The Scottish poor laws : their history, policy and operation / by Robert Peel Lamond.

Contributors

Lamond, Robert Peel.
London School of Hygiene and Tropical Medicine

Publication/Creation

Glasgow : William Hodge, 1892.

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THE

SCOTTISH POOR LAWS.

THE

SCOTTISH POOR LAWS:

THEIR

HISTORY, POLICY AND OPERATION.

BY

ROBERT PEEL LAMOND,

MEMBER OF THE FACULTY OF PROCURATORS IN GLASGOW.

NEW EDITION, REVISED AND ENLARGED.

WITH APPENDICES.

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To

A LABORIOUS AND MERITORIOUS CLASS OF PUBLIC SERVANTS,

THE INSPECTORS OF THE POOR IN SCOTLAND,

THIS WORK IS DEDICATED.

PREFACE.

THE first edition of this book was published anonymously in 1870, at a time when widespread dissatisfaction with what seemed to be the results of the Poor Law Amendment Act of 1845 threatened to bring about new legislation of a hasty and probably mischievous kind.

For some years previously, both in England and in Scotland, pauperism and the expenditure on its relief had shown rapid and steady growth. This gave rise in Scotland to an agitation, the foremost movers in which were the late Dr. Alexander Wood, the late Rev. Dr. Begg and other able and benevolent men, who founded in Edinburgh the "Association for Improving the Condition of the Poor." They also established the Chalmers Lectures on Poor Law and Pauperism, named in honour of Dr. Chalmers, whose opinions and policy on Poor Law matters the promoters had adopted; and they were instrumental in procuring the appointment in 1869 of a Select Committee of the House of Commons to inquire into the Scottish Poor Laws, and "to report whether any, and what, amendments should be made therein."

The Select Committee had not concluded their inquiry when my contribution to the subject appeared. They sent for copies, and saw fit in their report to recommend some of the changes suggested in my work. Still more recently other proposals made in the first edition have been passed into law.

The book has now been revised, in great part re-written, and considerably enlarged. The various statutes bearing

on the relief of the poor and the matters dealt with in the report of the Select Committee are necessarily the bases of the whole discussion. Statistical information has been brought down to date, and certain subjects of especial importance at the present day, such as pauper lunacy, the laws of settlement and removal, the pauper's right of appeal, relief to the able-bodied unemployed, &c., have received fuller treatment.

My chief aim throughout has been to put in a clear and connected form before the officials engaged in the administration of the Poor Law in Scotland the history and practical aspects of the law, in the working out of which they have so heavy a responsibility laid upon them. I venture to hope that in its present shape the book may prove useful to this end.

As closely akin to the main discussion, the question of State-aided pensions for old age, which is attracting so much attention on the part of politicians as well as of the public, seems entitled to the somewhat minute examination bestowed upon it in Chapter XIV.

I am indebted to Mr. Motion, the acting inspector of the Barony Parish, Glasgow, for his courtesy in placing much official information at my disposal; and to my son, Mr. Robert Lamond, M.A., for checking the statistical tables and verifying the authorities. My special thanks are due to Professor Herkless of St. Mungo's College, Glasgow, for undertaking, in the midst of other work which put a severe tax upon his time, the labour of revising the proof sheets, and for many valuable suggestions.

Glasgow, 15*th July*, 1892.

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THE SCOTTISH POOR LAWS.

CHAPTER I.

Introductory.

It was one of the sublime sayings of the great moral teacher whose precepts and example have transformed men's conduct and revolutionised society throughout the civilized world, "For ye have the poor always with you."[1] Eighteen centuries later a profound philosophical and political thinker, who illumined everything that he touched, Edmund Burke, wrote—

> "To provide for us in our necessities is not in the power of Government. It would be a vain presumption in statesmen to think they can do it."

The truth of the first quoted statement has been proved by the experience of the ages that have passed since it was uttered. It is proposed in the following pages to prove that Burke's statement is not true; and that the experience of Scotland, limited as it has been, not only establishes this, but also disproves the assertion so frequently made that a secure legal provision for the poor—that is, "the power of Government" applied to the relief of the poor—tends to demoralise and pauperise society.

To an intelligent understanding of the question of pauperism in modern times, and why there should be found in existence a complex legal machinery forming a distinct department of civil government, maintained at a heavy charge, it is necessary to take a brief review of the gradual development of society and of ethical and political progress.

[1] Matt. xxvi. 11; John xii. 8.

It is plain that in certain conditions of society there is no necessity for poor laws. Among savage tribes, living in a state of barbarism and constant warfare, the chief concern is, by cunning, skill, and strength, to be able to secure food, and thereafter to defend the supplies and the kraals, huts, and other homes. For these purposes the sick, weak, maimed, and aged are useless; hence they are either allowed to perish, or are killed outright as being encumbrances and of no value to the community. Such societies live in a continual state of warfare both with nature and their enemies, the latter of whom, when overcome, are either killed outright or reduced to slavery by their conquerors. Among such people there is a perpetual struggle for existence, and the weakest not only go, but are of set purpose driven, to the wall. In such a condition of *bellum omnium in omnes*, there is no room for any common system for the relief of the sick, aged, and impotent, because none such are left.

Again, during the ancient civilizations of Egypt, Greece, and Rome, there was little occasion for a legal provision for the poor, for not only had those countries a magnificent climate and a productive soil, but they were not oppressed with an excessive population. Further, the constant wars, both internecine and foreign, in which Greece and Rome were engaged, and the calamities arising from frequent and severe pestilences to which they were subject, operated as natural checks on population, and thus enabled the meanest in the community to obtain some share in the common stock.[1] But the civilizations of Egypt, Greece, and Rome, although highly organised, were founded on pagan and (as compared with Christian) immoral bases. The conquerors recognised the uses to which their captives might be put; and, instead of killing them, as savages did, they reduced them to slavery in one or other of its many forms. Probably by far the most operative cause tending to the avoidance of a poor law in those societies was the institution

[1] In Greece infanticide and exposition were practised to some extent, but not apparently with a view to check multiplication.

of domestic slavery. The poor were, for the most part, the slaves of the rich and the middle classes. It was the age when men were, both in fact and in law, regarded as chattels, and sold and exchanged as such. Hence it was to the interest of their owners to have and maintain their slaves in the best possible condition. Just because, in Greece and Rome, the slaves were property, there is no record of their having been allowed to starve or of laws designed specially for their maintenance.

On the contrary, in Rome at least, the lot of the slaves was in many respects more tolerable than that of the poor amongst the free men; and in the times of Hadrian and the Antonines many laws were passed for their special protection, and the punishment of those who ill-used them. They frequently rose to high office in the households of their masters, as stewards, physicians, and artists; and in the classical writers are found many instances of tenderness shown to their slaves by their mistresses, and of touching affection towards them and their offspring. But in these pagan civilizations the morality which is represented by pity, benevolence, and private charity was almost unknown. During the Republic the dominance of the military spirit, with its stern simplicity and discipline, tended to the suppression of the more amiable virtues, and the development of the sterner and heroic ones. At the same time, the gladiatorial shows which were a prominent feature of Italian society for centuries inured the populace to exhibitions of cruelty, the sight of blood, and contempt of death. Courage was regarded as the noblest virtue.

It was not until the expansion of the Empire and facilities for travel had made possible a freer communication with the colonies and distant dependencies that the Italian people insensibly fell under the influence of the softer manners as well as the vices of Greece and Egypt. Towards this change the habits of the foreign slaves themselves contributed. The teaching also of the philosophers of the later Stoic period was not without its influence. Those moralists became imbued with the softer Grecian cult. They taught

humanity, the more amiable virtues, and universal brotherhood. A prominent disciple of the later Stoics, the master of the then civilized world—the Emperor Marcus Aurelius—was as much given to self-examination and moral reflections as Samuel Johnson fifteen centuries later. In study and in camps, like the modern moralist, he wrote "Prayers and Meditations." He was, unconsciously to himself, almost a Christian; and it is amazing that one so thoughtful, intelligent, and observant failed so utterly to notice the slow decadence of all religious beliefs that had been steadily proceeding, and to appreciate the marvellous changes which the philosophy and doctrines of Christianity were slowly, but surely, effecting in the society of which he was the head. Amid the uncertainty of men's minds, and the want of real sincerity and fixed belief, the new religion had free scope. It became attractive, as combining within itself the later Stoical doctrine of universal brotherhood, the sentiments expressed by compassion, love, and charity, and the reverential awe and religious mysticism of the Egyptians.

As Christianity spread ethics advanced. New systems of thought and motives to individual conduct supervened and gradually supplanted the motives and conduct of paganism. The practice of the more feminine virtues usurped the place hitherto occupied by the worship of force as the ideal of human excellence. These silent changes were promoted by two leading considerations, which acted and reacted on each other—the one the higher value set upon human life, the other the recognition that slavery was morally wrong and indefensible. Both doctrines were steadily taught and enjoined by the priests and teachers of the early Church; and as they came to prevail, not only did fighting become distasteful to the legionaries, and the passion for brutal exhibitions decline, but slavery as a powerful domestic institution and source of wealth came to an end. In short, Christianity was a great dissolving force. But the liberation of a vast servile class, no longer maintained in comfort and luxury, for whom there was no sufficient industrial employment, and who were ill qualified to combat

the hardy hordes who followed the victorious steps of Attila and Genseric, rapidly produced throughout the Empire a degraded and pauperised population, whose wants and demands the frequent donatives and largesses of corn made by ambitious soldiers and selfish and terrified emperors failed to satisfy. The demoralised and necessitous properly became the peculiar care of the Church, now rapidly becoming organised and influential; and it cannot with truth be said that, for several hundreds of years, and so long as the Church itself remained strong, rich, and pure, did it neglect its duty to the poor. The early Christians had inculcated the doctrine of private charity, and, more or less, a common division of goods. As flowing from the conception of the sanctity of human life, there followed feelings of horror and compassion at the sights of starvation, impotence, and distress. There followed also the recognition of a claim on the part of a necessitous and starving individual to be succoured by one less necessitous and having to spare. From this conception it is a logical conclusion, and a short cut to the higher one, of the recognition of a similar claim on the part of groups of necessitous and starving men to share in the surplus of more fortunate groups and of a natural right to obtain it. Hence the Church, during the decline of the Roman Empire, and down to about the period of the Reformation in Europe, being a strong, wealthy, and well organised society, both recognised its duty to the poor, and was able to discharge it. Mr. Lecky[1] says—

"One of the chief causes of the inordinate power acquired by the clergy was their mediatorial office, and their gigantic wealth was in a great degree due to the legacies of those who regarded them as the trustees of the poor. As time rolled on charity assumed many forms, and every monastery became a centre from which it radiated. By the monks the nobles were overawed, the poor protected, the sick tended, travellers sheltered, prisoners ransomed, the remotest spheres of suffering explored. During the darkest period of the middle ages monks founded a refuge for pilgrims amid the horrors of the Alpine snows. . . . . Surely no achievements of the Christian Church are more truly great than those which it has effected in the sphere of charity. For the first

[1] *History of European Morals*, vol. ii., p. 84.

time in the history of mankind it has inspired many thousands of men and women, at the sacrifice of all worldly interests, and often under circumstances of extreme discomfort or danger, to devote their entire lives to the single object of assuaging the sufferings of humanity. It has covered the globe with countless institutions of mercy, absolutely unknown to the whole pagan world. It has indissolubly united in the minds of men the idea of supreme goodness with that of active and constant benevolence. It has placed in every parish a religious minister, who, whatever may be his other functions, has at least been officially charged with the superintendence of an organisation of charity, and who finds in this office one of the most important as well as one of the most legitimate sources of his power."

In truth, in Catholic States and in the Catholic Church charity was adopted as a policy, and the disabled and worn-out toilers of humanity were regarded as the fitting pensionaries of society. But operating contemporaneously with the Church, though determined by different motives, was the social institution of feudalism. The great territorial lords and feudal barons had, like the pagan slave-owners, a direct interest to maintain their serfs, retainers, and other dependants in fit condition to help them in their wars and to defend their acquisitions. And when the sick, impotent, and aged were fed and sheltered in the abbeys, monasteries, and other religious houses, the sturdy and more valiant did not fail of a meal and protection within the walls of the baron's castle. But a time came, before the dawn of the Reformation, when the Church throughout Europe waxed gross; when excessive wealth, not seldom acquired by impostures and frauds, led to impurity, selfishness, and corruption. What more natural result, then, than that she should break with tradition and forget the pattern attributed to the mother of King Lemuel—"She stretcheth out her hand to the poor; yea, she reacheth forth her hand to the needy"?[1] But in this neglect of the care of the poor the Church did not stand alone. In England the decay of the feudal system was proceeding side by side with the decay of the Church. The relationship between the tillers of the soil and its owners was altering. The intro-

[1] Proverbs xxxi. 20.

duction of money and the remuneration of labourers by coin instead of in kind led to the growth of free labourers, who, becoming dissatisfied with their condition, detached themselves from dependence on the land. The social change ended in the revolt of the peasantry. The manorial system broke down. The evils thence accruing were intensified by the ravages and long-continuing consequences of the "Black Death" and its oft-recurring and equally fatal successors, the bubo plague and "sweating sickness." These epidemics decimated the population alike in town and country, and caused a great scarcity of independent labourers. Land was left uncultivated, cattle untended, harvests ungathered, and industrial enterprise was arrested. Strife arose between Capital and Labour, economic laws asserted themselves, the struggle for existence became as intense as among savages in a state of warfare, and excesses and lawlessness prevailed. Amid such social confusion and the neglect of the poor by the two orders alike, riots and disorders arose. Mendicants multiplied and swarmed in every hundred and county, who did not always limit their activity to begging. These disorders led, so early as the reign of Edward III., to the famous Statute of Labourers[1] which prohibited giving alms to "valiant beggars." That remedy proving inadequate, and charity being still given indiscriminately, was followed by the 12th of Richard II., which established the system of "licenses" to beg to the impotent poor, and provided for the severe punishment of those unlicensed, and the sturdy beggars. These appear to be the earliest enactments in this country which distinguish between the really necessitous poor and the sturdy non-necessitous, now termed the able-bodied. The power of the Church for good being broken up at the Reformation, and the growth of a large pauper class proceeding apace, various intermediate Acts, both in England and Scotland, were passed to abate those mischiefs, sanctioning the right to beg on the part of the impotent poor, and providing more repressive measures for the other class.

[1] 23 Edw. III., cap. vii.

But all such licensing and repressive enactments were more properly police regulations, and it was not till the reign of Elizabeth that the last and highest development took place. In that reign, amid the pressure of the pauperism caused by the cessation of feudal strifes and continental wars, by land going out of cultivation,[1] by increasing population, by the growth of enclosures, and by the rise of a separate labouring and trading class, the truth came to be recognised that men can live only by labour, or begging, or stealing. But employment frequently failed and supplies of food fell short; stealing is immoral and is prohibited; begging is demoralizing and socially inconvenient; and private charity proved, then as now, capricious, unsystematic, and ineffective. Hence systematic relief became, as it always becomes, a necessity in organized and civilized communities. The highest stage in the evolution is reached when the corporate society, or the State, is found undertaking, as its corporate duty—no doubt from mixed motives of charity and self-interest—the burden of providing for the necessitous, and assuming those responsibilities towards them which groups had undertaken towards other more needy groups of individuals, and so rearing into positive law that which previously had only a moral sanction. The concrete result is the compulsory assessment. These positive enactments are, in England, the two celebrated statutes, the 14th and the 43rd of Elizabeth, and in Scotland the equally celebrated one, modelled on them, of James VI. (1579, cap. 74), to be more particularly afterwards noticed. These are to this day the basis of the Poor Laws of England and Scotland. They, together with various amendments and modifications suggested by experience which have been since enacted, are the evidences of what Burke calls "the power of Government to provide for us in our necessities," and it now remains for examination whether it has been "a vain presumption in statesmen to think they can do it."

[1] This happened largely in the time of Henry VIII. and Elizabeth, sheep grazing being substituted for it for the sake of the wool to encourage home manufactures.

CHAPTER II.

SECTION 1.

Recital of Parliamentary Inquiries—The charges against the Scottish Poor Laws stated—Assessment and paid agency blamed for evils of a growing pauperism—The ancient Scottish Statutes for relief of the Poor examined—Their policy stated—The classes entitled to relief defined—Analogy between the policy of the Scottish Law and that which obtained among the Jews, and at the institution of the Christian Church, shown—The right of the impotent poor to relief from the public based not upon pure charity, but charity conditional on recompense—It subsisted at Common Law anterior to any Statutes regulating it—The doctrine of recompense as stated by Lord Stair and other jurists—Was recognised in the earlier Statutes—The principle of the law as expounded by the Court of Session—Is erroneous and opposed to continental theory and recent English legislation—The abandonment of the voluntary system of relief and the commencement and progress of compulsory assessment traced—Assessment not absolutely compulsory, but only permissive—Was resorted to, in preference to voluntary system, by the people freely and deliberately—Causes which necessitated its adoption—Dissent from the National Church, and the decay of feudalism as a political institution—Absenteeism—Effects of these upon the country—Rise and progress of a pauper-producing population—Social changes account for the growth of pauperism and the cost of its control—Assessment itself an effect and not a cause of pauperism.

BUT it is proposed to confine the inquiry to Scotland; to endeavour to show that the efforts of statesmen in enacting a secure legal provision for the poor have been justified by their success; and, while vindicating the principle of the present Poor Laws, to point out certain defects in these laws, to indicate certain errors which still prevail in their administration, and to suggest what are deemed appropriate remedies. Such criticism is especially called for at a time when social questions are more and more claiming public attention, and when gigantic schemes are set on foot by responsible and irresponsible persons which assume the shape, on the one hand, of rescuing the so-called "submerged tenth," and so presumably avoiding all pauperism, and on the other, of providing state pensions for old age, and so

presumably preventing a lapse into that condition at the decline of life.

The Royal Commission which reported upon the Poor Laws of Scotland in 1844 resulted in the passing, in 1845, of the Act 8 and 9 Vict. cap. 83, known as the "Poor-Law Amendment (Scotland) Act, 1845," which has since been the ruling statute regulating the administration of the Poor Laws in Scotland. After this Act had been in operation nearly a quarter of a century the Poor Laws were subjected to another inquiry, and were virtually placed upon their trial.

On 2nd March, 1869, the House of Commons was induced, on the motion of the late Mr. E. H. J. Craufurd, member for the Ayr District of Burghs, to order "that a Select Committee be appointed to inquire into the operation of the Poor Law in Scotland, and whether any, and what, amendments should be made therein."

The appointment of that Committee was a subject both of regret and gratulation. It was, and remains, matter of regret, because the inexpediency of a partial inquiry into the operation of the Poor Law in only one part of the kingdom can scarcely be denied. It has always been the misfortune of the Poor Laws of the kingdom that they have been examined into in a fragmentary manner at separate times, in obedience to the whims of individuals, which the unmethodical action of Parliament too readily gratifies.

There have been many such limited inquiries during the present century. Among the more important of these may be mentioned the following:—There was, first, a Select Committee of the House of Commons on the Poor Laws, whose report was ordered by the House to be printed on 4th July, 1817. Next, a Select Committee inquired into the state of the poor in Ireland, the report of which was ordered to be printed, 9th July, 1830. Then there was a Royal Commission for inquiry "into the administration and practical operation of the laws for the relief of the poor in England and Wales," whose report, dated 2nd February, 1834, and published by

authority the same year, fills a volume of 490 pages. There was next a Royal Commission to inquire into the Scottish Poor Law, which reported in 1844; and lastly, there was Mr. Craufurd's Select Committee of the House of Commons, which took evidence during two sessions from a numerous and varied class of witnesses, and whose final report is dated 3rd July, 1871.

These different inquiries well illustrate the faulty and clumsy manner in which the British Parliament executes business. The result has been that, whereas there is one law which, above all others, should be uniform throughout the entire kingdom, and that law one in which uniformity of operation could most easily be attained, because the state of society and customs in the several parts of the kingdom are fundamentally the same, yet there is none which is more essentially different in its leading features in the three countries than the Poor Law. This is certainly matter for regret, and it is to be hoped that, before any fresh and practical legislation is attempted for Scotland, an earnest endeavour will be made by Parliament to discover whether it is not now both practicable and advisable to consider comprehensively the Poor Laws of the whole kingdom, with a view to the introduction of a measure for assimilating the law in the three countries, selecting from the systems of each those parts which experience has proved to be beneficial in operation. Indeed, considering the vital importance of this question of the Poor Laws, and the fact, now certain, that pauperism is a permanent institution with us, it would be no extravagant thing for Parliament to insist upon an examination by a Commission, or other competent means of inquiry, into the state of the laws for the relief of the poor, and the different methods of administration in every civilized State before sanctioning further piecemeal legislation for any part of the United Kingdom.[1]

[1] When this was written the valuable reports obtained by the Local Government Board from our diplomatic Agents and Consuls abroad had not been obtained. These were got in 1875, and, with the preface by Mr. Doyle and Special Reports by Mr. Sendall, and Mr. Henley as to Holland and the United States, contain much useful information.

The report of the Committee appointed in 1869 forms two bulky blue-books, which were laid before Parliament at the close of the session of 1871.[1] They contain a mass of evidence from various persons who have been, and some of whom still are, engaged in the administration of the Poor Laws in Scotland, besides much valuable information in the shape of statistical tables.

So far as this information and the relative statistics and evidence prove the impolicy of a separate Poor Law system for each division of the kingdom, the appointment of the Committee is a subject for congratulation.

The first impression conveyed to the mind by a consideration of the evidence recorded in this massive blue-book is, that the promoters of the inquiry had no definite notion of what they wanted to inquire into—no definite subjects of complaint to investigate; they expose no glaring defects in the law; they trace and account for no evils in administration; they have no special remedial measures to suggest; the whole appears to be an irregular, unmethodical, disconnected hotch-potch of Poor Law information. The report might not inaptly be termed a writ of discovery. While this want of grip is to be regretted, it cannot be denied that the report of the Committee does contain much information that will be found to be useful, and that it gives a fair view of the system of relief pursued, and of the mode of administering the Poor Law in Scotland, quite enough to enable any person tolerably well informed on these matters to form a judgment on the practical action of the Scottish Poor Laws, and to venture an opinion on the remit "whether any, and what, amendments should be made therein."

This inquiry, on a subject on which much misapprehension, exaggeration, and ignorance—excusably perhaps—prevail, opens up a wide field; for the operation of the Poor Laws of a country cannot be intelligently or satisfactorily examined unless the policy and the history of the law be steadily kept in view and guide the examination. The inquiry properly resolves itself into two branches—(1)

[1] Report dated 3rd July, 1871.

Does the law, the object of which is to provide, in the most economical manner, needful sustenance to the indigent and sick poor of the country, accomplish its end? (2) If not, is the failure attributable to any, and, if any, what defects in the law itself? or is it due to carelessness or faulty management on the part of those entrusted with its administration? Had this division not been lost sight of by the Select Committee, much of the confusion so apparent in their report would have been avoided, while they would inevitably have been guided to results which would have facilitated the task of legislation.

There can be no doubt that one result of the inquiry will be for ever to dissipate the hopes of a party which still exists in Scotland, whose adherents object to any assessment whatever for the relief of the poor, and would prefer a recurrence to the ancient method of relief by voluntary alms, administered through the agencies of the churches and charitable associations. Such a system prevailed extensively in Scotland down to the passing of the Amendment Act of 1845. Its most able and consistent advocates in Scotland were Dr. Chalmers and Mr. Monypenny, better known as Lord Pitmilly, one of the Scottish judges. They were followed, *sed longo intervallo*, by the late Dr. Alexander Wood and other benevolent gentlemen, who founded the Edinburgh "Association for Improving the Condition of the Poor."

The rump, for it is little more, of the once numerous and influential party who held this view seeks to account for the present great pauper population, and the enormous cost of its relief, by the departure from that method of relief and the substitution for it of a compulsory assessment. We hope to succeed in showing that modern legislation is not to be thus blamed; that the assessment has not caused a heavy pauperism or any of the evils flowing from it; that the assessment was not, as has been alleged, forced upon a reluctant people, because its adoption was from the first, and still is, merely permissive; that it was, on the contrary, adopted gradually and unwillingly by the local

authorities in each district as they became satisfied that the voluntary system was inadequate to the altered condition of the country; and that the great changes which have occurred in the state of Scottish society during the last century themselves have necessitated those alterations in the machinery for working the Poor Law, which are now, as they have been before, deplored. We shall endeavour to show that the Act of 1845 was in no sense, and to no extent, the cause of the change; that the change to the system of assessment, now almost universally in operation, was spontaneous, and in steady progress for a hundred years prior to 1845; and that it could only have been arrested by a fixed determination on the part of the several local authorities either to adhere to the ancient voluntary method, from a belief in the possession by it of superior merits, or to reverse the policy of Elizabeth's time and enact a denial of any legal right to relief, which just means the abolition of a Poor Law. We shall further attempt to show, and that by the evidence of the defenders of the ancient system themselves, that the judgment of the local authorities in departing from that system and confirming the corporate liability was a sound and justifiable judgment; that the voluntary system had failed to meet the demands made upon it; that the poor under it did not get that certain relief and sustenance which the law conceded their right to obtain; that the system of management was defective; and lastly, we shall attempt to disprove the allegations which have been set up against the present laws, that their tendency is to encourage pauperism by breaking down the independence of the poor[1]; that they have created extravagance, and a wasteful expenditure; and that they have directly led to a vast increase in the number of paupers and the cost of their maintenance.

[1] This objection involves a logical fallacy which has led to confusion. No system of Poor Law administration can be wholly free from the charge of encouraging pauperism to some slight extent, human nature being as it is. What we are required to prove is, that the present system is not more injurious in this direction than any other system equally effective for good would be, and that it is not more, perhaps less, degrading than the voluntary system would have been had it provided due and legitimate relief to all who had claims on it, whom the present system actually provides for.

In dealing with these matters a difficulty arises from the confusion which exists in the minds of those who object to the Poor Laws, and who attribute to them the production of certain evils which do undoubtedly exist. Is it the Poor *Law* which they really object to, or the statutory enactments in force for giving practical effect to the Poor Law, or to both? Sometimes they are found speaking of the one thing and sometimes of the other, and at other times, as if they themselves were not sure of their ground, of both. Yet it is essential that the distinction should be kept in view.[1] For the Scottish Poor Law is one thing and the Statutes regulating it quite another and a separate thing. The former is simply a recognition of a right (on whatever ground it may be established) on the part of the impotent poor to ask, and to get, assistance from their more fortunate fellow-men. That right has ever existed in Scotland at Common Law; at least it existed long anterior to the Statutes which have recognised it. The Statutes merely declare, and publicly recognise, the anterior existing right, and set down the conditions under which the right shall be exercised. They are regulative rather than creative. They may be regarded as the machinery for working out the Common Law.

Section 2.

As it is important that this distinction between the law and the statutory enactments declaring and regulating it—that is, between the Scottish Poor *Law* and Poor *Laws*—be kept in view, we shall try to make it clear by quoting a few passages from authorities.

The Scottish law bears a strong resemblance both to that which obtained under the ancient Jewish theocracy, wherein was an obligation recognised as resting upon the people to provide for their poorer brethren, and that which was

[1] The necessity for a clear definition of terms is no where more clearly shown or more strongly enforced than in chapter I. of Mr. T. W. Fowles' Essay on "The Poor Law" (Macmillan & Co.), 1881.

inculcated by the founders of the Christian religion. All are based on moral obligation, but enforced from considerations of expediency.

"If there be among you a poor man of one of thy brethren, within any of thy gates, in thy land which the Lord thy God giveth thee, thou shalt not harden thine heart, nor shut thine hand, from thy poor brother; but thou shalt open thine hand wide unto him, and shalt surely *lend* him sufficient for his need, in that which he wanteth. Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought, and he cry unto the Lord against thee, and it be sin unto thee. Thou shalt surely give him, and thine heart shall not be grieved when thou givest unto him; because that for this thing the Lord thy God shall bless thee in all thy works, and in all that thou puttest thine hand unto. For the poor shall never cease out of the land: therefore I command thee, saying, Thou shalt open thine hand wide unto thy brother, to thy poor, and to thy needy, in thy land."[1]

So Paley says of this law that it is not a new burden laid upon private property by the mere strength of an arbitrary law, but is the voice of reason and nature, acknowledged and enforced by the wisdom and power of the Legislature.[2]

And, among jurists, Lord Stair, of whose writings Professor More, their editor, has remarked, "that they may be regarded rather as a treatise of general jurisprudence, illustrated by reference to the law of Scotland, than as a mere digest of municipal law," wrote—

"There is also, in property, implied an obligation of commerce, or *exchange*, in case of necessity, for without this property could not consist, seeing, by the division inferred therethrough, every man cannot have actually all necessaries without exchange, which being denied in cases of necessity, or where there is no common authority, it may be taken by force. . . . Yea, there is implied in property an *obligation* to give, in cases of necessity, to those who have not wherewith to exchange, and cannot otherwise preserve their life, *but with the obligation of recompense when they are able;* for human necessity doth also infer this: but it must be a real, and not a pretended or feigned, necessity. . . . This is the ground of the obligation, to aliment the poor, which,

[1] Deut. xv. 7-11.
[2] *Moral and Political Philosophy*, B. iii., part II., chap. v.

though it also floweth from the obligation of charity, yet, as hath been spoken before, that obligation hath no determinate bounds, but is left to the discretion of the giver, not of the demander, and so can be no warrant for taking by force, and without the proprietor's consent." [1]

To the same effect in England wrote Blackstone:—

"The law not only regards life and member, and protects every man in the enjoyment of them, but also furnishes him with everything necessary for their support. For there is no man so indigent or wretched, but he may demand a supply sufficient *for all the necessities of life* from the more opulent part of the community, by means of the several statutes enacted for the relief of the poor, of which in their proper places. A humane provision; yet, though dictated by the principles of society, discountenanced by the Roman laws;" of which statutes he says, "they are dictated by the principles of society." [2]

Lord Stair, in the passage just quoted, speaks of the obligation of *recompense*. While he admits a right in the poor, in certain circumstances, to demand supplies, he considers it a right, not pure, but conditional; that the counterpart of the obligation to give is the obligation resting on the receiver to recompense the giver. This agrees with the Jewish law, which appears to have imposed an obligation of *lending* to the poor brethren sufficient for their need, and to have contemplated a return being made either in kind, money, or labour.

Again, this foundation of reciprocal obligations seems to have been in the view of the writers of the Epistles at the time of the institution of the Christian Church. It was enjoined that "If any would not work, neither should he eat;" and that those "working not at all," should "with quietness work, and eat their own bread." Further, that "if any provide not for his own, specially for those of his own house, he hath denied the faith, and is worse than an infidel."

The Scottish Poor Laws, as we shall see, are based upon these foundations, and stand upon them to the present time, and are not based upon any inherent, absolute, or unconditional right in the poor to aliment.

[1] Stair's *Institutions*, B. ii., tit. i., vi.
[2] Blackstone's *Commentaries*, vol. i., B. i., chap. i., p. 131.

The dilemma into which those fall who maintain that the true foundation of the Poor Law is pure charity—the charity which consisted in having all things in common, and selling possessions and goods, and parting them to all "as every man had need"—that which is indicated in the passages, "Half of my goods give I to the poor," "He that giveth to the poor lendeth to the Lord,"—this dilemma becomes apparent the moment it is attempted to reconcile legislation with the principle of pure charity. It is impossible to reconcile legislation with, or justify it upon, any such basis. And so Lord Pitmilly himself admits. In treating of natural obligations, Lord Stair says—

"Though the obligation be to duties relating to man, yet there is no correspondent right or power of compulsion in man: and so the creditor is God, and man is the third party, to whose behoof the obligation is imposed, but who hath neither power of exaction for himself, nor of vindication for God. Such are the obligations of beneficence generally, and particularly of charity to the poor, assistance to those in hazard, and relief of the oppressed. For natural reason will teach us that, though these do naturally oblige us, yet they in whose favours they are cannot compel us. For example, we are bound to give alms to the poor, yet none will affirm that the poor can extort it, or take it by force. 'Tis true, that by the positive law of nations, or other consociation, there is, in the very nature of the association, a duty of assistance for the common interest, into which they are associate; but that is not a natural, but a voluntary obligation, flowing from the voluntary association or union. Likewise all the people are bound to concur, and assist legal execution; and, in some places, to contribute by such a proportion to the poor; but these are only positive laws, having the force and nature of contracts."[1]

Lord Kames, who was as great an enemy of poor laws as Lord Pitmilly or Dr. Chalmers, confirms Stair's doctrine, and also shows that a poor law cannot be intelligently or logically rested upon a purely charitable foundation. He says—

"There are not many duties more firmly seated in our nature than that of charity, and upon that account a court of equity will naturally be tempted to interpose in its behalf; but the extent of this duty depends upon such a variety of circumstances, that

[1] *Institutions*, B. i., tit. iii., sect. 5.

the wisest heads would in vain labour to bring it under general rules: To trust, therefore, with any court, a power to direct the charity of individuals, is a remedy which to society would be more hurtful than the disease; for, instead of enforcing this duty in any regular manner, it would open a wide door to legal tyranny and oppression."[1]

If the law be rested on what is conceived to have been the Jewish foundation, that of loan or investment, recallable when possible, or upon Lord Stair's foundation, that of exchange or recompense, the Scottish statutory enactments for its regulation are at once intelligible, and consistent alike with reason and justice. So viewed, the provisions to be found in the Scottish Statutes for a labour test, for a residential settlement, for punishment of the strong and idle who will not work, and who are "worse than infidels," and for a compulsory assessment, are all consistent and justifiable. And they become unjustifiable only if the basis of the law be held to be pure moral obligation on the one hand, and an inherent unconditional right on the other, which it is by those who adopt the principles of Lord Pitmilly and Dr. Chalmers. But in truth the charitable theory itself implies recompense. Charity, whatever may be the motive for its exercise—whether it be love and favour, or simple expediency—is just a gift. Parochial relief is public charity, a gift made by the public from political motives. Bankton, in his *Institutes*, says that "Gifts are voluntary; but, when made, *recompense* is due, and is founded in the natural obligation to gratitude. There is nothing more praiseworthy than a grateful sense of a gift in the receiver, evidenced by making a remuneration if the party is able."[2] Lord Stair lays down the same doctrine with especial reference to alimentary provisions.[3] It is in connection with this doctrine that the above quoted passage from Kames is important.

We are aware that this argument runs counter to the principles of the law as they have been interpreted by the

[1] Kames's *Principles of Equity*, 2nd ed., p. 47.
[2] Bankton's *Institutes*, B. i., tit. ix., sec. 1.
[3] B. i., tit. viii., secs. 1, 2, 3.

Scottish Court of Session. That Court has decided that there is no right of action competent to a parish for recovery of past advances against a pauper himself, although it admits such action to lie against his relatives in the direct line; that a parish which has alimented a person of property cannot have recourse against that property, nor the successor in it, after the owner's death; and that funds which a pauper afterwards acquires are not attachable by a parish which has alimented him.[1]

The whole subject has again been fully considered in a recent case, when a pauper lunatic succeeded to an estate, and it has been decided that the parish of settlement has no right to reimbursement out of such estate for past advances on her account. Lord Young there says—

> "There is no need to enter into the question of the true nature of the relief afforded by the parish. . . . The relation of debtor and creditor never subsists between these people and the parish which relieves them. The money is expended, and presumably properly expended, and no claim arises thereout."[2]

Nor does it make any difference that the pauper is a lunatic.[3]

As resulting from these decisions, it has been laid down that a conveyance *omnium bonorum*, taken from a pauper by a parish, with the view of preserving its rights in the event of the pauper being able subsequently to repay its advances, is illegal, because "no court of law or equity would support a deed taken from a starving man, *which was so entirely without consideration.*"[4] This exposition of the law by the Court proceeds on the assumption that parochial relief is given as *pure and unconditional* charity, granted and enforced for reasons of policy and expediency,

[1] See M'Lachlan *v.* Kirk-Session of Stevenston, 25th January, 1828, 6 S. 443, and Henderson *v.* Alexander, 18th July, 1857 (1 *Poor Law Mag.* 148, and *Jurist*, xxix. 559).

[2] Inspector of Kilmartin *v.* Macfarlane, &c., March 6, 1885; 12 Rettie's Reports, 713.

[3] Ibid. 20 & 21 Vict. cap. 71, sec. 77; 25 & 26 Vict. cap. 54, sec. 15. See further on this subject, M'Culloch's *Political Economy*, p. 376; Dunlop's *Parochial Law*, 3rd ed., p. 333.

[4] Guthrie Smith's *Digest of the Law of Scotland relating to the Poor*, 2nd ed., p. 193.

and that it is the counterpart of the restraint imposed on the natural liberty and inherent right of appealing for charity, and that recompense is not due. It appears to be founded on a misapprehension of the doctrines of Stair in B. i., tit. viii., sec. 2, and B. ii., tit. i., sec. 6, and of Bankton, if the passages are read (as they should be) together. Moreover, it results in this logical dilemma, that, if it is sound, there should be no liability or obligation to recompense the parish resting on the pauper's relations, which the Court declares there is[1]; for relations are held liable in reimbursement, either because they are the representatives of the pauper, or because they are morally responsible for him and his condition.[2] The representatives are thus, on the one hand, placed in a worse position than the recipient of relief, whom they represent, which contravenes one of the first principles of law, that the representative cannot be in any better or worse position than his author; or, on the other hand, a higher measure of moral responsibility is exacted from the person who is held responsible, than from him for whom he is held bound to answer. The Court has held the relations liable, "because they are bound to maintain them" (the paupers), and because, by not maintaining them, they have incurred a debt to the parish. But the principal party is the pauper—the relatives are merely sureties interposed for him (on whatever ground the interposition may be founded)—and to hold that the pauper himself and his estate is not liable, must imply that the principal party is not bound to maintain himself, nor liable for his own debt, which is surely a strange doctrine. We therefore maintain that to exempt the pauper and hold his relations liable is irreconcilable with principle, and that the decisions which have declared that a parish which has relieved a person when in destitution cannot reclaim from him the amount expended on his maintenance upon his succession to sufficient means contravene reason

[1] Reid *v.* Moir, July 13, 1866, 4 M. 1060.
[2] Aiton *v.* Colvil, July 25, 1705. Fountainhall's Reports, ii. p. 287. M. Dict. 390.

and sound law. This irreconcilability may be claimed as a corroboration of our argument, that recompense is the true foundation of the law.

The principle now contended for has been adopted in Sweden, Denmark, and Germany, in which countries stress is laid upon the power of compelling repayment as a wholesome discipline and an indirect mode of repression. In those States relief is regarded as a debt. Furthermore, the same seems to be law in England, and it is more than probable that when the Court of Session decided otherwise in the Kilmartin case in 1885 their attention had not been drawn to the "Divided Parishes and Poor Law (Amendment) Act, 1876." By the clause called the "Mellor" clause in that Act, the English Poor Law authorities can claim the benefits accruing to a member of a friendly society who has become a pauper or a pauper lunatic, and thereout repay themselves any advances on account of that pauper member.[1] Lastly, on this subject the Select Committee of 1869 adopted this view. Among other recommendations is the following: "The acceptance of relief to be declared to operate *ipso facto* as a disposition in security of advances *omnium bonorum* both present and subsequently acquired."[2]

But the primitive Christians themselves did not act upon the theory of their all possessing in common, and of relief being distributed to the poor exclusively through the churches. For although it is recorded that "as many as were possessors of lands or houses sold them, and brought the prices of the things that were sold, and laid them down at the apostles' feet; and distribution was made unto every man according as he had need,"[3] that practice was confined to the single case of the Church at Jerusalem; it was of short duration even there, and was never enjoined upon any others. And it is a mistake to suppose that the early Christians held the doctrine of communism as opposed to the right of property, as is proved by the language held by

[1] See clause 33, appendix.
[2] Report, July, 1871, p. 13.
[3] Acts iv. 34, 35.

Peter to Ananias: "Whiles the land remained was it not thine own?"—to keep or sell—"and after it was sold was it not in thine own power[1]?"—to give the price or retain it.

Such a principle of action—that is, the principle of having "all things in common," in the sense of communicating all that was needful to all that were in want—forms, therefore, no precedent for departing from the first principles of right and wrong, even if it were politic in itself. But it is unsuitable. For, as Paley says, "although it might suit with the particular circumstances of a small and select society, it is altogether impracticable in a large and mixed community." Further, Paley shows, by the conduct of the apostles themselves, that the administration of the relief given to the poor was no part of the office of the Church proper, but was a separate business. He says, "The conduct of the apostles upon the occasion deserves to be noticed. Their followers laid down their fortunes at their feet: but so far were they from taking advantage of this unlimited confidence to enrich themselves, or to establish their own authority, that they soon after got rid of this business, as inconsistent with the main object of their mission, and transferred the custody and management of the public fund to deacons elected to that office by the people at large."[2]

The passage here founded on is as follows:—"And in those days, when the number of the disciples was multiplied, there arose a murmuring of the Grecians against the Hebrews, because their widows were neglected in the daily ministration. Then the twelve called the multitude of the disciples unto them, and said, It is not reason that we should leave the word of God, and serve tables. Wherefore, brethren, look ye out among you seven men of honest report, full of the Holy Ghost and wisdom, whom we may appoint over this business. But we will give ourselves continually to prayer, and to the ministry of the word. And the saying pleased the whole multitude: and they chose,"[3] &c.

[1] Acts v. 4.
[2] Paley's *Moral and Pol. Philosophy*, B. iii., part ii., chap. v.
[3] Acts vi. 1-5.

In short, Stephen and the others chosen fulfilled the secular office now performed by the parochial boards and the inspectors of the poor.

It may, no doubt, be said that this passage rather weakens our argument, because Stephen and the others were office-bearers in the Church. But we apprehend that in reality it does not do so. It must be remembered that although the persons chosen were office-bearers, it was not as such office-bearers that they were chosen, but because they were men "full of the Holy Ghost and wisdom," and competent to discharge the "business." The popular election was not confined to the Church. Further, there is the greatest difference between the Church as it existed then and as it now exists. It was then an infant and united Church, and the great mass of the people belonged to no church at all, were as yet not converted to Christianity, and were heathens; for the Jewish Church during the period of the Idumæan dynasty became gradually demoralized, and at the Pentecostal epoch was completely disorganized and broken up. Mr. Philip Smith, when treating of the rise and spread of Christianity, and of the state of the Jewish nation and Church at that time, says—

"Jerusalem exhibited the scene of a frantic mob, gathered from every province of the Empire, to keep the most solemn of sacrifices to God, and to sacrifice the most blameless of victims as a peace-offering to the worst of princes, and the rulers who had urged them to reject and murder their Messiah, trying to suppress the evidence of his resurrection by the most shallow artifice; while the Church, numbering only 120 names, is hidden in an upper chamber of an obscure house. That the latter may increase, the former must be removed out of the way; and the history of the first spread of Christianity over the world runs parallel with that of the overthrow and dispersion of the Jewish nation, and the destruction of their city and temple, a remnant only being reserved for that restoration which is among the most mysterious of the purposes of Divine Providence."[1]

To the same effect Dean Milman, the historian of the Jews, says—

"The history of the Jews after the death of Herod, not rightly

[1] Smith's *Ancient History*, vol. iii., chap. xl., p. 546.

named the Great, and the birth of Jesus, separates itself into two streams: one, narrow at first, and hardly to be traced in its secret windings into the world, but with the light of Heaven upon it, and gradually widening till it embraces a large part of Asia, part of Africa, the whole of Europe, and becomes a mighty irresistible river—a river with many branches—gladdening and fertilizing mankind, and bearing civilisation as well as holiness and happiness in its course;—the other, at first as expansive, but gradually shrinking into obscurity, lost in deep, almost impenetrable ravines; sullen apparently and lonely, yet not without its peculiar majesty in its continuous, inexhaustible, irrepressible flow, and not without its peculiar influence as an under-current on the general life and progress of mankind."[1]

Now, on the other hand, there is an extended and multiplied Church, embracing the greater portion of communities, and the *residuum*, which does not own allegiance to any Church at all, is small. On this ground alone, therefore, there is no validity in an objection raised on the fact that the apostolic overseers were Churchmen. We contend that the apostles recognised the superintendence of the poor and the distribution of relief as a separate business, and as a function quite distinct from, and even inconsistent with, those of the Church as such—that, indeed, it was in their esteem a purely secular matter.

Section 3.

The statutory provisions for regulating this law in Scotland are of a very ancient date. Their policy seems admirable, but unfortunately it has been, to some extent, lost sight of, and departed from, in modern times. Shortly stated, it is, in the language of one of the old Acts, for sustaining "pure (*i.e.*, puir or poor) impotent sick folk, and the utter suppressing of strong and idle beggars, contagious enemies of the common weal." The earlier Acts did not deal so much with the relief of the necessitous poor, as the putting down of the strong beggars, and the regulating of the right on the part of the impotent, to beg. The earlier Scottish Statutes, following the still earlier ones of

[1] Milman's *History of the Jews*, 3rd ed., vol. ii., book xii., p. 91.

Edward III. and Richard II. in England, were 1424, c. 7 (James I.), which dealt exclusively with vagrants and beggars; 1424, c. 25, which prohibited from begging disorderly persons who were fitted for work, and granted permission to continue begging, under certain regulations, to the impotent poor, who were to be identified by the possession of a badge or token[1]; 1503, c. 70, "anent beggars and their qualities," which confirmed the first Act, and enacted that the overseers should not suffer any persons to beg within their parishes, "except cruicked folke, seikfolke, impotent folke, and weak folke." The next Act, 1535, c. 22, further restricted the right of public begging by enacting "that na beggars be thoiled to beg in ane parochin, that ar borne in ane uther."

The object of these various Acts was to define and separate the class of persons who were recognised as having a right to relief, the first class of the apostolic injunctions, from the able-bodied, whose right to it has never been so recognised in Scotland, and who constitute the apostles' second class. The only means the Acts provided, however, was to acknowledge, in the case of the impotent poor, the right to get that relief. But inasmuch as the licensed begging was the only means of obtaining the relief required, those earlier Statutes were poor laws only in so far as they sanctioned the adoption of this means by the impotent poor, and systematized beggary. They may be regarded as the substitutes for the care of the poor by the Church and the protection of the feudal and territorial lords, both of whose power was waning. They are intermediate between these and the higher conception of the corporate liability now to be noticed.

The next Act, 1579, c. 74 (James VI.), laid the basis of the present Scottish parochial system, which has gradually developed from this origin. It was the first legislative recognition of society's corporate duty, and for the first time provided for the introduction of a compulsory assessment for the relief of the impotent poor. That provision

[1] Edie Ochiltree in *The Antiquary* is typical of this class.

has been stated to have been borrowed from the similar provision in the 14th of Elizabeth, which directed assessments to be levied for the relief of the impotent poor in England. The structure of the clauses in the Scottish and in the English Act is almost identical, with this most important variation that, in the Scottish one, the clause of the statute of Elizabeth directing the procuring of work for able-bodied vagrants is wholly omitted. This omission has been more than once noticed by Parliament, but all attempts to discover a historical explanation of it have hitherto failed.[1] The Scottish Parliament probably foresaw what evils might accrue to a poor country already overrun with vagrants, from the establishment of a system of able-bodied relief, and therefore studiously guarded against legalizing, or even encouraging, it.

As the Statute 1579, c. 74, is to this day the standing legislative declaration of those entitled to relief, just as the 43rd of Elizabeth is the basis of the English poor law—the Amendment Acts of 1834 in England and of 1845 in Scotland having made no alteration whatever in that respect—and as it contains within itself all the essentials of a Poor Law system, it will not be profitless to state its provisions in some detail. The preamble recites—

"Sindrie lovabil Acts of Parliament maid be our Soveraine Lords maist nobil progenitors," for "the stanching of maisterful and idle beggars, away putting of sornares, and provision for the pure, that nane sall be thoiled to beg nouther to burgh nor to land betwixt 14 and 70 zeirs. That sik as makes themselves fules and ar bairdes, or uthers sik like runners about, being apprehended, sall be put in the Kings Waird or irons sa lang as they have ony gudes of their awin to live on. And fra they have not quhairupon to live of their awin, that their ears be nayled to the Trone, or to an uther tree, and their eares cutted off, and banished the countrie; and gif thereafter they be found againe that they be hanged."

The object of the "sindrie lovabil Acts of Parliament" before mentioned, is here seen clearly to have been to draw a well-defined line between the really necessitous poor, and the able-bodied shammers of poverty; and having done so,

[1] Report of Select Committee on State of Irish Poor, 1830. Q. 3349.

to put down the latter class with a strong hand. It further recites those earlier laws as having provided (we modernize the language for convenience) that none should be allowed to beg except in the parish "that bore them;" that the headman of each parish should make tokens, and give them to the beggars thereof, that they might be maintained within the bounds of their own parish; that none others be served with alms except those having these tokens; that the said masterful and idle beggars produced many grievous inconveniences in the commonwealth, because the laws had not been put to due execution. For avoiding these evils, and that "some certaine execution and gude ordour may follow thereanent to the great pleasure of Almichtie God and common weill of the Realm, it is thocht expedient, statute, and ordained," in substance, shortly as follows; that all vagabonds, strong and idle beggars, between the ages of fourteen and seventy, found wandering and misordering themselves within the meaning of the Act, on being brought before a Bailie within burgh, or a Justice in landward parishes, should be committed to the common prison or stocks, to remain to abide their trial, fixed to take place within sixty days. If found guilty, they should be scourged and burned through the ear with "ane hote iron," unless any honest and responsible man should instantly offer to take the offender into his service for a year, and give security to the Judge for keeping him, under pain of twenty pounds for the use of the "pure" of the town and parish, also to present the offender at the said Court of the Jurisdiction at the year's end, or show good proof of his death. A record of this process was appointed to be kept in the Court books, and the clerk's fee for his trouble fixed at twelve pennies.

The next provision is for the punishment of those offenders who, having been so taken in, should "flee their maister's service." Conviction to be followed by scourging and burning through the ear, and a resumption of an "idle and vagabond trade of life" to be "followed by the paines of death as a *thief*."

The next section defines who are "vagabonds and idle beggars;" and as it gives our forefathers' notions of those who, in those early days, corresponded to that class now generally termed "able-bodied," and as it may besides prove interesting to the Parliamentary electors of the Scottish University constituencies, we quote it entire:—

"And that it may be knawen, quhat maner of persones ar meaned to be idle and strang beggares and vagabounds, and worthy of the punischment before specified, It is declared that all idle persones, ganging about in ony countrie of this realme, using subtil, crafty, and unlauchful playes, as jugalarie, fast-and-lous, and sik uthers; the idle peopil calling themselves Ægyptians, or any uther that feinzies them to have knawledge of charming, prophecie, or uthers abused sciences, quhairby they perswade the peopil that they can tell their weirds, deathes, and fortunes, and sik uther phantastical imaginations; and all persones being haill and starke in bodie and abill to woorke, alledging them to have bene herried or burnt in sum far pairt of the realme, or alledging them to be banished for slauchter and uthers wicked deides; and uthers nouther havand land nor maisters, nor using ony lauchful merchandice, craft, or occupation quhairby they may win their livings; and can give na reckoning how they lauchfullie get their living; and all minstrellis, sangsters, and tale-tellers, not avowed in special service be sum of the lords of Parliament, or great Burrowes, or be the head Burrowes, and cities for their commoun minstrelles; all commoun labourers, being personnes abill in bodie, living idle, and fleeing labour; all counter-faicters of licenses to beg, or using the same, knowing them to be counterfaicted; all vagabound schollers of the Universities of Saint Andrewes, Glasgow, and Abirdene not licensed be the Rector and Deane of Facultie of the Universitie to aske almes;[1] all Schipmen and Mariners, alledging themselves to be schip-broken, without they have sufficient testimonialles, sall be taken, adjudged, esteemed, and punished as strang beggarres and Vagaboundes."

The next provisions are for the punishment of those who maintain, receive, or encourage strong beggars and vagabonds, and of those who stay or impede the operation of the Act; for providing licenses; and to enable "souldiers and schip-broken men" to pass hastily on to where they intend to remain; for the appointment of searchers of vagabonds, and for conveying them to prison. These

[1] In one of the contemporary English Acts Oxford and Cambridge scholars that go about begging are styled "Valiant Rogues."

apparently severe enactments to repress mendicancy and suppress the sturdy beggar will be found to correspond closely with those established not only in England but in France and Italy during the same period. The punishments in these countries included the extreme ones of perpetual slavery and death.[1]

Having dealt in this summary way with able-bodied vagabonds, then, as now, the most troublesome class, the Act of 1579 proceeds to provide for the proper lodging and relief of the "aged, impotent, and pure people," by enacting as follows:—

"And seeing charitie wald that the pure, aged and impotent persones, suld be als necessarilie provided, as the vagaboundes and strang beggars repressed, and that the aged, impotent and pure people suld have ludgeing and abiding places throughout the realme, to settle themselves intill: It is therefore thocht expedient, statute and ordained, that the Lorde Chancellar, according to the direction of sindrie lovabil Actes of Parliament heirtofoir maid, sall call for the erectiones of all Hospittales to be produced befoir him, and enquire and considder the present Estaite theirof, reducing them, sa far as is possible, to the first institution, as may best serve, for the helpe and reliefe of the saidis aged, impotent, and pure peopil."

The Act next provides for an inquisition of this class of poor being taken by the magistrates within burgh, and justices in landward parishes, of all born within the parish, "or quhilks war dwelling, and had their maist commoun resorte in the saide parochin the last seven yeiris bypast, *quhilks of necessitie mon live bee alms.*"

This is the first provision that points to, and recognises, a residential settlement.

The next section enacts the making up of a register of those poor according to the parishes of their birth, or most common resort for seven years; the notifying by proclamation made at the market-cross of Edinburgh that they should all, within fourteen days after its date, repair to their several parishes, and settle themselves, under the pain of the punishment provided for the vagabonds. Having got

[1] Lecky's *History of European Morals*, and authorities there cited, vol. ii., pp. 96-98.

them there, the magistrates of the burghs, and justices in the rural parishes, are ordained to make and keep correct catalogues of their own poor, showing their birth places, their marriages, and what "bairnes" they have, where their bairnes were christened, and what employments they themselves followed, and then to consider their needful sustentation; and to "taxe and stent the haill inhabitantes within the Parochin, *according to the estimation of their substance, without exception of persones*, to sik oulkie charge and contribution, as sall be thoct expedient and sufficient, to susteine the saidis pure people, And the Names of the inhabitants stented, togidder with their taxation, to bee likewise registrate;" . . . "And at the end of the zeir that the taxation and Stent Roll be always maide of new, for the alteration that may be throw death, or be incres or diminution of meanis, gudis, and substance."

This is the first enactment of a compulsory assessment in Scotland.

The next sections provide for the appointment of overseers and collectors for collecting and receiving the contributions, and delivering them to the poor; and for giving testimonials to the poor found in each parish, but not born therein, or making it their common resort, that they may be known; and for facilitating their passage from place to place till arrival at their own parish, where, on arrival, they are appointed to be sustained on the common alms and contribution; and for the severe punishment of such of them as "refuse to passe and abide in the places appoynted," or after appointment shall be found again begging.

This is the first recognition of the law of removal in connection with settlement.

Then follow punishments for—(1) Collectors who, being chosen, refuse to act, or acting are negligent in their duties, and "refuse to make their compts everie half-zeir;" (2) for those who are proven on "sufficient testimonie of twa honest and famous witnesses his neighbours," to refuse to contribute to the help of the pure; and (3) for those "aged and impotent persons who, *not being sa diseased, lamed,*

or impotent but that they may worke in some maner of wark," shall refuse to do so.

The remaining sections of this Statute provide for the regulation and custody of poor bairns, male and female, between the ages of five and fourteen; for the collection within the parish of victuals, meat, and drink; for licenses to the poor to "ask and gadder the charitable alms of the pensioners at their own houses;" for a part of the common contributions going to the maintenance of the pensioners; for the proper execution of the Statute, and for its interpretation.

Here we have at that early date a Statute distinguishing between the really deserving poor, and strong idle pretenders; and provision made for the suppression of the latter class, and for relief of the former,[1] for keeping a register of the poor, for overseers and collectors, for a compulsory assessment in supplement of church collections and other voluntary sources, for the removal of paupers to their own parishes, and for the recognition of a seven years' residential settlement. A century and a half prior to this Act of 1579, cap. 74, the statutory permission of begging under regulation was, as has already been shown, the only provision made by the Scottish Parliament in favour of the poor, the earlier efforts of the Parliament having been directed mainly to the repression of vagrancy and the regulation of begging. But this Act imposed upon each parish the burden of maintaining its own poor, and publicly recognised the right of the impotent poor to relief as conferred by—(1) birth in a parish; and (2) residence, or common resort in a parish for seven years. These provisions continue to be the key-notes of the present laws.

The next Acts are those of Charles the Second, 1661, c. 38, and 1663, c. 16, the former of which instructed the justices to order the overseers to "call for the collections at the said parishes, or other sums appointed for the maintenance of the poor thereof," and to dispose of them among

[1] This distinction is so sharply drawn that it amounts to a denial of the right of relief to the able-bodied, which still is the most important difference between the English and Scottish Poor Laws.

the poor according to their necessities. It also provided for the punishment of such as, being able for partial work, refused to work. The latter Act ratified all the previous Acts, and provided for manufacturers seizing vagabonds and idle persons and employing them in their factories, and for raising an assessment to pay the manufacturers certain allowances as compensation for relieving the parishes of their burden. The compulsory employment legalized by this Statute shows that the legislators who framed it recognised the doctrine of *recompense* as the true theory of the law. Lord Stair, who lived at that time, may have had it in view when writing that part of his *Institutions* before quoted.

The next Act, 1672, cap. 18, establishes correction-houses for idle beggars and vagabonds. By it several alterations on the law were made. It charged the ministers and elders of each parish with the duty of making up lists of the necessitous poor, and of those who should be sent to the correction-houses, and it reduced the residential settlement to three years, at which it remained fixed (with the exception of a short recurrence to seven years following the proclamation of 29th August, 1693, about to be noticed) down to the Act of 1845, and substituted "haunting" for residence and common resort. It provided for the heritors being called, for their interest, to see the lists made up, and enacted that they, with the minister and elders, should appoint residences for those who, through age and infirmity, are not able to work, who should be supplied by the parish door-collections; provided for tickets being given to the poor authorizing them to beg within their own parish in supplement of church collections if these proved insufficient for their sustenance. It further provided for those able to work getting service as apprentices or servants with the heritors and inhabitants, who should have the benefit of their work as recompense for maintenance until the pauper attained the age of thirty; and, lastly, for sending all other poor persons to the correction-houses appointed by the Act to be erected. This Statute again clearly divided the poor

into two distinct classes—able-bodied, whose right to relief was not admitted, and who, being found idle, and vagrants, were to be sent to the correction-houses; and the impotent, who were to be relieved, not by the assessment previously sanctioned, but out of the church collections; and it also recognised the doctrine of recompense.

It would appear, from this Act, that the permissive powers to assess had not yet been put in force, for this Act makes no allusion to assessment, although it had been legalised for nearly a century. So far as it provided for the erection of correction-houses for the other class, it failed of its effect, for only three such houses were ever established in Scotland, and these not for a considerable time after the date of that Act.

We next find a proclamation of William and Mary, 11th August, 1692, requiring the heritors, ministers, and elders to meet at their parish church, and make up lists of poor, to calculate the cost of their maintenance, to lay on an assessment, one-half upon the heritors and one-half on the householders, and to collect the same as often as necessary. This it appointed to be done twice yearly, in February and August. Power is conferred on the sheriff of the shire to take notice of those who fail in the duty of contributing their *quota* of the assessment, and to fine them double the amount certified to be wanting, with powers of distraint for its recovery. Further provisions are made for putting the able-bodied to work, for punishing beggars, and for compulsory removal of beggars and vagabonds to their own parish; and lastly, there is a requisition upon certain of the principal burghs at once to provide correction-houses, until those ordered to be provided by the last Act, in the burghs therein named, can be established.

There next follow what may be called two "Amendment" proclamations of William and Mary, dated 29th August, 1693, and 31st July, 1694, "anent beggars," and "for putting former Acts and Proclamations anent beggars in execution." These contain nothing special, and do not call for further notice.

The last of the proclamations "anent the poor" is one dated 3rd March, 1698, by King William, the preamble of which acknowledges "that the good and laudable laws made for maintaining the poor, and suppression of beggars, vagabonds, and idle persons, have not hitherto taken effect, partly because there were no houses for them to reside in, and partly because the persons to whom the execution of these laws was committed have been negligent of their duty." It ratifies and approves of the former proclamations, and ordains that they be put to full and vigorous execution in all points. It further ordains that magistrates of burghs provide correction-houses at once, and that, until these are ready, they provide the poor with work, under penalties; charges the sheriffs of the shires to put the Act to execution, under heavy penalties, and to report their diligence to the Privy Council.

This proclamation indicates plainly that difficulties and disputes had already sprung from the Law of Settlement, for it proceeds, "and because there may some questions arise in putting the said Acts into execution, for which there can be no general rule set down in respect of the different conditions and circumstances of several places of the country: Therefore," it enacted that the ministers and elders of each parish, or as many of them as chose, and after public intimation made from the pulpit the Sabbath day before, should meet "to decide and determine all questions that may arise in the respective parishes, in relation to the ordering and disposing of the poor, in so far as it is not determined by the laws and Acts of Parliament, and the former Acts of our Privy Council," ratified as aforesaid.

These proclamations were confirmed by the Statutes 1695, cap. 43; 1696, cap. 29; and 1698, cap. 21. They again show not only that the distinction between the two classes of poor was kept up, but they enjoin a renewal of the assessment as the method for providing for the wants of the impotent poor.

The compulsory assessment first sanctioned by the Act 1579, cap. 74, was levied equally on landlord and tenant,

according to their means and substance; and, although the practice was not uniform, it was generally ascertained by the real rent of the subjects owned and occupied. For upwards of a century after assessment was legalized, or until 1693, no compulsory assessment was laid on the inhabitants. Till that date, the church-door collections and the voluntary offerings had proved sufficient for the support of the poor. But gradually Scotland had become inundated with needy persons from other countries, persons not trained to Scottish habits of frugality and industry, who soon showed their preference for an idle existence at the expense of others, and who latterly did not stop short of demanding, by threats and force, that sustenance which they were not entitled to by law. Hence arose the necessity for the numerous Statutes and proclamations "for suppressing of strong and idle beggars and vagabonds" which have just been noticed, and from that circumstance has sprung the necessity of providing for the strict supervision of the poor by a costly machinery, which has grown more costly to the present time, and which, among other things, led to the Parliamentary inquiry of 1869.

Dr. Chalmers stated in his evidence before the Parliamentary Committee on the state of the Irish Poor that the exact date of the first compulsorily levied assessment in Scotland had not been ascertained. Dr. Cleland states that the Records of the Burgh of Glasgow contain evidence of one having been resorted to in that city as early as 1595.[1] But according to the report of Mr. Ewing on the Management of the City poor in Glasgow in 1818, that early assessment seems to have been exceptional, for he fixes 1776 as the date at which the compulsory assessment became regular in Glasgow.[2] There is direct evidence that assessment had been, in some instances, resorted to in the burghs, even if only occasionally, long anterior to that date; for within a very short period of its being sanctioned in 1579, two Statutes were passed to remove complaints which had been

[1] Cleland's *Historical Accounts*, fol. 31, 2nd ed.
[2] Ewing's Report, p. 157.

preferred against the system by certain inhabitants of some "free" burghs.[1]

With respect to the proclamations of William and Mary, and to their again enjoining assessments to be levied for relief of the impotent poor, while prescribing correction-houses for the idle and vagabonds, the state of the country at the time sufficiently proves the preamble of the first proclamation of 1692, and the necessity for repressive legislation.

The following description is by an eye-witness who was a politician as well as an observant traveller, and who wrote in 1698—

"There are at this day in Scotland (besides a great number of families very meanly provided for by the Church boxes, with others who, with living upon bad food, fall into various diseases) 200,000 people begging from door to door. These are not only noways advantageous, but a very grievous burden to so poor a country; and though the number of them be perhaps double to what it was formerly, by reason of the present great distress, yet in all times there have been about 100,000 of these vagabonds, who have lived without any regard or submission either to the laws of the land, or even of those of God and nature; fathers incestuously accompanying their own daughters, the son with the mother, and the brother with the sister. No magistrate could ever discover or be informed which way any of these wretches died, or that ever they were baptized. Many murders have been discovered among them; and they are not only a most unspeakable oppression to poor tenants (who, if they give not bread or some sort of provision to perhaps forty such villains in one day, are sure to be insulted by them), but they rob many poor people who live in houses distant from any neighbourhood. In years of plenty many thousands of them meet together in the mountains, where they feast and riot for many days; and at country weddings, markets, burials, and other the like public occasions, they are to be seen, both men and women, perpetually drunk, cursing, blaspheming, and fighting together."[2]

It is unnecessary to inquire into the causes of so dreadful a state of matters. But Dr. Chalmers said that it was neither inherent wickedness in his ancestors, nor anything which might tend to cast a slur on his nation, but that it was the result of "the religious persecution which the

[1] Acts 1597, caps. 279, 280.

[2] Fletcher of Saltoun's Political Works, *Second Discourse on the Affairs of Scotland*, pp. 100-101.

people underwent for about thirty years, the suspension of our scholastic mode of education, and, I believe, the want of an acceptable and efficient ministry of the gospel; but, in point of fact, the law of parochial education was repealed at the restoration of Charles II., and it was not resumed again till the Revolution; and during that time especially a most criminal and mendicant population had accumulated in Scotland."

Another writer on the Poor Laws says—

"At the era of the Reformation the usual resources of the poor were directed into a new channel, and in order to restrain or to counteract the immoral effects of universal mendicity, as well as to provide for the indigent who had then been deprived of their usual aliment, Statutes, at once benevolent and severe, became absolutely necessary. There was danger lest those who held by seizure the patrimony of the Church should contract a spirit of hard-heartedness and parsimony; and to protect from this evil, the Legislature ordained that the care of the poor shall devolve on their wealthier brethren, to the extent at least of their being preserved from beggary and absolute want. During the age which succeeded the establishment of the Reformation down to the period of the Revolution in 1688, Scotland remained in a distracted and unsettled state. The political aspect of the kingdom was perpetually changing. Ecclesiastical administration passed alternately from Presbyterians to Episcopalians; and it is well known to all who have the slightest acquaintance with our national history that whatever changes were introduced into the Church operated similar changes in the political state of the kingdom. The admirable establishment of parochial schools had not as yet obtained the place to which it was entitled in the Statutes and constitutions of the empire; and the engine of clerical superintendence was, by the fluctuations of things, cramped and deranged in its movements. Civil wars rent the kingdom with factions, and dissolved the tenderest ties of consanguinity and brotherhood. In this unsettled state of things it was no matter of surprise that pauperism should increase while its resources were diminished. The Legislature was apprehensive that, amidst the contests of party and the divisions of the times, the children of indigence might be overlooked. To prevent this evil new Acts were passed; and the obligation of relieving the poor, from time to time, pressed on the landholders of the country."[1]

[1] Dr. Burns's *Historical Dissertations on the Poor Laws*, 1819. Dissertation vi., p. 129. The suppression of the monasteries had produced a similar state of matters in England in the reigns of Henry VIII., Edward VI., and Elizabeth. Lecky's *History of European Morals*, vol. ii., p. 96.

Within fifteen or twenty years after the last proclamation of 1698 the country recovered itself. We differ from Dr. Chalmers as to the cause of so sudden an amendment. He says, "It appears from very historical documents that that state of things" (viz., that described by Fletcher) "subsided almost *per saltum*, very suddenly indeed, when the population had leave to repose from the religious persecutions, and the parochial system of education was again general." He accounted for the change by the Sabbath labours of an efficient and acceptable clergy. We for our part think it probable that King William's stringent Statutes, the repressive measures directed against beggars and idle vagrants, and the heavy punishments inflicted on magistrates and sheriffs who failed to put the Statutes in force, had more to do with the transformation than the moral agencies referred to by Dr. Chalmers.

Section 4.

Before considering the alterations made by the Amendment Act of 1845, and their social and economical effects, it will be advantageous to notice, *first*, the division of parishes and the managing boards under the earlier laws; *second*, that the assessment sanctioned by the Act 1579, cap. 74, was not strictly compulsory, but that it only amounted to permissive compulsion; *third*, the very gradual adoption of assessment as a means of providing for the relief of the poor, and the causes which led to its adoption and the abandonment of the voluntary system.

First. Parishes are in Scotland divided into—(1) burghal parishes, or those which are wholly situated within a royal burgh; (2) landward, or those forming a rural district; and (3) mixed, or partly burghal and partly landward. In the landward parishes we have seen that the minister, with his kirk-session and the heritors jointly, and in the burghal parishes, the provost and magistrates, composed the managing bodies. In some burghal parishes the managers delegated their functions to a committee of managers,

chosen according to no definite or uniform principle, and of no fixed number. In mixed parishes, prior to 1835, the rural and burghal parts were treated as separate parishes, with separate registers of poor, separate funds, and independent administration; but in that year the House of Lords decided that the affairs of such parishes should be intrusted to one administration, the kirk-session, heritors, and the magistrates of the burgh sitting as heritors, and they have been so treated ever since.[1]

The kirk-session is composed of the minister, who is *ex officio* chairman, with an indefinite number of persons chosen from the congregation, principally the elders. The heritors, although they were never defined by Statute, have always been considered to be those liable to assessment for the poor-rate. So early as 1751 it was decided by the Court of Session that the heritors had a joint right and power with the kirk-session in the administration, management, and distribution of the poor funds; and about the same time it was held, thus giving the widest definition to the term "heritor," that all were entitled to sit at the board with the minister and kirk-session who paid poor-rates in respect of either lands or houses, although they were neither entered in the cess-rolls nor in the books of the collector as actually paying cess.[2]

It has been seen that the proclamation of William and Mary, of 11th August, 1692, ordained those managing bodies to meet twice annually at least. They decided on all claims for relief; but, for convenience sake, the minister and his elders, in practice, were allowed to dispose of such claims. The judge of the bounds, *i.e.*, the sheriff, had jurisdiction to compel the managing body to dispose of paupers' applications; but he could not grant or modify aliment. The only appeal in questions of aliment, when the pauper deemed himself unjustly used by the local boards, was to the Court of Session, a remedy obviously beyond his reach.

[1] Dunbar, 10th April, 1835, 1 Shaw and M'Lean's Appeals, 134.
[2] Smith's *Digest of the Law of Scotland relating to the Poor*, 2nd ed. p. 11, and authorities there cited.

