

smaller number arising from the number of united dioceses in the Church of Ireland for Protestant Episcopalians.

(7) That the improvements which have been introduced in the Scotch Intestate Widows' Acts, for the benefit of people with assets below £300, should be extended to Ireland.

(8) That the Petty Sessions Clerks should be used as officers of the Superior and County Courts, to the extent necessary for the adequate localization of the proving of wills and administration of assets of people with less than £300 assets.

(9) That the provisions of the Land Act of 1881, as to the legal representatives of tenants, makes the reforms suggested in this paper of urgent importance at the present time.

(10) That the principle of the Tralee Savings' Bank Act of 1876 is applicable to the representatives of the owners of several thousand pounds of unclaimed property in the Chancery Division of the High Court of Justice; and the contemplated transfer of that property to the Imperial Exchequer makes the application of the principle one of immediate importance.

(11) That it is of great importance at the present time to afford as many public officers as possible an opportunity of showing, as was shown in the case of the Tralee Savings' Bank in 1876, zeal, activity, and administrative talent, exercised for the benefit of the poor and helpless, and of the representatives of those who have been the victims of a calamity.

VIII.—*Report of a Local Committee as to the best Means of Diminishing Vice and Crime in Dublin.*

I.—ON PROTECTION AND RESCUE OF GIRLS UNDER TWENTY-ONE YEARS OF AGE.

IN respect of marriage, the law draws a clear line for the protection of minors under twenty-one years of age. By Lord Hardwicke's famous Act against clandestine marriages, Parliament lays down the principle that they are not to be allowed to marry under that age without the consent of their parents or guardians. This principle is laid down for the protection of the young people themselves, of families to which they belong, and of society, against the consequence of premature and improvident marriages.

If this principle be sound, it follows as a logical consequence that there should be a power vested in parents, in guardians, and in the State, of rescuing girls under twenty-one from a life of prostitution. If they are not of an age to decide their own fate irrevocably in marriage, neither are they of an age to make the no less serious decision of devoting themselves to a vicious life—with consequences still more disastrous to themselves, their families, and society, than those arising from their contracting an improvident marriage.

In the session of 1880, Parliament adopted this principle so far as girls under the age of fourteen are concerned, by the amendment of the Industrial School Act, introduced through the instrumentality of Colonel Alexander, M.P., at the suggestion of Miss Ellice Hopkins, and extended to Ireland through the instrumentality of the Solicitor-General

of Ireland, at the suggestion of Sir John Lentaigne, C.B. By the Amendment of 1880, the power vested in justices under the Industrial Schools (Ireland) Act, 1868, sec. 11., to send any child apparently under the age of fourteen to a certified Industrial School for a period not exceeding the time when the child should attain the age of sixteen years, is extended to any child apparently under the age of fourteen years, who should come under the following descriptions—that is, lodging, living, or residing with common or reputed prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution : (or) that frequents the company of prostitutes.

Protection of Girls under twenty-one years of age.

If it is right, and the duty of parents, guardians, and the State, to rescue such girls, it is still more their duty to surround them with every possible protection to guard against their fall. A great writer on such subjects has said—"Fence your precipice at the top, do not confine yourself to providing ambulances at the bottom."*

Extension of existing protection to twenty-one years of age.

If a young person is sent to a reformatory school at the highest age allowed, sixteen years, and for the longest period, five years, the protection to twenty-one years is complete, and the system of licence then extends to twenty-one if the young person is let out before that period. But in the case of those imprisoned at an earlier age, or for a shorter period, all power of State protection or control comes to an end at a much earlier period. To remedy this, an improved application of the system of guardianship under the English law, or of patronage as in foreign countries, is asked for.

The statistics of the social position of children in reformatory schools shows the importance of this :—

"Of the boys, only 48 per cent., and of the girls, only 46 per cent., were under parental control. The illegitimate, deserted, or where one or both parents were destitute or criminal, amounted to 29 per cent. of the boys, and 35 per cent. of the girls. The orphans were only 23 per cent. of boys, and 19 per cent. of girls."

