.

That we would express the same feeling of grateful obligation to Sir Robert Peel, First Lord of the Treasury, to Her Majesty's Attorney and Solicitor-General, to Mr. Gladstone and the other Members of Her Majesty's Government, for their noble vindication of the cause of justice, in resistance to a most clamorous, prejudiced and fanatical opposition from without, which was mainly instigated by those who were determined to disturb all those possessions which it is the object of this Bill to quiet.

That our warm thanks are also most justly due to Mr. Macaulay, Mr. Sheil, Mr. Ralph Bernal, Mr. Monckton Milnes, Lord John Russell and Lord Sandon, for their eloquent advocacy of this measure, as well as to all those Members of Parliament who refused to allow the intolerant outcry of religious sects to intrude upon the deliberations of Parliament; and who thus asserted the true principles of toleration, by forming that glorious majority in the division of the 6th of June, which will ever be regarded as so honourable to the enlightened Parliament of the United Kingdom.

That we feel ourselves called upon to express our obligations more particularly to Lord Cottenham, for the sympathy he has at all times expressed towards us—for the unlimited freedom of access with which he favoured our deputation, and for his most valuable advice on all occasions of difficulty or doubt.

That the Presbyterian Union Committee in London have merited our admiration and gratitude, for the energy and zeal with which they prosecuted this business, and for the cordial interest which they manifested towards their Irish brethren, by making common cause with us in all our exertions and in all our difficulties.

While we thus return thanks to those who have been so instrumental in effecting this great work, we would more especially desire that our people and we may ever turn, with devout gratitude, to Him who has caused light to arise out of darkness, and has thus secured to us the unspeakable blessing of worshiping Him, through his Son, in peace and comfort, in good conscience and faith unfeigned.

JOHN PORTER, Moderator.
J. SCOTT PORTER, Clerk.

RESOLUTIONS OF IRISH NON-SUBSCRIBING PRESBYTERIANS.

At the Triennial meeting of the Three Bodies of Non-subscribing Presbyterians of Ireland, held in Eustace-Street Meeting-house, Dublin, on Wednesday, the 17th day of July, 1844,—Rev. J. C. LEDLIE, D.D., President,—the following Resolutions were unanimously adopted:—

That we hail, with devout gratitude to God, the final success of the "Dissenters' Chapels Bill;" a measure which not only protects our Congregations in the enjoyment of property bequeathed by their fathers or contributed by themselves, without restriction of creed, and endeared to their hearts by the most sacred and tender associations, but recognizes in the amplest manner, the great principle of religious liberty, which these three bodies have united to maintain.

That we record, in the most marked manner, our gratitude to Sir Robert Peel, the Lord Chancellor, Mr. Gladstone, Lord Eliot, Sir William Follett, Sir Frederick Thesiger, and the other Members of Her Majesty's Government, for the introduction of this important and impartial measure into Parliament; and for the manly, able and eloquent manner in which, from first to last, amid much opposition, and immediately benefiting those from whom no political advantage could be derived, it received their persevering and effectual support.

That we feel it incumbent on us to express our especial thanks to Lord Cottenham, for the kindness and courtesy which our deputations received from him on every occasion; for his judicious and considerate advice; for those exertions to which our Irish Congregations, and especially those in Dublin, are mainly indebted for being included in the relief afforded by the Bill; and for the powerful and convincing arguments with which, in its various stages, he advocated the measure in the House of Lords.

That we are deeply sensible of the obligations under which we lie also to the Marquis of Lansdowne, Lords Brougham and Campbell, the Bishops of Durham and Norwich, Lord John Russell, Lord Sandon, Sir Thomas Wilde, Mr. Macaulay, Mr. Sheil, Mr. Bernal, Mr. M. Milnes, and the other Members of both Houses of Parliament, of different religious sects and political parties, who composed the glorious majorities which marked every stage of the progress of this Bill, and, by their speeches and their votes, so eminently contributed to its ultimate success.

That we are deeply grateful to Edwin W. Field, Esq., and the other members of the Presbyterian Union Committee in England, as well as to the several deputations who represented the Non-subscribing bodies of Ireland in London, for the indefatigable zeal and paramount ability with which their very arduous duties were performed.

That this Association deeply sympathizes in the serious and long-continued indisposition of the Rev. Dr. Montgomery, and ardently hopes that he may be speedily restored to his former health, and enabled to rejoice in the success of a measure to the furtherance of which he so zealously devoted himself.

That our best thanks are due to the liberal and enlightened members, lay and clerical, of the Established Church, and of various Dissenting denominations, as well as those virtuous and high-minded laymen of the congregations of the General Assembly of the Presbyterian Church in Ireland, who petitioned the Legislature to pass this wise and equitable measure into a law.

That we owe a large debt of gratitude to the Roman Catholics of Ireland, for their generous sympathy and powerful support; who, having felt the baneful effects of persecution themselves, and wishing to do unto others as they would be done by, unanimously petitioned the Legislature on behalf of the conscientious liberties of their countrymen, and have thus nobly and

effectually proved themselves the friends and advocates of religious freedom.

That the warmest acknowledgments of this Association are due, and hereby presented, to the Proprietors and Editors of the *Northern Whig*, *Inquirer*, the *Leeds Mercury*, and *Scotsman*, for their disinterested and uncompromising support and effectual advocacy of the Dissenters' Chapels Bill; and to all that portion of the press of the United Kingdom in general, who, by their exertions in collecting and disseminating information, and by their editorial labours, have powerfully contributed to the successful issue of the struggle in which we have lately been engaged.

That we earnestly recommend to the Ministers and Congregations of the several bodies united in this Association, to celebrate Sunday, the 25th of August, as a day of special thankfulness for the success of the "Dissenters' Chapels Bill," and to improve the occasion by suitable discourses and other religious exercises.

J. C. LEDLIE, President.
J. N. PORTER, Secretary.

RESOLUTIONS OF ST. SAVIOUR-GATE CONGREGATION, YORK.