Second. With respect to the assessments prior to 1845, the late Mr. Smythe of Methven, who was secretary to the Royal Commission of 1843, and who was, from 1845 to 1852, secretary to the Board of Supervision, and afterwards a member of that Board, explains that the mode of levying the assessment was not uniform, and often not conform to law. He shows that, in fact, at the date of the Act 1845, in many parishes there was no legal assessment, but a voluntary assessment to which the people contributed according to their pleasure; that in many parishes there was no support given to the poor except what the church collections yielded; that, where there was proper support, the funds were contributed by the landowners and other parties in addition to the church collections; that, in short, a voluntary was substituted for a compulsory assessment.[1]

This process, it seems, was going on very rapidly at the date of the Poor Law Commission, 1843-4. The Royal Commissioners, with the object of showing what was the transition state of the assessments at the time of their inquiry, make the following statement:—

"Where the money arising from the collection and other sources of income proves insufficient to meet the wants of the poor encroachments are often made upon the capital sums, or the heritors and kirk-session have recourse to other modes of supplying the deficiencies. Upon any such emergency arising, the most obvious course would appear to be to take immediate steps for raising the required sum by an assessment, regularly imposed, and levied from the parties liable by law to contribute in the manner prescribed by the Statutes. A strong feeling in opposition to a legal assessment has, however, existed in Scotland, and the clergy in general have strenuously exerted their influence to prevent recourse being had to any compulsory mode of raising funds for the relief of the poor. It is maintained that the existence of an assessment in a parish has a tendency to encourage pauperism and to increase the numbers of the poor, and the expense of supporting them without materially bettering their condition. The establishment of a fund so raised is said to lead the poorer classes to place an undue reliance upon a legal provision, and thus to break down their spirit of independence. The exertions they might otherwise make on their own behalf are thus supposed to be relaxed, while at the same time the efforts of private charity, the care and kindness of

[1] Report of Committee, 6th July, 1869, pp. 3, 4.

relations, and the sympathy of the poor for the poor, are held to be so much diminished as to render any advantages which the pauper may obtain from the introduction of an assessment but a small compensation for what he loses in other respects. These sentiments have been expressed by very many of the ministers, whom we have examined in every part of Scotland, as will be seen on reference to the evidence; and they have no doubt gathered additional strength from the powerful advocacy of Dr. Chalmers, whose name is associated with that system which proposes to provide for the poor without any other means than those offered by the exercise of Christian charity. The evidence of Dr. Chalmers contains his own account of the plan by which the poor were supported, in the parish of St. John's, in Glasgow, during his incumbency there, without any aid from an assessment, as a practical illustration of his system. In most of the unassessed parishes all parties seem to dread an assessment, and to look upon it as an evil which ought, if possible, to be avoided; and, in many instances, when church collections and other ordinary funds prove inadequate, the heritors make an arrangement among themselves to subscribe voluntarily, in order to supply the deficiency; hence have originated the various forms of what is not unfrequently called a voluntary assessment. Sometimes the contributions of individuals bear little or no proportion to the relative value of the property held by each heritor, but more frequently the money is raised by all agreeing to pay rateably according to the amount of the rentals of their respective estates. Even in towns such as Cupar in Fife, and Kirkcaldy, where rental could not with propriety be adopted as the criterion of what parties ought to contribute, the voluntary system has been followed by persons subscribing according to their means. A general notion of the condition in which a great proportion of the parishes in the lowlands of Scotland, particularly in the midland districts, stand at present, with respect to the means adopted for providing the necessary funds for the support of the poor, may be given by selecting as a specimen the whole of the parishes in any one of the presbyteries of these districts; but we shall here take the Presbytery of Cupar, in the Synod of Fife, as affording a fair sample of the state of the parishes in other presbyteries similarly interested." [1]

After giving an account of the mode adopted in each parish of that presbytery, the Commissioners say, "From the above statements it will be seen how small a portion of the moneys raised for the relief of the poor is derived from the church collections, and other special funds in those parts of Scotland to which the foregoing remarks and quotations

[1] Report of Royal Commission, p. 5.

apply; and how frequently recourse is had either to a voluntary contribution in the nature of an assessment or to a legal assessment." Mr. Smythe states that, at that time (1843-4), throughout the midland and southern districts of Scotland, the number of assessed parishes was annually increasing very much, while in the Highland parishes he thinks there was not any instance of an assessment. We shall hereafter, when comparing the condition of the poor under the older and the more modern system of relief, consider whether that circumstance had not something to do with the wretched condition of the Highland paupers at that time as certified by official reports.

The people preferred a voluntary assessment, as a sort of rate in aid of church funds, mortifications, and other charitable sources of supply to the legal assessment sanctioned by the Statutes. They regarded it only as a *dernier ressort*, a thing to be avoided at all hazards. Nor, in so allowing it to remain in abeyance, did they act illegally. It was not, as in the English Statutes, absolutely compulsory. It was only compulsory in the option of the local authorities; and it so remains to the present time. There are still forty-nine parishes which have never had recourse to assessment, or, more properly, the circumstances of which have never rendered the adoption of compulsion necessary. Lord Bankton says, "Each parish is bound to maintain their own poor, either by the collections at the church, or, if these are not sufficient, by rating themselves."[1] And Lord Pitmilly, founding upon that passage, and one to a similar effect in Mr. Hutcheson's *Justice of the Peace*,[2] announces his own opinion thus—

"In England, while it is acknowledged that poor's-rates were adopted as a substitute for voluntary contributions, yet this measure, having once been resorted to, became general throughout the country. . . . In short, it became the characteristic of the English system, from the date of the 43rd of Elizabeth, that the poor were supported by the rates, and not by voluntary contributions at the churches. . . . In Scotland the very reverse has

[1] M'Douall's *Institutes*, B. i. tits. ii., lx.
[2] Vol. ii., p. 29.

taken place. In that country it has been held and acknowledged as law that an assessment need not, and ought not, to be introduced in any parish in which the poor can be maintained without it. No lawyer ever questioned the legality of the conduct of the administrators for the poor in these numerous parishes which have manfully and successfully struggled against an assessment; nor of those managers in other parishes, fewer in number, in which an assessment was imposed, but who have not rested satisfied till they have accomplished its removal."[1]

But if this be so, if assessment were not compulsory but only permitted, with what justice have Chalmers, Pitmilly, and the party who still maintain their opinions, laid exclusively at the door of the legal assessment all the blame of the evils which have flowed from increased pauperism? If, as has been shown, the country was not subjected to assessment, if Parliament did not press it upon the country, but the country gradually and spontaneously, and therefore deliberately, adopted the method of assessment, after seeing it in operation and comparing it with the voluntary system, it is reasonable to infer that this was done because the managers, who were the heritors and kirk-sessions of the day, saw that the system of assessment possessed advantages which the others lacked. If it be true, as Chalmers and Pitmilly say, and as the Royal Commissioners of 1844 find to have been the case, that the Scottish people were strongly opposed to compulsory assessment, and resisted it as long as possible, but nevertheless ultimately adopted it, the conclusion is irresistible that no method less uniform and stringent was suited to the altering condition of the country and the changes in the state of its society. Therefore the condition of the country and the state of society must be regarded as the cause of the increased number and expense of paupers, and of the evils which may have flowed therefrom, rather than the assessment, which is merely the means adopted for providing the necessary relief. To the objection "that by assessments the number and expense of the poor are increased," Dr. Stevenson M'Gill long ago answered that "the causes of this increase of pauperism, wherever it

[1] Pitmilly, pp. 18, 19.

takes place, existed before assessments were employed." Dr. Andrew Thomson pertinently adds, "When there is a great addition to the expense of maintaining the poor, it ought to be ascertained whether they *have now too much*, or *had formerly too little*."

Third. It would appear that the advocates of the voluntary system have not sufficiently attended to these variations, social and economical, an omission which is perhaps accounted for by the circumstance that the changes were not fully accomplished, but were only slowly, and perhaps imperceptibly, developing at the time they wrote. What were those changes? We believe them to have been mainly two. Dissent from the National Church Establishment, and the decay of Feudalism, or, more properly, the breaking up of the clan system. These events happened almost contemporaneously, and their action continued uninterruptedly, in different channels, but tending to the same end, down to the disruption of the Church in 1843, and the later combination of Seceders under the name of "United Presbyterians."

Section 5.

1*st. Secession from the Church Establishment.*

It is not clear when the first of those legal assessments was imposed in Scotland, which were afterwards regularly maintained. But it may be accepted as the fact, that very few parishes had recourse to assessment before the year 1740. Dr. Chalmers stated, in his evidence before the Select Committee on the State of the Irish Poor, that probably not more than eight parishes were assessed prior to that year; and Sir Henry Moncreiff, in his *Life of Dr. Erskine*, states that the voluntary contributions at the church-doors generally proved sufficient in all the parishes down to 1755. From that time the number of assessed parishes steadily increased. Authorities differ as to the rate of conversion from the voluntary to the assessment system between that year and 1845, and as to the exact number of parishes

under assessment in any one year. But the change was steadily progressive, at the rate of, at the least, two per cent. of parishes per annum.

After the Reformation there existed practically in Scotland for many years only one religious communion, that of the Scottish Established Presbyterian Church. The first secession from it took place in 1733. It spread rapidly, and at first principally in the towns and populous villages. The effect of secession on the maintenance of the poor was that the funds, formerly contributed by the Dissenters, as members of the Church, to the church collections, which had been by custom devoted to the relief of the poor, were withdrawn, as sources of supply, and diverted to the support of the new independent ministry, itself dependent on voluntary contributions. This withdrawal, being in many parishes extensive, caused a deficiency in the amount which had been in use to be given to the poor; and it led, in those parishes where dissent became formidable, to the necessity of a resort to assessment. In his *Life of Dr. Erskine*,[1] Sir Henry Moncreiff says on this subject—

"As long as there was no secession of Presbyterians from the Established Church the weekly collections, under the management of the kirk-session, were in general found sufficient for the management of the poor. In some years of peculiar hardship or scarcity, such as the four last years of the seventeenth century, or the year 1740, voluntary assistance was no doubt given, and in some instances temporary assessments were resorted to, to enable the kirk-sessions to meet the unusual emergencies. But on all ordinary occasions the resources of the kirk-sessions were considered as sufficient, and continued to be so at least as late as 1755."

Lord Pitmilly, while corroborating the statement of Sir Henry Moncreiff, explains the reason why dissent forced the adoption of assessment as a necessity, more particularly thus—

"It is undeniable that the collections of the Dissenting meeting-houses cannot be appropriated by the kirk-sessions of the Establishment for the support of the ordinary parochial poor.[2] The

[1] P. 468.
[2] Hill *v.* Thomson, 19th June, 1739, No. 119, p. 190, Clerk Hume's *Reports*.

legal principle on which this rule is founded is obvious. A contributor to a collection made at the Established Church virtually consents, by the fact of his contribution, to the application of his alms to those purposes to which the law and usages of the country have destined this fund: but he who delivers his offering to the collection of a Dissenting meeting-house cannot be held as consenting to this application of his money; on the contrary, he distinctly destines it to the congregational purposes of a particular sect. If this is plain in point of law, it is equally so in point of fact, that the prevalence of secession must, by diminishing the number of contributors to the collection made at the Established churches, operate a material decrease of the funds."[1]

To any one who is at all acquainted with the rapid growth of dissent in Scotland between 1755—the date which Sir Henry Moncreiff assigns as that of the beginning of assessment—down to 1843, when the final disruption took place, it will not be surprising that the church collections should gradually have become inadequate to the relief of the poor, and that compulsory assessment should, by the disintegrating action of dissent, apart from any other considerations, have been rendered necessary.

But, during the rise and progress of dissent, other causes were slowly and no less surely at work, with the same result; and the two forces combined compelled the recognition of the corporate obligation, and rendered unavoidable the adoption of assessment as a system of relief.

2nd. The Decay of Feudalism and the Clan System.

Down to the year 1748, when the Statute 20 George II. cap. 50, which abolished heritable jurisdictions, was passed, feudalism, as a political institution, still subsisted in Scotland. As a social arrangement the clan system is now universally admitted to be unsuitable. But while its effects upon society generally were most pernicious, since it restrained the development of the peaceful arts, and of literature and general knowledge, and since it encouraged wars and internal strifes, both for the acquisition and maintenance of power, its tendency was rather to prevent

[1] Pitmilly's *Remarks on the Poor Laws*, p. 53.

the growth of pauperism. For the more servile the condition of the vassals—the nearer their relation to their overlord approached that of slaves to their owners, the nearer that relationship approached to a right of property vested in the overlords—the more was it the interest of the chiefs to maintain and protect their vassals, who were the principal instruments of their aggrandisement, and on whose active support in the field they were indeed dependent for their own power as chiefs.[1] The peculiar feature of the system was that of mutual obligation. In return for the homage and the personal services of the vassals, the superior undertook the reciprocal obligation of his vassals' protection; and as this principle descended through successive orders of sub-infeudation, there was created a strong combination which united the interests and the energies of each individual composing it, from the most powerful nobles down to their humblest dependants, in the defence of the soil which yielded the common support. But as, during the period of feudalism, all the power may be said to have been vested in the barons, and all the learning centred in the Church, the development of industrial pursuits, and the concentration of large populations in the towns, were prevented.[2]

It was not until after the evils of the clan system had been experienced at the Rebellion of 1745, and Parliament had deprived the superiors of all power over their vassals' persons and estates, by the Act 20 George II. cap. 50—thereby abolishing feudalism as a political system—that the trade of Scotland had any energetic or systematic life imparted to it. Population then gravitated towards the towns, and then came into existence, and grew up, a separate and clearly defined labouring class. In the fifteenth, sixteenth,

[1] Prior to the earliest of the Scottish Acts before mentioned, actual slavery did exist in Scotland in a modified form; and it was not till 15 Geo. III. that miners and salters were freed from the bondage of servitude all their lives at one particular mine or work. Slavery existed in the south-west of England till Elizabeth's reign. Royal Commission of 1574.

[2] The restraint upon industry was not wholly due to the existence of feudalism. For since residence in the Anse towns of Scotland for a certain period conferred freedom from servitude to any baron, these towns were in a sense as powerful as the barons. But it was owing to the territorial restriction of the burghs which had not power to enlarge.

and seventeenth centuries, as has been seen, the pauperism was principally that of the vagrant and sturdy beggar class—a class which may be said to have been recruited from the feudal dependants, whom the chances of internal warfare had freed from their superiors, and whom that warfare had demoralised. "Well," says Falstaff, "God be thanked for these wars, for they offend none but the righteous." It was they who troubled society, and it was they to control and punish whom most of the legislation was directed. The impotent poor were comparatively few. During all that time, and down indeed to the middle of the eighteenth century the feudal relationship prevailed, and society existed, in the country districts, to a large extent, on the family principle. The population was pretty equally distributed over the country, and was almost stationary.

The agricultural labouring people, as a class, were born, reared, and buried in the same place, under the shadow of the baron's protection; and not infrequently the poorer inhabitants of a parish never were beyond its limits. There were no great population-absorbing seats of industry such as sprang up at the end of the last century and as now exist.

In 1450, the year of the foundation of its University, the population of Glasgow was estimated at only 1500. At the reformation of religion in 1560 it was 4500; at the Restoration of Charles II., in 1660, it was 7644; at the Union with England it was 12,766; in 1755, ten years after the Rebellion, it was 23,456; in 1785, at the end of the American War, it was 45,889; at the first Government census in 1801, it was 83,769. The population, including the suburbs or extended city, was, by the census of 1891, found to be about 750,000.

It was not till 1695 that the first bank was established in Scotland. The Bank of Scotland was established in that year; but the next oldest banks, the Royal and the British Linen Company, were not formed until 1727 and 1746 respectively. The limited extent of the trade of the

country may be gathered from this—that in 1692[1] the town of Leith possessed only twenty-nine vessels, whose aggregate value was £7000; and that no ship left Glasgow to cross the Atlantic until eleven years after the Union.[2] Moreover, in Wodrow's *Diary* it is recorded as a remarkable event, and regarded by him as a "severe visitation of Providence," that in 1709 Glasgow merchants lost £10,000 by the capture of a fleet on its voyage to Holland.

In the towns, while the foreign trade was thus restricted, local business was confined within extremely narrow limits, and the relationship which subsisted between employer and employed was not dissimilar to that which obtained in the rural districts between the superior and his vassal. The right of carrying on the meanest trades was confined to members of guildries and close corporations, who severely punished those who had the hardihood to open a shop without first paying a "freedom fine," and taking the oath *de fideli*. Those corporations had distinct and recognised positions, having their rights and privileges secured by charter and seal of cause granted in their favour by the burghs. But they also operated in restraint of trade. There was, under that burghal system, no real freedom for either journeyman or apprentice. The family state of society prevailed to some extent. The apprentice generally resided in his master's house. The master assumed the functions of guardian and the right of inflicting corporal punishment. On the other hand, the "diligent apprentice," if he evinced steadiness of behaviour and aptitude at his trade, was generally considered entitled to the hand of his master's daughter as a perquisite at the expiry of his apprenticeship, which fact again made it the master's interest to associate his late apprentice—now his son-in-law—with himself in his business.

But, in despite of the peculiar perquisite of the well-conducted apprentice, the operation of the guilds was to

[1] In 1670, the shipping in the harbour of Glasgow amounted to *three* vessels, each having a mast, and boasting an aggregate tonnage of 10 tons, and one of them was aground.—Slezer's *Theatrum Scotiæ*.

[2] Cleland's *Annals and Statistics of Glasgow*.

exclude apprentices and journeymen from becoming masters in their turn. By reason of this the tendency was to restrict, rather than to extend, trade, and necessarily, therefore, to keep down the numbers of those who, under conditions of greater freedom, would have grown into a separate and independent labouring class.

But although the people of Scotland became animated by a spirit of speculation and a desire of amassing wealth rapidly as early as the beginning of the eighteenth century, when Scotland's two greatest pioneer speculators—Paterson and Law—were at the height of their gambling careers, and were enticing all classes of society, clerical as well as lay, to part with their fortunes, it was not until, at least, the middle of that century that a regular home trade and manufacturing interest was so developed as to call into existence a separate and distinct class of inhabitants—the artisans, whose peculiarities were, that while they were absolutely free and socially independent, they were possessed of no capital or means of maintaining independence except their capacity for labour. Indeed, it may be said that this class was not possessed of any distinct separate existence and defined position until the beginning of this century. It attained to these by the rapid growth of home manufactures and the extension of commerce, which was rendered possible by the extinction of feudalism, and the collapse of the guildry and close corporation system in the burghs. The latter change resulted from internal dissensions, owing to over-protection, and to the difficulty of strictly defining the province and proper limits of each trade. New wants, more luxurious habits of living, and an extending foreign commerce called into existence new occupations which were beyond the original scope and reach of the guilds; and as the strength of men's arms, and the growing demand for their labour, brought employment in spite of the guildries, the corporation laws were gradually relaxed, and then fell into desuetude, until, the commercial spirit and enterprise of the country having become thoroughly established, they

were finally abolished by Parliament, as contrary to sound policy.

The distinct and independent labouring class thus produced, as it is composed for the most part of those who spend their day's wages in their daily maintenance, whose only investment is in their daily food necessary for the support of their bodily energies which produce their wages, and who have not yet learned habits of frugality and accumulation, so it is, and must continue to be, the class from which a pauper population chiefly springs.

From what has been said it may almost be laid down as an axiom that the higher the state of civilization the more certain it is that there will be a state of pauperism; the lower the scale of civilization the smaller will be the amount of pauperism. This rule is exemplified in those countries where slavery existed, notably in the towns on the eastern seaboard of the United States, and in Australia, in which countries there has recently developed to an unexpected extent a degraded and pauper population. Slaves, as we have seen, being the property of their owners and subjects of merchandise, it is their master's interest to have them in the best bodily condition, capable of the greatest amount of labour, and of fetching the highest price. Accordingly it has been shown that in those States where the poor were slaves there were no poor laws.

Another consequence of the abolition of feudalism, which tended to the increase of a pauper class, was absenteeism. When the great superiors were stripped of their powers of chieftainship by the Act of Geo. II. before mentioned, the selfish motives which had till that time induced them to protect their vassals and their dependants ceased to operate and to influence their conduct. The abolition of the more profitable casualties, or incidents of the superiority, terminated their patrimonial interest in the persons and estates of their vassals. Their own estates and the affairs of their districts no longer afforded that attraction which formerly they had; the making of roads facilitated travelling; the great landowners sought for means of pleasure and

excitement in other parts; absenteeism gradually became general in Scotland.[1]

The evils thence resulting, even in a phlegmatic and metaphysical community like the Scottish, can more readily be conceived after the disclosures made of recent years regarding the effects of absenteeism in Ireland, though, of course, it must be remembered that the temperament and habits of the people, and the condition of that country, have rendered the injurious consequences more extensive, more profound, and more obvious. In Scotland, absenteeism tended to diminish still further the means for the support of the poor, already seriously impaired by the increase of dissent from the Establishment, because many of the great proprietors were still members of the Church, and were the principal contributors to the church collections, and their contributions were suspended during their lengthened absence from their estates, and were frequently wholly withdrawn. Besides, the personal concern in the well-being of their dependants and the cottars on their estates, which was shown by the proprietors when they were at home, and themselves saw the state of the society surrounding them, and which, as it was based on feelings of pride, tended to prevent the rise of pauperism, ceased, and the labouring class was relegated to the care of the overlord's factor or "Doer," the sufferings borne by the tenantry from whose "snash" the national bard has sung.

Now, what we maintain is, that those who attribute the evils and the cost of pauperism to the existence of an assessment have overlooked the changes in the state of society in Scotland brought about by the great social revolutions which we have sketched; that they have not made sufficient allowance for the fundamental changes which were slowly, but steadily, taking place in the social relations of the Scottish people during the last century, changes the full effect of which was only felt after both a large dissenting

[1] In Messrs. Fullarton and Baird's Report on the State of the Highlands and Islands, pp. 52, 53, it is stated that out of 195 proprietors in fifty parishes in the Highlands and Islands 149 were non-resident, and "that they carried their rents abroad with them."

community and a numerous labouring class had become permanent social institutions and established facts. To these things, and not to the efforts of statesmen to provide for us in our necessities, efforts which culminated in the compulsory assessment (which we contend was itself an effect, and not a cause), is to be attributed the rise and spread of a permanent pauper population.

CHAPTER III.

The Poor Law Amendment Act of 1845 examined—The local boards of management, their constitution and powers—The Board of Supervision, its constitution, duties, and powers—The methods of assessment—The alternative one on "means and substance" abolished—The law of residential settlement altered to five years—Pauper's right of appeal—Powers of removal to England and Ireland—Provision for relief of lunatic paupers—Parochial relief—Assessments applicable to casual poor—The inspectors of the poor, their duties—The Select Committee's Inquiry—The objections to the laws as stated by Dr. Wood and the clerical party—They subvert the law as established since Elizabeth and James—The laws are blamed with the creation of pauperism—Those views redargued—Unavoidable sources of pauperism—A certain amount a fixed condition of a complex society—The substitutes proposed for the laws—The voluntary system both inadequate and unjust.

Section 1.

We have traced the history and development of the Scottish Poor Laws from rude and primitive times down to the period when compulsion took the place of voluntary measures, and have shown the analogy of the Jewish practice of maintaining the poor to that which obtained in Scotland centuries ago, and which holds to the present time in one important particular, namely, the restriction of the classes of persons who are entitled to demand support from the public. It is now purposed to explain shortly the changes made upon the law by the legislation of 1845.

The object of the Amendment Act of that year was not so much to alter, as to supplement, the existing laws, and to afford better means for their proper administration. Though the main features of the old laws were, for the most part, left entire, all laws, Statutes, and usages being repealed only "in so far as they are at variance or inconsistent with the provisions of this Act,"[1] yet several important changes were made. These were principally—I. An alteration in the managing bodies. II. The creation of a central board of control, called the Board of Supervision.

[1] 8 & 9 Vict. cap. 83, sec. 91.

III. An alternative manner of raising the assessment. IV. An alteration in the law of settlement. V. The giving to dissatisfied paupers a status before the Law Courts, and a direct right of appeal to the local judicatories; and, VI. the conferring on the sheriff of summary powers of removal of English and Irish paupers who have not gained a settlement in Scotland to the unions of their birth.

I. The first of these changes was, if not necessitated, rendered highly advisable in consequence of the general adoption of compulsory assessment. The voluntary system fell into disuse, for the reasons mentioned in the previous chapter, one of which was the diminished interest of landholders in the districts over which their feudal sway was abolished. To these may be added another, comparatively insignificant, yet of material importance, namely, that some heritors refused to contribute a fair share to the voluntary assessment, alleging that the burden had been unequally distributed. The compulsory method, while ending this kind of evasion, of which the obvious result was to overtax those willing to pay, restored to some extent the more admirable features of feudalism. For the heritors began to evince greater interest in the administration of relief than formerly, when practically the whole business was left to the parish minister and his elders. Moreover, they, as well as the ratepayers, realized the fact that the support of the poor had become a public burden, and each interest claimed to be represented in defence of itself, both in the matter of raising the rate and of its distribution. The political phrase had come into use, that where there is taxation there ought to be representation.

Accordingly, the new Act provided a more popular managing body, and a parochial board was established in each parish. (1) In landward parishes, the board is to consist of certain members elected by the ratepayers, delegates chosen by the kirk-session, not exceeding six, heritors holding real property of more than £20 of annual value, and the provost and bailies of any royal burgh in the parish who, as individuals, are assessed for the poor.

Of this constitution it is right to explain—*(a)* that any agent or mandatary, holding written authority, can act for absent heritors and be a member of the board; and such mandate subsists till recalled—a system of delegation which has given rise to great complaint; *(b)* that the elected, or ratepayers', members are proportioned to a scale sliding with the population, whereby it is said that in small unpopulous parishes they are often in a great minority and powerless to act; and *(c)* that the electors are owners of less than £20 annual value, who have each one vote; and tenants and occupants, the number of whose votes rises with the annual value of the subjects assessed on, but limited in all to six votes; while persons assessed both as owners and occupiers vote in respect of each capacity. (2) In burghal parishes, the board is to consist of such number of elected managers as the Board of Supervision shall from time to time fix, having regard to the population and other circumstances of the parish, but not to exceed thirty; four delegates from the magistrates of the burgh, and four delegates from the kirk-session of the parish. In this case the electors are the whole body of ratepayers, owners, and occupiers equally having a number of votes proportioned to the value of the property rated, but in each case limited to six votes, and a person assessed in both capacities voting in respect of each. The maximum number of votes that can be given by one person is, in all cases, six.

In both constitutions electors are disqualified who are exempted from payment of the rate on the ground of inability to pay, or whose rates are due and unpaid at the time of voting,[1] and all disputes as to the validity, &c., of

[1] A similar disqualification was introduced as a condition of the new franchises, both county and burgh, created by the Scottish Reform Act, 1868, in these terms, "Provided that no man shall, under this section, be entitled to be registered who, at any time during the said period of twelve calendar months, shall have been exempted from payment of poor-rates on the ground of inability to pay, or who shall have failed to pay on or before the . . . all poor-rates, if any that have become payable by him in respect of said lands and heritages up to the preceding 15th day of May, or who shall have been in the receipt of parochial relief within twelve calendar months next preceding the last day of July" (31 & 32 Vict. cap. 48, secs. 3 and 6).

an election are appointed to be tried in a summary way by the Sheriff of the County. Further, power is conferred on the parochial boards of appointing committees to act on behalf of the whole board. This is the way in which the business of the large parishes is in fact conducted. The two half-yearly meetings appointed by William and Mary, 11th August, 1692, must at least be held. To these boards is committed the entire management of the poor within the parish.

II. As to the Board of Supervision.

The creation of some central supervising authority, which should be in direct communication with Government, and which would tend to the establishment of a uniform system throughout the country, was the only radical change, in principle, recommended by the Royal Commission of 1844. The intention was, that while the Board should be the organ of the State, the country should be fairly represented on it. It consists of three members nominated by the Crown, the chairman and secretary being paid; three sheriffs of counties who are practising barristers—the Sheriff of Ross and Cromarty representing the Highland districts, the Sheriff of Perth representing the central and agricultural districts, and the Sheriff of Renfrew the manufacturing districts; the Solicitor-General *ex officio*, with the Lord Provosts of Edinburgh and Glasgow as representatives of the great burghs. It will be seen hereafter that the two latter are merely nominal members.

The duties of this Board may be gathered from its name. They are defined by the Statute, and may be generally stated (quoting from Mr. Smythe) as follows:—They have "power to consider and inquire into the management of the local boards throughout Scotland, and they may take what means they like of facilitating those inquiries, and giving advice. There are general rules issued to the inspectors of the local boards, with which they are expected to comply, and these furnish the Board with any data they may require for the purpose of making inquiries; but there are very often besides that complaints made to the Board,

not only by paupers complaining of inadequate relief, but complaints made by members of parochial boards and other parties on which the Board has to pronounce a deliverance."

It has a staff of clerks and of officers, called Superintendents of the Poor, who go round and visit and report upon each parish. The duty of these officers is to examine the books of the local boards, to report whether they are properly kept, examine into, and report upon, the state of the poor, and generally upon any matters they think proper. The Board further determines (as before stated) the number of members of local boards to be elected; approves of the method of assessment resolved on by the local boards; suggests classifications of paupers in poorhouses; reviews decisions of the local boards as to the amount of relief given; certifies causes of action to the Supreme Court in the case of local boards not following their suggestions as to relief; and has power to call for returns, examine witnesses, to combine parishes on a requisition and agreement among them to that effect, to name commissioners for making any special inquiry, and to make an annual report of their proceedings to the Secretary of State. But it has no absolute power to combine parishes, nor to raise the amount of relief tendered, nor to veto the removal of paupers, and it has no jurisdiction in cases of disputed settlement.

III. As to assessment, the Act provides that the local boards can, by a majority, resolve that the requisite funds shall be raised by assessment, such resolution to be final, and not departed from except with the consent of the Board of Supervision. And it confers upon them power to resolve that the assessment shall be imposed according to any rule established by any local Act or usage in the parish, which, if approved by the supervising board, shall not be altered, or departed from, without its sanction.

The modes of assessment (other than local usage) are, one-half upon owners, and the other on tenants and occupants of real property, rateably according to the annual value of their heritages, and the other upon the whole inhabitants according to their means and substance other than lands

and heritages; or an equal percentage upon the annual value of all lands and heritages, and upon the estimated annual income of the whole inhabitants from means and substance other than lands and heritages. The two latter alternative modes having been found to be too inquisitorial, resolving practically into a parochial income-tax, clumsy and inconvenient, were, after a short trial, soon generally discontinued throughout Scotland; and finally they were extinguished by 24 and 25 Vict. cap. 37, generally known as Mr. Baxter's Act.[1]

IV. We have seen that the Law of Settlement was (since the Acts of Charles) birth or three years' residence. The Courts had held that a residential settlement, once acquired, subsisted until another was gained. This law was altered by the enactment in 1845—(1) with respect to acquisition, "that no person shall be held to have acquired a settlement in any parish or combination by residence therein unless such person shall have resided for five years continuously in such parish or combination, and shall have maintained himself without having recourse to common begging, either by himself or his family, and without having received or applied for parochial relief;" and (2) with respect to loss, that "no person who shall have acquired a settlement by residence . . . shall be held to have retained such settlement if, during any subsequent period of five years, he shall not have resided . . . continuously for at least one year." Put simply, this just means, and so the Law Courts interpret it, that a settlement once acquired, is not lost till there is an absence of four years and a day; for it can never be assumed, during absence, that the person may not return and reside the last year of the five.[2]

These enactments have given rise to much litigation and created considerable expense and consequent discontent. Besides the change from three to five years, "residence" is substituted for "haunting" and "resorting." The residence,

[1] See further on this subject, Appendix.

[2] 8 & 9 Vict. cap. 83, sec. 76. Hay *v.* Morrine, 7th February, 1851, 13 D. 628; Turnbull *v.* Kemp, 27th February, 1858, 20 D. 703. See on this subject *post*.

while it must be personal and substantially continuous, need not, after it is once begun, be constant, or such as to exclude occasional temporary absences of a kind incidental to residence in a parish.[1]

V. The Statute further gives a right to applicants to whom relief is refused by the local boards to appeal against such decision to the sheriff (county judge), who, on the applicant's *ex parte* statement, orders the board to afford interim relief until the inspector can be heard, and the inquiry (which is ordered) be concluded. This provision is likewise alleged to have created expense and to have had a most pernicious effect.

Jurisdiction is further conferred on the sheriff to grant warrants of removal to the union or parish of their birth of English and Irish born persons who have become chargeable (which is done on the *ex parte* application of the inspector of the relieving parish). But this power can only be exercised after a trial, at which the foreign union is unrepresented and not heard, and on proof of three facts—the birth of the pauper in England or Ireland, actual chargeability to the parish seeking the warrant, and non-acquisition by the foreign pauper of any residential settlement. This power is also alleged to be a source of great expense to the relieving parish, and to be no benefit to it.

Provision is also made "for more effectually administering to the wants of the aged and other friendless impotent poor, and also providing for those poor persons who, from weakness or facility of mind, or by reason of dissipated and improvident habits, are unable or unfit to take charge of their own affairs," by sanctioning the erection of poorhouses in parishes or combinations containing more than 5000 inhabitants, and for altering and enlarging existing poorhouses; for parishes uniting for the purpose of building poorhouses; for borrowing money on

[1] Crieff *v.* Foulis Wester, 19th July, 1842, 4 D. 1538. See the character of the residence necessary fully explained per Lord President Inglis in Hewat *v.* Hunter, 6th July, 1866, Rettie's Reports, vol. 4, p. 1033.

poorhouses; for framing rules for their regulation; for for receiving poor persons from other parishes into them; providing medical attendance, etc., in them; and for sending insane or fatuous poor to asylums legally authorized to receive lunatic patients; all which things are to be done with the sanction, and not to be done without the consent, of the Board of Supervision.

Further, all property of whatever kind, heritable or moveable, with all revenues belonging to, or vested in, the heritors and kirk-sessions, or the magistrates and town councils of burghs, or commissioners or trustees for the heritors and kirk-sessions, or magistrates and town councils under any Act of Parliament, or law or usage, or in virtue of any gift, grant, bequest, or otherwise, for the use or benefit of the poor of any parish or burgh shall belong to, and be vested in, the parochial boards; and such heritors or magistrates and town councils are either to hold such property for the boards, or to convey it over to them by the appropriate deeds.[1]

Provision is further made for relief, including "medicines, medical attendance, nutritious diet, cordials, and clothing," and also "the education of poor children who are themselves, or whose parents are objects of parochial relief"; and there is, lastly, an important provision and declaration, that assessments levied "shall extend and be applicable to the relief of occasional as well as permanent poor; provided always that nothing herein contained shall be held to confer a right to demand relief on able-bodied persons out of employment.[2]

These are the chief provisions of the Amendment Act, the others merely providing additional, and improving existing, machinery for administering the law, and not calling for special comment. But in connection with the declaration which has just been quoted from section 68, it is worthy of notice that no alteration whatever is made of

[1] Sec. 52. Kinglassie *v.* Heritors of Kinglassie, 14th June, 1867, 5 Rettie, 869. Flockhart *v.* Kirk-Session of Aberdour, 24th November, 1869, 8 Rettie, 176.

[2] Sec. 68. See on this subject *post*.

the class of persons entitled to demand support as a right. That class, therefore, to the present time, remains as defined by 1579, cap. 74, "the aged pure, impotent, and decayed persones, quhilkes of necessitie mon live bee almes;" and the only apparent relaxation of the wholesome stringency of the earlier Statutes is in the section as to poorhouse accommodation,[1] which provides for those "who, by reason of dissipated and improvident habits, are unable or unfit to take charge of their own affairs," though it must be admitted that habits ordinarily censurable are dealt with philosophically—scamps and drunkards being classed with those of weak and facile minds—not their poverty, but their incapacity, being regarded by a law founded on recompense.

The carrying of this machinery into operation is intrusted chiefly to one principal executive officer, called "Inspector of the Poor," whose duties are thus defined—

"He shall have the custody of and be responsible for all books, writings, accounts, and other documents whatsoever relating to the management or relief of the poor in such parish, or division of a parish; and it shall be the duty of the said inspector to inquire into and make himself acquainted with the particular circumstances of the case of each individual poor person receiving relief from the poor funds, and to keep a register of all such persons, and of the sums paid to them, and of all persons who have applied for and been refused relief, and the grounds of refusal, and to visit and inspect personally, at least twice in the year, or oftener if required by the Parochial Board or Board of Supervision, at their places of residence, all the poor persons belonging to the parish, or division of the parish, in the receipt of parochial relief, provided that such poor persons be resident within five miles of any part of such parish or division of a parish, and to report to the Parochial Board and to the Board of Supervision upon all matters connected with the management of the poor, in conformity with the instructions which he may receive from the said boards respectively, and to perform such other duties as the said boards may direct: Provided always that in populous and extensive parishes, or divisions of parishes, the duties of inspecting and visiting the poor may be performed by assistant-inspectors or other competent persons, to be appointed and paid by the Parochial Board for these duties, and for whose conduct and accuracy the inspector of the poor shall be responsible to the Board of Supervision."[2]

[1] Sec. 60.
[2] 8 & 9 Vict. cap. 83, sec. 55.

The inspectors of the poor are appointed by the parochial boards, but they are not dismissible by them without the consent of the Board of Supervision, although they are dismissible by that Board without the consent of the parochial boards.[1]

These various statutory enactments strike one at first sight as constituting a very good and wholesome machinery for dealing with pauperism. But there are certain experimental benevolent associations, one of which was established in Edinburgh about the year 1867, whose object was to deal with the poor as they were dealt with in ancient times, and which proposed to compete with the Poor Laws, and ultimately supersede them. The statements and actions, nay, the very existence of such associations, have tended to raise feeling against the laws.

This effect is increased by the ignorance and exaggeration which prevail regarding the operation of the law, the rates, and the state of pauperism. The subject has been frequently brought forward at contested elections in Scotland, when the candidates have invariably displayed discreditable ignorance on the whole matter. Misunderstandings and misstatements, intentional and unintentional, censures just and unjust, have favoured the circumstances just mentioned. The matter is one in which the complainers are ever sure of sympathy, for sentiment always pictures the poor as causeless sufferers, the legal officer as a heartless oppressor. Whenever public feeling is excited on a question about which the public are scantily informed, scrupulous accuracy as to facts, and judicial calmness in considering the facts, are absolutely necessary. The Parliamentary inquiry concluded in 1871 was the result of the agitation, and no better means could be adopted to avert undue excitement, than to intrust to a responsible but independent commission the task of inquiring whether any, and what, amendments of the system are necessary.

The inadequacy of the existing statutory provisions is not to be lightly presumed, and it is for the objectors to

[1] 8 & 9 Vict. cap. 83, secs. 32 and 56.

prove their case. But it is convenient first to dispose of those benevolent persons who seem to think there should be no pauperism at all, and that there would be none except for the operation of the existing Poor Law itself. It does seem strange that men should be found living at the present day holding this opinion. Nevertheless there is a school in Scotland of this way of thinking, whose exponent may be said to have been the late Dr. Alexander Wood, a physician in Edinburgh, who stated that he had studied the subject for thirty years, and who was chairman of the benevolent association in that city to which reference has been made. The clergy, through their mouthpieces, the General Assemblies of the Established and Free Churches, have also to be mentioned as sharing the same view.

Dr. Wood starts with the theory that there is no obligation upon the State to provide for the poor, whatever be the cause of their requiring maintenance; that to do so is contrary to the laws by which God regulates the world, and that it creates pauperism, because the improvident man and drunken "knows perfectly well that he and his family will eventually be sustained by the State if he falls into poverty." He says that the Poor Law is inadequate to meet the strain upon it, that it barely meets the cases of which it is itself the cause, and that it is utterly unable to meet other extraneous cases. "The effect," he argues, "of a legal provision for the maintenance of the poor, as at present administered, is at once to augment both the number and expense of paupers, while it has very little effect in mitigating their sufferings or improving their condition. The system is at utter variance with those laws by which the social body is kept together, and with those principles in political economy which the soundest heads and clearest intellects have enunciated."

Although Dr. Wood shrinks from affirming that it is the duty of the State to stand by and let people starve, who are utterly unable, from any fault of their own, to maintain themselves, he does say that there would have been less starvation and suffering if there had been no State obliga-

tion, and less if the Poor Laws had never existed, than there has been under those laws.[1] It is obvious that these views are at least thorough; for they subvert the policy adopted deliberately in the reigns of Elizabeth and James VI., which recognised a corporate duty resting on society to provide for its indigent members. They coincide with Burke's proposition that it is a vain presumption in statesmen to think they can relieve us in our necessities.

This, which contains the whole charge, we find substantially concurred in by the General Assembly of the Church of Scotland, and also by the Free Church. The former is a body which has ever taken a deep interest in the poor, and which, in 1818 and again in 1839, submitted elaborate reports to Parliament on the past management of the poor, containing much valuable information on the working of the law; for the Committee on Pauperism reported to the Established Church Assembly of 1868, that pauperism is "a growing evil," and "another cause of pauperism is to be found in the present Poor Law. Your Committee cannot doubt that it has greatly increased the evil of pauperism. Some idea may be formed of this from the fact that the present cost of management and of litigation equals, if it does not exceed, the sum formerly spent in providing for the poor."[2] And we find the late Dr. Guthrie, at a public meeting in Edinburgh, in the spring of 1869, saying that "with reference to the present Poor Law, he believed it to be one of the greatest curses that ever fell on this country. It was not only pauperizing the people, it was demoralizing them."

As a substitute for the present state of things, and a *panacea* for all Poor Law evils, Dr. Wood and his clerical adherents have advocated a return to purely voluntary and benevolent agencies.

But we can only deal with the question at all on the assumption that there always will be some amount of pauperism in the country, no matter what system of relief

[1] Select Committee's Report, pp. 261-163.
Assembly's Proceedings, 1868.

be followed. It may be unpleasant to think of, but it seems the fact that pauperism is now one of the fixed conditions of society, just as inseparable from it as great wealth and large fortunes, of which it is the counterpart. Nor does it ever appear to have been otherwise in the world's history. There are causes at work that create, and will continue to create, pauperism, in spite of every effort to the contrary, and to expect a total immunity from it is idle.

Do philanthropists expect that "aged and impotent poor people" are to cease, and lunatics to diminish and gradually die out? Of this class of poor it may safely be said we shall always have them with us. The same is true, in a greater or lesser degree, of those reduced by improvidence or drunkenness; for there is as little prospect of making men provident and sober wholesale by benevolent voluntary effort and patting on the head, as by Act of Parliament. Is it to be expected that with an increased use of steam-power, machinery, and explosive materials, "accidents," causing total or partial bodily disability, will diminish? Are there not, besides, economical laws at work, whose tendency is indirectly, but surely, to create a pauper class? Society is no longer in Scotland, any more than in other European countries, a primitive and family one, as it largely was in the middle ages, but complex and industrial in a high degree. The division of labour is (if we may say so) subdivided, and machinery is continuing, to a greater extent than ever, to supplant and supersede hand labour.

The effect is, as witnessed in the case of power-looms for textile fabrics and the sewing-machine, to throw suddenly out of employment large classes of people. The people, handloom-weavers and seamstresses, for example, having been accustomed to, and fitted for, only one kind of labour, find great difficulty in obtaining new employment. Because they are able-bodied they are not entitled to relief; but if they are long idle, or are compelled to accept precarious and ill-paid work, they come to be ill fed, badly clothed, badly sheltered, and insufficiently warmed. The result is, fevers and debility set in and carry off large numbers. If

the bread-winner has fallen—and he is generally a victim, for (apart from the experience that typhus generally seizes middle-aged men rather than youths or elderly persons) a workman out of employment, although he has scarcely enough to maintain his family on, will drink more whisky than when in full employment and comfortable at home—widows and children become legal objects of relief who otherwise would not.

This cause of pauperism, the substitution of machinery for hand labour, is no longer confined to manufacturing communities. The sowing, ploughing, and reaping machines are at work with the same effects in agricultural districts. The effects are well illustrated by the evidence of Mr. Lennox, the inspector of the parish of Ayr, an experienced officer, who has been an inspector both under the old and under the new system. He attributes the circumstance that the condition of the very poor people has not improved in comparison with that of the working man, not to the Poor Law, but to this fact that there is little or no work for the rural industrial class now, of the same character that there was fifty years ago. He says—

"That is one great reason. What is called Ayrshire needle-work was a very common work, and the whole poor female population almost was employed in work that they could then make a shilling a day at. I know quite well that they cannot make twopence at it now, with the same hours of labour; and they have no surety as to the work being paid for when it is done. When I came to the poorhouse (in 1840), there was a great deal of spinning. Ladies around the country gave out a great deal of spinning to poor people, and they made a fairish little wage at it; and since then the spinning, teasing, and making of blankets has been taken away. When those had got done, a great number resorted to what is called shoe-binding; now that is done by machinery, and one machine will do as much as a dozen women will do, and that has done away with that altogether. So that for females, when their eyesight is beginning to fail them a little, after they are fifty years of age, and their hand is not so steady, there is little to do."

He adds, speaking more specially with regard to female workers, that these causes have continued for a number

of years, and "there does not seem to be any amendment;" and in answer to the question, whether these are matters that he attributes to the action of the Poor Law, he says emphatically, "Not at all."[1] The results in that parish in twenty-five years, part of which may fairly be attributed to the causes described, because the women paupers are in the proportion of nine to one male, are astonishing enough; for, while the population between 1845 and 1868 increased only about 12·72 per cent., the paupers were, in 1845, 234; and in 1868, 434, being an increase of 200, or nearly 100 per cent.

Sir Lyon Playfair, a close observer of social phenomena speaking at the City Liberal Club, London, in the winter of 1889, says—

"In machine-made boots five-sixths of the old labour had been displaced since 1873. In agricultural implement-making 600 men do now what 2145 did fifteen years ago. In milling corn 75 per cent. of labour has been displaced, and in metal work about 35 per cent. In 1870, one man working at iron furnaces produced 170 tons of iron; in 1885, he produced 260. 39,000 men were displaced by the change in the mode of making steel. Coal-tar colours had been substituted for dyes imported from other countries, and whole crops had been swept away, and the labour of the cultivators displaced. Depression of trade had been felt in all machine-using countries."

Some writers have now gone so far as to blame the economic action of free trade itself for being the cause of the want of employment and the consequent destitution and pauperism in the country.[2]

Another source of pauperism, one not likely ever to be removed in an enterprising society, is too free competition, with its periodically recurring and certain consequences of over-production, in this, that, and the other department of industry, and seasons of depression. Experience shows that in those cases, notwithstanding what is said to the contrary, the weak do go to the wall. Thousands of improvident people, accustomed to depend for their daily support on their day's wages, being suddenly thrown idle,

[1] Select Committee's Report, p. 337.
[2] H. V. Mill's *Poverty and the State*, 1889, pp. 10, 11.

and living in ill-ventilated, overcrowded houses, in overcrowded tenements, in overcrowded towns—houses described by Dr. Wood as looking up to heaven yet pointing down to hell—fall easy victims to epidemic disease and death, and the survivors, by reason of the sanitary conditions of their existence, become more readily degraded, demoralized, and pauperized.[1]

Further, during seasons of severe distress, emigration is resorted to for mitigation of it. But the relief is more apparent than real; for while, no doubt, those are better off who go to States where employment is obtainable and wages high, yet, as it invariably happens that it is the able-bodied, those capable of production, who go, and that it is the aged, weak, and young who are left behind, the result is, that the latter not having the support of their stronger relatives to fall back upon and to assist them, in time succumb, and fall into pauperism.

These, and some other causes of pauperism, seem irremoveable, as society is presently constituted. Some causes, indeed, as excessive drinking, illegitimacy, and defective sanitary conditions, all too fruitful in Scotland, are amenable to, and may be greatly diminished, if not altogether removed by, voluntary and benevolent effort; and to these

[1] In the evidence given by Mr. Henry, the assessor for Glasgow under the Lands Valuation Act, before the Presbytery's "Commission on the Housing of the Poor in relation to their Social Condition," 1891, he states, "It is difficult to estimate with accuracy the number of workers whose wages are under 20s. There are in the city 122,600 dwelling-houses, and of that number 8000 are unoccupied. There are 35,892 houses of one apartment, of which 2795 are unoccupied; and 54,960 of two apartments, of which 2118 are unoccupied. The average rent of the one-apartment houses is £4 15s., and of two-apartment houses £8 (Henry, *Evidence*, p. 84). Of these houses, 23,228 are 'ticketed houses'—16,413 of one room, and 6875 of two rooms." And Dr. Russell, the experienced officer of health of Glasgow answers, under examination, as follows:—"In Aberdeen the density, that is to say, the number of persons who live on an acre of ground, is 18?—Yes. The average number of rooms to a house is 3·42, and the percentage of the population who live in one-apartment houses is 13·6?—Yes. And the death rate in Aberdeen is 21·7 over the ten years 1871-80?—Yes. Then, to take Edinburgh, the density there is 55, average number of rooms to the house is 4·19, the percentage of the population who live in houses of one apartment is 16·8, and the death rate is 23·2?—That is so. Then in Glasgow the density is 84, the number of rooms to the house is 2·34, the percentage of the population living in houses of one apartment is 24·7, and the death rate is 28·6?—Yes. So that the death rate in Glasgow was 5·4 higher than in Edinburgh?—Yes." (Presbytery's Report, pp. 9, 10).

evils, as causes of pauperism, it would be well if the clergy and the charitable confined their operations.[1] Other causes again, as emigration of the able-bodied, and undue immigration of Irish labourers, may be checked.

But the existence of a certain proportion of pauperism, which cannot be got rid of under any conditions, being proved, is there any necessity for a Poor Law at all? It is alleged that the present evils of pauperism are the creation of the law itself; that if they have not entirely arisen, they have been greatly aggravated by the Amendment Act of 1845, and that they would disappear under a system of voluntary benevolent associations distributing relief. Those who maintain this either do not know, or they forget, the history of the Scottish Poor Law. We have traced it through its various stages, and shown that the Amendment Act did not alter the law in any essential feature, and that the law is substantially the same now as it has been for three centuries. The objectors must then blame the more universal adoption of a compulsory assessment.

But it has been seen that, although compulsory contribution was legalized so early as 1579, there always existed a strong feeling against resorting to compulsion —100 years elapsed before any compulsory assessment was enforced—and that down to so recent a period as 1845 it was by no means universal. Indeed, there are still forty-nine parishes that do not resort to it. Its adoption was of slow growth. It has been shown that, so long as the system would work, the people preferred to rely upon their offerings at the church-door, supplemented by a "voluntary" assessment[2] when necessary, and to leave

[1] The Presbytery of Glasgow have made a commencement. See their Committee's Report on the Housing of the Poor, 1891.

[2] The voluntary assessment (as has been seen) was adopted in parishes where the church collections proved inadequate, but whose inhabitants were strongly opposed to the legal assessment, or that prescribed by law. It was an admission of the inability of the voluntary collection, and an evidence of the disfavour with which compulsion was regarded. It had no sanction in law, was binding on none, and like most weak compromises, was a mere makeshift, and, not serving its end, fell before the superior merits of a secure legal provision.

the distribution of the fund to the parochial clergy, and their elders and session. Indeed, those persons enjoyed almost a monopoly of the administration—even in parishes which adopted a legal assessment—till the passing of the Act of 1845.

That system continued in practical operation in most parishes down to the year 1845, for it was only when the legal assessment bore at all heavily that the heritors took any part in the administration. But as the circumstances of the country changed, it signally failed; partly because of the insufficiency of the amount raised to meet the demands for relief, partly because of the difficulty of adjusting the liability among contributors, and partly because of the difference among the clergy and the disruption of churches. A severe critic has indeed said that the clergy "fought for the bodies and souls of the poor, but left them to starve."[1]

It is in evidence that some heritors would not contribute at all, because they thought they were unfairly assessed, and those able but unwilling escaped at the expense of the more conscientious and benevolent. It is also in evidence that the disruption of 1843, and similar secessions, had the effect of breaking up parochial and congregational agencies. Collections that had been in use to be given to the poor were diverted to the support of the ministers. Nor did the system meet the case of the sturdy beggars. They swarmed over the country like locusts, and by threats and *vi et armis* obtained what they had no right to. That burden fell mostly upon the weak and unprotected in thinly-peopled districts. Those vagabonds could only be put down by a vigorous enforcement of legal machinery, which could not be set in motion except at considerable expense. It is absurd to suppose that this expense, rendered necessary for the common good in ridding the country of a nuisance—which riddance became, in fact, a matter of police regulation—should be borne wholly by

[1] *Westminster Review*, October, 1870, No. 76, p. 341.

the generous without any charge upon the rich and absentee heritor.[1] Now, if the system of voluntary and benevolent agency completely broke down under the favourable conditions of a simple state of society, of a united Church, of resident proprietors, when population was more equally distributed, and hand labour the rule—if it was unequal and inadequate then, is it not much more likely to fail utterly under the changed circumstances of an immensely increased population gravitating steadily to the great centres of industry, of machinery rapidly taking the place of hand production, of recurring periods of inflated prosperity and corresponding distress, of continued illegitimacy, of desertions of families, of drunkenness, of rapidly increasing lunacy, and of organised and wealthy associations to promote State-aided emigration for the able-bodied? Would it not be more ineffective now? Nay, would it meet the case at all in certain events?

Let it be supposed that in a parish where the system was in operation a dispute among the benevolent managing body (no uncommon case in voluntary associations) as to distribution of funds, or as to who were proper recipients, or as to other matters, were to arise, and it resulted in all declining to contribute anything—in short, a strike. Let the strike be supposed to take place in a parish whose principal industry is coast-fishing. Storms cause the death of numerous heads of families; many families are instantly reduced to poverty and starvation. The strike continues, the people demand bread; are they to get a stone? Is it not clear that one of two things must happen? Either that the poor must be allowed to die of actual starvation, which would neither be good for them nor for the State; or that the starving people must fall upon the inhabitants,

[1] This evil of vagrancy is not diminished. Mr. Edmiston, inspector of poor of Rutherglen Parish, in the evidence submitted to the Glasgow Presbytery's Commission, states that the number of vagrants in Scotland in 1887 was 138,748, composed of 70,754 males, 23,015 females, and 12,892 children, the total having risen from 91,567 in 1885, and he adds that while they live "fairly well" they "work none," and cost the community at 4s. per week per head for subsistence, £1,442,979 per annum (Glasgow Presbytery's Report). Edmiston, *Evidence*, p. 170. The remedy will be found stated *post*.

and either rob them of food or kill them outright, which again would both be unpleasant to them and a loss to the State?

And yet it is to a system capable of such consequences that many well-meaning men invite the people of Scotland to resort in order to escape from a sentimental feeling engendered by the existence of a compulsory Poor Law.

Nor would the Scottish people display their customary caution and wisdom were they to give up their existing law for any such system as that followed at Elberfeld, which has been lauded as a model one. So far as we understand, it consists of levying a compulsory assessment and handing it over to a voluntary irresponsible association to distribute. That is the reverse of the system so long acted on in Scotland. It seems open to the objection that the contributors have no voice in the election of the distributors. Further, all means such as are employed by the Edinburgh reformers and by the Elberfeld Association are liable to another serious objection. The moment it is conceded that people exists who are entitled to relief as a right, there arises the necessity of a security that they shall get it when it is demanded. Security is also required on behalf of the contributor, who does not need aid, against his contribution being misapplied. The illustration before given shows that the necessitous have no security at all; and the contributor, so far as can be seen, has only the questionable security of the good intentions and judgment of voluntary philanthropists. He would have to pay, but would have no redress.

CHAPTER IV.

The specific charges brought against the present Laws stated—*First*, the proposition that the poor are worse off under the new system than under the old controverted—The state of the poor in the Highland parishes under both systems compared—The condition of the poor generally contrasted—Evidence of Mr. Smythe and of inspectors acquainted with both systems—Necessity of definition of term "Poor"—Recent evidence is supported by writings of Lord Pitmilly, Reports of Committees of the General Assembly—Evidence of Dr. Chalmers and others—Allowances under the old system as described by those who worked it—First charge not proved.

Dr. Wood and the "Chalmers Association" lecturers have stated their charges against the existing law shortly and clearly. The charges are sweeping enough. They are resolvable into two main propositions: *first*, that the Poor Law has augmented the numbers and increased the expense of paupers; and, *second*, that it has had "very little effect in mitigating their suffering or improving their condition." Others have added, *third*, that it has led to an increased amount of vagrancy throughout the country; and, *fourth*, that the method of assessment is unfair.

Whilst admitting that certain defects exist, both in the law and the machinery for its working, which defects we hold are capable of improvement, by means to which allusion will afterwards be made, we hope to succeed in showing that the Scottish Poor Law has not produced any of the results alleged against it by the admirers of the voluntary system; and that, if such objections exist at all, they are due to other causes. In discussing the matter we shall, for convenience sake, invert the order, and deal, *first*, with the proposition, that the condition of the poor is not any better now than it was before, but that in many cases the poor are actually worse off.

On this subject confusion has arisen from the want of precision in the use of terms. "Poor" is both a comprehensive and a comparative term. There is a wide distinction between legal poor, that is, *paupers*, and the poor who are ill off truly, just barely raised above the condition of pauperism, but who are therefore not legal objects of relief. The latter are by far the more numerous class, especially in the industrial centres. But it is with the former only that the Poor Law has any concern. As it can neither interfere with the latter class nor affect its state, except in the most indirect way, it should not be held responsible for it. Therefore, the condition of this class of poor now, as compared with previous times, is irrelevant to the issue, and any evidence regarding it should be discarded, even if such evidence established it to be now worse, which is not made out.

The Highland parishes were the last to adopt the legal assessment. Speaking of the condition of their paupers before the Amendment Act of 1845, Mr. Smythe says it was "as bad as possible. I may say there was hardly anything given to the poor; they were almost entirely dependent on what they got from their friends or their neighbours in the district. In the parishes in Sutherland, I think, they gave about 2s. in the year; and I think it was said by Mr. Gunn, the factor for the Duke of Sutherland at that time, that it was given as an 'acknowledgment of poverty.'" And with reference to the localities of the greatest pressure of poverty, he adds, "I do not mean to say that the condition of the poor was very much worse than in any other parts of Scotland, because they did get assistance, but then the burden fell generally upon their poor relations."[1]

Mr. Smythe also explains a system that prevailed extensively in Shetland of "quartering," or billeting paupers in rotation upon the inhabitants, who in proportion to their means provided them with bed and board for a certain number of nights. Some parishes were divided into

[1] Select Committee's Report of 1869, p. 5.

"quartering" districts, and, "in short, it was a sort of tax upon the inhabitants." Speaking of the general condition of the poor under that system, he says, "they were supported, but it was in a very precarious way."[1]

The transition from voluntary to legal assessment after the passing of the Act of 1845 is shown by the following table, divided into quinquennials for brevity's sake :—

	The Parishes Assessed.	Voluntary Contributions.
In August 1845, . . .	230	650
„ 1850, . . .	644	336
„ 1855, . . .	700	183
„ 1860, . . .	749	134
„ 1865, . . .	777	108
„ 1870, . . .	794	93
„ 1875, . . .	811	75
„ 1880, . . .	821	65
„ 1885, . . .	828	58
„ 1890, . . .	835	51
„ 1891, . . .	837	49[2]

To the total number, 837 plus 49, there fall to be added thirteen parishes in which the assessment is still levied according to local custom or established usage, making the gross number of parishes 899.

Within a year of the passing of the Act, Mr. Smythe himself visited the Highlands as a member of the Board of Supervision. He visited Ross, Sutherland, Caithness, and Cromarty, and reported to the Board in February, 1846.[3] He says of the condition of the poor there that they were all adequately provided for as far as could be; that in some places the provision was poor enough, but, comparing their condition with that of independent labourers, they were not in a very starving condition. As to the condition of the paupers generally throughout Scotland after the passing of the Act, as compared with it before it, he says, "I should

[1] For full particulars of the deplorable state of the poor in the Highlands and Western Isles before 1845 reference may be made to Messrs. Fullarton and Baird's *Remarks on the Evils affecting the Highlands and Islands*, p. 64, *et seq.*

[2] Forty-sixth Annual Report of the Board of Supervision (1891), p. 4.

[3] Appendix to First Report of Board of Supervision, 1846.

say that they were certainly in a better condition, what I should call the proper paupers. Instead of a precarious relief, they get a certain relief."

This testimony is confirmed by that of Sir John M'Neill, chairman of the Board of Supervision from 1845 to 1868, and by Mr. Patrick (afterwards Lord) Fraser, Sheriff of Renfrew, and also a member of that Board.

With regard to the poor in burghal parishes, the evidence is, that as the condition of the people generally has improved since 1845, so has the condition of the poor. Mr. Beattie, inspector of the Barony Parish (Glasgow), testified in 1869 that the state of the poor had very much improved of late years; that their wants were very much better attended to then than they formerly had been; that for about four or five years after the passing of the Act there was very little apparent improvement, but that latterly within the previous eight years the progress (if the increase of expenditure on the poor can be called progress) had been made. Mr. Beattie explained that by the improved condition of the poor he meant the increase in the extent of allowances. He qualified his evidence by explaining that he did not think the poor got the full benefit of the increased expenditure upon them.[1] Nor is that wonderful, when it is kept in view that a large part of the increase was attributable to increase in the cost of the subjects of that expenditure—food, rents, and services, and to the diminution of the value of money.

Mr. Brown, inspector of Abbey Parish (Paisley), who had been inspector there since 1834, and had had experience of the working of the old law, in his evidence before the same committee had "no hesitation at all in saying that the state of the poor is about as much better as the general state of the population," which, he thinks, is greatly improved. He, like Mr. Beattie, attributed the improvement to the increase in allowances. But he went further. He said that, previous to the Act of 1845, the relief given to

[1] Select Committee's Report, pp. 181-2.

the poor was inadequate; and he attributed the increase in allowances to, *first*, the comparatively inadequate relief prior to the passing of the Amendment Act of 1845; *second*, to a general rise in the price of the staple articles of food, and a higher standard of living among the working people; and, *third*, to greater liberality to the poor on the part of the boards." The evidence of many others was to the same effect.

And it must not be overlooked that one of the principal findings, in point of fact, of the impartially composed Royal Commission of 1843, was, that under the system of relief which they found in operation in Scotland the poor were inadequately relieved.

The following extracts from that report are conclusive:—

"'We are of opinion,' they say, 'that the funds raised for the relief of the poor, and the provision made for them out of the funds raised for their relief is in many parishes of Scotland insufficient.' This observation was applied both to assessed and unassessed, and both to burghal and landward parishes. 'Throughout the Highland districts,' the report proceeds, 'and in some parts of the Lowlands also, where the funds consist solely of what may be raised by the Church collections, the amount is often inconsiderable. In many of these places it will be seen that the quantum of relief given is not measured by the necessities of the pauper, but by the sum which the kirk-session may happen to have in hand for distribution. In the Highlands and Western Islands, when the poor have exhausted their small crops of potatoes, which, by the kindness of some neighbouring farmer, they have been permitted to raise, they are forced to cast themselves on the charity of their neighbours, many of whom are nearly as poor as themselves."

Against this evidence there is found only that of those who desire abolition, gradual abolition, of the law, because of their belief that the poor of Scotland would be morally better if it were abolished altogether, and the system in use before 1845 restored. On sifting their evidence, it is discovered that they use the term "poor" indiscriminately, as signifying both paupers and that large class removed above pauperism for whose condition we have pointed out the Poor Law is not directly responsible, and whose case it is

irrelevant here to consider. Their reasoning amounts to this: because the Poor Law has a bad moral effect upon large classes of the community, whom it tends to demoralize, by weakening the spirit of self-reliance and independence, therefore the condition of those legally entitled to parish relief, of the pauper class, is worse than it was. This is a patent fallacy, and demonstrates the necessity for adhering to a definition. We hope afterwards to succeed in showing that the right of appeal to the sheriff against the Board's decision refusing relief does, with a certain class, operate injuriously by making them rely more upon the law than upon themselves, and thereby renders them more easily pauperized.

But it is quite unnecessary to rely upon any evidence more recently given in order to make it clear that the poor were not adequately relieved and cared for under the voluntary system, for there is ample testimony to be found in the writings of Lord Pitmilly and the reports made to Parliament by the General Assembly of the Church to prove that, under the system which they advocated, the poor did not get adequate relief, and that the law was violated to the disadvantage of the paupers.

It has been seen that Lord Pitmilly and other jurists conceded the right of the impotent poor to be relieved by the public, and that he maintained this right to have existed anterior to the earliest statutory enactments recognising and confirming it. Dr. Chalmers also, and the General Assembly, conceded the right, or, to speak more accurately, conceded that an obligation rests upon the community to support the impotent poor. In this respect they differed from Dr. Wood and the party who later have agreed with him.[1]

The right to support implies a right to an aliment, to everything necessary to maintain subsistence. But, under the voluntary system of relief, while the right was admitted in principle, it was denied in practice. The poor were *not*

[1] See *ante*, p. 65.

alimented. The practice of administering relief stopped short of what the poor—their right being admitted—were entitled to demand, viz., a *sufficient* aliment, and it amounted only to what has been described by the witnesses before the Select Committee as a "precarious subsistence." It was not only precarious but was capriciously given.

This is shown by the following passages from Reports of the General Assembly to Parliament on the State of the Poor, from the writings of Dr. Burns and Lord Pitmilly, and from the evidence of Dr. Chalmers. The Assembly's first Report, under the signature of Sir Henry Moncreiff, was to this effect:—

"The Committee remark that (1) the Scotch have uniformly proceeded on the principle that every individual is bound to provide for himself by his own labour as long as he is able to do so, and that his parish is only bound to make up that portion of the necessaries of life which he cannot earn or obtain by other lawful means. (2) That, even in cases of extreme poverty, the relations and neighbours of the pauper have a pride in providing for their necessities, either in whole or in part—that this circumstance will account for the small number of paupers in some very populous parishes; and serves, at the same time, to explain a fact, which is obvious in so many returns from the country districts, that the sums given to the paupers appear to be so disproportioned to what their real necessities require. A small sum given to aid their other resources affords them the relief which is necessary; and it would be both against the true interests and the moral habits of the people if a more ample provision were made for them by their parishes."[1]

Dr. Burns, in his *Historical Dissertations on the Poor Laws*, says—

"The managers of the poor in our country carefully guard against holding out to any class of men the prospect of a total dependence on the funds; and in fact there is hardly such a thing as "*maintenance*" given, except in the case of the inmates of hospitals, or in the case of lunatics, or blind, or absolutely impotent, from defects corporeal or mental; and this, it has been justly remarked, is one of the prominent excellencies of the system, as contradistinguished from that prevalent in England. The great mass of our poor are what may be termed '*partially dependent.*'"[2]

[1] Appendix to the Report of Select Committee, 4th July, 1817, p. 145.
[2] P. 165.

And again—

"The principle on which the session proceeds is this fundamental one in the management of the poor in Scotland as contradistinguished from that of England; viz., that the parish funds are not designed to supply *total maintenance;* but simply to aid individual exertion and voluntary Christian benevolence." [1]

In the Report made by the General Assembly to Parliament in 1839, it is stated that—

"the amount of the allowances to the parochial poor in Scotland exhibits another and striking peculiarity in the system. In all cases remarkably moderate, it varies according to the circumstances and situations of the parties who are to be assisted. The principle on which the amount of allowances to paupers is fixed is that, except in very rare instances of total and absolute destitution, the aliment to be provided is not to be such as would render the pauper independent of all other resources; that, in the general cases, poor persons are not so entirely destitute as not to be capable of procuring a part of their sustenance by their own labour, or by the assistance of their relations, or the benevolence of neighbours and others; and that is only what may be necessary for their support, in addition to these separate sources, that the parish ought to supply." [2]

The benefits which were supposed to flow from such an application of the principle of a right to relief on the part of the impotent poor are thus stated by the General Assembly—

"From such an arrangement as this many and great benefits result. The poor are led to be industrious and prudent; their relations and neighbours are encouraged to assist them; a spirit of independence is cherished; an unwillingness arises to come on the parish for the pittance which it yields; the burden to the community of the ordinary poor is lessened; a compulsory assessment is avoided; and the church collections prove in general sufficient to provide the necessary fund." [3]

Lord Pitmilly states the alleged advantages thus—

"*First*, such a state of allowances prevents improvidence, and, while it encourages industry in the young and able, it induces them to lay by for the time of sickness and old age. *Secondly*, instead of impairing the benevolence of neighbours and relations, it has the effect, by relieving them of part of the burden, to prompt

[1] P. 177.
[2] Assembly's Report, 1839, p. 9.
[3] Report, 1839, p. 9.

and promote their charity. The vast advantage of the system in this respect is truly conspicuous. The kindness to the poor of relations and neighbours, whose own circumstances are circumscribed, would sink under the load if unassisted by the parish; or, on the other hand, they would withdraw altogether from beneath the weight of an inconvenient burden if the liberality of the public were excessive or even adequate to the wants of those who are relieved; but when part of the burden is shared by the parish, relations and friends are encouraged to provide the remainder, and would be ashamed to withhold a portion of what the necessities of their neighbours require. *Thirdly*, it affords an opportunity of proportioning public charity to the character of the paupers."[1]

This system, so highly eulogized, was simply no system at all. It was marked by a total absence of uniformity, the mode of the application of the principle varying in nearly every parish. It afforded no security whatever to the paupers that that which was conceded to be theirs of right would be forthcoming when most needed. It was simply impossible that it could encourage "improvidence," for the allowances only amounted to a "pittance"—a pittance so "miserable" as to be useless, and scarcely worth the trouble of making considerable journeys to apply for.

What, in practice, did these allowances amount to? When giving evidence before the Select Committee on the State of the Poor in Ireland, Dr. Chalmers gave a number of instances from various parishes, especially in the north of Scotland, of the amounts of the allowances, which he stated formed "a very fair representation" of the general state of the unassessed parishes. From these statistics it is clear that almost no paupers were wholly relieved out of the poor funds; that the amount they received would not maintain them for one month out of the twelve; and that the balance of the necessary support was supplied by poor relations and neighbours, who were the least able to afford it, and who were therefore taxed out of all proportion to their means and substance. The evidence of Dr. Chalmers shows that the average annual allowances amounted only to between 3s. and 7s.; that 10s. per annum was an exceptionally high rate, and that from 18s. to 25s. per annum

[1] Pitmilly, p. 44.

was considered adequate relief in the case of a young man disabled by universal palsy.

The General Assembly of 1839, when speaking of the condition of the poor in the non-assessed parishes in the northern districts of Scotland, say, "The poverty of the people is such as to preclude the possibility of their contributing at the church-doors more than will defray the necessary expenses charged upon the collections, and afford to the poor *a miserable and uncertain pittance,* which is, in some cases, scarcely appreciable as a means of the pauper's maintenance." They instance the parish of Kilmuir, in Isle of Skye. They state that it contained a population of 2275, and "that the average amount of funds distributable among the poor is £3 annually, and a distribution was made only once in two years. The last distribution took place on 3rd March, 1836, when the sum of £6 3s. 6d. was divided among sixty-eight paupers." The minister states, "As the amount of church collections has varied little for several years back, it has been found necessary to restrict the number of paupers to about sixty or seventy at each distribution, but were the funds of greater amount it would be found necessary to admit no fewer than about 200 paupers on the roll."[1]

One may confess to a want of any appreciation of a system which was capable of such gross misapplication and injustice. If the paupers were entitled to relief at all from the parish, as matter of legal right, surely they were entitled to something more than would keep them in life for only one-twelfth part of the year; and, if the obligation of relief existed at all, it is only reasonable that it should have been discharged equally by the people according to some uniform and equitable rule, and not have fallen wholly on the benevolent poor relations and neighbours, while those in better circumstances escaped. Dr. Alison, in his valuable *Observations on the Management of the Poor in Scotland,*[2] exclaims, "If it were not for the poor, what would become

[1] Report, 1839, p. 15, and footnote †.
[2] Blackwood & Sons, Edinburgh, 1840.

of the poor?" Read by the light of the evidence we have quoted, the charity of the poor to each other becomes not the manifestation of a spirit of independence, but to some extent the expression of a feeling that mutual support was needed, while their richer neighbours withheld their aid, or, in the words of the Gospel, "passed by on the other side."

As the Highland parishes were the last to adopt assessment, so it is proved beyond a doubt that their paupers continued longest in a wretched condition. The objections to the system were strongly seen when, assessment becoming general, the equality of its incidence, and the certainty and sufficiency of the relief given under it, were observed in those parishes which had adopted it; and ultimately the Highland parishes admitted their force, and slowly and deliberately abandoned the system in favour of assessment.

