

Tenth.—That Mr. Molloy's suggestion, made many years since, to have this done at the Dublin Commission Court, should be carried out.

Eleventh.*—That with regard to dispensing with the criminal functions of grand juries, it would be desirable to wait for the solution of that question in England.

IV.—*A Comparison of the Law of Poor Removals and Chargeability in England, Scotland, and Ireland, with suggestions of a Plan of Assimilation, and a Remedy for hardships now caused by Removals.*
By W. Neilson Hancock, LL.D.

[Read Tuesday, 23rd May, 1871.]

THE law of poor removals had its origin in what was properly called the law of settlement. It is now a part of the law of chargeability of districts to support their own poor, and is in fact part of the machinery by which such chargeability is enforced.

Law of Settlement properly so called.

The ancient law of settlement which allowed people of humble rank to be removed to the place of their birth or settlement, for fear they might become a charge on the rates of the district they came to, was introduced into England and Wales in the reign of King Charles II., and its main provisions continued in force until 1795, and in one class of cases until 1834.

The law of chargeability of districts to support their own poor has existed in Scotland since 1579; in England and Wales since 1596; and in Ireland since 1838. The difference of this law in different portions of the United Kingdom forms an important element of the present poor removal question.

The abolition of the law of settlement was much accelerated by the strong condemnation of the system by Adam Smith, in his celebrated treatise on *The Wealth of Nations*. It is important to refer to the views he puts forward, as they explain very clearly what the law of settlement was, and point out the evils which arose from it. A thorough understanding of his views will prevent them being referred to, as they sometimes are, as an authority against any law

* With regard to criminal functions of Grand Juries, Mr. John Hancock suggested, that, as prisoners are allowed in certain cases to dispense with trial by petit jury and have their cases disposed of by magistrates, they should be allowed to dispense with a trial by Grand Jury, and indictments should only be sent up where prisoner or person bailed required it, or where the prosecutor obtained leave of the court to send up an indictment.

As to the extent to which bills are ignored, Dr. Hancock stated that, in 1869, of 4,151 persons for trial at assizes, quarter sessions, and Dublin commission court, 1,682 were discharged or acquitted; of these 409 were discharged by direction of the Attorney-General or other cause of want of prosecution, 413 were discharged by grand jury, and 860 were found not guilty by petit juries.

of chargeability of districts. At the same time they present such a warning as to the effects of some well-meant legislative arrangements upon the working classes, and throw such light on the part of the present English law of chargeability which is derived from the ancient law of settlement, that his writings are valuable as a guide in determining the law of chargeability which should now be adopted.

Adam Smith refers to the subject under the aspect of an obstruction to the free circulation of labour. He says: "The obstruction which the corporation laws give to the free circulation of labour is common, I believe, to every part of Europe. That which is given to it by the poor laws is, so far as I know, peculiar to England. It consists in the difficulty which a poor man finds in obtaining a settlement, or even being allowed to exercise his industry, in any parish but that to which he belongs. It is the labour of artificers and manufacturers only of which the free circulation is obstructed by the corporation laws; the difficulty of obtaining settlements obstruct even that of common labour. It may be worth while to give some account of the rise, progress, and present state of this disorder, *the greatest perhaps of any in the police of England.*"

"When, by the destruction of monasteries, the poor had been deprived of the charity of those religious houses, after some other ineffectual attempts for their relief, it was enacted [in 1596] by the 43rd of Elizabeth, c. 2, that every parish should be bound to provide for its own poor; and that overseers of the poor should be annually appointed, who, with the churchwardens, should raise by a parish rate competent sums for this purpose.

"By this statute, the necessity of providing for their own poor was indispensably imposed upon every parish. Who were to be considered as the poor of each parish, became, therefore, a question of some importance. This question, after some variation, was at last determined [in 1662] by the 13th & 14th of Charles II., when it was enacted, that forty days undisturbed residence should gain any person a settlement in any parish; but that within that time it should be lawful for the justices of the peace, upon complaint made by the churchwardens or overseers of the poor, to remove any new inhabitant to the parish where he was last legally settled, unless he either rented a tenement of ten pounds a-year, or could give such security for the discharge of the parish where he was then living, as those justices should judge sufficient.

* * * * *

"As every person in a parish, therefore, was supposed to have an interest to prevent as much as possible their being burdened by such intruders, it is further enacted [in 1697] by the 3rd William III. that the forty days residence should be accounted only from the publication of such notice in writing, on Sunday in the church, immediately after divine service.

"'After all,' says Dr. Burn, 'this kind of settlement by continuing forty days after publication of notice in writing, is very seldom obtained; and the design of the acts is not so much for gaining of settlements, as for the avoiding of them, by persons coming into

a parish clandestinely; for the giving of notice is only putting a force upon the parish to remove. But if a person's situation is such that it is doubtful whether he is actually removable or not, he shall by giving of notice compel the parish either to allow him a settlement uncontested, by suffering him to continue forty days, or by removing him to try the right.'

"This statute, therefore, rendered it almost impracticable for a poor man to gain a new settlement in the old way, by forty days inhabitation. But that it might not appear to preclude altogether the common people of one parish from ever establishing themselves with security in another, it appointed four other ways by which a settlement might be gained, without any notice delivered or published. The first was by being taxed to parish rates and paying them; the second by being elected into an annual parish office, and serving in it a year; the third, by serving an apprenticeship in the parish; the fourth, by being hired into service there for a year, and continuing in the same service during the whole of it.

