Bruce

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of the
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of the
Ecclesiastical Courts
of Record

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AN ACCOUNT

OF THE

PRESENT DEPLORABLE STATE OF THE

ECCLESIASTICAL COURTS OF RECORD;

WITH PROPOSALS FOR

THEIR COMPLETE REFORMATION.

BY

WILLIAM DOWNING BRUCE, ESQ.,

OF LINCOLN'S INN, BARRISTER-AT-LAW; FELLOW OF THE SOCIETY OF ANTIQUARIES, ETC., ETC.

"Your Committee, in conclusion, invite the consideration of the House to the evidence taken before them, which is a proof that *the attention of Parliament should be directed without delay* to the application of the necessary remedies." — *Recommendation of the Committee on the Ecclesiastical Courts, Second Report, 14th August, 1850.*

"For a small fee, and in a few minutes, the public may obtain a certificate of any marriage, birth, or death that has occurred since the establishment of this office. * * * * * Such is the good fortune meted out to the three great events of the English human family at Somerset House, in registering them. What a contrast it presents to the doom of English Wills."—*Household Words, No. 36, Nov. 30th,* 1850.

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TO THE CONSIDERATION OF

THE RIGHT HONOURABLE

HENRY JOHN VISCOUNT PALMERSTON

G.C.B.,

SECRETARY OF STATE FOR THE HOME DEPARTMENT,

THESE PAGES ARE SUBMITTED,

BY HIS OBEDIENT HUMBLE SERVANT,

WILLIAM DOWNING BRUCE.

THE following pages form a contribution to the discussion of one of the most important questions of the day. The present position and deplorable state of the Ecclesiastical Courts, and the manner in which the trust reposed in them is being discharged, have already awakened public attention. The writer of the present pamphlet has had the opportunity of personally inspecting and examining the ancient Record Offices connected with the principal dioceses, and founded for the important purpose of preserving records of great public and private value ; and in a series of articles in *Postulates and Data,* he recorded some time since the result of his inquiries. He now reprints the articles, with the additions and alterations suggested by new circumstances and a more enlarged experience, together with the suggestion of a practical remedy.

1, *Old Square, Lincoln's Inn,*
January 19th, 1854.

PRESENT STATE

OF THE

ECCLESIASTICAL COURTS OF RECORD.

It is a national characteristic of the English people to love what is old. Prescription is entrenched in our common law; but finds a stronger hold in the natural disposition of society. The word "venerable" is one of the most effective adjectives in a speech spoken to an English audience; and when anything really respectable is linked, however artificially, with an ancient institution, its chances of popularity and permanence stand very high. It is much to be regretted that this disposition of the people has been largely abused, and that inveterate abuses have grown up into enormous wrongs, altogether intolerable.

There is one class of these standing in the midst of our institutions, like an old ruin in a country place, and owing immunity from interference to superstitious awe. None but the most hardy venture to approach lest the mass should fall upon the rash intruder. After this, need we name the Ecclesiastical Courts; having a jurisdiction "extending to all persons and things belonging to the Roman Church, to the guardianship of orphans, the wills of defuncts, and matters of marriage and divorce."* These Courts possess the same powers at the present day, and with revenues far exceeding those of the bishops, they exercise jurisdiction over that important class of documents called

* Lord Stair's Inst. of Law of Scotland, lib. i. tit. 1, p. 7.

wills, which are in fact, as regards a large proportion of property, the title-deeds of the country. Very early in their history they assumed the form of a constituted abuse, gross enough to be recognised as such even in those days of Popish authority over persons and property; for so long ago as the year 1357, "the Parliament openly charged and commanded the Archbishop of Canterbury and the other Bishops, that amendment should be made." By the statute made at Leicester, 2 Hen. V. 1414, cap. iii., they were pronounced a grievance. In 1418, 3 Hen. V., we find "the Commons complain of the unlawful exactions made for probates;" and an Act passed, restricting the amount, "but it did not endure but to the next Parliament following, by reason that the ordinaries did then promise to reform the said exactions and oppressions." They were, however, "nothing reformed nor amended, but greatly augmented and increased, against right and justice, and to the great impoverishment of the King's subjects." These are the complaints made at the period of the Reformation when there was an attempt made to reform these Courts. In the reigns of Edward VI. and Elizabeth—from the time of James I. down to that of Queen Anne, it was unsuccessfully endeavoured to remedy their defects. In 1812, one who was no incompetent judge, a man indeed of the highest authority, Lord Stowell, brought in a bill for the abolition of the Courts in question; but the bill was lost by a dissolution of Parliament. The next bill passed in the House of Commons, but, as might be expected from the episcopal element which prevailed there, did not pass the Lords. In 1829, the Duke of Wellington issued a Commission of Inquiry. In 1832, during the administration of Lord Grey, a bill was introduced by Lord Brougham to carry out the recommendations of the Commissioners; but it did not advance any further. In 1833, a Committee of the House of Commons, of which Sir Robert Peel was chairman, investigated the subject. In 1834, a bill was prepared; another followed in 1835, and leave was ob-

tained by the Attorney-General for its introduction. In fact, bill after bill has been introduced. Speeches from the throne have recommended the abolition of these Courts as public nuisances; but so many persons are interested, either as possessors or expectants, in the continuance of the system, that all these attempts, it would appear, have hitherto failed, and the subject still remains *in statu quo*.

In former times, when the property of the country consisted chiefly in land, the importance of the jurisdiction of these Courts was not so great as it is at the present time, when so large a proportion of that property consists of money and other personalty. Now, therefore, it becomes a most momentous consideration, how far the existing law is consistent, not only with the due administration of justice, but also with the security of property.

The jurisdiction conceded to these Courts extends properly over wills; matrimonial disputes of all kinds, even to limited divorces; questions of church-rates and churchwardens; brawling in churches; defamation; maritime causes; certain immoral offences; and the dereliction of clergymen from church discipline. The decision upon questions arising out of these multifarious subjects is governed, not by the English law, but by the Popish canon law and the civil law, which the Norman barons of old unanimously rejected. The conduct of the business is entrusted to Judges; to Advocates licensed to practise by the Archbishops and Bishops; and to Proctors, who become such by virtue of seven years' service under articles to one of the senior proctors. One result of this arrangement is, that none can practise but the relations of a little family party at Doctors' Commons and the sons of a few deceased bishops, who thus virtually form a close corporation. An individual having business in any of these Courts, (though he may have his own private solicitor for all other Courts,) *must* nevertheless employ a proctor. The procedure is not exceeded in intricacy by that of Chancery; and both remind us of the secret proceedings of the Italian Courts. The proceedings must be in writing:

the examination of witnesses is taken in writing, divided into "articles" by an examiner of the Court; a copy of which is given to the opposite party, who can only cross-examine by written interrogatories delivered to the examiner's answers, and kept secret during certain stages of the suit from both parties. Either may except to the credit of a witness, but must confine his objections to matters contained in that witness's depositions. The actual effect of these regulations may be easily surmised. Proceedings, thus shortly described, last for years. When completed, copies must be prepared for the judges and advocates. At this point the expense will bear comparison only with similar proceedings in Chancery, frequently leaving even the successful suitor a ruined man.

When a person dies, his property is distributed under the terms of his will, or if he die intestate, it is distributable under certain rules of law; it either belongs to the person indicated by the testator, or to those whom the law marks out. Though it belongs to such persons, it is usually held as a stake to be wrestled for. The law invites members of families to contend for the stake; it calls in strangers to partake in the dispute; it offers dishonest attorneys certain rewards if they will interfere, and more especially if they will give dishonest advice; it summons creditors to join in the contest, and scourges them for being present; and, among relatives, to the affliction of mourning, dismay and ruin, adds grievous and unjust privation.

As regards the enormous incomes derived from the public by the sinecurists, who hold the appointments of Registrars, with names generally corresponding to those of deceased bishops, there is little dependence to be placed on the returns made by many of these officers to Parliament; the only check upon them being the amount paid annually to the Comptroller of Legacy Duty. In his evidence before a Committee of the House of Commons, that gentleman states his experience:—"Thirty or forty cases have come to my knowledge in the Ecclesiastical Courts in the country, where

great instances of fraud have been committed upon the revenue by the registrar or deputy registrars, who have received from executors and administrators the amount of stamp duty on probates and administrations, and wilfully omitted to use any stamp, by which the revenue is considerably defrauded, and executors and administrators are deprived of the security which the stamped probate of the will or letters of administration can alone afford. On the discovery of the frauds, I have found it difficult to deal with them. One or two of the registrars I consider to be incorrigible ; they have repeated the offence six or twelve months after I have exposed their conduct. Mr. G. B. White, deputy registrar of the Archdeacon's Court at Ely, received 60*l.* for stamp duty, together with other fees for the probate of the will of Sarah Dickenson, who died 1829 ; repeated applications have been made for the probate, but it is not delivered to this day. Mr. White has since left the country—the consequence is, that executors cannot receive a dividend of 200*l.* under a bankruptcy, because they do not produce the probate to show their authority to receive it."