From what has been now advanced it is demonstrated, not only that the allegation that the poor are worse off under the new system than they were under the old is not proved, but that the failure of the old system to relieve the poor in any proper sense is established, and this, too, without taking into consideration at all the relative condition of the paupers before the Act of 1845, and after it, as it has been described by those witnesses, examined before Mr. Craufurd's Committee, who had a personal knowledge of it under both systems.

CHAPTER V.

The *second* charge of increased numbers and expense—Difficulty in comparing numbers from insufficiency of *data*—Old Returns were defective—Numbers from 1807 to 1817 exclusive of dependants—Numbers in 1835-7 with dependants, except those of the casuals—Numbers after the Act of 1845 passed—The effect of the passing of the Act on the numbers—The increase more apparent than real—No real increase since 1849—Decrease relative to the population in the last twenty years—Decrease in numbers of all paupers in last twenty years, except lunatics—The only increase now is in number of lunatics—Who the dependants are—Deserted wives and children, and bastards—Desertions and illegitimacy caused and encouraged by defective Marriage Laws, and law of fixing paternity by mothers of bastards—Seduction—Recommendations as to these—Statistics proving serious increase of pauper lunatics since legislation of 1857—The effect of that legislation—Board of Lunacy is wrong and condemned—Poor Laws not responsible for pauperism arising from these three causes—Charge of increased numbers not established.

Section 1.

Second. As to increased numbers and increased expense.

There is more difficulty in dealing with these charges, as they to a certain extent necessarily run into each other, and as the question of expense is by no means a simple one. It is obviously easy to indulge in statements as to increase of numbers, for there is no standard by which to judge the numbers. But the burden of proof is on those maintaining the affirmative. One thing may safely be said at the outset, that there is no such state of matters now existing as that depicted by Fletcher of Saltoun, in whose time relief was wholly administered on the principle of pure benevolence, or that described by the Royal Commission of 1843.[1] Few sturdy beggars now scour the country and waylay honest and unprotected people. Few, if any, half-starved

[1] Cf. *supra*, pp. 37, 41.

Highlanders are found haunting their native glens. If mendicity now exists to a certain extent, it will be afterwards shown that the inhabitants themselves are in a great measure to blame for it. It must not be forgotten that, prior to 1845, the great body of the licensed beggars, those furnished with the testimonials, and the wandering poor, those now classed as "casuals," were wholly omitted from the returns. There is no evidence of their absolute number at any given time, but before 1845 they formed the majority. The returns only included those in receipt of relief direct from kirk-sessions, whereas now all claims are included. As soon as the Act passed all those wanderers were taken in, and a superficial examination would lead to the belief that there was, of a sudden, a great and remarkable increase in the pauperism of Scotland. Such, however, was not the case. These vagrants did not constitute an increase of pauperism, but only an increase of the number of persons placed on record and brought under direct legal regulation and control.

The Report by the General Assembly published in the year 1839 contains some statistics as to the number of paupers which, however, must be accepted subject to the explanations just made.

For the period included in the Assembly's first Report, viz., for the ten years from 1807 to 1817, the population was stated at 1,764,987, and the poor of all classes at 44,199, or at the rate of 2·51 per cent. But the Report of 1839 admits that in this number there were not included the dependants[1] of those in receipt of relief, but only those to whom the payments were directly made; and it is there stated that the figures do not therefore give the correct proportion of the whole population drawing regular parochial relief, and that, if such had been included, the proportion would have been nearer to 3 per cent.

The Report of 1839 states the numbers on the average of the three years 1835-7, calculated on the population as it stood

[1] When using this word as a substantive, meaning a class of paupers, we spell it as we find it in all Poor-Law books and reports, although it is wrong.

in 1831, thus—population, 2,315,926; paupers, 79,429, being at the rate of 3·42 per cent. As to these returns the Report again explains that the number includes the members of families on the permanent roll, but not the dependants of the occasional poor, because they were deemed to be in no case dependent on the parochial allowance.

That Report shows the average rate per cent. to the population in the parishes, thus—

Non-assessed parishes, ...	3·53
Voluntarily assessed, ...	3·03
Assessed in terms of law, . . .	3·44
Over the whole country, . . .	3·42

It also shows that where assessment had long prevailed the proportion was somewhat higher, thus—

In district 1, the parishes had all been long assessed, and the proportion was	4·83
In district 2, 169 out of 658 were assessed, and the proportion was . . .	3·44
In district 3, only 3 were assessed out of 157, and the proportion was . .	3·31

The *apparent* advantage, however, on the side of the non-assessed parishes is more than counterbalanced by the admission of the same Assembly regarding the miserable condition of the poor in the non-assessed parishes, which was before quoted.[1]

The first register of the poor, made up in 1846, after the passing of the Amendment Act, showed a total over all Scotland, excluding dependants, of 69,432. In 1847 it rose to 85,971, being an increase of 16,539. In 1848 it rose to 100,961; and in 1849 to 106,434. Mr. Smythe explains that this increase consisted wholly of persons entitled to relief, many of whom had before preferred to eke out a precarious existence by sorning on their friends, and by helping themselves; and that it was rather an apparent than a real increase, because before the Act many persons having the *status* to apply had not done so, but, being thrown off by their friends after the Act passed, such persons established their claim, and came upon the roll.

[1] Cf. *supra*, pp. 82, 84.

In short, the effect of the Act upon that class was to shift the burden; whereas before it had rested on the shoulders of the very poor, and those who could ill bear it, it was transferred to the broader shoulders of the rate-payers. As a common fund was provided, to which all had to contribute according to their means, individuals showed less inclination to aid individual cases, a precarious existence became more difficult to maintain, and an increase of the registered poor was the result.

Further, Mr. Smythe explains that the gradual adoption of the legal assessment, which, as has been seen, continued to take place after the Act of 1845, was brought about not by any pressure from without, not by the demands of claimants for relief, but by the spontaneous action of the boards themselves. The reason just assigned for this apparent great increase, if the correct one, should not have lasted long. And it is found that it did not. For, from 1849, when 106,434 was reached (and that was an exceptional year in the great manufacturing towns like Glasgow, owing to stagnation in trade, following upon the collapse of credit in 1848), the numbers have since varied from 95,000 to 136,231 in 1868. That year is also proved to have been an exceptional year, and was the highest ever reached in point of numbers.

To judge fairly of an increase or a decrease it is necessary to compare the numbers of the paupers with the numbers of the population; and disturbing elements, such as great stagnation of trade or visitations of cholera, and the like, should be excluded. But, even without excluding them, it is found that while the population has increased from 2,781,318 in 1847 to 4,033,103 in 1891, the number of registered poor and their dependants has actually decreased from 106,010 in 1847 to 91,063 in 1891. In the twenty years from 1847 to 1867 the ratio per cent. of the registered poor and their dependants to the population was maintained steadily at about 3·850. But in the twenty years from 1871 to 1891 the ratio steadily diminished from 3·8 per cent. of the population to 2·2 per cent.

The casual poor and their dependants have likewise diminished in the same time. In 1850 (the first year when a separate record of them was kept), the number on the 14th day of May was 7575; in 1868 it was only 7260; while in 1891 the number had fallen to 4228.

The adult paupers, both permanent and casual, have diminished in number during the last twenty years:—

Of *permanent*, there were in year .	1849	82,357
Do. do. do.	1868	80,032
Do. do. do.	1872	76,641
Do. do. do.	1891	56,870
Of *casual*, there were in (the first year of record)	1850	4267
Do. do. do.	1868	3592
Do. do. do.	1872	2872
Do. do. do.	1891	2501

The average ratio per cent. to the population of *all* permanent paupers and dependants was—

For the ten years ending . . .	1859	3·842
Do. nine years ending . . .	1868	3·861
Do. ten years ending . . .	1871	3·6
Do. do. . . .	1881	2·7
Do. do. . . .	1891	2·2

The same favourable results are strikingly shown in the three parishes of Glasgow, Barony, and Govan, which together make up the great City of Glasgow, with a population of close on 800,000, mostly industrial. In Glasgow pauperism is concentrated, there is little of vagrancy, the supervision is close, and the poorhouses are used to their utmost capacity.

For the year ending 14th May, 1881:—

Parish.	Total Pauperism.	Population.	Per cent. to Population.
Glasgow, . . .	5,521	166,128	3·32
Barony, . . .	6,875	264,509	2·59
Govan, . . .	4,758	230,463	1·99
Totals, . .	17,154	669,100	2·56

As at 14th May, 1891:—

Parish.	Total Pauperism.	Population.	Per cent. to Population.
Glasgow, . . .	4,805	167,363	2·87
Barony, . . .	5,643	309,375	1·82
Govan, . . .	5,547	284,982	1·94
Totals, . . .	15,995	761,720	2·09[1]

The figures show that there has been no increase of pauperism during the last forty-two years, and, what is more remarkable, that, including the exceptional year 1868, the number per cent. of the whole population in receipt of relief was a fraction less during the nine years from 1860 to 1868 inclusive than for the ten immediately preceding years; while relatively to the population there has been since 1869 an actual diminution in the number both of adult paupers and their dependants, and casuals and their dependants. The dependants of the adult poor had increased from 40,159 in 1859 to 52,612 in 1868, since which year there has been a gradual decrease. These numbers are taken from the numbers in receipt of relief on the 14th day of May in each year.[2]

The same general results are obtained by an examination of the figures, showing the total number of persons receiving relief during the year. This, however, is not so accurate a method of calculation, as many persons may be included twice, or oftener, according to the number of times and places in which they get relief, thereby causing violent fluctuations in numbers. This is strikingly exhibited in the case of the casuals, who are the migratory class. The total number of that class relieved, including their dependants, in 1859 was 67,900, whereas in 1868 it was 101,333, or an apparent increase, but truly only a fluctuation, in ten years, of 33,433.[3] Sir John M'Neill stated to the Committee, regarding these fluctuations, that he "cannot account for them."[4]

[1] Forty-sixth Report Board of Supervision.
[2] Thirty-sixth and Forty-sixth Annual Reports of Board of Supervision.
[3] Report of 1870, Appendix No. 2.
[4] Report, p. 75, Q. 1294.

The great increase of dependants between 1859 and 1868 was found to be equally proportioned to the numbers of permanent and casual poor. Had it not been for that increase of dependants the average ratio per cent. of all the paupers to the population, during the two periods of nine and ten years cited, would have been reduced by the proportion yielded by the average increase of 7373 dependants in the latter period. This increase of the dependants is made clearer by stating it arithmetically. The normal ratio of their increase, if proportioned to the increase of the adult poor of all classes, would have been only 868 instead of 12,453 in the decade ending 1868, thus—

1859. Total adults.		1868. Total adults.		1859. Dependants.		1868. Dependants.
81,854	:	83,624	::	40,159	:	41,027
whereas the actual increase is				40,159	:	52,612

The figures above cited show that high-water mark of pauperism in Scotland was reached in 1869, just as in England it was reached in 1871–72, since which dates in both countries there has been a steady declension.

Section 2.

Dependants, for the most part, are deserted children and illegitimates—children who, for these reasons, have to be taken into the poorhouse with their mothers, or the burden of whose support entitles their mothers to relief, and is the cause of the mothers becoming paupers. It is to be regretted that no trustworthy statistics are found showing the relative proportions of illegitimate and deserted dependants to all other dependants. That both sorts had rapidly increased between 1845 and 1868 is generally believed, and may be accepted as true, for the great increase in their numbers was put forward as accounting for a part of the increased expenditure in relief. [1]

[1] The same state of matters, *i.e.*, the increase of the dependants was found in England in 1870. Of the out-door poor of London, 47 per cent. were children; of the out-door poor of the rest of England, 36 per cent. were children; of the whole million of paupers, 391,000 or 36 per cent. were children; and the Commissioners report that more than one-third of the entire pauperism of the country was attributable to the death, absence, or desertion of the male head of the family.

Illegitimacy is proved by the Registrar-General's returns still to exist in the greatest proportion in the southern rural and mainland Highland districts. That officer's Report for 1890 shows that the proportion of illegitimate births over Scotland is 7·54 per cent. of the total births. The worst counties are the southern rural and the north-eastern rural, in which there is much idle time. In these it is double of the average over the whole. The two counties which are the greatest centres of our commercial, mining, and manufacturing districts, viz., Lanark and Renfrew, respectively showed only 7·6 per cent. of illegitimate births in Glasgow, 5·5 in Paisley, and 4·6 in Greenock."[1] But, as the greatest increase of pauperism during the rising period from 1847 to 1869 was in the dependants, as more deserted mothers and mothers of illegitimate children are in receipt of relief than formerly, and as illegitimacy in Scotland generally is only slightly on the decrease, it may fairly be said that any increase in ordinary pauperism is due to those two causes. While those causes increase the numbers, they augment the expense in even a greater ratio; for, besides relief afforded, there is the expense entailed of seeking out and prosecuting the deserting parents and putative fathers, proceedings which are not always successful. When unsuccessful, of course the parish is saddled with the cost of warrants, officers' charges, travelling expenses, &c.

Strictly speaking, it is irrelevant to the present inquiry to examine into the causes of illegitimacy and desertion, or to offer any explanation of the statistics relating to them. But the Poor Law itself is blamed with the authorship. The late Lord Fraser effectually disposed of that charge. He scouted the idea, and attributed illegitimacy to nothing but passion and opportunity.[2] From statements made by certain members of the Established Presbyteries it would seem that the Scottish institution of "Fast-days" had a good deal to do with illegitimacy; but these festivals have pretty generally been now abandoned and the day devoted to a public holiday.

[1] Registrar-General's Supplementary Report, 1890, p. 8.
[2] Report, p. 62, Q. 1076.

We may, however, venture to assign as a reason accounting for the number of desertions, and also to some extent for the increase of illegitimate pauper children, the absurd and loose Marriage Laws which prevail in Scotland, to which the people of that country adhere with their wonted pertinacity, but which have long ago been condemned by most civilized nations and by law reformers.

In a large proportion of cases[1] the very poor man's[2] wife in Scotland has no clearly defined position. She has certain of a wife's privileges without receiving the respect and consideration due to a wife. While regular marriages are more common than they were previously to the Act "To Encourage Regular Marriages in Scotland,"[3] the union which prevails is often not a marriage at all, but one by a fiction of law only, constituted by promise *subsequente copula*, or simply by cohabitation and passing as man and wife among neighbours. But as the poor do not understand the intricacies and mysteries of so extraordinary a system, and as no form or solemnity mark the making of the contract, there is little hesitation in breaking it. As soon as the man tires of his companion, or quarrels with her, or trade gets dull and employment fails, he is induced to desert her, and ceases to support her and the children she bore him. If the children are young, the mother becomes entitled to relief. If there are two children, the mother gets relief for one, it being presumed that an able-bodied woman can earn sufficient for herself and one child past the nursing period. If there are more than two, her claim becomes the stronger and her allowance greater in proportion to the number of children. In this way the list of dependants goes on increasing.

It is worthy of remark that the cases of desertion by men of the women with whom they cohabit increase when

[1] In the first edition this proportion was stated as 7 is to 10, which is too great and called forth lively and adverse criticism. While it is too large and it is not possible to state it exactly, it is still considerable.

[2] This term is used to mean the class called by Mr. Bramwell Booth the "submerged tenth."

[3] 41 & 42 Vic. cap. 43 (1878).

trade is slack. Working people have often to travel far in search of work; and when there has been a change to another scene of industry, there is less readiness to renewed adherence than if there had been no such change.

It is deserving of notice also, in connection with illegitimacy as a cause of pauperism, that it is not nearly so prevalent in Ireland, where there exists a simple Marriage Law, and no law similar to that about to be noticed, and where there is, therefore, less inducement to open and wholesale concubinage, such as exists among a certain class in Scotland. In Ireland the proportion as compared with Scotland is one to three, and illegitimacy is decreasing there.[1] And it is known that during the twenty years ending 1868 pauperism in Ireland greatly diminished. Mr. Gladstone stated (Speech introducing Irish Land Bill, 15th February, 1870) that, "in the year 1849, the paupers were counted almost by millions, but in 1860 they had sunk to 170,000. In 1868, however, they had risen to 189,000." The year 1868 therefore appears to have been exceptional in Ireland as well as in Scotland.

The latest numbers for Ireland are for the year 1889-90, in-door, 43,536; out-door, 62,286; total, 105,822, which is less than the preceding year by 2587, and less by 18,308 than in 1886-87, which year appears to have been recent high-water mark in Ireland.[2]

But undoubtedly one of the chief causes of the numerous and burdensome illegitimate population, both in Scotland and England, is to be found in the state of the law of these countries, which permits the mothers of bastards to fix their paternity, and allows to them a money claim against the putative fathers.[3] It is unquestionable that

[1] In Ireland the Roman Catholic clergy inculcate early marriage, and are said to exert great influence in that direction.

[2] Eighteenth Annual Report of Irish Local Government Board, p. 4.

[3] The Supplement to the Registrar-General's monthly and quarterly returns for 1869 proves that the prevailing illegitimacy cannot be satisfactorily accounted for by defective education, nor by the bothy system, nor by the size of farms, nor by the proportion of marriages, nor by the excess of female life, nor by defective house accommodation, nor by the influence of the social evil. The Registrar-General says, "that the non-influence of all the above . . . causes seems to point out that the

the tendency of such a law is to hold out a premium on illegitimacy to that class in which illegitimacy chiefly is prevalent. The theory is, that both mother and father, as equally responsible for the production, should equally bear the support till the child reaches an age when it is deemed fit to earn its own support. In practice this is fixed at about twelve in the case of girls, and ten years in the case of boys; and as the mother's share is considered to be contributed by nursing and personal attention, the father is decreed to contribute a money-payment to the mother, which in Scotland is fixed at rates ranging from £6 to £8 per annum, payable fortnightly. For this alimentary payment or temporary annuity the law of Scotland also allows the mother to arrest a workman's wages. It is to be regretted that in an Act designed to limit (but which practically abolished in other respects) the arrestment of wages when less than 20s. per week,[1] Parliament specially reserved to the mothers of bastards the security afforded by the power of arresting the wages of the putative father. In the hands of unscrupulous women this is a powerful engine of oppression, which frequently drives honest labourers to other scenes of industry. It leads to desertion. With factory girls, farm servants, and women in the humbler ranks generally, this power of fixing the paternity operates both as a fund of credit and a means of accumulation. It induces repetition; the more children the greater are the income and the means of comfortable subsistence and the greater the chance of obtaining marriage.[2] In many parishes there are women on

special cause must be sought for in the habits of the people, their greater or lesser addiction to night courtships, to the want of moral training, and to the incontinence of youth, which in some countries finds its legitimate channel in marriage, though it may be in improvident marriage, while in others the prudential check operates so strongly that it leads to that form of non-resident concubinage which results in illegitimacy."—Supplement to Reports, pp. 10-13.

[1] 33 & 34 Vict. cap. 63, sec. 4, which places alimentary allowances on the same footing as rates and taxes.

[2] Ample evidence of this tendency of the law in England will be found in the Report of the Royal Commission of 1832, published in 1834, under the head "Bastards," pp. 169-171 *et seq.* The sub-reports there quoted show that a bastard child is 25 per cent. more valuable to the mother than a

the roll with five or six illegitimate children, in receipt of parish allowance in respect of all save the first, and obtaining besides an alimentary support from the putative fathers; for the parishes have but an indifferent means of control over those incomes. It was of this law that Dr. Chalmers, who was an economist as well as a divine, asked why, "by virtue of her very vice, enable the mother of a child of shame to compel the courts of the country to do homage to her claim, making crime a passport to legal privileges, and glossing over the native unloveliness of vice by unwisely extending to it a public recognition?"

By the Code Napoléon no such right is accorded to the mothers of bastards. The seeking of paternity is expressly forbidden; and it is an important circumstance, as proving the impolicy of this law, that in France and those other States which have adopted the Code Napoléon as the basis of their law (whatever may be the state of morals in general), illegitimacy exists to a smaller extent than it does in England and Scotland, where the laws admit this right.[1] The Code Civil enacts, "*La recherche de la paternité est interdite,* dans le cas d'enlèvement, lorsque l'époque de cet enlèvement se rapportera à celle de la conception, le ravisseur pourra être sur la demande des parties intéressées declaré père de l'enfant. La recherche de la maternité est admise."[2]

lawful one; and that it is considered a good speculation to marry a woman who can bring a fortune of one or two bastards to her husband. The two Bastardy Acts of 1809 and 1810, which favoured the woman at the expense of the man, have been said to mark the lowest point of Poor Law legislation.—Fowle's *Poor Law*, pp. 72 *et* 91 and 98.

[1] This fact is generally overlooked, because the excessive and patent illegitimate rate in the great Continental towns is chiefly considered without reference to the low rate in the rural districts. Thus, in France, in the rural districts, the proportion is only 4 per cent. illegitimate, but in the towns it is 20 per cent., and in Paris as high as from 27 to 32 per cent. The existence in the towns of foundling hospitals may account in some degree for the excessive town rates; and it is a question to what extent those institutions act practically also in some measure as a premium on illegitimacy, by interfering with ordinary prudential considerations.

The illegitimate rate is highest (in the order stated) in Bavaria, Saxony, Würtemburg, Austria, Hanover, and Prussia; and lowest (in the order stated) in Holland, France, Spain, Belgium, Russia, and Italy.—See Supplement to Registrar-General's Returns for 1869, and *L'Europe Politique et Sociale*, par M. Maurice Block.

[2] Code Civil, lib. i., tit. vii., chap. iii., sec. 340.

In Ireland, also, where the law does not admit any such claim at the instance of the mother (but where statutory provisions exist for the punishment of the fathers if the child, being under fourteen, falls upon the rates), the state of illegitimacy contrasts favourably with that of Scotland, being only a third of the percentage of that in Scotland. It is for the consideration of parochial ratepayers, keeping in view the great strain of illegitimacy and desertions upon the rates, whether it would not be advisable to agitate for a repeal of this law, and for its assimilation to that in Ireland.

But to remedy a great social evil like this all the sacrifice should not be on the part of the woman. The man should contribute, for the man is greatly blamable. Those who know the inner workings of the Poor Laws, especially in the large towns, are aware that much of the illegitimacy is brought about by young men—the gallants among the lower orders—deliberately and systematically enticing young women into public-houses, treating them, and seducing them there while they are under the influence of drink; and it is well known that such mothers rapidly fall into and swell the pauper ranks. The putative fathers are not always discovered, and when they are they are not always able to maintain the child. Why, then, should their offence when proved not be raised into the category of a police offence or misdemeanor punishable by fine or imprisonment? Much less serious ones already are so dealt with in Scotland, and it may be depended on that exposure will prove the best corrective to such injurious conduct. By Scottish law a civil action for damages lies at the instance of an unmarried woman against her seducer.[1] This is contrary to the English law, which does not allow such action.

But such juridical advance should not depend on considerations affecting the wrongdoers. The burden of maintaining and educating the product of the mutual misconduct falls at present on the community, and the State has a right to protect itself. The parochial boards should be in the

[1] Bell's *Principles*, 6th edition, sec. 2033.

right of the mothers to the extent at least of establishing the seduction, and if need be, of proving the paternity; and, on that being admitted or proved, civil consequences by way of relief as well as punishment, as for a criminal offence, should follow. As the law at present stands, Lord Fraser's "passion and opportunity" go scot-free, while the virtuous ratepayer has to pay for their indulgence.

The history of the development of crimes and punishments shows that, as society becomes more intricate and new relationships arise, a constant need is found for society asserting itself and acting on the defensive. Whenever, in the exercise of liberty by individuals, injury is caused to the common society, the latter is justified in protecting itself by restraining the exercise of that freedom and punishing the neglect or the defiance of the law forbidding it. From this principle has proceeded the expansion from time to time of the penal code, and the declaration of new crimes and punishments. This evolution has already been traced in a previous chapter in the legislation which dealt with the strong and idle beggars, "contagious enemies of the commonweal." Of this species of legislation in modern times may be instanced the Acts for the punishment of Bribery and Corrupt Practices at Elections, the Vaccination Act,[1] and the Sale of Food and Drugs Acts.[2]

A precedent for the advance now advocated is found in the Act of 1845 itself. Husbands and fathers who neglect to maintain their wives and children, and putative fathers of illegitimates, upon the paternity being admitted or established, being able to maintain them, are, upon the wives or children becoming chargeable, to be deemed "vagabonds" in the sense of the Act 1579, and to be prosecuted at the instance of the inspector of the poor as for a crime, and, on conviction, to be punished by fine or imprisonment.[3]

The numbers of deserted children and orphans chargeable has markedly decreased since 1881, owing to the greater

[1] 26 & 27 Vic. cap. 108, 1863.
[2] 38 & 39 Vic. cap. 63, and 42 & 43, cap. 30 (1875 and 1879).
[3] 8 & 9 Vic. cap. 83, sect. 80.

activity in prosecuting the husbands and fathers. They have fallen in ten years from 7606 to 4481.[1]

Section 3.

But the only real increase in the number of paupers is now found to be in the lunatic class.

In Scotland any increase that there is in lunacy is found to be greatest among the pauper class. The Thirty-third Annual Report of the Board of Commissioners in Lunacy in Scotland (1891) shows that the total number of pauper lunatics in Scotland, under supervision of the Board, was, on 1st January, 1858, 5769; and on 1st January, 1871, 7555, or an increase in thirteen years of 1786, equivalent to an annual ratio of 2·38 per cent., or about four times greater than the ratio of increase of the general population.

This steady growth of pauper lunacy is strikingly shown in another way, thus—The net total on the Registers on 1st January, 1884, was 8889. This total increased year by year, thus—

		Rates of Increase.
On 1st January, 1864, it was	5,320, ...	—
On 1st January, 1874, it was	6,529, ...	2·26
On 1st January, 1884, it was	8,889, ...	3·61
On 1st January, 1891, it was	10,477, ...	2·98

In Barony Parish the numbers of lunatic paupers have risen sharply, thus:—

Year.	Numbers.	Percentage to Population.	Percentage to Total Number of Paupers.
1861	157	0·08	2·23
1871	281	0·12	3·89
1881	433	0·16	6·70
1891	712	0·23	13·45

[1] Board of Supervision Forty-sixth Report, p. 15. In Barony Parish, Glasgow, the number of bastard cases decreased from 639 in 1871 to 91 in 1891.

Over Scotland generally the growth is shown thus—

Average of 5 years ending	Proportion per 1000		
	Of Registered Paupers to Population.	Of Pauper Lunatics to Population.	Of Pauper Lunatics to Registered Paupers.
Year 1865	25·28	1·71	67·70
,, 1870	24·11	1·79	74·15
,, 1875	21·89	1·90	87·27
,, 1880	17·74	2·08	117·73
,, 1885	16·13	2·30	143·08
,, 1890	14·67	2·43	165·71 [1]

Nothing can be more significant than the results presented by these figures.

The Commissioners in their Tenth Annual Report stated that "the increase of lunacy is found chiefly among the lower class of the population, which neither in town nor country display much activity, but which are more exposed in urban and manufacturing than in pastoral and agricultural communities to overcrowding, impure air, exhausting labour, insufficient diet, abuse of stimulants, and contagious diseases." They added, that among the pauper class the cases which arise "from over-excitement of the intellect or feelings are few in comparison with those which are due to physical deterioration," a fact which they commended to the notice of Parliament "as proving the necessity for such an improvement in the education of the people as will enable them to understand the laws of health, and to appreciate the motives for obeying them."

Special or individual instances in confirmation of this growth of pauper lunacy may be cited. In Ayr, a small parish, the lunatic paupers increased from 3 in 1845 to 16 in 1868, or an increase of upwards of 400 per cent., or nearly 19 per cent. per annum. A typical urban parish is the Barony of Glasgow. In it the number of lunatic paupers chargeable on 1st January, 1859, was 151, on May, 1891, it was 712, or an increase of 370·2 per cent. in 32

[1] Thirty-third Annual Report Board of Lunacy, Appendix A, p. 3.

years, or 11·5 per cent. per annum, while the population has only increased about 2 per cent., and ordinary pauperism has largely diminished.

The steadiness of the general increase in pauper lunatics is further shown by the following figures:—

The average number of patients in establishments and private dwellings for 5 years ending

1865 was	5308
1870 „	5804
1875 „	6464
1880 „	7421
1885 „	8689
1890 „	9700[1]

The following table, compiled from the statistics of the Barony Parish, presents a bird's-eye view of the progress and the economical results of pauperism in the largest industrial parish in Scotland during the last thirty-five years. Particular attention is drawn to the growth of lunatics (column 6).

Owing to the exceptionally high and constantly increasing cost of maintenance of lunatics, the increase in numbers, in their case, tells with greater force on the question of augmented expenses than it does even in the case of deserted and illegitimate dependants.

As to this remarkable increase of pauper lunacy the Board of Supervision reports—"The cost of maintaining the lunatic poor still continues to increase. In 1866-7 it amounted to £108,173, in the past year (viz., in 1890) to £244,829, showing an increase during the interval of £136,656, or more than double the cost incurred under this head 24 years ago. The cost of maintaining the lunatic poor is included in the expenditure, as shown in our tables and returns, upon registered and casual poor. It is thus apparent that, if there had been no increase in the cost of lunatic poor, both the total expenditure and the cost of relief to registered and casual poor would have been greatly less."[2]

[1] Thirty-third Annual Report, Appendix A, p. 1.
[2] Forty-sixth Report, p. 12.

1	2	3	4	5	6	7	8	9	10	11
Years Ended 14th May.	Estimated Population.	Total Registered Poor, including Dependants, at 14th May.	Number of Out-Door Poor and Dependants at 14th May.	Average Daily Number in Poorhouse.	Number of Lunatics at 14th May.	Per Cent. of Pauperism on Population.	Per Cent. of Assessable Rental on Population.	Per Cent. of Assessment on Population.	Per Cent. of Pauperism on Assessable Rental.	Per Cent. of Pauperism on Assessment.
							£	£		
Year 1868, ...	165,155	7205	6113	938	154	4·36	298	18	1·46	23·0
Average of Five Years ending 14th May, 1862, . .	173,486	6573	5400	1016	157	3·79	306	17	1·23	21·0
Average of Five Years ending 14th May, 1867, . .	195,687	6164	4919	1070	175	3·14	315	20	0·99	15·2
Average of Five Years ending 14th May, 1872, . .	218,387	7425	6043	1125	257	3·40	337	21	1·0	16·1
Average of Five Years ending 14th May, 1877, . .	241,087	5793	4535	945	313	2·40	407	19	0·59	12·0
Average of Five Years ending 14th May, 1882, . .	261,086	6035	4888	1067	423	2·31	458	23	0·50	9·3
Average of Five Years ending 14th May, 1887, . .	281,484	6048	4469	1168	538	2·14	448	22	0·47	9·4
Year 1891, ...	309,375	5291	3795	982	712	1·91	433	18	0·39	9·2

Here, then, is one cause of pauperism, pregnant as regards numbers and significant as to expense, the growth of which appears to be rapid and continuous, and is alarming. The Lunacy Commissioners attribute the bulk of the increased expenditure, not to any higher expenditure per head on the cure and treatment of pauper lunatics, but to the increased number of persons admitted to the pauper lunatic roll.[1]

It is certainly no light matter to contemplate that, while the official reports show ordinary pauperism to have decreased 30 per cent. in twenty years, pauper lunacy has increased in the same short time about 66 per cent., and that were it not for this extraordinary growth the relief of poor-rates to the ratepayers would have been more sensibly felt than it has been. It is but a weak explanation that the Commissioners of Lunacy offer when they say, as they do in their last annual report, that "the increase in expenses is due to the increase in numbers." Anyone might arrive at that conclusion. The point on which the Commissioners afford no guidance is—To what is the constant growth in numbers itself due? For, one would think, an increased expenditure from £80,652 in 1858 to £236,265 in 1891 "due to growth in numbers" must be capable of some intelligible explanation.

Although this has not been given by the responsible body, it has been ventured by an expert in medical psychology, Dr. Yellowlees, of Gartnavel Asylum. At a Poor Law Conference, held in Glasgow in 1884, he delivered his views, which are somewhat extraordinary. He begins by saying "that the *portentous increase* in the number of pauper lunatics has given rise to the *impression* that lunacy as a disease is very largely on the increase," an impression which he evidently does not share. But he suggests two main theories for the undeniable increase in pauper lunatics, neither of which, we venture to think, is satisfactory. In the first place he says, "Many conditions are now regarded by the medical profession and by the public as insanity which even 50 years ago would never have been so

[1] Thirty-third Annual Report, p. 49.

classified." This just means that the circle is ever widening, and that there is an expansion of the conditions which are held to constitute insanity, and to warrant confinement in an asylum. But how comes it that this expansion is limited to the unhappy paupers? and who but the medical profession, especially the experts themselves, are responsible for certifying persons as getting within the expanded conditions or widening circle? But Dr. Yellowlees' most important reason for the increase is even less satisfactory, because it is absolutely without foundation, and, moreover, casts an unjust and injurious aspersion on the good faith of the poor law officials. His own words are, "By far the *most potent* cause of the increase is the Government grant of 4s. weekly in aid of the maintenance of certified lunatic paupers. It is a direct premium on the manufacture of pauper lunatics, and a very questionable kind of relief to parochial expenditure."[1] Now, if this even approaches the truth, how comes it about that the constant growth in numbers and expense of pauper lunatics is found to have been as great during the years before 1875, when the Government grant was first made, as since 1875? There is no difference found between the two periods, which seems fatal to this "potent cause." It may be suspected that the true reason will be found, on examination, to be in the policy and action of the Lunacy Board itself. The Board has steadily encouraged the building of great palatial district and parochial asylums, which are now found scattered up and down the country, surrounded, in some cases, by large agricultural and cattle farms, the expense of maintenance in which asylums is exceptionally heavy, and does not grow less. Moreover, these asylums are found, to the extent of from 30 per cent. to one-half, to be filled with chronic cases—weak-minded persons, or imbeciles, harmless to themselves and the public, who were formerly maintained by their relatives, which relatives now, finding magnificent homes provided at the ratepayers' expense, are not slow to relieve themselves of

[1] Report of Poor Law Conference at Glasgow, February, 1884.

an irksome burden, and to respond to the Lunacy Board's general invitation to utilise the accommodation they have recommended to be built. The mischief does not lie in a great growth of new cases treated in the asylums, but in the accumulation in them of chronic cases. Thus, in the large Barony Asylum at Woodilee there was an increase of such cases remaining of each year's admissions for the year ending 31st December, 1886, of 39; for 1887, of 43; for 1888, of 41; for 1889, of 59; and for the year 1890, of 99.

The generous policy of the Lunacy Commissioners, pursued at the ratepayers' expense, of encouraging large parochial and other asylums at great cost with a more than liberal scale of management and dietary, and tabooing the licensed wards of the poorhouses, is at once extravagant and censurable. One-half of the population in those great establishments could be equally well and much more economically treated in the poorhouses throughout the country. Only one-half of the accommodation is at present occupied by ordinary paupers; and surely this would be a more sensible use to put them to than to hand them over, as Mr. Malcolm M'Neill, the new secretary of the Board of Supervision, proposes to do, to the County Councils to be used as local hospitals. All this calls for a prompt, searching, and independent investigation, in which the Lunacy Commissioners should be treated as defendants.

We commend the Lunacy Commissioners' recommendation to the Legislature, before quoted, as well as the comparison between Scotland and Ireland in the matter of illegitimacy to the notice of the various benevolent associations.[1] If, by useful instruction in morals and advice in the laws of health, such associations can staunch the sources of lunacy and illegitimacy, they will at the same time indirectly, but not

[1] The number of these agencies scattered up and down the country is simply appalling, and it may be permitted to ask whether they do not tumble over each other, and whether their beneficence is all wisely directed. The following is a list of such associations in the city of Glasgow alone:—Buchanan Institution; Children's Day Refuges; South-Side Children's Refuge; Glasgow Society for the Prevention of Cruelty to Children; Cumberland Training Ship; Home of Help and Love; Glasgow Houses of Refuge

the less surely, diminish pauperism, and thereby effect more good than by operating side by side with the Poor Law on persons who have already attained the status of paupers.

On the whole, therefore, while the general result of an examination of the figures proves not an increase of pauperism in Scotland in proportion to the increase in the population, but the reverse, the statistics do undoubtedly establish an increase owing to lunacy. Indeed, if the increase arising from this special cause be abstracted, pauperism is proved to have considerably decreased in proportion to population under the legislation of 1845.

Much the same general results, as regards lunacy, are noticeable in England and Wales, thus—

Year.	Population.	Paupers.	Per Cent. of Population.	Pauper Lunatics.
1851	17,927,609	941,315	5·3	14,346
1861	20,066,224	883,921	4·4	32,570
1871	22,712,266	1,037,360	4·6	48,506
1880	25,323,000	808,030	3·2	61,594
1890	29,015,613	757,189	2·6	75,445[1]

[1] Nineteenth Annual Report Local Government Board, Appendix D, pp. 370-374.

and Reformatory and Industrial Schools; Glasgow Magdalene Institution; House of Shelter; Mission Shelter (Prison Gate Mission); Dalbeth Reformatory School for Roman Catholic Girls and Refuge for Penitent Women; Industrial Schools, Abercromby Street; Parkhead Reformatory for Roman Catholic Boys; Slatefields Industrial School for Roman Catholic Boys; Glasgow Aged Women's Society; Barony of Gorbals Benevolent Society; Glasgow Benevolent Society; Browns' Society of Glasgow; Commercial Travellers of Scotland Benevolent Fund; Dorcas Society in connection with the Belvidere, Knightswood, and Govan Fever and Smallpox Hospitals; Royal Infirmary Dorcas Society; Glasgow Female Benevolent Society; Foreigners' Relief Society; Hutchesons' Hospital; Association for the Relief of Incurables for Glasgow and the West of Scotland; Colquhoun Trust for Incurables; Cruickshank Bequest; Indigent Gentlewomen's Fund; City of Glasgow Native Benevolent Association; North Parish Washing Green Society; Old Man's Friend Society; Poor Children's Dinner Table Society; Prison Aid Society; St. Vincent Parish Emergency Fund; St. Vincent de Paul Society; Samaritan Society in connection with the Western Infirmary; Widows' Friend Society; Cottage Home for Convalescent Children; Children's Convalescent Home, Dundonald; West of Scotland Convalescent Seaside Homes, Dunoon; Kilmun Seaside Home; Glasgow Convalescent Home, Lenzie; Mission Coast Home, Saltcoats; Home for Aged Poor, Garngadhill; Glasgow Asylum for the Blind; Homes for Destitute Children, Saltcoats; Glasgow Home for Deserted Mothers; Elders' Wives' and Daughters' Association in connection with the Church of Scotland, or Home for Girls; Association for aiding Infirm Children, and East Park Home; Glasgow

The ratio of paupers to the population has thus fallen in England from 5·3 per cent. in 1851 to 2·6 per cent. in 1890, while during the same period the ratio of pauper lunatics to the population has risen from ·08 to ·26.

Over the Parisian area the proportion of paupers is stated at 6·25 per cent. of the population; and in Paris the relief of the poor is managed by a combination of legal and voluntary charitable machinery, but the provision for them is deemed neither adequate nor sufficiently secure.[1]

Night Asylum for the Houseless; Glasgow Ladies' Association for Day Nurseries; Institution for Orphan and Destitute Girls; Orphan Homes of Scotland and Destitute Children's Emigration Homes; Poor Children's Fresh-Air Fortnight and Weary Workers' Rest; St. Vincent's Shelter for Newsboys and Newsgirls; Home for Servants out of Place; Whitevale Refuge for Children.

The list of such agencies in Edinburgh appears to be quite as large and miscellaneous as that here given for Glasgow.

[1] We believe it to be simply impossible to gain any accurate knowledge as to this matter in France; for few know how many persons are quietly relieved, or how much is spent on their relief, on critical occasions, through the liberality of Government.

CHAPTER VI.

Charge of extravagant *Expenditure* considered—Same difficulty in meeting it as in case of numbers—The proper question to be answered stated—Classification of expenditure—Simplification of the classification:—I. Expenditure on *Poorhouse buildings*—Capital sunk in them—Their number and accommodation—Are economical in the long run—Instances cited in support of this—Increase or decrease in the rates depends on use made of Poorhouse as a test proved both by individual cases and cases of combined districts—Accommodation in existing Poorhouses not utilised—Partly arises from improper allocation of space between males and females—Annual saving stated if this corrected—Permanent empty billets stated—Means suggested for utilizing every empty billet—Annual saving stated if this recommendation followed—Charge that the use of the Poorhouse creates vagrancy considered—Vagrancy caused by bad management and indiscriminate giving of out-door relief—Evidence to this effect, and in refutation of the charge—Statistics of vagrancy—Evidence that they are untrustworthy—Inhabitants are themselves to blame for much of what vagrancy there is—Existing Police Laws for its repression are not taken advantage of—The experience of England proves that it is out-door relief which fosters vagrancy, and of Ireland that the in-door system discourages and checks it—Statement of the Irish Poor Law Commissioners to this effect—Economy of Poorhouses might be further developed by freer use of labour of inmates—Benefits from Poorhouse relief stated.

Section 1.

But the more important part of the second main charge preferred against the Poor Laws is that of the increased expense of the present system.

To this the same general remark applies as with regard to the increase of numbers, viz., that there exist, prior to 1845, no *data* from which to draw any proper or accurate comparison. That is of the necessity of the case; for there are no proper *data* for comparing numbers, and in judging of the expense it is essential there should be both. Comparisons on this head, therefore, can only be made as regards expenditure in periods since 1845. The inquiry is thus very much restricted; and such limited comparisons

as can be drawn cannot establish the specific objection that any proved increase of expenditure in the maintenance of the poor is attributable to the Laws. For, even were it proved that a given number of paupers could be maintained during an early period following 1845 at a less cost per head than has been done during a later period, or than is now possible, two alternatives still remain for inquiry; either the increase is unavoidable, one which the Poor Law cannot prevent, or it is owing to the maladministration of the law, for which it is equally not responsible, and which ought to be capable of remedy.

We believe that any increase that has taken place can be satisfactorily accounted for by one or other of the alternatives stated, and that the principal objection to the law itself arises from dubiety as to the proper construction to be put upon the provision as to the pauper's right of appeal. The result of this dubiety has been a defeat of the real intention of the Legislature, and a suggestion of, if not an invitation to, pauperism.

It is here that the question of numbers affects the question of expense, and must be considered along with it. For the true question is not whether £841,645[1] is a large sum for Poor Law relief and management in Scotland in 1891—not whether the increase from £433,915 in 1847 to £841,645 in 1891, is an enormous increase, which is quite undeniable; but whether the £841,645 has been made to go as far as possible—whether the most has been done with the money that admitted of being done. Unless those who object to the increased expenditure can show that more paupers might have been relieved with the money than were relieved, or, what is the same thing, that the number of paupers actually relieved in 1891 might have been relieved at a less cost than £841,645, there is nothing in the complaint of undue and extravagant expenditure.

[1] Dr. Alison, writing in 1840, said, at page 108 of his treatise, "If we were to act in the same way as the Unions formed in England under the present administration of the Poor Laws, we should expend in Scotland nearly £800,000 instead of £140,000." The attainment of the larger sum he recommended should be reached gradually, as, in point of fact, we now see, it has been.

Poor Law expenditure has been classified under six principal heads—(1) *Relief of the Registered Poor;* (2) *Relief of Casual or Occasional Poor;* (3) *Medical Relief;* (4) *Management;* (5) *Law Expenses;* and (6) *Poorhouse Buildings and Sanitary Measures.* This classification is capable of being simplified by division into—(1) *Buildings;* (2) *Relief;* and (3) *Management,* including in the last all expenses not strictly connected with buildings or relief. It is in this order we propose to consider this subject of expenditure.

Section 2.

I. We find that between 1845 and 1868 there had been expended on poorhouse buildings the capital sum of (in round figures) £720,000. The annual outlay upon buildings had steadily increased from 1848, in which year it was only £10,971, to £110,090 19s. in 1869.[1]

It has been averred that as a great number of the poorhouses are but half filled, and as they are burdened in many cases with debt,[2] there has been a great and useless expenditure upon them, and it is argued that the interest on the capital sunk in them, and the salaries of officers and servants not fully employed in them, are a burden for which the ratepayers obtain no solid equivalent. If this be so, if it be established that this expenditure is not productive—or rather, if it be proved that it is not capable of being made productive—a great blow is struck at the economical advantages of a system which has called forth such expenditure.

The last Report of the Board of Supervision (1891) shows that the number of parishes provided with poorhouses, either singly or in combination, was 480, having an aggregate

[1] The Reports of the Board of Supervision are defective in not clearly showing the total amounts at a given date in each succeeding Report. The total amount can be ascertained only by adding columns showing the amounts spent in each year, which involves an examination of several annual Reports. Surely this might be improved upon. The term "Poorhouse buildings" includes infirmaries and accommodation for lunatics.

[2] The total debt remaining at 14th May, 1891, was £295,141. Forty-sixth Report, Board of Supervision, Appendix B, No. 10, p. 192.

population, according to the census of 1881, of 2,940,427; that 60 poorhouses were in operation, with accommodation sufficient and sanctioned for 16,615 inmates; that the population of the 296 parishes which have the right, in terms of section 63 of the Act of 1845, to send paupers to the poorhouses of other parishes was 670,244; and that the total population of parishes to which house accommodation is not available is 124,902. The actual number in the poorhouses, on 31st December, 1890, was only 9591 showing a then existing surplus accommodation for 6000 paupers.

Now while it is not denied that poorhouses are expensive institutions, and that the cost per head of in-door relief is greater than the cost per head of out-door relief, the evidence shows poorhouse relief to be by far the most economical in the long run; and it is plain that, by better organization and management, poorhouses may be made more economical than they have been. Yet, and it is most material to be observed that, notwithstanding the continued building of poorhouses, the feeling in Scotland appears still to be against their use, and they are not now so much taken advantage of as they were. In 1868, with only 62 poorhouses in operation, having accommodation for 14,194, there were on 1st July, 8798 inmates, and 5412 vacant billets; so that, with additional accommodation in 1891 for 1397 inmates, there were 793 more inmates, and 588 vacant billets more than on 1st July in 1868. The same result is proved by an examination of the state of the occupancy during the summer, when the poorhouse is alleged to be generally not so full. It is thus proved that while the outlay upon poorhouses is steadily increasing the use that is made of them is as steadily diminishing.

The chief use of a poorhouse is for repression. It is a test—a test both for ascertaining who are the proper objects of relief, and the amount of relief. The evidence shows that really necessitous persons seldom refuse to go into the poorhouse; and that of the number of applicants to whom it is offered only about one-third accept it, while two-thirds refuse it and manage to do without coming upon the rates.

These proportions are spoken to by witnesses from Dundee, Glasgow, and Paisley, where the poorhouse is used a test as freely as the available house accommodation permits. The Union workhouses in England are used for the same purpose and with much the same results. But in most continental countries and in the United States correctional workhouses are used only for disciplinary and punitive purposes—in short, for pauperism produced by the pauper's own fault.[1]

It is clearly proved that by the offer of in-door relief the really deserving poor are at once separated from the feigners, and that many are thus prevented from getting relief who otherwise would not fail to get something. Three remarkable instances may be cited in support of this. The first is the Combination Poorhouse at Oban. When it was first opened 300 paupers were on the roll. The inspector set to work and purged it. He selected a batch and offered them the poorhouse. None would go in, and they were struck off the roll. Another batch were offered the house, refused it, and were similarly dealt with. In a very short time 100 were struck off the roll, and of these but one afterwards came upon the rates. The inspector kept his eye upon them, and found them maintaining themselves and their children by selling poultry, and by other industrial occupations. The monetary effect in that case was, that whereas in 1861 the number of paupers was 148, and the poor-rate amounted to £1500, in 1868 the number of paupers was reduced to 82, and the rates to £1181. Mr. M'Caig, the inspector at Oban, told Mr. Henley, a special Commissioner sent from England to examine into certain features of the Scottish system, and to whose report[2] reference will afterwards be made, that they originally gave out-door relief but had discontinued it. "Our pauperism at that time was 1 in 12 or 14 of the population, including dependants. We opened the house about ten years ago, but it has been used strictly as a poorhouse for eight years. Our pauperism for

[1] Fowle, pp. 49, 50.
[2] Dated May, 1870.

the year up to 14th of May, 1860, was 1 in 60 of the population of the parish; it has been about 1 in 50 or 60 for the last three years. I consider the parish at this time to be in a much better condition than when out-door relief was given, as the large amount of out-door relief at that time was corrupting it."

In the Ross of Mull, a western island, the state of pauperism and the amount of rates were described as having been "terrible." But a rigid application of the poorhouse test reduced the rates from 6s. to 2s. per pound.

Sir John M'Neill instanced the case of Dalkeith Combination House. While admitting it was built too large (as having accommodation for 200), he said that when he visited it he found only twenty inmates, and expressed his astonishment to the governor, asking if there had been many sent to it. The governor's reply was, "Oh, in they winna bide! Oh, plenty of them sent here, but they just come in at the tae door and they gang out at the tither!" Sir John said that is the way a poorhouse operates in keeping down the paupers and the rates; and he added, "It is a mistake to suppose that because a poorhouse is nearly empty it yields no fruit to the parish; an empty poorhouse is very often a more profitable thing than a full one."

Mr. Smythe, who had both general experience at the Board of Supervision, and local, as chairman of his own parish in Perthshire, corroborated this testimony. He said the poorhouse had a stimulant action; where it had been properly worked, as in the large towns, it had developed the resources of paupers for themselves, which they never would have thought of exercising otherwise, and had kept them off the roll. He also thought its economical value was not limited to cases where the cost of maintenance was less in the house than it would be outside, because many would not go in at all, would rather not take any allowance than enter it, and that its action was to separate actual paupers from beggars, who, when fairly tested, would prefer to work, or find relatives willing to assist them.

Mr. Hay of Dundee stated that, but for the poorhouse as a test, it would be impracticable to work the Poor Law there at all; and Mr. Brown of Paisley added, that without a poorhouse "we should very soon get into the most miserable state of pauperism."

All the evidence from Glasgow and other populous places where the house test has been properly worked is to the same effect. So beneficial is its operation as a check in the Barony Parish, that the board has had to increase the size of the house several times. Their accommodation is sanctioned for 1306, whereas the applications for relief in 1891 amounted to 5169, and the population of the parish to 309,375.

If, then, the numbers are greatly kept down by the mere fact of the existence of a poorhouse having adequate accommodation whereby to test the necessity of relief, it is apparent that the expense must also thereby be prevented from rising. It is in evidence, too, that the ratio per cent. of paupers to the population is smallest in those parishes, large or small, where the poorhouse test is most freely used. Thus, in Barony Parish, the most populous in Scotland, the ratio per cent. has fallen from 4·36 in 1858 to 1·71 in 1891 [1] while the rate over the whole of Scotland is 2·2.

In rural parishes, again, where the poorhouse has been properly worked, its economical advantages are even more strikingly exhibited. In the parish of Kilmore and Kilbride, in Argyll, which has right to a certain number of billets in the Oban Combination Poorhouse, and where the test has been strictly applied the results are most satisfactory. The decrease in the paupers on the roll and their dependants in the last ten years has been 67 per cent.; and Mr. Bett, who was factor in Argyll to the Marquis of Breadalbane, and who was a member of the board, said in 1869 "that the bulk of the decrease has occurred since the opening of the poorhouse, that is seven years ago."[2]

The registered paupers were, in 1859, 194, and in 1868,

[1] See Table, p. 103, column 7, *supra*.
[2] Select Committee's Report, p. 368.

only 63. Mr. Bett added that those struck off the roll became industrious members of the community.

He showed that similar results occurred in the adjoining parish of Kilbrandon and Kilchattan, where out-door relief was also made the exception. In 1859 the numbers were 145; in 1868, 80; or a decrease of 52½ per cent. A test of the poorhouse test was applied in that very parish, for it had recurred to a system of out-door relief during the two years preceding 1869 to a greater extent than previously, and the result was an immediate and sensible increase of pauperism. It is proper to add that, in these two cases, the population had slightly diminished. In the first case, between 1851 and 1861, by 169, from 3131 to 2962, or about 5 per cent.; and in the last case, between the same years, by 516, from 2375 to 1859, or about 21½ per cent.

In other Highland parishes, where the poorhouse test has not been applied at all, or has been used only to a very inconsiderable extent, it is found that, in the face even of a great diminution of population, there has been only a very slight diminution of paupers. In Glenorchy and Innishail the population between the years 1851-61 decreased about 10 per cent., whereas the paupers only diminished by 4 per cent. In Kilchrennan, which did not use the poorhouse, the population within those years diminished 21 per cent., while the paupers actually increased 1½ per cent.[1]

Mr. Bett furnished other cases proving the same results—viz., that the increase or the decrease in numbers, and of the rates, is dependent on the increase or decrease in the application of the poorhouse test. But the Oban Poorhouse is not nearly full. Can it then be said, in the face of the figures which have just been adduced, that the money sunk in it, and the expense of maintaining it, are unproductive expenditure and a burden on the ratepayers of the parishes which contribute to its support?

[1] We merely state the facts contained in the Report of the Evidence as given before the Select Committee. It would have been satisfactory, had it occurred to any member of the Committee, to inquire whether such striking results as these were not in some measure due to eviction or emigration of the able-bodied poor; but the point appears to have escaped notice.

Further proof of the economic action of poorhouses is obtained from a "Memorandum of Facts," prepared and handed to the Select Committee by Sir John M'Neill.[1] It shows that the eight principal Scottish towns from which the Registrar-General of Scotland takes his statistics comprise seventeen parishes, all of which have poorhouse accommodation, and embraced at the date of the memorandum a population of 950,048. The population of all the remaining parishes, the greater majority of which have no poorhouse accommodation, was 2,112,246. The number of registered poor and their dependants receiving relief from these two sets of parishes respectively on 14th May of the four years 1863-1866, and the percentage of pauperism to the population in them, were as follows:—

I.—The Seventeen Parishes.			II.—The Remaining Parishes.		
Year.	Paupers.	Per-centage.	Year.	Paupers.	Per-centage.
1863	32,616	3·42	1863	87,668	4·15
1864	32,261	3·50	1864	87,444	4·13
1865	33,532	3·52	1865	87,862	4·11
1866	31,848	3·35	1866	87,760	4·15
Average,	32,814	3·44	Average,	87,683	4·13

But it has been proved that poorhouses had been erected in districts where there was no pauperism to fill them, or where at least the cases were more suited for out-door relief, and that the cost of these was acting as a heavy drag on the people, especially in Caithness and the Highland parishes generally, which could ill afford the charge. Mr. Smythe, in his evidence,[2] said that poorhouses were often built to accommodate 100 or 120, and that only 20 or 30 inmates were to be found in them. He did not state what proportion of the whole accommodation might be taken to be standing empty on an average, but it is clear from the

[1] Report, Appendix, No. 4.
[2] Select Committee's Report, pp. 12, 13.

figures we have cited from the Board of Supervision's Reports that it is very considerable, and is increasing.

The following are marked examples of this unused house accommodation, as at 31st December, 1890:—

Black Isle Combination, sanctioned to accommodate	.		100	Vacancies,	75
Easter Ross,	,,	,,	176	,,	118
Falkirk,	,,	,,	200	,,	139
Hawick,	,,	,,	133	,,	92
Mull Combination,		,,	125	,,	102
Greenock,	,,	,,	410	,,	111
Kirkcudbright,	,,	,,	250	,,	223

The Board of Supervision, as we have shown, state that, on the 31st December, 1890, there were 6000 unoccupied billets in the then existing poorhouses. Now, if that apparent surplus accommodation is of a permanent kind—and it appears to have been so in the past—there is no reason why it should remain unproductive. A considerable part of it is so unproductive from a cause easy of remedy, requiring no legislative action, but only better organization and house management. It is proved that the accommodation in most poorhouses is apportioned equally for males and females, while by far the greater number of paupers are females. The consequence is that, in those cases, the accommodation for females is always fully occupied, while there is a constant surplus accommodation for males, with the anomalous result that despite many empty male billets the house is always full. This is markedly the case in the very large poorhouses, such as those in Glasgow. It is calculated that, from this cause of defective internal arrangement alone, there is house accommodation in the poorhouses of the seventeen great parishes permanently empty to the extent of about 1000 billets.

The average weekly cost per head of in-door maintenance is proved to be 4s. $4\frac{3}{4}$d. or £11 6s. 2d. each, so that this unutilized accommodation represents an annual loss to these parishes of £11,308 per annum. Surely, when thirty years' experience has proved that the pressure is chiefly

in the female wards, this shows a want of that close supervision, on the part of the Central Board intrusted with the distribution of the accommodation and with the classification of poorhouses, which the ratepayers are entitled to expect. So great a number of empty billets as 6000 shows, not bad management, but actual absence of any supervision whatever. Assuming that these 6000 billets could be kept constantly filled, and that the annual value of each is £11 6s. 2d. (which is the fact), there is a loss to the ratepayers on this ground alone of £67,848 per annum.

We have seen that in the large burghal parishes the poorhouse accommodation is grossly inadequate to meet the number of applications for relief. The likelihood is, that as the population of the burghal parishes increases, as it is proved to be steadily increasing, the inadequacy of the accommodation will proportionately increase. There is no necessity for relief being given to a parish pauper within his own parish. Indeed, it is not always so given; for it is found in the case of children that they are largely boarded out with families in the country and at the sea-side, a practice which has existed in some parishes for a hundred years. Most beneficial results are proved to have flowed from the use made of the islands of Arran, Iona, and Islay, and many distant parishes for boarding the children of the Glasgow parishes with the poor respectable inhabitants. Why, then, should the parishes whose house accommodation is too limited for their requirements not have the power of sending either their ordinary or their chronic lunatic paupers to fill up all the unoccupied billets in the country poorhouses? Were that power given and exercised, not only might every available billet be made productive, but the parish so sending out its in-door paupers would thereby be enabled to use its own poor-house, as a test, to an extent greater than at present in proportion to the number of paupers so billeted out.

It is true that, by the Act of 1845,[1] it is declared lawful

[1] Sec. 65.

for the parochial boards of parishes having a poorhouse to receive and accommodate paupers belonging to any other parish, and to charge a board for them at such rates as shall be approved by the Board of Supervision, and it is true also that this power has been exercised by 149 parishes.

But this power is insufficient. It is at present at the option of parishes having the accommodation to receive or refuse, a permissive power which, in a matter of national importance, ought not to be left to the chance of the wisdom, the ignorance, or the caprice of a local authority. It should be made compulsory on parishes to receive, and compulsory on the boards of those parishes whose houses are full, to send.

The financial arrangements consequent on such a system need only be of the simplest kind. It is a mere matter of account between parishes. The rate of board is settled by arbitration of the Board of Supervision, and there is no difficulty in that Board, or a committee of it, acting as a clearing-house between parishes so exchanging paupers. In this way the economy of the poorhouse, as a repressive agent, would be developed to its fullest extent; and were such a power fully taken advantage of, the rates would so sensibly diminish that the cry, instead of being for fewer, would be for more poorhouses.

Section 2.

But it has been alleged, and the belief seemed to exist in the minds of certain Scottish county members upon Mr. Craufurd's Select Committee, that the poorhouse system works badly, and that the economy which it effects is outweighed by those who decline it becoming vagrants. This, as we saw before, is the third specific charge brought against the present laws. It is said that the applicants who refuse house relief leave the towns and infest the rural parishes, and that whatever good the poorhouse test effects directly is counterbalanced by those who do not accept it getting relief as casual poor throughout the country—in short, becoming vagrants.

While there is evidence that, in some localities, vagrancy is increasing, the preponderance of testimony on the subject negatives the statement that it is on the increase generally throughout Scotland, and that what increase there is may be attributable to the action of the Poor Laws. The facts, on the contrary, clearly establish that the increase of vagrancy in certain districts is owing to an indiscriminate and careless administration of out-door relief. Not only Sir John M'Neil, but nearly all the chairmen and inspectors of the large burghal parishes who were examined thought that the Poor Laws and the poorhouse test did not create vagrancy; and that, instead of becoming tramps, those who decline the poorhouse for the most part subsisted by their own exertions.

That this result is not confined to those who decline the test in burghs is proved by the statement of Mr. M'Caig, the inspector at Oban, who, it has been seen, kept his eye on the people, traced their history, and said he found them all industrially supporting themselves. On the other hand, groans have gone up from unfortunate Ayrshire, and one or two other country districts. In consequence of a complaint from Cumbernauld, a country town in Dumbartonshire, made in February, 1869, to the Board of Supervision, of the number of beggars, tramps, packmen, &c., who "inundate" that town, "and got a bed, and often a supper off the poor funds," that Board, on 17th March, 1869, issued to all inspectors of poor a circular letter on the subject of vagrancy, expounding the law as to vagrants' right to relief, and giving advice as to their treatment.

A similar and even stronger complaint on the subject was made to the Board of Supervision in July, 1869, by Mr. Young, chief constable of Ayrshire, which, if the statements in his letter are not exaggerated, shows that Ayrshire is indeed the most unhappy of counties. In his evidence, however, before the Select Committee he is reported to have admitted that "he was not sure that this number (17,130) did not include many repetitions, which in many instances were very difficult to discover, in consequence of

persons changing their names or otherwise." There is a large amount of truth in this qualification; and on the face of them the statistics he submits must be held to be quite untrustworthy. The term "vagrant" in Scotland is held to include tinkers, beggars, gipsies, muggers, unlicensed hawkers, and all persons living by begging, and having no apparent calling or means of supporting themselves. The police are the only body who take cognisance of the number of such persons. But for the reasons stated by the constable of Ayrshire, and for other reasons, the statistics are quite untrustworthy, and few persons believe the numbers given to be correct. While there is a large increase in some counties there is a decrease in others. Fortunately there is no evidence of any other district being as bad as Ayrshire.[1]

But, in a large measure, the inhabitants of those districts which complain of vagrancy are themselves to blame for it. It is reasonable to suppose that the Board of Supervision think so; for, in answer to the complaints, they say in their encyclical letter on the subject—

> "It is well known that imposition is frequently, and in various ways, practised by applicants. Sometimes illness is feigned; at other times destitution is pretended, although the applicants are possessed of money, which they conceal; women or children are frequently sent forward to make application, and represent themselves as single or deserted, as the case may be, while the husband or father is at hand, and keeps out of sight merely for the purpose of strengthening the application. . . . It is feared that many inspectors give relief to vagrants much too easily. The Board have to remind inspectors that indiscriminate relief without inquiry is not only prejudicial in its effects upon the recipients, and unjust towards the ratepayers, but absolutely illegal."

It must not be forgotten that vagrants are either deserving of relief and entitled to it, or they are not. When they are proper objects it matters little where they are found in destitution, they are entitled to relief. When they are undeserving and not proper objects, the law is not at fault if, as the Board of Supervision fear, the relieving officers

[1] Cf. Evidence of Mr. Edmiston, Note, p. 73, *supra*.

fail in discrimination, and "give relief to vagrants much too easily." In that case they act directly in contravention of the whole policy of the Scottish Poor Laws, which, as has been shown, designed the severest punishment for sturdy beggars and those who would not abide in their own parish. It is not the fault of the law, but of the people of the country, that its enactments have been allowed to fall into desuetude. And although in these refined days few judges would inflict the punishment of burning the ear through with "ane hotte iron," or *hanging* a contumacious vagrant "*as a thief*,"[1] it would be open to them to inflict some milder punishment, as the stocks or scourging.

But even if the old Statutes in that behalf be held to be not enforceable, the inhabitants of most places likely to be troubled with mendicity are not without a remedy.

Beggars do not ask alms of the roads, fields, or hedges. They assemble in the villages and country towns. The inhabitants of all places in Scotland with a population of 700 or upwards have the remedy in their own hands if they choose to avail themselves of it. For, in Scotland, there is a General Police and Improvement Act capable of being adopted and enforced.[2] That Act empowers places having a population of 700 or upwards to have themselves constituted as burghs, with a magistracy and proper officials; and it contains most stringent clauses for the suppression of vagrancy. Section 7 of Part v. deals exclusively with the subject. Clause 331 provides imprisonment for thirty days for a first offence, and sixty days for a second and subsequent offences. Among other persons mentioned as liable to such imprisonment are "all persons found begging or exposing children of tender age to the inclemency of the weather, or placing themselves or otherwise acting so as to induce, or for the purpose of inducing, the giving of alms, and all persons conducting themselves as vagrants, having no fixed place of residence, and no lawful means of gaining their

[1] At the date of the Act, 1579, hanging was, both in England and Scotland, the customary penalty for theft. It is stated as a historical fact that in Henry VIII.'s reign 72,000 persons were hanged as thieves.

[2] 25 & 26 Vict., cap. 98, 1862.

livelihood within the burgh, and all persons who, after having been convicted of vagrancy," &c.

Imprisonment is also provided for all parents and persons having the control of young persons, who either send them out to beg or suffer them to go out to beg. These are the very classes of persons that the old Scottish Statutes "anent the poor" dealt with as "sturdy beggars" and "vagabonds." They are treated now, as they were under the old Statutes, as proper subjects for police regulation.

Although this most beneficial Statute contains these means for suppressing vagrancy, it has not been generally adopted. Comparatively few places of 700 inhabitants and upwards have yet availed themselves of its powers. And yet these very places are those from which the cry is heard that they are being "inundated" with vagrants, and whose inhabitants blame the Poor Laws. Even the chief constable of Ayrshire admitted that "the latest Act respecting police in towns contained provisions which were very valuable, and thoroughly effectual for suppressing vagrancy." He has overlooked the definition of "populous places" to which it is applicable. The majority of villages contain upwards of 700 people. As vagrancy is purely a matter for police regulation, those provisions, if taken advantage of, and still found insufficient by reason of their limitation to places having 700 inhabitants, might be extended so as to reach vagrancy in the most sequestered spots. An extension of jurisdiction to justices without the burghs would accomplish the object. But obtaining legislation to remedy the grievances of country gentlemen is no part of the duty of the administrators of a Poor Law. That is a matter entirely of the sufferers' own concern; and it is worthy of remark that in the burghs, those places in which the law has been put in force, there is but little vagrancy—at least there are no complaints.[1]

The charge that poorhouse relief fosters vagrancy is disproved by the experience of Ireland, in which country

[1] Mr. Craufurd's Committee recommended an extension of the powers of the General Police Act to counties. Report, p. 14, Appendix No. 2.

that is the general form of relief. The experience both of England and Ireland proves the contrary—viz., that it is out-door relief and indiscriminate almsgiving which encourage vagrancy, and in-door relief which checks it. In their Report for 1869 the Irish Poor Law Commissioners, when treating of vagrancy, say—

"Assuming the relative proportion of vagrants in the two countries (England and Ireland) to be as stated, it does not appear to us to be a matter of course that the comparatively small extent of out-door relief in Ireland has any such connection as is supposed with the excess in question; nor does it seem safe to assume that the more a country has of pauperism in one form the less it has in another.

"On the contrary, experience in Ireland shows that the number of vagrants known to the police has increased simultaneously with the increase of out-door paupers. Thus, in 1863, the number of vagrants in Ireland was 9900, and in 1867 it was 12,626; in the same period the average daily number of out-door paupers rose from 7859 to 14,940. That is to say, that vagrants increased 28 per cent. at the same time that the out-door pauperism nearly doubled itself. In England, as well as in Ireland, it would appear from the Poor Law Returns that at periods when there is most out-door relief there is also most vagrancy. For example, in 1853, when the out-door poor on the 1st January numbered 671,548, the number of vagrants relieved in the workhouse on the same day was 548; and on the 1st January, 1868, when the number of out-door poor was 877,872, the number of vagrants relieved on the same day in the workhouse was 4357. The system of workhouse relief, the ordinary form of relief in Ireland, tends to diminish mendicancy and vagrancy, inasmuch as persons so relieved have all their wants supplied, and cannot be abroad begging. Out-door relief, on the other hand (whether English, Scotch, or Irish), fails to supply all the wants of the recipients, and a large number of them, therefore, being at liberty to go where they please, naturally supplement their means of livelihood by wandering abroad and begging."[1]

So far, then, as expenditure upon poorhouse buildings and their maintenance is concerned, the legitimate conclusion deducible from the evidence regarding them is, that it is economical expenditure, and that the economy effected by poorhouses is developed just in proportion as they are used.

[1] Seventeenth Annual Report of the Commissioners for Administering the Relief of the Poor in Ireland, p. 17.

This economy might be still further felt by a freer application of the labour of the inmates. As a rule the poorhouses have not been employed as workhouses in Scotland, nor made use of as productive establishments in the same way as lunatic asylums and asylums for the blind have. That the labour of the paupers is insisted on to a certain extent is generally believed; but to what extent, in any case, no evidence has been submitted, or exists, to show. Such evidence would have been desirable, as showing to what extent per head the cost of maintenance is reduced by the labour of a given number of inmates. In most poorhouses the labour is employed chiefly in rearing vegetables on the grounds for consumption in the house, in repairs upon the building, such as painting, and in making shoes and clothes for the paupers. As none of the inmates are able-bodied, and as a poorhouse is neither a prison, where labour can be enforced as a punishment, nor a lunatic asylum, where it forms part of the curative treatment, the labour for the most part is of a desultory and irregular kind. But that it necessarily should be so to the extent it now is no one believes. If paupers can make boots and clothes fit for the inmates to wear, equally can they make such articles fit for sale in the market. There is no solid objection to the price of pauper labour being got and applied to pauper maintenance. If it can be got, and so applied, it is a duty which the administrators owe to the state, to those who contribute to the compulsory rate, so to utilize it to the fullest extent.

Nor, even were there anything in the objection of competition between pauper labour and outside labour, would it prejudicially affect the working man.

The probability is that the diminution in the amount of the rate to which he contributes would be more sensible than any interference with his wages.

While upon this subject of pauper labour we may observe that those who are so decided in their condemnation of Government for not employing paupers in enclosing and reclaiming waste lands and in other great works, seem to

have entirely overlooked the circumstance that in Scotland there is no Poor Law conceding a maintenance to the able-bodied, and there are no able-bodied paupers (except those wrongly admitted to the roll by the sheriffs, of which more will be said hereafter). Aged, sick, and disabled persons, and children, are quite useless for the work such economists design for them. No contractor for works would take their labour gratis, and it would equally not pay Government to employ such a class upon any important work. It may be otherwise in England. But Dr. Begg and the others who have recommended this were Scotsmen, and spoke of Scottish paupers, and they might have been expected not to have fallen into such a palpable error.[1]

By fully developing pauper labour, therefore, and billeting out the surplus cases of overcrowded parishes in empty poorhouses, as above indicated, the poorhouse can be made even more powerful than it is at present as an engine for keeping down the rates.

Of the benefits of the poorhouse as a means of relief it is needless to speak. They have been abundantly shown in Ireland; but among the chief advantages the following may be stated:—1. It insures that no person in destitution shall die from starvation or insufficient shelter—which is the chief end of a Poor Law. 2. It insures that no person in destitution shall obtain more than is actually necessary for subsistence. 3. It is just in its operation between the pauper and those who are only one degree removed above him, inasmuch as, being wholly in-door relief, it secures that the pauper's allowance shall not be supplemented by voluntary and charitable alms, and thereby his condition be rendered more eligible than that of him who is not a proper object, and is not entitled to demand relief.

[1] The work done in the English workhouses is principally confined to hair picking and stone breaking, and it is not found to be profitable, but that is so for reasons which do not militate against the principle of utilizing pauper labour.

CHAPTER VII.

