

**THE INFORMATION IN THE
MATTER OF THE PRICE
CHARITY, FILED IN THE
SUPREME JUDICIAL COURT**

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The Information in the Matter of the Price Charity, Filed in the Supreme Judicial Court by
Various

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VARIOUS

**THE INFORMATION IN THE
MATTER OF THE PRICE
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SUPREME JUDICIAL COURT**

T. W. Loring
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THE

INFORMATION

IN THE MATTER OF THE

PRICE CHARITY,

FILED IN THE

Mace SUPREME JUDICIAL COURT

BY THE

ATTORNEY GENERAL, AT THE RELATION OF
THE CONVENTION OF THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE
OF MASSACHUSETTS, AND OF CERTAIN POOR OF CHRIST CHURCH,

AGAINST

THE RECTOR AND CHURCHWARDENS OF TRINITY CHURCH; THE VESTRYMEN
AND CORPORATION OF THAT CHURCH; CERTAIN PERSONS CLAIMING TO
BE THE RECTOR, WARDENS, VESTRYMEN, AND PROPRIETORS
OF PEWS IN KING'S CHAPEL; AND THE RECTOR
AND WARDENS OF CHRIST CHURCH.

TOGETHER WITH THE WILL AND CODICIL OF WILLIAM PRICE.

BOSTON:

PRINTED BY JOHN WILSON AND SON,

1862.

13. 176. 28

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, ss.

APRIL TERM, 1862.

THE ATTORNEY GENERAL, at the relation of the CONVENTION OF THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF MASSACHUSETTS; and of FRANK CROSTON and CHRISTIAN PETERSON, for themselves, and in behalf of the other poor of Christ Church;

versus

THE RECTOR AND CHURCHWARDENS OF TRINITY CHURCH; ROBERT CHARLES WINTHROP, BENJAMIN PARKER RICHARDSON, CHARLES HENSHAW, BENJAMIN CUTLER CLARK, JOSEPH MILNER WIGHTMAN, JOHN CLARK, JAMES LEE the younger, CHARLES HENRY PARKER, EDWARD BLAKE, THOMAS COFFIN AMORY the younger, and JOHN BROOKS FENNO, Esquires, Vestrymen of said Church; the Corporation of TRINITY CHURCH; the Reverend HENRY WILDER FOOTE, WILLIAM THOMAS and GARDNER BREWER, Esquires, claiming to be the Minister and Wardens of King's Chapel; CHARLES PELHAM CURTIS, GEORGE BARRELL EMERSON, JOSHUA THOMAS STEVENSON, JOSEPH WHITNEY, GEORGE BATY BLAKE, THOMAS PHILLIPS RICH, NATHANIEL HOOPEE, JOHN DOUGLAS BATES, SAMUEL GRAY WARD, and WILLIAM AMORY the younger, Esquires, claiming to be Vestrymen of King's Chapel; the Religious Society claiming to be the PROPRIETORS OF PEWS IN KING'S CHAPEL; and the RECTOR AND WARDENS OF CHRIST CHURCH.

To the Honorable the Justices of the Supreme Judicial Court, sitting at Boston, within and for the County of Suffolk, in Equity,

INFORMING, sheweth unto your Honors Dwight Foster, Esquire, Attorney General of the Commonwealth, at and by the relation of the Convention of the Protestant Episcopal Church in the Diocese of Massachusetts, holden at Boston, in said county of Suffolk, on the eighth, ninth, and tenth days of May, in the year of our Lord one thousand eight hundred and sixty-one; and of Frank Croston