"Nobody can gain a settlement by either of the two first ways, but by the public deed of the whole parish, who are too well aware of the consequences to adopt any new comer who has nothing but his labour to support him, either by taxing him to parish rates or by electing him into a parish office.

"No married man can well gain any settlement in either of the two last ways. An apprentice is scarce ever married, and it is expressly enacted that no married servant shall gain any settlement by being hired for a year. The principal effect of introducing settlement by service has been to put out in a great measure the old fashion of hiring for a year, which before had been so customary in England, that even at this day, if no particular term is agreed upon, the law intends that every servant is hired for a year. * * *

"No independent workman, it is evident, whether labourer or artificer, is likely to gain any new settlement either by apprenticeship or by service. When such a person, therefore, carried his industry to a new parish, he was liable to be removed, how healthy and industrious soever, at the caprice of any churchwarden or overseer, unless he either rented a tenement of £10 a-year—a thing impossible for one who has nothing but his labour to live by—or could give such security for the discharge of the parish as two justices of the peace should judge sufficient."

Adam Smith concludes with the following condemnation of the English law of settlement under the act of Charles II. :—

"To remove a man who has committed no misdemeanour from the parish where he chooses to reside, is an evident violation of natural liberty and justice. The common people of England, however, so jealous of their liberty, but, like the common people of most other countries, never rightly understanding wherein it consists, have now for more than a century together suffered themselves to be exposed to this oppression without a remedy. Though men of reflection, too, have sometimes complained of the law of settlements as a public grievance; yet it has never been the object of any general popular clamour, such as that against general warrants—an abusive practice,

undoubtedly, but such a one as was not likely to occasion any general oppression. There is scarce a poor man in England of forty years of age, I will venture to say, who has not in some part of his life felt himself most cruelly oppressed by this ill-contrived law of settlements.”

Changes in the Law of Chargeability and Removal in England and Wales.

The Wealth of Nations was published in 1776, and in 1795 the law of settlement properly so called (or power of removal in case of apprehended chargeability) was taken away, except in the case of unmarried women about to give birth to an illegitimate child, who remained liable to removal until 1834. The moment this power was taken away, the law of removal became what it had been before the reign of Charles II.—a harsh, complicated, and expensive machinery for enforcing the chargeability of districts to support their own poor.

Many of the evils in the chargeability part of the law of settlement, which I propose to call for clearness of reasoning and to avoid confusion, the law of chargeability, pointed out by the enquiries of the Poor Law Commissioners in 1834, and the Poor Law Committee of the House of Commons, 1861–64, have been remedied. Thus, permanent chargeability in consequence of a year's service or apprenticeship was repealed in 1834.

The other changes introduced have developed important principles towards a final solution of the question.

First.—The legal question of the liability of any district in England and Wales to have poor persons charged upon it, is by statute* determined, if appeal be made, before the removal takes place.

Second.—The idea of enforcing chargeability without actual removal, is applied to the case of poor persons too ill to move,† or pending an appeal as to right of removal.

Third.—There has been a growing tendency to restrict the right of removal within the narrowest limits. Thus in 1846 it was provided that no person could be removed from a parish in which he had been resident for five years next before the application for removal. In 1861, by Stat. 24 and 25 Vic., c. 55, it was provided that after the 25th March, 1862, the period of three years shall be substituted for that of five years specified in the act of 1846, and residence of a person in any part of the larger area of a union shall have the same effect in reference to the provisions of that section, as a residence in a parish. By Stat. 28 and 29 Vic., c. 79, passed in 1865, the period of residence is reduced to one year. These mitigations of the evils of the system are, however, felt to be an incomplete solution of the question; for there is a provision in the act of 1846, continued in effect in each of the other enactments, that the restriction of removal does not confer a “right of settlement” or permanent chargeability—and unless residence be kept up, the restriction on removal ceases, and the poor person becomes liable to be sent to some place determined, by what remains of the old law of settlement and by the modern laws of remo-

* Stat. 4 & 5 Wm. IV., c. 76, s. 81.

† 35 Geo. III., c. 101, s. 2.

val to Ireland and Scotland. So the complication of the chargeability part of the old law still continues in England, and the protection of the poor, intended by these restrictions on removals, in two very simple and obvious cases breaks down.

First.—Suppose a railway or new street runs through a poor quarter filled with labourers' houses, and the labourers are forced to migrate to another part of London; as the metropolis is divided into many unions, this will often be to another union. If they happen to fall destitute in the year subsequent to their forced change of residence to another union, their protection against removal entirely ceases, and they are left exposed to all the hardships and evils of the law of removal before the recent reforms were introduced.

Second.—Suppose labourers thrown out of employment by commercial failures or derangement of trade, such as the stoppage of ship-building at Millwall on the Thames, or the cotton famine at Manchester. If they leave the union to seek employment, and before they are a year resident in a new district they fall destitute, the protection against removal they had at Millwall or Manchester is taken away.

Law of Chargeability and Removal in Scotland.

In Scotland the law of chargeability has always been more simple than the English law. The Act of Charles II. did not extend to Scotland, nor did any of the complicated enactments of subsequent reigns in relation to that act, and upon which the English law of chargeability and removal so largely rests.

The Scotch have three rules of chargeability—birth, marriage, and five years' industrial residence. This, however, is lost if in any subsequent five years the person does not reside for one year, so that there must be always one year at least between the fourth and fifth years after a change of residence when a person has lost his first chargeability by residence, and has not acquired a second right.