When the State has once interfered to supply the failure or total want of parental care for this helpless class, why should state care be withdrawn at the most critical moment of the child's existence, and short of the period to which true guardianship extends?

Then, in the case of children boarded out by the Poor-law guardians, they are, in Ireland, boarded out to thirteen, at that age the guardians withdraw all assistance; and if the nurse chooses to take possession of the child, the guardians give it up without any check or control whatever.

In foreign countries there is a law of adoption by which people can adopt children, and they acquire the authority of a parent over them till twenty-one, and incur the responsibility of a parent. In accounts of children boarded out, the phrase "adopted" is constantly used. Whilst it has a most important moral and social meaning, it has in England or Ireland no legal meaning; and it seems a sad failure of State duty to stop all care of a child at what in other branches of law is recognised as a most critical age.

* Ellice Hopkins, author of *Work among Working Men*. See Article "Little Mary," by same author, in *Good Words* for February, 1881.

Increased facilities for appointing guardians.

Until quite recently, there was no power of appointing guardians of children except in the Court of Chancery, and the Court would not exercise the jurisdiction unless the minor had property. In England first, and recently in Ireland, the county courts have acquired the jurisdiction of appointing guardians; but this is so imperfectly conferred in Ireland that a child can even yet be made a ward of court in Chancery alone, no matter how small the property.

In England justices have the power, in case of the desertion or disability of the mother, to appoint caretakers for an illegitimate child. There is no such power in Ireland.

One step for protecting girls under twenty-one is to place the jurisdiction of appointing guardians on a simple and uniform basis, giving county courts complete powers for the amount of property within their jurisdiction, and giving justices power when the property is less than fifty pounds; and in the case of children of this poor class, the parties applying shall be exempted from all court fees, stamps, or charges.

Temporary ex-officio guardianship of authorities of charitable institutions.

Once the system of legal guardianship was established, there would be no difficulty in giving the authorities of all charitable and religious institutions which undertake the care and support of girls—whether in homes, refuges, asylums, hospitals, or penitentiaries—the powers of temporary ex-officio guardians, for the care and protection of the girls they so support and befriend. It is the opinion of the managers of penitentiaries that many girls might be saved from relapsing into vice if there was power to lock the door on them for one day. The cheap machinery for appointing legal guardians would be a security against any abuse of this power.

Temporary ex-officio guardianship of mistress and employers of Girls under twenty-one.

A similar ex-officio guardianship should devolve on the mistress or employer of any girl who was not residing with her parent or guardian, or with some person deputed by parent or guardian to exercise control over her. By the combination of this authority with that of the homes, shelters, and refuges, girls could be protected against the effects of hasty discharges from employment, and a foundation would be laid for improving the contract of service and employment for girls under twenty-one years of age.

As incident to the justices' jurisdiction in guardianship, there should be a prompt local tribunal for determining all disputes between minors and their employers; and these cases could, as in the Chancery Division of the High Court, be all heard in chamber, and so real protection and good advice afforded, without the attendant injury of publicity.

Summary of Conclusions.

In conclusion, we submit the following summary of recommendations for legislation for the protection and rescue of girls under twenty-one years of age:—

(1) The jurisdiction of the County Courts for appointing guardians within limits to be properly prescribed should be as complete as the jurisdiction of the Court of Chancery.

(2) Where the property of the minor is less than £50, there should be power of appointing guardians vested in justices at petty sessions—the parties applying to be exempted from court fees, stamps, and charges.

(3) As incident to the justices' jurisdiction in guardianship, they should have jurisdiction to determine all disputes between minors and their employers, and there should be power in these cases as well as in the case of appointing guardians, of having the proceedings conducted in chamber, so as to afford protection and advice without the attendant injury of publicity.

(4) The authorities of charitable and religious institutions who undertake the care and support of girls—whether in homes, asylums, hospitals, or penitentiaries—should have the power of temporary *ex-officio* guardians for the care and protection of the girls they so support and befriend.