It is indeed difficult under these circumstances to discover the full amount received by each of the registrars throughout the country. We will, however, take Chester, in the prerogative of York. The Registrar of this place, Mr. Henry Raikes, called to the bar in 1837, returns his income to Parliament in the year 1842, at 7041*l.*! and the total annual amount of fees at 11,530*l.* : now Sir John Jervis, the member for Chester, stated in his place in Parliament that the fees at Chester were 20 per cent. less than in London ; there can therefore be little doubt that owing to the great increase of personal property arising from the public funds, and the extension of the commercial capital of the country during the last ten years, the Registrars of the Prerogative Court of Canterbury receive a far greater income than is stated in any of the Parliamentary Returns.

The number of Courts throughout the country to which the public may resort for the purpose of proving wills and

obtaining administration, is no less than 372. Under the present system, it is almost impossible to know where a will should be looked for unless it is a very recent one. Younger sons, daughters, and infants of bygone bishops, clergymen, general officers, and attorneys, have filled, and continue to fill, in different dioceses, the office of Registrar; and consequently are obliged to act by deputy. If a person die possessing more than 5*l.*, in any other jurisdiction than that in which he died, prerogative probate is required. Again, if the property is in two provinces, double probate is required; entailing, of course, double expense, delay, and trouble. Since the establishment of railway stock, a will is sometimes obliged to be proved in three or four Courts. In fact, it has been shown that the personal property of this country, on changing hands at the death of the possessor, pays 4*l.* 7*s.* per cent. into these Courts before the deceased's children can receive their lawful portion of the hard earnings of a provident parent.

Besides the Courts there are the Record Offices which are attached to the old Cathedrals throughout Great Britain, subject to the care of the Diocesan Registrar. In these Courts are placed the original wills, the duplicate parish registers, the administrations, the copies of marriage licences, original charters of great historical interest, and other like documents, such documents forming deeds affecting thousands of landed proprietors; but to the great mass of the middle and all the lower class, they form the only records, the only title-deeds, to which they can appeal, and on the accuracy of which they can rely. The author has paid a visit to the chief Ecclesiastical Courts of Record, for the purpose of giving a report of the state of each; and he is convinced from his personal knowledge that the historical and biographical matter contained in their records, are at once the most valuable and the most inaccessible in this or in any other country. The rapacious and exorbitant system of exacting large fees amounts to nothing less than a denial of justice, and is only exceeded by the insolence and

vulgarity with which those who desire to search the records are treated by the officials. Lord Monson wrote a letter to the late Mr. E. Davis Protheroe, a Commissioner of Public Records and M.P., in which he states the incivility he had met with, and the utter impossibility of making any literary investigation. Sir Harris Nicolas emphatically describes this kind of treatment in the Preface to his "Testamenta Vetusta," p. 13, where he says that "the tone was still more insolent than the terms." Messrs. Charles Dickens, Falconer, Walbran, &c., besides a host of writers in newspapers, have attacked and exposed the conduct of these Registrars, who are paid out of the rich plunder of the public.

First in importance is the Registrar's Court at Doctors' Commons, in which are deposited all the wills proved in that large, rich, and populous district included within the archiepiscopal jurisdiction of Canterbury. It is a job so enormous as to be almost incredible. The revenues are derived from sources which are oppressive, many useless, not a few absurd, and the greater part demanding abolition. These old licentiates of an antiquated ecclesiastical system are fattening on the garbage and corruption of the most arbitrary system that the darkest ages of our history ever saw enacted under the name of justice. Abominable as all this is, the enormity might have been much diminished if a portion of their revenue had been applied to the preservation and safe custody of the records. The Rev. Robert Moore is the Registrar of this Court. He was appointed by his father, a certain Archbishop Moore, on the 6th of December, 1799. He was then described as of Christ's Church, Oxford, and was a minor; he was nominated in conjunction with his two brothers, one of whom was a Prebendary of Canterbury, and died leaving 300,000*l.* behind him; and the other was M.P. for Woodstock. These lucky gentlemen—and we believe that their mother had more, who are of course also snugly provided for—have divers nephews and relatives in the office; one of whom,

the Rev. G. B. Moore, was appointed a "Clerk of a seat," for which he receives upwards of 2000*l.* per annum. There are four other seats as they are called, in the office, held by various members of the family. From a Parliamentary Paper moved for by Sir Benjamin Hall, printed 14th August, 1850,* it will be seen how great is the sinecure patronage of Mr. Moore, who is stated to have received a gross revenue arising from fees in this Court, *amounting*, for the year ending 31st March, 1848, *to no less a sum than* 30,832*l.*!! besides a further sum of 6760*l.* received in the same year as discount on stamps. The same report informs us, "that the Registrar performs none of the duties of his office," but "that they are executed by the subordinates." Mr. Moore is termed "The Great Sinecurist." On referring to this report the public will see how they are robbed to make up his enormous income; how they pay eightpence and the Stamp Office sixpence per folio, for work that is actually done for one penny; how all the fees are at the *maximum*, and how the judge was petitioned to allow of higher fees being taken, because "the great sinecurist" would not give up any of his emoluments to pay the working officer. The curious public may also see the appointment of "this great sinecurist," beginning with these words,—"To all the faithful in Christ unto whom these presents shall come;" and may learn how, notwithstanding an Act of Parliament, which declares that the clerks of seats shall be proctors, and do their duty in person, this Act is totally set at naught. These, and many other wonders of this sublime Court, they will see, if they will read the report of the Committee of which Mr. Bouverie was chairman, and of which the present and the late Attorney-General, Mr. Walpole, Mr. Henley, Mr. Roundell Palmer, Sir W. Page Wood, Mr. Stuart Wortley, Mr. Hume, Sir James Graham, and others, were members. In the report, the "*long known and uncorrected abuses*" of this Court are justly and severely animadverted upon,

* Second Report Fees (Courts of Law and Equity), No. 711, p. iv.

and the whole is summed up in these words:—"Your Committee, in conclusion, invite the consideration of the House to the evidence taken before them, which is a proof that the attention of Parliament should be directed, *without delay*, to the application of the necessary remedies."

In the Report of 1830,* Mr. Thomas Hamilton, a solicitor of considerable experience, stated on oath that the clerks at Doctors' Commons "are very much afraid of seeing a bit of paper or a pencil, even if you want to put down three or four words only." In support of Mr. Hamilton's statement there is the evidence of the late Sir Harris Nicolas. He had applied for a copy of an early will of great historical importance, which the officers of the Court were unable to transcribe: subsequently he tried to make an extract with his own hand; and while he was thus engaged, one of the clerks snatched the paper out of his hand, tore it to pieces, and shut the will book before his face. In another case, the opinion of counsel was taken as to the expediency of filing a criminal information against a certain clerk for a wilful and deliberate libel on a gentleman who had made himself obnoxious by repeated complaints to the Deputy Registrar of the rudeness he had experienced from the menials in the office. Mr. Hamilton further observes—"From the experience I have had, they are not very accurate, I am sorry to say, in their office copies. I have one very important instance of inaccuracy, which, if it had not been for the single word 'SAID' introduced afterwards, would have been of very great consequence. It was an office copy which the parties took of an old will, under which they fancied they had a claim to an estate in Yorkshire. I read it over and over again, but I could find no mention of the ancestor under whom they claimed, until I happened to see, at the end of it, 'and he the said' so and so. Upon this I went to Doctors' Commons to consult the original, and I found then the whole devise to him was omitted, to the extent of about

* Ecclesiastical Commission Report, p. 3.

three lines. The original will was plainly written, of about a century old." Another case, very similar to the one quoted by Mr. Hamilton, is to be found in the will of Colonel William Cleland, dated 24th August, 1718, and proved 22nd October, 1718. The Colonel is described in an office copy, dated 20th August, 1847, "of *Buckridge*, the Mannor House of my good friend *John Wellen*, Esq.;" the words *Allen* is substituted for *Alexd.*, *Buckridge* for *Busbridge;* and the name was *John Walter** and not *Wellen*, in the original will. Sir William Betham, Ulster King at Arms, in his evidence† stated—"I think there is an unnecessary degree of severity at the Prerogative Court of Canterbury; it struck me so: suppose a person wanted to go and search for the purpose of genealogy; they will not allow one to make any memorandum or list of the wills from the index to assist you in calling for any particular will."

It appears from the evidence taken before Parliament, that there exists a great necessity for enlarging the present Registry and making various alterations for the purpose of securing the very valuable papers contained therein. The yard adjoining the Record Room is in the possession of a wheelwright, and there is a quantity of timber deposited in that yard under a shed, which shed is built against the room itself. "The room in which the original wills are kept is warmed by flues from underneath."‡ And Mr. Protheroe, M.P.,§ in the same report, states that the records are not deposited in a proper building; that they are on shelves in an out-office; "a building," he says, "which does not seem to me to be fire-proof." He continues—"There is no one who has occasion to consult wills in that office but must experience great discomfort from the narrowness of the room."

* John Walter, Esq., M.P., formerly of Barbadoes, purchased Busbridge Manor House, Surrey, 1710. See Manning's Surrey, vol. i. p. 6181.

† Ecclesiastical Commission Report, 1830, p. 203.

‡ Ditto, 1830, p. 17. Evidence of Mr. John Batson, Surveyor.

§ Ditto, p. 175.

