

than schools or colleges or direct instruction of pupils or students are equally public and charitable. \* \* \*

Charities for the promotion of education and learning have not been confined in this Commonwealth within the words of the statute of Elizabeth. Chief Justice Shaw, in the case of Count Rumford's Legacy, said, "That a gift designed to promote the public good, by the encouragement of learning, science and the useful arts, without any particular reference to the poor, is regarded as a charity, is settled by a series of judicial decisions and regarded as the settled practice of a court of equity; and held that a gift in trust to pay the income in rewards for discoveries and improvements on light and heat most useful to mankind was charitable. *American Academy vs. Harvard College*, 12 Gray, 551. In the case of the Lowell Institute, a bequest to provide for the delivery of public lectures in the city of Boston, upon philosophy, natural history and the arts and sciences, for the promotion of the moral, intellectual and physical instruction and education of the inhabitants of the city, was held to be a charity. *Lowell, appellant*, 22 Pick., 215. And in *Northampton vs. Smith*, 11 Met., 390, the Court recognized the validity of a bequest, payable at a future day, to a town, to establish model and experimental farms to promote the knowledge of the art and science of agriculture. The apparently inconsistent statement of Chief Justice Shaw, in *Sanderson vs. White*, 18 Pick., 333, that since the passage of the statute of 43 Eliz. all gifts are to be deemed charitable which are enumerated in that statute as such, and none other, is shown by referring to the case of *Morice vs. Bishop of Durham*, which he cites in its support, to have omitted, either by accident or as immaterial to the case then under consideration, the words added by Sir William Grant, and in substance repeated by Lord Eldon in that case, or which by analogies are deemed within the spirit and intendment. 9 Vesey, 405. 10