At a meeting of the Congregation assembling in the Presbyterian Chapel, St. Saviour-Gate, in the City of York, held July 28, 1844,—Christopher Todd, Esq., in the Chair,—the following Resolutions were unanimously adopted:—

1. That this Congregation, meeting together for the first time after the enactment of the Dissenters' Chapels Bill, desire to express their gratitude to Divine Providence for the accomplishment of an event by which they are relieved from the apprehension of being compelled to abandon the House in which their predecessors have worshiped God for a century and a half, the burial-places and memorials of past generations, and the funds which their liberality had devoted to the maintenance of the services of Religion. They rejoice in it as a recognition of the title of every member of the community to receive protection in the profession and exercise of that form of worship which approves itself to his own conscience. And they affectionately congratulate their venerable pastor, the Rev. C. Wellbeloved, that by the passing of this Bill a stop has been put to those vexatious and inquisitorial proceedings, to which he had been subjected by the application of the unamended law.

2. That this Congregation feel it their bounden duty to express their gratitude to the Lord Chancellor, Sir R. Peel, Bart., M.P., and Her Majesty's Government, for their introduction of the Dissenters' Chapels Bill into Parliament—for their able, consistent, and fearless support of it in every stage of its progress through both Houses of the Legislature—and for the consequent successful issue of a measure which secures to the present holders the continued possession of property endeared to them by the most solemn and tender associations.

3. That the thanks of this Congregation are eminently due, and be respectfully tendered, to Mark Philips, Esq., M.P., Robert Scott, Esq., M.P., Thomas Thornely, Esq., M.P., John Brocklehurst, Esq., M.P., Henry Marsland, Esq., M.P., Benjamin Smith, Esq., M.P., Benjamin Wood, Esq., M.P., Edwin W. Field, Esq., Charles Bischoff, Esq., Joseph Parkes, Esq., James Esdaile, Esq., Charles F. Tagart, Esq., and the other members of the General Committee of the Presbyterian Union, who have, with such eminent ability, and with such gratifying success, conducted the application to the Government and to Parliament for legislative protection to English Presbyterians in the enjoyment of their religious property.

4. That the thanks of this Congregation be presented to H. R. Yorke, Esq., M.P. for this city, for his promptitude, kindness and courtesy in his communications with them, for his presentation of their petitions, and for his support in Parliament of the Dissenters' Chapels Bill.

5. That the thanks of this Congregation be given to those of their fellow-citizens, of other religious denominations, who petitioned the Houses of Parliament in favour of the Dissenters' Chapels Bill.

6. That the thanks of this Congregation be presented to the Rev. J. Kenrick, for his very admirable sermon on occasion of the passing of the Dissenters' Chapels Bill.

RESOLUTIONS OF BELFAST CONGREGATIONS.

A JOINT meeting of the members of the First and Second Congregations of Protestant Dissenters in Belfast was held in the meeting-house of the Second Congregation, after divine service, on Sunday, the 4th of August, 1844—JOHN G. DUNBAR, Esq., J.P., D.L., in the Chair.

Moved by Rev. J. Scott Porter; seconded by Adam M'Clean, Esq., and resolved—

1. That, with devout gratitude, we would acknowledge the kind providence of Almighty God, to ourselves and our fellow-subjects, as shewn in the great advances of religious liberty in this country, but more especially in the recent passing of the Dissenters' Chapels Bill into a Law; and that we approve of observing the 25th of August as a day of special religious exercises and thanksgiving on this account, as recommended by the late meeting of the Irish Non-subscribing Presbyterian Association.

Moved by James Grimshaw, Esq., Whitehouse; seconded by Samuel Bruce, Esq., Thorndale, and resolved—

2. That the Dissenters' Chapels Bill having now received the Royal Assent, and thus become the law of the land, we feel prompted to give expression to our sentiments of loyalty and gratitude to our beloved Sovereign, for completing a measure which will render her reign for ever distinguished in the history of religious toleration; and that a loyal and dutiful address, embodying these sentiments, be prepared and forwarded to the Right Hon. the Secretary of State, for presentation to Her Majesty.

Moved by Robert Montgomery, Esq., Sandymount; seconded by Alexander Brenan, Esq., and resolved—

3. That the address now read be adopted, and that it be engrossed and signed by the Chairman of this meeting, and by the two Secretaries, in the name of the Congregations.

Moved by Robert Grimshaw, Esq., J.P., D.L., Longwood; seconded by Francis Ritchie, Esq.—

4. That, when we reflect upon the peace and satisfaction of mind resulting from the suppression of all the attacks so unjustly menaced against our congregational properties, we feel that the warm expression of our thanks is most justly due to Sir Robert Peel, and the other Members of Her Majesty's Government, for introducing to Parliament a Bill to quiet us in the possession of those houses of worship which we have so long occupied, which we feel to be our rightful property, and which are endeared to us by so many solemn and pleasing recollections.

Moved by S. S. Thomson, Esq., M.D.; seconded by Michael Andrews, Esq., Ardoyne, and resolved—

5. That we owe, and hereby tender, our grateful thanks to the Lord High Chancellor of England, for that lucid and powerful exposition of our

case, by which its merits were made so extensively known, and were so deeply impressed on the public mind; and for his consistent and zealous support of the measure, in every stage of its progress.

Moved by John Russell, Esq., Newforge; seconded by Thomas Corbitt, Esq., and resolved—

6. That we also owe a debt of gratitude to the Lords Brougham, Cottenham and Campbell, and to the other Law Lords, for co-operating so heartily with the Lord Chancellor in carrying this measure through the House of Peers.

Moved by James Campbell, Esq.; seconded by Valentine Whitla, Esq., and resolved—

7. That the Marquises of Lansdowne and Clanricarde, Earls Fitzwilliam and Minto, the Bishops of Durham and Norwich, the Lords Monteagle and Beaumont, and the other noble Peers constituting the majority in the House of Lords, are entitled to our thanks, for the sympathy which they manifested in our cause, and for the deep interest which they took in promoting this Act.