The Scotch have made some very remarkable advances on the English law.

First.—They recognize that relief may be permanently given in the parish where the poor person resides, and yet be recovered from the parish in Scotland to which the poor person is chargeable according to the law of chargeability.

Second.—The power of removal conferred on the parish of residence is not absolute, but is limited to the cases in which the parish of settlement refuses or fails to give proper security for the weekly subsistence of the poor person allowed by the parish of residence.

Third.—The Court, in construing the power of removal given by statute to the parish of residence, would not, in the opinion of eminent Scotch advocates,* lose sight of the wishes of the poor person himself to continue in the parish of residence.

It is somewhat remarkable that when the Scotch law recognized that removal was wholly unnecessary as a condition precedent to

* *Digest of the Law of Scotland Relating to the Poor*, by J. Guthrie Smith, p. 203.

chargeability, it did not go the step further of abolishing settlement by marriage, which was constituted to prevent the break-up of families consequent on actual removals.

The Scotch failed, too, to modify their chargeability by birth, that had been in part intended and maintained to prevent the actual break-up of families by removal.

*Want of Inter-Kingdom Machinery for adjusting Inter-Kingdom
Claims of Chargeability.*

I have next to notice the sufferings poor people are exposed to from the want of any central machinery for adjusting the inter-kingdom claims of chargeability. Such questions were included in ancient Irish law under the term "*cairde*" law.*

I will first take the case between England and Scotland. If an English labourer happens to fall destitute in Scotland, he is deprived of the benefit of the humane improvements of both the English and Scotch law. The statutes which reduce the period of residence, to protect against removal, from five years in a parish to three years in a union (24 & 25 Vic. c. 55) and from three years to one year (28 & 29 Vic. c. 79), do not extend to Scotland; neither do the provisions which require the guardians to determine the right of removal before it takes place, nor the provision which enables the relieving union to recover the cost of relief from the union that is liable. If the Englishman has not, as the *Civis Romanus*, the boasted protection of the English law in Scotland, he might expect that he would at least have the benefit of the Scotch law while in that country. But as he suffers on the one hand from English statutes not extending to Scotland, so on the other he suffers from Scotch statutes not extending to England.

The Scotch local Poor Law authority, called the Parochial Board, can recover the cost of relief from any parish in Scotland without removing the poor person; but though they cannot remove an English poor person without an *ex parte* judicial enquiry as to the place of his birth or chargeability in England, there is no power to recover the money spent in relief against an English union, and the only way of enforcing chargeability is by removing the poor person. Under the act of 1845 (8 & 9 Vict. c. 83), it was only necessary to remove the poor person to any place in England, in fact over the border at Gretna-green, or to the convenient ports of Carlisle or Newcastle.

Under the act of 1862 (25 & 26 Vict. c. 113), the removal is not to be to England only, but is to the place where the Scotch judges or magistrates shall find the person, on *ex parte* evidence, to have been born and to have resided for three years.

This act, however, contains the following singular provision; that if the judges upon the *ex parte* evidence before them, "are unable to ascertain the place of birth or residence for three years, they may order the poor person to be removed to the port or union or parish

* *Introduction to Ancient Laws of Ireland*, volume I.

of England, which shall in the judgment of such judges, under *the circumstances of the case be most expedient.*"

As three years' residence does not confer a settlement in England, this removal may be to a place which will involve a further removal. Such further removal will almost necessarily occur if the person be sent to an "expedient port." It might be supposed from these harsh arrangements for enforcing chargeability, that there was no mode of recovering money between local poor law authorities of Scotland and England.

But in the same act of parliament, s. 6, if the agents of the Scotch Parochial Board should fail to deliver the poor person at the place of destination named in the warrant, the guardians who may have to forward the poor person to the place of destination may recover the cost of doing so.

A Scotchman in England is nearly as badly treated as an Englishman in Scotland. He gets one benefit, however—that a year's residence protects him from removal.

But he can be removed on a mere *ex parte* statement of his case; without any appeal on the part of the parish in Scotland to which he is to be sent, and without any power in the Parochial Board to stop the removal by offering to pay the cost of relief; and he may be sent to the port or place in Scotland which the English justices may, under the circumstances of the case, consider to be "most expedient."

Principles of Assimilation to be deduced from a consideration of the conflict between the English and Scotch Law of Poor Removals.

Now, whilst this statement of the conflict between the English and Scotch law is present to your mind, and before I enter on the conflict of law between Ireland and Scotland, and Ireland and England, it will be well to indicate the principles of assimilation and removal of hardships which can be deduced from what I have stated.

The first suggestion I would make then, is that instead of Englishmen in Scotland and Scotchmen in England *being deprived* of some of the best provisions of both poor laws, they should *get the benefit* of whatever is best in both laws.

This involves the following propositions:

First.—That the principle of the English poor law, that the cost of relief in the union of residence may be enforced from the union liable to pay, should be extended, and the cost recoverable not only pending sickness or appeal but, as in Scotland, as long as the relief continues.

Second.—That guardians in England should be enabled to recover such cost from a parochial board in Scotland just as from other guardians in England; and a parochial board in Scotland should enable to recover from guardians in England, as now from a parochial board in Scotland.

Third.—That, as no removal can take place in England or Scotland without an opportunity of appeal, no removal should be allowed between the kingdoms without such opportunity.