(5) The master or employer of any girl who is not residing with a parent or guardian, or some person deputed by parent or guardian to exercise control over her, should be deemed temporary *ex-officio* guardians of the girl.

(6) The principle of the Industrial Schools Act, 1880, of allowing children under the age of fourteen to be rescued from houses of ill-fame, should be extended to the age of sixteen—the age at which they can be kept in an industrial school.

(7) The authority of managers of industrial schools and reformatories over girls should be extended so as to allow, by apprenticeship, or by placing girls out on licence, the exercise of such authority in every case up to the age of twenty-one years (unless girl previously married).

(8) Then there should be authority in every guardian of a girl under twenty-one to rescue her from a house of ill-fame.

II.—ON ILLEGITIMATE CHILDREN: SUGGESTION FOR MAKING THE LIABILITY OF REPUTED FATHERS THE SAME IN IRELAND AS IN ENGLAND.

The liability of reputed fathers in England dates so far back as 1576, more than three centuries ago, when the 18 Eliz. c. 31, empowered justices to compel a putative father or mother, or both, to pay a weekly sum for the maintenance of their illegitimate child. Additional powers were conferred on justices by the 13 & 14 of Charles II. c. 12, and further extended by the 49 George III. c. 60. This principle of joint parental responsibility was superseded in 1834 by the 4 & 5 Wm IV. c. 76. The Act of 1834 enacted that an illegitimate child should follow the settlement of the mother, who should be bound to maintain it as part of her family until the child attained the age of sixteen years; and there was no remedy provided against the putative father except when the child was in receipt of poor relief. The Irish Poor-law of 1838 was more stringent than the English law of 1834, for it threw the whole burden of support of an illegitimate child on the mother, and gave no remedy against the father. The liability of the father at the suit of the mother was restored in England in 1844, by 7 & 8 Vic. c. 101, s. 2; so that there were only ten years in the last three centuries that putative fathers were not liable at the suit of the mother to contribute to the support of illegitimate children in England. The Act of 1844, however, repealed the power of the guardians to sue. In 1863, putative fathers in Ireland were for the first time made liable to contribute

to the support of their illegitimate children, and then not to the extent that putative fathers had been liable in England under the Act of 1844, but only to the extremely limited extent that they had been liable in England from 1834 to 1844. The jurisdiction in Ireland, where the County Court was then in complete operation, was conferred on the chairman of those courts, and not upon justices of the peace. But as the English County Court system was not in operation in 1845, the difference was one of jurisdiction merely, and not of principle. In 1872 the liability of putative fathers in England was extended. By the Act of 1844, the justices were limited to a decree of 5s. a week for the first six weeks of the child's life, and for 2s. 6d. thereafter, until the child attained the age of thirteen years or should die, the maintenance money to cease if the mother should marry. By the Act of 1872, the weekly allowance was increased to 5s. for the whole term, and the period of the father's liability might be extended to sixteen instead of thirteen years of age.

In 1875 the right of the guardians to sue where the mother was in receipt of relief, a right which had existed in England from 1834 to 1844, and has existed in Ireland from 1863, was revived in England, and thus in such cases the law as to illegitimate children has since 1872 been practically the same in both countries; but as regards women not in receipt of relief, the Irish women are still in the extremely unfavourable position that English women were in during the short period of ten years from 1834 to 1844, out of the three hundred years that had elapsed since the 18th of Elizabeth.

The grounds alleged for the modification of the law in England in 1834 were—vexatious prosecutions, trouble and scandal to innocent persons. But when the local jurisdiction of justices was reformed and the summary jurisdiction placed upon a more perfect system, the risk of these evils diminished so much that the jurisdiction was restored. The practice of the Superior Courts, of having cases relating to minors and their family arrangements conducted in chamber, and the fact that the jurisdiction in Ireland is not given to justices at all, but to judges of the high rank of County Court judges, make it possible to extend the English jurisdiction to Ireland, without any risk of the abuses that led to its temporary suspension in England from 1834 to 1844.