In a letter from the Lords Commissioners of the Treasury to the Secretary of State, dated 23rd April, 1829,* the Lords state—"they consider that it is the duty of the Registrars to provide a building adequate to the safe custody of the wills and other documents committed to their charge; and as the profits of the Registrars have been greatly increased by that accumulation of wills which has rendered necessary an enlargement and improvement of the buildings, it appears peculiarly proper that the charge of providing such additional building should fall upon the Registrars, and upon them alone." What! would the Lords Commissioners rob these poor Registrars of one shilling of their hard earnings just to save landed and other property of some millions value from litigation and fraud? Would they diminish their 40,000*l.* a-year by even a fraction per cent.? Mr. Moore† admits that the records "ought certainly to be secured from every possible danger." The room in which these important documents are contained, was built by his late father against the walls of a large shed in the occupation of a wheelwright, and filled with timber. "Now," he continues, "if this place should ever be on fire, the conflagration of so large a quantity of dry materials must inevitably make the walls of this room red hot, and in that case, although the walls themselves, from the nature of their construction, might not be destroyed, I know of nothing that can prevent the wills from being burnt." It was impossible that the Registrar, out of his small and hard-earned income, could carry into execution, "*by his own unassisted efforts*," the erection of a proper building that might cost 2000*l.* He had engaged to do nothing, and appeals to the Government to act. It would be a flagrant breach of his engagement with the public if he were in any way to assist from his vast and unearned wealth in the restoration of the build-

* Ecclesiastical Commission Report, 1830. p. 533.

† Letter to Sir John Nicholls, 18th June, 1829, printed in the Ecclesiastical Commission Report, 1830, p. 535.

ing. The public may go to Jericho, Bath, Stepney, or any of those places which are selected by common consent for the sojourn of disagreeable or intrusive people. He disclaims all responsibility but one—the responsibility of receiving the money.

In the minutes of evidence taken before a Select Committee of the House of Commons in 1830,* Mr. Dyneley, one of Mr. Moore's deputies, stated "that the wills of the province of Canterbury would, if the principal Registrar were to die, come into the possession of his executors and assigns." What! are the public title-deeds of thousands to become the property of one single individual!! From Mr. Dyneley's evidence we may expect ere long to see an advertisement in the "Times," announcing that Messrs. Puttock and Simpson have been instructed by the executors to Mr. Moore to offer to public competition this unique and interesting collection. In 1830† the Commission reported as their opinion, that these "most important title-deeds, both as to real and personal property, ought to belong to the Government, instead of being, as at present, the private property of the Registrars." In many other instances the buildings are the private property of individuals; in others they belong to different ecclesiastical corporations; but in no case are they Public Property.

All the Wills of England, then, are the private property of the Registrars! What discovery of the nineteenth century is to be compared with this, either in magnitude or in importance? All the wills of England the private property of the Registrars. Here, with a vengeance, is "the potentiality of growing rich beyond the dreams of avarice." More than half the property of the nation is in the power of these Registrars. Only imagine them inclined to exercise that power "for a consideration." Half of the property of the nation jeopardised by destroying or withholding the titles to the possession of it! The

* Ecclesiastical Commission Report, p. 1.

† Ditto, p. 3.

very threat would suffice. It is dangerous to provoke Mr. Moore and his fraternity; they are very ill-used men. England, instead of complaining of their profligate rapacity and shameless ignorance of moral obligation, is bound respectfully to tender her thanks that they have hitherto been satisfied, no, not satisfied with, but condescended to demand only their fees, and she must trust to their forbearance.

Lord Canterbury was appointed by his grandfather, Archbishop Sutton (in reversion after Mr. Moore), and has, it appears, anticipated his portion of the costly gift, and mortgaged the reversion to the Globe Insurance Office. "We must all die;" and there will some day be an end of Lord Canterbury. The appointment to these reversions rests with the Archbishops for the time being. Dr. Howley, the late Archbishop, declined making any nomination, but the present Archbishop has appointed his son to this magnificent reversion.

The next office in importance is that of York. The Registry Office here is supposed to be worth upwards of 10,000*l.* per annum. Egerton Vernon Harcourt, Esq., was appointed by his father, the late Archbishop to the office, in conjunction with his nephew, Granville Edward Venables Vernon Harcourt, Esq., in 1825; the latter was at that time a minor. However, to do full justice to their Archiepiscopal father, it must be admitted he evinced much vigilance and forethought in securing for his own sons so many good things: Granville Vernon Harcourt, another son, was appointed by his father the Archbishop, in 1818, Chancellor of the Diocese, Commissary and Keeper of the Exchequer and Prerogative Courts, Official of the Consistory and Vicar General and Official Principal of the Chancery of York: another son, the Rev. C. G. V. Harcourt, M.A., was presented by his kind father, in 1824, to the rectory of Rothbury, Northumberland, worth 1200*l.* per annum; he also holds a canonry in the Cathedral of Carlisle, worth about 1200*l.* a-year more: another brother,

the Rev. L. V. Harcourt, received the appointment of Chancellor of the Cathedral of York, worth about 2000*l.* per annum, and also a Prebendal Stall, which from fines and other emoluments is worth about 1200*l.* per annum: the Rev. W. V. V. Harcourt, another son, was presented by his liberal father the Archbishop, in 1837, to the rectory of Bolton Percy, worth 1540*l.* per annum. Surely it is not harsh to say, that while no emoluments seem too inordinately large for the capacity of retention by this family, none are too minutely small to elude the grasp of their selfishness, or too paltry to be scorned by their self-respect, for it will be found that this last-named reverend gentleman also holds the "SINECURE (so called in the Clergy List), rectory of Kirkby, in Cleveland," to which he was presented by his father, in 1823, and which is worth only 359*l.* per annum. He is also Canon Residentiary of York, for which he receives about 1000*l.* per annum more—an appointment he also obtained from his father. The Rev. Evelyn H. Vernon, a grandson of the Archbishop, is Rector of Grove, and *Sinecure* Rector of Hendon. On reference to the Clergy List, it will be found that no less than nine other persons of this name are all snugly provided for. Why did the Archbishop, the visitor of the cathedral, who swore to ensure the observance of the statutes,—why did he show so much vigilance and forethought in securing for his own sons all these good things, and yet exhibit so much wilful indifference or culpable neglect in securing to the children of others those rights which he swore to maintain inviolate, when he was inducted into his high and holy office?

The jurisdiction of this Court extends over the large and populous counties of York, Chester, Lancashire, Westmoreland, Cumberland, Durham, Northumberland, and Flintshire, and the national records relating to this district contain a great quantity of valuable information relating to our wonderful Ecclesiastical history, a history never to be written until these and such records are thoroughly ex-

amined and digested. And what chance have we of this under existing management?

It has been stated that the Registrars of this cathedral receive no less annually than 10,000*l.* for doing nothing, and in this they are assisted by a worthy deputy, for which he receives at least 4000*l.*; he is a person of considerable power in the city, a magistrate, an alderman, and a proctor withal, in boundless practice. He lives in great state, he keeps horses and carriages, and he is—could he be anything else?—a staunch conservative.

On arriving at this Registrar's Office, fortified with a letter bearing the mitred seal of the Archbishop, I was treated with every insult and annoyance. Whether from natural infirmity of temper or dislike to the direction of the Archbishop, the deputy received me more in the style of an infuriated pedagogue, than of a man claiming the slightest acquaintance with good manners, or even ordinary decency. He denied an audience apart from his clerks, to whom I was unwilling to expose his futile rage; he next denied the right of the Archbishop, who he stated had no jurisdiction whatever over him, to give the access required. Finding at length the only thing required was a definite answer which could be communicated to the Archbishop, and failing also to resist these demands through the more specious interrogatories of a surrogate of the name of Salvin, whom he had intentionally placed in the office, he proposed to allow me to consult the records previous to 1400—just one book out of some hundreds. Subsequently, on scorning such a proposition, his generosity proposed the year 1500 instead. It was quite impossible to discover what class of records there were in the evidence rooms, as access to them was not allowed.

For the public, however, evidence is hardly necessary to make them acquainted with the manner in which the trust imposed on the Registrar and his deputy is performed. At page 170 of the "Ecclesiastical Commission Report," made to Parliament 27th February, 1832, there is recorded

the evidence on oath of a gentleman, Mr. Edward Protheroe, M.P., who had himself visited this office. He declared that the documents were in "a scandalous state." "I found them," he continues, "perfectly to accord with the description I had received from various literary and antiquarian gentlemen who had occasion to make searches in the office; and I beg leave to remark, that the place must have been always totally inadequate as a place of deposit for the records, both as to space and security." Some of the writings he found in two small cells, "in a state of most disgraceful filth;" others in "two apertures in the thick walls, scarcely to be called windows, and the only accommodation for these records are loose wooden shelves, upon which the wills are arranged in bundles, tied up with common string, and without any covering to them; exposed to the effect of the damp and the weather, and the necessary accumulation of dirt." To these unprotected wills the Deputy Registrar, perhaps wise in his generation, denies access; for Mr. Protheroe says, in addition, that "if it was the object of any person to purloin a will, such a thing might be accomplished." Yes, Mr. Protheroe, the following statement shows how a clerk in this office employed his leisure, which was considerable, and his brains (which were not so great), in fabricating a will to prove himself heir to the House of Percy. But when he found that his industry was establishing for him a nearer propinquity to the House of Correction, he prudently suppressed the nefarious document.