Charge of extravagant *Expenditure*, continued—Expenditure upon *Relief* considered—Expenditure on casuals and in medical relief has diminished—Increase is on permanent poor—Has principally occurred between 1859 and 1869—Great part of increased expense accounted for by increased price of food, rents, and wages since 1860, and by lunacy—The purchasing power of money has diminished since 1845—Evidence in support of increased prices causing increased expenditure—Comparisons of prices of food—Table of prices—Evidence of similar increase in Ireland—Similar increase of cost of living throughout Europe and United States—Increased cost of maintaining lunatic paupers—Effects of recent lunacy policy on expenditure—Numbers of pauper lunatics—Their increased cost—General results, and results in particular localities stated—Causes of the increased cost stated—Expenditure upon daily maintenance—Increase is chiefly in cases in large public Asylums—Expense of maintenance is least in Poorhouse wards and private families—Statistics proving this—Reasons accounting for it—The "Cottage System" explained and justified, on economical and other grounds—Its economy—Limited extent to which Parochial and Cottage Systems have been tried, stated—Much of existing lunacy is avoidable—Commissioners' evidence to this effect—Intemperance as cause of lunacy—The proposal to combine Boards of Lunacy and Supervision considered and approved.

Section 1.

The *second* great head of expenditure is Relief, comprising under that term—(1) Relief of the registered or permanent poor; (2) relief of the casual or occasional poor; and, (3) medical relief.

In judging of an increase or decrease of outlay on these heads, it is proper that the first year of the passing of the Act of 1845 should be excluded, because it is proved, as already shown, that one effect of the passing of the Act was to bring under direct regulation and control a numerous class of persons who, before it, did not claim the status of pauper, or seek Poor Law relief, and whose numbers, therefore, do not affect the expenses until the year 1847.

An examination of the evidence and statistics regarding

relief shows, generally, that the expenditure on the casual poor, and on medical relief, has diminished since 1847, and that the increase in expenditure in relief of the registered poor took place principally between 1859 and 1869, in which year high-water mark was reached.

The number of casual poor relieved, exclusive of their dependants, was—

In 1847,	. .	60,399, at a cost of	£36,340
In 1859,	. .	37,789, „	25,752
In 1868,	. .	53,831, „	29,058[1]

Since 1869 both the numbers and the expense have steadily decreased.

As to medical relief, the figures show that the amount expended remained almost steady from 1848 to 1868, if proportioned to the number of registered poor; and that it considerably diminished if proportioned to the number of poor of all classes, including their dependants, which it should be, as all classes participate in medical relief. For the last ten years the amount expended has also remained almost stationary. These two heads of expenditure may therefore be excluded from view.

As to the expenditure on the registered poor and their dependants, what increase there has been has occurred mainly between the years 1859-60 and 1868. For it is found that, during the ten years ending 1858, the gross increase of expenditure amounted to £70,507 17s. 0½d., or an annual average increase of £7050 15s. 8¼d., while the gross increase of expenditure during the subsequent ten years, ending 1868, reached £173,448 14s. 6d., or an annual average increase of £17,344 17s. 5¼d.

For the ten years ending 14th May, 1881, the average expenditure on relief of the "registered" poor was £639,220, while for the ten years ending 14th May, 1891, the average expenditure on the poor of "all classes" was £670,295.[2]

[1] Report, Appendix No. 2.

[2] There is difficulty in making absolutely correct comparisons owing to the Board of Supervision's tables not being kept uniform, and to their employing different descriptive terms, which may or may not always be used to mean the same thing, a statistical error which cannot be too soon corrected.

The following table is interesting as showing the expenditure on the relief and management of the poor, the rate of expenditure per cent. and per £ of the valuation on which the poor rate is levied, and the rate per head of the population in nine quinquennial periods from 1847 to 1891:—

Year ended 14th May.	Expenditure for Relief and Management.	Inspector's Valuation.	Rate of Expenditure per Cent. and per £.					Estimated Population per Census Returns.	Rate per head of Population.	
			Per Cent.			Per £.				
	£	£	£	s.	d.	s.	d.		s.	d.
1847	433,915	10,053,142	4	6	3¾	0	10¼	2,781,314	3	1¼
1851	513,239	10,785,490	4	15	2¼	0	11¼	2,888,742	3	6½
1856	602,822	11,700,935	5	3	0½	1	0¼	2,975,517	4	0½
1861	657,953	14,274,058	4	12	2¼	0	11	3,062,294	4	3½
1866	739,315	15,929,468	4	12	9¾	0	11	3,211,154	4	7¼
1871	810,456	18,318,530	4	8	5¾	0	10½	3,360,018	4	9¾
1876	797,800	20,242,061	3	18	9¾	0	9¼	3,547,228	4	5¾
1881	853,348	22,287,670	3	16	7	0	9	3,735,573	4	6¾
1886	838,035	23,410,188	3	11	7½	0	8½	3,884,338	4	3¾
1891	841,645	23,924,882	3	10	4¼	0	8¼	4,033,103	4	2

These satisfactory results have been attained in the face of a rise in the cost of provisions down to about 1878, and an increase in the rate of wages for services. It is fair to add, however, that, owing to greater facilities of importation from America and the colonies, since 1878 the cost of the staple articles of consumption has sensibly diminished. Wages, however, have not lessened. During the whole period the liberality of the paupers' diet and their material comforts, as housing, clothing, &c., have not been diminished, but rather improved. When treating of numbers it has already been seen that the only real increase of expense is caused by lunacy. On the other hand, the results are satisfactory owing to the steady and enormous growth of the valuation on which the rate is assessed. In other words, the wealth of the country has increased more rapidly, and in greater ratio, than the burdens which it has been called on to bear, which radical fact is of prime importance,

as showing that the people can more easily bear the taxation which the requirements of modern society render imperative.

So far as the absolute increase of expenditure during the rising years was not accounted for by the increased price of food and services, and by lunacy, it was attributable to the increased number of dependants, that is, to an increase of pauperism, caused by desertions and illegitimacy —causes that are susceptible, at least, of considerable diminution by better laws producing a better social state. But a large part of that increase was due to the enhanced price of provisions and services and to lunacy.

As to the *first*, viz., increased prices, Mr. Bett, who is one of those who complained that, with an increased expenditure upon them under the present system, the paupers are now no better off than they were before it, answers his own objections to the Poor Laws and their operation when he admits[1] that the paupers really get no increased allowance, because, although the sum seems larger, it goes no further than the smaller one did before, simply because the articles required for maintenance are more expensive and money is of less value. That, it is clear—and Mr. Bett is forced to admit it—is no fault of the law or of its administrators. If, owing to the rise in the cost of provisions and of wages, a man with an income of £1000 per annum requires to spend £20 per month for his house expenses now in order to live in the same style that he did before with an expenditure of £15 per month, it is absurd to charge Parochial Boards with extravagance, or to blame the Poor Laws, if it is found that 4s. per week is required to maintain a pauper now, whereas, when commodities were cheaper, he could be maintained for 2s. 6d. per week.

Besides Mr. Bett, Mr. Smythe and Lord Fraser, then of the Board of Supervision, and Mr. Brown, the inspector of Paisley, have given evidence that this is the cause of much of the increased expenditure. Mr. Smythe says, "There has been a general improvement in the mode of living of the labouring classes of Scotland generally, and

[1] Select Commissioners' Report, p. 69.

I think that that probably has extended itself to the allowance for the poor; of course you must measure the allowances to the poor by the condition of the labouring classes; and the rate of wages has very much increased within the last sixteen or eighteen years; of course that has improved the condition of the labouring men, and I consider that it has, to a certain degree, affected the amount that is required for the maintenance of paupers."

The increased expenditure had not escaped the notice of the Board of Supervision, who caused inquiry to be made into it. Here is an extract from their report:—"We are informed by the inspectors of the poor of the parishes in which the increase of the expenditure during the past year has been most marked that it is to be attributed to unusual slackness of trade; increased price of provisions affecting both the cost of maintenance in poorhouses (and the amount of out-door allowances), and increase in the number and cost of pauper lunatics."[1] Lord Fraser, speaking of that report, said, "We found an increase in the price of provisions; that was a patent and notorious fact."[2] Mr. Brown furnished details of these. He compared prices in 1847-8, which itself was a dear year because of the famine, with 1868, and brought out the following results:—

	1847-8.	1868.
Oatmeal,[3] . .	14s. 0d. per boll.	21s. 9d. per boll.
Barley, . . .	10s. 0d. per cwt.	15s. 0d. per cwt.
Peas, ...	11s. 0d. ,,	14s. 0d. ,,
Butter, . . .	8d. per lb.	1s. 3d. per lb.
Wheat Bread, .	7s. 8d. per 75 lbs.	10s. 6d. per 75 lbs.
Beef, ...	4½d. per lb.	5¾d. per lb.

Mr. Brown explained that the increases thus shown necessarily affected both the cost of maintenance inside the poorhouse and the amount of out-door allowances; and that the increase in expenditure of his board, an expenditure which was 74 per cent. more in 1868 than in 1847, had

[1] Twenty-third Annual Report, p. 12.
[2] Report, p. 63.
[3] A staple article of consumption both in poorhouses and among the poorer classes in Scotland generally.

been uniform, gradual, general, and applicable to out-door as well as to in-door poor; and that it had been general over all the poor, and not caused by any increased expense on any particular class.

The following table, which is compiled from the contract prices paid by one of the largest general hospitals in Scotland, and from the average market rates prevailing in Glasgow during the years embraced in it, further illustrates this rise in the price of commodities used in the maintenance of paupers—[1]

This increase in the cost of food and necessaries, and the consequent increase in expense of living which it has entailed, is not confined to Scotland. For in his speech in 1870, on the Irish Land Bill, already quoted from, Mr. Gladstone is reported to have said, "Since 1860 the cost of subsistence has very considerably increased, and by a most legitimate process, except in the great article of wheat; that has been a great boon, except to the farmer, as such; but to the man who is the buyer, rather than the grower of produce, it is evident that such a change represents a condition not of increase, but of stinted and narrowed circumstances." In illustration of this increased cost of maintenance in Ireland, Mr. O'Brien, Poor Law inspector, in his report issued in March, 1870, speaking of the wages of agricultural labourers in Ireland, shows the relative cost of maintenance and clothing in the Irish workhouses during the two years ending September 29th, 1849 and 1869, to have been—

Year ended	Provisions and Necessaries.	Clothing.	TOTAL.
September 29, 1849, .	1s. 3¼d.	3d.	1s. 6¼d.
September 29, 1869, .	2s. 7¼d.	6d.	3s. 1½d.

or an increase of upwards of 100 per cent. in twenty years.

Further, there is evidence to show that the increased cost of living during the ten years ending 1869 was not limited to this kingdom. In all the States of Europe, and in the United States, the expense of living, including rents, rose

[1] See next page, 134.

	1853.	1854.	1855.	1856.	1857.	1858.	1859.	1860.
[1] Bread, per 4 lb. loaf, . .	/5½	/8¼	/9	...	/9	/9	...	/6½
[1] Beef, per stone of 14 lbs.,	5/	5/	6/	...	5/3	5/	5/1	5/
[2] Flour, United States barrel of 190 lbs., . .	38/ 38/6	42/ 45/	42/ 43/	31/ 32/6	24/ 26/	21/ 22/	25/ 26/	29/ 30/
[2] Do., English, 280 lbs.,	58/ 59/6	60/ 63/	60/ 61/	49/ 50/	38/ 39/	33/ 35/	36/ 38/	43/
[3] Oatmeal, per 280 lbs., .	...	...	...	...	...	...	...	35/6
[3] Barley, common, per 280 lbs.	...	...	...	...	...	...	...	...
[1] Coals, per 24 cwt., . . .	9/	11/	...	8/6	7/6	...	...	10/8
[1] Milk, sweet, per pint, . .	/4	/5	/5	/5	/5	/5	/5	/5
[4] Beef and Mutton, average prices per cwt., . . .	...	...	..	...	...	...	...	...

	1861.	1862.	1863.	1864.	1865.	1866.	1867.	1868.	1869.
[1] Bread, per 4 lb. loaf, . .	/7½	/7½	/7	/7	/7½	/8½	/9	/8½	/7½
[1] Beef, per stone of 14 lbs.,	5/10	5/8	5/8	6/	8/2	8/9	8/	6/6	6/6
[2] Flour, United States barrel of 190 lbs., . .	32/6 33/	25/9 26/	21/6 22/6	21/ 21/6	27/ 28/6	30/ 32/	37/ 37/6	26/ 27/6	22/ 24/
[2] Do., English, 280 lbs.,	46/ 47/	35/ 37/	32/ 34/	30/ 31/	36/ 37/	48/ 50/	57/ 58/	...	40/ 41/
[3] Oatmeal, per 280 lbs., .	35/	31/6	30/	26/	28/6	35/6	40/	41/	35/
[3] Barley, common, per 280 lbs.	31/	30/	27/	27/	26/	33/	35/	36/	30/
[1] Coals, per 24 cwt., . . .	9/9	9/	8/11	9/	10/6	10/	10/	10/	9/
[1] Milk, sweet, per pint, . .	/5	/5	/5	5/	/5	/6½	/6½	/5	/5
[4] Beef and Mutton, average prices per cwt., . . .	...	...	...	56/	59/	76/	60/	54/	68/

[1] Average of the contract prices for the year of the Glasgow Royal Infirmary. [2] Market prices. [3] Average prices in the Glasgow Market throughout the year of the quality supplied to the poorhouses. [4] Average contract prices of Gartnavel Lunatic Asylum.

in that time from 25 per cent. in some places to nearly 100 per cent. in others.[1]

Section 2.

But, *secondly*, the great increase of expenditure is proved to have arisen from the increased expense of lunatic paupers.

Evidence to this effect is given from all quarters, and by the Board of Supervision and parochial inspectors alike. The great increase, or apparent increase, in the numbers has already been shown. It is to be hoped that Scotland is not gradually degenerating into a nation of imbeciles, which might be supposed if the figures alone were considered. But, just as it has been proved that the result of the passing of the Poor Law Amendment Act of 1845 was to make a great apparent addition to the number of paupers, so a similar apparent increase in the number of lunatics has been brought about by the enlightened legislation of Lord Moncrieff, the late Lord Justice-Clerk of Scotland, when he was Lord Advocate. The Statutes which, as Lord Advocate, he introduced and carried through Parliament have undoubtedly had the effect of bringing under notice, because they have brought under direct legal regulation and control, a large number of insane persons, both of the imbecile and the dangerous class, whose existence was formerly not generally known of, and who, by reason of their being at large and improperly cared for, formed a menace to society. While this is so, the evidence regarding the result of the legislation in question is that the lunatic classes are now much better cared for, and their condition is in all respects improved, compared with what it was previously to that

[1] Mr. Charles Cowan, in a lecture on "The Management of the Poor in Rhenish Prussia," delivered on 16th June, 1870, under the auspices of the Edinburgh Association for Improving the Condition of the Poor, admitted that the cost per head of the poor in Elberfeld and other German towns was fully as much as in Britain; and "that although the number of poor in Elberfeld and Barmen has considerably diminished within the last ten years, the expenditure has rather increased," which increase, he stated, was attributable "to the war between Prussia and Austria in 1866, visitations of cholera, the collapse of trade and commerce, *and the increased price of provisions.*" This admission is significant, and completely supports our argument.

legislation. As we have shown when treating of numbers the treatment of the pauper lunatics is accompanied by an undue extravagance much of which that class is incapable of appreciating; and, owing to the policy of the Lunacy Commissioners, unnecessary numbers are drawn within the scope of Lord Moncrieff's legislation.

On 1st January, 1868, the number of pauper lunatics maintained by the poor rates was 5769. In 1890 the number had risen to 12,303, or an increase of 113 per cent.

The increasing cost to the country for the maintenance of pauper lunatics is shown by the following table:—[1]

This table proves that the addition of one pauper lunatic to the register is equivalent to an increase of £23 to the rates, and that the increase of expenditure since the year 1858 is 193 per cent.

The increase of expenditure over Scotland generally is thus shown to be out of all proportion to the increase in the numbers. The Commissioners in Lunacy have pointed out that the disproportion is due as much to the increase in numbers treated in public asylums of persons who were formerly maintained elsewhere as to the unavoidable increase in the cost of maintenance. In their last report they say, "Parochial boards are spending on the maintenance of pauper lunatics in establishments more than three times the amount spent in 1858, and in the maintenance of those in private dwellings more than twice as much. This increase is to some extent due to the increased cost of maintenance per head which took place between the years 1858 and 1878, and was no doubt largely owing to more liberal views as to what is necessary for the proper care and treatment of lunatics, and to changes in the costs of articles of food and clothing."[2] Of course the increased price of food in recent years, which, as has already been proved, accounts for an increased expense upon ordinary paupers, tells with equal, if not greater, force in the cost of lunatics. Yet in the next paragraph of the same report the Commissioners say that the great bulk

[1] See next page.

[2] Thirty-third Report, p. 48.

	Year.	In Asylums and Lunatic Wards of Poorhouses.	In Private Dwellings.	For Certificates, Cost of Transport, &c.	Total Expenditure.	Total Yearly Expenditure by Parochial Boards per Patient.	
	1858,	£61,303	£14,230	£5,118	£80,652	£17 0 6	
Average.	1859-63,	76,430	14,763	4,031	95,225	18 11 6	Average.
Average.	1864-68,	92,657	15,157	4,400	112,214	20 6 1	Average.
Average.	1869-73,	115,970	16,345	4,806	137,122	21 16 6	Average.
Average.	1874-79,	151,068	17,787	4,809	173,664	24 6 5	Average.
Average.	1879-84,	177,794	22,554	6,188	206,536	24 5 5	Average.
	1884-85,	184,322	28,184	6,241	218,747	23 19 7	
	1885-86,	186,025	31,203	6,823	224,052	24 0 6	
	1886-87,	186,329	33,107	6,546	225,982	23 16 7	
	1887-88,	184,522	34,717	6,551	225,789	23 4 8	
	1888-89,	186,575	35,662	7,110	229,347	23 0 8	
	1889-90,	190,633	38,256	7,376	236,265	23 0 6	

of increased expenditure since 1858, and the whole of the increase during the last twelve years, is not due to any larger expenditure per head on care and treatment, but to the increased number of persons admitted to the pauper lunatic roll, which we have shown is the effect of their own policy.

While a slight increase of the average cost is shown over the whole of Scotland, it appears that the greatest cost is in the case of paupers maintained in public and private asylums, the next is in the case of licensed wards of poorhouses, and the least is in the case of patients boarded in private licensed dwellings.

Thus, as regards asylums, the lowest average daily cost per head for a county is 1s. 0½d. and the highest 1s. 8d., which, calculated for the year, would be £19 0s. 2½d. and £30 8s. 4d. As regards the wards of poorhouses the lowest daily cost for a county is 9¼d. and the highest 1s. 6½d., or £14 1s. 4½d. and £28 2s. 8½d. per annum. As regards private dwellings the lowest average daily cost for a county is 6¼d. and the highest is 1s. 1d., or £9 10s. 1¼d. and £19 15s. 5d. per annum.[1] The cost is found to vary considerably also in the different counties.

That the expense of maintenance is greatest in the establishments in the order stated is borne out by more than one of the Commissioners' Reports, and also by the evidence given before the Select Committee in 1869 and 1870; and the Commissioners add that the expense would be considerably greater were it to embrace the interest of the money expended in the erection of district asylums.[2] The average daily cost per head is found to be, for 1889-90, in public and parochial asylums, 1s. 4½d.; in lunatic wards of poorhouses, 1s. 0¼d.; and in private dwellings, 10¼d., and the average was 1s. 3¼d. In the years 1880-81, 1881-82, and 1882-83 the average was 1s. 4d.[3]

Similar results are shown if the cost of maintenance in

[1] Thirty-third Report, 1891, p. 50.
[2] Twelfth Annual Report.
[3] Thirty-third Report, Appendix A, p. 34.

the different classes of institutions is tested by counties. Thus it is 1s. 4½d., 1s. 0¼d., and 10¼d. respectively, or on the average, 1s. 3¼d.

The principal reasons for the greater expense in the public asylums than in the parochial asylums are stated to be (1) that the management in the smaller asylums is more careful and economical (which is quite intelligible, for the congregation of an immense number of varied cases of lunacy involves an immense staff and expensive appliances and means of treatment, not specially provided or required for the pauper class); and (2) that whereas, for the most part, the expense of parochial buildings is paid off, public asylums have frequently a heavy standing debt the annual interest of which is an element in fixing the rates of board. It is proved that the pauper patients treated in the poor-house asylums are generally better watched and cared for than they are in the public asylums—at least no one ventures to say they are not as well cared for; while, by reason of the parochial asylums being more immediately under the observation of the administrators of the rates, the patients' recovery is more likely to be easily recognised, and their discharge to be given more speedily.

We have already seen[1] that the increase of numbers in the annual reports is brought about, to a large extent, by the annual residuum of incurables; and if the current medical opinions are correct as to the gradual physical deterioration of the community, this number of incurables or chronic cases may be expected to increase from year to year. For insanity is now, much more than it was formerly, regarded as a physical disease; it must therefore, as regards curability, follow the physical condition of the sufferer.[2] To improve the physical condition by sanitary measures, by education, and by other means in the power of the voluntary benevolent associations, is a practical object for such societies, towards which their efforts might well be directed.

[1] Cf. p. 105, *supra*.

[2] This is very much the same thing as Dr. Yellowlees' "expansion of the conditions." Cf. p. 104, *supra*.

Lord Derby, in a speech delivered at Manchester about the New Year of 1870, attributed the free use of public institutions to the increased confidence of the people in their management. This explanation is doubtless true; but the increase of confidence has the drawback of resulting in a more implicit reliance on the advice of medical superintendents and managers. It is true, for the most part, that, except where complete recovery takes place, there is no release for the lunatic pauper from the public asylums. Once in the wards, he generally remains. There is not the same family interest shown in his recovery and removal that is exhibited in the case of private patients; and the interest of the managers of the institutions is all the other way. When discharged at all, it is generally a relegation of him merely from the public asylum to the parochial one. But if this latter inference be called in question, it at least cannot be denied that the professional traditions, which encourage the undue detention of patients, have no counterpoise in the feeling of direct responsibility to the ratepayers which is present to the officials of parochial asylums.

While these are the results of a comparison between the maintenance of pauper lunatics in parochial asylums and public asylums, the economical advantages of boarding-out pauper patients in private houses are even more striking. The Lunacy Amendment Acts, 25 & 26 Vict. cap. 54, and 29 & 30 Vict. cap. 51, permit the licensing of private houses for not more than four patients each. This system of treatment is known as the "Cottage System."

The patients are boarded either with relatives, or where their houses are unsuitable, with unrelated persons. The numbers so treated for the five years ending 1891 were on the average 2222, as compared with an average of 7457 in asylums and lunatic wards of poorhouses. The system is much more economical than that of treatment in the establishments. The cost varies, of course, in certain localities, and the saving depends, in some measure, on the kind of establishment with which the cottage system is compared. The average cost per patient boarded out is now £15 7s. 6d.,

against an average cost of £23 17s. 3d. in establishments. The Lunacy Commissioners, in their last Report, say of this system, "The provisions relating to special licenses have been largely taken advantage of, and they have proved of great value to parochial authorities in providing for their lunatics. At present there are more than four hundred persons holding such licenses in Scotland."[1]

In the Glasgow parishes the success of this experimental system is most encouraging. It has been in operation for about twenty-five years, about 15 per cent of their lunatic paupers being so treated. It was begun in the summer of 1863. The results have been stated by Dr. Robertson, the physician to the Glasgow Parochial Asylum, to have been, upon the whole, very satisfactory.

Pauper patients so boarded out are under the immediate supervision and control of the Board of Lunacy. The Ninth and Thirty-third Reports of the Commissioners explain that supervision.[2] The Board directs the intervals of medical inspection, and examines the entries made under date in a book for the purpose. Quarterly visits are appointed. The Poor Law Act of 1845 requires (in addition) half-yearly visitation by the inspector or his substitutes. There is also enjoined annual inspection by a Commissioner in Lunacy or his deputy, while, in special circumstances, there may be monthly or more frequent visitation by the parochial surgeon. The pauper cannot be removed to an asylum for the purposes of treatment, or more satisfactory attendance, *without the sanction* of the Lunacy Board; but the Board may order any case in which there has been a want of proper attention to be transferred to an asylum. The parochial authorities thus find it their interest to do their duty by the pauper patients; and, besides these legal checks, there exists the stimulus of public opinion—the risk of being informed against operating as a spur to duty and good behaviour on the part of the country guardians. Mr. Miller of Kilmallie says, as justifying

[1] Thirty-third Report, p. 37.
[2] Ninth Report, p. 29; Thirty-third Report, pp. 34-43.

such a system of treatment of parish patients, that (besides the diminished expense), some of the cases would be better out of, than they are in, the large asylums. He adds, "We take care that it is a comfortable crofter, and that they have plenty to eat."[1] Of course doctors (as in other things) differ as to the comparative merits of the two systems of treatment. Dr. Tuke, of the Fife and Kinross District Asylum, may be regarded as the leader of the opposition to the cottage system. He is the author of a paper on the subject,[2] in which are summed up his objections to it. And he also gave evidence on the matter before the Select Committee. It is not pertinent to our subject to discuss those objections, as they are purely of a professional and scientific kind. They have been sufficiently answered elsewhere by those to whom this aspect of the question is of more interest. Here it need only be said that among the superintendents of asylums themselves there is a great difference of opinion on the merits of the cottage system of treatment, and that the opinions of Dr. Tuke and the other superintendents of asylums who agree with him, however decided they may be, are all open to the observation that they are not those of wholly disinterested persons. But be that as it may, the question, regarded from a Poor Law point of view, is reduced simply to one of cost. Viewed in this, the ratepayer's, light, the evidence is conclusive against sending pauper lunatics to the large and costly asylums.

Such being the economical results flowing from the parochial asylum treatment and the boarding-out system, it is remarkable, when such great complaints of the increase of the rates are current, to find that only six parishes in all Scotland have satisfied the conditions necessary to obtain a first-class license, enabling them to treat pauper lunatics of every class, curable, incurable, and harmless. Those parishes which have availed themselves of the law in this respect, and the managers of which deserve all

[1] Select Committee's Report, p. 387.
[2] *Journal of Mental Science* for January, 1870.

credit for it, are Glasgow, Barony of Glasgow, Abbey of Paisley, Burgh of Paisley, Govan, and Greenock. It is further remarkable, and greatly to the discredit of the administrators of the rates, to find that the provisions of the Lunacy Amendment Acts of 1862 and 1866, with reference to the licensing of private houses for the reception of patients, have been so little taken advantage of. From inquiries made of those entitled to speak on the subject, it has been ascertained that, of the total number of pauper lunatics, at least 30 per cent. are proper subjects for treatment under the cottage system.[1] This want of economical management is suggestive of the reflection that more substantial good can be done towards diminishing expenditure by seeing to a proper use being made of existing laws than by a noisy clamouring for changes in them.

Before leaving the subject of the growing expenditure of poor-rates in the maintenance of pauper lunatics, we may point out that much of the existing and growing lunacy of Scotland arises from causes capable of remedy. To point it out in the words of the Commissioners may do good so far as it will assign a suitable field for the exercise of that voluntary benevolence which those who object to statutory enactments for the regulation of the Poor Law would seek to substitute for such enactments. In one of their earlier Reports the Commissioners in Lunacy (Eleventh Report) say—

"Making liberal allowance for the pauperizing effect of lunacy, and the consequent removal of a considerable number of patients from the independent to the pauper class, we are forced to the conclusion that insanity is essentially a disease, not of the overstrained intellectual or constitutional faculties, but of the depressed bodily condition, which, for the most part, is dependent on insufficient or inappropriate food, irregular living, overcrowded dwellings, long-continued musing, overwork, fever, or any similar cause of bodily debility. Hitherto our efforts have been mainly directed to the provision of asylums for the cure and care of the insane, but these efforts, however beneficial they may be in many respects, have, as we have seen, totally failed to arrest the increase

[1] It has already been seen that in the Barony Parish Asylum at Woodilee fully 30 per cent. are harmless chronic cases. Cf. *supra*, p. 106.

of lunacy. That more successful results would be obtained from the rational education of the people, and from the introduction into schools of physiological instruction, may very reasonably be expected. The prevention of insanity is not only a far nobler aim than the provision of accommodation after the mischief is done, but it is the one which there is reason to hope would greatly contribute to sap the sources of pauperism."

Over the whole kingdom intemperance is the greatest single cause of lunacy, being about one-fifth of the whole number. The great improvement which has already taken place in the mental health of the community, owing to the diminution of an excessive use of stimulants, is exemplified to some slight extent by the following statistics of the Gartnavel Asylum, even after making full allowance for the closer study of insanity in modern times, and the more accurate histories given of individual cases, which enable a more correct classification of causes to be now made than was possible formerly. The fluctuations are curious, and are deserving of attention.[1]

Intemperance as Cause of Insanity.

Year.	Per Cent of Total Admissions.	Year.	Per Cent. of Total Admissions.
1838,	26·49	1875,	16·
1842,	23·11	1876,	13·6
1850,	18·06	1877,	13·7
1855,	16·41	1878,	21·28
1860,	8·33	1879,	10·55
1865,	7·98	1880,	4·42[2]
1866,	8·25	1881,	15·52
1867,	7·47	1882,	13·81
1868,	6·70	1883,	14·28
1869,	8·43	1884,	20·17
1870,	7·63	1885,	14·37
1871,	10·33	1886,	16·50
1872,	11·2	1887,	18·30
1873,	12·11	1888,	10·17[3]
1874,	13·5	Average of 29 years,	13·4

[1] None of the Gartnavel annual reports have offered any explanation of the fluctuations. The Asylum reports have for the last three years ceased to give the information in available form.

[2] This is possibly an error for 14·42.

[3] That intemperance is still the largest single cause of insanity is also shown by the statistics of the Barony parish's large asylum at Woodilee.

It is in place here to notice the proposal to combine the Board of Lunacy with the Board of Supervision. The advocates of this proposal included Mr. Craufurd, the chairman of the Select Committee of 1869, and the late Mr. Duncan M'Laren, one of the members for Edinburgh. They pressed it on the score of economy, and because there was not sufficient work to employ fully the two boards. This proposal formed one of the subjects of inquiry by Lord Camperdown's Commission on the management of the public business of Scotland, in the spring of 1870. Among others, Mr. M'Laren was himself examined upon it. The result of his examination was a somewhat remarkable want of knowledge of the duties and labours of the boards, inexcusable in any one who had taken so prominent a part in the agitation for the abolition of all "Edinburgh boards." That Commission did not see their way to condemn the Board of Lunacy simply upon the general "impressions" of witnesses.

It is said that to combine the two boards would not only save the country a few hundred pounds in a secretary's salary, but would save the officials double correspondence, to the extent of about forty letters per annum, and would avoid occasional conflicts of authority between the governors of poorhouses, who are responsible to the one board, and the superintendents of parochial asylums, who are subordinate officers under the Poor Law Statutes, but who are responsible only to the Board of Lunacy.

On the other hand, reasons have been urged against a fusion of the two boards. The Board of Supervision is admitted on all hands to have always done its work well. It enjoys in a rare degree the confidence both of the parochial boards and of the public. It is essentially a

These show that for the eight years ending 1891, 12·43 per cent. of the total admissions are set down as due to alcoholic intemperance.

M. Hugues Le Roux in an article on "Phases of Crime in Paris" in the *Fortnightly Review* for December, 1891, says that from 1872 to 1888 lunacy in Paris increased 30 per cent., and that it is due to the fact that two morbid types, general paralysis and alcoholic insanity, are spreading to an alarming extent, and that alcoholic insanity is twice as prevalent as it was fifteen years ago.

"popular" board. The functions of the Board of Lunacy are of a totally different character and it is the very reverse of a "popular" board. Nor can it be expected that any Lunacy Board, however able its administration, ever will be popular, or enjoy the sympathy and goodwill of the people. The subject, its very name, the duties of the board, are distasteful to the feelings, and jar on the sentiments of the people. It is argued that to combine a board, which must in the nature of things be unpopular, with one which enjoys the confidence of the people, could not fail to taint the popular board with its unpopularity, cause distrust, and remove that confidence on the part of local boards and of the public in a valuable institution, the very maintenance of which confidence of itself contributes to a great extent to its successful action and public utility.

The truth appears to be that in the earlier years of the existence of each board, while they were employed in organizing and perfecting the departments of the public service which they supervised, combination was undesirable. Now that each branch is systematised and in working order—almost mechanical order—there is not sufficient actual work for a separate Board of Lunacy. And if there is not much actual conflict of authority, there is at least a separate and different policy pursued by the two boards. The one has steadily promoted economy with beneficial results, the other has constantly promoted extravagance with disastrous results which have already been shown. Expediency would, therefore, justify the merging of the smaller and less useful in the greater and more economical board. Economy and uniformity in policy and action would thereby be assured. In such a matter the loss of patronage to Government and the loss of office to individuals should not be allowed to stand in the way, if the change be really desirable on public grounds, which it appears now to be.

CHAPTER VIII.

Charge of increased *Expenditure* continued—2. *Relief* continued—The constitution of the managing bodies considered—Design of the representative constitution—Has not been accomplished either in rural or burghal parishes—Wherein they are defective in each case shown—Extravagant amount of out-door money allowances stated—Money allowances misapplied—Most eligible ratepayers avoid taking office as managers—Substitutes for the present local boards suggested.

Section 1.

The want of economy thus shown in the method of treating pauper lunatics and the absence of management in not utilizing to the fullest extent the accommodation of the poorhouses and the labour of the paupers, lead us to consider, when dealing with the expenditure on relief, whether the managing bodies are the best adapted to the work which they are called on to perform, whether the composite, popularly chosen, parochial boards are the best possible instruments for dealing with the various important matters falling under their control.

Representation where there is taxation is the idol of the British ratepayers' worship. It has become a political axiom. It is said to be founded on justice. It is based rather on the complex ground of political equality and expediency. It has already been seen that the Amendment Act of 1845, in the contemplation of a universal compulsory assessment, provided for a mixed and popularly elected board of management. The design was that all ratepayers should have a voice in the election of some, at least, of the distributors of the rate, and it has been seen that they have

a voice strong in proportion to their stake in the parish. But if it can be established that the parochial boards are not models of managing bodies, if the inexpediency of the representative system in their election can be proved, it is for consideration whether the fetish should not be knocked down and something set up in its place.

The theory and justification of the present constitution of the managing bodies is that the composite character of those bodies, which consist of the parish minister, his kirk-session, certain heritors, and a number of members elected by the ratepayers, secures two good things—first, administrators who, or some of whom, are likely to know the circumstances and necessities of every person in the parish; and second, the infusion into the management of self-interest and selfishness, which is generally believed to be the strongest motive to economy. It is not clear that, either in the rural or the large burghal parishes, these objects have been attained.

In the rural parishes of small population, it has already been seen that the elected or ratepayers' members of the board are not only sometimes out of all proportion to the interests they represent, but are disproportioned to the rest of the board to such an extent that the latter are powerless. In parishes so situated, having ratepayers competent and willing to take an interest in the administration, benefits which might otherwise result from their presence at the board are neutralized by a stupid majority. The vigilance to which self-interest would stimulate is thus defeated.

Again, there is abundant evidence to show, and any one who has resided much in Scottish country districts is painfully aware of it, that in the rural parishes the occupiers frequently preponderate in number. Such members of the board are often, if not the worst fitted, at least a class ill fitted for the nature of the duties. They are frequently small crofters and weavers, removed very slightly above the type of persons getting relief, related to the paupers by blood or marriage, and maintained in their seats at the

board for that very reason. In such cases, it is needless to say, there is the grossest mismanagement, relief being given wholesale in money allowances to persons who are in no way entitled to it, to persons not only able-bodied, but in receipt of a fair income from work. In one notable case in Ayrshire, where the composition of the board was of this kind, the rates stood at about 2s. per £, while very few persons of the proper pauper class were to be seen in the parish. This attracted the attention of certain non-resident ratepayers acquainted with the Poor Law in large city parishes, who took steps for purging the board and electing a more capable one. The result was, that after one year's administration, there was a reduction of the rate by 30 per cent., and a prospect of a still further reduction. This case was not given in evidence, but it is only one of many similar ones which might be found, if sought out.[1]

The late Mr. Smollett of Bonhill, a country gentleman of large experience in this, as in all matters of business connected with his county, mentioned flagrant cases of mismanagement through the supremacy of sentimentalism at the board of which he was long a member, which he attributed to the defective constitution of the board.

In the large burghal parishes of the board, again, there is no little evidence of an indiscriminate and far too liberal allotment of out-door relief. The average rate per head per annum of out-door relief over all Scotland was stated by Sir John M'Neill to be £4 6s., or 1s. 7½d. per week. That amount, it is proved, is generally sufficient; but there has been a tendency gradually to an increase in the amount. We do not complain of a gradual general increase when it is rendered imperative by an enhanced price of food and the like. But in the cities, the average allowance is proved to be 2s. 6d. per week, or £6 10s. per annum, which is £2 4s. above the general average for the whole country. While this is the average in the towns, there is

[1] This was the case of the parish of Monkton in Ayrshire, which included the peculiar old burgh of Prestwick, where the population are, owing to a peculiar land law, closely related in blood.

evidence that at many town boards there is far too open a hand; for allowances are stated to have been given as high as 10s. and 14s. per week.

It was said by Mr. Smythe, and some others, that the improved condition and better incomes of the working men had something to do with the increased allowances—and it has been argued that the allowances ought to be graduated or adjusted to the average scale of wages. But obviously this is a false and hurtful principle to go upon in the distribution of moneys raised by compulsion. A pauper, being simply a beggar from the common fund, is entitled to no more than is absolutely necessary for his bare subsistence, and in taking that he should be bound to take it on the terms on which it is given. To give anything more, to graduate the amount according to the improved condition and rising wages of the self-supporting working man, is unjust both to the working man and to the ratepayer. It is unjust also to the poor people themselves. It breaks down independence and self-reliance, and teaches them to rely, in the most temporary or trifling difficulty, upon the rates, and its tendency is by suggesting to invite pauperism.

The law has been greatly blamed on this ground; but the fault is not so much in the law as in its maladministration by incompetent persons, who fail in discernment. The only check for the abuse is either the poorhouse, or, where that test is impossible, the granting of no allowance greater than is just sufficient to prevent disease and death arising from want.

The injurious consequences of granting out-door relief at all in large populous places, where individual histories and necessities cannot be thoroughly investigated within the limited time available—consequences which are injurious just in proportion to the liberality of the allowances—are shown most strikingly in the metropolis. The demands upon the rates there had increased to such a fearful extent that the guardians confessed themselves unable to grapple with the difficulty, and Government

advice and interference were sought. Certain returns published in February, 1870, showed that the number of recipients of out-door relief in the metropolis on 1st January, 1870, was 121,012. And the statistics of the Poor Law Board showed that the total number of recipients of out-door relief in England had risen from 791,493 on 1st July, 1867, to 878,152 on 1st January, 1869.[1] In 1889 the number of out-door paupers in England and Wales was 581,828, and in-door 175,216. In that year in the metropolis the proportion of out-door paupers was 11·8 per 1000 of the population.[2]

But the evils of the system of out-door relief—a system due in great measure to the composite character of the administering boards—do not require to be sought for in the metropolis. It is well known, and was abundantly proved before the last Select Committee, that a great portion of the money given as out-door relief in the Scottish burghs is misapplied, is spent in strong drink, and that the public-house keepers know the parish pay-day as well as does the inspector. One inspector stated that those paupers in receipt of out-door relief who so misapplied their allowances were known to him or his assistants almost by head-mark. But as men who spend their allowance on drink prove thereby that they do not require it for their needful sustenance, to keep them from starvation, what can be said of the administrative capacity of managing boards which continue such persons on the roll, when their identification is admitted to be so easy?

In the populous parishes the theory of the present constitution of the boards breaks down even more signally than in the rural ones, and is, therefore, more difficult of justification. Take the case of a parish with 10,000 applications per annum, and a board of thirty: to suppose that there can be even the most imperfect acquaintance with each applicant's necessities is to suppose an absurdity, implying, as it does, on the part of each member of the board the leisure

[1] Twenty-first Annual Report of Poor Law Board, p. 10.
[2] Nineteenth Annual Report Local Government Board, p. 51-53.

and the means requisite to obtain a knowledge of the circumstances of 330 applicants. Again, in the large burghal parishes it is well known (and this objection applies equally to the English boards of guardians) that, for some reason or other which it is unnecessary here to speculate on, persons of the most eligible class do not generally seek office as managers of the poor. The most competent persons to deal with important economical questions and with large matters of finance would certainly be persons accustomed to the management of important concerns, as merchants and considerable manufacturers, to the successful conduct of whose business strict attention, discrimination and economy in every department are essential. Yet it is seen that such persons are rarely found at the parochial boards, but in their stead small tradesmen and half-educated and crotchety persons, whose only ideas are exaggerated ones concerning the importance of "local self-government," and the value of "keeping down the rates."

Of course it is said that it is easy to find fault, and that it is difficult to devise a better substitute. But such a retort, although true, should not deter from the effort, and an experiment might be made. It must be obvious by this time that the administration of Poor Law relief has become a highly specialised department of business. As in other businesses, the probability is that it would be better performed by persons trained to it, and possessed of special qualifications for it, and the argument holds whether the well-being of the poor or the interests of the ratepayers is considered of chiefest importance.

No class in the community has a deeper interest in the proper administration of the rate than the industrious poor themselves, that is, the respectable artisan class who live in houses of two or three rooms, and who pay the rates. At present the cumulative vote in the election of managers is a security to them that some intelligent and independent managers shall be elected to the boards. The class in question has not itself time to spare for such work. The security here mentioned would be greatly weakened were

the new party cry of "one man one vote" to have a place in poor law elections. For the worst class of ratepayers would have equal power with the more independent, and could elect representatives in their own interest pledged to a liberal administration of out-door relief, from the mischief of too free an application of which system both Scotland and England are just beginning to experience some alleviation.

Not more reasonable would it be to expect of a clergyman a discreet discharge of the delicate duties devolving on the "whip," or of a squire the perfect and economical management shown by the permanent officers of some of the great trade societies, than to look for a prudent administration of the poor-rate from boards composed for the most part of small tradesmen in towns, and ministers and bonnet lairds in the shires. The mischiefs being proved, we confess to having no hope of improvement being likely to follow from changes of so weak and patching a kind as those which were suggested by Mr. Smollett. Such recommendations, if carried out, could only lead to jealousies, conflicts, and the evils flowing from a class representation.[1]

But the ratepayers, especially in the rural parishes, have the remedy against being under represented on the parochial boards largely in their own hands. The Act of 1845 provides that in every parish where it has been resolved that the necessary funds shall be raised by assessment (and these are now all save 49), the parochial board shall consist of . . . "and of such numbers of elected members, to be elected in manner after-mentioned, as shall be fixed by the Board of Supervision."[2] The electors are "the persons from whom such assessment is to be levied;"[3] and in fixing the number of elected or ratepayers' members, the Board of Supervision is to have "due regard to the amount of the population, the number of the other members of the parochial board, and the special

[1] Select Committee's Report, pp. 83, 84, and 117.
[2] 8 & 9 Vic. cap. 83, sec. 22.
[3] Sec. 23.

wants and circumstances of each particular parish." The Board of Supervision has conferred on it the same powers of fixing the number of ratepayers' managers in burghal parishes or combinations. From the Reports of the Board of Supervision it is found that this intervention is not neglected. Thus, *e.g.*, in their Thirty-sixth Report[1] they reported that they had increased the number of the members to be elected to the boards of Greenock, Cathcart, Leadhills, and Bonhill, and in their Forty-sixth Report[2] that they had done the same in the cases of Mid-Calder, Alva, and Alloa—presumably in each case not of their own motive, but at the instigation of some person or party in the parish.

The existing inspectors, in the large parishes at least, are persons of the description we desiderate as the most competent administrators of a poor-rate; and it is worth consideration whether a board composed of three or more of such inspectors would not form, on the whole, a more economical, because more efficient, machine than one composed of amateurs, some of whom may, besides lying under other obvious disqualifications, be affected with philanthropic weaknesses. It has already been shown[3] that the prevailing tendency is against a legitimate use of the poorhouse as a test, and towards the pernicious system of money allowances, which are continually being augmented.

Of course, such a board, as that now suggested, instead of being elective, should be nominated, either by the Crown or the Central Board, should be paid, and should be under the direct control of, and responsible to, the Crown or the Central Board. And such a board should be required to satisfy the Central Board as to its accounts, and get that board's sanction to the assessment proposed to be levied before its imposition. The objection that such persons would be liable to be too stringent and to deal harshly with the poor is answered by their being made (as they are now) criminally liable for the consequences of death arising from their failure in duty to afford timeous or sufficient

[1] P. 5. [2] P. 5. [3] Cf. p. 112, *supra*.

relief.[1] As there are always plenty of grievance-mongers in every community, and there would be a really good grievance in such a case, there need be no fear that such misconduct would pass unnoticed and go unpunished. If not sufficiently stringent, the law as to the criminal responsibility of the relieving boards could easily be made more severe.[2]

[1] See Criminal Libel, H.M. Advocate *v.* Main, in M'Neil-Caird's *Poor Law Manual*, p. 433, where the indictment was found relevant, and the inspector was convicted and punished for "wicked and culpable neglect of duty."

[2] It is worthy of consideration whether the time has not now come for a comprehensive rearrangement of the existing system of representative management of local concerns, which are becoming burdensome. Apart from the recurring Parliamentary elections, there are in the counties county councils, and in each parish parochial boards and school boards, with distinct constituencies and separate elections. The same holds in the towns, with the difference that there is the town council instead of the county council. There is great risk that the frequency of popular elections will lead to the mass of the people ceasing to take an interest in them, which constitutes a real danger. It is the fact that for many years past fewer and fewer electors have polled in the municipal, parochial, and school board elections. It becomes, therefore, a fair question for consideration whether the duties both of parochial boards and of school boards might not be undertaken with economical advantage by enlarged county councils and town councils, working through standing committees on these subjects, just as is now done by them with respect to public health, water, gas, finance, &c. The more important the functions these representative bodies have to discharge, the more likely will able persons be induced to join them. The suggestion would also retain the fetish on the pedestal.

CHAPTER IX.

Charge of increased *Expenditure* continued—3. *Expense of Management*—Law expenses are steadily diminishing—Alteration in the law of settlement source of great expense in litigation—Cessation of this cause—Certain amount of expense in law unavoidable—Special sources of litigation, apart from settlement, noticed—The law of settlement explained and considered—The action of the Court of Session has created unnecessary expense—Evils resulting from existing law of settlement—Various proposals with regard to settlement stated and considered—Birth, as sole settlement, advocated on grounds of simplicity, economy, and fairness as between districts—Reasons stated in favour of compulsory removal to parish of settlement—Authorities cited in favour of birth as only settlement—The law of forisfamiliation or emancipation a fruitful source of litigation—Substitute for it proposed—Tribunal for dealing with disputed settlements—Acceptance of arbitrations by the sheriffs disapproved—The constitution of the Board of Supervision as a court of arbitration recommended—The law of removal of Irish and English born paupers—Has not fulfilled its object—Statistics of removals—Change to a money claim upon Ireland preferred—Present law operates to Scotland's disadvantage.

Section 1.

The *third* great head of expenditure is that of *Management*.[1]

As closely connected with this head, and as covered by it, it will be convenient to deal with expenditure on law and litigation, which has given rise to such loud complaints, and which is generally, though erroneously, supposed to be increasing.

Of expenditure on the head of Law, at any rate, it may be affirmed that it is in a healthy way. For the statistics show that it is not only steadily diminishing absolutely, but that the average amount spent was less during the decade

[1] In justice to the officials it is proper to state that "Expense of Management" includes, besides their salaries, election expenses, feu-duties and taxes, collector's expenses, rents of collector's office and of committee-rooms, insurance, interest to bank, board of the officials in poorhouses, stationery and advertising, postages, travelling expenses, cab-hires, and other incidental expenses.

ending 1891 than it was during the previous decade, and that its percentage to the whole Poor Law expenditure has been gradually decreasing during the last thirty years.

The expenditure, including cost of litigation, was:—

		Percentage of Law Charges to Total Expenditure.
In 1849, ...	£8,519	1·476
„ 1853, ...	13,036	2·412
„ 1857, ...	7,637	1·200
„ 1860, ...	8,750	1·319
„ 1865, ...	11,988	1·540
„ 1868, ...	5,987	0·693

The average total expenditure and the average percentage of law charges to total expenditure—

For ten years ending 1859, was	£10,093	1·726
„ nine years ending 1868, .	8,446	1·127
„ ten years ending 1881, .	6,344	0·72
„ ten years ending 1891, .	5,600	0·64

A great part of this expense undoubtedly resulted from the alteration of the law of settlement made by the Act of 1845, and yet not so great a part as is commonly supposed. For some years after the change many points were considered obscure, and were unsettled; but for the most part these were all settled before 1860, since which date not much litigation has arisen out of the law of settlement. The principal part of the expenditure on legal proceedings has been forced upon parochial boards in the protection of the ratepayers' interests. Lord Fraser estimated that, of the £6000 of law expenditure in 1868, not more than £1000, or at the most £1500, was attributable to cases of disputed settlement. Surely this is not a great sum when it is kept in view that there were upwards of 900 parishes and 104,000 paupers with distinct settlements. The remainder of the total sum can be accounted for by the unavoidable legal expenses attending the proper management of any great institution. Taking a title, borrowing money, taking assignments to reversionary interests vested in paupers, resisting unfounded appeals against refusals of relief,

defending claims arising out of the enforcement of the assessment, taking advice on the rights and duties of the board under Removal Acts, Vaccination Acts, Industrial Schools Acts, clauses of exemption in local Acts, and such like, are only some items of unavoidable legal expense.

The heaviest litigations that have occurred of recent years have arisen from two causes unconnected with the law of settlement; and in the case of many parishes they account for 75 per cent. of the whole expenditure on law. The one is the determination of what subjects are liable to the poor-rate, and the other the exorbitant demands put forward by railway and canal companies and similar corporations for "deductions" from the gross annual value.

The former question—that of exemption from the rate—has given rise, both in England and Scotland, to heavy litigations, which have rarely stopped short of the House of Lords. Of this class the Mersey Docks and Harbour case in England, Adamson *v.* The Clyde Trustees, Greig *v.* The University of Edinburgh, and Kirkwood *v.* The University of Glasgow, in Scotland, are familiar examples.[1] Of the other class—that which includes the claims for deductions under the 37th section of the Act—nearly every parish through which a railway or a canal passes has disagreeable experience. And litigations connected with these, while the more frequent, are also greatly more expensive. They are always in the Supreme Court. They invariably involve all the delays and expense attending a remit to a professional accountant, who has to make an elaborate inquiry into, and report upon, the numerous items of railway companies' capital and revenue expenditure, and their system of accounts. They are further attended with direct hardship and injustice; for such litigations commence by the ratepayer who claims exemption—the railway company, say—being compelled to pay the full assessment as laid on, under an obligation by the board to repay the whole or such part of it as the claiming company may be found ultimately entitled to

[1] On this subject of Exemptions see Memorandum No. VII. in Appendix.

exemption from. As these cases invariably last three or four years, the consequence is that, on the claim to deductions being established, and the repetition made—the original assessment having in the meantime all been *bonâ fide* expended—persons who were not inhabitants of the parish at the origination of the litigation find themselves heavily and unduly assessed to pay what, in this view of it, is just a common debt contracted at a time when they were not liable to contribute to it. In short, a subsequent year is made to discharge a prior year's burden, which can only be done by a sudden and increased assessment.

The hardship can be appreciated if it is kept in view that in many parishes the railway or canal company contributes perhaps one-half of the entire rate, and that as much as 30 or 40 per cent. of their assessment as paid may be got back under one of those stupendous processes of declarator and of suspension and interdict.

That parochial boards are excusable in defending such cases is plain from the following considerations. Prior to the Lands Valuation Act of 1854,[1] real property was valued for purposes of assessment by the various bodies entitled to levy the assessments. But since that date the value, for all purposes of assessment, of real property in Scotland is the value at which it is entered in the Valuation Roll of Lands and Heritages, which is made up annually by officers called "Assessors," under the Lands Valuation Act of 1854. One officer assesses the value of railways and canals. This he ascertains by taking their gross revenue, and deducting therefrom the working expenses, certain percentages for interest on plant and for deterioration, tenants' profits, and on the value of stores. The working expenses include the tenant's half of the rates and taxes. Further, the officer in question is directed by the Valuation of Lands (Scotland) Amendment Act of 1867[2] to allow, as a deduction from the gross valuation of the railway, one-half of the expenses incurred in repairing or maintaining the permanent way,

[1] 17 & 18 Vic. cap. 91.
[2] 30 & 31 Vic. cap. 80, sec. 3.

before entering the annual value in the roll. The Poor Law Amendment Act enacts "that in estimating the annual value of lands and heritages, the same shall be taken to be the rent at which, one year with another, such lands and heritages might, in their actual state, be reasonably expected to let from year to year, under deduction of the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same."[1] In short, two valuations have to be made, one of gross value by the assessor, acting under the Lands Valuation Act, and the other of net value by the parochial boards. These latter deductions—viz., those for repairs, insurance, &c.—although to some extent for the very same things, must still be allowed by the parochial boards, quite independently of those allowed by the assessor before he ascertains the gross annual value. In practice they have varied in amount, ranging from 25 to 40 per cent. Hence this class of property obtains a double deduction before it is assessed for the poor-rate, although the policy of the law, as has been shown, is that the burden of the support of the poor shall be equally borne.

Now, although the Scottish Courts had, previously to the Lands Valuation Amendment Act of 1867, decided[2] that, upon an average of years, 31½ per cent. is a proper deduction from the annual value for the items enumerated in the 37th section of the Poor Law Act, of which 24·85 per cent. was allowed for repairs; and although the railway companies, under the Act of 1867, are now allowed by the assessor one-half of the latter percentage, the companies put forward claims to deduction under the 37th section to an amount larger than those they preferred before the Valuation Amendment Act of 1867 was passed. Those claims have been stated as high as 54¾ per cent. By mutual consent, and by way of compromise, the amount of the deductions

[1] Sec. 37.
[2] Edinburgh and Glasgow Railway Co. *v.* Hall, Jan. 19, 1866. 4 M. 301.

in the case of railways is now taken at 33 per cent.; of waterworks, 20 per cent.; and of gas, 32 per cent.

The otherwise needless expense entailed by such an awkward section of the Poor Law Act as the 37th is not confined to litigation; for some years ago it evoked a confederation of parishes, with the object of compelling its repeal and obtaining an enactment for a universal assessment upon the gross annual value. The confederated parishes have necessarily expended large sums in deputations and the customary Parliamentary expenses. When it is remembered that successive Lord Advocates have acknowledged the absence of any necessity for the clause providing for deductions, which has entailed so many evils, and that they have actually brought in bills for its repeal, it does not say very much either for their Parliamentary authority or for the wisdom of Parliament that the clause should still stand, creating year by year great confusion and a waste of the ratepayers' money.

Lord Advocate Young in 1870 introduced a bill into Parliament to deal with this matter. The bill proposed to repeal both the 37th section of the Poor Law Amendment Act and the 3rd section of the Valuation Amendment Act, and directed how railway and similar undertakings were to be assessed in future. But it proposed to give this advantage at a great cost to parochial ratepayers. For it allowed such deductions to railway, canal, gas, and water companies as would practically result in their property being assessed upon only one-fourth of its annual value. That measure called forth a unanimous opposition on the part of the Scottish parochial boards, and, in deference to their representations, his lordship consented to the bill being referred to a Select Committee, which took evidence.[1]

Section 2.

But the law of settlement has also created great expense, and while much of that expense was unavoidable, being in

[1] See Appendix No. IV.

fact necessary to an elucidation of the principles of a changed law and their application to given circumstances, much also resulted from the characteristic action of the Scottish Supreme Court. Instead of the judges, when they saw, as they did see, or as they should have seen, a mass of litigation about to arise, setting themselves to codify the law of settlement, and reduce it to certain rules which might guide inspectors, they, in every case where more than one point or question arose, but one only of which was necessary to decide a particular dispute, with the usual Scottish reserve and caution invariably either declined to express any opinion on such non-essential points, or expressed an apparent delight in "reserving it until the point actually comes up for decision." In this way litigation has actually been encouraged and openly invited, and that with public bodies already too fond of the luxury.

But although at the cost of a great and unnecessary delay and expenditure, the decisions have at length been made reconcilable and reduced to something like a code, it is too much to expect that disputes among parishes, springing out of the law of settlement, will altogether cease. The question therefore arises, what is the best means to adopt for reducing litigation (and consequently law expenses) to a minimum? The answer to this question involves a consideration of the whole subject of the law of settlement, and it will be well, therefore, to deal here with the different suggestions which have been made with respect to the subject. These suggestions are—(1) to abolish the law of settlement altogether; (2) to alter the period necessary for acquiring a residential settlement, either by extending or restricting it; (3) to abolish residence as a ground of settlement altogether; and (4) to leave the existing law alone.

But, before considering these proposals in detail, it is convenient that there should be a clear notion of what settlement and the law of settlement really are, especially as there is no branch of the Poor Laws which has evoked more writing or greater diversity of views.

The law of settlement itself is as old as the statutory

enactments entitling the poor to relief. The term "settlement" is both comprehensive and vague, and in some senses its employment is apt to mislead. Strictly speaking, as we have seen, a pauper's right to be maintained lies against the whole community, and it is a matter of indifference to him what parish bears the burden of the public charity which supports him; for, provided he be unable, from bodily or mental infirmity, to earn a subsistence, aliment sufficient for his wants has been guaranteed to him by positive law, no matter what his geographical location may be. Accordingly, some writers, when treating of this subject, have dealt with the law of settlement as being a machinery devised for distributing the burden of maintaining the poor, according to certain fixed principles, among the different parishes or unions into which the kingdom is divided. By an experienced Poor Law official it is defined "an expedient to adjust among parishes their several liabilities for the support of the poor."[1] This description, however, falls short of the full meaning of the term, and regards it only from the ratepayer's side of the question, from which it may be correct enough; but, notwithstanding the general proposition just adverted to, settlement has important effects as regards the pauper, which effects, however, are not universal, but under the Statute Law are restricted geographically.

Now, while settlement is a *right*, and a right that is not forfeitable, and one which may be communicated notwithstanding attainder—which works a forfeiture of most civil rights—it is not a right of property, nor yet a right of inheritance, nor is it even analogous to a franchise, for franchises are lost by attainder, and paupers have no right to vote at elections.

Regarding the matter from the pauper's point of view (without again attempting strict definitions), the term settlement may be said to be a *permanent indestructible right* to take the benefit of the Poor Laws in a particular parish or place which maintains its own poor; and in an English

[1] Beattie's *Parochial Law*. Glasgow, 1881.

case it has been defined to be "the *right acquired*, in any one of the modes pointed out by the Poor Laws, to become a recipient of the benefit of those laws in that parish or place which provides for its own poor where the right has been *last* acquired."

In the first place, it seems clear that there must be some law of settlement, unless the entire burden of the support of the poor is to be borne by a national rate.

But this is the *first* change advocated with regard to settlement. The proposal is to abolish all parochial areas, and transfer the burden of the maintenance of the legal poor to a national rate, to be levied *per capita*, much in the same way as the property-tax is levied. Without pausing upon the fiscal consequences of such a change—which is scarcely within our present scope (although it may be mentioned in passing that it is obviously open to great objections on the ground of the risk of increased expense arising from a system of centralization)—we may point out that the change, if adopted, would not in reality abolish settlement, but would simply make the area of the pauper's settlement co-extensive with the country, and give the pauper the choice of where he would prefer to fall chargeable and receive relief—relief which, although paid for by the form of a national rate, would necessarily still have to be locally distributed. With such an option available, it is not difficult to imagine that the intending pauper would select, for preference, some locality which had the reputation of alimenting the poor in the most liberal manner. In short, a great part of the control of the evils and abuses that almost necessarily flow from a legal provision for relief of the destitute would probably be lost by the adoption of a national rate.

The most that can be advanced in favour of a national rate is that it is logical, as being the counterpart of the universal concession of the right to get relief from the corporate society, and that it would obviate litigation as to settlements. Against it can be urged the objection that it would weaken responsibility, and tend to extravagance in

administering the common fund. Each locality would like to be reputed as kind and liberal to its own poor, and benevolent might prove stronger than economical motives. In Scotland there is now a consensus of opinion against a national rate.

The English law of settlement is practically the same as that just sketched. In England, as in Scotland, the place of birth or domicile is the primary or radical settlement There, as here, the term means that the paupers must be relieved in the place where they have "settled" or "gained a settlement"—that is, by "haunting and resorting" or residence. A popular account is given of it and of its counterpart removal in Mr. Fowles' book.[1]

We have already seen, when reciting the Act 1579, cap. 74,[2] that the only settlements known to the Scottish Statute Law are those of birth, and "haunting" or residence; but of course the primary, radical, and inalienable settlement is that of birth, which, being so, subsists until displaced or superseded by that of residence. So long as the residence settlement is in operation the birth one remains in abeyance. But these settlements are both direct or original, whereas the law recognises a secondary kind, termed derivative.

It was assumed early in the administration of the Poor Law, both in England and in Scotland, in the absence of any Statute to the contrary, that the wife must be with her husband, and the children with their father, and therefore the settlement of any man is gained not only for himself, but also for all his family. Hence have arisen—(1) settlement by marriage, which a woman acquires through her husband, and (2) by parentage, which unemancipated children take from their parent. These modes of settlement not being the direct creatures of Statute, but being acquired by the parties through another, are termed Derivative Settlements.

We have seen that, down to the Amendment Act of

[1] *The Poor Law*, pp. 44-46; and part v., p. 150; also Archbold's *Poor Law*, 4th ed., chap. v., p. 292.

[2] *Supra*, pp. 29, 30.

1845, by three years' haunting or residence in a parish immediately preceding poverty a person acquired a settlement, and the Law Courts had held that such a settlement once acquired subsisted until another was gained by similar residence elsewhere. That state of the law was considered to operate with great injustice on the centres of industrial population, and therefore it was recommended by the Poor Law Commissioners of 1843-44 that the period necessary for acquiring a settlement by residence should be again extended to seven years; and, to save the frequent questions which had arisen under the old laws as to whether a person's residence had been "industrial" or not, it was suggested that the residence by means of which a settlement might be acquired should be residence where a party maintained himself without parochial relief, or without having recourse to common begging either by himself or his family.

Ultimately it was determined that the period of residence should be five years. By the Poor Law Amendment Act, 1845, which is the Statute in force at the present day, the law was altered by enacting, (1) with respect to the acquisition of a settlement, "that no person shall be held to have acquired a settlement in any parish or combination by residence therein unless such person shall have resided for five years *continuously* in such parish or combination, and shall have maintained himself without having recourse to common begging, either by himself or his family, and without having received or applied for parochial relief;" and (2) with respect to loss of settlement, "that no person who shall have acquired a settlement by residence . . . shall be held to have retained such settlement if, during any subsequent period of five years, he shall not have resided . . . continuously for at least one year."[1]

Shortly stated, this just means, and so the Law Courts have interpreted it, that a settlement once acquired is not lost till there is an absence of four years and a day; for it

[1] Sec. 67.

can never be assumed, during absence, that the person may not return and reside the last year of the five.

It will be observed that the language of this enactment is no "*person*," but it does not follow that every *person* can acquire a residential settlement. The word means those who are *sui juris*, or legally capable of regulating their own affairs. The privilege of acquisition, therefore, does not apply to married women, whose persons, during coverture, are held to be sunk in that of their husbands;[1] nor to pupils, for in the eye of the law a pupil is nobody;[2] nor to idiots and lunatics, for the law regards that class as in a state of perpetual pupillage;[3] nor to children above fourteen years of age still remaining members of their father's family, for till emancipation they are held not to have an independent existence separate from their parents.[4] But, with these exceptions, the law conferring a residential settlement is available to all persons, whether natives or foreigners.[5]

The great desideratum in selecting any settlement is to combine simplicity and economy with such an amount of unpleasantness in action as will tend to discourage a reliance upon the rate in fictitious or questionable cases. The repressive action of settlement, combined with the power, not necessarily with the fact, of removal, should not be lost sight of. It is historically true that settlement at first took the form, and was of the nature, of a law of removal, whereby the parish first applied to had the power of transmitting the pauper by a "pass" to the next parish on his way to the parish to which he really belonged.[6] But that phase of the law led to many abuses, and so flagrant had the cases of illegal removal become that it raised an agitation which led to the introduction of the Amendment

[1] M'Crorie *v.* Cowan, 7th March, 1862, 24 D. 723.
[2] Barbour *v.* Adamson, 30th May, 1853, 1 M'Queen's Appeals, p. 376.
[3] Hopkins *v.* Ironsides & Watson, 27th January, 1865, 3 Rettie, 424. Hay *v.* Paterson, 28th January, 1857, 19 D. 333. Lawson *v.* Gunn, 21st November, 1876, 4 Rettie, 177.
[4] Fraser *v.* Robertson, 5th June, 1867, 5 Rettie, 819.
[5] Higgins *v.* Barony, 9th July, 1824, 3 S. & D. p. 239. R. *v.* Eastbourne, 4 East. 103.
[6] 1579, cap. 74, and Proclamation of 11th August, 1692.

Act of 1845, under which the power of removal in connection with settlement is much modified.[1]

But the present law does not fulfil these conditions of simplicity and economy; and the first proposal, to make the burden fall where it lights—in other words, to hold the settlement to be the place where chargeability first emerges (which is the Irish law, where there is neither settlement nor removal)—is liable to the objections of partiality and injustice, which have also to be avoided. It is urged by those who are favourable to this plan, in opposition to those who prefer a continuance of the existing law, that just as the present law hits one parish one day and another another day, and so in the end, by the law of compensation, any irregularities are squared, the same thing would happen if residence and birth were both abolished, and the place of first relief were made the place of charge. This would be perfectly fair were the population non-migratory. But in this country, and especially in Scotland, the population has been, and still is, steadily gravitating to the great centres of industrial employment, nor is there any probability as yet of a diminution of that tendency in the future.

The results, then, would be that, as there are already as many births in the towns as there are in country parishes in proportion to the population (and more in such towns as Glasgow), the towns would have to bear not only their own burden, but that of a great part of the country besides. The true theory is, that each parish or district shall bear its own burden; but, as the most experienced persons have stated that such a change as that suggested would utterly ruin the towns, a system founded on it would, for the single benefit of simplicity, most glaringly contravene the principles underlying the whole matter. The towns reasonably enough say that they have enough to bear already; that they exist for the common weal; that they are not only the great manufactories of production, but the magazines whence are drawn the stores for the supply of the whole

[1] 8 and 9 Vict. cap. 83, secs. 70 and 72.

country; that they are subject to many police and Statute-labour taxes—taxes for lighting, cleansing, paving, and other things incident to large municipalities, and necessary for enabling them to discharge their especial functions aright—and that, while the country districts actually receive indirectly benefits from all these, the burden of them is borne exclusively by the towns.

The question is then narrowed to one between a continuance of the existing law and a substitution for it of birth, and, of course, as subsidiary to any radical settlement, parentage and marriage, as the only settlement. We say advisedly a *continuance* of the existing law; for any mere change of the periods necessary for acquisition or loss of settlement would only be a tinkering at the matter, tinkering which would again provoke and entail unproductive expenditure in litigation and the inquiries preliminary to it.

Nevertheless some Poor Law reformers are of opinion that some such "mending" should take place. The Select Committee of 1869 in their report[1] discuss the matter. They remark—

> "The practical result is to throw many paupers back on the parish of their birth, frequently at the close of a long life spent in a totally different part of the country. This evil is aggravated by the fact that most of the towns which constitute the chief centres of labour are divided into more than one parish, and a change of residence from one part of the same town to another may either prevent the acquirement of a residential settlement or defeat it after it has been acquired. To obviate these evils it has been suggested, in the first place, that no person should lose a residential settlement once acquired in any parish or combination until he shall have been absent for a period sufficient, at anyrate, to enable him to acquire a fresh settlement; and, in the second place, that in all towns consisting of more than one parish, the whole of those parishes shall be formed into one combination."

And the recommendation of the Committee is, "No residential settlement to be lost till a new one is acquired."

Sheriff Spens of Glasgow, who has had much experience of Poor Law matters, and has given great attention to them,

[1] 3rd July, 1871, Appendix.

takes the same view and for much the same reasons as the Committee, but to their recommendation he would add the proviso "that settlement shall be lost if such poor person, in addition to absence for four years and one day from the parish of settlement, shall also have been absent from Scotland altogether a period of twelve months."[1]

These recommendations (without the proviso) amount to no more than a return to the law as it existed prior to the Act of 1845.

Section 3.

But the existing law is marked neither by simplicity nor by economy in its working; and since removal to the parish of chargeability, where that is Scottish, is not compulsory as it now practically is in England (which fact constitutes one of the grand distinctions between the system in the two countries), and since removal is very seldom resorted to in consequence, chargeability is not accompanied with that disagreeableness which should follow subsidence into pauperism To the dissolute and idle the mere dread of removal from places to which they have got attached, and from their associates, to some distant parish not visited perhaps for many years and where they may have no friends, would of itself stimulate to exertion and economy. It is both false economy and false sentiment to attach importance to the feelings of persons who have become paupers either by their own folly or vices, or who by disease or natural decay are no longer of any productive value to the nation. They should be grateful for a law which recognises their right to a maintenance, and should be held bound to accept it in whatever form the public chooses to prescribe. That form need not be, and ought not to be, deliberately offensive. There are, no doubt, a few cases in which the poor are treated harshly, but these cases are not inherent in the system; they point to defective supervision, erroneous

[1] *Protest against the Abrogation of the Laws of Removal and Settlement* (David Douglas, Edinburgh, 1881).

selection of officers, or a censurable spirit on the part of the boards. They are exceptions, and such should not be allowed to sway the settlement of the great principle, that the public, as the donor of relief, has an absolute right to determine the form in which its gift shall be offered.

It is a question how far the Scottish system of giving out-relief, without removal, is to blame for breaking down the spirit of native pride and self-dependence, the gradual loss of which—even if it existed prior to 1845 in a higher degree than it now does (which we dispute)—Scotsmen have been so much in the habit of lamenting. The experience furnished by the case of those parishes which insist upon, or threaten, removal, shows that the power to remove has a wholesome, deterrent action. For, in one hundred cases where it is made a condition of relief, only 10 per cent. accept of it, the remaining number preferring not to go on, or, if on, to go off the roll. And yet, in that knowledge, all the witnesses who were examined before the Select Committee of 1869-70 said that it was not much resorted to, because it was harsh and inhuman, and they regarded the discretionary power of removal vested in the boards as a foul blot on the system.

This is not the view of Mr. Beattie, for many years the inspector of poor of Barony Parish, Glasgow. When giving evidence before a Select Committee of the House of Commons in 1881 on a bill to abolish removals to Ireland, he expressed the view that the threat of removal to other Scottish parishes used as a test of pauperism, is valuable as such; and that practically, as regards Scotland, removal inflicts no hardships on the paupers, for (assuming it is a hardship to be removed) the relieving parish almost always retains the pauper, being recouped its outlay on his account by the parish of settlement. In this way alone, Mr. Beattie explained, Barony Parish receives annually about £5000 from other parishes for paupers admitted to be chargeable to them.

The economical disadvantages flowing from the amount of litigation which the present law of settlement has produced, have already been shown. But those are not the

greatest disadvantages. Any law based upon residence must be complex, must involve many details and much inquiry. The history of paupers is generally obscure and not well recorded, either in family writings or in their own memories.[1] Inspectors do not admit, nor would they be justified in admitting, liability, except on evidence amounting almost to demonstration. Hence there is required, on their part, a separate inquiry into the history of the life of almost every pauper. Assistants and clerks, whose duties are supposed to be to look after and care for the poor and to aid the administration, are employed in travelling about the country inquiring into residences, and taking precognitions of relatives, land-agents, fellow-workers, and employers. The vast amount of time and expense involved in this hunting up of evidence is not known except to those who have had practical acquaintance with the operation of the system in its inmost parts. In order that this labour and expense may be rightly appreciated, we quote the instructions in force in one of the large parishes, for the guidance of the officers on this matter of settlement—

"SETTLEMENT.