Moved by the Rev. William Bruce; seconded by John Gray, Esq., and resolved—

8. That, estimating the difficulties and obstacles interposed in the way of the Members of the Commons' House in order to prevent the progress of this Act, and considering the indefatigable exertions made to excite the utmost religious antipathies against us, we acknowledge, and are thankful for, the magnanimous boldness with which the leading Members of the House of Commons vindicated our claims, firmly refusing to allow sectarian hatred to have any influence on their minds, and maintaining the broad principle of toleration, with a force of reason and eloquence that will render the debate in that House, on the Second Reading of the Bill, conspicuous, to distant times, in our Parliamentary history.

Moved by W. J. C. Allen Esq., J.P.; seconded by James Boomer, Esq., Seaview, and resolved—

9. That, for the distinguished parts which they took in the debate on the Second Reading of the Bill, and in the subsequent discussions in the House of Commons, we offer our cordial thanks to Sir William Follett, Attorney-General for England, to Sir Frederick Thesiger, Solicitor-General, to the Right Hon. Thomas B. Macaulay, to Mr. Bernal, to Mr. Monckton Milnes, to the Right Hon. Wm. Gladstone, to the Right Hon. Richard L. Sheil, to the Right Hon. Sir Robert Peel, to the Right Hon. Lord John Russell, to Lord Sandon, to Mr. Cardwell, and to Sir Thomas Wilde; and that we feel deeply indebted to the Members composing the glorious majorities, who by their votes affirmed the principle of this just and necessary measure of relief.

Moved by Robert Patterson, Esq.; seconded by John Gillis, Esq., and resolved—

10. That we are desirous of reciprocating with our Christian brethren, of all religious denominations, the feelings of kindness, equity and justice, which induced so many persons, widely dissenting from our views of doctrine, to present petitions to the Legislature praying for an Act to relieve us from the hardships occasioned by the state of the law, as declared in several judicial decisions, and to sanction the recent measure by the influence of their character and talents.

Moved by John Riddell, Esq., Vermont; seconded by William M'Caw, Esq., and resolved—

11. That our warm thanks are due to the Proprietor and Editor of the *Northern Whig*, for the early, consistent and persevering support given by that journal to the Dissenters' Chapels Bill, and for the paramount ability with which it advocated our claims; and also to the *Leeds Mercury*, and

the other Liberal papers which, during the progress of the measure, espoused and vindicated our cause.

Moved by John Curell, Esq., J.P., Clonard; seconded by John Stevenson, Esq., Springfield, and resolved—

12. That although we feel a peculiar interest in the recent Act of Parliament, since it originated in a desire to secure us from meditated injustice, yet we rejoice to look upon it as a comprehensive measure, founded on the great principle of Protestant dissent, the right of private judgment, and, as such, conducive to the security and comfort of all Dissenters,—of those who opposed its progress, as well as of ourselves; and that we trust the spirit of even-handed justice, which this Act displays, will be carried still further, removing all impediments to the freedom of religious opinion, whatsoever may be their nature, and to whatsoever portion of the community they may apply.

Moved by J. Thomson Tennent, Esq., J.P., Hazelbank; seconded by Samuel Archer, Esq., and resolved—

13. That our deepfelt gratitude is due to the Rev. W. Bruce, the Rev. John Porter, W. J. C. Allen, Esq., and Francis Whitla, Esq., the gentlemen composing the deputation for promoting the recent Act on the part of these congregations and of the Presbytery of Antrim, for their kindness in undertaking that laborious and important mission, for the masterly manner in which they conducted the business entrusted to them; for the ability which they displayed in bringing the merits of our cause before the minds of the Government and the Legislature, and in detecting and refuting the erroneous statements put forward in opposition to the principle of the Bill; and for the manly spirit of candour, integrity and firmness, by which their proceedings were marked, and which so powerfully contributed to that triumphant success which attended the measure at every step of its progress in both Houses of Parliament.

Moved by Thomas Blain, Esq.; seconded by John Montgomery, Esq., Beersbridge-cottage, and resolved—

14. That our thanks are due to the Rev. Dr. Montgomery and the Rev. William Glendy, the deputies of the Remonstrant Synod, and to the Rev. Dr. Ledlie, Rev. George Armstrong, and Henry Hutton, Esq., deputies from Dublin, for their zealous co-operation and efficient services in promoting this important work.

Moved by William Gray, Esq., Graymount; seconded by John Dunville, Esq., and resolved—

15. That we cannot overlook the valuable assistance and zealous co-operation of the Committee of the English Presbyterian Union, of which the late George William Wood, Esq., was the original Chairman; and which, since his lamented death, has been, with such ability and energy, presided over by Mark Philips, Esq.;—we feel that to the long-continued and unwearied exertions of this Committee, in making all the necessary preparations, and furnishing the requisite information to the Members of Parliament, we are much indebted for the effective manner in which our case was argued, both in the House of Lords and the House of Commons.

Moved by C. B. Grimshaw, Esq., Linfield; seconded by George M'Tear, Esq., Abbey-hill, and resolved—

16. That Edwin Wilkins Field, Esq., is entitled to our especial thanks, for the early and persevering interest which he took in the Irish cases: and that, on this account, we feel peculiar pleasure in concurring, as we do heartily, in the acknowledgment which has been so generally made of his zealous, able and disinterested services; and that Charles Bischoff, Esq., is also entitled to our thanks, for his advice, co-operation and exertions.

JOHN G. DUNBAR, Chairman.

CHESTER RESOLUTIONS.

At a meeting of the Congregation of the Presbyterian Chapel, Crook Street, Chester, held the 6th of August, the following Resolutions were passed:—

1. That the members of this Congregation, deeply impressed with the conviction that "nothing cometh to pass when the Lord commandeth it not," desire to express their gratitude to Almighty God for the protection which has been afforded to them in the possession of the place of worship in which they have been accustomed regularly to assemble, which they received from their ancestors and predecessors, who, for a long series of years, held similar religious opinions to their own, and which has become especially endeared to them from the sacred associations connected with their departed relatives and friends whose earthly remains repose around its walls.