History of the passing of the English Act of 1872, extending the Irish law of 1863 to England

The history of the way in which the Irish law was extended to England, and the English law amended, in 1872 and 1875, is interesting as a guide to the best way of proceeding to have the English law now extended to Ireland. It arose from the petition of a single Board of Guardians in England, that of the Hertford Union. The petition was as follows:—

"1. That your petitioners believe that the Act of 7 & 8 Vic. c. 101, intituled: 'An Act for the Further Amendment of the Laws Relating to the Poor in England,' so far as relates to bastardy, operates oppressively towards the mothers of bastard children.

"2. That by the said Act every obstacle is thrown in the way of the mother of a bastard child of obtaining and enforcing an order on the putative father of her child.

"3. That in consequence thereof, many mothers of bastard children are, much against their will, prevented from going again into respectable service, but are compelled either to take refuge in the work-house, or to resort to prostitution for their maintenance; or, which is still worse, they are driven to desperation from poverty and disgrace, and then murder their children.

"4. That by the said Act officers of every parish or union are prohibited from assisting the mother in any way in obtaining or enforcing any such order, although by the Act of 31 & 32 Vic. c. 121, this law has been somewhat relaxed.

"5. That by the Irish Poor-law Act of 1863, the Guardians of Unions in Ireland are expressly authorised to recover at their own suit the cost of the maintenance of illegitimate children, during the time that such children, while under the age of fourteen years, are in the receipt of relief from the putative father.

"6. That your petitioners think that the said English Act is wrong in principle, and based upon cruelty and oppression towards women, and has the effect of protecting men from the just claims of the women and their children; and that instead of being prohibited from taking a part in, and enforcing such orders, the Guardians of the Poor in England ought to be allowed to obtain and enforce them, and to allow indoor or outdoor relief to the mothers as they may think best, with a view to the safety of the children's lives, and to the reformation of the mother.

"7. That your petitioners would suggest that there should be no limit of payment by the father of a bastard child as that specified in the said English Act, but that he should be compelled to pay to the Guardians such weekly sums as would defray the cost of the mother and child, and as would allow something to be put away for the future maintenance and education of the child.

"Your petitioners therefore humbly pray your Honourable House that the said Act first hereinbefore named may be repealed or modified, as hereinbefore suggested, so as to do justice to the mothers of bastard children, by compelling the fathers of such children to contribute adequately to their support, and so as to deprive the mothers of any excuse for continuing in their immoral course, and for neglecting or murdering their children."

This petition was presented to the House of Commons, 10th April, 1871. A voluntary society brought this petition under the special consideration of members of Parliament, and the result was the passing of the Acts of 1872 and 1875. The result has been very satisfactory: the infanticides in England and Wales have been reduced about one-half—from 31 in a portion of the population equal to that of Ireland, to 16—while in the same years the defective state of the Irish law has led to an increase of infanticide from 22 in 1872, to 27 in 1879; whilst other murders in Ireland decreased from 33 in 1870, to 22 in 1879. As the infants are only 2½ per cent. of the population, the number of murders to be expected among them is about one in two years; the number 27 is then 54 times the number of other murders amongst a portion of the population equal to the infants. All the reasoning on which the law was altered in England applies strictly to Ireland; and when the amount of murders of adults in Ireland is referred to as something serious, it is very singular that the more remarkable and increasing figures as to infanticide should not be made the basis of identical legislation.

Mr. W. G. Brooke, in his report to the Statistical and Social Inquiry Society of Ireland in 1873, referring to the difference between the laws in the two countries for protection of women, says:—

"Resting, then, on the statutes, the mode in which the liability of a reputed father is enforced differs so materially in England and Ireland, and places the Irish mother at so supreme a disadvantage that it is necessary to devote to it some little attention."

This is very similar to the language of the petition of the Hertford Guardians in describing the law as it then stood, as wrong in principle, and based upon cruelty, and oppressive towards women.