On 19th February, 1850, the author, accompanied by a friend, had occasion to visit the Will-office at York, for the purpose of making some researches among the early records. In searching the Index No. 76, for the years 1721 and 1722, they discovered, written in a modern hand, the name of John Paver. It appeared that a clerk in the office of that name, claimed to be the representative of the house of Percy, and heir to all the ancient baronies of that illustrious family; this modern insertion caused a doubt in their minds, and the doubt was considerably strengthened by the pro-

duction of the pretended will itself, dated 15th January, 1721. It actually recited that the testator, John Paver, had married Millian, only daughter and heiress of Maximillian Woodroofe, son and heir of Maximillian Woodroofe, who was the eldest son and heir of Richard Woodroofe, by Lady Elizabeth Percy, daughter of the Earl of Northumberland, and that the said John Paver, eldest son and heir, was then dead, and that William Paver, his grandson, was his eldest son and heir, and that his (Wm. P.'s) eldest child John was then living. The Earl of Northumberland was beheaded in 1572, and the last-mentioned John Paver died in 1760, so that this will extended over no less than 188 years, and proved eight generations. It is fortunate for those persons having estates or titles depending on the records at York, that about this period the wills were all copied into volumes, which Mr. Protheroe describes as of "prodigious bulk, and requiring a man of herculean strength to move them;" for, on a most careful search made by both gentlemen, from 1719 to 1731, no such will could be discovered in those books, which clearly proved that the will had been placed in the office long since that period. Shortly after, several articles entitled "The Doom of English Wills" appeared in Mr. Charles Dickens's *Household Words*, on the subject. These had the effect of the removal or destruction of the pretended will, and the erasure from the parchment Index Book, No. 76, of the name of John Paver; for, on a visit to this office by the same gentleman, on the 19th and 24th July, 1851, for the purpose of showing the document to a Barrister of high standing in his profession, no traces could be discovered, save the erasure from the Index under the letter P——.

But will the reader believe that there had been a real will of John Paver which had been destroyed, and that the page* of the Register which should contain the transcript of the will had been abstracted? The reference to this real will in the Index was also erased, except the figures 460.

* Pp. 459 and 460.

There is, however, NOW a third forged will of John Paver, 1722, inserted to make up for the genealogical one here described ; a substitute, it would appear, which was placed in the office after our re-visit to York. This had doubtless been done to induce Messrs. Harcourt and Buckle to believe that what was stated about the first will was incorrect, and that the story had been got up to make a bad case against the Ecclesiastical Courts system and this office in particular ; but Mr. Clarke, solicitor at Sherborne, obtained an office copy of the first will several years before when engaged in the case of Hungate *v.* Gascoigne, which was forwarded to the Registrar at York, and is now in the possession of his solicitor Mr. Gray.

A sort of mock investigation took place, the matter was not thoroughly sifted, and after Mr. Harcourt's solicitor found "*a case made out of a most serious nature,*" and was desirous of prosecuting the delinquent at the assizes, no further proceedings were taken by the Registrar except to dismiss the individual from the office. This case alone ought to be sufficient to prove the necessity of the immediate abolition of these iniquitous Courts.

At page 339 of the Report of 1832, Mr. Buckle, the Deputy Registrar himself, is recorded to have owned that the place of custody for wills is a room not fire-proof. Everybody knew as much ; but he asserts that the place was free from damp, which was not in accordance with Mr. Protheroe's evidence. Many of the records have been lost or stolen. Some were made away with by a former Deputy Registrar to revenge the meanness of the Legislature in not providing the well-paid Registrars with remuneration for some additional duties ; for Dr. Thelwall of Newcastle wrote in the "Gentleman's Magazine" for 1819, page 490, —"The most shameful negligence is attributed to the person [the Deputy Registrar at York] in whose keeping they [the records] have been placed. Indeed I have some reason to suppose this, as I lately saw in the possession of a friend a great number of extracts from the Registrar of a

certain parish in this neighbourhood, and on questioning him as to the way in which he became possessed of them, I was informed they were given to him by his cheesemonger, and that copies were forwarded by the clergyman of the parish to the proper officer in a bordering diocese, and had been allowed, through the negligence of their keeper, to obtain the distinguished honour of wrapping up cheese and bacon." This mode of "*preserving*" such duplicates deposited at York is alluded to in a letter addressed by "a Country Parson," * to the Editor of the "Yorkshire Gazette," October, 1850, who draws attention "to the sad state of the copies of the Registers at York." He says that "when on coming to my present living, I inquired for how long a period I should have to send in copies; they would give me no information whatever on the subject, but referred me to the archives themselves, which appeared in a state of almost hopeless confusion; and I have now to add that, having since written to the officials on the same subject, I have not even received any answer to my letter." No wonder, indeed; nor have they troubled themselves about the matter for upwards of a century; for on consulting the dilapidated parish Register of Kirkby Malzeard, in Yorkshire,† this entry will be found in the Baptismal Register—"So far given in at the Archbishop's Primary Visitation at Ripon, October 13th, 1743. *But Mr. Jubb said they were not required, so returned the copy to me.*" This Jubb was the Deputy Registrar of the Office, and sucked thereout, lustily and long, no small advantage.

In the evidence of Sir William Betham, Ulster King at

* The Rev. F. O. Morris, M.A., Vicar of Nafferton, and a Magistrate for the County.

† In this parish the Register of 1653 was reported by the Curate, Mr. Wilson, as lost or stolen, but was found by the author of this pamphlet, tattered and torn, behind some old drawers in the curate's back kitchen. See a letter to R. Monckton Milnes, Esq., M.P., on the condition and unsafe state of Ancient Parochial Registers in England and the Colonies; by W. Downing Bruce, Esq., p. 2: and Postulates and Data, vol. i. p. 196.

Arms, before the Committee in 1832, we find that he had occasion to search at this cathedral, and went for the express purpose of searching duplicates of parish Registers. He found them "lying unarranged and unconsultable" in the office. He asked the reason, and was answered that the Act of Parliament which ordered this class of records to be sent to the Bishop's Registry, gave no directions about fees.

From these facts may be inferred the degree of care with which the wills are kept at York. Previous knowledge had prepared me for all this; but I was not prepared to find that the *whole* of another and most important class of records up to a comparatively late date were not forthcoming, namely, the Marriage Allegation Papers or affidavits. On inquiry elsewhere it was discovered that these documents, or at least the greater part of them, were the private property of one of the clerks, a genealogist by profession, who kept them in his own house. His own account varied: that he purchased them from the *late* Mr. Radcliffe, the herald, he states to one person; and to another he averred that he procured them "from the widow of a Dissenting minister," without name and residence. Of course he could not have had them from both places; but the fact of his shifting his ground strongly supports the opinion that he had them from neither. "A County Magistrate," in a Letter* in the "York Herald," dated 23rd October, 1850, in answer to a statement made by Mr. E. V. Harcourt, the Registrar, respecting these documents, states: "I have in my possession a number of papers containing notifications of marriages, extracted, as I understand, from the private documents of the gentleman who I presume is alluded to, which were furnished by him about six months ago; and each of these notes of marriage has a regular printed formula attached to it, specifying a graduated scale of charges for the information so furnished, amounting altogether to a large sum of money. I will minutely describe them. Each paper, after giving the

* Geo. P. Dawson, Esq., of Osgodby Hall, Magistrate for the East and West Ridings of Yorkshire, and for the County of Berks.

information required in MS., has *printed* at the foot of it these words:—'The above is a correct copy of an entry in *my manuscript*, entitled Notes of Weddings by Licence.' Then comes the written signature of a gentleman, who is, it is presumed, the clerk in question, and the date, York, February, 1850. Then comes under a line the following notification in *print:*—'The manuscript above-mentioned, which relates principally, but not wholly, to the seventeenth century, and contains many important particulars as to residence, age, rank, *and not to be found in any other collections*, has been compiled *probably* from original marriage licences, as it contains facts which in several instances are not recorded in the licence affidavits preserved in the Registry at York. Fees for a general search for any one surname, including a list of all, either male or female, with year, according to the following plan:—"Dawson, Gent., and Lister," 1*l.* 0*s.* 0*d.*; a copy of each note of marriage, where the party is described as merchant, gentleman, or of higher rank, 1*l.* 0*s.* 0*d.*; a copy of each note of marriage, where the party is not described as above, or is undescribed in the list, 0*l.* 5*s.* 0*d.* ☞ Personal applications cannot be attended to.'"

The signature to this document is "William Paver."

The English of all this is, that the present custodian of those papers, Mr. William Paver, purchased of a dead herald what did not belong to him; no one could have known better than the purchaser that they were public property, and that their proper place was not in his private house, but in the Registry Office. The produce of this abstraction is an illegal income, probably double that of some of our best dramatists or poets.