2. That this Congregation freely and thankfully confess their obligation to the Lord Chancellor, Sir Robert Peel, and the other Members of Her Majesty's Government, for their introduction of the Dissenters' Chapels Bill into Parliament, and for their persevering support of a measure recommended to them only by its justice and by its tendency to promote the cause of religious liberty.

3. That this Congregation tender the expression of their sincere gratitude to Lord Robert Grosvenor, for his presentation of their petitions, for his superiority to prejudice, and for his firm attachment to principles of justice and the law of Christian charity, as evinced by his disinterested and consistent support of the Dissenters' Chapels Bill.

4. That the warmest thanks of this Congregation are due to those numerous and highly respected members of the Established Church, to the members of the Catholic Church, and to those individuals of various Dissenting denominations, in this city, who, unprejudiced by difference of religious sentiments, acknowledged the moral and equitable claim of this Congregation to protection in their possession of religious property, from which no condition in the trusts excluded them, and generously petitioned Parliament in favour of the Dissenters' Chapels Bill.

5. That the thanks of this meeting be given to the general Committee of the Presbyterian Union in London, for their great and untiring efforts to ensure the success of the Bill.

6. That the affectionate thanks of the Congregation be presented to their pastor, the Rev. Mortimer Maurice, for his sermon on occasion of the passing the Dissenters' Chapels Bill, and that his consent be requested for its publication.

BIRMINGHAM RESOLUTIONS.

At a meeting of the several Unitarian Congregations of Birmingham, held at Dee's Royal Hotel, on Monday, the 9th of September, 1844, for the purpose of celebrating the passing of the Dissenters' Chapels Act,—Thomas Weston, Esq., in the Chair,—the following Resolutions were passed unanimously:—

On the motion of the Rev. John Kentish, seconded by Mr. Tyndall—

1. That this meeting of Protestant Dissenters, deeply impressed with the sense of the great advantages which must result to the cause of religious truth and freedom from the passing of the Dissenters' Chapels Bill, not only by securing to all classes of Dissenters the quiet possession of their places of worship and interment, and by putting a stop to those odious secular contentions which have lately disgraced our times and embarrassed

our Courts of Law, but also by its recognition of the grand principle of Protestant dissent, viz., the free and unrestrained right of private judgment in matters of religious belief, desires to express gratitude to Almighty God for his beneficent interposition through the agency of human rulers.

On the motion of Robert Scott, Esq., M.P., seconded by the Rev. Samuel Bache—

2. That this meeting is desirous of recording its grateful acknowledgments to the Lord High Chancellor Lyndhurst, the Right Hon. Sir R. Peel, the Right Hon. Lord Wharncliffe, the Right Hon. W. E. Gladstone, Sir William Follett, Sir Frederick Thesiger, and the other Members of Her Majesty's Government, who, amidst the anxieties inseparable from the conduct of vast national concerns, have, notwithstanding, devoted the best energies of their minds to the consideration of the peculiar condition of certain classes of Dissenters, and have evinced by their powerful and enlightened addresses during the discussion of the Bill, a thorough knowledge of the history and principles of Protestant dissent, and who, being persuaded of the justice of the measure, have given it their powerful and decided support amidst a violent and clamorous opposition, which might have deterred men of less firm and honourable minds.

On the motion of the Rev. J. Gordon, seconded by Mr. W. Phipson—

3. That the thanks of this meeting are especially due, and are hereby rendered, to the Lord High Chancellor Lyndhurst, for his kindness in undertaking the labour and responsibility of introducing the Bill into the House of Peers, and conducting it there, and for the lucid manner in which he explained to that House the necessity for the measure; thus evincing a desire of remedying evils which had been made apparent to him in his judicial capacity, and discriminating between his duty as a Judge to administer existing laws, and his competency as a Legislator to amend their defects.

On the motion of Mr. Thomas Eyre Lee, seconded by the Rev. Dr. Meeson—

4. That our acknowledgments are eminently due to the Lords Cottenham, Denman, Brougham and Campbell, for their powerful and uncompromising advocacy of the measure, and for the skilful manner in which they exposed the weakness and sophistry of the arguments advanced against it.

On the motion of W. Beale, Esq., seconded by the Rev. Timothy Davis—

5. That this meeting desires to record its grateful acknowledgments to the Right Reverend the Bishops of Durham, Norwich and St. David's, for their fearless and able advocacy of the Bill; and also to the Right Hon. the Marquis of Lansdowne, the Right Hon. Viscount Melbourne, the Right Hon. Lord Monteagle, the Right Hon. Lord Besborough, and the other 202 Peers who composed the majority in the House of Lords.

On the motion of Mr. Wills, seconded by Mr. George S. Kenrick—

6. That notwithstanding its general vote of thanks to the Members of Her Majesty's Government, this meeting cannot refrain from distinctly recording its obligations to Sir William Follet, who, although he had retired into the country for relief from the fatigues of a laborious official and professional life, yet at great personal risk quitted his retirement, and attended in his place in the House of Commons to undertake the introduction of the Bill, and in that clear and intelligible manner so peculiarly his own, explained the principles and rendered evident the necessity of the measure.

On the motion of the Rev. William Bowen, seconded by Mr. Mott—

7. That it is gratifying to this meeting to know that the Chapels' Bill, when introduced into the House of Commons, received the support of the

most enlightened statesmen in that House, and that while we record our grateful acknowledgments to the 307 Members who gave it that support, our thanks are especially due to the Right Hon. Lord John Russell, Lord Sandon, the Right Hon. T. B. Macaulay, R. Monckton Milnes, Esq., Edward Cardwell, Esq., the Right Hon. R. L. Sheil, Sir Thomas Wilde, William Stratford Dugdale, Esq., John Barneby, Esq., the Hon. Charles Pelham Villiers, the Right Hon. Thomas Wyse, and George Frederick Muntz, Esq.