Fourth.—That the Scotch principle of parochial boards admitting their liabilities, being allowed to stop a removal while they pay, should be extended to England and to inter-kingdom removals.

Fifth.—That in accordance with the principle* of the Scotch law, the wishes of the poor person or of the head of the family to continue in the parish of residence, should be considered by the judge before ordering a removal, and if overruled, the judge should state his reasons for overruling.

The adoption of these suggestions would allow of several important simplifications in the law of chargeability, which I will notice in a future part of this paper.

Irish Law of Poor Removal and Chargeability.

I now come to the law of removal and chargeability in Ireland.

In respect of chargeability after marriage the Irish law is in advance of both the English and Scotch, as the chargeability of the wife is made to depend on her previous residence and not on that of her husband.

In respect of chargeability arising from birth, the Irish law, though in advance of the Scotch in substituting residence for place of birth in determining the charge, still contains an anomalous exception—children, if not relieved along with the head of the family, are charged according to their residence, but if relieved with the head, they are charged according to his previous residence and not according to their own.

The Irish law is very far behind both the Scotch and English law in having no inter-union chargeability as to persons becoming destitute in Ireland.

There is, however, a union chargeability in Ireland as to Irish poor becoming destitute in England and Scotland; and as incident to that there is a right of removal in Ireland of such poor persons, if the English and Scotch authorities have failed to forward them to their destinations.

As far as removals are concerned, the Irish law is in advance of both the English and Scotch law, as there is no power of compulsory removal from Ireland to England or Scotland, or between unions in Ireland, except in sending on persons first removed from England or Scotland.

The Irish poor law is not, however, without provisions for indirectly securing the same object as a right of removal. One of these is very clearly explained in Sir George Nichol's report. "Should," he says, "an undue accumulation of paupers press into any particular union, the guardians will have the remedy in their own hands, for as *no right of relief will be imparted*, they will have liberty to exercise their discretion in its administration."

In 1847 the right of relief was granted to the aged, infirm, temporarily disabled, and to widows with two children, but as Mr. Senior explained in his journals published in 1869, no right of relief was conferred on the able-bodied poor in Ireland. Thus the class most

* *Vide* note, p. 29.

likely to migrate from union to union are still left without a right of relief.

Against the decision of the guardians in any particular case, there is no appeal, though frequent refusal to relieve on the part of the guardians could be remedied by dismissal of the board and appointment of paid guardians. In this respect the Irish law is very inferior to the Scotch, where there is an appeal to the local judge in every case against a refusal to relieve.

The other protection which guardians have against poor persons becoming chargeable out of the union in which they reside, is the very stringent provision of the Irish Vagrant Act of 1847 (10 & 11 Vic. c. 84). Section 3 of this act renders a person liable to a month's imprisonment "for going from the union in which he has been resident to some other union, for the purpose of obtaining relief."

In November, 1868, the Poor Law Commissioners recommended the provisions of this act to be put in force in every case in which the facts seemed sufficient to obtain a conviction.

Some convictions under this act having been noticed as hard cases, the Commissioners, in a letter for the information of the Lord Lieutenant, explain "that if that provision of the Irish Vagrant Act appears to be a severe one, it must be borne in mind that there is no law of settlement and removal affecting redress, in those cases in which a destitute person of his own will removes from one union to another, thereby transferring the burden of his maintenance from the former to the latter."

This very stringent law, passed during the panic caused by the famine of 1847, is left to a single justice to enforce (sitting out of petty sessions). It thus appears that the attempt to do without a law of inter-union chargeability in Ireland, has been maintained by the denial of a right of relief to the able-bodied—and by a harsh vagrant law.

Again, the Irish law has the inconsistency of having a chargeability dependent upon residence in an electoral division, so far as all persons relieved in the same union are concerned, but none between union and union as to poor persons who have never been out of Ireland.

I do not propose to enter upon the question of the policy of continuing electoral division chargeability in Ireland, except to observe that it was abolished in England in 1865, and that large areas of chargeability are specially recommended by the Commissioners of 1834 as a means of checking the effects of small areas of charge, in interfering with the employment and residence of the poor.

Proper Period of Residence to create Chargeability.

There is another point which has received much less attention than it deserves—the period of residence to create chargeability.

Sir George Nichols, in his celebrated reports, before the Irish poor law was introduced, refers to a very remarkable precedent in the case of Denmark.

A poor law was introduced into Denmark in 1803 (no doubt under English influence, to secure the tranquility of Denmark). The period of residence then fixed, on which the right of chargeability depended, was a three years' residence. About thirty years afterwards Sir George Nichols reports that this "rule was productive of so much inconvenience, and to lead to so many forced ejectments, with a view of preventing the completion of the requisite term, that the period had then been extended to fourteen instead of three years."

In fixing the period of chargeability for Irish electoral divisions within the same union, there was no necessity to select a short period to check removals, as no removal was necessary to create the charge; and there was every reason, with a view of checking forced ejectments, to follow the Danish precedent by fixing a lengthened period of residence in a new district to relieve the old from chargeability.