It is impossible to state the exact amount of income derived by the fortunate possessors of the Registrarship at York; but from the fact that the income of the Registrar of the Diocese of Chester, in this province, is worth 11,530*l.* per annum, we give this of York at least as 10,000*l.* Chester is a sort of suffragan bishopric under the jurisdiction of York; and many of the wills proved there are also obliged

to be proved at York; also the fees demanded at York are five times as much. Again, Mr. G. V. Harcourt, in the Report of 1832, page 115, informs us that he does not think that he could possibly state the average amount of his income; and, at page 132, "It is the case in almost all dioceses, that the Deputy Registrars receive emoluments which they do not account for to their principals."

Next in magnitude to the two Archiepiscopal Courts of Canterbury and York is Chester, in the province of York, extending over the whole counties of Chester and Lancaster, with parts of York, Westmoreland, Cumberland, and Flint. The population of this jurisdiction is perhaps one of the largest in the kingdom: it includes the busiest of our manufacturing towns, Manchester, Liverpool, Bury, Bolton, &c.

The records of Chester appear to have been kept in a most disgraceful state by the former Registrar, Benjamin Keene; who was appointed by his father, the Bishop of Chester, 4th December, 1769; and held it till his death in 1837, upwards of sixty-eight years. The total amount of fees according to the Report, 1842, amounted to 11,530*l.* per annum; but it must be admitted that this far exceeded the annual amount Mr. Keene received. Taking therefore the average at half for sixty-eight years, it amounts to no less a sum than 374,720*l.*

The late Archbishop Markham, who, when Bishop of Chester, so well provided for his family by exchanging church lands of great value for moors, fearful lest so lucrative an office might be lost to his family, granted the principal Registrarship to two of his sons in reversion after the death of the then Rev. Mr. Keene. The two sons, however, died before 1832, and never enjoyed the emoluments. Mr. Henry Raikes, the present Registrar, who had been appointed Deputy on the death of Mr. Ward, in 1837, a few months afterwards succeeded to the office of Principal Registrar, vacant by the decease of Mr. Keene.

From the Report of 1832, it appears that the acting

Judge of the Ecclesiastical Court of Chester was son-in-law of the Deputy Registrar, that the Courts were only held once a fortnight for the convenience of the Judge, and that the cases frequently lasted a year—sometimes three years.

From the same Report (p. 189) it appears that there were then eighty-seven Surrogates,* and that sometimes the balance they each had to render at the end of half a year was 1000*l.*, and sometimes as much as 1500*l.*

To show the careless way in which business is, or rather was, conducted at Chester, a speech of Mr. Elphinstone on the Ecclesiastical Courts Bill in 1843,† may be quoted. "A gentleman," he says, "of the name of Leigh, died lately, leaving 100,000*l.* in Chester, and 60,000*l.* in the jurisdiction of the province of Canterbury. The executors took the will and seven codicils to the Chester Registry, where probate was granted of all the documents. When the executors brought the same documents to the Prerogative Court of Canterbury, it was at once discovered that the last codicil revoked five others, so that probate ought only to have been granted at Chester of the will and two codicils. If this mistake had not been detected at the Prerogative Office in Doctors' Commons, the executors might have paid large legacies to persons in no way entitled to them."

Mr. Thomas Falconer, in a letter to the "Times," in January, 1850, illustrates the difficulties of making a search for ancient wills in this Court. He states that he applied to Mr. Parry, the Deputy, to know if he would search for the will of a lady of the name of Rachael *Dalmahoy*, whose husband died about 1663, and for whose will he had a legitimate title to search. Mr. Raikes, the Registrar, himself replied that there was no will of about that date of Rachael *Cholmondeley*. Mr. Falconer pointed out the mistake Mr. Raikes had made, and requested to be informed of the usual fee for a search. His answer was as fol-

* The number now amounts to 115.

† Hansard, vol. lxviii. p. 1058.

lows: "Sir,—A search has been made in the name of Dalmahoy, but without success. The charge for searches Cholmondeley and Dalmahoy is 7*s.* 9*d.*, by P. O. Order. Yours, &c., Henry Raikes." The substance of Mr. Falconer's reply was, that he ought not to be charged for two searches, and that he thought the charge to be enormous, even if the calendar was not in proper order. Mr. Raikes then sent the following, his third letter, in reply: "Sir,—You were only charged for *one* search, the other being my mistake of the name, nor would this have been charged to you unless you had particularly requested it. As you now consider it is too much for the search and the three letters you have had, I only hope you will not tax yourself to send it, as I shall consider myself fully repaid by the cessation of such a correspondence, which is at best an interruption, as unwelcome as unprofitable to my ordinary duties. Yours, &c., H. Raikes." This is the answer of a gentleman, a young barrister, holding one of the most magnificently-paid lay appointments in the kingdom. His errors, his blunders, and his discourtesy concern the public, but it is not necessary to discuss these charges here.

The ancient wills here contain a wonderful mass of information, illustrative of biography and history: one of particular interest was required, dated 1625; but in reply to inquiries for this will, the Deputy Registrar said:—"I am sorry to say that it is not found on the file for 1625, which has been completely searched, as have also those for a few years before and afterwards, every will having been in part looked at for the one in question; having been misplaced about that period, however, the wills in our Registry are imperfect, and I regret that your searches were not some years later after the Commonwealth." Two other wills, one in 1553 and the other 1579, could not be found.

The present Registry Office was first used in February, 1847: it is open from 9 till dusk. It is a large stone build-

ing, and is divided into various rooms; the first on the right is for searching the index for wills and grants of letters of administration, the fee for which is now altered from two shillings and sixpence to one shilling; the room is very differently fitted up to that at York or Doctors' Commons, and is of ample size. All modern wills are now copied at length into large well-bound books: they are not engrossed as at Doctors' Commons in court text, but written in round hand, so distinct and plain that the illiterate might read them. The originals can be examined on giving a satisfactory reason to the Registrar, or, in his absence, to the principal Clerk. Wills which are received from Manchester and other places are indexed the same day; a practice very different from that at York, where wills are sometimes not indexed for six or eight months, and consequently often not at all.

The Parish Register returns are substantially bound in separate parishes and kept in one large room; they have been much referred to since their arrangement about four years ago; the room is however not fire-proof. A fee of three shillings and eightpence is demanded for a search :— at York for the production of a similar quantity of records at least 15*l.* without clerks' fees are required, and at Lincoln it would be impossible to produce them at all, so many having been destroyed.

The first index of wills commences about 1553: the diocese was not founded till the reign of Henry VIII., and the testamentary records before that period are to be found at York and Lichfield. The first volume of indexes is only a volume in name: it has no back; all the leaves are loose, and some lost. Like most of the early indexes, the alphabetical arrangement is not of surnames but of christian names, so that the searcher has to run the gauntlet down interminable columns of the Richards, Roberts, Thomases, Johns, "that bristle upon each page like the iron railings along a London street." This lump of almost useless leaves has never been copied into a legible form by any Registrar

since it became unfit for use. There is no index from 1601 to 1605, and the index from 1605 is imperfect, only commencing with the letter M.

The Marriage allegation books from 1606 have a few chasms. The first book commences in 1606 and ends 1616: there is no back to this volume, and it is in a bad state of preservation, with no index, but the names are written in large legible letters on the margin. The marriage affidavits and bonds are very imperfect prior to the year 1700, and there is no index to them.

In this case it has been shown that the principal Registrar acts with his Deputy; and although his income is very large, even after the great expense it has been his duty to incur for suitable public accommodation, and the loss he has voluntarily sustained by reducing the fees, yet it must not be wholly grudged to a gentleman who fulfils his office with some degree of assiduity. The early wills should be preserved with greater care, and the indexes arranged in a more perfect state. No man, ecclesiastical or civil, can be grudged his full and fair remuneration for every labour he is called upon to perform; nor is there any wish to interfere with vested rights, but we must have the labour performed for which the pay is given; and if they who now receive the one are unfit to perform the other, it is but wise and economical to compensate them for any vested right they have, and secure the treasures at the cost of a temporary outlay.

The diocese of Lincoln extends over seven counties, Lincoln, Leicester, Bedford, Huntingdon, Buckingham, and parts of Hereford, and Derbyshire. The Registrar, Mr. Robert Swan, was appointed in 1829, in conjunction with a relative of the then Bishop, and the fees received by him in 1849 amounted to upwards of 4000*l.* per annum. He is also a solicitor in boundless practice, a proctor, chapter clerk, town clerk, clerk to the magistrates, &c.

The nation pays but twelve hundred a-year in pensions to its benefactors in literature, science, and art, and it pays

four thousand a-year to one of its officers for allowing its records to rot.

Within the Gate House at Lincoln are deposited, or rather gradually decay, documents, the loss of which would be the ruin of many families by needless litigation. Here are to be seen rows of shelves and boxes containing wills, &c., not protected in any way from dirt or the rain that filters through down among the solemn injunctions of the dead. The roof is broken, and the ceiling unplastered; and the effects of time, rain, and mildew, are so omnipotent in this damp depository, that the shelves have in some places rotted away.