and Christian Peterson, of said Boston, poor parishioners of Christ Church, for themselves, and in behalf of the other poor of said church; That William Price, merchant, was from his youth up, and until his death at a good old age in the year of our Lord one thousand seven hundred and seventy-one, a resident of the town of Boston, in the Province of Massachusetts Bay, and a firm believer in the truths of Christianity as held and declared by the United Church of England and Ireland, and a zealous supporter of the discipline, forms of government, and modes of worship, of that Church; that until many years after the birth of said Price there was but one church of the aforesaid Church of England in said Boston, founded in or about the year of our Lord one thousand six hundred and eighty-six by special license of his Majesty the King of Great Britain, and supported in part by an annual grant from the Crown of Great Britain, and known as the King's Chapel; that in or about the year of our Lord one thousand seven hundred and twenty-two another church of the Church of England, known as Christ Church, was erected and duly dedicated in said Boston; that said Price was deeply interested in the erection of said church, and contributed towards the expense thereof, and from the year of our Lord one thousand seven hundred and twenty-six to the year of our Lord one thousand seven hundred and forty-three was a warden or a member of the vestry of said church; that in or about the year of our Lord one thousand seven hundred and thirty-two a third church of the Church of England, known as Trinity Church, was erected and duly dedicated in said Boston; that said Price was one of a committee appointed to superintend the building of the same, and contributed largely towards the expense of its erection, and from the year of our Lord one thousand seven hundred and forty-five to the year of our Lord one thousand seven hundred and fifty-three was a warden or a member of the vestry of said Trinity Church; that in or about the year of our Lord one thousand seven hundred and fifty-three the said King's Chapel was rebuilt, and towards the expense of rebuilding the same the said Price contributed, and was a constant attendant and worshipper at said chapel from that year until the time of his death; that said Price owned pews in each of said three churches, and was strongly attached to the communion of the Church of England; that from the year of our Lord one thousand seven hundred and forty until his death he was a trustee of the Boston Episcopal Charitable Society, an association formed for the purpose of assisting and relieving poor and needy members of the Church of England in said Boston; that said Price had no descendants, and no near relatives, except certain

nieces; and that he was desirous of providing for all the poor of the Church of England in Boston, and for the vindication and promulgation of its doctrines and discipline in a community where they were not generally understood or well received.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that said Price, at the time of the making of his will, as hereinafter set forth, and of his death, besides a considerable amount of personal property, was seised and possessed of a certain messuage, with a mansion-house and buildings thereon standing, situated in said Boston, on that part of Washington Street then called Cornhill, and bounded eastwardly on said Washington Street, there measuring twenty-one feet; southwardly partly on land now or formerly belonging to Jane Hunt, partly on land now or formerly belonging to one Foster, partly on land now or formerly belonging to Ann Baxter, partly on land now or formerly belonging to Matthias Hylar, partly on land now or formerly belonging to Stephen Francis, partly on land now or formerly belonging to Enoch Huse, and partly on land now or formerly belonging to William Carleton; westwardly on Court Square, so called; and northwardly partly on land now or formerly belonging to David Sears, and partly on Cornhill Square so called; or however otherwise the same may be bounded.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that at those times the said mansion-house and estate were not of great value, and would not probably, in the hands of trustees, yield a greater annual income than would leave a surplus of about twenty pounds sterling, after keeping the estate well in repair and otherwise in good condition, and providing a fund for permanent repairs and rebuilding when necessary.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that said Price, intending to make a comfortable provision for his family, consisting of his wife and his nieces Sarah Creese and Margaret Creese, out of his personal property, and to permit and enable them and the survivor of them to continue to live for the residue of their lives in his mansion-house as they had been accustomed to do for many years preceding his death, if they should choose to avail themselves of the privilege; and, after the decease of them and the survivor of them, to set apart the said real estate as a fund to sustain a pious and benevolent trust and charity for the public objects aforesaid; did on the thirtieth day of November in the year of our Lord one thousand seven hundred and seventy make and publish his last will and testament, a copy of which with the codicil thereto is to this information annexed.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that in said will said Price declared that he did humbly commit his soul to God, and did most humbly beseech Him to receive it, not relying on any merits of his own, but only through the Atonement and Satisfaction made for lost mankind by His Ever Blessed Son, Jesus Christ, and through His Merits and Mediation alone did humbly ask pardon of all his sins, hoping for a joyful resurrection at the next personal appearing of our Lord and Saviour Jesus Christ, the Only Son of God : and the said testator did order that his body should be interred in the tomb built and owned by him under Trinity Church in said Boston ; and that at his funeral the burial service of the Church of England should be performed, and that one of two clergymen of said Church, mentioned in his will, should preach a sermon in said Trinity Church.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that the said testator, in and by his said will, after ordering all his debts and legacies and funeral expenses to be paid out of his personal estate ; and, after making certain bequests to his nieces, did give and bequeath all the residue of his personal property to his wife, Sarah Price, requesting her to give whatever thereof should remain at her decease to his said nieces Sarah and Margaret, or the survivor of them ; and did direct his pew in the said King's Chapel to be given up to the wardens of said church, they paying to the executrix of his said will sixteen pounds for the same ; and did give his pew in said Trinity Church to his said wife during her life, and, after her decease, to his said nieces, as in said will set forth.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that the said testator, in and by his said will, did give and devise unto his said wife, during her life, the said mansion-house, with the lands and appurtenances thereunto belonging, upon the condition, that she should allow his nieces, Sarah Creese and Margaret Creese, to live with her in said house, and should support them free from any charge or expense ; and, after her decease, did give unto his said nieces Sarah and Margaret full right and liberty to live in, occupy, or improve said dwelling-house, land, and premises, for and during their natural lives, and the life of the survivor of them, taking to themselves the issues, incomes, and profits thereof ; and, with a view and intention of securing and preserving unimpaired the trust estate created by his said will, did further provide, that his said wife and nieces, and the survivor of them, while they should so hold and occupy the premises, should keep the same