From the imperfect solutions of the question of chargeability in the English act of 1834, when the Irish Poor Law was introduced in 1838, the subject of a law of settlement or chargeability was postponed, and the period of residence was from 1838 to 1843 undefined, and therefore the smallest change of residence might be held to create a change of charge. From 1843 to 1847, a residence of twelve months out of eighteen created a change of charge. In 1847 the residence for chargeability to an electoral division became thirty months, during three years preceding application. In 1849 the rule became, the electoral divisions in which the poor person had been longest resident during the three preceding years—such residence not being less than one year. In 1862 chargeability of persons who have resided five years, is to depend on the fact of residence for the greater part of five years—not being less than two years out of the five.

Persons who have not resided five years, are to be charged according to act of 1847, thirty months out of three years.

In the case of persons removed from England and Scotland, birth, through the removal to place of birth, indirectly creates a union chargeability but no electoral division chargeability. In the case of persons who have never been out of Ireland, or voluntarily return from England and Scotland, birth creates neither union nor electoral division chargeability.

In like manner a residence of three years, through removal to such place of residence, indirectly creates a union chargeability in Ireland of persons removed from England or Scotland, but has no such effect in the case of persons who have never been out of Ireland, or who have voluntarily returned.

We have thus a complete conflict of laws as to the period and effect of residence upon chargeability.

In Scotland the period is five years and creates a settlement. In England it is one year and creates no settlement. In Ireland it is in some cases two years out of five, and in others thirty months out of three years, and in some cases three years, but creates no settlement.

The conflict of law has some curious results. Thus, suppose a native of Galway who had resided for three years in Mullingar to fall destitute in Dublin before he has resided three years in Dublin, the

Dublin guardians cannot charge his relief or remove him to Galway or Mullingar, but if they subscribe enough of money to induce him to go over to Liverpool, and he becomes destitute in Liverpool, without having lived a year in one Union in Liverpool, the Liverpool guardians can send him to Mullingar.

From what I have said, it appears that although nearly a century and three-quarters have elapsed since the Scotch Union, and three-quarters of a century since the Irish Union, upon the most important subject of human legislation—the relations to the state of those receiving public relief, and of the large classes who are liable to the vicissitudes of requiring such assistance—there are three distinct poor laws, differing to an extent that would *a priori* be thought impossible under a common imperial legislature.

Hardship of the Law of Poor Removals as shown by a case stated by Irish Poor Law Commissioners.

The complicated and inconsistent state of the law I have described would be unsatisfactory upon any subject, but the hardship of the cases that occur under it are quite startling, and upon this point we have evidence of the highest authority. The law of poor removals is in the singular position of having been publicly condemned by successive reports of the Irish Poor Law Commissioners, in nearly every year since 1862—these reports being signed not only by the permanent Poor Law Commissioners, Mr. Power, Dr. McDonnell, and Mr. Bellow; but by the successive Chief Secretaries, Sir Robert Peel, Mr. Fortescue, and Lord Mayo; and by the Under-Secretaries, Sir Thomas Larcom and Mr. Burke, the Chief or Under-Secretaries being *ex officio* members of the board.

I select as illustrative the following case, out of 3,921 removals* from Great Britain in three years, ended 1869, from the Report of the Poor Law Commissioners of 1869:—

“The most remarkable, perhaps, of these cases of divorce by summary jurisdiction occurred very recently in the North of Dublin Union, where a young married woman in a class of life far removed above indigence, and about the age of seventeen years, is now awaiting her first confinement in the workhouse. We are in possession of her certificate of marriage, which took place by banns in London, and which beyond doubt was a valid marriage. The husband who had employment in a London telegraph office, appears to have withdrawn himself in a few months from his wife’s society, both continuing to reside with their respective families as they had done since the marriage. The wife, on the advice of a police magistrate and with the consent of her friends, threw herself under these circumstances on the Westminster Union, in the expectation that the guardians would prosecute her husband for desertion, and thus enforce an arrangement for her maintenance.

“The guardians, however, of Westminster Union were unwilling to undertake this business for her; and discovering that she was an

* Returns as to Poor Removals (Mr. Downing), *Par. Rep.*, 1871, No. 2.

Irish-born subject, a native of Dublin, deported her by an order of removal signed by the same magistrate to North Dublin Union, thus transferring to the board of the latter union the onus of prosecuting the husband.

"Thus a person in a respectable position of life became a pauper in England, in order to establish at the expense of the poor-rate the liability of her husband to support her, and was then removed to Ireland in order to transfer the charge of that proceeding from an English to an Irish union.

"The correspondence, which is likely to result in an appeal against the order of removal, will be found in the Appendix.

"Meantime these two young persons, married only a few months, have, under pretext of law, had the Irish Channel placed between them—a serious bar to any prospect of reconciliation, inasmuch as the wife's return to her former residence in England would be an offence against the law."

This case affords a painful illustration of the state of the English law of chargeability, in respect of foreigners and of persons of Irish birth, who are in this respect still treated as foreigners in England :—Catherine Stewart was born in Dublin ; her father died after she was six months old. After residing in Dublin till she was thirteen years old, her mother went to London, whither Catherine went six months afterwards ; her mother became a lunatic, and she went to reside with her brother ; she resided with him in Bedford-street, in St. Martin's Union in London, for upwards of three years ; whilst there she married a Prussian, who had been nineteen years and a-half in England, having been brought over when he was six months old. Her husband deserted her, and to force her husband to support her, she went into St Martin's Union. She was then advised to go to the union in which her husband had gone to reside, and she went to live with another brother. She resided at Warder-street in the Westminster Union, and thence applied for relief to the Westminster Board of Guardians. They got her sent to the North Dublin Union, away from her two brothers and from her husband.