Here the Registrar had been so besotted in ignorance and selfishness as actually to deny access for the Archæological Institution on their meeting at Lincoln in 1849. The duplicate Parish Registers are tied up in the parcels in which they were sent bundled into boxes, and those which had been written on parchment were regularly cut up for binding modern wills, so as not to encroach upon the Registrar's hard earnings; Bishop's Registers without indexes, and unconsultable: in short, everything that could not be turned into money, neglected, dispersed, and abandoned. A once celebrated Record Book of its class, and mentioned by Gough in his "British Topography," written about the period of the Conqueror's "Doomsday Book," and known as a singular and unique MS. relating to lands throughout the diocese in 1070, could not be found. The clerks had neither seen nor heard of such a thing. The author and a friend observed swept into a corner of the Record Room, a number of loose papers, apparently ready to be burnt or destroyed, some having already been placed in baskets for removal. Led by curiosity to examine the nature of these records, they found amongst them a few leaves of this very book; also the original Charter of King William the Conqueror,—the identical instrument by which the See of Dorchester was transferred to Lincoln, with the Great Seal of the great Norman. This they handed to the

clerk, who considered it nothing of any consequence, but placed it in his office desk. Many other treasures of almost equal historical interest were saved from being carried off by bricklayers' labourers. A charter of agreement between King John and the Barons after the contest, a cotemporary Poem on Bosworth Field, a Confession of the Protestant Faith, made by Archbishop Toby Matthews when on his death-bed, part of an original Saxon Chronicle, with charters and wills, were heaped and huddled together, and, as may be supposed, in the most dilapidated condition. In an upper room was found a curious book containing an inventory of all the plate, ornaments, vestments, &c., in every church throughout this extensive diocese at the Reformation. Indeed the great quantity of valuable information which must speedily perish with these decaying records is distressing to mention. When these offices are regulated, and their holders grow clamorous for compensation, it is to be hoped that no small deduction will be made for this scandalous neglect of duty, which ought justly to deprive them of any compensation they claim as keepers, not destroyers.

The public, no doubt, will be glad to know what has been done towards the better preservation of the documents at Lincoln. For their comfort it will be shown that the labours of the press in the good cause have not been altogether ineffectual. In a letter from the Reverend Richard Pretyman, addressed to the late Edward Davis Protheroe, Esq., M.P., it is stated that "the Records in the Lincoln Registry will soon be arranged in a very satisfactory manner." It is true that the Reverend Gentleman mentions this "very satisfactory arrangement" only in conjunction with a bilious regret that the Author of the articles in *Household Words*, "The Doom of English Wills," and to whom the arrangement was owing, "should have been permitted to set foot in the office," and pronounces "attacks" which appeared on the authority and under the editorship of Charles Dickens * "false and ca-

* Household Words.

lumnious." But, on the other hand, as the said false and calumnious statements were to the effect that the arrangements were unsatisfactory, and as the injured innocence, which indignantly deplores that any "civility" possible was shown to the calumniator, only asserts that they *soon will be* arranged, it may be readily conceived that "attacks," however disagreeable, are sometimes useful, and that in this instance the public have been sufficiently benefited to justify Mr. Pretyman being interfered with. But the reader will no doubt ask impatiently, Who is this Mr. Pretyman, whose civility only extends to persons who will not report faithfully as to his neglect of duty, and who will not have the courtesy to be politely fictitious as to the state of documents involving the titles of personal and real property of seven English counties, or of the dilapidated Gate House at which he and his Registrar, Mr. Swan, take toll to the amount of at least some four or five thousand per annum? Mr. Pretyman is chaplain warden of the Mere Hospital, to which he was appointed by his father, the Bishop, in 1817. This hospital was founded in 1244, for the perpetual support of thirteen poor persons in *bed and food, and clothing,* and of the chaplain *therein* ministering, and it was further directed by the founder, that the chaplain should give an account once a-year to the Bishop of Lincoln.

Such was the trust to be carried out by Mr. Pretyman. Two years after he was appointed he granted a lease of the hospital lands, reserving the old rent of 32*l.*, but taking a fine of more than 9000*l.** In 1826 and 1835 he again renewed the lease for fines of 2000*l.* and 1740*l.* 10*s.*, all of which he kept himself, besides 750*l.* for timber. Out of the 32*l.* he kept 8*l.* himself, and applied the rest to the use of *six* poor persons. The buildings of the hospital have ceased to exist, and no duties are performed by the chaplain, and the annual value of the lands is more than

* See case of the Attorney-General *v.* Pretyman, Law Report, Bevan 4, p. 462.

1200*l.* In 1817, Mr. Pretyman, who was to minister in the hospital at Mere, was, through his father's kindness, appointed to a canonry in Lincoln Cathedral, officially valued at 1665*l.*, and also to the precentorship, returned at 184*l.*, but having attached to it the rectory of Kilsby, over the Tunnel, with tithes upon 2100 acres, commuted for land, and therefore not worth less than 335*l.* In the same year his father bestowed upon him the rectory of Walgrave-cum-Haddington, endowed with 660 acres of land, and money payments, and a house besides, and therefore worth not less than 1000*l.* The produce, then, of the three offices in thirty-five years must have been 105,000*l.*; but in 1819, the year of his 9000*l.* fine, his father presented him with the rectory of Honey Middleton, commuted at 436*l.* 10*s.*, and in 1825 he obtained from the Bishop of Winchester the sinecure rectory of Wroughton, commuted at 570*l.* The annual value then of his church preferment is not less than 4000*l.*, and the proceeds during the tenure of it amounted to not less than 134,794*l.*, besides the 13,700*l.* obtained by anticipating the revenues of the Mere Hospital; raising the total to more than 148,500*l.* The Reverend George Pretyman, another lucky son of the Bishop, was by his kind father appointed to a canonry at Lincoln, valued at 1665*l.*; to the chancellorship too, returned at 284*l.* a-year; but probably worth 535*l.*, as it has attached to it the prebend of Stoke; also to the perpetual curacy of Nettleham, a parish of 3284 acres, with tithes commuted for land and a money payment. In the same year he became rector of Wheathampstead-cum-Harpenden, with tithes commuted for 1591*l.*, and therefore worth, at least, 1600*l.*; making, with the canonry, and precentorship, 3800*l.* a-year, and producing in thirty-eight years at least 144,000*l.* In 1817, when Richard Pretyman became canon, chaplain, precentor, and his brother George was presented by his father with the rectory of Chalfont Saint Giles, commuted for 804*l.*, and in 1825, when Richard got the sinecure rectory in Wilts,

George stepped into a stall at Winchester, a sinecure of 642*l.* a-year. These two additions raise the annual income of his preferment to 5246*l.*, and the proceeds during the tenure of it to about 190,000*l.*, which, with his brother's 148,500*l.*, makes 338,500*l.* for the pair. They are patrons of six or seven small benefices as Precentor and Chancellor ; as Canons of Lincoln they have a share in patronage of great value. Thus, as Canon of Lincoln, George presented his son to Great Carlton, value 571*l.*, upon whose death it fell to another son in 1850.

For whose good, except for their own, do these Pretymans enjoy all these wardships, rectorships, canonries, and precentorships, to the amount of so many thousands a-year, unburdened by any corresponding duty? Such things are alike repudiated by the state of society out of which they sprang, and that into which they have intruded themselves. The past knows them not, and the present rejects them. Yet, while we are in the habit of exacting from men of talent and experience the most laborious duties for paltry and inadequate salaries—while we peril the efficiency of the public service in order to carry out throughout its departments a system of rigid and scrupulous economy—we suffer hundreds of thousands of the public money to be swallowed annually by drones, who cannot even give a specious account when called upon to explain the services which they render. We starve those who work, in order to gorge those who are idle. The accident of birth commands what merit cannot hope to attain ; and what makes malversation of sacred funds the more shocking is, that they are diverted from the service of the Church, to swell the hoards or to supply the extravagances of their useless possessors.

The jurisdiction of the Court of Lichfield and Coventry extends over the whole counties of Stafford and Derby, and the greater part of Warwick and Salop. The Rev. W. H. Mason and the Rev. H. Mann are or were the Registrars, when the last report was made to Parliament. They received the appointment from their uncle, the Bishop of the Diocese, in 1814. The office of Deputy is

performed by a person who rejoices in the name of Mott, who is described as the holder of no fewer than thirty-seven offices, being "Registrar, Sealer, and Auditor" to as many different courts. Properly to perform the duties of registrar and sealer to so many courts, he would need almost as many hands as Briareus. But one hand only is sufficient to receive and appropriate the proceeds; the aggregate amount of which nobody has yet had the courage to calculate.

Mr. Mott's father was forty-five years Deputy Registrar, twenty-seven years Registrar to the Dean and Chapter, and Secretary to two or three Bishops.

The house in which the Deputy resides is a very different sort of place to that in which the Public Wills and Records are "*preserved.*" It is a splendid red brick edifice in the Cathedral Close; has extensive grounds, detached stables, and a tasteful boat-house at the edge of what is called the Minster Pool.

The office for Searcher is inconveniently small; only one window. The charge, however, is not so, for 6*s.* 8*d.* is demanded per year for Parish Register Returns, and 2*s.* 6*d.* for each will; and, as in some other offices, we were not allowed to make a single extract.

The Record Office is situated at the corner of the Pleasure Grounds; it overlooks the Minster Pool and Dam Street. The outside (I was unable to obtain access to the interior) resembles an old barn. It has no window on the ground floor. On the first floor are six; two in the front of the building, and four at the end; much of the glass is broken, and the wills and other records are seen from the street in the windows exposed to the rain. To mend these windows upon five or six thousand a-year would never do, especially when old parchment is lying about in heaps. Why pay glaziers' bills, when ancient wills and other great historical documents keep out wind and weather, as well as glass? for light is a thing rather to be shunned than admitted into such places.