On the motion of Samuel Beale, Esq., seconded by Mr. Russell—

8. That this meeting hails, as an encouraging proof that the great principles of civil and religious liberty are making certain progress, the willing and generous co-operation afforded in this borough and in other places, by many enlightened members of the Established Church, as well as by many individuals among the body of Dissenters, who, though essentially opposed to us in doctrine, did not permit their theological faith to influence their conduct, but by their petitions and personal exertions greatly promoted the success of the measure.

On the motion of the Rev. John Kentish, seconded by the Rev. Matthew Gibson—

9. That this meeting feels and would express a very grateful sense of the services rendered by the late G. W. Wood, Esq., M.P., the Rev. Joseph Hunter, and many other enlightened friends of freedom and of justice, in the Lady Hewley case.

On the motion of Francis Clark, Esq., seconded by Mr. Earl—

10. That the cordial thanks of this meeting are due and are hereby presented to Mark Philips, Esq., M.P., (Chairman,) to Thomas Thornely, Esq., M.P., Robert Scott, Esq., M.P., Edwin Wilkins Field, Esq., Charles Bischoff, Esq., Joseph Parkes, Esq., and the other members of the London Committee, for the unceasing vigilance with which they watched the proceedings in reference to the Bill, for their active energy in thwarting the attempts made to impede its progress, and for their patient industry during the Parliamentary deliberations.

On the motion of Mr. E. Martin, seconded by Mr. Charles Lloyd—

11. That our thanks are presented to Mr. William Wills and Mr. Arthur Ryland, for the great kindness and activity with which they have officiated as Secretaries to the Committee in Birmingham; and also to Francis Clark, Esq., Howard Luckcock, Esq., Mr. W. J. Beale, and Mr. H. W. Tyndall, who kindly attended in London as a deputation from the congregations in this borough.

THOMAS WESTON, Chairman.

MANCHESTER RESOLUTIONS AGAINST THE BILL.

At a meeting of clergy, gentry, and other inhabitants of the boroughs of Manchester and Salford, and their vicinity, convened by circular, and held at the Royal Hotel, Manchester, on Friday May 17th, at eleven o'clock in the forenoon,—Thomas Carill Worsley, Esq., of Platt Hall, in the Chair,—it was resolved unanimously—

Moved by the Rev. Hugh Stowell, incumbent of Christ Church, Salford; seconded by the Rev. George Osborne, Wesleyan minister; supported by the Rev. Dr. Vaughan, Principal of the Independent College, Withington—

That this meeting, having considered the Bill now before the House of

Commons, commonly called "The Dissenters' Chapels Bill," is of opinion that it is a highly unjust and dangerous measure; unjust, because it proposes to confirm Unitarians in their illegal possession of endowments created for the support and diffusion of Trinitarian doctrines; and dangerous, because it introduces into the administration of charitable trusts a new principle, which affects their security, holds out a temptation to unfaithfulness in trustees, and will probably prevent the foundation of future charities.

Moved by the Rev. W. H. M'Grath, Rector of St. Ann's Church, Manchester; seconded by the Rev. Dr. Hannah, Theological Tutor of the Wesleyan College, Didsbury; supported by the Rev. John Birt, Baptist minister of Oldham—

That the means by which this measure proposes to accomplish its end, in the judgment of this meeting, demonstrate its impolicy—the usage of a congregation being often fluctuating, and difficult either of definition or proof—and that the Bill, in many obvious cases, will encourage rather than check litigation, by exciting jealousy on the slightest supposed deviation from the understood objects of the charity, and by rendering legal proceedings, in every such instance, an imperative duty.

Moved by the Rev. Hugh Campbell, minister of the Scotch Church, Ancoats; seconded by T. H. Birley, Esq.; supported by John Burton, Esq.—

That the arguments by which this measure has been recommended, appear to this meeting fallacious in the highest degree. The principle of prescription has never been allowed to apply to property held in trust. The alleged difficulty of discovering the proper objects of the trusts cannot justify the possession of the present holders, than whom it were difficult to find persons less honestly entitled, and the Courts of Equity have full power to adjust rival claims. The fact that the existing occupants are the lineal descendants of the first founders or possessors, even could it be generally proved, would be material only if the original intention of the trusts had been the personal accommodation of individuals, and not the perpetuation of opinions. The few cases in which Unitarians have rebuilt the chapels in their occupation, ought not to guide the vast majority of cases in which no rebuilding has taken place; and it would be a novel rule to establish in any case, that an abuse of trust, continued so long as to render rebuilding necessary, should for that very reason be sanctioned. The costs of litigation are, indeed, heavy; but no vexatious suits have been hitherto instituted;—the expenses in future cases will be reduced, in consequence of the law having now been so clearly settled;—the House of Lords has already furnished the precedent of charging them, not on the charities, but on the parties perverting the trusts;—the proposed measure will increase litigation; and it is an utter denial of justice to effect an arbitrary alteration of the law, not because the law is impolitic, but on the pretext of providing against the incidental inconveniences of a rightful appeal to it.

Moved by William Atkinson, Esq.; seconded by Mr. Alderman Burd; supported by Mr. Alderman Callender—

That the regret and alarm with which the measure is viewed on general grounds are greatly aggravated by the special circumstances of the case. The only parties who hope for any benefit from its operation are such as, in the judgment of this meeting, deny the very foundations of the Christian faith. The interference of the legislature in their favour is adverse to the declared opinions of the heads of the Established Church, and has called forth the strong remonstrance of the various bodies of orthodox Protestant Dissenters. A partial and oppressive preference is shewn to one small sect; and, contrary to the clear principles of British law, and of universal right, the Bill has a retrospective operation, and affects suits already com-

menced, under the direct sanction of the highest legal authorities, and declared by them to be sustainable, not only on technical grounds, but on those of common sense and common justice.