The first point to be noticed in this case is that it shows, what I have already noticed, the futility of the alleged protection against removal, arising from the shortening the period of residence to one year under a recent statute.

This young woman, seventeen years of age, an infant in the eyes of the law, after residing three years in one London union, lost this protection because under bad advice she went into another union in London. The mistake in the advice turned upon the point whether her husband was a foreigner or not ; if he had been an Englishman, her marriage would have given her a right, by marriage, to his chargeability, and she could claim to be relieved in the Westminster Union if he was settled there, but as he was a foreigner her marriage did not confer a settlement in England : for though he had been nineteen and a-half years there he had no settlement. If he had lived five years in one parish in Scotland, he would have had a permanent chargeability, and she would have had one in Scotland by her marriage.

Another point to be noticed is that the justices are bound, in sending a poor person to Ireland, to send them, not to the place of their birth, but to the place where they last resided for three years.

But should it turn out on inquiry that the last place of residence for three years was a union in England, the justices cannot take that circumstance into account, but must send to the previous place of three years' residence in Ireland, or place of birth in Ireland.

The last point to be noticed is the severe character of the injury that may be inflicted by these removals, once they occur. In England no removal can take place to any part of England, until the board of guardians of the place to which the poor person is to be removed have notice, and an opportunity of appealing before the removal takes place.

In Scotland no removal can take place to any part of Scotland if the guardians undertake to pay for the relief given. But in removing from England or Scotland to Ireland the removal takes place before any opportunity is given for appeal, on the decision of one police magistrate, or of two justices on an *ex parte* case, and if the poor persons should go back to the place they have been removed from, and become destitute, and seek relief in Scotland within five years after their return, they are liable to imprisonment with hard labour for two months. If they return to England, unless with a certificate acknowledging settlement—what no Irish poor person can have—as there is no union chargeability in Ireland—they are liable to imprisonment with hard labour for one month, although they have no appeal against an order of removal.

A sadder case cannot be conceived than that of this young girl, who lost her father at six months' old, whose mother is in a lunatic asylum, and husband has deserted her, and who before her child is born is moved about from one union to another and one kingdom to another, to determine questions of chargeability.

Conflict of Law as to Appeals in case of Poor Removals.

The unsatisfactory state of the law on this subject is noticed by the Irish Poor Law Commissioners in connexion with a hard case which occurred in the removal of a lunatic from Scotland to Ireland. They say :—

“Although we have been encouraged by the highest legal authorities in Ireland to contend that the removal of a lunatic from a Scotch asylum to an Irish workhouse is not justified in law, it is impossible for us to try the question before any legal tribunal, as there is no redress by way of appeal against a Scotch warrant of removal.”

We thus have in the right of appeal another conflict of laws. A person cannot be removed from one place in England to another, or from one place in Scotland to another, without an appeal before removal. If a person is removed from England to Scotland, or from Scotland to either England or Ireland, there is no appeal either before or after removal. If a person is removed from England to

Ireland there is an appeal after removal only, but only by the board of guardians, and with leave of the Poor Law Commissioners.

Failure of the Scotch Law of five years' residence for Chargeability to protect against Removals.

The Irish Poor Law Commissioners refer to another case which, though the removal appears legal, illustrates the failure of the Scotch law of a fixed residence for five years as a protection against removal. Peter McGinty left Stranorlar in the 'Co. Donegal fifty-five years ago, and went to Glasgow where he remained for twenty years. In 1854 he left Glasgow and went to the village of Pollockshaws, and married there some twelve years ago ; and with the exception of having been away during three winters at Dunse, he appears to have resided continually at Pollockshaws to the year 1865. In 1865 he gave up his house at Pollockshaws, and was absent from the parish for two years and a half. He returned to Pollockshaws in March, 1868. From November, 1868, till January, 1869, he worked in Glasgow, returning to Pollockshaws every night. He got his eye injured, became unable to work, and sought relief. He was separated from his wife, and sent back to Ireland. The sheriff decided that he had no settlement in Scotland, he having, no doubt, in twenty years moved about in various parishes in Glasgow ; so though he resided in the city twenty years, he had not resided in any parish five years.

This case illustrates the failure of protection against removal of the Scotch law of five years' residence in one parish, and it indicates the hardship of the law of chargeability by birth. How much more just it would be to take a long period of residence, such as fourteen years, after the Danish analogy, and the analogy of the natural period of emancipation of children, and to abolish chargeability by birth after fourteen years residence elsewhere, and make the chargeability be apportionable amongst the unions a person had resided in the preceding fourteen years.

Imperfect solutions of the question hitherto proposed.

The length of time this poor removal question has been before the public is very remarkable, and on this subject I may refer to a passage in the report of the Irish Poor Law Commissioners, 1869 :

"We beg on this subject to refer to our Annual Reports of 1862, 1863, 1864, 1865, 1866, and 1867, and the Appendices respectively, for details connected with the operation of the removal laws."

The very strong view the Irish Poor Law Commissioners have formed and expressed on the subject, is shown by the following passages from their report for 1869 :

"The disposition to do justice to Ireland has not yet extended itself to the repeal of the law of removal of Irish-born persons becoming destitute and needing relief in England or in Scotland. The deportation of these poor persons across channel is carried on as formerly, and is still attended in many cases by circumstances of great hardship, and in all cases by patent injustice as between Great Britain and Ireland.