Mr. Mott, in his return to Parliament in 1830, page 312,

states that the first Index Book only extends to the year 1532, "and that a search may be made with certainty for any will granted from that time to the present." On referring to the originals at Lichfield, it will be found that the first volume was from 1526 to 1561, which does not accord with Mr. Mott's description: it had no back, the first three leaves were lost, several others loose, the alphabetical arrangement of Christian and not Surnames. These almost useless leaves had never been copied into a legible form by any Registrar, although the income of the office of even Deputy sometimes admits of the maintenance of a dozen race-horses.

The Clerks owned that any wills required before 1526 would take at least eight or ten months to find; and that the Registrar charged his clients for the time of his clerks at one or two guineas per day.

On a former occasion when visiting Lichfield, and content to pay 2*s.* 6*d.* for merely consulting an imperfect Index, and 6*s.* 8*d.* for each year of a Parish Register, and 2*s.* 6*d.* for each Will, documents were furnished, some seven in every ten; but on a second visit, finding the investigation had become so protracted, that to comply with their demands was impossible, a letter was procured from the Bishop of the Diocese addressed to Mr. Mott, of which the following is a copy:—

"Mr. Bruce has my full permission to examine the Records in the Registry of the Diocese of Lichfield.

"J. LICHFIELD.

"Palace, Lichfield, 23 May."

On producing this letter, avarice was soon changed for cunning, and as the only means for defeating my object, and evading the Bishop's injunctions, it was professed that not more than one will in ninety of those mentioned in the Index could be found or produced. The clerks stated that many wills had been destroyed at the siege of Lichfield in 1643, but the following list of a few modern

wills which were not found could not surely have been destroyed at the siege of Lichfield, which took place one hundred years before they existed:—Martha Stockley, 1746; Elizabeth Dickin, 1750; George Wooley, 1753; John Blackham, 1757.

The Reverend James Thomas Law, son of the Right Reverend Dr. Law, Bishop of Chester, appointed, as Chancellor and Judge of Lichfield, four additional Proctors. This Mr. Mott opposed, for he and his son-in-law had all the business between them. Mott was taxing-master of his own costs, and of those of his son-in-law. The case came on in April or May, 1848, before Sir Herbert Jenner Fust, who of course decided in favour of the little family party.

In concluding these remarks on the Registrars of the various Courts, the names of some of the Chancellors and Registrars of those in England and Wales may be enumerated, incidentally from recollection, and at the same time show, as far as possible, by whom they were appointed.

In the Diocese of St. Asaph, the Rev. Charles Scott Luxmore, Dean of St. Asaph, was appointed Chancellor *by his father*, Dr. G. J. Luxmore, when Bishop, in 1826.

The Rev. J. F. Cleaver, Rector of Coxwell, was appointed to the office of Registrar *by his father*, when Bishop, in 1809.

Dr. John Warren, the Bishop of Bangor, appointed *his son*, the Rev. J. Warren, to the office of Chancellor.

At Bath and Wells, Dr. Law was Bishop of the diocese; his nephew, Hon. W. Towry Law, was an officer in the Grenadier Guards. After Dr. Law was appointed Bishop, Mr. Law sold his commission, and entered the church. He was made Chancellor of the diocese, and Judge of the Court, and had good preferment given him. He was appointed by his uncle prebendary of Wells, and was made vicar of Harborne, in Staffordshire. He did his duty by Deputy, paying that Deputy 20*l.* annually, and pocketing the fees. The Deputy was the Rev. Peter Parfitt. The Registrar is Mr. Beadon, now a police magistrate in London,

son of a former judge, and grandson of a former Bishop. He was appointed when five years of age, and farms out the Court for 400*l.* a-year, to Edward Parfitt, who is Deputy Registrar, and charges extra fees to suitors. He is also a proctor, and appears in Court before his own father, the Deputy Judge, and taxes his own costs as Deputy Registrar. Mr. Law has lately turned Roman Catholic, and the present Bishop of Bath and Wells has, in accordance with ancient usage, appointed one of his sons to the vacancy. In the Diocesan Court of Wells, Mrs. Berry, daughter of the late Dean Lukin, is the Registrar. She was appointed when eight years of age, and does duty by the same Deputy, Edward Parfitt ! ! !

Joseph Phillimore (who also holds the appointments of Chancellor of Oxford and Worcester) was, by Dr. Lewis Bagot, *his uncle*, and when Bishop of Bristol, appointed to the Chancellorship of that Cathedral ; and Christopher Wilson was appointed Registrar, *by his father*, Dr. Wilson, when Bishop, in 1790, conjointly with the Bishop's *grandson*, Thomas Becket, Esq., now Sir Thomas Becket, Bart., who also holds the same appointment at Gloucester.

R. J. Phillimore, the Liberal Member for Tavistock, the son of the Chancellor of Gloucester, Oxford, Worcester, and Bristol, is Chancellor of Chichester, and also Chancellor of Sarum ; and the Rev. —— Bucknor, now deceased, was lately Registrar, an office he received from *his father*, Dr. John Bucknor, the Bishop, in 1812.

At Durham, the Hon. Russell Barrington, and the Hon. and Rev. L. J. Barrington, received the appointments of Registrars from *their uncle*, the Hon. Shute Barrington, when Bishop.

John Henry Sparke was appointed Chancellor of Ely, and the Rev. E. B. Sparke, Registrar, *by their father*, Dr. B. E. Sparke, the Bishop, in 1817.

The Rev. W. A. W. Keppel was appointed Registrar of Exeter, in 1829, *by his grandfather*, Dr. Frederick Keppel, the Bishop.

At Gloucester, Sir Thomas Becket succeeded the Rev. R. F. Halifax, who had been appointed *by his father*, Dr. Halifax, the Bishop.

J. H. M. Luxmore, in 1813, received the appointment of Registrar *from his father*, the Bishop.

The Rev. J. T. Law, son of Bishop Law, is Chancellor of Lichfield, and Mr. Mott, the present Registrar, succeeded the Rev. W. H. Mann, and the Rev. H. Mann, who had been appointed to the office of Registrar *by their uncle* James, Bishop of Lichfield.

The Right Hon. Stephen Lushington, Chancellor of Rochester, is also Chancellor of London, an appointment he received from *his uncle*, Bishop Law.

Eyre Stewart Bathurst was appointed in 1825, then being a minor, Registrar of Norwich, *by his grandfather*, Dr. Henry Bathurst, the Bishop.

The Rev. J. E. Bagot, the Rev. C. W. Bagot, and F. Bagot, Esq., are jointly Registrars of Oxford, and were appointed, on the death of Thomas Lowth (who had received the office *from his father*, Dr. Lowth, when Bishop), to that office *by their father*, Dr. Richard Bagot, the Bishop.

William Wales succeeded Stephen Madan in the office of Chancellor at Peterborough, who had been appointed to that office *by his father*, Dr. S. Madan, the Bishop.

The Rev. Walker King was, in 1819, jointly with his brother, appointed by their father to the office of Registrar of Rochester.

Fitzhubert Macdonald succeeded William Douglas Cleland, Esq., in the office of Registrar, at Salisbury; he had received the appointment from Dr. Douglas, *his grandfather*, who was Bishop in 1795.

The Rev. Henry Law, *son of* Bishop Law, is Chancellor of Wells.

Brownlow North (then a minor) was appointed in 1817 Registrar of Winchester, *by his grandfather*, the Hon. and Right Rev. Brownlow North, the Bishop.

F. H. Cornwall was, in 1827, appointed Registrar of Worcester, *by his father*, Dr. Cornwall, the Bishop.

Of the Archiepiscopal Courts of Canterbury and York, we have already given a full description.

Half the iniquities of the Ecclesiastical Courts have not been entered into; nothing has been said of their tyrannies, exemplified in the case of David Jones, the Unitarian weaver, of Llanon, in Carmarthenshire,* who was imprisoned for contumacy as churchwarden, because he had no funds out of which to procure bread and wine for the sacrament. Exemplified also in the case of the respectable farmer James, who, opposing a Tory candidate for a seat in Parliament at the contested election, was cited by the Tory Vicar of Llanelly for "absenting himself from church;" was tried before the Rural Dean, who was Judge of the Ecclesiastical Court, and Editor of the Tory "Carmarthen Journal," and condemned to prison and costs. Nothing has been said of the nonsensical penances which these Courts still have the privilege of inflicting. The mal-treatment of the wills should alone suffice to insure the abolition of public incorporations which so grossly misbehave themselves. "Here goes the testator and a pedigree," cries a humorous functionary, when he lighted his pipe with a will at Durham. "Here goes the testator and the legatees," might the Kilkenny Registrar cry, when the records of that office were "the regular resource of the cook when she wanted to singe a turkey, and the housemaid when she wanted to light a fire."† "Here goes the testator and the baronies," might some gentleman at York exclaim, inserting the will on the record. "Here goes the testator and the baronies," might some one else ejaculate, while abolishing the will, and erasing the index with a stroke of his pen.