in good repair at their own expense, and did earnestly and solemnly request them so to do.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that the said testator in and by his said will, after providing as aforesaid for his wife and nieces, did create and declare the public charity and trust above mentioned, and hereinafter particularly set forth; and did constitute and appoint, as trustees to administer the same, the rector and churchwardens of said King's Chapel, and their successors in said offices forever (or, in a certain event hereinafter mentioned, the rector and churchwardens of said Trinity Church, and their successors in said offices forever); and did appoint the gentlemen of the vestry of King's Chapel (or, in said event, the gentlemen of the vestry of Trinity Church), from time to time forever, to inspect the doings of such trustees, and to call them to account for all or any of the income of said given and devised estate, and to see that they should in all respects punctually employ the said estate for the uses and purposes mentioned in said will, and for no other purpose, and in no other manner; and desired and ordered, that there should be a meeting of such gentlemen of the vestry in said King's Chapel twice a year forever, upon days and at hours named in said will, and oftener if necessary, for that purpose.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that the said testator, to effect this his purpose, did give and devise the said mansion-house and estate, after the death of his said wife and nieces, to the said rector and churchwardens of King's Chapel, and their successors, in trust, *first*, to establish a fund to the sole use of said King's Chapel, the interest only of which should be used, which interest should be appropriated by the vote and direction of the wardens and vestry of said church; *second*, to provide for the public preaching of the doctrines of the Church of England, and the exposition of its order and discipline, during the season of Lent, by clergymen of the Church of England; *third*, to relieve the poor of all the churches of that communion in Boston; and, *fourth*, to secure the permanence, and, if so it might be, the increase, of the said charity and trust estate, by keeping the mansion-house in good repair, and, if need be, by rebuilding and building on the land.

And the said Attorney General, at and by the relation aforesaid, further informs your Honors, that to effect these several objects, and therein and thereby primarily to benefit King's Chapel, where he worshipped, by providing a special fund for its use, by making its offi-

cers the almoners of his charity for the poor, and by making its church the place of such public preaching, he more specifically provided as follows, namely :

First, That there should be paid yearly out of the rents and profits of said house and premises, after the death of said wife and nieces, the sum of forty shillings sterling to said King's Chapel forever ; which said annual payments of forty shillings sterling should be kept entire as a fund for said church, and be placed out at interest, upon good security, and the interest only appropriated to the use of said church forever, as the wardens and vestry of said church for the time being should from time to time vote and direct, and in no other way or manner.

Second, That there should be paid out of the rents and profits of said house and appurtenances, sixteen pounds sterling annually for the support of a course of eight sermons, to be publicly preached annually in the said King's Chapel, in Lent, by the rectors and ministers for the time being of the churches of the Church of England in Boston, to wit, the King's Chapel, Christ Church, and Trinity Church, or by other ministers of the Church of England, as in said will particularly provided ; the first annual course beginning on the first Ash Wednesday after the expiration of the first three years that the testator's said nieces should hold said house, and ending on the Good Friday thence next following, and thereafterwards at the same season in each year forever ; and declared it to be his will, that this should remain unalterable and perpetual ; and did appoint the subjects of said sermons, among which subjects so appointed were the following : " The Duty, Usefulness, and Propriety of Fasting and Abstinence ; " " Against Atheism or Infidelity, or in Defence of the Divinity or Miracles of our Blessed Saviour ; " " The Catholic Church, or the Excellency of the Christian Religion ; " " A Vindication of the Church of England as to Government, Doctrine, or Discipline, or a Discourse against Heresy or Schism ; " " Against Error and Superstition, particularly those of the Church of Rome ; " " On Baptism or Confession or Absolution ; " and " On the Passion and Death of Christ, or of the Nature, Necessity, and Advantages of the Holy Communion ; " and did further order and direct, that, towards the support and encouragement of such ministers to undertake the said duty of preaching, there should be paid to each preacher of said sermons, as soon as his sermon should be ended, the sum of forty shillings sterling, amounting to sixteen pounds annually, as aforesaid.

Third, That upon each and every of the eight days upon which said sermons should be preached there should be a contribution, after