In a Bill (Mr. Hopwood's) introduced into the present session of Parliament, 1881, for securing the maintenance of children, the principle is laid down that at the request of either party the proceedings should be in private.

Conclusion.

We accordingly recommend that with this modification, of power to have proceedings in private (which is now proposed to be adopted in England for one branch of the subject), that the English law as to the liability of the putative fathers be extended to Ireland—the jurisdiction, however, to be exercised by the County Courts, to which the legislature intrusted in 1863 the enforcement of the liability of such fathers to the extent it exists in Ireland.

III.—REPORT ON SEDUCTION.*

An action of seduction may be brought by any person with whom the seduced girl is residing at the time she was seduced, either in the character of daughter and servant, or of ward and servant, or of servant only. Thus in the case of an orphan residing with a relation or guardian, and rendering service to such relation or guardian of any kind, even the most ordinary attendance, the relative or guardian is the proper person to sue for a wrong done, and stands in *loco parentis*.

He is permitted to recover damages in an action for loss of service, as where the action is brought by an actual parent. The law in this case treats the guardian, and even a friend or benefactor, as standing in the place of a parent and having the rights of a parent for the purpose of protecting the girl. But the law rests on a very antiquated and narrow basis. The foundation of an action against a wrong-doer by the father for the seduction of his daughter has been uniformly placed from the earliest times not on the seduction itself, but on the loss of service of the daughter, in which service he is supposed to have a legal right and interest. This is apparently a remnant of Roman law with respect to women, treating them as little above slaves; and instead of the servant getting protection as a daughter, the daughter only gets protection as a servant.

The hard cases which have been decided upon these narrow views of the law which are quoted in the text books illustrate the defect of the principle. Thus it is not enough for the father to show that the daughter is poor but maintaining herself by labour, and that she became unable to maintain herself, and he was obliged to maintain her and pay for a doctor and nurse to attend on her. There is this singular anomaly, that the father should be liable to maintain a daughter under such circumstances and a seducer get off, whilst if the daughter had been in her father's house it is the seducer would be liable to pay.

Then, again, where a father had apprenticed his daughter to the defendant and paid him a large sum of money to instruct her in his business, and the defendant seduced the girl and got her with child and rendered her unable to learn the trade, nevertheless in that case it was held the father had no remedy. These cases could all be met by extending the parental right to sue in all cases of girls under twenty-one years of age, and giving, consequently, to guardians an equal right to sue—resting the action not on the notion of the girl being a servant but

* This Report was read at the Municipal Law Section, on the 4th October.

being a relative, any injury to whom necessarily involved risk of burden and an immediate injury to happiness and comfort of the father and the family.

A further anomaly from basing the action of seduction on the notion of women being servants, is that when a master or father recovers compensation for the injury, he is not bound to expend any portion of it on the maintenance of the child which may be the offspring of the seduction, or on the support of the seduced woman herself, and if he happened to be in debt himself, the money so recovered could be attached by his creditors; whereas on a true conception of the question, the first object should be to make provision for the child, the real burden on the family and on society, and who from what has happened, is placed at such a disadvantage for starting in life. The next object should be to provide some maintenance for the seduced woman, who again is placed at such a disadvantage for earning her bread, or being provided for in life by what has happened; and, therefore, whatever sum is recovered, should be deemed trust funds in the hands of either the father, guardian, or master, the first trust being to maintain and educate the child until twenty-one, the next to provide some maintenance for the mother during her whole life, and subject to that charge to the fund to go to the child; and after these trusts had been discharged, the fund to revert, in case of the child dying under twenty-one unmarried, to the disposal of the father, guardian, or master, as a reward for his having stood by the child and woman.

Conclusion.

We recommend that the law of seduction should be altered by basing the claim on the injury to the family and society by the offence, and that the funds recovered should be held on trust to be declared by the judges in reference thereto, having regard primarily to the interest of the child or children, and next to the maintenance of the seduced woman; and the ultimate trust should also be in the discretion of the court.