"8. These instructions cannot extend to a dissertation on the *intricacies of the law of settlement.*[2] They are only meant to guide the assistant to the mechanism best fitted to supply the facts for its ascertainment, and what he must do to prevent confusion in the office arrangements, and loss to the parish. The assistant must inform himself well as to the law of settlement, as great loss may be sustained by the parish by his ignorance or inattention to his duties in this department.

"9. The assistant must, in the first instance, ascertain whether the applicant has been previously chargeable to his own or another parish, and if so, he must report its date and result; noting also the terms of the last decision by the Committee. The applicant's assertion should not be relied on, and the assistant *must therefore search the indexes in each case.* This is a necessary and therefore an imperative rule.

"10. The birthplace must next be ascertained, and in this particular the exact village, place, and street, and number of street,

[1] A very noticeable illustration of this will be found in the recent case of Wallace *v.* Ross, Dec. 8, 1891. 19 R. 233.

[2] The italics throughout are our own.

is to be recorded. Where the settlement is likely to fall on birth, the assistant should next find out what evidence there is to support the averment of the applicant, and for this purpose must get an account of the parents if alive, or, if dead, of any relatives and their residences, or the names and residences of other persons likely to have knowledge of the fact; and having got these, he is bound either to *see them, if within reach, or address a communication* to them on the subject.

"11. Whatever the nature of the settlement, it is absolutely necessary to have an exact account of the applicant's residences for at least ten years prior to application. This in many cases can be verified by rent receipts, but in most cases it will be necessary to have recourse to landlords, and this should not be neglected, more especially in cases apparently narrow. There will be, however, numerous instances in which neither the one nor the other method may be available, and where even the applicant from his wandering habits may be totally unable to give a connected account of them.

"12. In cases of this kind, and indeed in all kinds, recourse should be had to marked incidents in the history of the applicant, his family, or his relatives, such as the births, deaths, and marriages of children or relatives. These almost invariably afford invaluable helps not only to dates, but also to places, and for this purpose, before proceeding to take the residences of an applicant, the names, exact ages, and places of birth of his children must be carefully recorded.

"13. In noting residences too much care cannot be exercised in distinguishing between the residences of a wife and her husband; in many cases they are different, and in cases in which the applicant is a wife great mistakes result from inattention to this particular. The same caution applies to cases of young applicants where there is any probability that the residences of the parent may influence the settlement. In these cases both residences (where they differ) should be given.

"14. The assistant cannot be too early in verifying the statements of applicants. The difficulties attending this are great, in the most favourable circumstances, and delay will only aggravate them. It should not be forgotten that a case carelessly got up in the first instance can hardly, with any amount of labour afterwards, be anything better than a bungle.

"IX. When an assistant shall have completed his report in conformity with these rules, his next course shall be to give it a 'Record' number, which is done in the case of a parish pauper by entering the name in the Record Number Book for ——, and writing on the schedule the number opposite to the name in said book, and in like manner, in cases belonging to another parish, or to England or Ireland, by writing the name in the 'Casual Record Number Book,' and appending the number on the schedule as before.

"X., XI., XII. * * *

"XIII. In cases supposed to belong to another parish, 'Statutory Notice' must be given to the parish or parishes supposed liable immediately on relief being administered, and too much care cannot be exercised in securing a claim on the proper quarter. Where the claim appears on a town, notice should be sent to all the parishes within it, and it will be no excuse for neglect on this point that the assistant was ignorant of the several parishes of which the place is composed.

"XIV. In claims founded on residence, notice should also be sent to the parish of birth, and in cases of wives, the parish of husband and wife should be noticed in case the parties are not married. In cases of orphans or the children of foreigners, their separate births should be claimed; also to the birthplace of Scotch wives married to foreigners, or the residence, settlement, if any such exist. Let the assistants keep in mind that it is cheaper to lose a few notices than a few pounds. The assistant, though not bound to write and forward the claim to another parish, is nevertheless held bound to see that the claim has been duly despatched, and will be expected to keep himself well informed at all times as to the state of the correspondence.

"XV. The assistant-inspector is bound to procure any additional information required to establish the settlement, and any undue delay in doing so will subject him to punishment by fine, or otherwise, as the committee shall direct; and in all instances of re-application by a pauper who has not been settled on a parish, the assistant shall refer to the correspondence to see what information may be required to fix the case.

"XVI. On the admission of a claim or death of pauper, or any of the family, or any material change of circumstances, he shall intimate the same to the Committee by a small schedule containing the information, and entered in the minutes of the day, with any instructions he may have received for the future treatment of the pauper from his own parish; and in common with other parish inspectors, he will be responsible for the fulfilment of these instructions. He shall also, without any delay, transmit the schedules of admitted cases to the other parish inspector. No assistant-inspector shall draw the money of any pauper by ticket or line unless specially authorised to do so by the inspector in writing. In cases of urgency, where relief must be given, he shall grant an order on any neighbouring shop or store for food or other necessaries, to such extent as he shall think necessary."

It is not difficult to imagine that the affairs of a populous parish having such elaborate rules as these require a very large staff for their proper management, and that the staff might be considerably diminished if no necessity existed

for such minute inquiries and detailed work as those rules show to be necessary to an efficient working of the present double law of settlement.

We confess that to enact birth as the sole settlement is not strictly logical if recompense be accepted as the true foundation of the Poor Law. But a rigid application of principles is not expedient under all circumstances, as is exemplified in the legislation during the last twenty-two years regarding the land in Ireland, and recent legislation for the crofters in Scotland. There is in this matter, a dilemma and a practical difficulty which render expediency of higher importance than blind adherence to abstract principle. We believe that this plan of making birth the only settlement—which we do not hesitate to recommend—would confer greater benefits on the community than would the national rate, even though the latter is more logically consistent with the doctrine of recompense. We prefer the less logical method (1) because it is very readily workable; and (2) because its very deviation from the principle we so insist on will in the end conserve that principle.

The advantages of making birth the only settlement cannot be too strongly urged. As sole settlement, birth combines both simplicity and economy; and if the adoption of this plan were accompanied by the power of compulsory removal, under proper safeguards in cases of illness and of extreme youth—conditions which are sufficiently protected by the present laws—it could not fail to prove much more economical than the present system. It would reduce disputation and legal proceedings to a minimum, for all legal subtleties would be excluded, and the only differences could be as to the facts. In consequence of the very perfect system of registration that has existed in Scotland since 1854, differences in fact would also be reduced to a minimum. And although the system of compulsory registration has not been sufficiently long in operation to justify an immediate adoption of birth settlement as the universal rule, birth as sole settlement could be gradually

adopted by enacting that all persons born after the date of the Registration Act of 1854 should, on becoming chargeable, take their birthplace as their settlement. It has been calculated that in about ten years from now nearly all cases would come within the range of the proposed rule. The mode of disposal of the gradually diminishing residue in the interval is a matter of detail. For that matter many simpler plans than the present could be devised. Accompanied by power of removal, birth, if adopted as the sole ground of settlement, would operate as a means towards limiting the acquisition of a settlement.

Further, birth settlement practically carries out the theory of the early legislation that each parish should bear the burden of its own paupers. After all, any law of settlement whatever is in practice only a method of adjustment of the liabilities of districts. Viewed in that light, the present law is quite unobjectionable, for it has proved to operate on the whole very fairly as between town and country. That birth as the only settlement would not do so, but would relieve the towns at the expense of the country, is the single objection that has been stated against its adoption. It therefore behoves us to consider if that result would follow.

It is only to be expected that evidence on this point should conflict. It is found that those working the law in towns are, for the greater part, favourable to the change, while those in the country, and especially in Highland parishes, dread reclamations upon them for their offspring long after such offspring have left their birthplace, and have been giving the towns the benefit of their labour. The evidence, on the whole, rather shows this, that if the towns are set off against the rural parishes, the balance will be found nearly equal, for, as against the young people born in the country who go to the towns for employment, there are large numbers born in the towns and their suburbs who go out of them and work in the country.

Further, the statistics of the Registrar-General which are neutral, and therefore trustworthy, testimony, prove, that

the number of births bears a certain proportion to the population in given areas. The following extracts not only establish this fact, but they also disprove the objections, and should remove the fears, of the country ratepayers by showing that, to a slight extent, the burden would be heavier upon the towns than upon the country districts in proportion to the population of given areas.

The Registrar-General, in his returns for the last quarter of 1869, said—

"27,848 births were registered in Scotland during the fourth quarter of 1869, being in the annual proportion of 347 births in every 10,000 persons of the estimated population, or 3·47 per cent. . . . The proportion of births in the several town and rural districts bore an exact relation to the density of the population—the largest towns showing the highest proportion, the rural districts the lowest. Thus in the eight principal towns in Scotland, each of which contains upwards of 25,000 inhabitants, the proportion was 404 births for every 10,000 persons; in the large towns, each of which contain from 10,000 to 25,000 inhabitants, the proportion was 374 births for every 10,000 persons; in the small towns, each of which contain from 3000 to 10,000 inhabitants, the proportion was 333 births in every 10,000 persons; while in the rural districts, which comprise the remainder of Scotland, the proportion was only 307 births in every 10,000 persons. The eight divisions of Scotland showed in a general way the same fact, viz., that the proportion of births was nearly in proportion to the density of population. Thus in the Northern Division, where there are only 37 persons to every square mile, there were only 267 births to every 10,000 persons; in the East-Midland Division, where there are 120 persons to every square mile, there were 340 births in every 10,000 persons; in the South-Eastern Division, with 219 persons to every square mile, there were 371 births to every 10,000 inhabitants, while in the densely crowded South-Western Division, with its 441 persons to every square mile, there were 385 births for every 10,000 inhabitants."[1]

In his Thirteenth detailed Annual Report he deduced the same results from a more extended observation.

"As much the same proportions occur year after year, the interesting conclusion is arrived at, that, other things being equal, births, like the deaths, are influenced by density of population, the proportion being highest where the population is most dense, or the masses of people are greatest, and smallest where the

[1] Registrar-General's Returns for quarter ending 31st December, 1869.

population is most widely scattered. This interesting conclusion is strikingly seen in Table XIII., where the whole of Scotland is divided into four groups of districts, . . . which embrace the whole of Scotland. That table shows, that exactly in proportion to the massing of the people was the proportion of births. Thus for every thousand persons in each of these groups, in Scotland, during the year 1867, there occurred forty-one births in the principal towns, thirty-nine births in the large towns, thirty-six births in the small towns, but only thirty-one births in the rural districts. But a ten years' summary of the registration of Scotland showed the same fact. (Table XV.) . . . This fact establishes the rule, and proves that, other things being equal, it is a law of nature that births are in proportion to the density of the population. This has long been shown to be true of the deaths, but it does not seem to have been recognised that the above law extended to the births. The same fact may be seen in a general way with regard to the several divisions and counties of Scotland. Thus,"[1] etc.

It has already been seen that, under the present complex method of adjustment, the rural parishes are burdened with a number of paupers slightly in excess of the burden borne by the towns. But even assuming that the statistics founded on are complete enough for such a calculation, the difference is only as 3·44 is to 4·13 in favour of the towns at present.

The proposal, therefore, besides its economical advantages, has in its favour the two considerations—that it would proceed upon a fixed and methodical principle, and that its adjustment relatively to the population of given areas would be equal.

It is idle to adduce as arguments against such a change isolated cases of hardship. Such occur at present, and would occur under the most perfectly devised system of adjustment. At present, a man after residing for between four or five years (but not sufficiently long to acquire a settlement) alternately in two parishes in the same town, and giving that town his labour for twenty or thirty years, removes to another—a third parish—where, although perhaps he may be an invalid three-fourths of the time, he acquires a settlement by the accidental circumstance of

[1] Pp. 13, 14. The result here brought out is now accepted as a statistical fact.

continuous residence for a few days longer than occurred at one time in the first two parishes.

Again, the proposal to make the place of first charge the only settlement, which appeared to be the favourite nostrum of the learned chairman of the Select Committee of 1869, is capable of hardships to the ratepayer—and hardships to the ratepayer are deserving of greater consideration than hardships to the pauper, because, whereas the latter affect the individual, the former injure the community. The injustice to the ratepayer quite counterbalances the favourite case of an old person falling into distress and being compelled to remove from the place where he has spent the most, and the happiest, of his days. For under this plan parishes to which strangers had only just gone for the purpose, perhaps, of finding a market for their labour, and, from which, finding none, they were forced to seek relief, would be saddled with the burden of paupers whose whole labour had been given to other parishes. Legislation should not be directed to meet exceptional cases, however pitiful, but those being viewed comprehensively, it should aim at the general good.

An additional merit of birth as the only settlement consists in its removing all inducement, such as there is at present, to large proprietors, holding property in two or more parishes, but the bulk of it in one, to build all the cottages for labourers in that parish in which their own interest is the smallest, so as to prevent the acquisition of settlements by residence in the parish in which their stake is greatest. This is a practice which, although it has not been extensively followed in Scotland, has commonly prevailed in England, and the evils flowing from which will be found fully set forth in the reports made to the Royal Commission of 1832 by the Assistant Commissioners who inquired into, and reported upon, the operation of the laws of settlement by renting a tenement, and by hiring.

Birth as sole ground of settlement would further tend to discourage a practice which has obtained in Scotland, especially in the northern counties, of depopulating parishes

wholesale. It would also operate much more fairly than the present law as between Scotland and Ireland. As the power of removal to Ireland has signally failed in practice to relieve Scotland of the burden of Irish immigrants, birth as the only settlement would afford a simple redress of this Scottish grievance; and, as it would only be giving Ireland to the Irish, Irishmen could have no reason for complaint!

The proposal now suggested is not made for the first time. It was advocated seventy years ago by Sidney Smith. His summing up of the advantages that would flow from it, and the objections stated to it in his time, are so apposite that little excuse is required for the following rather long quotation. He says—

"The question, then, will be whether anything can be more really humane than to restrain a system which relaxes the sinews of industry, and places the dependence of laborious men upon anything but themselves. We must not think only of the wretched sufferer who is removed, and, at the sight of his misfortunes, call out for fresh facilities to beg. We must remember the industry, the vigour, and the care which the dread of removal has excited, and the number of persons who owe their happiness and their wealth to that salutary feeling. The very person who, in the decline of life, is removed from the spot where he has spent so great a part of his time would perhaps have been a pauper half a century before if he had been afflicted with the right of asking alms in the place where he lived. It has been objected that this plan of abolishing all settlements but those of birth would send a man, the labour of whose youth had benefited some other parish, to pass the useless part of his life in a place for which he existed only as a burthen. Supposing that this were the case, it would be quite sufficient to answer that any given parish would probably send away as many useless old men as it received, and, after all, little inequalities must be borne for the general good. But, in truth, it is rather ridiculous to talk of a parish not having benefited by the labour of the man who is returned upon their hands in his old age. If such parish resemble most of those in England, the absence of a man for thirty or forty years has been a great good instead of an evil; they have had many more labourers than they could employ; and the very man whom they are complaining of supporting for his few last years would in all probability have been a beggar forty years before if he had remained among them; or, by pushing him out of work, would have made some other man a beggar. Are the benefits derived from prosperous manufactures limited to the parishes which contain them? The industry of Halifax, Huddersfield, or Leeds is felt across the

kingdom, as far as the eastern sea. The prices of meat and corn at the markets of York and Malton are instantly affected by any increase of demand and rise of wages in the manufacturing districts to the west. They have benefited these distant places, and found labour for their superfluous hands by the prosperity of their manufactures. Where, then, would be the injustice if the manufacturers, in the time of stagnation and poverty, were returned to their birth settlements? But, as the law now stands, population tumours of the most dangerous nature may spring up in any parish; a manufacturer, concealing his intention, may settle there, take 200 or 300 apprentices, fail, and half ruin the parish which has been the scene of his operations. For these reasons we strongly recommend to Mr. Bourne to narrow as much as possible in all his future bills the means of acquiring settlements, and to reduce them ultimately to parentage, birth, and marriage, convinced that by so doing he will, in furtherance of the great object of abolishing the Poor Laws, be *only limiting the right of begging*, and preventing the resident and alms-man from being (as they now commonly are) one and the same person."[1]

The same proposal was also recommended by the Royal Commissioners of 1832 as part of their remedial measures. They "recommend, therefore, that (subject to the obvious exception of persons born in prisons, hospitals, and workhouses) the settlement of every legitimate child born after the passing of the intended Act follow that of the parents or surviving parent of such child, until such child shall attain the age of sixteen years, or the death of its surviving parent; and that at the age of sixteen, or on the death of its surviving parent, such child shall be considered settled in the place in which it was born."

Before leaving the consideration of the expenditure entailed by the present law of settlement, we may note one or two other matters on which the law might be altered with advantage. If the reforms about to be suggested were carried out, litigation would be reduced to a minimum, by being limited to differences of opinion on matters of fact.

The first matter is the vast amount of litigation arising out of what is in England termed emancipation, and in Scotland forisfamiliation.

[1] *Works of the Rev. Sidney Smith.* Longman, Brown, & Co., 1859. Vol. i., p. 297.

This is a point which appears to have escaped all notice. As the disputes that arise about forisfamiliation are disputes of fact, there would still be room for their occurrence, howsoever the law of settlement might be altered. At present there is no fixed rule as to when, or under what particular set of circumstances, a child becomes forisfamiliated to the effect of throwing off its parentage settlement and taking that of its own birth or residence. And until there is such a rule, until a hard and fast line is fixed by Statute, the subject will continue to be prolific of disputes and litigation. At present every case is decided on its own circumstances; precedents, in the proper acceptation, there are none; and a decision depends upon such variable circumstances as the object, the kind, and the amount, of absence from the parental roof. When quality as well as quantity in respect of the child's withdrawal from the father's house has to be considered, it is not to be wondered at that, besides the element of the child's age, different courts and different judges, and the same courts and judges at different times, have taken different views of these matters; and it is obvious that they are capable of indefinite extension and refinement.

But such a state of things just acts as a premium on litigation, to which the very uncertainty of the result offers strong enticement. On this point litigation is capable of reduction to a minimum, would indeed be completely excluded, by fixing a certain age, be it the same for boys and girls, or different, and be it twelve or fourteen, or any later age, on arrival at which it should be held, not that the child is forisfamiliated, but that he should take his own birth settlement, and drop his derivative one. In this way all the subtleties and legal niceties as to what emancipation or forisfamiliation really is would be for ever discharged, and to ascertain a child's age would be to determine his settlement. Decree of forisfamiliation is unnecessary; it is a roundabout clumsy method of adjustment at the best, borrowed from the *emancipatio* of the Roman law; it involves many nice questions as to

parental authority and children's powers, with which the Poor Law should have nothing whatever to do.

The second matter is the tribunal which should take cognizance of questions between parishes arising out of the law of settlement.

Hitherto such cases have been competent in the ordinary courts—the Court of Session, and the Sheriff Courts. The great expense and delays attending litigation in those courts have led, in recent years, to a system which, whatever may be said of its cheapness, is not altogether satisfactory. Some sheriff or sheriff-substitute in the locality is selected and constituted sole arbiter both of the facts and law. The decisions of these judges in other cases are for the most part subject to appeal. Judges accustomed to the restraint imposed by the probability of a review of their judgments do not make the best sole arbiters. Another objection is, that if the inspectors conduct their own case before the arbiter, which they generally do, the inexperienced inspector of a small country parish, who has no extensive acquaintance with the law and its intricacies, is at great disadvantage when pitted against the thoroughly trained inspector of a large parish, who not unfrequently has been reared in a lawyer's office, and has a good knowledge of the decisions. In this way justice sometimes miscarries. Again, if lawyers are employed to conduct the business, the expense, so far from being less, is often more, than a litigation in the inferior court, while, in any case, this sort of arbitration allows no escape from an ill-considered or absurd decision, and the decision can in no case have the stamp of authority.

Another mischief produced by this system of arbitrations is, that it causes infractions of the law by those who, of all others, are bound to respect it. It is understood that both sheriffs and their substitutes are prohibited from performing any other professional work than their proper official duties, and from accepting any extraneous professional emoluments whatever. It is believed, and commonly understood, that they devote their whole time to their ordinary official work

in exchange for their fixed salaries; and the Sheriff Court Act, under which they hold their appointments, prescribes that "the salaries henceforth to be paid to the sheriffs and sheriff-substitutes shall be in full of all fees and emoluments whatever."[1] This wholesome rule is openly violated by those who engage in arbitrations; all the time given to them is abstracted from their regular official work, in respect of which they draw their stipends. How far such abstraction may have aggravated the delays and inconveniences attending the conduct of ordinary business in their courts, which for many years were so much complained of on the part of the public, the sheriffs in the large towns who accept such arbitrations should know best. It is significant that the beginning of such complaints was about coeval with the introduction of those Poor Law arbitrations.[2]

Much may, we think, be said in favour of the proposal to constitute the Board of Supervision the exclusive and final court for the disposal of all such questions. Its constitution is already well adapted for such business, and is even susceptible of improvement in that respect. The Solicitor-General, and the Sheriffs of Ross, Perth, and Renfrew, who are generally lawyers of eminence, are always members of it. It enjoys, to a flattering degree, the confidence of the local boards—the *entente cordiale* between it and them being proved never to have been interupted. It has already to a limited extent acted as a court of arbitration. The evidence given by Sir John M'Neill, the late chairman, before the Royal Commission of enquiry of 1869, into "the constitution and working of the Scottish Law Courts," shows that the board is eminently suited to act as a court of arbitration in such disputes. Its work at present is of a cognate kind. It already decides questions of fact as well as of law. According to the statement of Lord Fraser, some of these are complicated and difficult questions. He describes the system thus:—"There was no statement; the whole *disjecta membra* are

[1] 16 & 17 Vict. cap. 80, sec. 30.

[2] It is fair to say that in Lanarkshire, where this practice at one time extensively prevailed, it has for many years past almost entirely ceased.

sent to us, letters and reports and matters from the country, and there is no statement, except just simply the minute of the Board, to circulate them among the legal members, and we have previously determined what the questions are that are to be submitted."[1] The desirability of the change now suggested is the only point upon which the numerous witnesses examined by the Select Committee are agreed. This of itself is a powerful argument in favour of its adoption. Nor does the ostensible objection put forward by Lord Fraser against it, that it would be constituting another and separate Court of Justice, appear to be either the real one felt by him, or one of any validity in itself. He had previously stated his objections to any additional work being thrown upon the Board of Supervision considering that the legal members of it had already too much to do for their emoluments. That is a mere detail and easy of remedy. Since the two Lord Provosts seldom attend the Board, and are, therefore, useless members, their places might be filled by one other paid legal member, and one paid medical member, to assist in the discharge of the functions now devolving on the Board as the Central Board of Sanitary Control.

As to the ostensible objection of creating another Court of Justice, if such additional Court would work well and economically, and if it is generally desired, there is no validity in the objection, which, without further explanation, is meaningless and incomprehensible. It is to be regretted that, in stating feebly a feeble objection, Lord Fraser should have even given colour to the belief that he represented the views of the Edinburgh Parliament House, the whole influence of which is generally believed, rightly or wrongly, to be directed against any changes, however beneficial, which might, as this one certainly would, withdraw business from the Court of Session. But in dealing with matters affecting not the whims and predilections of individuals, nor the interests of a class, but a saving of the ratepayers' money, objections, from whatever source they come, should

[1] Report of 1869, p. 65. Q. 1133.

be fearlessly swept aside, and the matter adjudicated upon its own merits. On this ground no person who has had any experience of the inconveniences and cost attending the settlement of Poor Law disputes can fail to urge the adoption of the proposed transfer of jurisdiction in such disputes to the Board of Supervision.

Section 4.

The conditions of removal of English and Irish paupers to England or Ireland are regulated by section 77 of the Act of 1845, which enacts that if any poor person who is (1) born in England, Ireland, or the Isle of Man, and (2) has not acquired a settlement in any parish in Scotland, and (3) shall be in the course of receiving parochial relief in any parish in Scotland, then, and in such case, it shall be lawful for the sheriff or any two justices of the county in which such parish, or any portion thereof, is situated, and they are thereby authorised and required, upon complaint made by the inspector of the poor or other officer of such parish that such poor person has become chargeable to such parish by himself or his family, to cause such person to be brought before them, and to examine such person and witnesses touching the place of the birth or last legal settlement of such person, and to take other evidence necessary for ascertaining whether he has gained any settlement in Scotland; and if it shall be found that the person so brought before them was (1) born either in England, Ireland, or the Isle of Man, (2) has not gained any settlement in Scotland, and (3) has actually become chargeable to the complaining parish by himself or his family, then such sheriff or justices shall, and they are thereby empowered, by an order of removal under their hands, to cause such poor person, his wife, and such of his children as may not have gained a settlement in Scotland, to be removed by sea or land at the expense of the complaining parish to England, Ireland, or the Isle of Man, as the case may be.

But there is added a humane provision that no one

can be so removed except upon a certificate by a regular medical practitioner that the health of the person to be removed and of his wife and children is such as to admit of such removal. To aid the execution of such removal, section 78 enacts that every officer holding such orders, for the purpose of having them carried into execution, shall be invested with, and exercise all the powers with which a constable is by law invested, until he reaches the place of destination, without such orders being required to be backed by any judges or magistrates of the counties or places through which he may have to pass.

Section 5.

Another source of large expense in the past, not so much of litigation as of law and management expenses, has been the present law of removal of Irish paupers to the union to which they belong just explained.

This subject has always been a cause of grievance to Irish Poor Law administrators and Irish members of Parliament; but its importance to the Scottish ratepayers may be gathered from the simple statement that in the Glasgow, and many of the western parishes (which alone are much troubled with Irish pauperism), applications by Irish persons, not possessed of a Scottish settlement, constitute about one-third of the whole applicants for relief,[1] and that removal has proved inefficacious to stem these applications, because a large number of those removed return again, frequently in the same ship with the very officers who took them under warrant to Ireland. The total number of removals, including dependants, to English and Irish unions, was, for the twenty years ending 1891, 6604; or an annual average of 330. Even when removal is successful, when the pauper reaches his own union, and is maintained by it, the pro-

[1] This proportion has been steadily decreasing in recent years. Thus, in Barony parish in 1891 it had fallen to 17·44 of the whole, but in Govan parish, in which most of the great shipbuilding yards are, the decrease is not so marked.

ceeding is an expensive one.[1] Not only is there the formal statutory inquiry before the sheriff, but there are travelling expenses for the pauper and the accompanying officer. In any case, the latter expense is necessary; but in the numerous cases of defeat of the law, by the immediate return of the pauper, it proves to be a positive waste of money.

It would clearly be more economical to the Scottish parish to have, as well as the power of removal, an option of retaining the pauper in its hands until he has been taken off by the Irish union, the parish being allowed a money claim for his maintenance against the union, as in the case of Scottish paupers not removed. This would save both the cost of the sheriff's inquiry and the removal.

Nor, although it has been doubted whether Parliament would concede a money claim upon Ireland, is there any just reason why it should not? If, as by law, the pauper's bodily presence is a burden from which the Scottish parish is entitled to be relieved at the hands of the Irish union, his maintenance, so long as he is an object of relief, becomes a debt owing by his union, which it should equally be compelled to pay. Nor would there be any more injustice in asking the

[1] The following table of the actual cost of twelve separate removals from the Clyde to different parts of Ireland will show this expense:—

Paupers.	Dependants.		
3	1	£5 17	8
2	0	5 6	9
1	0	2 18	0
1	1	5 12	0
2	2	3 0	0
2	0	4 16	2
1	0	6 4	10
4	4	7 3	3
2	1	5 13	0
3	0	4 10	6
4	4	6 12	11
3	2	4 16	9
28	15	Total cost of twelve removals,	£62 12 10
		Average cost of each removal,	£5 4 $4\frac{3}{4}$
		Average cost of each removal per pauper,	2 4 $8\frac{3}{4}$

This does not include the cost of warrants or officials' pay, but only the actual cost of removing. The cost of warrants is about 4s. Sometimes there are cab hires and other small incidental expense in addition.

union to pay the debt, as certified by the Scottish sheriff in absence of the union, than there is in compelling the union to receive back and maintain its pauper on the certificate and warrant at present granted without any notice to the union.

The objection, on the part of the Irish, to this proposal is that the power of removal is not reciprocal—Irish unions have no power to remove English or Scottish paupers to the parishes of their settlement. The objection should not be allowed to stand in the way. England and Scotland do not object to the fullest reciprocity in this respect, and are prepared to concede it to-morrow in exchange for a money claim on Ireland. As against Scotland, a reciprocal power to remove, or the equivalent of a money claim on Scotland, would not amount to anything, for there are very few, if any, Scottish paupers resident and relieved in Ireland. The stream flows the other way.[1]

But the policy of these removals, under any circumstances, is said to be of very doubtful expediency. The subject is admittedly a difficult one. In 1870 a Select Committee of the House of Commons, which consisted of nine English, four Irish, and two Scotch members, was appointed to "inquire into the operation of the existing laws in the United Kingdom relating to the settlement and irremovability of paupers, with special reference to the case of removals to Ireland, and with power to make any proposals for the ultimate repeal or assimilation of such laws." This Committee, of which Mr. Salt was chairman, took a large body of evidence and substantially reported in favour of an abrogation of the law of removal. The result of the evidence was—(1) that the Irish officials (in Ireland there being neither a law of settlement nor of removal) were unanimous in desiring a change through a universal abolition of the law; (2) that the English inspectors under the Local Government Board were practically unanimous in recommending the abolition of the law of removal; (3) that

[1] There is no law of settlement in Ireland. The place of first relief is the place of chargeability.

the officials of the larger towns of England were practically unanimous in objecting to any abolition of the law of removal; (4) that the officials of the smaller towns and country districts of England expressed a preference in favour of its abolition; while (5) that the Scottish witnesses were unanimous in objecting to the abolition of the law of removal.

The reasons of these several classes of witnesses for their opinions were entirely of a protective character or in the interests of their several districts. For instance, those from Liverpool and the seaport towns which are most burdened with the relief of Irish immigrants wished to be freed from the recurring invasions of the Irish poor. Thus in respect of Liverpool, a Parliamentary return made to the House of Commons in 1854, signed by the Mayor of Liverpool, showed that 80,000 persons came over to Liverpool from Ireland in 1849 as deck passengers who presented all the appearance of paupers. In 1850, the number was 77,700; in 1851, 68,100; in 1852, 78,400; and in 1853 it was 71,300; but in 1854 the numbers began greatly to diminish. In giving evidence before a Committee of the House of Commons in 1847, Mr. Rushton, then the stipendiary magistrate of Liverpool, stated that he had known more than 6000 come over in two days, and it was very common to have 1700, 2000, and 2500 in a day.

The same influx of destitute Irish took place to Scotland. Mr. Skelton, the late secretary, now chairman of the Board of Supervision, when examined before the Select Committee just referred to, clearly brought out the enormous numbers of such people who came from Ireland for about ten years after the passing of the Act of 1845; but he showed the gradual though steady decrease which has since gone on, and the fewer removals in consequence. The total number removed during the eight years from 1846 to 1853 was, by warrant of the sheriff 5087, and by voluntary arrangement 41,735—total about 47,000; the average for the eight years being, by warrant 635, and by voluntary arrangement 5216.

As against these figures, the total numbers removed both by warrant and voluntarily from Scotland to Ireland, for the eight years from 1871 to 1878, was as follows :—

Year.	Paupers.	Dependants.
1871, ...	93	57
1872, ...	94	82
1873, ...	99	90
1874, ...	179	106
1875, ...	143	96
1876, ...	106	88
1877, ...	168	109
1878, ...	238	68

Making a total in these eight years of only 1826 against 46,000 in the first eight years.

To bring out by way of contrast the relative positions of Scotland and Ireland in this matter the following figures are both interesting and striking. Mr. Skelton, in his evidence before referred to, stated—

"The total number of paupers, including children, receiving in-door relief" (in Ireland) "who were born in Scotland was, on the 6th of January, 1877, 68, and on the 7th of July, 1877, 75. The number of paupers, including children, receiving out-door relief, who were born in Scotland, was for the same periods 1 and 1. The number in asylums on the 3rd January, 1877, was 11, and on the 3rd of July, 1877, was 12. Then, the number of Irish paupers born in Ireland receiving relief in Scotland in the poorhouses was on the 31st of December, 1876, 1511, with 217 dependants. The number of Irish paupers born in Ireland receiving out-door relief in Scotland on the same day was 5051, with 4651 dependants. The general result is that there are between eleven thousand and twelve thousand persons chargeable to the rates in Scotland—that is to say, persons born in Ireland and their dependants."

And yet, in the face of these extraordinary results, the Irish members think it would be just, because there may happen occasionally a case of individual hardship in removal, that there should be an absolute equality between Scotland and Ireland in the matter, or what they have termed "reciprocity."

With the object of accomplishing that reciprocity they, in 1880, brought in a bill "for the further amendment of the law relating to the removal of poor persons, natives of Ireland, from England and Scotland." Its preamble was, "Whereas the laws under which poor persons born in Ireland and receiving relief from the poor-rate, may be removed from England and Scotland on the ground of not having acquired a settlement, in their operation inflict hardship, and it is expedient these laws should be amended," &c. By two short clauses the bill abolished the law of removal from England, Scotland, and Wales to Ireland, subject to the proviso as regards England and Wales that if it could be shown that any such poor person had been landed at a seaport town in a destitute condition, and had then immediately applied to the parish or union for relief, he should be liable to removal; and as regards Scotland, that the power of removal should only cease to take effect after the Irish poor person had resided in any parish or combination in Scotland for the space of one year next before the application of the warrant and previously to receiving relief. It is needless to say that no bill affecting Scotland ever provoked a more determined resistance from the Scottish people, and that it did not pass.

The real remedy for any supposed Irish grievance in the matter is to have a money claim upon Ireland as an alternative, *i.e.*, an option to the Irish union either to take back their own paupers or to reimburse the Scottish parishes for their maintenance—that is, to substitute a chargeability order for the present removal order. Mr. Beattie, of the Barony Parish, in giving evidence before the Select Committee last referred to, was asked, "Do you think that such a system as that would be feasible?" and he answered, "It would be just as practicable as it is amongst ourselves in Scotland. We practically carry that out between the parishes." Both he and Mr. Wallace, of the Govan Parish, which also is heavily burdened with Irish pauperism, value the power of removal as a means of repressing Irish applications and as stemming the tide of invasion. They

both think that if the law of removal were wholly abolished, they would likely be flooded to a greater extent than they are at the present moment. The extent may be judged of by this, that in Barony Parish, Glasgow, of the total families chargeable in May, 1879, one-third were Irish-born people, and that in the Govan Parish the proportion of Irish-born paupers to the Irish population in Scotland exceeds the proportion of Scottish paupers to the Scottish population by at least 100 per cent., or, including their dependants, 58 per cent. Mr. Wallace adds, "Were the law of removal abrogated, the disproportion would be increased; for the law of removal has a deterrent effect on the applicants as well as a relieving effect."

Before leaving this subject of removal we ought to mention certain modifications in the law which have been suggested. Both Sheriff Spens of Glasgow and Sheriff Lees have considered the subject. The remedies of the former to remove hardships may be classified under five heads—(1) Removal not to be competent of English or Irish-born paupers who shall have become chargeable in Scotland, but who shall not have acquired a residential settlement there, if such persons shall have resided continuously in Scotland for the period of ten years or more; absence of one month but not more within each year respectively not to be held as interrupting continuous residence in the computation of the ten years. (2) Power of granting warrants of removal to be withdrawn from the justices of the peace. (3) Notice to be given to the union or parish to which it is sought to remove the pauper at least fourteen days before the diet to be fixed by the sheriff for the consideration of the application for the removal order, with power to the Irish or English union or parish to appear and lead evidence against the granting of the order. (4) The sheriff to be sole judge of facts brought before him, but with power to either party to require the sheriff to state a special case on questions of law, first, to the sheriff of the county, and thereafter to the Court of Session. (5) The Court of Session to be empowered to

allow an appeal from their decision to the House of Lords.[1]

Sheriff Lees is rather more sentimental, and because "poverty is not a crime" he would extend to twenty years the period of residence in Scotland, after which it should not be competent to remove an Irishman to his native country; and, in order to be consistent "with the humane spirit of our times," he suggests that the sheriff's warrant should not be granted until "after he was satisfied that the step proposed was not inappropriate."[2]

Now, if these learned sheriffs were more conversant with the facts, they would know that their principal reform, of extending the residence in Scotland to ten or twenty years after which removal should not be lawful, would be practically useless, because extremely few removals of Irishmen or their dependants take place after such a lengthened residence, the whole utility of the power of removal consisting in its repressive action in stemming periodic tides of "invasion." The other suggested remedies of Sheriff Spens would operate disastrously, through their holding out a premium on litigation, besides being certain to prove a source of enormous expense.

The justification of the present power of removal is, therefore, a practical one. In Ireland relief is almost wholly in-door, out-door money allowances being the exception; whereas in Scotland it is the reverse. If there were no power to remove, the Scottish parishes would be liable to a greater amount of immigration of Irish poor; for those who would not face the inside of the Irish workhouse would not be slow to settle in some of the slums of Glasgow, and make out a fair case for out-door relief for themselves and their dependants. The legalizing of a money claim at the instance of the Scottish parishes would certainly make it the interest of the Irish unions to take back such settlers, and test them with the

[1] *Protest against the Abrogation of Removal and Settlement*, pp. 45, 46, 47.
[2] Report of Proceedings of Poor Law Conference. Glasgow, 1887. Pp. 12, 13, 14.

offer of the workhouse. If they failed to meet that test, both Scotland and Ireland would be benefited.

In this connection it may be stated, what is commonly overlooked, that removal is quite a separate and distinct thing from the law of settlement, and the law of removal could be abolished to-morrow without any leading feature of settlement being necessarily interfered with. Why, instead of actual removal, should there not be substituted a money liability by the parish or union of ultimate settlement to the relieving parish? This plan of substituting chargeability orders for removal orders could be worked simply and economically, being reducible to one of mere bookkeeping. When, in these days, bankers' clearing-houses, railway clearing-houses, and Stock Exchange clearing-houses have been successfully established to facilitate monetary settlements and cross liabilities within those circles, why should there not be instituted a parochial clearing-house for the settlement of indebtedness by one parish to another? Correct accounts have to be kept at any rate, and the money balances, if not remitted direct, might be paid into, and adjusted at the sight of, a clearing-house committee established by authority.

Were this method adopted, one detail is open to argument, and would require consideration. In great industrial centres the cost of maintenance of a pauper is probably greater than in an inland-rural parish or an Irish union; and these latter might fairly say, "While we do not object to your maintaining our pauper and debiting us with the cost, that cost should not be greater to us than it would be if the pauper were maintained by ourselves in our own locality." At present the law is the other way; for, by section 72 of the Act of 1845, if the parish of settlement does not voluntarily remove or provide subsistence for its poor, the relieving parish is entitled to recover from the parish of settlement the amount expended in relief, provided that such amount does not exceed the rate expended on the relief of other poor persons in that parish.

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CHAPTER X.

Charge of increased *Expenditure* continued—3. Expense of *Management* continued—Expenses of management proper—No management at all prior to 1845—Difficulty in comparing cost of old and new systems—Exaggerations of the increased cost of management shown—Causes of what increase there is—More systematic and thorough treatment of the poor under the new system—Expense connected with poorhouses, uses of which are not yet developed or appreciated—Expense of collection of assessment—Expenses of management in Scotland contrast favourably with same expense in England—Area of chargeability—Origin of demand for an extended area—General objections to any change of area stated—Objections stated to area co-extensive with that of counties—Reasons against constabulary interfering in management of relief—Inexpediency of combinations of large urban parishes—Injustice of it to certain classes of the ratepayers—Combination of adjacent rural parishes under certain conditions recommended—No evidence of any desire for such combinations—Such are already permissive—Economical reasons in favour of a limited area of chargeability—Expenditure on paupers should be considered relatively to expenditure upon other things—Expenditure contrasted with increased wealth of the country—So regarded, the expenditure on relief of the poor is decreasing.

Section 1.

But to return to the expense of *management* proper; that is, all expenses incurred in administering the system of relief, including poorhouse establishment charges, but excluding cost of litigation and legal processes incidental to law.

No item of Poor Law expenditure has evoked so much adverse criticism as this, and none with so much apparent reason; for the expense increased from £43,158 in 1847, to £94,452 in 1868, or an increase in twenty-one years of 118·85 per cent., equal to an average annual increase of 5·66 per cent. The average for the decade ending 1868 was £80,043, against an average of only £57,979 for the

previous decade. The average for the decade ending 1881, exclusive of the cost of collection, was £103,215; and for that ending 1891 was £102,207. The cost of collection itself in 1881 was £22,207; and in 1891 it was £20,627, the average for the last ten years having been £20,027, or a slight decrease on that of the previous decade.

But erroneous conclusions are apt to be, and have been, drawn from such figures as these by deductions made from them alone, without taking into account elements necessary to be kept in view.

And first, the same general remark applies, as was formerly shown to apply, to comparisons of numbers and of expenditure under other heads. There can be no fair comparison of cost instituted between any period subsequent to the Act of 1845 and any period prior to that Act, for the reason that before the Act there was no management at all in the same sense that there is under it. It has been seen that no uniform system was followed, and that it was only in a few of the great towns that any system of direct control was attempted, and such control as did exist was limited to the sick, the lunatic, and the orphan. The management of all other paupers extended only to providing them with licenses to beg, and certifying them as worthy of a night's lodging, or an alms from the church funds. In the words of one of the witnesses examined by the Select Committee, the old system was "disgraceful" to any people professing to be Christian. The poor were denied all relief, and "were driven from post to pillar and from pillar to post, and the country was overrun with swarms of beggars. It was then a mere piece of hypocrisy pretending to relieve them—a perfect humbug."[1] In practice, these licensees did not confine themselves to their own parishes, but roamed from parish to parish at pleasure. The want of a well-defined legal provision subjected all men alike to their importunities. Labourers and farm-servants contributed, or rather were mulcted, equally with the heritor and the well-to-do tenant. It is

[1] Evidence of Mr. James Moir. Report, p. 131.

impossible to estimate the amount which was spent in this way; it has been stated to have greatly exceeded the sum of all the present assessments; but it is not extravagant to suppose that one-half of all that was given was misapplied. The money was for the most part consumed in the public-house. The oatmeal, bread, and potatoes were exchanged for money, which, if not wasted on drink, was turned into luxuries, such as tea and tobacco. And all this occurred because of bad management, or rather because there was no system of management whatever. Comparisons, then, can again only be made between periods subsequent to 1845. Tested by the percentage which the cost of management bears to the gross expenditure, the result is not so discouraging as the figures above given if they are considered apart from other essential elements show.

The proportion of expenditure in management (including salaries) to the total expenditure of all kinds was, in 1847, £9946; in 1868 it was £10,942; and the average proportion for the decade ending 1868 was £9724, against, for the decade ending 1859, £10,556. The average percentage for the decade ending 1881 was 13·08; and for the decade ending 1891 it was 13·89. Such being the real proportionate increase, it is contended that the same things which have caused an increase of expenditure in relief have caused an increased expenditure on management. An examination shows that other circumstances, not applicable to relief, have tended to increase the expenditure, and that the increase can not only be accounted for, but can in large measure, if not wholly, be justified.

1. The circumstances of the case, and the relative state of the poor, must be kept in view.

That under the old system the condition of the poor was most precarious and unenviable has been sufficiently proved, and cannot be denied. It cannot be said that the poor were, in any proper sense, cared for at all; but the fact of their existence, and of their being entitled to relief, implies their title to be cared for, and to have necessaries and reasonable

comforts. To achieve that object, again, implies a competent set of officials. At first, after 1845, many inferior and ill-educated persons were engaged in the administration. But work cheaply done is not as a rule well done, and so it proved in this case. As the duties and responsibilities devolving upon the parochial officers increased with the development of the system, a higher scale of remuneration became necessary. Inspectors are now, for the most part, men of intelligence, having some knowledge of the law, competent to act as collectors, as well as disbursers of the rate, and to keep accounts. The rate of remuneration for services generally throughout the land has been steadily increasing. The wages of the merchant's clerk, the domestic servant, the artisan, and the agricultural labourer have all risen within the last forty years between 25 and 50 per cent. The item of salaries alone will, therefore, go far to account for increase in the cost of management.

2. The provision of poorhouses constantly recommended by the Board of Supervision, a policy which is both broad and far-sighted, further accounts for the increase.

Each poorhouse necessarily requires an expensive staff. It requires a house-governor, a matron, a medical officer, and other inferior servants necessary in a large establishment. There is not only the item of their salaries and wages, but the cost of their provisions, etc., the increase in the cost of which, as has been shown when dealing with relief, is unavoidable. It is true that many of these officials as such have not given value commensurate with their cost. But complaint on this ground has been seen to arise from a stupid want of appreciation of the economical action of poorhouses; and, as was to be expected, the reproach has gradually ceased as the value of the poorhouse as a deterrent agent has come to be admitted. Any temporary unproductive expense in management attributable to poorhouse officials not being fully employed, must always be regarded in the same light as the temporarily unproductive capital expended on buildings, and should be considered as an investment, or fund, sunk for the after benefit of the

ratepayers. Twenty years ago the poorhouses were in their period of probation; and a knowledge of their unproductiveness doubtless materially hastened their passage through that stage, and assisted them earlier to fulfil their proper function. Any increase of cost, therefore, which may yet arise on this head, we regard as an ultimate advantage to the ratepayers.

3. Another justifiable and indeed unavoidable increase in management, and one which has been quite overlooked, is that arising from the necessity of a compulsory assessment.

It is plain that the assessment cannot collect itself. No evidence was led before the Committee of 1869 to show to what extent the cost of collection increases that of the management; but it has just been shown that while the total expenditure on relief and management in 1891 was £841,645, the cost of collection was £20,000, or a percentage of 2·39, and a percentage of 2·77 on the amount of the assessment collected.

Section 2.

In connection with the expenditure upon management, the question has been much debated whether the area of chargeability or assessment should not be extended.

The demand for an extended area of ratability was pretty frequent during the twenty years that the cost of pauperism was increasing, especially in Edinburgh, more or less after 1849. It has not been so much heard of during the past twenty years, when the opposite has been the case. The reason alleged in its favour is that it would produce economy. The chairman of the Edinburgh Board, at a meeting held on 16th April, 1866, brought the matter definitely before the public, by submitting two resolutions in the following terms:—

First, "That the present Poor Law system has, in practice, necessitated an expenditure of rates in management, poorhouse accommodation, litigation, and otherwise, which would have been saved had the area of chargeability been extended from parishes

to counties." And, *Second*, "That, as it would lead to economy and the advantage of ratepayers and paupers in other respects were the present area of chargeability extended to counties, and the existing machinery in counties for raising and administering county rates made available in the management and administration of the Poor Law, this Board petition Parliament to bring in a bill giving effect to the foregoing resolutions, and constituting the Commissioners of Supply, with elected ratepayers in each county, a Poor Law Board for such county."

The first observation that occurs upon the proposal of an extended area is that, while the cost of management is admittedly great, it has not been proved with anything approaching to precision wherein it is excessive—wherein any reduction could be effected while maintaining the same care of the poor. The burden of such proof rests upon those demanding the change. For we have shown that the new system, since it has got into full working order, has not been found, in the main, either to be attended by mismanagement or to be productive of extravagance. Instances of mismanagement will doubtless be found here and there; but they are in no way traceable to the existing areas, and the figures of the relative cost of management in Scotland and in England, where the experiment of extended areas has been tried, rather show the advantage to be on the side of the present Scottish system of limited areas.

But in truth no available argument is got from the English Union Chargeabilities Act. For it must not be overlooked that English parishes are almost always far smaller than the Scottish ones; some of them, indeed, are so very limited in extent as to make it impossible for one parish to support a separate staff for the management of its own poor; and the operation of the Act, after all, has only been to assimilate the extent of the unions created under it to that of Scottish parishes. The London Union is a case in point. With a population of only some 100,000, there are ninety-five parishes embraced in it. The average extent of the English parishes is stated at 2310 acres; whereas the average extent of Scottish parishes is 24,191 acres. The unions in England, the combinations of parishes, were in

the majority of cases forced upon many districts by the necessities of the case—necessities which nowhere exist in Scotland.

It is certainly extremely undesirable and impolitic to disturb any existing system, although faulty in some respects, for the mere sake of making a change, of trying an experiment, and seeing a nostrum put in practice. Only the weightiest considerations can, in this particular case of the area of Poor Law chargeability, justify any change, and no consideration will yield that justification save an absolute certainty that the substituted area would work more economically than that which it is to replace. This, we contend, is far from being established.

The second general observation is that the advocates of an extended area hold widely different views as to the amount of extension required. Many prefer an area co-extensive with the county. Others desire only a union of parishes which compose the same town, as in Edinburgh and Glasgow. Another party favour a combination of small unpopulous country parishes; while some, again, scarcely stop short of a national rate, leviable upon all districts alike—a proposal which amounts to the extinction of distinct areas for assessment purposes.

The only proposals which possess any merit are the two moderate schemes, of a limited union of the town parishes on the one hand and of the small country parishes on the other. For scarcely anyone, save an inmate of a parochial asylum, is now found to advocate a national rate on the score of economy.

A county rate is objectionable on the two grounds that it goes far—too far to be safe—towards admitting the principle of a national rate, and that it would both be unworkable in practice and more expensive. As certain objections to the adoption of a county area apply with equal force to the other proposals, it will be convenient to deal with these objections together.

A county area violates the theory, before shown, of the constitution of the local managing boards. The members

of such boards are selected from persons within the parish likely to know the history and the necessities of the poor. With a county area, what kind of relieving body is proposed? None has yet been suggested. And it would be difficult, nay, impossible, in any county, to appoint a board which would be itself of manageable dimensions, and which at the same time would possess that local knowledge which is generally considered to be some guarantee for the economical administration of relief.

The saving, it is said, would be effected on the salaries of inspectors and officers. This is an entire mistake. So far from its being the case, an increase of staff would be necessary, at least in the larger and more populous counties. At present, it is true, nearly all parishes have an inspector of their own. Whether or no, under the supposed change, these men should still retain the name of inspector, their functions would still require to be discharged by officers, let them be called by what name they might—sub-inspectors, assistant-overseers, or the like. A large staff of such persons presupposes organization and supervision. It is absurd to imagine that they could among themselves arrange what districts they should inspect and relieve. The country must still be parcelled out into divisions of some sort, greater or smaller.[1] The chief inspector, or relieving officer, must have ample assistance in each division. For it would be monstrous to suppose an inspector, sitting in his office in Perth or Glasgow, himself directing the relief of all the paupers in Perthshire or Lanarkshire.

There must, therefore, be both a subordinate and organized staff of visiting and relieving officers, and a head or central board of control or supervision at the county town—an *imperium in imperio;* for it has not yet been suggested (by Poor Law reformers at least) to sweep away the Board of Supervision. As yet that suggestion has found favour only with a small but zealous knot of Scottish legislators, those who put the Government to the trouble and expense

[1] This has actually occurred under the Local Government (Scotland) Act, 1889, under which counties are parcelled into wards or districts for purposes of road management, removal of nuisances, and the like.

of Lord Camperdown's Special Commission. But, if the Board of Supervision is not abolished, there would of necessity arise a conflict of authority between the County Board of Control and the Central Board. And while these two authorities, doubtless with the best intentions, were engaged, with that rapidity which is characteristic of all central boards, in composing their differences, the spectacle might, and very possibly would, arise of the poor dying of starvation and the rates increasing.

This picture is not overdrawn. It has happened before, and for the reason here mentioned. The revelations of St. Pancras, though not now of recent date, were too sad to be yet forgotten. The dreadful muddle into which affairs had there fallen was due, for the greater part, to conflict of authority. Nor can such cases fail to happen occasionally when the number of distinct bodies and persons, each bearing some sort of subordination to the other, is considered. There are in England—(1) the Poor Law commissioners; (2) the assistant commissioners; (3) the guardians, including the justices as *ex officio* guardians; (4) the overseers; (5) the assistant-overseers and collectors; (6) the vestries; (7) the visitors; (8) the officials of the workhouse, the governor, the assistant-governor, the medical officer, and the matron.

The Scottish system is happily still free from such perfect circumlocution; and, where the timeous giving of bread or a night's lodging may mean life or death, it is imperative that no change should be countenanced which could, by any possibility, endanger the prompt administration of such relief. In short, the extension of the area to county rating would of necessity involve change and disorder, extending far beyond the mere question of the area of rating. The proposal could not with any safety be adopted without upsetting the whole Scottish Poor Law system, and necessitating fresh legislation on the whole system.

And yet the proposal has both been made and entertained without the consequences having been seriously considered. Only one definite suggestion has been put forward. It

emanated a quarter of a century ago from the chairman of the Edinburgh Parochial Board, whose resolutions have already been quoted. Its only characteristics are crudeness and absurdity. The proposal is that there should be a head county inspector, with, for assistants—of all men in the world—the sergeants of the county constabulary!

Tested by an extreme case, it is shown to be pure nonsense, and if nothing more practicable and economical than this scheme is to be forthcoming, the proposal is doomed. Take the county of Lanark as an area. Its population in 1861 was 640,444. It is now upwards of a million. The paupers, exclusive of dependants, are in round numbers, 30,000; and the expenditure upon them is £134,000. Can one inspector, with the assistance of the county constabulary, manage such an area? Are the constabulary to be paid for their work? If so, are they to be paid as policemen, or as relieving officers? If adequately paid as the latter, the expense would be vastly greater than that of the present staff. If not so paid, could it be expected that they would discharge the important duties devolving on them with that care and promptitude which such duties demand? But grant the economy, are the men, by training and habit, fitted for the work? The nature of their existing duties is well defined; so are those of the relieving officer. But, so far from there being any similarity between the two, there is the greatest divergence. Would there not be a certainty of miscarriage, either of justice or relief? Who is to get the preference, the starving pauper or the red-handed murderer? An answer to such questions at once shows the utter impracticability of any such scheme, even without the necessity for considering how, and by whom, the county rate is to be collected, and its cost.

But, secondly, the proposed union of parishes within the same municipal district has more plausibility, and more sense and argument in its favour. The main benefit put forward as derivable from it is not so much a fiscal one—not so much an equalization of taxation within a given urban community—as an avoidance of litigation about settlements

among near neighbours. On the assumption that there is good cause for litigation at all, the mere *locus* of the contending parishes is quite irrelevant, and the objection becomes a purely sentimental one. If no fightable dispute exists, it is plain that there should be no suit; and this is a matter over which the ratepayers, through their elected managers, have control.

The evils flowing from disputes about settlements have attained the *maximum* which they are ever likely to reach, and such litigations are now steadily declining. In Glasgow, composed of three parishes much interlaced, a convenient and practical method of avoiding litigations arising out of settlements has worked satisfactorily for many years. It was thus described by the late Mr. Wilson, of Govan parish, to Mr. Salt's Select Committee in 1879—

> "I may state that in Glasgow we have for the last six or seven years had a sort of arrangement among ourselves as to the cost of relief as between the parishes. The three inspectors and the three chairmen and some of the best members of the Board meet together monthly and adjust cases as between themselves, and there is no such thing as litigation now in Glasgow as to settlement; and it is thought by the ratepayers to be a great improvement on the old style of warfare; and I venture to say, from experience, that while there may be some cases where a few pounds may be wrong in one parish, a great benefit is done to the whole."

Whether that is the strongest reason in support of it or not, the proposal of burghal combinations is open to two objections, neither of them insignificant, and both of them, if found concurring, insuperable.

(1) There is the evidence of the most experienced officers that in their judgment the largest burghal parishes have already reached the *maximum* of economical management. The parishes managed by some of those holding this view have been certified, on the authority of Sir John M'Neill, to be among the best-managed parishes of any in the kingdom, and the opinion of competent inspectors, engaged from their youth in the administration, is of greater weight on a question of economical management

than the opinion of the most cultivated gentlemen, not excepting Sir John M'Neill himself, whose knowledge is acquired purely from general supervision. The evidence of Mr. Beattie, who is in favour of the principle of union of town parishes, explains the practical difficulties standing in the way of such union:—*Q.* "If the area of management was made very large, do you think that it would still be administered with the same responsibility and efficiency as a smaller division?"—*A.* "In pauperism, numbers are a very dangerous thing; every case has to be gone into individually, and the more you increase the numbers, of course the difficulties become greater." *Q.* "The pressure on the official might be too great, you think?"—*A.* "The pressure of time upon a man may necessitate a careless investigation of the case; we find that operate upon ourselves."[1]

We are not without examples elsewhere of the evils certain to arise when business attains dimensions beyond the limits of economical management. The relative cost of treatment of lunatics in the large and in the small asylums is an example. The railway companies, and such ventures as the Great Eastern steamship afford instances of the same thing in trading concerns. Further illustration may also be derived from the case of the circulation of daily newspapers, which, it is said, does not of itself pay, but entails loss, as soon as a certain point is exceeded.

(2) The proposed extension cannot be effected without inflicting injustice and hardship, not sentimental, but assuming the tangible form of relieving one district, or one set of ratepayers at the expense of another. And it is noteworthy that all the demand for an extended town area has sprung from the managers of parishes, who are, in the matter of rates, not so happily situated as perhaps their next neighbours. The motive, therefore, of those who urge the extension of area is the purely selfish one of easing their own burden, and not the larger one of doing a general good. This objection applies with great force to the union

[1] Report of Committee of 1869, p. 193; Q. 3724, 3725.

of country as well as the town parishes; but the selfishness of the motive, and the injustice which the proposal, if put in practice, would entail, have been clearly proved only in the case of large towns.

The following quotation, which illustrates the selfishness of the motive, is taken from a paper in the *Poor Law Magazine* for May, 1866, and is curious because it so happens that the Edinburgh Board had all along been the most persistent advocate of the proposal—

"It seems that, from the number of old houses in Edinburgh, the rental in that parish does not bear a fair proportion to the burden of poor rates, and that the rate per cent. of assessment in that parish is considerably higher than the rate in St. Cuthbert's, although less than in Canongate. The cry of Edinburgh, in former times, was to amalgamate all the Edinburgh and Leith parishes. To this cry Canongate responded approvingly, but the other parishes, St. Cuthbert's, South and North Leith, held aloof. Had Edinburgh been perfectly unselfish on the point, here was a noble opportunity to prove it practically. Why not at once combine with Canongate, and give the principle they advocated a fair trial? But, alas for the consistency of that Board! they refused to share their wealth with Canongate, because the Boards of St. Cuthbert's and the Leith parishes refused to share their wealth, present and prospective, with Edinburgh. Had they been really in earnest in their cry for amalgamation as a *principle*, and to save cost of management, they would have combined with Canongate at once, but this was not what they meant. Their real intention and desire was to get the benefit of the *lower* rate of assessment in the other parishes, and thus reduce their own payments; and they did not intend to act up to the principle on which they placed the discussion of the matter. This is a species of reform which is somewhat prevalent at the present day, and the discomfited party, so soon as his defeat is declared, gets up a wild cry of selfishness against the successful party. It is somewhat instructive to look into this howl. Thus St. Cuthbert's and the Leith parishes were *very selfish* (according to Edinburgh ideas) when they refused to amalgamate; that is, it was selfish in these parishes to protect their own interests; but, on the other hand, it was *not selfish* on the part of Edinburgh to attempt to force a share of their legitimate liabilities on other shoulders. Again, it was *very selfish* of Canongate to attempt to apply the principles enunciated by Edinburgh to the advantage of Canongate and disadvantage of Edinburgh, but it was *not selfish* on the part of Edinburgh to refuse Canongate this assistance."[1]

[1] *Poor Law Magazine*, vol. viii., p. 425.

The political injustice and inexpediency of such union, without the consent of the ratepayers proposed to be incorporated, have been upheld by her Majesty's ministers and the House of Commons more than once in the case of Glasgow.

The City of Glasgow and its population had greatly outgrown its municipal boundaries. An urban population of about 150,000, and several small towns lay on the immediate outskirts of the city. In the case of two of these towns a river alone separated them from Glasgow proper, and their inhabitants were merchants and others of the city, who, for the sake of purer air and such reasons, preferred to live at a distance from the crowded parts of the city. These towns had all adopted, and become incorporated as burghs under, the General Police and Improvement (Scotland) Act before mentioned, and they had a separate municipal management, local police, and rates of their own. The rates were extremely heavy within the Glasgow municipal boundaries. The Glasgow corporation therefore desired to extend the municipal boundaries by annexing the outlying populous districts, including the small burghs. They argued that the population was really one urban population, and that it was not just that Glasgow people, who derived the full benefit from its police, public parks, streets, etc., and who had a greater use of the parks, etc., than the indwellers, should escape any share of the city burdens by planting their dwellings just beyond the city boundary. They showed that the proposed extension would equalise local taxation among what were really different sections of the same urban community, and averred that Glasgow was not too large for economical management, and that the effect of the union would be a diminution of the rates.

The corporation of Glasgow accordingly, several times, went to Parliament for an Act to extend its area. Of course the proposal met almost to the last with a united and vigorous opposition from the ratepayers of the burghs and districts sought to be annexed. In 1870 they put

forward and circulated among members of the House of Commons a joint memorandum containing various reasons against the Bill of that session. Amongst others of their arguments were these: that they should not be annexed without their consent; that they did not wish to be annexed; that having already a separate management and local taxation of their own their autonomy should not be destroyed to the effect of subjecting them to taxes in the imposition of which they could not possibly have the same potential voice as they had in the case of their own taxation; that Glasgow had already attained the limits of economical management; that, so far from any reduction of taxation resulting from the extension of area, it would lead to an increase, as previous extensions of the city had done; and that "the forcing of such a measure in the face of an almost unanimous protest of the inhabitants of all the burghs proposed to be annexed would be a grievous violation of the recognised right of self-government."[1]

The motion on 1st March, 1870, that the Bill be read a second time was opposed, and—an unusual circumstance in the case of a private bill—the Bill was rejected by a large majority in a very full house, and after a very long debate, in which the general principles involved in the objections of the burghs were argued. The principal opponent of the Bill was the Home Secretary of the time—Mr. Bruce, now Lord Aberdare—who was supported in the division by the whole Government influence.[2]

Now, after such a case, Government could not with any show of consistency legislate for the combination of large burghal parishes, the state of whose population and taxation is different, in the event of those who are to be affected withholding their consent.

Lastly, The only case of combination in which economy can be successfully pleaded in its support is that of small thinly-peopled contiguous country parishes; and, strangely

[1] Special Report of Debate on Second Reading of Glasgow Municipal Extension Bill, with Appendix, 1870, p. 3.

[2] Glasgow only succeeded in 1890, after a twenty years' struggle, in obtaining annexation, by consent of the outlying burghs. Those which still oppose are still independent.

enough, it is the case in which combination has been the least urged. In many of those districts the condition of the people is such that the number of registered paupers is very small, and there is not sufficient work for one official. Hence he comes to hold a plurality of offices—inspector of poor, session-clerk, registrar of births, deaths, etc. Combination of dissimilar employments is bad both in principle and in practice. It has been known to lead in some cases to general dissatisfaction, the work of none of the offices being well performed. The rate in such parishes, taken one with another, is generally pretty equal; and there is much to be said in favour of a judicious combination, under one management, of parishes which fulfil the conditions of having a small population, few paupers, contiguity, and a rate nearly equal. The poor would probably be better cared for, and relief more discreetly given, under the superintendence of one inspector, whose work would be sufficient to fully employ his time and enable him to acquire a thorough knowledge of the business, than by two or three separate persons not specially trained, and having no special aptitude for the work.

But to effect such a combination no fresh legislation is necessary. The existing Act expressly provides for it. It is permissive at present to the Board of Supervision so to combine parishes, when the parishes proposed to be combined consent. The board may do so upon the application of the boards of one or more adjoining parishes. Or when it appears "from a regard to the relative situation of two or more such parishes, or from any other circumstances, that the administration of the affairs of the poor therein might be carried on with greater advantage to the said parishes, and to the poor therein, by the said parishes being combined for the purposes of this Act, then the parochial boards of such parishes shall meet, on requisition to that effect by the Board of Supervision, for the purpose of considering the proposed combination;" and when the parishes resolve to that effect, and the Board of Supervision is satisfied of the expediency and propriety of the proposed

combination, it is made lawful for that board to resolve and declare the combination, etc.[1]

These provisions, although permissive for forty-six years, have not been taken advantage of. Only one case of combination is, or rather was, upon record—that of certain parishes in Islay. They were combined upon their own application. But the union was productive of nothing but quarrels, discord, and bad management; and at last they besought the Board of Supervision to dissolve the union, and the only combination of parishes has accordingly been dissolved.

The question is then narrowed to this, whether, for the sake of the comparatively trifling saving that could result from combination in the limited number of cases in which compulsion would be justifiable, it is desirable to introduce compulsion and special legislation?

Although the principle of compulsion has received a great impetus from the proved educational destitution of the kingdom, and the advance of the education question, it must not be forgotten that the principle is repugnant to the feelings and customs of the British people. All concede that the strongest case can alone justify its application. The House of Commons so lately as April, 1892, rejected the application of compulsion in the "Small Holdings Bill,' an otherwise democratic measure. At the passing of the Amendment Act of 1845, the vesting of a compulsory power of combination in the Board of Supervision was recommended in this very matter, and attempted to be got, but was successfully resisted. Another instance of successful resistance to compulsion has just been cited in the case of the Glasgow Municipal extension, a resistance aided by Government. Do better prospects of getting the principle admitted, to enforce parochial combinations, exist now? No parishes, save those which afterwards repented, have sought combination. It may, therefore, be fairly argued that it is not wanted, and would again be resisted.

Whether they be in the right or not, people do think—

[1] 8 & 9 Vict. cap. 83, sect. 16.

and they are to be excused for thinking—that they best know, and can best manage, their own affairs, especially when taxation is involved. And they certainly have this in their favour, that if combination is really for their good, they will, after a time, come to regard it in that light, and take advantage of the present means of obtaining it.

On the whole, when the disadvantages are set against the probable advantages, no case appears to be made out for any change.

The general question of the area of chargeability has been considered over and over again. Consideration of it has generally ended in the recommendation of a limited in preference to an extended area. And those who have given the matter, with regard to poor-rates, long and careful attention, have pronounced in favour of maintaining a near and close connection between the taxation necessary to raise the pecuniary means, and the application of those pecuniary means in each case. They consider that such connection is essential for practical safety; and that the best security for economical administration is found in the close personal interest of the ratepayer to the subject on which the rate is expended. Clear it is, at all events, that to open up this question involves opening up the whole question of the incidence of local taxation. Too strong a protest cannot be entered against opening up any such question piecemeal or dealing with it in a partial and fragmentary way.

In final reference to the general charge of increased expenditure and insupportable rates, we contend that in such an inquiry as this the true question is not whether expenditure has increased absolutely, but whether it has increased relatively, and that to exclude from view the relation which the cost of pauperism bears to other things, is at once disingenuous and fallacious. Shallow people are constantly heard to exclaim and sigh for those good old times before the '45, when we only paid so much for our poor. Contrast the times then with the period since, they say, and behold what an enormous difference! Now, without again desiring to rake up the miserable and tossed-

about state of the paupers "in the good old times," we submit that persons who reason thus proceed on the assumption that, while the cost of the pauperism of the country has increased, every other thing has remained stationary. We answer that, if the Poor Law burden has not decreased absolutely, yet it has considerably decreased relatively to the population, to the increased wealth of the inhabitants, and to the value of the real property of the country. A good contrast is capable of being drawn from a comparison of the progress of the cost of Poor Law relief and management with the progress of the value of real property and the growth of population. The figures in the table at p. 130 are conclusive. And the decrease in the cost of pauperism is proved to have coincided with an increase in efficiency, with much better food, bedding, and comfort to the in-door paupers, with more liberal allowances to the out-door, with more perfect management, with a higher measure of care bestowed upon the paupers, and without a single case of starvation or death having arisen from either untimeousness or inadequacy of relief, or from ill-usage.

CHAPTER XI.

The *fourth* specific charge stated—The charges against the present method of *Assessment* stated—Method of levying on "means and substance" considered—Objections to its resumption stated—The assessment on rental—Is a ready method of assessment on "substance"—The system of classification for purposes of assessment explained—It redresses inequalities—Has worked satisfactorily where adopted—Should be more uniform, and made compulsory—Classes of property which escape the assessment stated—Freedom of these produces inequality in the burden—Remedies for this suggested—Lord Salisbury's authority supports the suggested remedies—Cost of lunatics, and part charge of ordinary paupers should be borne by Government—Principle is admitted in case of medical relief—The specific charges against the Poor Laws not substantiated.

Section 1.

The next important charge which has been brought against the legal machinery for carrying out the Poor Law is, that the assessment presses unfairly upon certain classes, and that much of the wealth of the country escapes taxation.

We shall endeavour to prove that there is not any, or at all events not more than a grain of truth, in the first of these allegations, but that a great deal can be advanced in support of the latter.

By the Act of 1845, parishes were allowed to continue the modes of assessment then in operation, or to change them, as they saw fit, the change being made subject to the approval of the Board of Supervision.

It has been seen that the Act of 1579, which established the assessment, provided that the tax should be levied on the inhabitants "according to the estimation of their substance, without exception of persons;" and that it was directed to be renewed every year "for the alteration

that may be throw death, or by incres or diminution of meanis, gudis, and substance." The charge preferred is, that those wise and equitable provisions, designed to secure that every one should contribute in proportion to his ability, have been departed from, and that the departure has led to inequality and injustice. We contend that the principle of the Act of 1579 has never been overlooked, but has been recognised and acted upon to the present time.

They who bring the complaint consist almost exclusively of those who desire a return to the abandoned system of levying the tax upon means and substance in preference to rental. We saw, when discussing the provisions of the Amendment Act, that an option was given of taxing upon the rental, or according to means and substance, and that the latter method, having been found to be distasteful to the ratepayers, was gradually abandoned, until it was finally prohibited by Mr. Baxter's Act in 1861. It is a return to this discarded system which is advocated by those who complain of the present method. The reasons put forward in support of going back to the old plan are so mutually contradictory, and some of them so utterly irrelevant to the question, that it is difficult to gather what is the strong point relied on by the advocates of the proposed change—the point which they consider justifies a resumption of that which the people themselves rejected—the one argument which they would hold by and insist on after they saw all others refuted.

The strongest argument that could be adduced in favour of a return to the former system would be one which is never mentioned, because it does not exist, namely, that the people desire it. Nobody in Scotland, if we except a few noisy persons who would never be satisfied with anything which the great bulk of mankind approve, wishes any change in the present mode of assessment, or, more correctly, desires to substitute means and substance for rental. Assessment according to means and substance was productive of wranglings and bickerings of the bitterest kind—charges of concealment and dishonesty, actions for

defamation, and every unpleasant thing which should be absent from any system of taxation. The supporters of the old mode of levying the assessment were at one time strong and zealous, and the system did not fall without a struggle. The battle was waged long and keenly in almost every parish where the system was in operation. But as public discussion exposed its inquisitorial nature and the evils flowing from it, opinion latterly decided against it, with the ultimate result of legislative prohibition.