Moved by the Rev. Joseph Taylor, Wesleyan minister; seconded by the Rev. James Griffin, Independent minister—

That a petition, founded on the foregoing resolutions, be forwarded to the House of Commons; that Sir Thomas Wilde be requested to present it; and that the Members for the Southern Division of the county of Lancaster, and for the boroughs of Manchester and Salford, be requested to give it their most energetic support. T. C. WORSLEY.

FINAL RESOLUTIONS OF PRESBYTERIAN UNION.

At a meeting of the General Committee of the Presbyterian Union, attended by Deputies from Ireland and the Provinces, held at Fendall's Hotel, Old Palace Yard, Westminster, on Tuesday, July 16, 1844,—Thomas Thornely, Esq., M.P., in the Chair,—it was unanimously resolved:—

1. That on the occasion of this Bill receiving its last public legislative consideration, and on closing our own lengthened labours, we would finally express our gratitude for a measure which not only secures to the present holders the continued possession of property endeared to them by the most solemn and tender associations, but which also insures to us, and to future generations, a full Protestant liberty of private judgment, unfettered by the accident of ancestral creed, and protected from all inquisitorial interference.

2. That it has been especially gratifying to us to witness the support given by several distinguished members of the Episcopal Bench to an application of the principles of religious liberty more immediately in favour of men whose opinions they necessarily view with particular disapprobation.

3. That this meeting avails itself of the opportunity afforded by the absence of Mark Philips, Esq., M. P., to express its cordial appreciation and grateful acknowledgments of the important and unremitting services rendered by him during the whole of the present session as Chairman of this Committee.

4. That this meeting feels it also its incumbent duty to put on record their grateful remembrance for the very important aid rendered to the objects of the Committee by the late G. W. Wood, Esq., M. P.

5. That viewing this measure as the first legislative recognition of the great truth, that the sanctity of private judgment in matters of religion may be a principle in men's minds paramount to the holding of any peculiar dogmas, we would venture to suggest the formation of some permanent memorial, educational or otherwise, to perpetuate in the most useful form the great principle of unlimited religious liberty; and that the following gentlemen be requested to form a Committee to consider of the means of carrying out this design, with power to add to their number:—Mr. Mark Philips, M. P., Mr. Thornely, M. P., Mr. Samuel Smith, Mr. Samuel Sharpe, Mr. H. C. Robinson, Mr. Joseph Parkes, Mr. James Heywood, Mr. E. W. Field, Mr. John Taylor, Mr. Richard Martineau, Mr. T. P. Warren, Mr. Samuel Pett, Mr. Charles Bischoff and Mr. J. Ashton Yates.

6. That the thanks of this meeting be especially given to Edwin W. Field, Esq., for his laborious services, which, combined with his high legal attainments, have been so essentially instrumental in obtaining from the Government a measure of legislative relief, to obviate the injurious effects upon this body of the decision in the Lady Hewley Trust Case.

7. That the thanks of this meeting be given to Charles Bischoff, Esq.,

Joseph Parkes, Esq., and the other professional gentlemen, who have so earnestly and ably assisted in those exertions by which so happy an issue has been obtained.

8. That the thanks of this meeting be presented to Mr. T. R. Horwood, for the disinterested and valuable assistance which he rendered to the Committee during the progress of the Dissenters' Chapels Bill.

9. That the thanks of this meeting be given to the Treasurer and Secretary of this Committee, James Esdaile, Esq., and Charles F. Tagart, Esq., for their services.

10. That the Minutes of all the Proceedings of this body, and of the Deputation and other Committees, be made out as fully as possible, and that a complete series of the Books and Papers issued under the direction of this Committee, relating to the Dissenters' Chapels Bill, be collected and arranged; and that they and all the other Papers connected with the preparation and passing of this Bill, be placed in such custody as Mr. Mark Philips, M. P., Mr. Benjamin Wood, M. P., Mr. Thornely, M. P., Mr. Scott, M. P., the Rev. Robert Aspland, Mr. H. Crabb Robinson, Mr. R. Martineau, Mr. Bischoff and Mr. Field, shall determine; and that the winding up of the affairs of the Committee be placed in the hands of those gentlemen, with liberty to add to their number.

11. That a copy of the volume of the Parliamentary Debates on this Bill be presented to all persons throughout the country to whom the Committee has been indebted for active assistance in promoting its passage through Parliament, as a permanent memorial of their co-operation in these important proceedings.

12. That the Sub-Committee be requested to offer the best thanks of the Committee to Lord Cottenham, Lord Brougham, Lord Monteagle, and such other Members of either House as they may think proper, for their assistance and support in the passing of the Dissenters' Chapels Bill.

13. That the gross subscription for defraying the expenses of promoting the Dissenters' Chapels Bill be raised to the sum of £2,000; and that such sum be subscribed by the Unitarian Congregations in Great Britain.

That any overplus of such subscription, after payment of all such expenses, be placed at the discretion of the Special Committee, to whom has been deputed the conclusion of the business of this Committee.

14. That the thanks of this Committee be given to Thomas Thornely, Esq., M. P., for his constant attention to the business of the promoters of the Chapels Bill, and for his valuable services in the Chair this day.

EDINBURGH REVIEW ON DISSENTERS' CHAPELS ACT.

(No. CLXII., October 1844, p. 513.)

The act of the government which, in our judgment, deserves the highest commendation, is the Bill to quiet possessions in the chapels, schools, and cemeteries belonging to Nonconformists. Attempts had been made at law, and with some success, to deprive various congregations of the property which they and their ancestors had enjoyed; of the chapels where they had worshiped; the schools they had built; the charities they had endowed; and the graves where their parents slept. Because, in some cases, the opinions of the aggrieved parties were considered as heterodox, it was therefore held that those parties might be wronged with impunity. A more flagrant attempt at injustice—a more melancholy exhibition of bigotry—never took place. Opposition the most violent was excited. Above 350,000 persons

were found to petition against this act of simple justice. Lamentable is it to confess, that many of these were themselves Dissenters; who either were at the time, or had been within a few years, the humble petitioners for that toleration which they now refused to extend to their brethren.