"The primary element of national wrong in this removal law is the fact that Irish persons relieved in Great Britain are removable to their place of birth or last place of residence in Ireland, whereas Englishmen and Scotchmen becoming chargeable in Ireland are not removable from thence to England or Scotland. Parliament, unwilling to abandon the system of deporting Irishmen to Ireland, was appealed to in the session of 1863 to enact a perfect reciprocity in this respect as between the two islands; and a bill to effect that object was introduced into the House of Commons by the late Right Honorable Henry Herbert, M.P. for Kerry, which had the support of the Government. A majority of the House refused, however, to grant the complete reciprocity demanded, and the measure was thereupon withdrawn. We trust that the time is near at hand for a still more effectual measure of justice, by abolishing altogether the laws of removal from one side of the channel to the other."

The delay in settling this very important question appears to me to have arisen partly from the complexity of the subject, but to a large extent from inadequate proposals that have been made. Mr. Herbert's measure, in 1863, dealt with only one branch of the question. It proposed to enable Irish guardians to remove poor persons becoming destitute, born in England or Scotland, from any union in Ireland in which they had not resided three years. It thus dealt with the question on principles of assimilation of the Irish and English law, but objection was taken to the measure not carrying out the principles, as no assimilation of the law of chargeability in Ireland was proposed.

The proposal now commonly advocated—simply to stop removals from England and Scotland to Ireland—would leave the entire law of chargeability unsettled. It would not touch the want of a right of relief to the able-bodied in Ireland, or the Irish vagrant laws which are really parts of the Irish laws of removal and chargeability.

Summary of suggestions of a plan of assimilating the Law of Poor Removals and Chargeability in England, Scotland, and Ireland.

The following is a summary of my suggestions of a plan of assimilating of the Law of Poor Removals and Chargeability in England, Scotland, and Ireland, and terminating the hardships caused by removals:—

1. That the principle partly recognized by the English poor law (in cases of sickness and pending appeal), and completely recognized in Scotland, of separating the claim of chargeability from actual removal, should be extended to the United Kingdom.
2. That the claim of the local poor law authorities, in cases of relief to persons who had not resided a prescribed time in the district of chargeability, to contributions from other districts, should be as valid in case of non-removal as in case of removal, and as valid in one part of the United Kingdom as in another.
3. That the Irish principle of local authorities having no power of compulsory removal, should be extended to the United Kingdom; but that this should not effect any claim to contribution from other

districts of chargeability, in case persons relieved had not resided the prescribed time to create a charge of the whole cost of relief in the district of residence.

4. That the stoppage of compulsory removal should not prevent removal by agreement between the district of residence at time of relief, and any district liable to contribution, in case the objections, if any, of the person or head of family to removal, on being heard by a local judge, were decided not to be reasonable.

5. That no separation of a family should be caused by a removal without the consent of both parents and of a local judge as guardian of the children.

6. That all questions of chargeability between unions, arising from the migration of persons who ultimately became subjects of relief, should be regulated by a committee of delegates from the guardians of the unions affected, to be called the "Migratory Poor Charges Clearing House," and managed like the Railway Clearing House (with sub-clearing houses, if found necessary, for different parts of the United Kingdom).

7. That the law of chargeability as to districts should be in districts sufficiently large to prevent employers of labour or owners of houses being too strongly influenced in their treatment of the labouring classes or the poor by the fear of excessive charges.

8. As to chargeability by marriage :—

That to prevent employers of labour putting restrictions on marriage, or preferring unmarried labourers, the Irish principle of chargeability of the wife depending on her residence, should be adopted, and all total change of chargeability by marriage should be abolished.

9. As to chargeability by birth :—

(a.) That to prevent owners of land suitable for labourers' residences being too strongly influenced to interfere with the family life of the labouring classes, the mere fact of birth in a district should not form a permanent and lasting charge there to be reverted to in case of difficulty of establishing chargeability by residence.

(b.) That birth, not followed by residence, should constitute no chargeability, and that at the end of fourteen years (or age of puberty) all chargeability on account of birth should entirely cease.

(c.) In case of any person under fourteen years requiring relief, the relief charged to the district should be only so many fourteenth parts of the relief as the child was years old, and in the case of foundlings, no part should be charged to one district.

(d.) That the portion of relief in the case of children under fourteen years of age not charged to the district, should in each part of the United Kingdom be charged to a common fund spread over all the unions.

(e.) That to this common fund, contribution might, as in the case of industrial school children, be advantageously made from the general taxes.

10. As to the chargeability of foreigners :—That the case of foreigners should be dealt with in the same way as chargeability by birth, and foreigners cast by shipwreck on the shore should not be chargeable to the district, but to the community at large ; and until a foreigner had resided for fourteen years, so as to become as it were naturalized, so many fourteenth parts of his charge as he was years in the country, should be charged to the districts of residence, and the rest of the charge to the common fund of the part of the kingdom in which he became destitute ; and this class of expense is one to which contributions from the general taxes could be most advantageously applied.

11. That chargeability should depend on time of residence (exclusive of period of relief), and should be determined on the following principles :—

(a.) To prevent a motive for the expulsion of old people and people likely to become ultimately helpless, the chargeability should not entirely cease for a lengthened period after change of residence.

(b.) That to prevent the fear of people acquiring a claim, operating against the employment of immigrants and the building of houses for their accommodation, the period of residence that should involve the total cost of relief should be a lengthened period.