Amid the mass of irrelevancies which have since been written and spoken in favour of assessment on means and substance, the following may be gathered and stated as reasons in support of a return to the system:—(1) because it is more equitable than the present method, and, as there are difficulties attending any system, it is unjustifiable to pursue one which is less equitable because of difficulties standing in the way of carrying out the more equitable; (2) because it is no more inquisitorial than the collection of the income-tax, and no honest community should object to inquisition into their private affairs if it is to produce equality among contributors; (3) because it would catch a great deal of men's "substance" not now subject to the tax; and (4) because the poor have a moral right to all the monastic and Church property which was seized at the Reformation, and the present system makes no attempt to get these ancient hereditary rights back for the benefit of the poor.

It is obvious that the third of these reasons is the only one which can be seriously listened to, as having any pretensions to validity, and we shall return to it by and by.

The first argument has already been disposed of by the verdict of public opinion, a verdict which there is no evidence of any desire on the part of the public to reverse.

The second plea is not true. For parochial assessment on means and substance is more inquisitorial than the income-tax; and besides, even if it were not, two blacks do not make a white. The income-tax is both inquisitorial and objectionable, but in a less degree than the parochial

assessment on means and substance was. For in the collection of the income-tax any private disclosures are made to sworn officers and to a board small in number. Further, anyone desirous of preventing his fellow-townsmen from gaining a knowledge of his affairs has the option of passing over the local commissioners, and making his return direct to Somerset House. But in the other case the board is thirty at the least, and neither the board nor the officers are sworn to secrecy. On the contrary, one of the complaints against the system while it lasted was that it put a knowledge of a man's profits and of his most private affairs at the mercy of his rivals in trade, and that incompetent men frequently sought office as managers, not from a sense of public duty, nor from a consciousness of peculiar aptitude for the work of a Poor Law manager, but from the base motive of acquiring an insight into other people's affairs, which might be useful to themselves in the conduct of their own. The moral proposition contained in the second reason it is needless to discuss. We fear it is Utopian to expect people to submit to disagreeablenesses, especially when they touch so tender a subject as their profit and loss, for the sake of any abstract idea or principle, however just in itself. It is a misfortune, of course, if communities are not honest. But, so long as the business of the world is regulated as it is, it will be hopeless to expect the self-sacrifices to be made which would be involved in a parochial income-tax.

The fourth reason is the most absurd of all, while to give practical effect to it would involve changes the most sweeping and fundamental. It is the lamentation of those who weep over the decay of the feudal system, and regret the dissipation of the darkness of the Middle Ages; of those who continually are heard moaning about the unhappiness of the times in which their lot is cast, and who will quite seriously argue about progress, and whether we are progressing. This fourth reason for a recurrence to an antiquated mode of assessment is advanced by those who may be described as the tail of the once powerful

party who so long, and with great zeal and ability, opposed the resort to any assessment whatever for the relief of the poor. To the credit of the men who were the foremost of that party, it may be said they never proposed anything so preposterous as a confiscation of all the old Church lands as a means for avoiding recourse to, or as a substitute for, an assessment.

It is no doubt true that the Reformation was a mighty revolution, a democratic convulsion of society, and that much of the Church lands and tithes which had, far beyond the longest prescriptive period, been devoted to religious and charitable uses were diverted by those who occupied the position of trustees, and applied to their own uses. It is also true that no class suffered so much from those changes as the weary wayfarers, who, at regular stages, could rely upon the shelter of the hospitium, and at every church obtain a supply of bread or fish; and the aged and impotent poor, who were sure of a refuge from the miseries of the world in the almshouses of the abbey lands. This lament, we find, is given expression to by Father Ignatius, who writes thus upon the subject—

"Instead of the workhouses (our poor hate them) the people have a right to the lands of the Duke of Bedford, for those lands were given, freely given, to the monks, to use for Christ and his poor for ever. England is covered with the wrongs of the poor, with the ruins of the sacred homes of piety, charity, hospitality, and mercy. The Duke of Beaufort, the Duke of Bedford, and countless others, are using lands and farms given to the monks, first fertilized and cultivated by them, from which they fed the hungry, clothed the naked, lodged the homeless."

Granted that all these things were so, what is to happen? Is advantage to be taken of the precedent set by a Parliament which has already practically asserted the doctrine of the right of the State to resume possession of property at its will, to an extent that no Parliament of modern days has attempted? Is that Parliament to be asked to seize, in name of the State, all the properties anciently belonging to the Church in order to remove the Poor Law assessment, or to mitigate its pressure? After the case of the Irish

Church, which proved that there is little value in the security afforded by the longest prescription, a plausible case might indeed be got up by the Romish Church, and Poor Law reformers, for Parliament affirming, that no person, or power, had right to alienate those properties from the purposes to which they were devoted under the grants by the original owners. Parliament might be asked to resume, in name of the State, the many grants, legacies, and mortifications made from time to time by pious Scottish men and women, and to devote them to their original uses—the relief and support of the poor. Unless those who have brought to the front those old Church lands, in connection with the Poor Law, mean to go this length, they are talking foolishly and irrelevantly. If they do go this length, and succeed, all we can say is, that halcyon days are still in store for the Catholic Church, the paupers, and the smaller ratepayers; and the success of the proposal would prove the impolicy of any meddling with Church and private endowments.

But what can be said in favour of assessment on the rental?

It is not pretended that this expedient is perfect, or free from practical difficulties. It would be difficult to devise any method which would be. But the one now to be considered has the merits of simplicity, and of taxing in a rough and ready way, a man's substance. Rental is accepted as a handy and patent evidence of substance. The rent paid by all classes bears a well-defined proportion to their incomes. In different classes the proportion varies. With working men the proportion is about one-seventh; with most professional men it is about one-fifth; but whatever the difference may be, it exists. This test, however, is only available for rental of dwellings, while by far the greater part of the assessable value of the country consists of agricultural land, mines, and manufactories. To meet these various cases the Statute has made ample provision. The Act empowers parochial boards, with the sanction of the Board of Supervision, to classify lands

and heritages for the purposes of the assessment. The enactment is—

"That, where the one-half of any assessment is imposed on the owners, and the other half on the tenants or occupants of lands and heritages, it shall be lawful for the parochial board, with the concurrence of the Board of Supervision, to determine and direct that the lands and heritages may be distinguished into two or more separate classes, according to the purposes for which such lands are used and occupied, and *to fix such rate of assessment upon the tenants or occupants of each class respectively*, as to such board may seem just and equitable." [1]

This power of classification for fixing rates of assessment to be levied from occupiers is quite a distinct thing from the "deductions" which we before saw[2] are to be allowed in estimating the annual value of the subjects on which the assessment is to be made. Whether classification, which is only permissive under the clause just quoted, be adopted or not, the assessment can only be imposed upon the net annual value, as ascertained after allowing the deductions for repairs, insurance, etc., rendered compulsory by section 37.[3]

[1] Section 36.

[2] Cf. *supra*, pp. 160, 161.

[3] A Bill brought in by Lord Advocate Young in session 1870 "to amend the Acts for the valuation of land and the levying of assessments in Scotland" was referred to a Select Committee which took evidence, and reported in favour of the Bill, *with the exception of the sixth clause*, which was considered so unfair by parochial ratepayers, and to which they offered a spirited opposition. This Bill repealed the litigation-breeding 37th section of the Poor Law Act, and enacted (with respect to properties other than those of railway, canal, water, and gas companies, and docks and harbours) that, for the purposes of assessments to be imposed for relief of the poor, the yearly rent or value at which any lands and heritages are entered in the valuation roll . . . shall be held to be the annual value of such lands and heritages; and, with respect to the before-mentioned public undertakings, it repealed the 3rd section of the Lands Valuation Amendment Act of 1867, and provided that, in ascertaining their yearly rent or value, the assessor should allow as deductions, before the *cumulo* yearly rent or value is fixed, certain clearly-defined items of expenditure, such as, in the case of railways, the expenses incurred in maintaining or repairing the permanent way, and charged to revenue in the published accounts of the company for the year preceding that for which the valuation is made; and, in the case of water and gas companies, the expense of maintaining and repairing aqueducts, conduits, bridges, culverts, retorts, gasholders, and other works. It is much to be regretted that the Bill was abandoned at a later stage, and that thus was prevented a legislative settlement of a cause of dispute on which thousands of pounds of the ratepayers' and shareholders' moneys have been spent. See Appendix, No. IV.

Now, whenever classification is adopted, inequalities, at least substantial inequalities, or any deserving of notice, cannot have place. The principles upon which the Board of Supervision have proceeded when sanctioning schemes of classification will be found clearly stated in a circular letter which they issued on the subject on 10th December, 1868, and which they printed in the Appendix (p. 6) to their Annual Report for 1869. Modifications of the rule that a man's rent is correct evidence of his "substance" are recognised, as in the acknowledged case of a farmer paying £100 per annum for his farm, and a merchant £100 for his dwelling-house. The farmer, in such case, is held by the Legislature, under the income-tax Acts, to have a rateable income of only one-third of his rent, or £33 6s. 8d. The merchant's income is probably £600 per annum. Again, a working man with an income, say, of £39, lives in a house rented at £5. The farmer, with an income of £33 6s. 8d., who is assessed at only 3d. in the pound of his rent, pays 25s. of poor-rates, while the working man assessed at 1s. in the pound of his rent only pays 5s per annum. Similar instances could be multiplied from cases of shopkeepers and mill-owners who pay high rents, and whose profits are not fairly measured by their rents. Accordingly, recognising these principles, the Board of Supervision say "that they have approved of classifications whereby the tenants of dwelling-houses are made to pay the full rate assessed; tenants of shops, manufactories, railways, mines, and quarries, a less rate, but generally two-thirds of the rate paid on dwelling-houses; and tenants of agricultural subjects a fourth or a fifth (according to circumstances) of the rate paid on dwelling-houses. These exact proportions, however, are not to be held inflexible in every case that comes before the board."

It is proved that, where classification has been adopted, complaints of inequality and uneven pressure of the assessment are not frequent. And yet, notwithstanding this satisfactory result, it is found (incredible though it may seem) that only 176 parishes have up till now adopted

classification.[1] Surely this affords another ground for the doubt we before expressed as to the popularly elected being the best form of constitution for the boards. At any rate, it is conclusive evidence of the want of interest shown in Poor Law administration by the majority of the ratepayers; a want of interest noticeable chiefly in those at the top, and not at the bottom, of the social ladder, that is, among the larger ratepayers. This indifference has already produced much maladministration of the law, and therefore it takes away all right on the part of those who are thus negligent of their duty as citizens to complain and grumble, though, as is customary, the negligent, the unconscientious, because they are the most ignorant of the law, are the loudest in complaints, the bitterest in abuse of the law.

But the arrangements regarding classification are defective in so far as (1) they are only permissive; and (2) there is no standard of uniformity. The classification varies in nearly every county; and the grouping of the different kinds of property is often absurd, almost as absurd as if they had been drawn by chance out of a hat—*e.g.*, shootings are found classed with mines; weavers' shops with agricultural land. Classification, to be effective, should be compulsory; and the Central Board should be charged with the fixing of some uniform scheme suitable to parishes which are similar in their general features.

Section 2.

But it is true that a vast amount of assessable income does altogether escape taxation, and to the extent to which this happens the system of assessment must be considered imperfect, unequal, and in need of reform.

This is something quite apart from the objections which some have stated to the system of classification as a mode of adjusting inequalities among those actually reached by the tax, objections that are founded on very exceptional

[1] Forty-sixth Report, Board of Supervision, Appendix B, p. 279.

cases. There is a large amount of income derivable from property which can never be represented by rental. We cannot give the figures, but it is plain that an enormous capital—profitable capital—invested in ships, the funds, foreign securities, debentures of all kinds, and feu-duties, at present escapes the poor-rate. A great part of the wealth of such towns as Glasgow, Greenock, and Leith, is represented by their shipping interests; of other places, by feu-duties—a charge on land corresponding to the English ground rents and the Irish head-tax. Many millions of capital are, for instance, sunk in one or two of the great steamship companies, having their headquarters in the former place. To the extent to which the revenue from that capital escapes, "substance," which is measured by rent, is unduly burdened.[1]

While that kind of property is free, it is obviously a class of property which is peculiarly productive of pauperism. For, if inquiry be made, it will be found that for every crew which goes down with one of the great ocean steamers, more than one family is generally thrown upon the rates somewhere.

The burden both of ordinary pauperism and of lunatic paupers is most unequally distributed. There is Ayrshire with its assessment six times increased in thirty years, with its pauper-ridden, vagrant-consumed population. There is happy Bourtie, with its standing half-dozen or so paupers,

[1] The foregoing passage stands as it was written in 1870. Quite recently the argument has received powerful corroboration from an influential quarter. Lord Salisbury, at a great meeting at Exeter, on 2nd February, 1892, speaking in favour of peasant proprietors, or a restoration of the class of yeomen landowners, says, "We should be quite certain, then, that this question of rates will be thoroughly overhauled. There is no such crying injustice in this country as the system which places upon the owners of lands and houses the support of the poor, and, where there are School Boards, the education of the poor. These are matters to which all the wealth of the country should equally contribute. There is no reason whatever why the holders of the 750 millions of Consols should go absolutely free and leave to their poorer neighbours who occupy or own lands or houses the duty of maintaining the poor and of providing education. I know that this question is full of difficulty. I know that it has baffled statesman after statesman. But I have a strong belief that there is not sufficient moving force behind, and that if I had the number of yeomen whom I should like to create in this country, we should very soon see the system of rates put upon an equitable footing."

treated according to the mode pursued in the "good old times," tended with a father's care by the parish minister, and where no assessment has ever yet been required by the pressure of pauperism. Instances might be multiplied, the Shetland Islands might be compared with Oban, and parishes in the same town, and adjoining parishes in counties, might be contrasted with each other.

Such inequalities of the burden would be, to a great extent, removed, while at the same time a larger assessable revenue would be reached were a portion of the rate to be borne by the Consolidated Fund, and were the whole cost of the maintenance of lunatic paupers to be discharged by it.[1] Already one-third of the whole cost of the medical relief to the poor is defrayed by the Consolidated Fund. Of the charges of police, one-fourth is similarly borne by the Consolidated Fund, and the remainder in each case by the locality. Towards the maintenance of industrial schools Government contributes a certain proportion by a capitation grant for each child reared in them under the Industrial Schools Acts. The cost of maintaining the primary schools is now borne by local rates supplemented by Government grants. Towards the assessment for the ordinary poor it would be enough if the Government grant should bear a fixed proportion to the whole annual expense, whatever that proportion might be. One-third has been suggested, and seems a fair proportion. It is desirable, for the sake of securing economy, that the portion raised in the locality should be greater than the portion contributed by Government. The objections to a national rate do not apply to such a scheme; for, with the present restricted areas of chargeability, each area would still have the same interest in economical administration as it now has, which affords an additional argument against extended areas. The motives at work to keep down the 20s. per pound would still be called forth to keep down the 13s. 4d.

The partial charge of lunacy to Government funds has

[1] From 1875 to 1889 Government granted in aid of the cost of maintaining lunatic paupers 4s. per head per week. See *post*, p. 227.

worked well notwithstanding the opposite opinion of Dr. Yellowlees previously quoted. Lunacy, while some of its causes are no doubt avoidable, must be regarded in the light of a misfortune—a calamity, as something not wholly within the control of individuals or of a community, and the increase or diminution of which is not dependent on the inefficiency or the excellence of the management. It resembles rather a blight, a plague, or a famine. It has been recognised as an "act of God." So regarded, it clearly is a matter of national or public concern. Nationally it is a misfortune, an unhappy and expensive affliction, from which the nation suffers. The charge of lunatic paupers is, like that of the medical relief, a well-ascertained and clearly defined charge, although, unfortunately, a growing one. Hence there is no room for jobbing or misapplication of the public grant.

The annual parliamentary grant in aid of pauper lunacy has now ceased; and Parliament, recognising the equity of the State sharing the burden, has, in terms of section 22 of the Local Government (Scotland) Act, 1889, substituted a fixed contribution of £90,500. This fixed contribution is distributed amongst the parochial boards as nearly as may be in the manner in which the annual parliamentary grant was distributed. It is now (1892) proposed to add to this fixed contribution a further sum of £25,000 per annum, being a part of what is known as the "Equivalent Grant" to Scotland. As the amount is now fixed, surely there will be no longer room for the charge that the grant (the number of recipients having been unlimited) will operate as a "direct premium on the manufacture of pauper lunatics."[1]

It has been estimated that these changes expanding the classes of property liable to the rate would widen, to the extent of about one-third, the present assessable value. This of itself would appreciably lighten the assessment to those now bearing it; and the adoption of the proposal appears to be the simplest and least objectionable way of

[1] Cf. *supra*, p. 105.

accomplishing an extension of the rateable subject, short of a national rate or a parochial income-tax.[1]

Before the question of assessment is left, one point—a trifling one certainly—still remains to be noticed. It is a small mole-hill, which was reared into a mountain by the chairman of the Select Committee of 1869 and some other reformers. While, so long as the mode of assessment by means and substance was in force the parish ministers were assessed in respect of their manses and glebes, the Law Courts have decided that, under the system of assessment upon rental, manses and glebes are entitled to exemption, in common (it is only fair to say) with a good deal of other property, such, for example, as jails, reformatories, and militia stores.[2] This, it seems, is regarded by Dissenters as an unjustifiable immunity, and if fresh legislation is to take place it may be well to remove the exemption.

Probably no one will welcome it more than the Scottish parochial clergy themselves. Of that body it is only just to say that the almost universal testimony regarding their connection with the Poor Law administration shows them to have been almost always, in the rural parishes, the most regular and most useful members of the boards.

As the outcome of the foregoing discussion, it may be safely asserted that they who have brought forward the present charges against the Scottish Poor Law enactments have failed to make out their case; and that while the paupers' wants are now certain of prompt relief, and while their material comforts are greater, and a greater and more humane care is bestowed upon them, neither their numbers nor their cost to the community has increased since the Act

[1] While these pages are passing through the press the recommendation in the text (made in 1870), has received partial effect from Lord Salisbury's Government out of what is termed the "Equivalent Grant" to Scotland, amounting for the year 1892-93 to £265,000. Government has proposed to allocate £75,000 to the Parochial Boards in relief of the poor rates, including lunacy, which is equivalent to a reduction in the total Scottish Poor Law expenditure, exclusive of cost of lunatics and management, of nearly 11 per cent. £90,500 per annum has already been granted in aid of pauper lunacy in lieu of the previous capitation grant of 4s. per week.

[2] See Memorandum, Appendix No. VII.

of 1845. In short, the charge of an undue expenditure, of extravagance, and of great waste of public money, attributable to the compulsory assessment and the legislation of 1845, has completely broken down; and reason has been shown for the conclusion that, contrary to Mr. Burke's opinion, a secure State provision can be made effective, and that it possesses advantages superior to any other for accomplishing the end in view.

CHAPTER XII.

1. *The applicant's right of appeal to the sheriff considered* — Objections stated to it—It enables the paupers to command the ratepayers, and weakens self-reliance—Evils intensified by action of the sheriffs—Evils flowing from it generally admitted—Remedies suggested—Necessity of an appeal to an independent functionary—Who is the best?—Reasons for a preference for the ordinary magistrates. 2. *Relief of the able-bodied industrious poor considered* — Distinction between right of impotent and able-bodied—Law of Scotland never recognised any right in the latter—The experience both of Scotland and England proves the expediency of the present laws—Progress of the law of able-bodied relief in England traced — Statistics of English able-bodied relief—Its effect—Results shown in London—The question whether a discretionary power to grant such relief should be vested in the boards considered—History of this question down to House of Lords' decision in 1866 declaring such relief illegal traced—Contrariety of opinion on expediency of the law as so settled—Method of meeting pressure of poverty arising from slack trade in the manufacturing towns—Hitherto found sufficient—Expediency of conceding a discretion to give relief in exceptional periods supported.

Section 1.

Other matters besides those already touched upon were mentioned as more or less important by the witnesses examined by the Select Committee, and some sentimental grievances were greatly magnified. The subjects of chief interest are—(1) the applicant's right of appeal against the refusal of relief; (2) relief to the able-bodied when out of employment; (3) the classification of the inmates of poorhouses, including separation of aged couples in the poorhouses; (4) the limitation of the liability of relatives; and (5) the status of the medical officers.

1. With regard to the first point, namely, the applicant's right of appeal to the sheriff against the refusal of relief, we have said before that, owing to an unfortunate con-

struction which has very generally been put upon this provision, it has operated prejudicially both to the rate-payers and to the whole community. Apart from this erroneous construction, the provision is not, as it stands, a happy one.

It is manifest that some such provision is of the utmost value to the poor. For, a right to relief being conceded, there must in justice be some security given that it shall not be wrongfully withheld. There must be provided some neutral and independent means for judging between the claimant who avers a condition entitling him to demand relief and the board who deny the condition and refuse to give it; in short, there must be provided a court of arbitration to decide on the applicant's *status* and declare his necessities. Accordingly, the Statute of 1845, recognising the right of the poor to have this security, as directly resulting from the right of application, provides the simple and ready machinery of an appeal to the sheriff. It is enacted that—

"The said sheriff shall forthwith, if he be of opinion that such poor person is, upon the facts stated, legally entitled to relief, make an order upon the inspector of the poor, or other officer, . . . directing him to afford relief to such poor person in the meantime, until such inspector or other officer shall, on or before a day to be appointed by the said sheriff, and to be intimated in the same order, give in a statement in writing showing the reasons why the application of such poor person for relief was refused, which statement the said sheriff shall afterwards appoint to be answered, and shall, if required, nominate an agent to appear and answer on behalf of such poor person; and shall further, if necessary, direct a record to be made up, and a proof to be led by both parties; and it shall be lawful for the sheriff, if he shall see fit, to direct the interim support to such poor person to be continued until a final judgment shall have been pronounced on the merits of the case; Provided always that nothing herein contained shall be construed to enable the said sheriff to determine on the adequacy of the relief which may be afforded, or to interfere in respect of the amount of relief to be given in any individual case." [1]

The first defect of this enactment is, that it renders it compulsory upon the sheriff to order interim relief upon

[1] Sec. 73.

an *ex parte* and *prima facie* case. An order for interim relief is not wrong in itself; but it is most objectionable that even interim relief should be obtained upon a *prima facie* case made *ex parte*. All discretion, which, from its terms, the statutory provision clearly intended the sheriff should have a power of exercising, is practically excluded, and the sheriff is put in the position of being compelled to order relief without hearing what *prima facie* answer the other side has to make.

The awkwardness of his position lies in this: that whereas there actually is a *prima facie* case against the applicant's right to relief, because his circumstances have already been before the medical officer, then before the relieving officer, and, lastly, before the board, and have already been inquired into by them, and written reasons have been delivered why relief has been refused, the umpire cannot regard such procedure, but is bound to accept the *prima facie* statement of the appellant until the result of an inquiry, to be ordered, shall prove it to be untrue.

In this way the poor really command the situation, and become the masters of the ratepayers. They have learned that they can practically compel relief to be given, whether they are deserving of it or not, and they are not slow in availing themselves of that knowledge. The mischief arises from the faulty enactment. There is no sufficient reason for its continuance. There could be no hardship in the *onus* being shifted. There has by hypothesis already been an inquiry, and a decision given against the applicant. It should be assumed that the relieving body does not act either capriciously or maliciously in refusing the claim. And when forty years' experience has proved that the class of persons who appeal are the worst class of the poor, not the most necessitous, but the most dissipated and lazy—persons who, if not, strictly speaking, able-bodied, are yet capable of some labour, and whose diminished capacity is the result of their own evil habits—it would be no hardship to provide that the sheriff should suspend even interim judgment until a case could be stated by the inspector.

There need be no greater delay than of one, or at the furthest, two days. And even if it were longer, the delay would positively be beneficial.

To be able to force relief in the way that is now done should be rendered not only a difficnlt, but an unpleasant proceeding. Indeed, the greater the hardships and privations endured during the interval between appeal and the granting of the interim order for relief, the more good to the community would arise; for, as there is no habit so easy of acquisition as that of reliance upon the aid of others, and none more mischievous both to the individual and to persons in similar impoverished circumstances, so there is the greater necessity for throwing every obstacle in its way. One method appears to be to make the process of forcing relief as deterrent as it is capable of being made with safety. It should not be forgotten that for any miscarriage ending in death the inspector is liable to a criminal prosecution.[1]

The enactment under consideration contravenes the principles (conceived to be the true ones) which should regulate the matter as they are stated by Mr. Mill. He says—

"In all cases of helping, there are two sets of consequences to be considered; the consequences of the assistance itself, and the consequences of relying on the assistance. The former are generally beneficial, but the latter, for the most part, injurious; so much so, in many cases, as greatly to outweigh the value of the benefit. And this is never more likely to happen than in the very cases where the need of help is the most intense. There are few things for which it is more mischievous that people should rely on the habitual aid of others than for the means of subsistence, and unhappily there is no lesson which they more easily learn. The problem to be solved is, therefore, one of peculiar nicety, as well as importance; how to give the greatest amount of needful help, with the smallest encouragement to undue reliance on it. . . . In so far as the subject admits of any general doctrine or maxim, it would appear to be this—that if assistance is given in such a manner that the condition of the person helped is as desirable as that of the person who succeeds in doing the same thing without

[1] See Criminal Libel, H.M. Advocate *v.* Main in Appendix to M'Neel-Caird's *Poor Law Manual*, p. 433. The libel was found relevant, and the inspector was found guilty of "wicked and culpable neglect of duty."

help, the assistance, if capable of being previously calculated on, is mischievous: but if, while available to everybody, it leaves to every one a strong motive to do without it if he can, it is then for the most part beneficial."[1]

But while the very evils here mentioned necessarily result from the statutory enactment itself, they are proved to be greatly intensified by the interpretation which unhappily has been put upon that enactment by the Scottish courts. Whether it be that the judges have been misled by the part of the enactment we have just considered being, under the form of permission, actually practical compulsion upon the sheriffs, it is the fact that, with regard to the form of the proceedings in the appeal subsequent to the order for interim relief, they have interpreted the Statute in such a way that every inquiry is conducted as an ordinary litigation in civil causes.

By an Act of Sederunt, dated 12th February, 1846, to secure "summary and uniform" proceedings before the sheriffs, the Lords of Council and Session enacted certain regulations which have since then been stereotyped. By these an agent is almost invariably assigned to the pauper; written statements or pleadings are admitted, a record is made up, and proof is led, and adjourned from time to time, the evidence being all written down.

In this way, an appeal which was manifestly designed to be of the most "summary" sort, and to be finally disposed of with all despatch, is spun out for months, nay, frequently for a whole year. The longer the delay the greater the victory of the pauper, for the interim relief is continued (in the sheriff's discretion) pending the inquiry. The consequence of this dilatory procedure is, that whether the parish or the applicant ultimately wins, the parish is put to needless expense. The pauper having an agent appointed to him, the parish employs one, whose costs, which average between £10 and £15, have in any case to be paid. If the parish loses, besides paying its own agent's costs, it is decreed to pay those of the successful opponent; for, although the

[1] *Principles of Political Economy*, book v., chap. xi., sec. 13.

agent assigned to the pauper has to act gratuitously as in a question with his client, he is entitled to ordinary costs against the parish if the pauper succeeds. Thus, to lose a case costs the parish £30, or, as it has been stated, £35 on the average. It happens, from a state of matters so unequal, that rather than litigate these appeals to the sheriff the parishes almost invariably, as soon as they receive the sheriff's interim order under the appeal, admit the claim and say no more about it. They consider the average period of chargeability of that class of paupers, and deem it to be more economical in the long run to give relief, however much they may be satisfied of its impropriety, than to incur the certainty of paying £10 or £15 in law expenses, with the contingency of having to pay £30 or £35.

In exemplification of this evil, Mr. Beattie, of the Barony, informed the Select Committee that in 1868 there were in his parish 245 appeals against refusals of relief—cases which his board thought not entitled to relief from the rates. He only contested twenty-two; the rest it was considered to be cheaper in the long run to admit. No wonder, then, that this enactment, as framed, and as it has been interpreted and acted on, has been almost unanimously condemned.

But acceptance of this interpretation of the enactment conceding appeal, though general, has not been universal. There are one or two sheriffs who have dispensed with all forms in deciding these appeals, and have disposed of them in the same way as they dispose of claims brought under the Statute known in Scotland as the "Small Debt Act"—an Act limited to money claims of £12 and under. On such occasions the whole matter has been concluded at one sitting, and at a trifling expense. This is as it should be; and if there be really any doubt as to which is the proper course to be followed, it is imperative that the matter should be cleared up by some explanatory enactment. A close examination of all the evidence on the subject shows that to this one provision—defective in itself and wrongly

construed—is to be traced any stiffening of the springs of industry and self-dependence, and any reliance upon rate-aid which have arisen in Scotland since the legislation of 1845.

The average number of interim orders by sheriffs under these appeals for the ten years ending 1881 was 278, and of final orders 40, and for the ten years ending 1891 the average annual numbers were respectively 171 and 80.

This subject of the pauper's right of appeal has been prolific of discussion, and many remedies have been suggested. These can be classified under three separate proposals; *first*, to abolish all appeal whatever; *second*, to allow appeal only to a committee of, or to the whole, parochial board; and *third*, to make the appeal to the Board of Supervision.

The first scheme is inadmissible, inasmuch as it virtually abolishes the legal right of demanding relief. So long as that right is recognised, there should be, as its counterpart, some security that relief shall be got—some functionary to determine the legal *status*. For this very reason the second and third proposals are objectionable—the former in a stronger degree than the latter. The objection is one of principle, but the second proposal could not fail to be productive of dissatisfaction and abuse; for it would be constituting the parochial board, or its committee, the judge in its own cause.

Obviously the same objection applies to the constitution of the Board of Supervision as arbiter. We do not object to that Board discharging this office from any fear that it would in the matter act unjustly, or exhibit less discretion than it has done in other numerous and important matters which fall to it to dispose of. It is possible, however, that such a fear might prevail among the poorer classes, and this risk should be guarded against.

The Board of Supervision represents the executive, whose delegated authority it exercises in controlling the expenditure of local boards on the pauper population. Its functions, therefore, only begin after a citizen has been placed on the

roll—after his title to relief is admitted. But the appeals, the disposal of which we are now considering, are in cases in which one party to the suit is a citizen claiming relief, and the other party is the State or the people at large. The one desires to impose a burden on the other, and resistance is made with a view to keeping down the expenditure. As the Board of Supervision was established for the purpose of securing the latter object, namely, diminution of cost, it obviously may be biassed in favour of the defenders in the appeal.

But it is altogether *ultra vires* for the Board to interfere in such questions at all. The suit practically concerns the surrender of civil rights by one of the community, as a preliminary to becoming a burden on the country. Such a surrender only a recognised judge is competent to grant or refuse—only a legal officer, responsible but independent, appointed to administer the law and to protect citizens against the State, and the State against citizens, having no interest in the consequences of the suit, caring only that justice should be done on the merits. It is neither prudent nor fair to the Board of Supervision to thrust appellate jurisdiction on it in such a question. The Board is not independent; it is the delegate of the executive; it is not responsible directly to Parliament; its duties are purely economical; and its attempt at impartiality would be paralysed by the constant remembrance of the fiscal consequences of its own decisions.

To secure impartial justice, and to encourage a confidence in the law and its administration on the part of the numerically great poor class, it is desirable that the arbitrator in this matter should be an independent and neutral magistrate. For this reason we prefer a continuance of the sheriff as such arbitrator, in preference to both of the proposed substitutes, subject to some modification of the statutory enactment before adverted to. But the sheriff's action has been almost universally condemned. His intervention generally results, even in those cases where an inquiry before him is proceeded with, in admitting

the appellant to the roll. Despite his decision, the parochial authorities maintain they were right in their refusal; and as the sheriff can only decide the *status*, and has no power to interfere in the matter of the amount or the kind of relief given, the Board harasses the pauper by a bare recognition of his *status*, by giving an allowance of the most limited amount, just within the bounds of mockery, which again produces appeals to the Board of Supervision on the *quantum* of relief. All this creates expense and irritation, and has led to complaints of the harshness of the Poor Law, and of severity on the part of inspectors, which one hears principally, be it said, from the lazy and dissolute class of poor—from that class best fitted, as it has the strongest inducements, to impose on the weak benevolence of ignorant persons.

The expediency of an appeal to an independent functionary being established, the question remains, Is the sheriff the most suitable? We venture to think not, because he is apt to be too much hampered by technical rules of evidence, and to proceed too strictly. It is a jury question, and not a legal one, that is referred. It is simply, does A or B in his mind and body fulfil the conditions, the concurrence of which, the law says, shall entitle him to the status of a pauper? Now, it must be admitted that most of the Scottish resident sheriffs are very ill qualified, both by habit and by the nature of their avocations, for deciding even so simple a question of fact as that. Indeed, this disqualification seems to exist in an inverse ratio to their legal attainments. The ranks of the poorhouses testify to a want of discernment, and to a great want of knowledge of the world and its ways on the part of the sheriffs. To their interference was due, in a very large measure, in the past, the increasing expenditure on relief.

There cannot be much doubt that, for the decision of a matter of this sort, the ordinary magistrate possesses qualifications which better fit him for the duty. He is more of a juryman, and nothing of a lawyer. The probabilities are that he has mixed much more with the poorer classes than

the lawyer, and is therefore better acquainted with their ways of living and modes of imposture. He is, moreover, the functionary accustomed to deal with this class of persons. All kinds of vagrants, beggars and petty criminals are tried at his bar. He applies the rules of common sense rather than those of pleading and evidence to the cases. He does not feel himself restrained by the laws of evidence and technical rules of construction. No doubt his justice is sometimes a little rough and ready. But rough, ready and speedy justice is the very thing that is desiderated. The pauper has no right to be over-nice in his criticisms, even should hard measure be dealt out to him. He has, whether by misfortune or misconduct, ceased to contribute his *quota* to the maintenance of the judicial establishment. As the sheriffs would say, he is in the case of one *civiliter mortuus*.

An additional reason for the transference of the jurisdiction from the sheriffs to the magistrates in burghs and the justices in the counties is that the discharge of the duty greatly encroaches upon the sheriffs' time, and is proved to lessen their usefulness in their appropriate sphere of deciding of civil suits. The interruptions to which they are subjected, by having to deal with these and other matters of a similar nature, have more than once called forth expressions of disapproval from the faculties and bodies privileged to plead before them—expressions in which the sheriffs themselves have united in concurring, and which have been indorsed by the public.

Section 2.

2. Relief to able-bodied persons out of employment.

Very little need be said on this subject, for the law of Scotland does not admit a right on the part of able-bodied persons out of employment, or suffering from a lowness in wages, to parochial relief, nor does it admit a right on their part to insist upon the compulsory assessment being applied to meet their necessities, however pressing and temporary these may be. And no numerically strong party in Scotland

maintains that in this respect the law is either unjust or inexpedient. Nevertheless the law denying the right was not fixed until 1852.

Sanction was indeed given to an opposite course by the Court of Session in 1804.

That Court decided[1] that persons were entitled to relief who, though in ordinary seasons able to maintain themselves, became unable to do so during times of severe pressure or a dearth of provisions. They were termed "occasional poor." And, in practice, an extraordinary assessment was imposed for relief of that class, as we learn from the Assembly's Reports.[2] But that practice was declared disconform to the law as expressed in the Act of 1845, and it was held by the House of Lords that the able-bodied had no right to demand parochial relief, whatever the cause of their necessities might be.[3]

That decision was extended, and applied to the case of the children of the able-bodied, who were declared to be one with and inseparable from their parent.[4] It was laid down by the House of Lords in the cases cited that by an able-bodied man is meant one who suffers under no personal inability, bodily or mental, to work.

So stands the law; but the question is whether the existing law, which denies a right to relief on the part of the industrious poor who may be rendered temporarily destitute by want of employment or by inadequate wages, is an expedient law, and whether it should be maintained?

The situation of the aged and impotent poor is quite different from that of the able-bodied, and the validity of their respective claims depends on the application of different principles. The former class, except they be relieved, have no recourse but to beg, to appeal to the State, acting through its Poor Laws, for charity and

[1] Pollock *v.* Darling, 17th January, 1804; M. Dict. 10591.

[2] The written pleadings in support of the right in Pollock *v.* Darling were drawn by the celebrated Lord President Blair when at the bar, and are full of historical research and powerful reasoning. See also Abbey Parish of Paisley, 29th November, 1821; 1 Shaw, 189.

[3] M'William *v.* Adams, 26th March, 1852; 1 Macqueen's Appeals, p. 120.

[4] Lindsay *v.* Thomson, 26th March, 1852; 1 Macqueen, p. 155.

necessary means of subsistence. Those termed able-bodied are laid under no such necessity. They are in the position of merchants, vendors of their labour, which is the staple commodity of their traffic. They, when out of employment, do not ask charity; nay, they do not wish it. They wish only a market—something in exchange for their labour; and that market, if they cannot find it in one trade, they can seek in another; if they do not find it in one town or parish or district, they can go in search of it to other towns, parishes and districts. Last of all, it is optional to them to emigrate to countries where the labour market is not over-supplied, and where wages are at remunerative rates. In the case of the aged and impotent poor, expediency is excluded from consideration, and necessity alone decides the matter. In the case of the industrious able-bodied, necessity is excluded, and expediency is the only question to be decided.

This distinction has been fully recognised and explained by high Scottish legal authorities. Lord Stair has treated of it fully in his *Institutions*,[1] and the subject will be found more elaborately discussed in Lord Pitmilly's *Remarks on the Poor Laws*,[2] to both of which reference may profitably be made.

Both the practice and the law have varied with respect to the right of the able-bodied, when destitute, to be relieved. The practice of the kirk-sessions was not uniform. The language of the Act 1579—those "who of necessitie mon live bee almis"—owing to its comprehensiveness, lends countenance to the claim; and it is supported by Pollock *v.* Darling, and less strongly by the Paisley case, and by Mr. M'Neel-Caird.[3] On the other side are the authorities of Pitmilly,[4] Mr. Murray Dunlop,[5] and the two decisions of the House of Lords above referred to.

We have, in a previous chapter, ventured to suggest the

[1] B. i. tit. iii., sec. 5, *et seq.*
[2] Chap. x., *et seq.*
[3] *Poor Law Manual*, 6th ed., pp. 152-3.
[4] P. 25.
[5] *Parochial Law*, p. 340.

introduction of a system for the circulation of in-door paupers, in order to utilize the empty accommodation in the poorhouses now in operation, and to render possible a more extensive application of the poorhouse test by parishes whose poorhouses are always fully occupied.

We believe that a similar circulation of the able-bodied who, through local and partial distress, are out of employment, would effect a great good among that class by preventing a lapsing into the condition of weak bodily strength—a condition which feeds the ranks of pauperism. Trade unions and friendly societies accomplish this already to some extent by the grants termed in their reports "travelling allowances" and "emigration money." We mention it for the consideration of the various charity organization societies. Their organization is said to be good; their funds seem to be plentiful; and we believe that if they were to employ them in promoting, at appropriate seasons, such a circulation as is now indicated, the results would be that the cost of emigration schemes would decrease, the drain of the able-bodied would be lessened, and the pressure of the fluctuation of assessments would be equalized and at the same time lightened.

The longer the experience which the Scottish people have of the operation of their Poor Law in this respect the more confirmed are they in their opinion of the inexpediency of granting a right to *demand* relief to the able-bodied. The operation, within Scotland, of the law which denies that right has proved its expediency. The operation of the law in England which admits the right corroborates and confirms the Scottish view. It does not admit of dispute that the evils arising from an admission of this right have long been felt in England. Various Acts of Parliament have expressly admitted them. Originally, in that country, the recognition of the right of the able-bodied was only a *limited* recognition, designed to meet temporary difficulties. It became general, but that was subsequent, in point of time, to a general recognition of the right of the impotent poor.

The 43rd of Elizabeth—the first Statute on the subject—

while providing a compulsory assessment for the support of the impotent, designs and enacts that the able-bodied shall be made to work, and that relief shall be given in exchange for work. The Report of the celebrated Royal Commission of 1832 "for inquiring into the administration and practical operation of the Poor Laws," published in 1834, says that "the 43d of Elizabeth does not authorize relief to be afforded to any but the impotent, except in return for work; and much as this part of the Statute has been neglected, its validity is recognised by the judges."[1]

The system established by the Act of Elizabeth was, however, gradually departed from. The evils flowing from the departure were early felt. For 3rd Will. and Mary, cap. 11, sec. 11 (1692), recites that—

> "whereas many inconveniences do daily arise in cities, towns corporate, and parishes where the inhabitants are very numerous, by reason of the unlimited power of the churchwardens and overseers of the poor, who do frequently, upon frivolous pretences (but chiefly for their own private ends), give relief to what persons and number they think fit, and such persons, being entered into the collection bill, do become after that a great charge to the parish, . . . by which means the rates of the poor are daily increased, contrary to the true intent of a Statute made in the 43d year of the reign of her Majesty Queen Elizabeth," &c.

This departure was continued notwithstanding the remedies enacted by the Statute just quoted, and the evils of it were aggravated after the high prices of 1795, and again after the still higher war prices of 1800 and 1801. Money allowances were substituted for relief in kind given in return for work. This system is said to have been encouraged, if not suggested, by the 33rd of Geo. III. cap. 8, which provided for weekly allowances out of the poor-rate being given to the families of militiamen where the heads of the families were ordered out. The 36th of Geo. III. cap. 23, further encouraged the system by sanctioning the giving to the industrious poor, at their own houses, of occasional relief of the kind "as is best suited to the peculiar case of such poor," and by narrating that the

[1] Report, p. 35.

prohibition of relief to them, except in the workhouse, a prohibition which had been enacted by 9th Geo. I. cap. 7, "holds out conditions of relief injurious to the comfort and domestic situation and happiness of such poor persons." This Statute repealed the prohibition enacted by the 9th of Geo. I. cap. 7, and legalized money relief to the able-bodied at their own homes, *and also their right to demand it*—

> "It shall and may be lawful for any of his Majesty's Justice or Justices of the Peace . . . at his or their just and proper discretion, to direct and order collection and relief to any industrious poor person or persons, and he, she, or they shall be entitled to ask and receive such relief at his, her, or their homes, house or houses, . . . notwithstanding any contract shall have been or shall be made with any person or persons for lodging, keeping, maintaining, and employing any and all poor persons in a house or houses for such purpose, hired or purchased," &c.[1]

Relief authorized to be given by the justices under this Act to poor persons in their own houses, was limited to the period of one month from the date of the order. This time was afterwards extended by 55 Geo. III. cap. 137, sec. 3, to six months; and the justices were permitted to renew the order from time to time as they might think fit. In parishes, also, under select vestries or guardians, justices were authorized by the 59th of Geo. III. cap. 12,[2] which established select vestries in parishes "for the concerns of the poor," to make a similar order to continue in force for a month.

These enactments led to wholesale relief of the able-bodied, both of those out of employment and of those whose wages were deemed insufficient for the maintenance of their families. The result was at once a breaking down, not only of the independence of the poor, who soon began to show indifference to getting employment and to obtaining sufficient wages, but of the morality of manufacturers, who succumbed to the temptation, and rewarded labour with unremunerative wages. In other words, the employers of labour took into account the amount of the parish allowances

[1] 36 Geo. III. cap. 23, sec. 2.
[2] Secs. 1-5.

in fixing the scale of wages, a practice which proved most prejudicial to the entire labouring classes of the kingdom, by preventing them improving their position.

Accordingly 36 Geo. III. and 55 Geo. III. were repealed, and the relief of the able-bodied poor was placed under regulation by the Poor Law Amendment Act, 4 & 5 Will. IV. cap. 76.

On the preamble that—

"A practice has obtained of giving relief to persons or their families who, at the time of applying for or receiving such relief, were wholly or partially in the employment of individuals, and the relief of the able-bodied and their families is in many places administered in modes productive of evil in other respects; and whereas difficulty may arise in case any immediate and universal remedy is attempted to be applied in the matters aforesaid;"

the Act empowers the Commissioners to make such rules, orders, or regulations as they may think fit—

"to declare to what extent and for what period the relief to be given to able-bodied persons, or to their families, in any particular parish or union, may be administered out of the workhouse of such parish or union, by payments in money, or with food or clothing in kind, or partly in kind and partly in money, and in what proportions, to what persons or class of persons, at what times and places, on what conditions, and in what manner such out-door relief may be afforded."[1]

And the Act declares all relief given, contrary to such orders or regulations, to be unlawful, and not to be a proper charge in the accounts of the person giving the same.

Accordingly, the Poor Law Commissioners have from time to time promulgated regulations, laying down the principles upon which the giving of relief to able-bodied poor shall proceed. These will be found detailed in the orders of 2nd August, 1841, 22nd September, 1841, and 30th April, 1842, to which reference may be made for fuller information on this subject.

The law, accordingly, stands the same as it did under 9 Geo. I. cap. 7, sec. 4, which prohibited relief to the able-bodied except in the workhouse, subject always to the control and orders of the Poor Law Commissioners, provided for by

[1] Sec. 52.

the 52nd section of the Act 4 & 5 Will. IV., above quoted, which is termed in England the "new Poor Law."

Here, then, is seen a gradual change in the policy and operation of the English law. The change is one from a limited recognition, intended for temporary emergencies, to a universal recognition, which has become permanent, and the system of relief sanctioned by which has since (under modifications made from time to time) become the rule instead of the exception.

The consequences of this change were, that the numbers of able-bodied poor relieved at their own houses, and of course the expenses of out-door relief, steadily increased in England, and that mendicity reached an unbearable point. In short, the system completely broke down, and no wonder, when the following figures are considered:—

On the 1st of July, 1860, the total number of persons in receipt of relief in the 655 unions in England and Wales, exclusive of casuals, was	851,020
On 1st July, 1870, it had risen to - - -	1,079,391

The growth of pauperism in England and Wales during the last thirty years will be seen by glancing at the following table:—[1]

Thus in 1870 the total number of able-bodied adult persons in England and Wales in receipt of out-door relief was just about the same as the total number of poor of all classes getting in-door relief, a condition of matters which must have been due to extremely lax administration.

With reference to population, the relief of the out-door able-bodied paupers, excluding vagrants, may be stated thus—In 1870 the ratio per 1000 of the population was 6·7. In 1880 it was 3·7, and in 1890 it was 2·4.

The following passage from the Commissioners' Report is conclusive against the policy of relief to the able-bodied, and is a complete justification of the Scottish system, which has never admitted it as matter of right:—

"We regret to state that though since the period of the cotton distress in Lancashire, the amount of the expenditure for poor

[1] See table, p. 246.

On 1st January	Total Number of Paupers in receipt of Relief.	Whereof in receipt of Out-Door Relief.	Whereof in receipt of In-door Relief.	Total Adult[1] able-bodied in receipt of Out-door relief.	Total Adult able-bodied in receipt of In-door relief.
Year 1860,	817,822	728,085	117,309	115,529	18,882
Do. 1865,	974,772	835,490	140,174	146,736	23,400
Do. 1870,	1,084,821	915,727	169,471	163,700	30,389
Do. 1875,	817,822	662,577	155,655	94,013	21,916
Do. 1880,	843,854	649,387	194,651	99,237	26,991
Do. 1885,	788,902	594,289	194,732	78,518	23,909
Do. 1890,	793,246	592,983	200,482	71,828	35,917[2]

[1] Adult means above 16 years of age.
[2] Nineteenth Annual Report of Local Government Board, 1890, Appendix D, pp. 368-9.

relief in that county is materially reduced, it is far from having returned to its previous level.

"It was, in the year ending at Lady-Day of 1861, £429,617
"In the year ending at Lady-Day, 1863 (the height of the distress), ... 905,873
"And in the year ending at Lady-Day, 1868, . 694,541
"Relief in aid of wages is given to a greater extent in Lancashire than in any other county."[1]

Since about 1872 a perfect revolution has been worked in England in administering the law as regards the giving of in-door and out-door relief. The high-water mark of pauperism since the new Act of 1834 was reached in the three years 1869, 1870, and 1871.

It is found that from 1850 down to 1890 the mean number of in-door paupers steadily increased from 33,573 to 187,921, but the ratio of that number to the population remained almost stationary. On the other hand, the mean number of out-door paupers, including able-bodied, decreased from 876,000 in 1870 to 587,296 in 1890, and the ratio per 1000 of population decreased from 39·4 to 20·2. The mean number of adult out-door able-bodied paupers, excluding vagrants, decreased from 149,600, with a ratio per 1000 of population of 6·7 per cent. in 1870, to 69,805, with a ratio of 2·4 per cent., in 1890.[2]

Since 1870 the guardians in Stepney and St. George's-in-the-East have been much stricter as regards out-relief, and the out-door paupers have enormously decreased in East London, so that they are now within manageable limits. In some rural unions the results are even more gratifying and extraordinary.

In Bradfield in Berkshire, and Brixworth in Northamptonshire the results of close supervision are thus stated by Mr. Charles Booth—

"At Bradfield in 1871 the number of out-door paupers was 999, and of in-door 259; in 1891 the numbers were respectively 26 and 110. At the same time the population had increased from 15,853 to 18,017, so that the number of paupers from being 1 in 13 fell

[1] Twenty-third Report of Poor Law Commissioners, Appendix D.
[2] Nineteenth Annual Report of the Local Government Board, Appendix D, p. 370.

to 1 in 132, and the rates from 13s. 8d. to 2s. 3d. per head of the population in the £ on the rateable value. The progress of this improvement is practically constant year by year. At Brixworth in 1871 there were 1101 out-door and 104 in-door paupers, whereas in 1891 there were only 35 out and 93 in-door. The proportion of paupers to population fell from 1 in 11 to 1 in 104, and the rates from 8s. 4¼d. to 1s. 7d. per head of the population."[1]

Stated otherwise, the result may be put thus—In 1871, 1 in every 13 of the population of these unions was a pauper; in 1888 the proportion was only 1 in every 126. This is attributable almost entirely to the rigid application of the workhouse as a test of necessity.[2]

With all the assistance of the rates, besides innumerable charitable agencies which, according to Lord Derby (speaking in 1870), expended annually, in supplement of the rates in London alone, between £5,000,000 and £6,000,000, the poor were not relieved. Lord Derby is reported then to have estimated that, including the rates, between £7,000,000 and £8,000,000 were annually given away in relief to the poor in London. Although this sum was enough to feed and clothe 400,000 persons, the melancholy fact had to be faced that deaths from absolute want, from sheer starvation, were continually occurring and increasing in number. So appalling did the picture of destitution, unreached by charity, either public or private, become in the metropolis in 1870 that the Home Secretary of the day felt justified in ordering "returns from the metropolitan coroners of inquests held since 1868 on persons alleged to have died from pure starvation, specifying whether parish relief had been applied for, and if refused, on what grounds."

It was against this system of relieving the able-bodied poor that Lord Kames thundered more than a hundred years ago,[3] and that Lord Pitmilly, nearly sixty years ago, wrote as follows:—

"The result of an artificial system of Poor Laws has been, that the class of able-bodied workmen, from having been suppliants to obtain a market for their labour, their only capital, have been

[1] *The Endowment of Old Age.* Macmillan & Co., 1892, ch. iii.
[2] H. C. Bourne in *Macmillan's Magazine*, February, 1892.
[3] Kames' *Sketches*, vol. ii., part vi., sketch 10.

converted into paupers, and taught to *demand* as their right a share of the parochial relief which ought to belong to the impotent poor alone. The law itself, by having adopted means for relieving the difficulties of which this class of the community complained, of an entirely different description from those means which they themselves had in view, or which their situation pointed out and required, has gradually sunk into a lower order of society."[1]

It is safe, therefore, to affirm that the policy of the Scottish law is proved, and that the inexpediency of conceding the right of the able-bodied poor to demand relief is established from the results which that system has produced in England.

Section 3.

But while the Scottish law does not recognise a right on the part of the able-bodied industrious poor to demand relief, it was considered, up till about a quarter of a century ago, that it was discretionary in the parochial boards to give it. That discretion was supposed to be vested in the boards in virtue of the following section of the Act of 1845, which it was considered was not intended to abrogate, nor did abrogate, the previous "use and wont":—"That from and after the passing of this Act, all assessments imposed and levied for the relief of the poor shall extend and be applicable to the relief of occasional as well as permanent poor: provided always that nothing herein contained shall be held to confer a right to demand relief on able-bodied persons out of employment."[2]

This enactment, while by its proviso it carefully respected and conserved the policy of the ancient Scottish laws, owing to its halting and ambiguous terms suggested the doubt as to a discretion to give being vested in the boards.

Previously to the Act, the heritors and kirk-sessions, as has been seen, did occasionally assist the able-bodied when they were prevented from working by sickness or accidental

[1] *Remarks on the Poor Law*, p. 199.
[2] 8 & 9 Vict. cap. 83, sec. 68.

causes; "and especially during that season of the year which chiefly affects their health or suspends their labours." But the Royal Commissioners of 1844 reported that the instances in which such temporary relief was afforded were of rare occurrence.

The author of the Act of 1845, Lord Colonsay, declared, when delivering his opinion as a judge in the Court of Session in a case about to be noticed, that in framing section 68, he intended that the discretion formerly exercised by the heritors and kirk-sessions should be transferred to, and vested in, the parochial boards; that while the able-bodied destitute should have no right to *demand* relief, they might, in the discretion of the boards, be ranked among the "occasional poor," in whose relief it was made lawful to expend the assessment. He also explained that previously, in 1846, when at the bar, he, in conjunction with the Lord Advocate, Mr. (afterwards Lord) Rutherfurd, had given an opinion to the Board of Supervision, "that able-bodied persons accidentally or unavoidably thrown out of employment, and thereby reduced to immediate want, may be regarded as occasional poor, to whom temporary relief may lawfully be given out of the funds raised by assessment."

Nothing can more clearly show what the intention had been, viz., to conserve the "use and wont." But in 1859 the Court of Session, under the direction of the late Lord President (Mr. Inglis), came to a different conclusion, and incidentally decided (when disposing of a disputed settlement case) that the boards had no discretion, and that such expenditure of the assessment was illegal.[1]

Considerable dissatisfaction was caused by that decision; and notwithstanding it in many parishes the practice continued as before. A case was then raised with the express object of obtaining an authoritive decision and a final settlement of the law on the point. The Court of Session, by a small majority of the whole thirteen judges—Lord Colonsay, the author of the Act of 1845, dissenting—repeated its

[1] Petrie *v.* Meek, 4th March, 1859, 21 D. 614.

former judgment, and decided that it was *ultra vires* of the parochial boards to expend any part of the funds raised for relief of the poor upon the able-bodied; and this judgment was affirmed by the House of Lords on appeal.[1] The House of Lords treated the right to give and the right to receive as correlative, and held that if there was no right to demand there was none to give relief.

The expediency of the law thus authoritatively declared has been called in question, and much debated. Opinions have widely varied as to the desirability of altering the law so as to legalize the former practice. On the one hand, it is maintained that to deny any relief to able-bodied persons operates harshly in the populous manufacturing towns in seasons of depression of trade; that accordingly it has sometimes been violated, and that it is undesirable to have any law which will be openly and frequently violated. On the other hand, it is said that no evil consequences have been felt, even in the manufacturing towns, during depressions which have happened since the promulgation of the law; that the knowledge of the state of the law has called forth voluntary associated charity, which has proved quite equal to the emergencies which have arisen; and that to vest a discretion in the boards would, in periods of great distress, be tantamount to compulsion, so that the boards would be unable to resist the pressure which would be brought to bear upon them.

It is remarkable, and, in considering the question, deserving of weight, that it is those who are engaged in the administration of the law in the manufacturing towns who are strongest against the law being altered. They have nothing to say against a discretionary power resting with the boards, provided there could be any security that the discretion would be wisely exercised, which they do not think it would be. They argue that the recipients of such relief being themselves ratepayers, the elected members of the boards would be only too prone to conciliate their power and support by awarding aliment without due dis-

[1] Jack *v.* Isdaile, House of Lords, 12th February, 1866, 4 M'Ph. 1.

crimination; and that such discretion could only safely be entrusted to the boards as a whole, and not to relief committees of their number. They further maintain that there is no evidence of any real necessity for a change.

For in Glasgow, and other towns in which there has repeatedly been great distress from lack of employment since the House of Lords' decision, the voluntary associations formed specially for the relief of the temporary distress thence arising have been found quite adequate to meet it. The voluntary fund is proved not to be used until a point is reached when, if it were not applied, breaches of the peace and rioting might result. Its collection is managed by the magistrates, but its distribution is by them wisely entrusted to the parochial inspectors, who, from their experience, are better qualified to detect imposture.

Objectors to a change of this law maintain that, if the rates were available, the discretion would have to be exercised much sooner. The demands of the distressed would make themselves sooner heard. That would be bad for the ratepayers, but worse even for the poor themselves. The poor would have much less compunction in knocking at the door of those who, they knew, had the power of giving them relief out of a common fund to which they themselves had contributed, than at the door of private charity. The people might get accustomed to rely upon the exercise of the discretion, which by use would be converted from one exercised seldom, in periods of severe temporary distress only, to one called into requisition in seasons of minor distress, and consequently oftener. The tendency of making such relief a part of the legal system, defenders of the existing law argue, must undoubtedly be in Scotland, as it has been in England, to sap the natural spirit of self-reliance, and to weaken the staying powers of the people.

On the other hand, very decided evidence was given before the Committee of 1869, from Paisley, and also from Glasgow, that a judicious relaxation of the law in times of exceptional distress had none of those effects, and had

worked advantageously both for the community and the recipients.[1]

Any proneness to rely upon extraneous aid, which has been manifested in Scotland since 1845 (and we repeat that evidence of it is by no means clear), is to be attributed to the before-mentioned right of appeal, and to the assistance which was wrongly given in such circumstances by the parochial boards and by associated charity to the able-bodied, and not to relief given from the assessment to the "aged, sick, and impotent poor," which the objectors to any assessment at all maintain. No one, it is certain, desires to be placed in such circumstances as will fulfil the conditions under which alone he can become entitled to relief; no one wishes to be either "aged, sick, or impotent," or disabled in body or mind. But unless the money allowances are sensibly less than the earnings of the employed, and unless the wages given for the work provided for the able-bodied out of employment be considerably lower than those paid for the work found by labourers for themselves, there is a risk of the condition of the able-bodied so relieved being rendered as eligible as, or more eligible than, that of those not so relieved. Hereby would be brought about the very thing which it is desired to avoid.

It is very undesirable that men should be easily made paupers, or should be pauperized one moment earlier than necessity compels. Relief from the rates pauperizes, while assistance obtained from a fund voluntarily raised by one's more fortunate fellow-citizens does not. While such assistance is not parochial relief, neither does it imply "common begging." The argument is, that so long as experience proves that such voluntary assistance is able to meet the difficulties which must occasionally be expected to occur, it is inexpedient to substitute for it assistance from a rate compulsorily raised for the purpose of helping those who, by reason of bodily or mental infirmity, are absolutely incapacitated from helping themselves.

[1] Report of 1869, p. 315; and 1870, p. 128, *et seq.* Evidence of Richard Watson and James Moir.

Section 4.

But the policy of vesting a discretion in the boards to give temporary relief to the able-bodied poor requires a closer examination.

A very considerable inroad was made by Parliament into the Scottish Law as to relief of the able-bodied poor by the legislation of 1872 and 1878, regarding the compulsory education of the people.

By the Poor Law Amendment Act of 1845 the parochial boards were charged "to make provision for the education of poor children who are themselves, or whose parents are objects of parochial relief,"[1] an obligation which has always been fulfilled by them. But the Scottish Education Acts went much further. By the Act of 1872[2] it is provided that—

"It shall be the duty of every parent to provide elementary education in reading, writing, and arithmetic for his children between five and thirteen years of age, and if unable from poverty to pay therefor, to apply to the parochial board of the parish or burgh in which he resides, and it shall be the duty of the said board to pay out of the poor fund the ordinary and reasonable fees for the elementary education of every such child, or such part of such fees as the parents shall be unable to pay; in the event of such board being satisfied of the inability of the parents to pay such fees, and the provisions of this clause shall apply to the education of blind children, but no such payment shall be made or refused on condition of the child attending any school in receipt of the parliamentary grant other than such as may be selected by the parent."

and the Act of 1878 enacts[3]—

"If a parent is unable from poverty to pay for the elementary education in reading, writing, and arithmetic of his child or children between five and thirteen years of age, and if upon application the parochial board of the parish or burgh in which he resides refuses to pay out of the poor-fund the ordinary and reasonable fees of such child or children, it shall be the duty of the school board to apply to the sheriff, who, after inquiry, may, if he shall think fit, grant an order on such parochial board to pay the said fees, and such order may dispose of all question of expense."

These enactments have been largely taken advantage of in Scotland by persons oppressed with poverty, yet who

[1] Sec. 69. [2] Sec. 69. [3] Sec. 22.

would not be entitled to demand parochial relief, *i.e.*, by the class known to the Poor Law as the able-bodied. In the year 1886 the number of children in Scotland so educated, at an expense of £10,418 to the poor-rate, was 22,076.

The expenditure of the poor-rate on such class of persons was judicially challenged in 1881 as being illegal, and contrary to the decision of the House of Lords in Jack *v.* Isdaile. A declaratory action was raised in the Court of Session by the Parochial Board of New Monkland, against the School Board of New Monkland Parish,[1] to have it found and declared that it is illegal to apply any part of the funds raised by assessment for the relief of the poor, towards payment of school fees, or any part thereof, for the elementary education of any child or children, except in the case of any child or children who are themselves or whose parent or parents are legally entitled to parochial relief. The action was unsuccessful, and such expenditure was declared to be legal.

But it neither appears to have been pleaded, nor to have occurred to the judges, that the result was a practical abrogation of the Scottish Law as theretofore interpreted, and a virtual admission of the able-bodied poor—not otherwise clothed with the pauper's status—to participate in the benefits of the assessment raised for the poor. Indeed, the Education Acts and the decision in the New Monkland case carry with them this extraordinary consequence that education has been put on a higher platform than needful sustenance. For it has been authoritatively declared that, while it is legal to afford relief out of the poor's assessment by way of education to the children of poverty-stricken able-bodied parents, it is illegal to give a bare sustenance to such children, which is surely a legislative anomaly and a social absurdity.[2]

[1] Ferrier *v.* School Board of New Monkland, October 25, 1881, 9 Rettie, p. 30.

[2] Except as showing a development towards further socialism, this subject has lost practical interest since the establishment of free education in Scotland. Section 69 of the Education Scotland Act, 1872, and section 22 of the Education Scotland Act, 1878, were repealed by the Scottish Local Government Act, 1889, 52 & 53 Vict. cap. 50, sec. 88, which establishes free education.

But, in truth, the time has come when the policy of the Scottish law, as interpreted by the Courts, in disallowing any discretion to afford relief in exceptional circumstances, demands reconsideration.

It has already been shown above what the "use and wont" was before 1845; and what the author of the Poor Law Amendment Act of that year himself thought the Legislature meant, viz., as expressed by him in deciding Jack *v.* Isdaile in the Court of Session—"That it was not incompetent to apply the funds assessed for the use of the poor to able-bodied persons who may temporarily require assistance." Further, the Courts have made an exception in the case where one or more of the children of an able-bodied man is or are lunatics.[1]

But the struggle for existence is year by year becoming more intense. Multiplication of the people proceeds with rapid strides. More than 3,000,000 are added to the population of the United Kingdom each decade. These must be fed. Their numbers press against each other, and wages are beat down. The greater use of machinery more and more supersedes hand labour. The facilities of production quickly accumulate stocks and glut markets. The result is the natural one of alternating periods of manufacturing activity and depression. Experience proves that the seasons of activity are shorter than those of dullness. And it has been computed that from those several causes not fewer than one-third of our able-bodied workers are always out of employment.

All these results have been attributed to the economic action of free trade, and have been pointed to as some of the set-offs to the enormous wealth which that policy has enabled to be accumulated in this country. Whether this be so or not, if the facts be that many willing workers are reduced to want through such causes, the fault cannot be said to be theirs; and it is fairly arguable that their condition raises in their favour as strong a case of necessity as physical or mental incapacity in the case of the aged,

[1] Hay *v.* Paterson, 1857.

sick, and impotent poor. That the facts are so appears to be the opinion of some of the leading trade unions. In the annual report of the Society of Ironfounders, incorporated in the Third Report to the Board of Trade on Trade Unions (Labour Statistics) the matter is fully discussed, and the evils as well as the benefits of labour-saving appliances shown. It is there stated, "Even at the best of times there are large numbers of working men and working women unemployed, and when trade is bad, the situation becomes something fearful. . . . It is the unemployed benefit alone which enables working men to successfully maintain a living rate of wages, and to present a wall of defence against the encroachments of unprincipled employers." [1]

But the case for granting relief to the unemployed who are in destitution through lack of employment cannot be stated better than it was by Dr. Johnson in 1779 in his usual terse and vigorous style, thus—"You may depend upon it, there are many who cannot get work. A particular kind of manufacture fails, those who have been used to work at it can for some time work at nothing else. You meet a man begging, you charge him with idleness. He says, I am willing to labour, will you give me work? I cannot. Why, then, you have no right to charge me with idleness."[2]

We have just pointed out the relaxation of the law, or the evolution of the law, in the matter of educational aid. Does it not suggest itself as a pertinent question whether such relaxation is, in an industrial society in keen and constant competition with the whole world, of greater moment in the matter of education than of bread? To ask which is of primary importance is to answer the question. Nay, is it in accordance with sound policy and with the humane spirit of modern laws to leave those who build up the wealth of the country dependent at a pinch on precarious charity or on the uncertain benefits of a

[1] Third Report, p. 234.
[2] Boswell's *Life of Johnson*, Croker's ed., vol. vii., p. 283.

friendly society or trade union, whose laws they may have transgressed, or whose benefits they may have forfeited? We are not now advocating a secure legal provision for the able-bodied as we have done a secure legal provision for the impotent poor. Such provision might be found to operate in Scotland, as it has operated elsewhere, as an inducement to laziness, shamming, and fraud.

There is surely a middle way; and it is in order to escape from the consequences of such a provision that we would entrust a certain discretion to the parochial boards to recognise exceptional seasons of temporary distress, so as by a timeous and judicious administration of relief to avert the worse results which would inevitably befall society were numbers of labouring men and women to be either permanently so reduced as to be unfit to labour and maintain their families, or worse still, to be prematurely cut off, leaving their families to be maintained by society as orphan dependants.

We have sufficient confidence in the common sense of the Scottish people, who thoroughly appreciate their present system for relief of the impotent poor and the disadvantages attending a universal and compulsory system of relief of the able-bodied, to believe that their judgment would not be warped, and that they would not fail to provide for the able-bodied upon temporary emergencies. Not to do so would result in the starvation, perhaps the death, of the able-bodied, or in an admission of their right—declared by Parliament—to demand supplies from the rates, results which Scotsmen are wise enough effectually to guard against.

Nor does this recommendation involve any preference for private charity, rather than a legal provision, as a means of relief. It is not a case of relief of the *permanent* poor at all that is in question. The proposal expresses merely a preference for permissive powers, during exceptional and temporary distress, over a Poor Law applicable to the able-bodied, under which relief of that class would be constant. Nor should it be forgotten that while the history of the

country distinctly proves that private charity cannot be trusted to relieve adequately the permanent poor, nay, that it signally failed to do so, it no less decidedly proves that the common sense of the people and their self-interest may be relied on to meet the rare necessities of the able-bodied who are temporarily unemployed.

But in the event of such a discretion being vested in the boards one or two other considerations remain to be noticed.

(1) Ought such relief, if continued for a limited time, be it for one, two, or three months, to be deemed to be parochial relief at all, in the sense of reducing the recipient to the legal status of a pauper; or ought it to be treated rather as the educational aid was treated under the Acts of 1872 and 1878? If it were so treated, then its acceptance would require to be declared not to have for effect either the acquisition or the retention of settlement.

(2) Ought such relief to be regarded as public charity and therefore irrecoverable, or as a debt to the board repayable on better circumstances emerging? Is there any sound reason why it should not be liable to be so repaid? It is so in most continental states, which even take security for the repayment. Would such a condition not tend to sustain the self-respect of the applicants, and blunt the edge of the instrument? It is no valid objection against such treatment that but a small part of the expenditure might be recovered. In favour of declaring it to be a debt there is the recommendation of the Select Committee's Report and the Mellor clause of the Divided Parishes and Poor Law Amendment Act of 1876.

(3) Ought such relief to be given by the local boards on their own initiative and responsibility, or only with sanction of the Central Board? The latter plan would probably defeat the ends in view, which are promptness in administering the aid, and economy through leaving the responsibility in each locality with those who are acquainted with the circumstances, and who are answerable to the ratepayers on whom the charge falls. This accountability seems the best security against haste or too free a hand in giving relief.

CHAPTER XIII.

3. *The Classification of accommodation in poorhouses*—What it is—Classification is imperfect—Is limited to age and sex—Demoralization arising from residence in poorhouse is less than supposed—Is obviated by system of "boarding out" pauper children—That system described—Has merit of combining relief in its least hurtful form with acceptance of the "test"—Statistical evidence as to results of the system—Children become self-supporting citizens—Mr. Henley's report upon it to the Poor Law Board—Position of aged couples in poorhouses—English practice stated. 4. *The degrees of relationship liable in relief to the parish*—The principles of the liability stated—The parish's recourse is frequently defeated by action of the sheriffs—Their discretion should be withdrawn, and duty defined in actions of recourse—The law should declare parochial relief to be a *debt*, and so accord with the principle of *recompense*—Suggestion to extend the degrees of relationship liable in relief—Lord Fraser's reasons for it stated—Are insufficient, and change unadvisable. 5. *The status of the parochial medical officers*—Should be improved—Are the judges in first instance of right to relief—Reasons therefor.

Section 1.

3. The classification in the poorhouses.

Undeniably the classification is imperfect, and susceptible of considerable improvement. The Statute provides that the local boards shall frame rules and regulations "for the management of such poorhouse, and for the discipline and treatment of the inmates thereof, . . . and shall submit such rules and regulations to the Board of Supervision for approval; and no rules or regulations shall be effectual, or shall be acted upon, except such as shall have been approved by the Board of Supervision."[1]

The following is the classification approved and sanctioned by the Board of Supervision:—

"1. Males above the age of 15 years.
2. Boys above the age of 2 years, and under that of 15 years.
3. Females above the age of 15 years.
4. Females above the age of 2 years, and under that of 15 years.
5. Children under 2 years of age."[2]

[1] 8 & 9 Vict. cap. 83, sec. 64.

[2] Rule XXVIII. of the Board of Supervision's Regulations for the Management of Poorhouses, published by authority, 1850.

This classification, being limited to age and sex alone, is manifestly incomplete. For, under it, the really deserving poor are necessarily associated with the very worst classes—those to whom the house is offered as a test rather than as an asylum. There is evidence to show, if any evidence were needed, that demoralization results from the communion of unfortunate young dependants with dissolute women, mothers of several bastards.

The Scottish poorhouse is twin-sister to the English workhouse, and the latter has thus been painted by the poet—

> "There children dwell who know no parent's care;
> Parents, who know no children's love, dwell there!
> Heart-broken matrons on their joyless bed,
> Forsaken wives, and mothers never wed;
> Dejected widows with unheeded tears,
> And crippled age with more than childhood fears;
> The lame, the blind, and, far the happiest they!
> The moping idiot, and the madman gay.
> Here, too, the sick their final doom receive,
> Here brought, amid the scenes of grief, to grieve."[1]

But, although the picture is too true of poorhouse and workhouse alike, the demoralization caused by the young being brought into contact with the rank and file of the ordinary paupers does not take place in Scotland to nearly so great an extent as is erroneously supposed. This arises from the wise provisions made to prevent such demoralization by the system of "boarding out" pauper children, which has been extensively followed by the managers of the large parishes that have many pauper children on their roll.