TAIT'S EDINBURGH MAGAZINE ON THE ACT.

(From the "Retrospect of the Session," Sept. 1844.)

We must not omit to chronicle among the doings of the session the Dissenters' Chapels Bill,—a measure which we regard with cordial satisfaction. The Ministry deserve much praise for it. It was an act of simple common sense, indeed, and common justice; but it was done for the sake of justice, done promptly, done at some cost of temporary unpopularity with a powerful party, done for the protection of a weak and obnoxious sect having no claims of a party kind on ministerial consideration. The spirit in which this new Toleration Act was received by both Houses, and by all parties in both Houses, with exceptions not worth remembering, renders it a creditable episode in the history of the Parliamentary year.

LIST OF PUBLICATIONS RELATING TO THE BILL.

[N. B. This List is confined to Works published after the introduction of the Bill into Parliament, and does not embrace those previously published, some of them years ago, pending the Hewley suit, although unquestionably some of these had great influence upon the final happy result.]

The Presbyterian Reporter, being a Register of Parliamentary Proceedings and Public Documents relating to the Dissenting Chapels' and Endowments' Bill, for the Protection of the Presbyterians in England and Ireland, not subscribing to Articles of Christian Faith of Human Compilation. London: Chapman.

Full and Authentic Report of the important Case of the Attorney-General at the relation of George Mathews and others against the Revds. Joseph Hutton, James C. Ledlie, D.D., and others, being the Ministers and Members of Eustace-Street Congregation, in the City of Dublin; from the Short-hand Notes of Thomas Jones, Esq., Barrister-at-Law. With an Appendix, containing the Prayer of the Information, and Extracts of the principal Proofs given in Evidence by the Defendants. Dublin.

Extracts from the Manuscript Sermons of the Ministers of Strand-Street Congregation. Dublin, in Proof of the Antitrinitarian Opinions of said Congregation from the Erection of the Meeting-house in 1764 to the Present Time. Dublin.

An Historical Argument in relation to the Dissenters' Chapels Bill. London: Chapman.

Objections to the Dissenters' Chapel Bill answered, in a Letter to a Wesleyan Methodist. By John Gordon.

A Letter to a Member of Parliament in Wiltshire, who had expressed Doubts as to the Propriety of supporting the Second Clause. By the Rev. J. Murch, Bath.

A Letter to the Rev. Dr. Vaughan, on the Bill. Manchester: Forrest.

The Rev. Dr. Montgomery's Strictures upon several recent Speeches and Statements made by the Rev. Dr. Cooke. (Reprinted from the Northern Whig.)

Report of a Meeting of Opponents to this Bill, held at the Freemasons' Tavern, Great Queen Street, London, on 25th April, 1844. With an Introduction and Notes. London: Chapman.

The Report of the Debate in the House of Lords, May 3, 1844. From the Short-hand Writer's Notes.

The Speeches of the Lord Chancellor and Lord Cottenham, separate.

Debate on Second Reading of the Dissenters' Chapels Bill in the House of Commons, June 6, 1844.

Petition to the Commons of a Congregation of Protestant Dissenters assembling in Christ-Church Chapel, Bridgwater.

Petition to the Commons of the undersigned Minister and Attendants of the Protestant Dissenting Meeting-house in High Street, Newport, Isle of Wight.

Case of the Society of Protestant Dissenters assembling at Lewin's Mead Chapel, in the City of Bristol, in support of their Petition to the House of Lords in favour of the Dissenters' Chapels Bill.

Address to the Dissenters of Newport, Isle of Wight, by a Nonconformist.

Statement of the Case of a Congregation of Protestant Dissenters assembling for Divine Worship in the Presbyterian Meeting-house, Knutsford, Cheshire, as contained in a Petition to both Houses of Parliament in favour of the Bill.

Testimonials from Parties not Unitarians in favour of the Dissenters' Chapels Bill. Wilson, Manchester.

Petition of the Worshipers in the Presbyterian Chapel, Bury, Lancashire, and an Address to the Inhabitants of the same Town, by Rev. F. Howorth.

A Vindication of a Hand-bill lately published in Bristol on the Dissenters' Chapels Bill, imputing Defection to Wesleyans and Calvinists from the Principles of their Founders, and now proved by Extracts from the Writings of those Founders. Bristol.

Dissenters' Chapels Bill. A Sheet printed at Alnwick, containing the Alnwick Petition in favour of the Bill, and Extracts from Speeches, &c., in favour of the Bill.

Parliamentary Debates on the Dissenters' Chapels Bill, 7 and 8 Vict., Ch. 45, A.D. 1844.

Sermons.

A Sermon on occasion of the Second Reading of the Dissenters' Chapels Bill in the House of Commons, preached on Sunday, June 9, 1844, to a Congregation of Protestant Dissenters, Knutsford, Cheshire. By Henry Green, A. M. London: Chapman.

Unitarianism Persecuted, because Men "know not what they do." A Sermon preached at Newington-Green Chapel, on Sunday, June 16, 1844, by the Rev. Thomas Cromwell, M.A., Minister of the Chapel.

The Gospel, according to Paul, and his Conduct under Imprisonment for it: a Sermon preached in the English Presbyterian Chapel, Chapel Lane, Bradford, Yorkshire, on Sunday, June 23, 1844, on occasion of a Contribution towards Defraying the Expense of the Dissenters' Chapels Bill. By J. H. Ryland, Minister of the Chapel. London: Chapman.