(c.) That the period of fourteen years, which is the natural period of ultimate change of charge in the case of children, and which was adopted in Denmark to check evictions, would be a good period to take, as a substitute for the existing rules of chargeability by birth, or purchase of an estate or renting tenements, or by the various periods of residences already mentioned.

(d.) But the change of charge, instead of being total at the end of fourteen years, should change one fourteenth part each year, in case of change of residence from one district to another for ten months in any year.

(e.) No cost of relief for less than one fortnight should be apportionable, and one day's cost of relief in such fortnight should be chargeable to each district in which ten months out of each year, in the fourteen years preceding relief, had been passed.

(f.) For any years in which no residence of ten months was completed, cost of relief should be charged to a common fund of the unions covered by the area of migration.

12. As to labourers with regular periods of migration within a year, like harvest labourers : that the whole cost of relief in this case should not be thrown on the district of residence, but that an apportionment of cost should take place, to be settled by the Migratory Poor Charges Clearing House.

13. That the English law, placing all the poor on an equality as to right of relief, be extended to Scotland and Ireland.

14. That the Scotch law giving a poor person an appeal to a local judge against the decision of the guardians, as to destitution, be extended to England and Ireland.

15. That the English law of chargeability dependent on the purchase of an estate, or the purchase or renting of a tenement, or paying rates, or serving an office, be abolished.

16. To provide for a gradual change from the old to the new law of chargeability, that all persons in receipt of relief during any part of the year before the act making the change was introduced, should be deemed to have resided for fourteen years before the end of such year, in the district to which the last relief given in such year was legally chargeable.

17. That all other details in which the poor laws of the three countries differ in any way, that affect questions of chargeability, be referred to the proposed Migratory Poor Clearing House for consideration and report.

Other questions connected with Chargeability.

There are two important questions intimately connected with the law of chargeability which I have not entered on on the present occasion.

First.—A consideration of the principles on which the existing contributions from the general taxes are given to certain classes of poor law expenses, industrial schools, and convicted prisoners, and whether these could not be advantageously modified in the direction suggested, of providing for part of the cost of relief of foreigners and young children.

Second.—A consideration of the diversity in the district of chargeability, and class of taxpayers charged according to the institution a person is placed in. Thus in Ireland there is a different incidence of charge in the case of a neglected child according as it is sent to an industrial school or a reformatory, in the case of a criminal, according as the committal is for trial or to carry out a punishment, and as to an idiot or lunatic, according as the person suffering from the calamity is sent to a workhouse or a lunatic asylum.

I mention these questions now as they afford a further illustration of the importance of the question of chargeability, on the prior solution of which their successful solution really depends.

Conclusion.

Such are the suggestions I venture to submit on this important and I think pressing question.

The great benefits that the Irish Land Act has conferred on the labouring classes that have agricultural holdings, however small, makes any hardships which migratory labourers have to bear appear more irksome.

The position of the labourer depends, first, upon his own conduct—moral, intellectual, and social; secondly, upon the intelligence and good-feeling of his employer; but it depends, thirdly, upon the laws which touch upon the labourer's case, and of such laws it is impossible to doubt that the Poor Law that provides for the vicissitudes of his lot is a most important branch.

Of the three causes of the labourer's position, we are responsible for the first so far as we are intellectual labourers, and so far as we

set a good or bad example ; for the second, to the extent we are employers of labour ; but for the third cause, those who have the natural or acquired capacity of understanding human laws, their effects, and the means of modifying them, are most responsible ; and under the free constitution under which we have the good fortune to live, the short experience of this Society in the past quarter of a century, is sufficient to show that to carry any wise reform in our laws it requires but accurate knowledge, able suggestions, zealous advocacy, and steady perseverance.

We should bear in mind, too, that the class most affected by these poor removals are that class of migratory labourers so useful for great economic results, if rightly guided, to secure a more perfect distribution and division of labour—so dangerous if artificially congregated by hasty pressure or temporary demand. A class, too, whose migratory character develops their intelligence, and makes them become keen critics of diversities and anomalies in the laws that affect themselves.

A strong feeling of the hardships that fall on the migrating labourers in these kingdoms, has actuated me in venturing to offer a solution of this complicated and difficult question. I feel that the prestige of our legislation would be strengthened, if we were able to have laws like those relating to poor removals that affect the labouring classes in the whole three kingdoms assimilated and reduced to an enlightened and beneficent code—by collecting what is best out of each of our laws in England, Scotland, and Ireland. I feel, too, that a large cause of discontent would be removed if we were able to say to the migratory labourers of these kingdoms, “no matter what is your race or place of birth—no matter where you labour—your relations to the state in any calamity that overtakes you will be the same at Belfast, at Glasgow, and at Liverpool ; in Dublin, in Edinburgh, and in London.”

V.—Proceedings of the Statistical and Social Inquiry Society of Ireland.

TWENTY-FOURTH SESSION.—THIRD MEETING.

[Tuesday, 17th January, 1871.]

THE Society met at 35, Molesworth-street, Right Hon. Mr. Justice Lawson, President, in the chair.

Dr. Hancock read a paper entitled “A Plan of applying the latest improvements sanctioned by Parliament in the Management of the Public Debt and of Town Finance to the Debts and Borrowing Powers of the Town Council of Dublin.”

The following gentlemen were declared duly elected Members of the Society :—Messrs. Andrew Armstrong, Charles Coates, John Eustace, William Kenny, and Hon. Judge Little.