The practice of boarding out the pauper children with cottars in the country and at the seaside is one of the peculiar and redeeming features of the Scottish system. It has been attended with such beneficial results that it has been forced upon the attention of the Poor Law authorities in England and elsewhere. Its adoption into the English practice was considered to be a matter of

[1] Crabbe's Poetical Works: "The Village," bk. i., ll. 232-241.

such importance, that the Poor Law Commissioners asked Mr. Henley, one of the Poor Law inspectors, to visit Scotland, and examine into the method of treatment of children, with special reference to the boarding-out system, and his interesting and instructive Report was issued in May, 1870. Since Mr. Henley's Report was made public the President of the Poor Law Board consented to the system being tried in England, and it has been adopted there since November, 1870, but, as appears from the last Annual Report of the Local Government Board, with scarcely such good results as in Scotland.[1]

The system has obtained in Scotland for a long period, nearly 100 years, and, as its advantages have more and more become manifest, it has grown in favour. Some such provision was always unavoidable in parishes which did not have poorhouses. It is just a modified system of out-door relief. It combines in itself acceptance of relief in its least damaging form with (in theory) acceptance of the house "test." In the larger urban parishes, with many children, the system has been brought to great perfection; and, as a wider knowledge of its advantages cannot fail to disabuse the public mind of erroneous impressions, we feel justified in stating that one of the populous parishes took steps about twenty years ago to ascertain the practical effect of parochial relief so afforded to young persons chargeable to it. The results of the examination which was so instituted, as evidenced in the following tables, will, we venture to say, compare favourably with the results obtained by an examination, equally methodical, into the histories of the same number of children of the same class brought up under the parental roof.

"Schedules were sent out and returns received, showing the following results in reference to 397 of the children who had been boarded out, and whose history could be traced, namely:—

	Males.	Fem.	Total.	
Residing in Glasgow, . .	53	82	135	
Do. in other places, .	128	112	240	
				375

[1] Nineteenth Annual Report, Local Government Board, p. 91.

	Males.	Fem.	Total.	
Occupied at trades, . .	64	11	75	
Weaving and factory work, .	22	54	76	
Domestic servants, . .	0	125	125	
Farm servants, . . .	66	0	66	
Clerks to merchants, . .	12	0	12	
Miners, ...	17	0	17	
Sailors, ...	3	0	3	
Soldiers, ...	1	0	1	
			——	375
Character good, . . .	182	180	362	
Do. bad, . . .	2	11	13	
Dead, ...	6	5	11	
In Poorhouse, . . .	2	4	6	
Convicted of crime, . .	1	4	5	
			——	397

"Since the above return was made, 182 have been removed from the parish books; and to schedules issued, as before, the following returns have been made, viz.:—

	Males.	Fem.	Total.	
Residing in Glasgow, . .	20	26	46	
Do. in other places, .	55	65	120	
			——	166
Occupied at trades, . .	35	10	45	
Do. as servants, . .	40	81	121	
			——	166
Character good, . . .	71	86	157	
Do. bad, . . .	1	1	2	
Do. doubtful, . .	3	4	7	
Do. unknown, . .	10	6	16	
			——	182

Criminals, none. In Poorhouse, none.

"These returns do not include those orphans whose relatives removed them from the parish book, nor the deserted children whose parents were discovered and compelled to support them before the usual time of placing these children in some employment to maintain themselves."

The three large parishes which make up Glasgow have each always between 300 and 400 children so boarded out. Fully one-third are orphans and deserted children, the rest are those who have been separated from vicious parents. The children are boarded with respectable crofters and cottagers in the Highlands and country and

seaside villages. They are regularly visited by committees of the board, who see to their food, clothing, education, and religious training. Their histories are followed when their names are removed from the roll. The results continue to be satisfactory, for it is found that they become absorbed into the industrial self-supporting community as workers in various departments. The management of this department reflects great credit on the humane and enlightened spirit of the large city parochial boards. In pursuing this domestic policy their hands have been greatly strengthened by the provisions of the Custody of Children Act, 1891.[1]

In Barony Parish the number of boarded-out children on 14th February, 1892, was 412, whereof 243 were separated from their parents, some of whom were resident in the poor-house and some were getting out relief; some children were illegitimates whose parents had other children to support, some were children of drunken and vicious parents, while others were orphans. In all these cases the children are boarded in remote places to be as far removed as possible from the evil influences of city life.

The results have proved satisfactory. For of 268 children so dealt with by the Barony authorities between November, 1884, and November, 1889, the following is the history:—

Still on the roll,	179
In situations as domestic servants and otherwise,	38
Circumstances of parents so improved that children delivered up,	22
Delivered to parents who got married,	7
Adopted by guardians,	2
Handed over to parents on father's apprehension,	8
Married,	1
Become a soldier,	1
In hospital,	1
Died,	4
Handed over to putative fathers,	3
Transferred to the out-door relief roll,	1
	268

[1] 54 & 55 Vict. cap. 3.

In the Barony parish during the last ten years 682 boarded-out children are accounted for thus—

Reported as doing satisfactorily,	579
Died,	28
No information,[1]	62
Reported as not doing well,	13
	682

The system has always been encouraged by the Board of Supervision, who framed rules in 1850 specially applicable to "boarding out." The rules are these—

"The house committee shall determine what poor children admitted to the poorhouse shall be boarded out, and shall see that such as are so boarded out are placed with proper persons, that their education is properly attended to, and that they are trained to habits of industry. The house committee shall also see that proper masters or employers are provided for all pauper children under the charge of the committee, who are apprenticed or sent to service, and that the chaplain and the house governor, or other person charged with that duty, continue to exercise a regular superintendence in respect to them, so long as they are chargeable to the parish."

Mr. Henley reported that the children were usually discharged from the poorhouse books and treated as receiving out-door relief.

Sir John M'Neill described the objects of the system and the arrangements under it thus—

"The rule of requiring all deserted or orphan children to be boarded out is almost universal; I must say that we have no positive authority to enforce that. It has been done by the exercise of influence on the parochial boards, by the goodwill of the parochial boards themselves, and by the perception in a series of years of its great advantage to the parish. What happens is this: the children are boarded out in the country, one, perhaps two, rarely more than three, in a family; they grow up with the family; they are treated as members of the family; they acquire the habits and feelings of the persons amongst whom they are brought up; they see the struggles of the family to maintain their own independence; they see the kind feeling that is entertained in reference to paupers; they acquire a sort of domestic attachment to the father and mother, or to the old woman with whom they are boarding, and they are well educated, and ultimately they

[1] From there being no account, inferred to be doing well.

melt into the population, so that you cannot find a trace of them, and they are not distinguishable from the people who have been brought up in independence. . . . Anything more satisfactory than the working of that system I have not to boast of in the administration of the Poor Law." [1]

The instructive Report of Mr. Henley thoroughly explained the practice as he witnessed it in operation in Scotland. He reported specially regarding the "supervision," and the classes that were boarded out. He drew a comparison between the condition of boarded-out and poorhouse-reared children, and he described the appearance and condition of the children boarded out.

The conclusions formed by Mr. Henley, after his personal inspection of the children, regarding the system were thus summed up—

"1. That the system, as conducted by the large city parochial boards generally, tends to improve the children physically and mentally, and effectually breaks their connection with the poorhouse. 2. That, if properly carried out, it is preferable to the present system of the poorhouse provision for children in Scotland. 3. That the condition of some children who are boarded in the towns is unsatisfactory, principally owing to the places in which they are lodged. 4. That the official supervision of children belonging to certain parishes beyond the legal radius of their own inspectors is insufficient. 5. That the separation of the sexes in the sleeping-rooms is rarely attempted, being treated as unimportant where the children are young, and considered as members of the family in which they are boarded. 6. That the education of the children is carefully attended to. 7. That the medical attendance and extras are sufficient; though it is questionable whether they should not be obtained through the local inspector (relieving officer) when the children are sent out of the parent parish. 8. That the practice of children beyond infancy sleeping in the same room with married couples is common and very objectionable."

The report of an independent and experienced observer like Mr. Henley should go far to remove the great amount of ignorance which is still exhibited by many regarding the operation of parochial relief upon the young, and should tend to moderate the vehemence of the advocates of voluntary charity, which has found expression in such coarse figures of speech as "cancer" and "ulcer."

[1] Select Committee's Report, Ans. 1870-81.

It is true also that under the existing classification the aged husband and wife, on entering the poorhouse, are separated, and only see each other at stated intervals; but it is right that it should be known that there are very few such cases in the poorhouses altogether. To aged couples it has hitherto been almost universally the practice to give out-door relief; and those that are inmates of the poorhouses are proved to be treated with as much consideration and tenderness as is compatible with the discipline of a large establishment. It is true, and we claim it as a positive gain, that many aged couples will struggle on to the end, and succeed, somehow or other, generally through the recognition by their children of their natural obligation, in doing without rate-aid rather than accept of relief in the house.

It is only those couples who absolutely require the poorhouse, and use it as a *hospitium*, who pass its portals. And they are tended with as much consideration as the defective structural arrangements of the house permit. But we do think, remembering that the policy of the law is to provide "hospitals" for the sick and aged, as well to put down the sturdy beggars, that the trifling expense which would be entailed by the slight structural alterations necessary to afford the few aged couples that are in the poorhouses apartments separate from the rank and file is not a sufficient ground for denying those frail people that extra comfort. We think that as much is theirs almost of right, and that it would be wisdom to grant it; because, to do so would at once remove a grievance, which is very small in itself, but which has been, among the humbler orders in society, reared by them, or for them, into one of the first magnitude, and which has done much to bring poorhouse relief into that disfavour with which it is generally regarded by all classes of the community in Scotland.

In England, by the Divided Parishes and Poor Law Amendment Act, 1876,[1] the guardians have a discretion

[1] 39 & 40 Vict. cap. 6.

conferred upon them to allow aged and infirm husbands and wives who had been in use to live together, to live together in the workhouse, the limit of age for this privilege being sixty.

Section 2.

4. The limit of liability among relatives is a subject which has frequently been considered.

Attention has lately been bestowed upon this subject, because a large number of persons are upon the roll of paupers, and are thus supported by the community, whose support should be borne by their relatives. This state of facts has arisen from the almost excusable desire of relatives, themselves poor, to shirk their natural burdens, and to transfer them to the common fund, and from the obstacles which lie in the way of the administrators of the fund obtaining the recourse, accorded to them by law, against the relatives who are liable.

At present those obstacles are such, the uncertainty of obtaining judgment against the relatives is so great, that parishes, rather than incur the risk of losing their suit, and rather than face the consequent expense, prefer to maintain the poor applicant, saving themselves as much as possible in such cases, by making the relief either in-door, which at once induces relatives to keep their own poor, or by making the allowance as small as possible.

The escape of the relatives arises from the action of the sheriffs, who, exhibiting on the bench "bowels of mercies," fail to regard the case from the proper point of view. At present nothing is commoner than for the law courts to sustain a defence put forward by a father or a son of inability to pay. A condition of the claim against the relative who is charged is that he himself is in circumstances which enable him to discharge his natural obligations. Each case must of course be judged of on its own circumstances. Erskine has laid it down that a parent, so long as he himself keeps house, is bound to give the same entertainment that

he takes to himself to such of his children as have not sufficient means of maintenance, until by their own labour or industry they can maintain themselves.[1] This means, in Poor Law language, until they are forisfamiliated. And accordingly it has been frequently held that an offer by the defender to take the person into his house and aliment him there is a sufficient answer to the claim. Lord Stair has stated the doctrine thus—That parents are entitled (how necessitous soever their children) to reserve to themselves what is necessary for their own subsistence, and "that when they are not able to entertain their children, they may lawfully expose them to the mercy and charity of others."[2]

The sheriffs listen to statements by the relatives that they are married men, with such and such of a family, and only so many shillings per week of wages, out of which they are scarcely able to maintain themselves, and, finding the story rather a dismal one, and the circumstances of the defender to be narrow, they lean to the merciful side, and let them off. The inspector, whose claim is based on the fact that the pauper is also a member of the family, is turned out of court, and the parish is permanently saddled with the pauper's cost. In this class of cases the sheriffs do not disregard the law. They have a discretion. Their fault is that they are too soft-hearted in its exercise. "The quality of mercy is not strained."[3] But on the other hand, "Mercy is not itself that oft looks so."[4] In cases where a *non possumus* defence to the inspector's action is stated, the proper rule to follow should be, that the son's or the father's circumstances (as the case may be) should be held to be ample unless he can show, in the words of Lord Stair, that if he is burdened with the charge of one more, sufficient would not be left for the "subsistence" of himself and the other members of the family with whose support he is primarily burdened. It is only in the case of there being insufficient for a bare sustenance (as distinguished from a maintenance in comfort and luxuries) that the

[1] *Institutes*, i. 6, sec. 56.
[2] *Institutions*, i. 5, 7.
[3] "Merchant of Venice."
[4] "Measure for Measure."

person liable should be allowed to cast his poor relatives upon the rates.

Another mode of escape, but one which results from a disregard of the law, happens when an inspector calls into court perhaps three out of four or five relatives liable, or all the relatives liable—say, two sons and a married daughter and her husband—for the reimbursement of advances to their parent. In such case the obligation is not only a joint but a several one; each relative, within the legal range of liability, is liable for the whole, and he has his recourse at law against the others for a share proportionate to their number. Yet the sheriffs, instead of boldly doing their duty, and, upon the chargeability being admitted or proved, giving the inspector a joint and several decree against all, travel out of their way to adjust the proportions of each, and only grant the inspector a joint decree. The effect of this is simply to let those who are less easily reached than others escape, while the proportions of those who are more easily reached are exacted. The practice virtually reduces to a nullity the powers which the inspectors should have, if the law were strictly administered, of compelling unnatural relatives to discharge their duties, and so of ridding the parish of a burden which it ought not to be made to bear.

The only satisfactory remedy for this state of matters is to have a statutory declaration that parochial advances shall in every case be deemed a *debt* owing to the parish, jointly and severally, by the relatives within the degrees of liability, setting forth the judge's duty in such cases, and rendering the fulfilment of that duty compulsory. Nothing short of a statutory estoppel of the expansive action of the sheriffs' hearts will meet the case. The sheriffs must have no discretion or option in the matter. On these two things—the chargeability and the degree of relationship—being established, they should be held bound to grant the decree for the full amount, without any qualifications as to payment by instalments, and *in solidum* in the case of several defenders. The sheriff should have nothing to

do with the consequences any more than a judge has who grants decree for the amount of a man's acceptance. It is the inspector's business as to how he, having got his decree, will best work out his recourse.

The adoption of this suggestion would for certain result in many paupers being speedily taken off the roll; and considering how large a class of persons now on the roll ought in strictness not to be there, no valid reason can be stated against the proposal. The only plausible one is, that it would place a powerful engine of oppression in the inspector's hands. But parochial authorities are subject to public opinion, which is becoming year by year more easily excited and more easily called into action. No outrage upon society could pass unpunished; and grievances, real or pretended, are the order of the day. The proposed enactment would, further, be attended with this advantage, that the provisions of the law would be made to conform with the doctrine of *recompense*, which has already been shown to be the true principle underlying parochial relief. Legislation and decisions would then proceed upon a fixed and intelligible principle, and inconsistencies among the latter would be obviated.

Another and more delicate question has been mooted in connection with the liability of relatives, viz., whether the degrees of relationship liable in relief to the parish ought not to be extended?

At present (excepting liferenters, who by Statute 1491, cap. 25, are bound to afford a reasonable aliment to the fiar of the liferented lands) those only are liable who are so (1) by the laws of nature, viz., husbands and wives and ascendants and descendants in the direct line; and (2) by the law of representation, whereby the obligation springing from the law of nature may be exacted from one inheriting from a deceased person who, had he been in life, would have been liable under the natural law. Liability in the direct line was extended about a quarter of a century ago to the husband of a daughter whose parent was in destitution. The principle of this decision was, that the aliment of

the pauper parent was a personal debt of the daughter, which she could not get rid of by her marriage, and which thereupon was transferred to her husband. It was held to be a debt which, although founded on piety, and springing from the law of nature, was yet cognisable and enforceable by the civil courts.[1] It was also held in that case to be no answer to the inspector's action that the wife had no separate estate, and that the husband acquired nothing by his marriage except his wife.[2]

The second ground of liability is merely an equitable qualification of the right of primogeniture, and it is obvious that few questions of Poor Law relief will arise under it. It need not, therefore, be further considered. But with regard to the first ground, it has been proposed to extend the degree of liability to collaterals in the first degree of consanguinity and affinity; that is to say, brothers and sisters, brothers-in-law and sisters-in-law, uncles and aunts, nephews and nieces.

This proposal involves a radical alteration in the law of the domestic relations. It is strongly advocated by Lord Fraser, the author of standard works on that subject. He justifies his proposal by his experience at the Board of Supervision. He says we must compromise between the advantages and disadvantages. He points to the tremendous evils which have to be combated, and adds—

"If you find such cases as these admissions to the roll without proper inquiry, and these unfounded demands for relief, and this shameless disregard to moral duty on the part of relatives, you must pass some strong measure to make people do their duty; and it is no very strong measure after all to elevate liability to relieve a parochial board for the maintenance of a relative into the category of a debt."[3]

Even were this proposal a novelty, which it is not, even had it not been a postulate in Scottish law that the pauper

[1] Reid *v.* Moir, 13th July, 1866, 4 M. 1060.

[2] While the principle of Reid *v.* Moir is not altered, yet by the Married Women's Property Act, 1877, 40 & 41 Vict. cap. 29, the husband's liability for his wife's ante-nuptial debts is limited to the value of any property acquired through the marriage. On this ground a husband was found not liable to support his wife's indigent parents. M'Allan, 15 R. 863.

[3] Report of 1869, p. 51, Q. 895.

is a debtor, Lord Fraser's suggestion is a glaring *non sequitur*. To affirm a debt does not imply, as a correlative, the extension of the circle of liability for that debt.

Lord Fraser's other reason is, that exceptional legislation is justified by exceptional cases, that strong measures are necessary to make people do their duty. But he himself admits that the support of paupers by collateral relatives is at present no legal duty. Is it a moral duty? Is it one the conversion of which by legislation into a legal obligation would be expedient, having in view the social effects of such a change? These are the questions which it was incumbent on Lord Fraser to consider and answer.

Clearly, at all events, it would be most absurd and preposterous to extend the liability as proposed, so long as the courts do not recognise that parochial advances are debts for which relatives are liable, jointly and severally; for, did there exist the same chance of escape as exists at present within the more restricted range of liability, any enlargement of the circle of those held liable, while probably not conferring any benefits, would positively aggravate admittedly existing evils. Scarcely anything can be conceived more unjust or impolitic than, in all cases, to make relatives so remote as uncles and nieces liable to relieve each other's destitution, and so by implication to make them answerable for each other's poverty. That would be to extend very widely the acres on which wild oats might, and probably would, with impunity be sown.

But only a limited extension of the degrees of liability for purposes of parochial aliment is proposed. Although exceptional legislation has been growing in favour of recent years, it is doubtful if any clamant case has been made out for the change suggested. Lord Fraser did not furnish that precise information which one would desire to see as the justification of so fundamental an alteration. The numbers of persons, in the degrees that he wished to render liable, who are now free, are, it is safe to say, much fewer than he supposed, and the cases he reasoned from do not arise among that rank of the people who seek parochial

relief, but are cases in which thriftless and ill-behaved relatives are neglected, or perhaps justifiably refused assistance, by persons in the middle class.

Section 3.

5. The last point that shall be specially noticed is the status of the parochial medical officers.

The functions which those officers perform are of an important kind; and, for the greater part, men of education, who possess the necessary qualifications, are not backward in accepting the office. They are the judges, in the first instance, of the applicant's right to relief. The inspector does not grant relief except on production to him of the medical officer's certificate, stating the reasons which entitle the applicant to relief. The medical officer is the judge of capability for labour, and he decides the all-important question as to the applicants being able-bodied, or not. Further, the only means which the Board of Supervision has, upon complaints made, of determining whether a pauper has been properly treated, is the evidence of the medical officers. Hence it is of the first consequence that they should occupy an independent position. Yet their appointment is by the parochial boards, either for a year or during pleasure, and they are dismissible by the boards at pleasure on reasonable notice given.

A very marked and, at the same time, censurable instance of the abuse of this power occurred in Dumfriesshire. A parochial medical officer, who had held the office with much acceptance to the poor and with the confidence of the ratepayers for a number of years, was suddenly dismissed, without the slightest indication being made to him of the grounds upon which so strong a step was taken. On demanding to know of the inspector the cause of dismissal, he was informed by that officer that the board did not assign any. Whereupon a professional man, with a family, was compelled to leave the parish, a parish poor at the best, and the principal inducement for any medical

man to remain in which was the office of which this gentleman was thus so harshly stripped. It may be stated that the same doctor was shortly afterwards fêted as a "political martyr," from which it may be inferred that one's political opinions may in Scotland lead to dismissal from public appointments.

Although the medical officers dispense the Government grant for medical relief, they are not subject to Government control, either direct or through the Board of Supervision. The medical officers are naturally dissatisfied with the precariousness of their tenure. They consider themselves as much entitled to respect and consideration as the inspectors. The recommendation that they should be placed on an equally independent footing with the inspectors cannot be gainsaid. They should be appointed by the local boards, but should not be dismissible by them, except with the sanction of the Central Board. Were this so, they would occupy that independent position which it is desirable all professional persons and public officers should, as far as possible, hold. There would thus be some security that the medical officers would not be merely the creatures of the local boards, tempted, on the one hand, on an emergency, to withhold or colour their evidence, in the case of an inquiry into charges of ill-usage, or of inadequacy of relief; nor subject, on the other hand, to caprice and tyranny such as that just instanced.

CHAPTER XIV.

Review of the field of discussion—Problem of the limit of the State's interference—Consideration of its past efforts and of existing voluntary resources—Satisfactory decrease of pauperism during last twenty years—Due to greater wealth of country and growth of thrift among the people—Evidence of latter in growth of friendly societies and trade unions—Statistics of their membership and wealth—Suggested scheme for State-aided old age pensions considered—The history of the movement traced—Proposals in last century—Modern schemes—Canon Blackley's, Mr. Charles Booth's—Mr. Hunter's sketched—The German and Danish plans indicated—A Select Committee's Report adverse to Canon Blackley's scheme—Mr. Chamberlain's plan—Is product of consideration by a joint Parliamentary Committee—The proposals stated—General objections to the project on social, political, and economical grounds stated—Financial objections to it indicated—Same purpose can be attained through existing agencies—The Poor Law and the friendly societies and trade unions—Suggestions as to the utilization of these, and preference for voluntary agencies stated.

Section 1.

On a survey of the whole field of discussion covered by the foregoing pages, one question of commanding importance at the present day forces itself to the front and claims here some earnest consideration in the light of the principles which have afforded guidance throughout. The question relates to the limits of the State's interference in the matter of supporting its indigent individual members, how far it ought to go, and in what direction it ought to move.

Granted the existence of a certain amount of destitution in the community, to what extent ought the relief of that destitution to be left to private and irresponsible effort, to what extent ought benevolent agencies and organised charity to be trusted to cope with it, and to what further extent, if any, should the State interfere and undertake

the burden? The State cannot well go back upon its past policy deliberately adopted, whether that policy be regarded from the beneficent or from the defensive point of view; but how much further, if at all, should State interference be carried? The last is the question of the greatest moment and interest, because it really embraces the others, and because the tendency of modern legislation is towards a still further interference with, and regulation of, the social system.

It cannot fail to assist us in arriving at a correct solution of these problems if we recall the results which have attended the past efforts of the State within the limits hitherto assigned to its action in this field, if we review the resources which are at the command of existing voluntary associations and thrift agencies, and if we consider fairly the various arguments for and against further direct action by the State towards the avoidance of pauperism, whether existing in youth, middle life, or old age, and the mitigation of its condition, and howsoever that condition may have been brought about.

It has been shown that pauperism in Scotland has during the last twenty years steadily decreased, except in the matter of lunacy—an exception which demands special comment; and that the same may as truly be said of England without the exception to the same extent. Indeed, in England the results during the same period are even more gratifying, for wherever, as in Stepney, and the East of London generally, and in some agricultural unions such as those previously mentioned, out-door relief has been almost discontinued and intelligent stringency has been introduced into the administration, the decrease in pauperism has been quite phenomenal.

To say that this better state of matters is, in large measure, owing to the more intelligent and discriminate administration of the laws by those entrusted with their execution would be saying no more than the truth. But that would not wholly account for so great a change. Two other main causes seem to have operated: (1) the greater

wealth of the country, which has enabled the unavoidable burden to be more easily borne, and (2) greater thrift among the mass of the people, as evidenced by the growth of friendly societies and trade unions. The first of these is strictly not a cause producing a diminution of pauperism, but one which, proceeding alongside of causes tending to diminish pauperism, only makes the results more striking and prominent. If the causes, moral, social, and other, which avoid pauperism shall operate as actively, and if the national wealth shall proceed *pari passu* as steadily during the next twenty years as they have done during the past twenty, there will be little occasion for Parliament to exercise itself with schemes of national provident insurance, state-aided pensions for old age, and such like projects which have lately been prominently brought under public notice.

The valuation on which the poor-rate in Scotland is levied has steadily risen from £10,053,142 in 1847 to £23,924,882 in 1891, or an increase of 127·6 per cent. on the whole period and 2·9 per cent. per annum, while, as we have shown, pauperism has decreased in the same period both relatively to population and absolutely. In the same time the friendly societies and the trade unions which give both sick and unemployed benefits have grown enormously in numbers and membership.

Thus, as evidence of this growth of thrift in the industrial classes, we find that the registered friendly societies proper have a membership of 7,500,000, with total funds amounting to £21,820,000, and an income of upwards of £800,000. Of these, however, the Chief Registrar reports that it would not be safe to reckon the members of such societies which insure against sickness as well as death as numbering more than between three and four millions.[1] Mr. Wilkinson states the number which insure against sickness as well as death at 4,394,696, and their funds at £20,167,820.[2] These societies give sick benefits to working men and women,

[1] Report for 1880, p. 10.
[2] *Mutual Thrift*, 1891, p. 191.

varying in the different "orders" from 8s. to 20s. per week for a full sick pay of either six or twelve months, generally the latter. There are different scales of sick benefit; but the most common are those of 10s. or 12s. per week for twelve months, and then half as much for another six months. There is evidence that in cases of prolonged illness a modified sick pay is often continued permanently.

In addition there are "industrial" insurance companies, which are quite a modern institution. Ten of them alone have funds to the amount of £8,144,264, increasing at the rate of upwards of one million per annum; and with a premium income of £4,863,853. The same ten industrial companies have 9,216,000 policies open, insuring for £83,006,000, or £9 2s. 3½d. per head. These industrial companies also insure against sickness and accidents which incapacitate for work, as well as against death.[1]

One of the largest financial concerns in the country is the Prudential Assurance Company, Limited. Its business is conducted in two branches, the ordinary and the industrial. Its total funds at 31st December, 1891, were £14,623,627. In the industrial department alone its premium income was for that year £3,688,338, being an increase of £170,413 on that of the previous year, and of £777,043 on that of the quinquennium 1887-91. The policies in force numbered 9,617,483, their average duration being 6¾ years. They assured £93,390,879, the premiums receivable in respect thereof being £74,993 weekly, or £3,899,646 per annum, and the average amount of each policy being £9 14s. 3d. The total assets of the company are increasing at the rate of upwards of £2,000,000 annually.[2]

Again, it is found that within the last twenty years or so the trade unions have made gigantic strides as benefit societies. The registered trade unions now embrace nearly every trade and occupation. Their funds in 1890 amounted to £910,902, their income to £775,300, and their members

[1] *Mutual Thrift*, 1891, pp. 191, 201, and 228.
[2] Summary Forty-third Annual Report, dated 15th February, 1892.

to 553,452, showing an increase on the previous year respectively of 34 per cent. on funds, nearly 14 per cent. on income, and over 59 per cent. on membership.[1]

The great advocate in this country of the trade unions is Mr. George Howell, M.P. To realise the growth of these societies in modern times and their power for good we have only to reflect on the figures which Mr. Howell submits. He says[2] the aggregate amounts expended by thirteen societies in forty years under the head of "provident benefits" or "benevolent objects" was £7,460,000, and under the head of strikes or disputes pay £481,816; or to state it otherwise, 93·93 per cent. of expenditure was for the peaceful and domestic purposes as against 6·07 per cent. for the defensive or bellicose purposes.[3]

We find from an examination of the Third Report on Trade Unions[4] that 83 out of 104 registered trade unions returned detailed tables showing the several sources of their income and the heads of their expenditure in the year 1888. These 83 unions expended on their members in "benefits" as specified the following amounts, viz., "unemployed," including "travelling," £162,506; "sick," £148,257; "superannuation," £78,575; "accident," £17,128; total, £406,466. The sums thus enumerated, together with the amounts distributed by the friendly societies as "sick" and "travelling" benefits, and the sick allowances made by the industrial insurance companies—but the amount of which cannot be correctly ascertained—constitute an enormous sum annually given to a class of people in such a way as to act in direct prevention of pauperism. The amount so distributed and the number of recipients are proved to be increasing year by year; and in as much as the recipients are working men and working women who are temporarily out of employment, or who are disabled by sickness or accident, it is impossible to say how many of their number might have fallen into pauperism but

[1] Registrar's Report for 1890, p. 162.
[2] *New Review*, December, 1891, "Provident Side of Trade Unions."
[3] Those peaceful objects were sick benefit, superannuation, accident benefit, funerals, out-of-work benefit, and benevolent grants.
[4] Board of Trade (Labour Statistics), 1889.

for the aid so received, and to what extent the poor-rates have, of recent years, been kept down by this gigantic insurance fund voluntarily contributed to by the people themselves.

It is now claimed for the friendly societies by their foremost literary advocate that within the past thirty years their membership has increased tenfold; that the financial position of most of them has greatly improved; and that, "taking into consideration all kinds of benefit societies and industrial insurance companies, we get a membership of 17,610,000, possessing a worth of funds of £31,007,000, giving an increase during the past three years of 3,435,000 and £5,697,000 respectively."[1]

Lastly, in evidence of the growth of thrift. The firm of Lucas & Aird, the contractors for public works of Westminster, are probably the largest employers of labour in this country, employing, as they frequently do, from 13,000 to 14,000 men, chiefly navvies and out-door labourers. When giving evidence in 1887 before the Select Committee of the House of Commons on National and Provident Insurance, Mr. John Aird stated that there was in recent years a marked growth in habits of thrift among that class of workers, which was chiefly noticeable during the past fifteen or twenty years.[2] This period corresponds precisely with the period during which, as we have shown, the ordinary pauperism of both Scotland and England has steadily decreased, and the fact is one of no slight significance.

The combined figures of the friendly societies and the trade unions which we have cited afford marked evidence of the progress of mutual thrift among the working people of the country, chiefly in England and Wales; and it must not be overlooked that thrift is voluntary, and is not a hot-house plant which can be reared under compulsion.[3]

[1] *Mutual Thrift*, 1891, p. 208. *Pensions and Pauperism*, 1892, p. 85.
[2] Report of Select Committee, 1887, p. 40. *Questions* 477-484.
[3] We have purposely excluded from consideration what are known as "Works Clubs," although many workmen insure in them, because, as Mr. Aird admits, their security is dependent on the financial prosperity of their employers, and their permanency is therefore precarious.

Section 2.

For several years past the public attention has been drawn to various schemes of national provident assurance, and for securing deferred annuities or pensions for old age, with the assistance and security of the State.

No apology is needed for adverting to those projects in a work dealing with the Poor Laws, for they are all recommended for adoption because they are to provide for, or rather to prevent, what is termed "old age" pauperism.

Schemes similar in their object to those now afloat have been introduced to the notice of Parliament during the last hundred years, and they have all had to do with pauperism and the Poor Laws.

Thus in 1773 Mr. Dowdeswell, M.P., brought in a Bill "for the better support of poor persons in certain circumstances; to grant annuities for life upon purchase; and under certain restrictions," which was strongly supported by Burke, was passed by the House of Commons, but was rejected by the Lords.

That scheme was neither more nor less than a supplementary Poor Law. It provided for annuities being granted to frugal and industrial persons in every parish. The main provisions were:—(*a*) The annuitants were to buy their annuities by payments to be made to the rector, vicars, churchwardens, and overseers in every parish; (*b*) the annuities were to commence at such dates as the purchasers should fix; (*c*) the annuitants were to be persons who had a legal settlement in the parish; (*d*) both the payments and the annuities were to be inalienable if so desired; (*e*) the rector, churchwardens, and overseers were to be the managers, and were to invest the payments in consols; (*f*) the funds might be increased by bequests of the benevolent and charitable; and (*g*) any deficiency in the payment of the annuities was to be made good out of the poor-rate. This last condition was the special financial feature of the plan.

In 1787 Mr. Mark Rolle, M.P. for Devonshire, introduced

a Bill for "the more comfortable subsistence for the poor, and the diminution of the increasing rates." By this Bill it was to be compulsory on the rich to contribute to a general fund for the benefit of the poor, towards which fund the poor were also to be obliged to contribute while they were young and in health, so as to be able to draw upon it for their support when disabled by "accident, mishap, or age." This scheme was compulsory simply, and was just a Poor Law under another name, but it failed to pass.

Although the matter of superannuation was twice specially mentioned in Parliament earlier in the century, once in 1837 by the late Lord Lansdowne, and again in 1869, when Major Corrance advocated State assistance to friendly societies to enable them to be brought to such perfection as to provide superannuation for members over 65 years of age, no definite or practical movement in this direction has, until quite recently, again been made.

Active interest in the matter has been revived mainly by the German legislation for sickness and accident insurance and for the compulsory securing of old age pensions, and has been intensified since Mr. Joseph Chamberlain made the subject his own by obtaining the appointment of a Joint Committee of Parliament to examine it, and, if possible, to frame and recommend some scheme for adoption. That committee, a body of sixty members, delegated to a sub-committee of four of the House of Commons the duty and the labour of collecting statistics and actuarial reports, in order to correct data being obtained as a sure foundation for any scheme to be recommended to Parliament.

The matter is officially at this stage while we write. But meantime a Select Committee of the House of Commons has sat in two Parliaments, during three sessions, 1885-87, and has taken evidence from a variety of persons on behalf of different interests for and against national provident insurance and State-aided pensions for old age.

Now, any legislation which commands at once, even in a general way, the approval of individuals so dissimilar in most respects as are Prince Bismarck and Mr. Cham-

berlain, demands at least impartial consideration. But in examining the several schemes which have been recently offered for public adoption the greatest circumspection and judicial temperance are required; and these qualities of mind are not always obtainable where, as has happened in this case, the disputants split off into sections composed of those who favour compulsion and those who are against it, of those like the Rev. Mr. Wilkinson who champion the friendly societies, and those like Canon Blackley and Mr. Chamberlain who damn them with faint praise and suggest that they are unable to meet their financial engagements.

It is not to be forgotten that nostrums for eradicating social evils and for mitigating distress often emanate from persons of angular views and narrow minds, however good in intention, and that the advocates of this or that specific are frequently found to be persons of similar mental type. The project under present consideration is as yet of a speculative character at the best, and lends itself as a magnet for the ingenuity of crotcheteers and faddists. Hence, at the outset the public requires to be on its guard; it ought to demand from such promoters a sufficient basis of facts, thorough inquiry, broad inductions, and adequate and cautious generalizations. These safeguards, we do not hesitate to say, have not been sufficiently to the front in the discussion of the subject down to the present time.

But before examining both the principle and the detail of Mr. Chamberlain's scheme, or the conjoint scheme of Mr. Chamberlain and Dr. Hunter, for securing old age pensions with State security, it will be convenient to glance at the other projects which have been mooted for attaining the same end, and to show wherein they have differed among themselves and from Mr. Chamberlain's proposal, which may be called the survivor of several, but whether because it is the fittest will remain to be seen.

1. *The German Plan.*—This is a law of insurance against invalidity and old age. It is national in its area, and it is compulsory. Its main features are—(*a*) The securing of relief during sickness and inability to work and of a pension after

the attainment of 70 years of age; (*b*) concurrent contribution towards the necessary fund by the workman, the employer, and the State; (*c*) the inclusion in the expenses of the scheme of the expenses of administration; (*d*) the detailed and inquisitorial nature of the official method of execution; (*e*) a graduated scale of premiums, and a graduated scale of allowances; (*f*) the reserved right to increase the premiums should that be found financially necessary; (*g*) a return, in the event of death before the age fixed for commencement of the pension, of one-half of the premiums paid; (*h*) a scheme for payment of sick pay and pensions to those who require them between the commencement of their contributions and the age fixed for the commencement of the pensions; (*i*) the fixing of the amount of contribution to the fund by the State.

This law is the sequel to, and the logical outcome of, Prince Bismarck's sickness and accident insurance laws of 1884 and 1885, and, like all that statesman's work, it is comprehensive and thorough. Passed in 1889, it came into operation throughout the empire in the beginning of 1891. But already it has created dissatisfaction and discontent both among the employers and the workers. Both dislike the compulsory contribution. Moreover, in the case of the employer there is the trouble of making the deduction from the workers' wages and accounting for it to the State fund. And in the case of the workers there is the suspicion, now pretty general, that the employers take their compulsory contribution into account in adjusting the scale of wages, which, it is feared, they fix at just so much the less. In this way the workmen believe they have to bear two parts, and not merely one part, of the fixed contributions. If this suspicion be well founded, the result is similar to that which sprang from the out-door parish allowances under the old administration of the Poor Law in England, a system of relief of which the manufacturers took advantage to depress wages and to keep the workmen in practical bondage and poverty, which entailed moral and material injury.

It may safely be predicted that no law which, both in its principles and details, is so contrary to the spirit of our institutions and to the genius of our people will find acceptance in this country or be passed by the British Parliament.[1]

2. *Dr. Hunter's Scheme,* which was to be restricted to Scotland, was modelled on the German plan. The pensions were to begin at 65, were to be on a sliding scale, and were to be contributed to in the proportions of one-sixth by the workman, one-sixth by the employer, and four-sixths by the State in the case of pensions of 5s. per week, and of one-fourth, one-fourth, and one-half respectively in the case of pensions of 7s. per week, and in equal proportions by each in the case of pensions of 10s. per week.

3. *The Danish Plan.*—Mr. Chamberlain shortly explains a scheme in operation in Denmark, whereby indigent people over 60 are entitled to relief in money or in kind, to an amount sufficient for a bare subsistence, which is made chargeable on the commune of their domicile (*i.e.*, settlement). There are certain restrictive conditions attached to participation in the benefits, the chief of which seem to be—(*a*) that recipients must have been at least ten years resident in Denmark; (*b*) that they must not have received Poor Law relief during that time; (*c*) and that destitution must have arisen from misfortune, not personal fault. The State recoups a part of the annual charge, at present one-third, rising ultimately to one-half of the whole. But this Danish scheme is just one branch of their Poor Law system, which recognises causes as well as results, and approaches a system of rewards and punishments.

4. *The Canon Blackley and Charles Booth Plans.*—These schemes may be classed together, in so far as they are both compulsory and aim at the same special end.

Canon Blackley has worked indefatigably at the subject for more than a dozen years. Shortly stated, his plan is that every wages-earner in the country should, between the

[1] See *The German Law of Insurance against Invalidity and Old Age,* 1889. By T. K. Young, B.A.

ages of 18 and 21, contribute by instalments £10 to a general fund to be managed by the State. This sum of £10, accumulating at 3 per cent. compound interest would, on the contributor's reaching 70 years of age, yield a pension of 4s. per week, and, in the meantime, in the event of his being injured, a sickness allowance of 8s. per week. Canon Blackley is indifferent whether the money necessary to start the fund be £10, £12, or a larger sum. Whatever it may be, the capital fund is to be made up by increasing the initial contributions, and if, from a fall in the rate of interest during the currency of the accumulating period, or from any other cause, there should be a probability of insecurity for the deferred annuities, the subsequent entrants, after such discovery is made, are to be mulcted in larger payments to avert the danger and to secure safety. The insurance against sickness part of this scheme, as originally propounded, has since been dropped as impracticable, and the scheme is now limited to old age pensions.

Mr. Charles Booth bears the reputation of being the greatest living extra-parochial authority on questions connected with pauperism and the poor and Poor Law statistics in this country.

His scheme differs from Canon Blackley's only in that it is of universal application. It aims at providing a pension of 5s. per week at 65 years of age for every person, not only for wages-earners. Contribution to it is to be compulsory upon every one; and the management and control of the scheme are to be undertaken by Government. By Canon Blackley's plan Government would, at the end of the merely accumulating period, say fifty years from now, be in possession of a pension fund of at least £300,000,000, which it would have to invest or manipulate at pleasure. Under Mr. Booth's plan, on the other hand, it would begin by having to handle £17,000,000 per annum, which would be required to secure 5s. per week to every living person in England and Wales during his or her survivance of 65 years of age. This calculation takes account of what would be

be saved by the abolition of poor-rates, estimated at £3,000,000 per annum, which are now levied for securing similar old age relief. If Scotland and Ireland be included, the annual amount required would exceed £26,000,000, which means a permanent addition to the income tax of about 9d. per £.

The proposal of Canon Blackley (and, incidentally, some other similar schemes) was fully inquired into by the Select Committee on Provident Insurance against Pauperism, presided over by Sir Herbert Maxwell, which took evidence from a variety of persons in the sessions of 1885, 1886, and 1887. The committee cannot recommend the adoption of the plan. They report against it because the distinction sought to be drawn between wages-earners and those who do not earn wages would be "quite unworkable"; because the middle classes and those who do not earn wages would not submit to compulsory charity to help many wages-earners who are quite capable of looking after themselves; and because the essential part of the scheme, compulsion, "is open to very strong objections."

As to the effect of the scheme upon thrift, the committee report—"There is no proof that this scheme, according to which the employer would hand over a large part of the insurance money without any personal effort on the part of the wage-earner, would teach habits of thrift. It might, it is to be feared, work in the opposite direction. It might lessen the feeling of responsibility, which is shared by a constantly-increasing number of the working classes, of providing their insurance for themselves. It might seriously impair that education in thrift and training in business which has been brought about by the building up and management of their own associations for self-help by the working classes, the value of which to the nation it is almost impossible to exaggerate."[1] The committee further attach weight to the opposition of the friendly societies, which bodies, they report, "aver that to give the whole nation by compulsory insurance an independent pension against

[1] Report of Committee, dated 2nd August, 1887, p. 5.

pauperism in sickness and old age would limit the growth in numbers of their own voluntary organizations."[1]

The committee also report adversely on financial grounds, and it may be accepted that Canon Blackley's proposals, as well as some other similar schemes which were more or less adverted to in the evidence before the Select Committee, have, since the publication of the report, for all practical purposes dropped out of view.

But the scheme of Mr. Chamberlain still remains for criticism. Before discussing its provisions so far as they are at present known—they have been altered and modified more than once—we may take note of its object and scope, and set forth certain general considerations which ought to be held applicable to all social projects of the kind. We shall then be in a position to examine the scheme in order to ascertain whether it will accomplish its professed object without contravening sound economic principles, or without involving too large a sacrifice in other directions than that in which its object lies.

Section 3.

The limitation of Mr. Chamberlain's scheme to the securing of a pension for old age, meaning by the term "old age" any age exceeding 65 years, has simplified the problem very much. The combining with superannuation of an insurance against sickness rendered the project as it was first launched too indefinite, uncertain, speculative, and gigantic for the State, if expediency were to be regarded at all, to undertake the responsibility which would have been entailed. Few things are more difficult than to gauge with precision the duration and the resulting claims of sickness. Those consequences depend upon elements so uncertain as epidemics and lack of employment. Calculations of death and of destitution in old age are possible with approximate accuracy; and when the objects to be aimed at are defined

[1] Report, p. 4.

and the liabilities are calculable with tolerable certainty, State co-operation if, upon other grounds, it be deemed feasible and politic, has not the same obstacles in its way.

I. The object aimed at by Mr Chamberlain is to provide against the misery and dependence of "old age pauperism." This object is to be effected by providing a pension of 5s. per week for every male and female worker during their survivance of 65 years. By almost unanimous consent of the advocates of old age pensions, the unanimity having been arrived at after much discussion, 65 years is now regarded as the proper age at which such pensions should begin.

The pension is to be secured by a kind of limited liability partnership between the insurers and the State, the contributions of each to the fund being fixed. The details of the scheme assume something of this shape—The insurer at 25 years of age pays in to some Government department, say the Post Office (which department does not matter), £5. The State adds £15, and every year thereafter the insurer, till he attains 65, or, in other words, yearly during 40 years, adds £1. With this fund so obtained, on its being invested and accumulated at compound interest at 3 or $2\frac{1}{2}$ per cent., Government, it is estimated, would be enabled with absolute security to provide each insurer with a pension of 5s. per week or £13 per annum.

II. Leaving over for the moment consideration of these details, let us look at the scope or extent of the scheme. What are the necessities of the case which it is the object of the promoters approximately, if not absolutely, to meet? Are those necessities sufficiently extensive and permanent in character to warrant the experiment of State interference —an interference of undoubted tendency towards socialism— which, once commenced, is likely to be repeated in other and perhaps more harmful directions?

An answer to these questions obviously depends upon a consideration of the numbers of people possible and likely to be affected.

Few subjects have offered a larger field for criticism

and for differences of opinion than Poor Law statistics. Manifold are the ways in which those statistics have at different times been interpreted, and diverse are the conclusions which have been drawn from them. They are, however, marked by certain broad and well-defined features. For estimating the scope of the old age pension scheme those features appear to be sufficient. The attempt to draw too fine lines or to attain exactitude has hitherto, in the discussion of this subject, only tended to darken counsel and obscure the issue.

It was argued in the first chapter that the Poor Laws in the three parts of the kingdom should be the same, because the state of society and the customs in the several parts of the country are fundamentally the same. The figures we are about to submit lend force to the argument, for they practically establish the fact that economic conditions and their social effects are in England and in Scotland substantially alike. The population of England may be roughly stated at 30,000,000, and that of Scotland at 4,000,000. In other words the population of England is between seven and eight times greater than that of Scotland. The number of those in receipt of relief on a given day bears a markedly close ratio to the relative populations. Thus, according to the latest returns, there are in England 775,000 persons in receipt of relief, and in Scotland 93,000, or exactly eight times as many in England as in Scotland.

Again, the percentage of the paupers of all classes (in-door and out-door) to the population corresponds practically with those figures; in England the ratio is 2·6 to 100, in Scotland it is 2·2. But the numbers in receipt of relief on any given day do not, for obvious reasons, yield the total number relieved during the year, and it is here that diversity of opinion and diversity of treatment of the figures has come in. The total number chargeable on the given day requires to be multiplied, and the multiplier as determined by different authorities is found to vary from 2 to 4—the latter rate being the one chiefly adopted in former

years. Mr. Chamberlain (whose object it suits if he see brought out a large amount of existing old age pauperism) adopts $3\frac{1}{2}$ as the multiplier. Mr. Charles Booth has latterly taken it at $2\frac{1}{3}$.[1] From our acquaintance with the Scottish figures, and making what appear to be the necessary corrections, we incline to think that Mr. Booth is nearer the mark than Mr. Chamberlain, and that $2\frac{3}{4}$ would yield substantially correct results.

We propose therefore to adopt $2\frac{3}{4}$ as the multiplier, and are borne out in doing so by the following special reason. In the Barony Parish of Glasgow the ratio of pauperism to population is, for certain reasons, more favourable than is the ratio over Scotland in general, including the Barony Parish itself, the contrast being as 1·71 per 100 is to 2·2. The number chargeable in the parish on a given day, 14th May, 1891, when multiplied by $2\frac{1}{4}$, is found to yield exactly the total number of persons relieved in the parish during the year ending on that date. The figures are respectively 3125 and 7031. If allowance be made for the more favourable conditions of the parish as regards pauperism, which produce a difference of ·49 in favour of the Barony, then the correct multiplier for Scotland generally should be one-half more than in the Barony, or $2\frac{3}{4}$.

On this basis of calculation it is now found that there is a standing pauperism in England of $775{,}217 \times 2\frac{3}{4} = 2{,}131{,}847$, and in Scotland of $92{,}824 \times 2\frac{3}{4} = 255{,}266$, which is annually relieved by the Poor Law proper to each country.

The next fact to be ascertained is the number of those so relieved who are 65 years of age and upwards, because that number will be the maximum of the persons to be benefited by the pension scheme, the object of which is stated to be to get rid of old age pauperism.

Now, if the economical conditions are alike in England and Scotland, and we have seen that the fact is so, a near

[1] "Enumeration and Classification of Paupers and State Pensions to the Aged." A Paper read before the Statistical Society.—C. Booth. In his latest publication Mr. Booth has on further consideration revised his figures, and he now thinks that a multiplier of 2 is sufficient. See *Pauperism, a Picture*, 1892, p. 2.

I.—Classified Return of APPLICATIONS for Year ended 14th May, 1891.

	Under 20 Years.		Under 40 Years.		Under 65 Years.		Over 65 Years.		Total.		Gross Total.
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	
Nativity—											
Scottish,	111	138	419	541	425	457	159	214	1114	1350	2464
English,	4	1	22	28	31	11	7	14	64	54	118
Irish,	7	4	133	109	299	253	96	125	535	491	1026
Foreign,	...	...	10	4	8	9	3	...	21	13	34
Total,	122	143	584	682	763	730	265	353	1734	1908	3642
Percentage of the total,	7·04	7·50	33·68	35·74	44·00	38·26	15·28	18·50	...	...	...
Condition—											
Single,	122	140	339	230	199	134	28	45	688	549	1237
Married,	...	3	234	265	422	134	141	16	797	418	1215
Widower or Widow,	...	...	11	187	142	462	96	292	249	941	1190
Total,	122	143	584	682	763	730	265	353	1734	1908	3642

II.—Abstract of Total ADULT POOR CHARGEABLE at 14th May, 1891.

	Under 20 Years.		Under 40 Years.		Under 65 Years.		Over 65 Years.		Total.		Gross Total.
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	
Nativity—											
Scottish,	25	17	205	545	280	557	221	656	731	1775	2506
English,	...	1	5	12	5	16	4	11	14	40	54
Irish,	1	1	27	96	65	144	73	138	166	379	545
Foreign,	...	2	3	5	6	1	1	2	10	10	20
Total,	26	21	240	658	356	718	299	807	921	2204	3125
Percentage of the total,	2·82	0·95	26·05	29·85	38·43	32·57	32·44	36·16	...	...	...
Condition—											
Single,	26	20	178	182	156	247	78	203	438	652	1090
Married,	...	1	57	72	150	98	101	44	308	215	523
Widow or Widower,	...	...	5	404	50	373	120	560	175	1337	1512
Total,	26	21	240	658	356	718	299	807	921	2204	3125
Classification—											
Out-door Poor,	2	3	33	456	53	384	116	498	203	1341	1544
In Poorhouse,	17	9	57	78	143	138	166	264	383	489	872
Lunatic Poor,	7	9	150	124	161	196	17	45	335	374	709
Total,	26	21	240	658	356	718	299	807	921	2204	3125

approach ought to be got to the required number from the statistics of a large, populous, and industrial parish. The Barony Parish is such a one, and its figures should for the present purpose be found to be fairly representative. Probably they would correspond closely to those of Manchester, Leeds, Birmingham, and other industrial centres in England if the latter were examined in detail. The figures of the Barony Parish, then, stand thus—[1]

III.—Deaths in Poorhouse for Year ended May, 1891.

During the twelve months 316 persons—173 males and 143 females—died in the poorhouse, of whom 61 males and 58 females—total, 119—were over 65 years of age, or 37·66 per cent. of the total who died during the year.[2]

IV.—General Results.

During the year there were 7031 adults who received relief. Of these, 1724, or 24·51 per cent. of the whole, were over 65 years of age; and of the number over 65 years of age, 564, or 8·02 of the whole were males, and 1160, or 16·49 of the whole were females.

From these figures we deduce the broad result that in that great parish of the Barony no more that 25 per cent. are paupers over 65 years of age, and that the other 75 per cent. either go off the roll or die before attaining 65 years. Further, of the paupers over 65 years of age there are two women for one man, which, again, appears to be about the same proportion as in England.

If, then, the estimate 25 per cent. of the whole be approximately correct, the result yielded is as follows:—

In Scotland there are above 65 years of age $255{,}266 \div 4 = 63{,}816$; in England, $2{,}131{,}847 \div 4 = 532{,}962$, or rather more than eight times as many in England as in Scotland.

[1] See Tables on pp. 293, 294.

[2] In the City Parish, Glasgow, the deaths in the poorhouse of paupers over 65 years of age for the year ending December 31, 1891, were 29·0 per cent. of the inmates.

Tested in another and more limited way, the English results work out much the same.

The return, obtained in 1891 on the motion of Mr. Burt, M.P., of the numbers of paupers in England and Wales above 60, 65, and 70 years of age respectively, who received in-door or out-door relief on 1st August, 1890, showed above 65 years of age 88,586 males and 157,101 females, or a total of 245,687. As before explained, this last sum has to be corrected by multiplication to get the true total number of such persons who were relieved during the year ended August, 1890. Mr. Charles Booth[1] corrects the number up to 507,660, the Rev. Mr. Wilkinson up only to 350,000. If to these estimates be added the number 532,962, which we have arrived at by the method explained above, and if the mean of these three sums be taken, the number 463,540 is reached.

If, again, we multiply Mr. Burt's total of 245,687 by $2\frac{3}{4}$, the product is 675,644, and if the mean of that figure and of Mr. Booth's and Mr. Wilkinson's estimates be struck, then the result or total number of paupers in England above 65 years of age would be 577,768. Probably the truth lies somewhere between the several resulting figures. At any rate, there is no very wide variation among the different estimates when the magnitude of the population concerned is kept in view. All the same, however, the figures involved in Mr. Burt's return are demonstrably too large, and the accuracy of the return has been seriously impugned. We prefer, therefore, to adopt for England the medium figure brought out above of 463,540, and for Scotland the medium figure of 63,816. What, then, do the figures mean? They mean that in Scotland 1·6 per cent., or 1 in every 62 of the total population, are paupers over 65, and that in England 1·54, or 1 in every 65 of the people, are paupers over 65 years of age.

This, then, appears to be the limit in numbers of the

[1] Mr. Booth now thinks, from an examination of the figures of five unions, that an addition of from 30 to 50 per cent. of the numbers relieved on one day is sufficient. See *Pauperism, a Picture, and the Endowment of Old Age, an Argument*, 1892, ch. ii.

possible beneficiaries of this pension scheme, as ascertained by deductions made from the statistics of pauperism, and is the extent of the necessity of the case. One in every 65 persons *may* be benefited. It is to alleviate the possible condition of this very small proportion of the whole people that an experiment in socialistic policy is proposed to be tried.

Another way of ascertaining the necessities of the case is to discard pauper statistics and to deal with the people as a whole; but it is a way more intricate and difficult. Of the 34,000,000 persons in England and Scotland alive to-day, how many may be included in the industrial class to whom such a scheme may be supposed to be attractive? Of that number, when it is ascertained, how many are 25 years of age? Obviously, in order to determine the number of the beneficiary residuum, it is necessary further to reckon, on some safe assumption of probabilities, how many of the industrial class now at the age of 25 will survive to the age of 65 years. In the absence of sufficient information on the points here raised, let us suppose the members of the industrial class who are 25 years of age to be 1,000,000. What proportion of that number will probably live to be 65 years of age? To judge from our calculations, based on the Barony Parish pauper statistics, not more than one-third or one-fourth—that is to say, 330,000 or 250,000—of the supposed million will reach 65.

In any view the necessities of the case do not appear to be very cogent so far as numbers are concerned. But upon this, as well as upon other important points, it behoves Mr. Chamberlain and those who recommend the pension scheme to furnish more ample data and more specific information than have hitherto been supplied. The burden of proof of the necessity rests with the advocates of the proposed measure.

Before we examine the scheme as regards the benefits to be gained from it, and the sacrifices to be made in order to secure those benefits, we have to consider whether it is open to criticism on general grounds.

One obvious objection to the plan is that it is not compulsory. For some reason or other, "that blessed word compulsion" now forms no part of the scheme except in the case of Government servants, a class of persons who are already showing resentment at the proposed interference with their liberty. Whether compulsion has been dropped out of respect to the influence and power of the friendly societies, or from more general considerations of policy, it is almost certain that without it the scheme will prove abortive.

On the other hand, if compulsion be adopted, what does the scheme become but the objectionable one of a tax upon wages? That is to say, the wages of the community are to be put under levy in order to form the basis of the fund that is to yield the pension to the inconsiderable number of persons who may ultimately participate in it.

There appear to be many valid reasons against the adoption of compulsion in this matter of pensions for old age which, on the face of it, is eminently one of individual choice and preference. A pension for old age is not like vaccination, the want of which produces evil consequences from which the whole community is liable to suffer; nor like education, the want of which was inflicting injury upon irresponsible children, and also upon the State. It is in cases like these that the State is justified in considering force to be a remedy. But a superannuation competency is a personal matter of each individual's estimate of his own comfort and independence in old age. And it must be borne in mind as relevant here that each individual can, even as things are, elect to insure himself through the agency of some industrial company, or to rely upon the still more secure, although perhaps less comfortable, provision which, in the shape of the Poor Law, the efforts of statesmen have already provided for all.

As regards practicability much depends on whether the scheme is to be open to all who chose to join, or is to be restricted to the labouring and industrious classes. The intention in these respects has not yet been made sufficiently

clear. Although the upper and middle classes may not require the benefits of pension, yet it is difficult to state any solid reason why they should be excluded. If, on the other hand, the benefits are to be confined to any class or section, how is that class or section to be defined? Would the scheme in this case not be liable to the objection of being unworkable, which Sir Herbert Maxwell's Select Committee found to apply to Canon Blackley's proposal?

It is plain that the project does not take sufficient account of the mutations and social revolutions brought about by "life's fitful fever." One young man begins life as a common blacksmith, but by middle life has proved the greatest constructive engineer of his age, has amassed a fortune, and has drunk of the fountain of honour. Another is born to worldly fortune, but through licentiousness and recklessness of conduct is a broken, worn-out member of society at fifty, dependent on the bounty of his friends, or gladly a participator in the legal provision which the State has secured for all alike. These are extreme illustrations, yet they are typical of thousands of ups and downs daily occurring in society. It is manifest that the pension scheme would not meet either type of case. In the first, contribution would be dropped as no longer necessary; in the second, contribution would not be undertaken because the necessity for it as a matter of personal interest would neither be appreciated nor foreseen.

That the want of compulsion is a weakness in any scheme such as that for which Mr. Chamberlain stands sponsor is corroborated by the opinion of the Chief Registrar of Friendly Societies:—

> "The obvious objection to any non-compulsory provision for superannuation aided by a State subsidy is that it virtually would not touch that one-seventh of the population over 60 who are stated to be paupers, but would only help those who are best able and most likely to help themselves." [1]

Another general adverse criticism to which the whole plan is subject is the sort of inducement that is held out to

[1] Annual Report for 1890, p. 26.

young people to join it. Mr. Chamberlain uses the word "temptation." He says—

> "The problem, therefore, is to find some sufficient stimulus—some temptation which will be strong enough to lead them (*i.e.*, the working people) to avail themselves of the opportunities offered, and to make the sacrifice which will be necessary to secure them against a future which they regard with wholesome dislike and fear." [1]

One is naturally somewhat suspicious of any insurance or other scheme which is recommended by stimulants and temptation. It is suggestive of the quack's puffing advertisements. At first sight the bait does look somewhat tempting. Three pounds laid down by the British Government for one contributed at the outset by the person to be insured, with the security for ultimate payment of the credit of the wealthiest country in the world. This, it is said, is surely something better than the shaky stability of a friendly society or a trade union.

In this connection Mr. Chamberlain has been somewhat unkind and unjust to the great friendly societies. He says that of the total 7,500,000 members, about one-half of them, or from three to three and a half millions, are insured against sickness only, and only a few of them against old age. But it has been shown on behalf of the societies that this result has arisen from there not having been as yet any demand for old age insurance—an objection to which Mr. Chamberlain's scheme, if it be not made compulsory, is itself open. Again, Mr. Chamberlain says that the great objection to the societies is the want of security; and he points to the state of their valuations and to the fact that many of them have become insolvent and gone to the wall, entailing loss on those who had been insured with them. He points suggestively to the admitted deficits in the valuations, these being as much as £6,716,828 against proved surpluses on valuation of only £874,679. All this may be quite true; but it is hardly fair in such a discussion not to explain what an insurance valuation

[1] *National Review*, February, 1892, "Old Age Pensions," p. 733.

really means, and not to mention that the financial position of the larger and better-managed societies is improving every year, as is certified by the Chief Registrar in his last report.

The insurance valuation proceeds upon the basis that the business is stopped on the day of valuation, and that the society is only to continue to exist for the purpose of meeting its engagements like any ordinary commercial concern. The only assets are those existing on that day; the liabilities are indeterminate because bearing an indefinite tract of future time. This is the severest of all tests, because no fresh receipts from new entrants come in, no profits are available from a growing business and a larger turn-over of money. Mr. Wilkinson, the zealous defender of the friendly societies, explains the valuation thus—

"We are not here dealing with a commercial deficit, but estimating the amount required to be added to the assets, realised (or cash) and prospective, before those bodies could undertake to pay in full their total liabilities down to the death of the last remaining existing member. For the purpose of valuation the doors are shut against new members, and a continuous flow of entrants will necessarily stave off the evil day when the deficiency becomes one of no cash in the box; till that is the case, claims as they arise will be paid. Again, a very small alteration in the terms of contracts extending over a period of twenty, thirty, or forty years will at once lessen the amount of deficiency or extinguish it altogether." [1]

Further, Mr. Chamberlain should not forget that it is only quite recently that the friendly societies have been brought under direct State supervision and control as respects the uniformity of their accounts, quinquennial valuations and official audits. These advantages have only been secured since the legislation of Sir Stafford Northcote in 1875 and 1876.[2] Yearly audits are now made compulsory, and it is in evidence that the larger and wealthier of the friendly societies, such as the Manchester Unity of Oddfellows and the Ancient Order of Foresters, have in their service able and experienced actuaries and auditors,

[1] *Pensions and Pensioners*, pp. 76, 77.
[2] 38 & 39 Vict. cap. 60; 39 & 40 Vict. cap. 32.

of whom Mr. Reuben Watson, Mr. Shawcross, and Mr. P. F. G. Niesson are typical examples, with the result that the financial strength of the institutions has come to be beyond dispute.

The Chief Registrar, in his last Annual Report bears out these remarks—

"The abstracts of returns published by this office show, indeed, as has been mentioned above, that the great bulk of the branches in all orders are far yet from actuarial solvency; but it may fairly be said that the orders generally are honestly struggling towards it, and that with the resources at their command they ought to reach it. The improvement that has taken place has not indeed been effected without difficulties and heart-burnings. . . . Not to speak of the two great orders, whose growth is now almost independent of legislation" (*i.e.*, the Manchester Unity and Foresters), "he may point in particular to the rapid development since 1875 of [*here several orders are named*] as instances of progress."[1]

Mr. Chamberlain has probably by this time found that those orders, whose want of security is to tempt working men into his State-aided scheme, are possessed of more strength, influence, and vitality than he at first supposed.

Nor do we think that Mr. Chamberlain is right in attributing to a want of confidence in the financial soundness of the friendly societies the admitted non-success of those institutions in the past in providing for superannuation. In dealing with the reluctance to insure against old age, and with the guarantees required for a result which is only to accrue after the person who insures has continuously for forty years met his own obligations, Mr. Chamberlain points to perfect security as the greatest of these guarantees, and adds, "It cannot be said that he obtains this guarantee of absolute certainty, in all cases, from the friendly societies." This comment cannot apply to the two great societies above named, nor to some of the larger industrial assurance corporations. It is true, as was admitted by Mr. A. Graham, one of the directors of the Manchester Unity, that although a scheme for superannuation payments had been carefully calculated by the actuary to the order, only two members

[1] Report for 1890, p. 23.

out of 673,073 had up till within the last dozen years sought to avail themselves of it, and that only two members had taken advantage of a similar fund in connection with the Foresters' Society four years before. But for what reason? "Not," to quote Mr. Graham, "that the calculations are at all disputed . . . but simply and solely, so far as I can learn, because of the sheer inability of the brethren to pay the premiums demanded by them."[1]

This just means that the article offered for sale, viz., the annuity, has been offered too dear; and as all parties are free to deal or not, the ordinary commercial factor has come into play. It should not be forgotten that the trade unions have, as we have shown above, dealt successfully with superannuation to a limited extent, and we shall endeavour to show later how both they and the friendly societies might yet accomplish the object even without State subvention. It cannot be the want of security which has caused the plan of the Government deferred annuities purchasable through the Post Office to be a comparative failure. Yet these annuities have been purchased to a very slight extent. Let Mr. Chamberlain himself speak—

> "In the Post Office the results have not been more satisfactory. According to a return of Government assurances and annuities presented to the House of Commons in March, 1891, there were in existence at the close of the year 1890 only 1203 deferred annuities for a total amount of £23,655 per annum."[2]

The fact is the Post Office annuities are also too dear for working people to afford, and the commercial element (in the absence of compulsion) has come into play. Mr. Chamberlain adds that it would probably be found on a more particular examination of the circumstances, that even of the small number included in the return many of the annuities were granted to persons above the position of the working class.

But another general objection to which the project appears

[1] Address, titled "Superannuation, Annuity, or Old Age Pensions," April, 1881, 2nd ed.

[2] *National Review*, February, 1892, p. 731.

liable, is that it is dissocial, selfish, and has a disintegrating tendency.

In Greece and in the earlier Roman society, but especially in the former, the State was everything, the family was of little account, and the individual of still less. It has been, and still is, otherwise in this country. We have never lived either in a Platonic republic or a Utopian commonwealth. The family has hitherto been the great social unit. Any legislation whose tendency would be to weaken the family bond, to destroy the moral force of the natural obligations which spring from family life, which would sap those sentiments of esteem, mutual respect and confidence which have hitherto been characteristic features of social life in this country would run counter to the spirit and genius of the British people. These qualities have hitherto been a source of strength. The family unity has developed mutual respect, self-help, independence and thrift. Our personal and domestic legislation has hitherto respected the family tie. The parents, even of the poor, have evinced a laudable pride in training, educating, and fitting out in life their children.

This, indeed, has always been the favourite and most profitable investment for the masses of the people; one which does credit alike to their hearts and to their heads. It is just possible that a preference for expenditure on those objects may be the true reason why the people have not taken advantage of the superannuation insurance offered by the friendly and other societies of which they may be members; because it is not to be supposed that such large numbers of people as are concerned in this matter are wholly oblivious to their own interests. They may well reason thus: The years most fruitful in death among the very poor (which, *ex hypothesi*, is the class to be benefited) are the years between 45 and 60. The great struggle with such people is how to live in comparative comfort up to the limit of age here indicated. This problem is for them of far more pressing importance, because nearer, than how to die in comfort at an age beyond 65. Mr. Chamberlain's

scheme would not reach this large class of struggling men and women, to whom it is delusive and almost a mockery to offer a pension on their attaining an age which their circumstances and environment prevent the majority of them from ever reaching.

It is the experience of every one who has closely studied the habits of the people that the parental obligation which springs from the law of nature, to do the best that can be done for children, is very universally repaid by the children to their parents when the latter are old and no longer fitted for the battle of life. To the recognition and the practice of the reciprocal obligation is due, in large measure, the fact that, in Scotland at least, the aged are so well cared for, and that so few aged couples are found spending their waning days in the poorhouses. There is no reason to believe it to be otherwise in England.

Now, Mr. Chamberlain's scheme, with its temptations of £3 for £1, of absolute State security, of the receipt of 3 per cent. compound interest—double the rate the Government now allows on ordinary Savings Bank deposits—undoubtedly makes in the opposite direction.

It is individualism run riot. It is based on selfishness. It suppresses the family, and weakens the natural obligations, which, once loosened, are not easily bound up again. We have, in a previous chapter, when treating of the growth of pauper lunacy, shown the mischievous effects of inducements in breaking the admirable native spirit and independence of the poor. We have shown that the temptation which has been so prominently held out by the Lunacy Commissioners has already had a most pernicious effect on the moral fibre of the people and a disastrous result upon the pockets of the ratepayers.[1] Mr. Chamberlain's policy is charged with the same evil qualities, which only require an outlet to bring them into free operation. Upon these grounds alone, therefore, his policy should be regarded with great distrust.

[1] Cf. pp. 105, 106 *supra*.

Section 4.

The criticisms which we have hitherto offered upon this old age pension scheme have been of a broad and general character. They are of a kind upon which differences of opinion may well exist.

We now propose to subject the scheme to a somewhat closer scrutiny, and to examine whether in reality it does possess the advantages claimed for it, and whether (apart altogether from general and moral considerations) the pecuniary sacrifices which it demands do not greatly outweigh the financial benefits to be gained from it.

The scheme has now, through the labours of the joint-committee which we have referred to, been promulgated in definite form, and published under that authority, with the view, doubtless, of eliciting public opinion on its merits.

The provisions of the scheme may be summarised as follows:—[1]

A State Pension Fund is to be formed by an annual grant from Parliament, to be supplemented from local rates. The proportions are not yet stated; but that these are of the highest importance may be inferred from the computation which has been made by experts, that within fifty years the pension scheme, if fully operative, will involve a charge upon the public revenue of between three and four millions per annum. The male participants are to deposit £5 in the Post Office Savings Bank before reaching the age of 25, and each £5 deposit is to be supplemented by a credit in the Savings Bank of £15 from the State fund. Then the beneficiary has to make forty annual payments of £1, and on reaching the age of 65 he will be entitled to a pension of 5s. per week or £13 per annum for the rest of his life. To this condition, however, additions have now been made.

1. Anyone who desires a larger pension than £13 may

[1] For the scheme as published see Appendix No. VI.
Note.—While these paragraphs are passing through the press the scheme has undergone some further slight modifications.

provide for it by a proportional increase of deposit and annual payments, but not so as to be entitled at 65 to more than £26 per annum.

2. Should the insurer die after making three payments, but before becoming an annuitant, his widow and children are to be entitled to allowances; the children until they reach the age of 12, but the widow's own allowance of 5s. per week is to be limited to twenty-six weeks.

3. If an insurer dies without leaving a widow and children, the £5 deposit is to be returned to his legal representatives.

4. The provisions for female insurance are graded on a scale of non-returnable payments.

5. Arrears of annual payments may be paid up within five years, with 5 per cent. interest; but after payments are overdue beyond five years all previous payments and deposits are to be forfeited.

6. Provision is to be made whereby those who have purchased annuities elsewhere may participate in the pension scheme, and also for those who are over the age of 25 at the passing of the Act.

7. Government servants are to be compelled to open State pension accounts as a condition of their employment, but this is the only case of compulsion.

8. Employers of labour may open pension accounts for their servants, which may be transferred should an employee leave his employment.

9. An insurer can neither assign nor alienate his pension, but he may commute his annual payments by a lump sum according to an actuarial table to be prepared.

Now, apart from the superlative merit of being backed with the security of the State, we fail to see that the scheme possesses any advantages, or holds out sufficient attractions to the working classes to join it. But as this objection can be best appreciated when shown in money results, we present the following table as indicating clearly the financial *pros* and *cons* of the case:—

TABLE SHOWING THE OPERATION OF THE SCHEME.

	Principal.	Simple Interest at 4 per cent. for 40 Years.	Compound Interest at 4 per cent. for 40 Years.
£5 paid down at 25 years of age, .	£5	£7 10 0	£24 0 0
£1 per annum for 40 years, . .	40	31 10 0	58 16 6
	£45	£39 0 0	£82 16 6

Thus, with simple interest the cost is ... £84 0 0 ...
With compound interest the cost is . . . 127 16 6 ...