How long, then, will these iniquities be permitted to exist undisturbed? How long will a much enduring

* See Speech of Mr. Hawes. Hansard, vol. xlvii. p. 522, April, 1839.

† Information supplied to the writer by the Rev. James Graves, M.A., Kilkenny.

public tolerate this wanton and wicked destruction of documents, the importance of which it were almost impossible to exaggerate? How long is the working curate, after his expensive university career, to struggle to notice and to proper social position on his paltry pittance, while Pluralistic drones and Sinecurist sluggards are fattening on the Church's Revenues?

Archbishops, Bishops, and Dignitaries of the Church of England, what avail your piety, your zeal, your learning, while this gross injustice exists; while these foul mal-practices are yet to be found, and this impious mal-appropriation of funds devoted to *"pious uses"* is yet endured. Do not they, like these drones the Moores, the Harcourts, and the Pretymans, give the Chartist or the Infidel a just reason for his scepticism, his subversive tendencies, and his violent language? Are not these the deeds which tend more to unsettle belief than all the philosophic shoutings of Hobbes or Hume, the wit of Bolingbroke, the ridicule of Voltaire, or the beautiful pantheism of Spinosa?

It is now notorious throughout the length and breadth of the land that the Ecclesiastical Courts contain within their wholesome parts a pestilent cancer of jobbery and pluralism of the grossest kind. They have now been dragged from their unholy lurking places, several especial bad cases have now been exposed to the scandal of the country. Their courts, it has been shown, contain some fine specimens of sinecurists in the character of Registrars and Chancellors, nearly all of whom are the sons of deceased Bishops. There they are, and there they will remain. Can we have the cruelty to demand of them that which is in direct contradiction to the first conditions of their existence, namely, work?

Venerable prescription pleaded loudly for our rotten Parliamentary boroughs, and our equally peccant Municipal Corporations, but in neither case was the argument from prescription allowed to prevail. JUNIUS, our greatest political essayist, and the matchless historian of the Middle

Ages, pleaded for these time-honoured abuses in vain. They fell like ripe corn under the unrelenting sickle of improvement, and the names of those who opposed their destruction are preserved rather as literary curiosities than as authorities against an act which the will of a nation approved, and the voice of a nation sanctioned. Yet, while thus inexorable to these flagrant and vested iniquities, we suffer to grow up and prosper among us monopolies far more grievous and intolerable than that which Old Sarum exercised in returning two Members to Parliament, or Sutton Coldfield when it melted down the monuments of its corporate existence to a purple pulp by the droppings of corporation wine. The noble lord to whom these pages are dedicated says that the love of antiquity is inveterate amongst us—that no sign can beat the Old Hats but the Old Old Hats; but, as far as we are able to see, the Old Old Registrars and Deputy Registrars of Roman Catholic and Monastic times are far better than the old imitations of them which have descended to this the nineteenth century.

The earliest condemnation has been echoed with all the experience and authority of the most modern times; the difficulty seems to have been to hit upon the measure. The House of Lords has condemned these Courts, and Judges in the Court of Chancery condemn the course of proceedings taken before them; for Lord Justice Knight Bruce, on an application of counsel in an administration suit for the usual order of reference to the Master, replied, "YES,—LET THE USUAL DECREE GO FOR DESTROYING THE ESTATE IN DUE COURSE OF LAW." Legatees are deprived of their bequests, "next of kin" have their shares of the estate needlessly diminished or consumed by expense, and creditors are subjected to numerous annoyances, delay, and costs. How much wrong is committed of which the public knows nothing! How many persons, all victims to the host of sinecurists, who are allowed year after year to luxuriate in the patrimony of the fatherless and the orphan! Surely a wise Parliament will not longer delay the day of purification.

Well might Mr. Labouchere exclaim in the House of Commons, "Of all the abuses in our Courts, those in the ecclesiastical jurisdiction are the most flagrant and the most aggravated." *

The question is not understood by many members of the House of Commons, nor indeed (we suspect) has it been understood by many ministers of the Crown. It is very important that those who wish the reform of those Courts should agree generally on what reform they desire, for on this point there seems to be a great difference of opinion. Let us take as example the debates on the Bill of 1843. In the course of those debates, Sir Robert Peel said, "I scarcely recollect a Bill which has had the misfortune, like the present Bill, to meet with vehement opposition from gentlemen who maintain such extremely discordant opinions, for Sir Robert Inglis and Mr. Thomas Duncombe mean to vote in opposition to the Bill, not only on different but on precisely contrary grounds." † Sir Robert Inglis was opposed to reform of any kind, and wished the present law preserved; and Mr. Thomas Duncombe would not support a Bill which should not abolish the civil code altogether, though at the same time he declared that there were no Courts which gave greater dissatisfaction to the public. Colonel Sibthorp ‡ protested against the bringing forward of a measure of this nature: "It was a measure of what was called 'reform,' a thing which he detested as he detested the devil." The practitioners in the Courts, the Judges, and the Registrars of the Courts, proved too strong. No purity of intention, no candid or fair dealing, no upright or open conduct, could protect the reform against hostile influences; for we find that Lord Robert Grosvenor, a tried reformer, now member for Middlesex, opposed the Bill of 1843, but then he was *member for Chester;* and his family connection with Chester, in which city the Registrar is a man of considerable influence, and receives no less than 11,530*l.* per annum, explains this. Sir John Jervis, another reformer, *but mem-*

* Hansard, vol. lxviii. † Hansard, vol. lxxiii. ‡ Hansard, vol. lxviii.

ber for Chester, also opposed the Bill; Mr. Yorke, a radical reformer, and member for the City of York, with his colleague, Mr. Lowther, a conservative, also opposed the Bill. Well might Lord Brougham declare that he never remembered so powerful a host of adversaries armed against any one measure. The opposition the Reform Bill met with out of doors was really a joke compared to the opposition to this Bill.* And Lord Denman said, that "he regarded it as a melancholy and mortifying circumstance, that a Court whose abolition had been recommended for fourteen years, a Court which was a public nuisance, whose operation was most oppressive towards individuals, which had been condemned by all authorities of every description entitled to respect, should baffle the attempts of a Government which had come in with so much power to effect its removal."

It cannot be contended that the Court in question have any *right* to retain testamentary jurisdiction. The Ecclesiastical Commissioners' Report, signed by the Archbishop of Canterbury, and five other Bishops, with many distinguished lawyers, states, "that in administering testamentary law, the Ecclesiastical Court exercises a jurisdiction purely civil, *and in name only ecclesiastical.*"

If, indeed, the Court ever had the right, they have now totally forfeited it. It has been shown that the present practice of proving wills, granting letters of administration, and "preserving" records, is a disgrace to the age; and that some sweeping measure for the abolition of these mysterious colonies of Rats and Registrars is imperative. The duties of the officers of these Courts must no longer be left to be ill discharged, or entirely neglected. Such abuses were tolerated in early times when England was under the power of the Priesthood. At that time most wills were nuncupative, or by word of mouth; and as a Priest was generally beside the testator at his death, priestly testimony to the will was generally indispensable. But why retain now the sacerdotal interference and control instituted

* Hansard, vol. lxvi.

in dark ages? Why not give to our wills and records, and to the interests involved in them, the advantages available at the present time, and suitable to an advanced civilisation? Why not place the testamentary interests of this great commercial nation under some proper officer to be appointed by the Crown, to be called the Registrar of Her Majesty's Court of Probate. Since the establishment of the Registrar General's Department at Somerset, House the public can "for a small fee and in a few minutes obtain a certificate of any marriage, birth, or death that has occurred throughout all England since the establishment of the office." There needs be no more difficulty about the custody and registration of wills. That the nation should so long have tolerated the present practice of proving wills is surprising, since an effort rightly directed and resolutely prosecuted by the people through their representatives in Parliament would at once bring about the reform we require.

The plan I would suggest may be shortly stated. All the original wills throughout England should be deposited with the officer appointed by the Crown; they should all be printed in the form of the present Chancery proceedings, and an index of the whole should be formed. A copy should be sent to each County Court. In future, all the wills should be printed at the expense of the executor,* and a copy sent free to the Stamp Office. This would save the country a considerable sum per annum. One copy should be sent to the County Court of the district in which the person died. These wills and indexes should be placed under the care of a proper civil officer, and really for such a purpose none appears so proper as the Principal Registrar of marriages, &c., for that county. Each person named in the will should have a printed notice from the Principal Officer of the Court. The County Courts might decide all cases under 50*l.*, and in disputes of a larger amount the Superior Courts should have jurisdiction. All proceedings should be exercised in the name of Her

* Civil Service Gazette, p. 635, Oct. 1, 1853.

Majesty, and all proceedings headed "HER MAJESTY'S COURT OF PROBATE."

Ministers have already confessed that the Augean stables of Doctors' Commons must be cleansed; and in the grand reform that will, at no very distant date, be applied to the manifold abuses of the Prerogative Court, surely the facility thus shown of opening the knowledge of wills to the community at large by such a cheap and simple process will not be overlooked; the less, since a reform would be so perfectly easy, and the machinery for supplying that which is so ill contrived and so totally worn out exists in full working order.

THE END.

Woodfall and Kinder, Printers, Angel Court, Skinner Street, London.