The Christianity of the Age in advance of Christian Churches: a Discourse on the Passing of the Dissenters' Chapels Act, delivered in the Bowl-alley-lane Chapel, Hull, July 21, 1844. By Edward Higginson, Minister, and repeated at Gainsbro', July 28, and at Lincoln, August 4: with the Hymns sung on the occasion. To which is added an Appendix, containing, 1, Golden Sentences extracted from the Parliamentary Debates on the Bill; 2, An Historical Abstract of Laws affecting Religious Liberty, from the time of the Act of Uniformity; and, 3, The Dissenters' Chapels Act and Parliamentary Divisions on it. London: Chapman.

Christian Liberty: a Sermon delivered in the Presbyterian Chapel, Crook Street, Chester, July 28, 1844. By the Rev. Mortimer Maurice, Minister of the Chapel. London: Chapman.

Calumny repelled, and the Argument inverted: Two Discourses delivered in the Unitarian Church, St. Peter's Square, Stockport, on Sunday, August 25, 1844, being the Day set apart for a Special Thanksgiving to Almighty God for the Passing of the Dissenters' Chapels Bill. By William Smith, Minister of the Congregation. London: Chapman.

Three Arguments in Defence of the recent Attacks on the Congregational Property of Unitarians considered, by Classon Porter, Minister of the First Presbyterian Congregation of Larne. Belfast.

The following were extensively circulated by the Presbyterian Union Committee, though not published by a Bookseller.

Reasons in favour of a Bill for the Regulation of Suits relating to Property held for Religious Purposes by Persons dissenting from the Church of England. March, 1843.

Reasons in favour of a Bill brought into Parliament by Her Majesty's Government for the Regulation of Suits relating to Meeting-houses, submitted by Dissenters interested therein. April, 1844.

Resolutions of Presbyterian Deputies, April 3, 1844.

Statement on behalf of the Presbytery of Antrim.

Petition of the Presbytery of Antrim, Ireland, in favour of the Bill.

Statement respecting the two Suits pending in Dublin.

Statement of the Case of the Non-subscribing Presbyterians of Ireland, against whom Suits have been in some instances commenced, and in others threatened, in Her Majesty's Courts of Equity in Ireland, for the purpose of depriving them of their Meeting-houses, Funds, and other Congregational Properties.

Extract from the Leeds Mercury of April 13, 1844.

Extract from the Leeds Mercury of April 27.

Extract from Inquirer of March 30, 1844.

List of Petitions to the House of Lords in favour of this Bill from Members of the Established Church.

A Tabular Analysis of Statements contained in Petitions from Parties seeking the Benefits of this Bill.

Petition of Mary Armstrong, Widow, a Member of the Protestant Dissenting Congregation of Strand Street, in the City of Dublin, to the Commons.

Petition to the House of Lords from the New Gravel-Pit Congregation, Hackney.

Petition to the Commons of the General Assembly of General Baptist Churches, by their Messengers, Elders and Representatives, holden in London on Whit-Tuesday, May 28, 1844.

Petition of Rev. John Gordon, of Coventry, to the Commons, respecting the Opposition of the Wesleyans to the Bill.

Brief Reply to the Allegations contained in the Petitions or Resolutions of the Opponents to the Bill.

Resolutions of the United Committee of the Presbyterian Union and of the Deputies, &c., on the Result of the Debate on the Second Reading.

Resolutions of the Same on the final Passing of the Bill.

Resolutions of the Lancashire and Cheshire Presbyterian Association, held at Manchester, May 23, 1844.

Against the Bill.

Letter to the Right Hon. Lord Lyndhurst, Lord Chancellor of England, on the proposed Alteration of the Law of Charitable Trust contained in the Dissenters' Chapels Bill, now before the House of Lords. By Jas. Cook Evans, Esq. London: Benning.

A Second Pamphlet on the Dissenters' Chapels Bill, by Jas. Cook Evans, Esq., being No. II. of a proposed Series of "Lincoln's Inn Tracts, on Subjects connected with Law, Politics and Religion." London: Benning.

Religious Trusts and Dissenters' Chapels Bill: a Speech delivered by the Lord Bishop of London, in the House of Lords, on May 3, 1844, against a Motion for going into Committee on the Bill. London.

Speech of the Bishop of Exeter, on the same Occasion. London.

Strictures on the Dissenters' Chapels Bill. By Richard Matthews, Esq., Barrister-at-Law. London: Hatchard.

The Dissenters' Chapels Bill. The Withdrawal or Repeal of it, as a Retrospective Measure, indispensable. The Question examined apart from Religion. By a Member of the Church of England. London: Hatchard.

Observations on the Socinian Endowment Bill, commonly called "The Dissenters' Chapels Bill," addressed to the Right Hon. Sir. Robt. Peel, Bart., M.P., with a Copy of the Bill prefixed. By George Rochfort Clarke, Esq., M.A., of the Inner Temple. London: Benning.

Remarks on the Speech of the Right Hon. W. E. Gladstone on the Dissenters' Chapels Bill, House of Commons, June 6, 1844. By the Rev. W. F. H. Hooper, M.A., Incumbent of Withington, Lancashire. London: Cowie, Jolland and Co.

English Presbyterian Charities proved to have been Orthodox Foundations. By Joshua Wilson, Esq., of the Inner Temple. Jackson and Walford.

Reasons against the Bill, April, 1844, and Reply to Reasons circulated in favour of the Bill. Printed by the opposing Committee.

In closing the Presbyterian Reporter, the Editor would explain, that it has not been found possible, within the necessary limits, to render it a complete "Register of Public Documents relating to the Dissenting Chapels' and Endowments' Bill." But, in making a selection, care has been taken to exclude none of great importance. The Editor is glad of the opportunity of referring to a very important volume on the eve of publication, under the authority of the Presbyterian Union Committee, entitled "Parliamentary Debates on the Dissenters' Chapels Bill, 7 and 8 Victoriæ, anno 1844." In the Appendix to this volume (which should be in every public library, and in the collection of every friend of religious liberty) will be found many documents that are well worthy of preservation, which would have been inserted in this work, had they not been otherwise preserved.