been disapproved of by Lords Eldon and Redesdale, in the House of Lords, in the case which we shall presently have to cite more at large of Attorney-General *v.* Mayor and Corporation of Dublin, 1 Bligh N.S.312. The difference between Lord Eldon and Sir John Leach is fully discussed by Lord Hatherly, when Vice-Chancellor, in the case of Attorney-General *v.* Eastlake, 11 Hare 205. The Vice-Chancellor says:—"There can be no doubt that the conclusion of the House of Lords was, that the mode in which the rate was levied was not to be looked at, but the purpose to which it was to be applied; and I apprehend the purpose must be the real criterion." Further on, addressing himself to the particular case before the Court, in which the defendants were Commissioners empowered by a local Act to levy rates on the inhabitants of the town of Plymouth for paving, lighting, watching, and improving the same, the Vice-Chancellor proceeds:—"It is sufficient to say that it is a large and general purpose for this town, and that, for that purpose, certain moneys are to be levied. I cannot see that the source from which these moneys here are derived, namely, from taxation, can make any difference as to the charitable or public nature which would be attributable to the funds if they proceeded from a more limited sphere of bounty; and if there be no distinction on that ground, the Attorney-General is the proper person to represent those who are interested in the general and public, or charitable purpose."

Thus the result of the authorities is to give an exceedingly comprehensive definition of a charitable fund, in the legal sense, including within it moneys granted by Parliament, or raised by local taxation, for local public uses; and the Attorney-General has invited us to declare that, in this technical sense, the public revenue of a Province constitutes a charitable fund, and is accordingly subject to the control of this Court, as a Court of Equity. Looking to the sources of that revenue, there seems no reason to contest this conclusion, however strange it may appear. Provincial revenue consists partly of a portion of the general and territorial revenues of the Colony paid into the Provincial chest under the authority of Acts of the General Assembly, partly of the proceeds of local taxation imposed by the Provincial Legislature. As regards the sources of the fund, there is nothing which does not agree with the definition of a charitable fund. As regards the purposes to which the Provincial revenue is applicable, there is more difficulty in saying that it comes within the definition. Those purposes may be defined as the public uses of the Province according to appropriations to be made thereof by the Provincial Legislature. (See section 66 of the Constitution Act.) Provincial revenue, when appropriated, may come within the equity of the Statute of Elizabeth; but, until appropriation, there is no determinate purpose to which the revenue is dedicated. This appears to constitute a distinction—possibly not, for the present purpose, a material distinction, but still a real practical difference—between the case of the revenue of a Province of this Colony, and that of any fund which has as yet been treated as in its nature charitable. Even in support of a salutary jurisdiction we should not venture to strain a definition, already perhaps extended to the utmost limit.

A case much dwelt upon in the argument was the Attorney-General *v.* Brown, 1 Swanst. 265. That was an information filed against Commissioners authorized by Act of Parliament to levy a rate on every chaldron of coal landed on the beach or otherwise brought into the town of Brighton; such rate to be applied in repairing or building groins, walls, and other works for the protection of the town from the encroachment of the sea. The information charged the Commissioners with misapplying the proceeds of this rate, and prayed a declaration as to the powers of the Commissioners, and an injunction to restrain them from any levy except for the purposes authorized by the Statute. There was a demurrer for want of equity, which was overruled by Lord Eldon. The case was most elaborately argued, and the Court seemed to feel considerable difficulty in making out that the coal duty was subject to a charitable use, the Lord Chancellor at first saying (according to Mr. Swanston's report) that he thought there was not a charitable use within the Statute. The very able counsel who appeared for the Attorney-General and the relators had urged in argument that it was unnecessary to the jurisdiction that the purposes should be charitable. "In describing the practice of the Court on the subject of informations, Lord Redesdale," they said, "mentions charities only as one instance, amongst many, of the cases in which that remedy is allowed. (Mitford's Eq. Pleading 7.) Whenever a fund is appropriated to objects beneficial to the nation at large, any individual is entitled to the aid of the Attorney-General for compelling its due administration." But it does not appear from the report of the case that the Court adopted, even partially, the extensive principle thus contended for. On the contrary, Lord Eldon, whilst expressing a strong conviction that there must exist in some Court in the kingdom an authority to compel the Commissioners properly to apply the money which they were authorized to raise, seemed anxiously to found the jurisdiction, which he asserted, upon the existence of a charitable use within the Statute. He is represented as finally deciding that the coal duty was a fund granted by Parliament in aid of the pecuniary inability of the poor inhabitants of Brighton to protect themselves from the ravages of the sea; and so a gift to a charitable use within the Statute, which expressly mentions the repair of sea-banks as one of the purposes of charitable donation.

Unexplained, this decision of the Attorney-General *v.* Brown would have left on our minds very grave doubts, to say the least, of our jurisdiction in the case before us; nor is it surprising that Sir John Leach, who was of counsel for the defendants, for whom he argued most ably, should afterwards, as Vice-Chancellor, have assumed, in the case of Attorney-General *v.* Heelis, that the jurisdiction of the Court of Chancery over the administrators of public funds depended upon the existence of a charitable use. But in the subsequent case of the Attorney-General *v.* the Mayor of Dublin, in the House of Lords, Lord Eldon expressly disclaims that ground as con-