But this is not all, for the working man has, by supposition, been paying his compulsory poor-rate and school-rate during all the forty years. These additional charges may be thus set down in the case, say, of a man living in Glasgow in

	Average Rate Per Annum.	Payments in 40 Years.
(1) a house of one room and kitchen—		
Rent, £9, ...	£0 5 5	£10 16 8
(2) a house of two rooms and kitchen—		
Rent, £14 10s., ...	0 8 8	17 6 8

Exclusive of interest on the last mentioned payments, the total outlay for a workman living in a house of two rooms and a kitchen would therefore be—

At Simple Interest—
£84 + £17 6s. 8d. = . . £101 6 8 ...
At Compound Interest—
£127 16s. 6d. + £17 6s. 8d. = . 145 3 2 ...

In return the insurer, if he live beyond 65, and for each year he may so live, will receive £13.

Thus, if he attain the age of 66 he will receive £13
" " 67 " 26
" " 68 " 39
" " 69 " 52
" " 70 " 65
" " 71 " 78
" " 72 " 91
" " 73 " 104
" " 74 " 117
" " 75 " 130
" " 76 " 143

In considering the effect of these figures the chances of life have to be taken into account.

In estimating that part of the scheme, for example, which relates to the pensions for males it is not only the risk attending the survivance to 65 that has to be considered. That contingency every young man can get estimated for himself by the "expectation of life tables." Probably most stalwart young fellows will look askance at parting at 25 with £5 in order to lay the foundation (the security of which is to depend on continuous prompt payment of £1 per annum for forty years) of the off-chance of getting £13 per annum after reaching 65. The contingency is much more remote than that of mere participation in benefit. It may be stated thus—Of a given proportion of an assumed number of assurers alive at 25 who may chance to attain to 65 years, how many will survive for one, two, three, four, or five years, and so on? No estimate of the number of those who are likely to live to upwards of 70 has ever been submitted. And yet it is demonstrable from the preceding figures that, unless a considerable number are likely to live to at least 73, and so to reap benefit to the extent at least of getting their own money back, the scheme is doomed to failure.

Three other financial objections to which the scheme appears to be liable may now be briefly touched upon *seriatim*.

(1) The State subvention is smuggled away under cover of the local authorities. Evidently it is contemplated that the consolidated fund shall bear one part of the two-thirds charge, and that county councils, district councils, or town councils shall provide the other part as local rates. All such methods of finance are insidious and pernicious, and should be regarded with jealousy. Something may depend on the proportion to be contributed by each, but if the whole of the State's contribution were thrown on the local rates the ratepayers would soon see that they were being compelled to contribute to a new or additional Poor Law under another name; and that, too, for the benefit, not of the really necessitous, but of the fairly well-to-do and selfish among the wages-earners.

(2) As the Government is never able to invest money to so great advantage in the matter of obtaining a return as large voluntary societies and corporations, it is plain that either the contributions to be exacted from the insurers will require to be greater, or the benefits to be conferred upon them must needs be less, than they would be if the insurance were made through other agencies than the State. Obviously in a long-dated project like this, which involves the manipulation of a great block of money, say £100,000,000, the question of the rate of interest becomes of primary importance. The difference of $\frac{1}{16}$th or even $\frac{1}{32}$nd per cent. in the return from the investment of such a sum will necessarily make a material difference in the amount of the annuity that can be afforded. In this matter the State cannot compete successfully with large private financial corporations which are free as to the choice of their investments. Even could the State so compete, it ought not to do so, for so it would be entering on the downward paths of confusion.

(3) But is the selfish purchaser of an annuity to have no reward for his carefulness? Is he to pay in effect two poor-rates—one for all his neighbours in his parish and town, which besides insures himself the ordinary Poor Law benefits, without his having to wait forty years for them—and another to insure himself his old age pension? If he has to pay both, he will be burdensomely taxed, as the figures we have above submitted show, and he may be excused if he plead that his self-restraint and prudence entitle him to exemption from at least the universal and compulsory poor-rate. But should the insurers be so exempted, their fellow ratepayers, who are unable to indulge in the luxury of a deferred pension, might well complain that the better-off class of workmen were being benefited at the expense of those not so well off, that this was class legislation marked by compulsion, and that they, the complainers, were laid under stress, whilst those for whom they were so compelled were themselves free.

Section 5.

Manifestly the pensions in question cannot be obtained without the State subvention of £15 to help to form the fund. To the extent of that contribution, therefore, which is to be levied universally by compulsion, the scheme is just a Poor Law, and one of the most elastic and pernicious sort; for it is not confined to the necessary relief of the really necessitous, which the existing State provision is, but it forms the "stimulus" and "temptation" to the working men to become thrifty. The scheme is either that, or the £15 contribution is a present of the people's money to a few in order to tempt them before their battle of life is well begun to secure a provision for themselves in old age, an object not sounding in courage or the manly virtues. An experiment, however, in compulsory thrift—thrift among a limited class, to affect only a limited number of that class—should not be undertaken by Government at the expense of the other members of the community. In fine, the scheme results in a vicious and pernicious form of endowment.

But can Mr. Chamberlain's object not be accomplished otherwise? Can existing agencies not be utilized to effect the object in view?

We answer both questions in the affirmative, and as to the means we answer, first, by the agency of the existing Poor Law, and next, by that of the friendly societies and the trade unions.

1. One of the fundamental differences between the Poor Law system of this country and that of some of the Continental States and the United States of America is, that in Britain the law regards only results and takes no cognizance of causes. It regards as irrelevant the reasons which have produced the pauperism. Now, by a slight change in the British policy, a great step towards accomplishing Mr. Chamberlain's object might be made.

We have seen that the number of persons above 65 years of age requiring to be provided for is not excessive, being

(in England) somewhere between 400,000 and 500,000, a very different number from that one-half of the entire working people of this country above 65 years of age, who, we were assured, died annually in the workhouses. Already the aged poor are provided with a bare subsistence by the law. The object ought to be to make them more comfortable and less dependent. It is not pretended that the guardians and the parochial boards have not funds sufficient at their command. The compulsory assessment is at their back. The aged paupers already receive from 2s. to 4s. per week. Let the boards alter their policy and their practice, and take cognizance of causes and of conduct. Let them discriminate between the necessitous who are really deserving and the necessitous who are not deserving, and let them raise the allowance of the former up to the standard of the proposed pension. No legislation is required. Already the authorities have the discretion of giving more or less either by way of out-door or in-door relief, and this discretion would only require to be more carefully exercised.

It is objected to this method that it is the Poor Law, and that Poor Law relief is distasteful and degrading. Other sentimental objections are also stated. But we have shown that, call it by what name we will, or disguise it as we may, the Chamberlain scheme is, to the extent of three-fourths of the initial fund, nothing else than a Poor Law contribution to be exacted compulsorily from the many, and that it is a bribe to the few.

One merit of accomplishing the object through the existing Poor Law agency is, that the aged State pensionaries would be under some kind of supervision and control. It would not be socially expedient to allow large numbers of State pensioners to move about as they thought fit themselves, and perhaps, on occasion, defying public authority. Poor Law supervision would at least protect society from any irregularities and inconveniencies which might spring from unrestrained freedom on the part of a specially endowed class.

2. The magnitude, the ramifications, and the growing

wealth of the friendly societies have been shown. The friendly societies are voluntary associations managed by the members through directors and officers of their own choosing. They foster thrift and independence, and they teach business habits. They have now the protection of the State, and derive many benefits from that protection. In exchange for these let them be obliged to open their books to superannuation assurance for their members, according to rates of payment to be prescribed by Government actuaries after examining their accounts and their prospective liabilities in other directions; and let this obligation be enforced by the penalty of forfeiture of registration in case of refusal by societies already registered, and by the penalty of non-registration in the case of all societies seeking the benefits of registration in future.

3. The trade unions are legally in the same position. Many of them, as has been shown in a former section, do already provide superannuation benefit. They also register themselves as friendly societies. They are proved to be growing rapidly in numbers and strength. They also are voluntary associations, and if they and the registered friendly societies were made compellable to offer superannuation benefits according to a prescribed scale of contribution it would soon be seen whether the people wished such a method of provision for old age or not. Should the opportunity not be taken advantage of, then—if the prospective benefit were not offered too dear—it could only be said that it was not wanted. If it were taken advantage of, then the many would be saved from being laid under contribution for the sake of the few, and the State would be saved from an experimental excursion outwith the scope of its legitimate functions.

On all grounds, therefore, political, social, economical, and financial, the scheme which carries with it the weight of Mr. Chamberlain's name appears to be unsound, and one that ought not to be adopted on any terms.

CHAPTER XV.

Conclusion.

Private charity unable to relieve the pressure of poverty and discharge the office of the Poor Laws—The proper functions of private charity and of the Poor Law—Certain obvious duties of private charity.

Since we have been driven to a conclusion negative of the expediency of any attempt to institute State-aided pensions for old age, and negative also of the efficacy of such a scheme, even were it in force, to solve the problem of pauperism, we are thrown back, in view of objections heard every now and then to a continuance of the Poor Laws, on the question—Could unorganized charity and private benevolence fill the place of the Poor Laws were the latter swept away? There is no room for hesitation as to the answer if past experience be drawn upon and present tendencies be carefully observed. Indiscriminate or unsystematic charity can never by any possibility prove adequate in a populous community to the heavy strain of poverty, which strain indeed it constantly goes to increase. Eleemosynary doles, given on a large scale and without searching inquiry into particular need and particular desert, can have on the whole only injurious effects. Impostors are sure to be the most frequent and most successful recipients, while the weak and worthy must of course correspondingly suffer. The burden, because of its being an avoidable one, is sure to fall entirely upon the willing and beneficent, who may often be those least able to bear it, that is to say, the poor themselves; while the stingy and selfish, even if they be at the same time the wealthy, go free.

This happened before. Those very causes brought about

the downfall of the charitable agency system of Poor Law relief, and created the necessity for the imposing of an assessment. The wants of the necessitous outgrew the interested benevolence of the barons, and became too general and clamant for the disorganized efforts of a corrupt and broken church.

Under the conditions of modern society private philanthropy as a substitute for the Poor Laws is still more hopelessly out of the question. With multiplied and widely diverse employments, with life spent at high pressure in a keen competition for wealth and "position," with labour waging a perpetual war with capital and employers constantly in situations of direct antagonism to their workpeople, with forty years of exemption from trouble in looking after the poor, on the part of the older inhabitants, and of total unacquaintance with any other system than that of paid agency on the part of the present generation, the people cannot possibly be expected to organize themselves into unpaid district and congregational agencies, to seek out, relieve, and superintend the poor, and to accept the cares and responsibilities which a proper discharge of such an office would entail.

But it by no means follows that the fountains of charity should be dried up. As voluntary charity increases—which it does in even a greater ratio than poverty—so there continually arise fitting objects on which it may be advantageously expended. As there are distinct functions for the Poor Law to perform, so there are suitable fields for the exercise of benevolence, and worthy objects for the skill and the zeal of the charitable, and for the revenues of charitable associations. The two kinds of agency have quite distinct fields of labour, and neither should enter the domain of the other.

The Poor Law should deal exclusively with the sick, aged, or impotent poor, and perhaps with the destitute able-bodied who are temporarily out of employment, and should provide them with everything necessary to sustain existence —with food, raiment, and shelter. The administrators of

the Poor Law should not interfere with the channels of private benevolence, nor seek to divert those channels.

On the other hand, the impotent poor having a right to a measure of support, and the Poor Laws being devised and existing for the purpose of providing it, associated charity discharges a proper and useful office if it see that the legal duty is strictly performed, that impartiality is shown by the dispensers of relief, and that the poor actually do get, when necessary, that which the law has provided for them. The true duty, however, of charitable organizations and of private benevolence is to go before and after the Poor Law; not to compete with it, or to cross its path, but, by working at the sources, to stem the current of pauperism, and to watch with a view to lend a helping hand to those who, having been once paupers, have ceased to need relief. "Experience," it has been well said, "has shown that pauperism can be controlled, but cannot be cured by legislation," and "the law is not in fault if it has been found impossible by its machinery to perform all the offices of charity, and to treat the most subtle and inveterate mischiefs of crowded civilization."[1]

Private charity, when indiscriminately bestowed, so far from serving a good end, is justifiably ranked with alcoholic intemperance and with overcrowded, insanitary houses in town or country,[2] as one of the principal causes of those very mischiefs which are wrongly attributed to the Poor Laws. Soup kitchens, good dinners supplied gratis for poor children, alms given on the street to apparent sufferers from illness or from want, and every other form of indiscriminate private relief which the ingenuity and the kind intentions of benevolent men and women have devised, while they may on occasion have timeously supplied the pressing wants of a deserving recipient, have done so at an enormous cost to the country.

[1] Paper read by Donald Crawford, Advocate, to Scottish Society for the Amendment of the Law.—*Poor Law Magazine*, vol. iii., p. 193.

[2] On the subject of overcrowding in the country districts, see the valuable First Report to the County Council of Dunbartonshire, by John C. M'Vail, M.D., Officer of Health.

The effect of charity given merely from religious motives and without the minutest inquiry into each case has long ago been proved to be no mitigation of real suffering, but on the contrary a minister to vice, deception, lying, preferred idleness, effects not confined to the actual recipients of the alms, but spreading, as surely as contagion, to all their dependants and associates. It is, of course, one of the most painful situations for any one to be placed in, to have to decide hurriedly, on the street or the country roadside, upon the petition of a prematurely old and sickly-looking child who says he has not tasted food for two days and is starving. One is conscious that by refusing a copper one is probably doing good even in the particular case, since such refusal checks imposition, and may induce an early abandonment of habits which, continuing successful for a time, become inveterate and irremediable. But the reflection that the case was perhaps an honest one—that the denial of a penny to buy bread may have directly produced the child's death, or at least sped his passage to the tomb—is not a pleasant one. The situation is a practical difficulty. On the alternative adopted in each individual case important issues depend.

The same difficulty is presented, and the same process has to be gone through, in each separate case of giving alms. On each separate case, therefore, depend the good or evil effects of indiscriminate charity upon the recipients and their numerous dependants and acquaintances on the one hand, and, on the other, upon society at large. Each occasional and thoughtless giver of charity has, therefore, much in his power, but he has also a heavy responsibility. History testifies that, as hitherto given in Europe, private charity has been an evil rather than a blessing. It has produced the very mischiefs which it was designed, and has been supposed, to relieve. Under the patronage of the church it created an idle, vicious, lazy, deceitful class of sturdy beggars, to whom the very uncertainty of the means of subsistence offered a charm and afforded an excitement.

The indiscriminate administration of private charity has

run counter to the policy of the Poor Laws, which in Scotland has been to discourage the able-bodied and valiant beggar, to supply necessary relief to the aged and impotent, to provide correction-houses for the vagabonds, and to impose a labour test for the physically fit. Thoughtless charity has enabled many to cheat the inspector and defraud the ratepayer.

If people must continue to relieve themselves by giving charity to others who are not actually starving, let them first ascertain that some assistance is both needed and deserved. If necessity exist without desert, private charity should not interfere. Such cases are for the Poor Law officials alone. But if necessity be accompanied by desert, then let charity step in, if it will, but not with money—with anything but money. Money allowances are as baneful as poison. They are the tares sown in the field which spring up and choke the good seed. Money thoughtlessly given, and not the Poor Law, is the "cancer." If assistance must be given, let it be a first condition that it shall be in exchange for work, no matter of what kind or however unprofitable—turning a grindstone, digging out a walk to fill it up again, sewing hose, walking to the post-office of the nearest town on the most trivial errand—anything, in short, which will operate as a test to those who are skilled in deception, and which will conserve the native spirit of self-esteem and independence in the honest and really necessitous. Failing the opportunity to exact work, let relief be, as far as possible, given in kind—either in food itself, or in orders for food.

Unless the people awake to the folly of indiscriminate almsgiving, and withhold assistance except in cases which have been carefully inquired into and are known, fraud and imposition and beggary will prevail as they have so long prevailed, and, in spite of any Poor Law system, even were it the most perfect which human wisdom could devise, the worst features of pauperism will be perpetuated and become more marked.

There has been a gradual deviation from the policy of

the early Scottish laws—a deviation which, if not expressly sanctioned, has at least been condoned by the apathy of the people. The wisdom of that policy has been strikingly manifested by the fruits which were for a time yielded so abundantly by the departure from it. But lost ground must now be made up. The community must retrace its steps. Let the mistaken and short-sighted philanthropy of the charitable be restrained and moderated. Let the vagabonds be sent to the "correction-houses," which are the jails of our modern society; let the police be charged to look after them; let the able-bodied be repressed, the sturdy beggar and the vagrant be punished, instead of being feasted and patted, and let a strict labour test be imposed; let even those who are partially disabled, and so are legal objects of relief, but who are not "sa diseased, lame, or impotent, but that they may worke in some maner of wark," be appointed, in exchange for the succour afforded to them, to work in some manner of work, as the ancient Statute directs.

On the other hand, the clergy and the benevolently inclined must clear their minds of cant. They must recognise facts as they find them. They must cease to decry the public-houses until they have helped to provide wholesome and attractive substitutes for them. They must cease to denounce the running of trains, tramcars, and steamboats on Sundays, and must rather encourage arrangements to enable the denizens of our crowded city quarters to breathe at least once a week the pure air of heaven and gaze on nature. They must help to provide innocent amusements and recreation for young and old—music, open spaces, libraries, museums, and the like.

Let these things be done promptly and systematically throughout the country, and Scotland, in respect of its social condition and its pauperism, will assume a very different aspect from what it has done as yet. Unreasonable charges against a system of relief by assessment and paid agency will no longer be heard. And instead of bewailing the retrograde condition of the country and the decay of

the people, as many are now doing, those who come after us will congratulate themselves upon the lightness of their burdens, and have reason to rejoice in the better order of society into which they have been born.

APPENDICES.

APPENDIX I.

I.—Act 8 & 9 Vict. cap. 83, 4th August 1845,

For the Amendment and better Administration of the Laws relating to the Relief of the Poor in Scotland.

Whereas it is expedient that the laws relating to the relief of the poor in Scotland should be amended, and that provision should be made for the better administration thereof: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the following words and expressions, when used in this Act, shall in the construction thereof be interpreted as follows, except where the nature of the provision or the context of the Act shall exclude or be repugnant to such construction. (That is to say), The word 'burgh' shall include and apply to cities, burghs, and towns which are royal burghs, or which send or contribute to send a member to Parliament; 'Sheriff' shall include and apply to Sheriff-Substitute and Stewart-Substitute; the words 'lands and heritages' shall extend to and include all lands, fishings, fresh waters, ferries, quays, wharfs, docks, canals, railways, mines, minerals, quarries, coal works, lime works, brick works, iron works, gas works, factories, and manufacturing establishments, houses, tenements, shops, warehouses, mills, cellars, stalls, stables, gardens, yards, and all buildings and pertinents thereof; the word 'oath' shall include the affirmation of a Quaker, Separatist, or Moravian; 'owner' shall apply to liferenters as well as fiars, and to tutors, curators, commissioners, trustees, adjudgers, wadsetters, or other persons who shall be in the actual receipt of the rents and profits of lands and heritages; 'persons' shall extend to a body politic, corporate, or collegiate; and every word importing the singular only shall extend to several persons or things as well as one person or thing; and every word importing the plural shall be applied to one person or thing as well as several persons or things; and every word importing the masculine gender shall extend to a female as well as a male.

Board of Supervision for Relief of the Poor established.

II. And be it enacted, That a Board of Supervision shall be and is hereby established for the purposes of this Act, and the said Board shall consist of the following persons (*videlicet*): the Lord Provost of Edinburgh, the Lord Provost of Glasgow, the Solicitor-General of Scotland, the Sheriff-Depute of the county of Perth, the Sheriff-Depute of the county of Renfrew, the Sheriff-Depute of Ross and Cromarty, all for the time being, together with three other persons, whom it shall be lawful for her Majesty, her heirs and successors, by warrant under the sign-manual, to appoint; and it shall also be lawful for her Majesty, her heirs and successors, to supply any vacancy which may occur in the said board by removal, by death, or otherwise, of any of the said three persons; and the said board shall be styled 'The Board of Supervision for Relief of the Poor in Scotland;' and the said board may sit from time to time and at such places as they shall deem expedient.

Members of Board to derive no Emolument—Their Expenses to be paid.

III. And be it enacted, That the members of the said board shall derive no profit or emolument for the discharge of the duties of their office, except as hereinafter mentioned, and shall not be personally responsible for any thing done *bona fide* in the execution of this Act, or in the exercise of the powers therein contained: Provided always, that any necessary expenses incurred by the board or by members thereof, or committees or commissioners authorized or appointed by the board as hereinafter provided, shall be deemed as part of the incidental expenses attending the execution of this Act, and be paid accordingly: and an account of all expenses of the said board shall be annually laid before Parliament.

One paid Member and Secretary to the Board.

IV. And be it enacted, That it shall be lawful for Her Majesty, her heirs and successors, to nominate one of the three members of the said Board of Supervision to be appointed by Her Majesty as aforesaid, who shall be paid, and also to appoint a fit person to be secretary to the said board, who shall also be paid, and to supply any vacancy which may occur in the said office of secretary; and such paid member of the Board of Supervision and such secretary shall each receive an adequate salary of such amount as shall from time to time be regulated and approved by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them; and such secretary shall find sufficient security for his intromissions and management to the satisfaction of the said board, and shall be liable to be removed by Her Majesty on the

recommendation of the said board; and the Sheriffs of the said three sheriffdoms of Perth, Renfrew, and Ross and Cromarty shall each receive the sum of one hundred pounds sterling per annum, in addition to their present salaries, so long as they continue to act as members of the said board.

Meetings of the Board—Paid Member of Board of Supervision to attend regularly.

V. And be it enacted, That the said Board of Supervision shall meet at Edinburgh in the Court-room of the First Division of the Court of Session, upon the twentieth day of August next, or upon the first convenient day within ten days thereafter, of which due notice shall be given by the secretary to each of the members, and shall thereafter hold two general meetings in each year, one upon the first Wednesday in February, and the other upon the first Wednesday in August; and at such first meeting, and at all other meetings to be held in pursuance of this Act, three shall be sufficient to act; and the said board shall have power to adjourn for such time and to such place as they shall see fit; and it shall be lawful for the said board to hold special or *pro re nata* meetings, which may be called by the secretary, provided that such notice shall be given in writing by the secretary, as the board shall direct; and that all notices of special or *pro re nata* meetings shall specify the business or matter on which such meetings are called; and it shall be the duty of the paid member of the said board not only to attend at the general and the special or adjourned meetings, but to give regular attendance for the purpose of conducting the business of the said board; and the board shall have chambers in Edinburgh at which the ordinary business of the board shall be conducted, and at which the meetings of the board may be held.

Board may name Committees.

VI. And be it enacted, That the said board shall have power, as often as they may deem fit, to appoint any two or more of their number as a committee for the purposes of this Act, and if more than two, to fix the number of such committee that shall be sufficient to transact business; and it shall be lawful for such committee, in transacting the business committed to them, to exercise all the powers necessary for that purpose which are by this Act given to the Board of Supervision; and such committee shall be bound to report to the board at such time or times as the board shall direct, and failing such direction, shall report to the said board at its next general statutory meeting.

Board may make General Rules.

VII. And be it enacted, That it shall be lawful for the said board from time to time, as they shall see occasion, to make general rules and regulations for conducting the business of the said board, and for exercising the powers and authorities thereof, and to alter such rules and regulations: Provided always, that such rules and regulations and alterations, or a copy thereof, shall be transmitted to one of Her Majesty's principal secretaries of state for his sanction and approval, and for such additions or alterations as he may deem necessary; and no rules or regulations or alterations as aforesaid shall be effectual, except such as shall have been approved of by the said secretary of state, who shall be understood to have approved of all such rules and regulations and alterations aforesaid as shall have been transmitted for his sanction and approval, if no intimation to the contrary be made to the Board of Supervision within twenty-one days from the date of such transmission; and a copy, signed and certified by the secretary of the Board of Supervision, of the rules and regulations and alterations approved as aforesaid, shall be evidence of such rules, regulations, and alterations in any court of law or justice.

Board to record their Proceedings, and make annual Reports on the State of the Poor.

VIII. And be it enacted, That the said Board of Supervision shall make a record of their proceedings, in which shall be entered minutes of all meetings held by them, or any committee appointed by them, and all resolutions passed and orders made by them, and all other matters which the board may judge proper; and the said board shall once in every year submit to one of her Majesty's principal secretaries of state a general report of their proceedings, which report shall contain in particular a full statement as to the condition and management of the poor throughout Scotland, and the funds raised for their relief; and every such report shall be laid before both Houses of Parliament within six weeks after the receipt of the same by such principal secretary of state, if Parliament be then sitting, or if Parliament be not sitting, then within six weeks of the next meeting thereof.

Powers of the Board of Supervision to require Returns and examine Witnesses.

IX. And be it enacted, That it shall be lawful for the said Board of Supervision to inquire into the management of the poor in every parish or burgh in Scotland; and for this purpose the said board is hereby empowered to make inquiries, and require answers or returns to be made to the said board, upon any question or matter

connected with or relating to the relief of the poor, and also by a summons, signed by one of their number, or by the secretary, to require the attendance of all such persons as they may think fit to call before them upon any such question or matter, and to administer oaths to and examine upon oath all such persons, and to require and enforce the production, upon oath, of all books, contracts, agreements, accounts, and writings, or copies thereof respectively, in anywise relating to any such question or matter; or in lieu of requiring such oath as aforesaid, the said board may, if they think fit, require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined.

Board may authorize Special Inquiries to be made.

X. And be it enacted, That it shall and may be lawful for the said board, whenever it may seem fitting to them, to authorize and empower for a limited time one of the members thereof to conduct any special inquiry in any part of Scotland, and report thereon to the board; and such member, so authorized and empowered, shall be entitled to summon and examine on oath witnesses and havers, and to exercise all such other of the powers by this Act given to the Board of Supervision as may be necessary for conducting such inquiry; and such member shall be reimbursed by the said board of all expenses necessarily incurred by him in conducting such inquiry, and such expenses shall be deemed part of the expenses attending the execution of this Act, and be paid accordingly.

Board may appoint Commissioners for conducting Special Inquiries.

XI. And be it enacted, That it shall and may be lawful for the said Board of Supervision, whenever it may seem fitting to them, with the consent of one of Her Majesty's principal secretaries of state, or of Her Majesty's advocate for Scotland, or whenever the said board may be thereunto required by one of Her Majesty's said secretaries of state, or Her Majesty's said advocate, to appoint some person, not being a member of the board, but being a member of the Faculty of Advocates, or a duly qualified medical practitioner, or an architect or surveyor, or two or more of such persons, to act as a commissioner or commissioners for the purpose of conducting any special inquiry for a period not exceeding forty days, and to report thereon; and the said board shall delegate to every person so appointed for the purpose of conducting such inquiry all such of the powers of the said board as they may deem necessary or expedient for summoning and examining witnesses and havers, and otherwise conducting such inquiry; and every such appointment shall be subject to the approval of one of Her Majesty's said secretaries of state, or of Her Majesty's said advocate; and every

person so appointed as aforesaid to conduct any special inquiry shall, before he enter on the execution of his duties, take an oath *de fideli administratione officii*, which oath may be administered to him by any member of the board, or any one of the judges of the Court of Session, or the sheriff of any county; and it shall not be necessary to notify the appointment of any such commissioner otherwise than by intimating the same by letter under the hand of the secretary, or of any member of the board, to the sheriff of the county within which the inquiry in question is to be made; and every such commissioner shall be reimbursed by the said board for all expenses necessarily incurred by him in conducting such inquiry, and shall also receive such reasonable remuneration for his time and trouble as may have been agreed upon between him and the said board, and approved of by Her Majesty's said secretary of state or advocate; and failing of any such agreement, the amount of the remuneration shall be fixed by the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury, or by such person or persons as he or they shall name.

Board may allow Expenses of Witnesses, etc.

XII. And be it enacted, That it shall be lawful for the said Board of Supervision, in any case where they see fit, to order and allow such expenses of witnesses, and such expenses of or concerning the production of any books, contracts, agreements, accounts, or writings, or copies thereof, to or before the said board or committee thereof or commissioner, as such board may deem reasonable; and such expenses so ordered and allowed shall be deemed part of the incidental expenses attending the execution of this Act, and be paid accordingly.

Penalties on Parties giving false Evidence, or refusing to obey Summons of the Board.

XIII. And be it enacted, That if any person, upon any examination on oath under the authority of this Act, shall wilfully give false evidence, he shall be deemed guilty of perjury, and shall be liable to the pains and penalties thereof; and in case any person shall wilfully refuse to attend in obedience to any summons of the said Board of Supervision or committee thereof, or member or commissioner authorised or appointed by the board as aforesaid, or to give evidence, or shall wilfully refuse to produce any books, contracts, agreements, accounts, and writings, or copies of the same, which may be required to be produced before the said board or committee, or member or commissioner, or shall wilfully neglect or disobey any of the orders of the said board or committee, or member or commissioner, or be guilty of any contempt of the said board or committee, or member or commissioner, such person

being thereof lawfully convicted, shall forfeit and pay, for the first offence, any sum not exceeding five pounds; for the second and every subsequent offence, any sum not exceeding twenty pounds, nor less than five pounds.

Power of Board to appoint Clerks, etc.

XIV. And be it enacted, That the said Board of Supervision shall be and is hereby empowered, from time to time, to appoint all such clerks, messengers, and officers, as they shall deem necessary, and from time to time, at the discretion of the said board, to remove such clerks, messengers, and officers, or any of them, and to appoint others in their stead, provided that the amount of the salaries of such clerks, messengers, and officers shall, from time to time, be regulated by the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury, or any three or more of them; and the name of every person so appointed or removed as aforesaid shall forthwith be intimated to one of Her Majesty's principal secretaries of state for his approval, who shall be understood to approve of such appointment or removal, if no notice to the contrary be received by the said board within twenty-one days from the day of the date of such intimation.

Members of Board of Supervision may attend Meetings of Parochial Board.

XV. And be it enacted, That it shall be lawful for any of the members or the secretary of the said Board of Supervision, or for any clerk or officer of the said board, provided that such clerk or officer shall be duly authorized by a writing signed by two at least of the members of said Board of Supervision, to attend and be present at the meetings of any Parochial Board for the management of the poor, and to take part in the discussions, but not to vote at such board.

Parishes may be combined—Board of Supervision may add other Parishes.

XVI. And be it enacted, That in every case in which it may appear to the Board of Supervision, on application by the Parochial Boards of any one or more adjoining parishes, or from a regard to the relative situation of two or more such parishes, or from any other circumstances, that the administration of the affairs of the poor therein might be carried on with greater advantage to the said parishes, and to the poor therein, by the said parishes being combined for the purposes of this Act, then the Parochial Boards of such parishes shall meet, on requisition to that effect by the Board of Supervision, for the purpose of considering the proposed

combination; and in every case where the Parochial Boards of two or more such parishes shall resolve that it is expedient and proper that such parishes shall be combined for all purposes connected with the management of the poor, and the administration of the laws relating to their relief and for the purposes of raising the necessary funds for the relief and support of the poor, and also for the purposes of settlement, and where it shall be established to the satisfaction of the Board of Supervision, that it is expedient and proper that such parishes shall be so combined, it shall be lawful for the said Board of Supervision to resolve and declare that such parishes shall thenceforward be combined for the purposes aforesaid, and shall be considered as one parish so far as regards the support and management of the poor, and all matters connected therewith; and all expenditure in respect to the poor belonging to such combination of parishes shall be deemed and held to be the common expenditure of such combination of parishes, and be charged upon and paid out of the common and general fund to be raised for the relief of the poor over the whole of such parishes: Provided always, that, upon application by the Parochial Board of any parish adjacent to any such combination, it shall be lawful for the said Board of Supervision, if they see fit, due regard being had to the circumstances of the case, to resolve and declare that such parish shall be for the purposes of this Act added to such combination from and after a date to be signified in the resolution of the said Board of Supervision; and such parish shall, from and after such date, be held in law to be a part of such combination in all matters relative to the relief of the poor, and subject in every respect to the provisions and regulations hereby made and provided in relation to combinations of parishes; and such resolution shall be forthwith published in such manner as the said Board of Supervision shall direct.

Parochial Board of Managers of the Poor in Burghal Parishes or Combinations.

XVII. And be it enacted, That in every burghal parish or combination of parishes there shall be a Parochial Board of managers of the poor; and the whole administration of the laws for the relief of the poor shall be under the direction and control of such Parochial Board, on whom shall devolve all the powers and authorities hitherto exercised by or vested in the magistrates of burghs in that behalf, or any other body or persons administering, or entitled to administer, the laws for the relief of the poor in any burgh or burghal parish; and until it shall have been resolved to raise the funds requisite for the relief of the poor by assessment, the board shall, in the case of a burghal parish, where there is no combination of parishes, consist of the persons who, if this Act had not been passed, would have been entitled to administer the laws for the

relief of the poor in such parish, and shall, in the case of a combination of parishes, consist of persons who, if this Act had not been passed, would have been entitled to administer the laws for the relief of the poor in the several parishes of which the combination is composed, or of such committees of their number as they may think proper to appoint; and when in any burghal parish or combination in which it shall have been resolved, as hereinafter provided, to raise the funds requisite for the relief of the poor by assessment, the Parochial Board of such parish or combination shall be constituted and chosen as follows: (that is to say) the persons assessed for the support of the poor within the parish or combination shall elect, in manner after mentioned, to be members of the Parochial Board, such number of managers, not being more than thirty, as the said Board of Supervision, having due regard to the population and other circumstances of every such parish or combination, may from time to time fix, and possessing such qualification by the ownership or occupancy of lands and heritages of a certain annual value within the parish or combination as the said Board of Supervision, having due regard to the population and other circumstances of every such parish or combination, may from time to time fix, such qualification being in no case fixed at a higher annual value than fifty pounds, to be ascertained in manner hereinafter provided in regard to the qualification of voters; and the magistrates of the burgh shall nominate four persons to be members of the Parochial Board: and the kirk-session of each parish shall nominate not exceeding four members of such kirk-sessions to be members of the Parochial Board: Provided always, that those parishes only shall be held to be separate parishes which at the date of this Act are separate parishes for the purposes of settlement and relief of the poor; and that where there shall be in any parish two or more kirk-sessions, the members of such several kirk-sessions shall meet together and nominate not exceeding four of their number to be members of the Parochial Board.

Board of Supervision to fix the Day for the first Election of Managers.

XVIII. And be it enacted, that where in any burghal parish or combination it shall have been so resolved to raise the funds requisite for the relief of the poor by assessment, and where the persons from whom such assessment is to be levied, and the amount payable by each, shall have been ascertained or determined as hereinafter provided, the Board of Supervision shall fix a day for the persons so assessed to elect such number of managers, duly qualified, to be members of the Parochial Board, as shall be regulated by the Board of Supervision as aforesaid, and shall also fix a day or days for the magistrates and the kirk-session or kirk-sessions to nominate the persons to be by them respectively nominated to

be members of the Parochial Board; and such managers and members, being elected or nominated, shall be entitled to act for the period of one year, and may be re-elected or re-appointed.

Mode of Voting in Burghal Parishes or Combinations.

XIX. And be it enacted, That in all cases of the election of managers for the poor of any burghal parish or combination under this Act, the votes shall be given or taken, collected and returned, in such manner and under such regulations as the Board of Supervision shall direct; and in every such election every person assessed for the support of the poor in such parish or combination shall be entitled to vote, whether such assessment be made in respect of ownership or occupancy of lands and heritages; and it is hereby declared that the owners of lands and heritages, the annual value of which shall be under twenty pounds, shall have each one vote; the owners of lands and heritages, the annual value of which shall be twenty pounds but under forty pounds, two votes; the owners of lands and heritages, the annual value of which shall be forty pounds but under sixty pounds, three votes; the owners of lands and heritages, the annual value of which shall be sixty pounds but under one hundred pounds, four votes; the owners of lands and heritages, the annual value of which shall be one hundred pounds but under five hundred pounds, five votes; the owners of lands and heritages, the annual value of which shall be five hundred pounds and upwards, six votes; and that all persons assessed as the occupants of lands and heritages shall each have the same number of votes as an owner of lands and heritages assessed to the same amount for the support of the poor would have; and when any occupant shall also be the owner of lands and heritages, and assessed in both capacities, he shall be entitled to vote as well in respect of his ownership as of his occupancy; who is assessed on his means and substance shall also be an owner of lands and heritages, and assessed as such, he shall be entitled to vote as well in respect of his ownership as of his means and substance: Provided always, that no person shall for himself have more than six votes in all, and that no person shall be entitled to vote who shall have been exempted from payment of his rates or assessment for relief of the poor on the ground of inability to pay, or who shall not have paid all such rates and assessments assessed upon and due from him at the time of so voting.

Board of Supervision may divide Burghal Parishes or Combinations into Wards or Divisions for Elections.

XX. And be it enacted, That for the purpose of conducting the election of managers of the poor, it shall be lawful for the Board of Supervision to divide any burghal parish or combination into

such and so many wards or divisions as they may deem expedient, and to determine and apportion the number of managers to be elected by every such ward or division, having due regard to the population and the value of property therein: Provided always, that no person shall be entitled to vote for the managers of the poor in any such ward or division unless he reside therein, or have a right to vote in respect of his ownership or occupancy of lands and heritages within such ward or division; nor shall any person give in any one ward or division, in respect of ownership or occupancy of lands and heritages, a greater number of votes than he is entitled to in respect of lands and heritages in such ward or division; nor shall any person give in the whole of the wards or divisions into which a parish may be divided a greater number of votes than he would be entitled to have given if the parish had not been so divided.

Right of Voting—how to be ascertained.

XXI. And be it enacted, That, for the purpose of ascertaining the number of votes to which each person is entitled, the books of the collector of the assessment for the poor shall be taken as the evidence of the annual value of the lands and heritages assessed, and of the amount for which each person is assessed.

Parochial Board in Parishes not Burghal or Combined.

XXII. And be it enacted, That in every parish not being a burghal parish, and not being part of any combination as aforesaid, there shall be in like manner a Parochial Board for the management of the poor of such parish, and the whole administration of the laws for the relief of the poor shall be under the direction and control of such Parochial Board, who shall have and exercise all the powers and authorities hitherto exercised by or vested in the heritors and kirk-sessions, or in the heritors, kirk-sessions, and magistrates, or any other body or persons administering or entitled to administer the laws for the relief of the poor in such parish, by virtue of any law or usage; and such Parochial Board shall be constituted as follows: (that is to say) in every such parish as aforesaid in which the funds requisite for the relief of the poor shall be provided without assessment, the Parochial Board shall consist of the persons who, if this Act had not been passed, would have been entitled to administer the laws for the relief of the poor in such parish; and in every such parish as aforesaid, in which it shall have been resolved, as hereinafter provided, to raise the funds requisite for the relief of the poor by assessment, the Parochial Board shall consist of the owners of lands and heritages of the yearly value of twenty pounds and upwards, and of the provost and bailies of any royal burgh, if

any, in such parish, and of the kirk-session of such parish and of such number of elected members, to be elected in manner after mentioned, as shall be fixed by the Board of Supervision: Provided always, that no provost or bailie or elder of the kirk-session shall, as such, be a member of such Parochial Board unless he is assessed for the poor; and provided also, that no more than six members of the kirk-session shall, as such, be members of such Parochial Board; and if the kirk-session shall consist of more than six members, it shall be lawful for such kirk-session from time to time to nominate six of its members to be members of the Parochial Board, for such time as to the kirk-session shall seem fit; and it shall be competent for any heritor, being a member of the Parochial Board, to appoint, as heretofore, by a writing under his hand, any other person to be his agent or mandatory to act and vote for him at such Board; and such appointment shall remain in force till recalled; and such writing of appointment is hereby declared to be valid and lawful, although the paper whereon it is written should not be stamped.

Elected Members.

XXIII. And be it enacted, That in every such parish as aforesaid in which it shall have been resolved to raise the funds for relief of the poor by assessment, and in which the persons from whom such assessment is to be levied, and the amount payable by each, have been ascertained or determined as hereinafter provided, it shall and may be lawful for the persons so assessed, not being owners of lands and heritages of the yearly value of twenty pounds, or provost or bailies of any royal burgh in such parish, or members of the kirk-session, and, as such, members of the Parochial Board, to elect so many of their own number to be members of the Parochial Board of such parish as shall be regulated and fixed from time to time by the Board of Supervision, due regard being had to the amount of the population, the number and residence of the other members of the Parochial Board, and the special wants and circumstances of each particular parish; and the said Board of Supervision shall also fix a day for the said persons to meet and choose such number of elected members of the Parochial Board as shall have been fixed by the Board of Supervision as aforesaid; and such elected members being so appointed, shall be entitled to act for the period of one year, and may be re-elected: Provided always, that no person shall be entitled to act as an elected member unless he be assessed to the poor, and pay assessment to the parish.

Elected Members—how to be appointed.

XXIV. And be it enacted, That on the day so to be fixed by the Board of Supervision as aforesaid, and on the same day in

each succeeding year, or on a day as soon thereafter as may be, to be fixed by the Board of Supervision, the persons assessed as aforesaid shall meet for the purpose of appointing elected members of the Parochial Board; and if they shall not agree in the choice of elected members, then it shall and may be lawful for the inspector of the poor, appointed in manner after mentioned, or in case of his absence or inability, for any person appointed by the Parochial Board to act for the occasion, to take in writing and collect the votes of the persons entitled to vote at such meeting, and to declare (according to the number prescribed by the Board of Supervision) those persons to be elected members who shall appear to have the majority of votes, and in the event of an equality, the person paying the largest amount of assessment shall be preferred; and at every such meeting, owners of lands and heritages within the parish under twenty pounds of yearly value, shall each have one vote, and tenants or occupants of lands and heritages, and persons assessed upon means and substance, if assessed to an amount less than is assessed upon an owner of lands and heritages of the yearly value of twenty pounds, shall each have one vote; and if assessed to an amount equal to that assessed upon an owner of lands and heritages of the yearly value of twenty pounds, but under forty pounds, shall each have two votes; and if equal to that assessed on an owner of lands and heritages of the yearly value of forty pounds, but under sixty pounds, shall each have three votes; and if equal to that assessed on an owner of lands and heritages of the yearly value of sixty pounds, but under one hundred pounds, shall each have four votes; and if equal to that assessed on an owner of lands and heritages of the yearly value of one hundred pounds, but under five hundred pounds, shall each have five votes; and if equal to that assessed on an owner of lands and heritages of the yearly value of five hundred pounds or more, shall each have six votes; and the books of the collector of the assessment in each parish shall be binding and conclusive for the purpose of ascertaining the number of votes to which any person shall be entitled in respect of the ownership, occupancy, or means and substance upon which he is assessed; and where any person who is assessed as owner is assessed also as occupier, or on means and substance, he shall be entitled to vote as well in respect of such occupancy, or means and substance, as of his being such owner: Provided always, that no person shall have more than six votes, and that no owner of lands and heritages of the yearly value of twenty pounds or upwards, and no provost, bailie, or member of the kirk-session, being a member of the Parochial Board, and no person who shall have been exempted from the payment of his rates or assessments for the relief of the poor on the ground of inability to pay, or who shall not have paid all such rates and assessments assessed upon and due from him, shall be entitled to

vote; and for the purpose of conducting the election, it shall be lawful for the Board of Supervision to divide any parish into such and so many districts or divisions as they may deem expedient, and to determine and apportion the number of elected members to be elected by every such district or division, subject to the like conditions and restrictions as are hereinbefore provided in regard to the election of managers in burghal parishes or combinations.

In Cases of Corporations or Joint Stock Companies, who are entitled to vote.

XXV. And be it enacted, That in cases of lands and heritages being owned or occupied by any corporation, or any joint stock or other company, or by joint owners or joint occupants, no member of such corporation, or proprietor of or interested in such joint stock or other company, and no such joint owner or joint occupant shall, as such, be entitled to vote at the election of any member of a Parochial Board of any parish or combination; but any member or officer or such corporation, joint stock or other company, or any one of such joint owners or joint occupants whose name shall be entered by order of such corporation or company, or the governing body thereof, or of such joint owners or joint occupants, in the books of the parish or combination, in the manner that may be directed by the Board of Supervision, and who shall have complied with the regulations regarding voting, shall be entitled to vote in the same manner as if he were the owner or occupant of such lands and heritages.

Husbands may vote in right of their Wives.

XXVI. And be it enacted, That in all meetings and matters under this Act, the husbands of owners of lands and heritages shall be entitled to vote and act in right of their wives.

Disputes as to Elections—how to be determined.

XXVII. And be it enacted, That any dispute which may arise as to the validity of the election of any person to be a member of the Parochial Board of any parish or combination shall be determined by the sheriff of the county in which such parish or combination, or the greater portion of them, may be situate, upon petition in a summary manner; and the said sheriff shall hear the parties, and investigate the matter in such a way as he may think proper, and shall have power to call for such evidence, and for the production of such documents, as he may think necessary, provided that no written pleadings shall be allowed, and no record shall be made of the proceedings; and the decision by the said sheriff shall be final, and shall not be liable to appeal, or to suspension, advocation, or

reduction, or any other form of review; and it shall be lawful for the said sheriff to order the expenses of all such proceedings to be paid by such parties and in such manner as to him may seem equitable: Provided always, that it shall not be lawful for any person to question the validity of any election under this Act, unless a notice in writing of his intention so to do be served on the returning officer at the time of making the return, or within forty-eight hours from the time when such return shall have been made.

Party returned may act in the meantime.

XXVIII. And be it enacted, That in the event of any disputed election of any Parochial Board, or of any member or members of any Parochial Board, the persons whose names are returned by the returning officer as having the majority of votes shall be entitled to sit and act as elected members of such board in the meantime, and until the question regarding the validity of their election shall have been tried and determined; and all acts and deeds done by them in their character of members of such board or managers for the poor shall be valid and effectual; and no defect in the qualification, election, or appointment of any person acting in the character of a member of a Parochial Board shall vitiate or make void any proceedings of such board in which he may have taken a part.

Penalty on Officer making false Returns.

XXIX. And be it enacted, That if any returning officer be guilty of wilfully making a false return, he shall be liable to a penalty of fifty pounds, to be recoverable by action in the Court of Session, and payable to the party or parties aggrieved by such false return.

Meetings of Parochial Boards and Committees.

XXX. And be it enacted, That it shall be lawful for every Parochial Board to fix certain days and places on and at which the general meetings of the board shall be held, and to adjourn such meetings from time to time, and to such places as they shall see fit: Provided always, that every Parochial Board shall be bound to hold at least two general meetings in every year, one on the first Tuesday of February, or as soon thereafter as may be, and the other on the first Tuesday of August, or as soon thereafter as may be, or at such other stated times as may be approved of by the Board of Supervision, and at such meetings to revise and adjust the roll of paupers and their allowances; and it shall also be lawful for every Parochial Board to hold special meetings as occasion may require, upon summonses to be issued by the inspector of the poor or by the chairman of the board; and it shall be lawful for every Parochial

Board to nominate and appoint committees to act on behalf of the whole board; and such committees, in transacting the business committed to them, shall exercise all the powers necessary for that purpose which belong to the Parochial Board.

Parochial Board to elect a Chairman annually.

XXXI. And be it enacted, That every Parochial Board shall annually elect one of their number to be chairman for the year ensuing, and such chairman shall preside at all meetings of the board, and shall have both an original and a casting vote in case of equality; and in the event of the absence of the chairman of the board at any meeting, the members present shall elect a chairman *pro tempore*, who shall act as chairman of the meeting, and such chairman shall have a casting as well as an original vote.

Parochial Boards to meet and make up the Roll of the Poor, and appoint an Inspector of the Poor.

XXXII. And be it enacted, That each Parochial Board shall, on the third Tuesday of September in this present year, or on such day thereafter as may be fixed by the Board of Supervision, meet for the purpose of making up, or causing to be made up, a roll of the poor persons claiming and by law entitled to relief from the parish or combination, and of the amount of relief given or to be given to each of such persons, and for the purpose of appointing an inspector or inspectors of the poor in such parish or combination, and fixing the amount of remuneration to be given to every such inspector; and such meeting shall make up, or cause to be made up, such roll as aforesaid with the least possible delay, and shall nominate and appoint a fit and qualified person or persons to be inspector or inspectors of the poor in such parish or combination, and shall fix the amount of the remuneration to be given to every such inspector, and shall forthwith report to the Board of Supervision the name and address of such inspector, and the amount of the remuneration to be given to him, and shall at the same or at another meeting, to be held on a day not more than fourteen days thereafter, consider and determine as to the mode of raising the funds requisite for the relief of the poor in the parish or combination.

Parochial Boards may resolve that the Funds shall be raised by Assessment.

XXXIII. And be it enacted, That it shall be lawful for the Parochial Board of any parish or combination assembled at such meeting, or at any adjournment thereof, or for the Parochial Board of any parish or combination at any meeting of such board called

for that purpose, and of which due notice shall have been given, by letter, advertisement, or otherwise, to all the persons entitled to attend, to resolve that the funds requisite for the relief of the poor persons entitled to relief from the parish or combination, including the expenses connected with the management and administration thereof, shall be raised by assessment; and if the majority of such meeting shall resolve that the funds shall be raised by assessment, such resolution shall be final, and shall be forthwith reported to the Board of Supervision; and it shall not be lawful to alter or depart from such resolution without the consent and authority of the Board of Supervision, previously had and obtained.

Modes of imposing Assessment.

XXXIV. And be it enacted, That when the Parochial Board of any parish or combination shall have resolved to raise by assessment the funds requisite, such board shall, either at the same meeting, or at an adjournment thereof, or at a meeting to be called for the purpose, resolve as to the manner in which the assessment is to be imposed; and it shall be lawful for any such board to resolve that one half of such assessment shall be imposed upon the owners, and the other half upon the tenants or occupants of all lands and heritages within the parish or combination, rateably according to the annual value of such lands and heritages; *or to resolve that one half of such assessment shall be imposed upon the owners of all lands and heritages within the parish or combination, according to the annual value of such lands and heritages, and the other half upon the whole inhabitants, according to their means and substance, other than lands and heritages situated in Great Britain or Ireland; or to resolve that such assessment shall be imposed as an equal percentage upon the annual value of all lands and heritages within the parish or combination, and upon the estimated annual income of the whole inhabitants from means and substance, other than lands and heritages situate in Great Britain or Ireland;*[1] and when the Parochial Board shall have resolved on the manner in which the assessment is to be imposed, such resolution shall be forthwith reported to the Board of Supervision for approval; and if the manner of assessment so resolved upon shall be approved by the Board of Supervision, the same shall be adopted and acted upon in such parish or combination, and shall not be altered or departed from without the sanction of the Board of Supervision; and if the Board of Supervision shall disapprove of the manner of assessment so resolved upon as aforesaid, the Parochial Board shall, upon such disapproval being intimated, forthwith meet and resolve upon another mode of imposing the assessment consistent with law, and shall report such resolution to the Board of Super-

[1] Repealed by 24 & 25 Vict. cap. 37 (Mr. Baxter's Act).

vision; and the manner of imposing the assessment so resolved upon shall be adopted and acted upon in such parish or combination, and shall not be altered or departed from without the sanction of the Board of Supervision.

Assessment may be imposed according to Local Act or Established Usage.

XXXV. And be it enacted, That if at the date of this Act an assessment for the poor shall in any parish or parishes be imposed according to the provisions of any local act, or according to any established usage, it shall be lawful for the Parochial Board or Boards of such parish or parishes to resolve that the assessment in such parish or parishes shall be imposed according to the rule established by such local act or usage; and such resolution, if approved of by the Board of Supervision, shall continue to be acted upon in such parish or parishes, and shall not be altered or departed from without the sanction of the Board of Supervision.

Parochial Boards may classify Lands.

XXXVI. And be it enacted, That when the one half of any assessment is imposed on the owners, and the other half on the tenants or occupants of lands and heritages, it shall be lawful for the Parochial Board, with the concurrence of the Board of Supervision, to determine and direct that the lands and heritages may be distinguished into two or more separate classes, according to the purposes for which such lands are used and occupied, and to fix such rate of assessment upon the tenants or occupants of each class respectively, as to such boards may seem just and equitable.

Annual Value defined.

XXXVII. And be it enacted, That in estimating the annual value of lands and heritages, the same shall be taken to be the rent at which one year with another such lands and heritages might, in their actual state, be reasonably expected to let from year to year, under deduction of the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same: Provided always, that no mine or quarry shall be assessed, unless it has been worked during some part of the year preceding the day on which the assessment may be ordered to be levied.

Roll of Persons liable to Assessment to be made up.

XXXVIII. And be it enacted, That when the Parochial Board of any parish or combination shall have resolved as aforesaid to

raise by assessment the funds requisite, and when the manner in which the assessment is to be imposed shall have been fixed, and the sum to be raised for the year or half-year then ensuing shall have been ascertained, such Parochial Board shall make up, or cause to be forthwith made up, a book containing a roll of the persons liable in payment of such assessment, and of the sums to be levied from each of such persons, distinguishing the sums assessed in respect of ownership or occupancy, or means and substance; and the book or roll so made up shall be the rule for levying the assessment for the year or half-year then ensuing; and the Parochial Board shall appoint one or more fit and qualified persons to be collector or collectors of the assessment, and shall fix the amount of remuneration to be given to every such collector; and it shall be competent to nominate and appoint the same person who is an inspector of the poor to be collector of the assessment, and to fix the amount of remuneration to be given to such person for the performance of the additional duties of collector of the assessment.

Amount of Assessment payable by each person to be intimated.

XXXIX. And be it enacted, That as soon as may be after such book or roll is made up as aforesaid, the collector shall intimate to each person the amount of the sum to be levied from him, and the time when the same is payable.

Parochial Boards to fix annually the Amount of Assessment, and make up Roll of Ratepayers—Power to correct Errors.

XL. And be it enacted, That before the expiration of one year from the date at which the first assessment under the provisions of this Act shall have been imposed as aforesaid in any parish or combination, and yearly or half-yearly thereafter, the Parochial Board of every such parish or combination shall fix and determine the amount of assessment for the year or half-year then next ensuing, and shall make up, or cause to be made up, a book containing a roll of the persons liable in payment of such assessment, and of the sums to be levied from each of such persons; and the roll so made made up shall be the rule for levying the assessment for the year or half-year then next ensuing; and the collector shall forthwith intimate to each person the amount of the sum to be levied from him, and the time when the same is payable: Provided always, that it shall be lawful for the Parochial Board of any such parish or combination, if there shall have been found to exist any error in the sum or sums to be levied by way of assessment, or any omissions or surcharges in respect of the persons liable to pay the same, to cause such error, omission, or surcharge to be corrected at their next or any subsequent meeting after such error, omission,

or surcharge shall have been discovered; Provided also, that nothing herein contained shall preclude any person who considers himself aggrieved by such assessment from his remedy by law, in the like form and on the same grounds as, at the date of the passing of this Act, was competent to any party who considered himself aggrieved by assessment imposed under the statutes then in force for relief of the poor, but to the extent and effect only of exempting himself from payment of any surcharge which may have been made upon him.

Power to impose additional Assessments.

XLI. And be it enacted, That if the assessment imposed for any year or half-year shall, from any unforeseen or other circumstances, prove insufficient, it shall be lawful for the Parochial Board of such parish or combination to meet and impose such further and additional assessment as may be sufficient to raise the sum required.

Power to Parochial Boards to exempt on the ground of Inability.

XLII. And be it enacted, That it shall be lawful for the Parochial Board of any parish or combination to exempt from payment of the assessment or any part thereof, to such an extent as may seem proper and reasonable, any persons or class of persons, on the ground of inability to pay.

Power to levy from Tenants the Assessment on Owners.

XLIII. And be it enacted, That where the one half of any assessment is imposed on the owners, and the other half on the tenants or occupants, of lands and heritages, it shall be competent for the collector of such assessment to levy the whole thereof from the tenants or occupants, who shall be entitled to recover one half thereof from the owners, or to retain the same out of their rents, on production of a receipt granted by the collector of such assessment.

Long Leaseholders to be considered Owners.

XLIV. And be it enacted, That in all landward as well as all burghal parishes and combinations where houses have been or shall be built by the tenant of any land held under a building lease upon such land, the tenant and his heirs and assignees in such lease shall, for the purposes of this Act, be deemed and taken to be the owners of such houses.

Canals and Railways—how to be Assessed.

XLV. And be it enacted, That in cases where any canal or railway shall pass through or be situate in more than one parish or combination, the proportion of the annual value thereof on which such assessment shall be made for each such parish or combination, shall be, according to the number of miles or distance which such canal or railway passes through or is situate in each parish or combination, in proportion to the whole length.

The same Property not to be assessed in Two Parishes.

XLVI. And be it enacted, That the owners and occupiers of lands and heritages shall not be liable to be assessed in respect of such lands and heritages for the relief of the poor in more than one parish or combination.

Companies or Individuals to be assessed in certain cases— Means and Substance not to be assessed in more than one Parish.

XLVII. And be it enacted, That if in any parish or combination in which an assessment is imposed on means and substance, any company or any individual shall occupy any lands and heritages, or shall carry on any trade or business in any premises within such parish or combination, such company and the partners thereof, and such individual, shall be liable to be assessed in such parish or combination on their or his means and substance derived from or relating to such occupancy, trade, or business, although none of the partners of such company, nor such individual, should be actually resident in such parish or combination ; and such company and partners, and such individual, shall not be liable to be assessed on the same means and substance, in any other parish or combination ; and if any person shall be assessed in any parish or combination upon his means and substance, other than means and substance derived from or relating to the occupancy of lands and heritages within such parish or combination, or the carrying on of trade or business in premises within such parish or combination, such person shall not be assessed upon the same means and substance in any other parish or combination ; and if any person shall reside in and be liable to be assessed as an inhabitant of more than one parish, it shall be optional to such person to determine in which of such parishes he shall be assessed on his means and substance, other than means and substance derived from and relating to the occupancy of land and heritages, or the carrying on of trade or business in premises within any particular parish.

Means and substance under £30 not to be assessed.

XLVIII. And be it enacted, That no person shall be liable to be assessed in any parish or combination on his means and substance, unless the estimated annual value thereof in whole shall exceed thirty pounds.

Stipends may be assessed.

XLIX. And be it enacted, That clergymen shall be liable to be assessed for the poor in respect of their stipends.

Certain Privileges of Exemption to cease.

L. And be it enacted and declared, That the privileges of exemption from payment of assessment in the city of Edinburgh, possessed and enjoyed by members of the College of Justice and officers of the Queen's household, shall not be applicable to assessments imposed and levied for the relief of the poor under the authority of this Act.

Assessment not to be void from Error or Misnomer.

LI. And be it enacted, That where any assessment shall have been imposed by the Parochial Board of any parish or combination, such assessment shall be payable at the time or times, and in the proportions, to be appointed by the Parochial Board; and no assessment shall be rendered void or affected by reason of any mistake or variance in the Christian or surname or designation of any person chargeable therewith, but all assessments shall be valid and effectual against the person intended to be charged, and *bona fide* liable in payment of the same.

Parish Property vested in new Parochial Boards.

LII. And be it enacted, That where any property whatsoever, whether heritable or moveable, or any revenues, shall at the time of the passing of this Act, belong to or be vested in the heritors and kirk-session of any parish, or the magistrates, or magistrates and town council of any burgh, or commissioners, trustees, or other persons on behalf of the said heritors and kirk-session, or magistrates, or magistrates and town council, under any Act of Parliament, or under any law or usage, or in virtue of gift, grant, bequest, or otherwise, for the use or benefit of the poor of such parish or burgh, it shall, from and after a time to be fixed by the Board of Supervision, be lawful for the Parochial Board of each such parish, or of the combination in which such parish or burgh may be respectively, to receive and administer such property and

revenues, and the right thereto shall be vested in such Parochial Board; and the said heritors and kirk-session, magistrates, town council, commissioners, trustees, or other persons, are hereby authorized and required either to continue to hold all such property and revenues for the behoof of such Parochial Board, or to make, grant, subscribe, and deliver such dispositions, assignations, and conveyances of all such property and revenues as may be necessary to enable such Parochial Board to administer the same for behoof of the poor of such parish or combination.

Funds to be invested.

LIII. And be it enacted, That all and every sums or sum of money or other funds which have been or may hereafter be given, mortified, or bequeathed for the use of the poor, and which shall become vested in the Parochial Board of any parish or combination, and whereof the annual proceeds are to be applied for behoof of the poor, shall, if not specially directed to be otherwise invested, be, without delay, either lodged in a chartered bank, or placed at interest on Government or heritable security, or in the stock of one or more of the chartered banks in Edinburgh; and the Board of Supervision is hereby authorized and empowered to require returns to be made to them from time to time, as they shall deem expedient, as to all such money or funds.

Church Collections in assessed Parishes.

LIV. And be it enacted, That in all parishes in which it has been agreed that an assessment should be levied for the relief of the poor, all monies arising from the ordinary church collections shall, from and after the date on which such assessment shall have been imposed, belong to and be at the disposal of the kirk-session of each parish: Provided always, that nothing herein contained shall be held to authorize the kirk-session of any parish to apply the proceeds of such church collections to purposes other than those to which the same are now in whole or in part legally applicable, or to deprive the heritors of their right to examine the accounts of the kirk-session, and to inquire into the manner in which the funds have been applied: Provided also, that the session-clerk or other officer to be appointed by the kirk-session shall be bound to report annually, or oftener if required, to the Board of Supervision, as to the application of the monies arising from church collections; and if such session-clerk or other officer shall refuse to make such report when required, he shall be liable to a penalty not exceeding five pounds.

Duties of Inspector of the Poor—Assistant Inspectors in populous Parishes.

LV. And be it enacted, That the inspector of the poor in each parish or division of a parish for which he may be appointed shall have the custody of and be responsible for all books, writings, accounts, and other documents whatsoever relating to the management or relief of the poor in such parish or division of a parish; and it shall be the duty of the said inspector to inquire into and make himself acquainted with the particular circumstances of the case of each individual poor person receiving relief from the poor funds, and to keep a register of all such persons, and of the sums paid to them, and of all persons who have applied for and been refused relief, and the grounds of refusal, and to visit and inspect personally, at least twice in the year, or oftener if required by the Parochial Board or Board of Supervision, at their places of residence, all the poor persons belonging to the parish or division of the parish in receipt of parochial relief, provided that such poor persons be resident within five miles of any part of such parish or division of a parish, and to report to the Parochial Board and to the Board of Supervision upon all matters connected with the management of the poor, in conformity with the instructions which he may receive from the said boards respectively, and to perform such other duties as the said boards may direct: Provided always, that in populous and extensive parishes or divisions of parishes the duties of inspecting and visiting the poor may be performed by assistant inspectors or other competent persons, to be appointed and paid by the Parochial Board for these duties, and for whose conduct and accuracy the inspector of the poor shall be responsible to the Board of Supervision.

Board of Supervision may dismiss or suspend Inspectors.

LVI. And be it enacted, That if any inspector of the poor shall fail or neglect or refuse to perform the duties of his office, or shall, in the opinion of the Board of Supervision, be unfit or incompetent to discharge the duties of his office, then it shall and may be lawful for the said Board of Supervision, by a minute or order, to suspend or dismiss such inspector; and the Parochial Board of the parish or combination for which such person is inspector shall forthwith proceed to appoint another person to perform the duties of inspector of the poor in the room of the inspector so suspended or dismissed.

Inspectors may pursue and defend Actions.

LVII. And be it enacted, That in case it shall be necessary to commence or institute any action by or on behalf of any parish

or combination, or Parochial Board, for the relief of the poor, such action may be brought in the name of any inspector of the poor of such parish or combination as pursuer; and in any action to be brought against any Parochial Board it shall not be necessary to call the individual members of the Parochial Board as defenders, but it shall be lawful for the pursuer in such action to call any inspector of the poor of any such parish or combination, and such inspector shall be bound to appear and answer on behalf of the Parochial Board; and all summonses, notices, diligences, decrees, or other proceedings served or obtained or had against any inspector of the poor, shall be binding on and conclusive against the Parochial Board of the parish or combination for which he is an inspector; and the Parochial Board shall have the entire direction and control of every such action, although the same may be carried on in name of the inspector.

Actions transferred.

LVIII. And be it enacted, That all actions brought by or against any inspector of the poor in his official character shall be continued by or against his successors in office, notwithstanding the death, resignation, suspension, or removal of such inspector, upon notice given to such successor, without any action of transference.

Lunatic Paupers to be placed in Asylums—Board of Supervision may direct Removal in Certain Cases.

LIX. And be it enacted, That in every case in which any poor person who shall have become chargeable in any parish or combination shall be insane or fatuous, the Parochial Board of such parish or combination shall, within fourteen days from the time when such person is declared or known to be insane or fatuous, provide that such insane or fatuous person be conveyed to and lodged in an asylum or establishment legally authorized to receive lunatic patients; and the inspectors of the poor in every parish or combination shall and are hereby required to report without delay to the Board of Supervision all cases of insane or fatuous persons chargeable as paupers in their respective parishes; and the said Board of Supervision is hereby authorized and empowered, on any Parochial Board refusing or neglecting to provide for the removal of an insane or fatuous poor person to an asylum or establishment as aforesaid within the time hereinbefore specified, to take such measures as may be necessary for removing such insane or fatuous poor persons to a lunatic asylum or establishment; and the whole expense of such removal and all subsequent expenses shall be recoverable from and defrayed by such Parochial Board: Provided always, that under special circumstances in

particular cases it shall be lawful for the Parochial Board, with the consent of the Board of Supervision, to dispense with the removal of insane or fatuous poor persons to a lunatic asylum or establishment, and to provide for them in such other manner and under such regulations, as to inspection and otherwise, as shall be sanctioned by the Board of Supervision.

Provision as to Poorhouses.

LX. And whereas, for more effectually administering to the wants of the aged and other friendless impotent poor, and also for providing for those poor persons who, from weakness or facility of mind, or by reason of dissipated and improvident habits, are unable or unfit to take charge of their own affairs, it is expedient that poorhouses should be erected in populous parishes; be it enacted, That in every case in which a parish or combination of parishes contains more than five thousand inhabitants, according to the enumeration of the population then last published by authority of Parliament, it shall be lawful for the Parochial Board of any such parish or combination to take into consideration the propriety of erecting a poorhouse for such parish or combination, or of altering or enlarging any existing poorhouse; and if, after full time and opportunity given for deliberate consideration, the said Parochial Board shall be satisfied of the propriety of erecting a poorhouse, or of enlarging any existing poorhouse, and shall come to a resolution to that effect, such resolution shall be forthwith reported to the Board of Supervision; and if approved of by the Board of Supervision, the same shall be carried into execution by the said Parochial Board.

Parishes may unite for the purpose of building Poorhouses.

LXI. And be it enacted, That, with the concurrence of the Board of Supervision had and obtained thereto, it shall be lawful for the Parochial Boards of any two or more contiguous parishes to agree to build a common poorhouse for such two or more parishes; and the expense of maintaining and erecting such poorhouse shall be borne by such parishes in such proportions as shall be agreed on by the Parochial Boards of the said parishes respectively: Provided always, that if any such agreement for the purpose of building a poorhouse has once been effected, it shall not be lawful for any one or more of the parishes to withdraw from such agreement, without the consent of the Board of Supervision previously had and obtained.

Power to borrow Money for building Poorhouses.

LXII. And be it enacted, That for the purpose of erecting new poorhouses, and for enlarging, altering, or repairing any existing

poorhouse, the Parochial Board in any parish or combination is hereby authorized and empowered to borrow money; and for the more effectually securing the repayment of the sum borrowed, with interest, it shall be lawful for the said Parochial Board to burden or charge the future assessments for the poor in such parish or combination with the amount of the money so borrowed: Provided always, that the principal sum so borrowed shall in no case exceed three times the amount of the assessment raised for the relief of the poor during the year immediately preceding that in which the money is borrowed; and that any loan of money borrowed for the purposes aforesaid shall be repaid by annual instalments of not less in any one year than one-tenth of the sum borrowed, exclusive of the payment of the interest on the same: Provided also, that no further or other sum shall be borrowed or chargeable on the poor assessment for the purposes aforesaid until the whole of the money last borrowed, with interest on the same, shall have been paid off.

Plans for Poorhouses to be approved by Board of Supervision.

LXIII. And be it enacted, That from and after the passing of this Act no new poorhouse shall be built, nor shall any existing poorhouse be enlarged or altered, nor shall it be lawful to impose an assessment or borrow money for such purposes, unless the plan of such new poorhouse, or of such proposed enlargements or alterations, shall have been submitted to and approved by the Board of Supervision, and signed, subscribed, or endorsed by at least three of the members of the said board in attestation of their approval.

Parochial Boards to frame Rules for Regulation of Poorhouses.

LXIV. And be it enacted, That in every case in which a poorhouse already exists, or shall be built or enlarged, or altered under the provisions of this Act, the Parochial Board or Boards shall frame rules and regulations for the management of such poorhouse, and for the discipline and treatment of the inmates thereof, and for the admission of any known minister of the religious persuasion of any inmate of such poorhouse at all reasonable times, on the request of such inmate, for the purpose of affording religious assistance to such inmate, and shall submit such rules and regulations to the Board of Supervision for approval; and no rules or regulations shall be effectual, or shall be acted upon, except such as shall have been approved by the Board of Supervision.

Poor Persons from other Parishes may be received into Poorhouses.

LXV. And be it enacted, That it shall be lawful for the Parochial Board of any parish or combination in which a poorhouse has been or shall hereafter be erected, to receive and accommodate in such

poorhouse poor persons belonging to any other parish, and to charge such rates for the maintenance of such poor persons as shall be approved by the Board of Supervision; and such poor persons shall be in all respects subject to the same discipline and treatment as the other inmates of the poorhouse in which they are so accommodated.

Medical Attendance in Poorhouses.

LXVI. And be it enacted, That in all cases in which poorhouses shall be erected or enlarged or altered, under the provisions of this Act, there shall be proper and sufficient arrangements made for dispensing and supplying medicines to the sick poor, under such regulations as the Parochial Board shall make, and the Board of Supervision shall approve; and there shall be provided by the Parochial Board proper medical attendance for the inmates of every such poorhouse, and for that purpose it shall be lawful for the Parochial Board to nominate and appoint a properly qualified medical man, who shall give regular attendance at such poorhouse, and to fix a reasonable remuneration, to be paid to him by such Parochial Board: Provided always, that if it shall appear to the Board of Supervision that such medical man is unfit or incompetent, or neglects his duty, it shall be lawful for the Board of Supervision to suspend or remove such medical man from his appointment and attendance.

Parishes may subscribe to Hospitals, &c.

LXVII. And be it enacted, That it shall be lawful for the Parochial Board in any parish or combination, for the benefit of the poor of such parish or combination, to contribute annually, or otherwise, such sums of money as to them may seem reasonable and expedient, from the funds raised for the relief of the poor, to any public infirmary, dispensary, or lying-in hospital, or to any lunatic asylum, or asylum for the blind or deaf and dumb.

Sums raised by Assessment applicable to the Relief of Occasional Poor.

LXVIII. And be it enacted, That from and after the passing of this Act, all assessments imposed and levied for the relief of the poor shall extend and be applicable to the relief of occasional as well as permanent poor: Provided always, that nothing herein contained shall be held to confer a right to demand relief on able-bodied persons out of employment.

Medical Relief, Clothing, and Education.

LXIX. And be it enacted, That in every parish or combination it shall and may be lawful for the Parochial Board, and they are

hereby required, out of the funds raised for the relief of the poor, to provide for medicines, medical attendance, nutritious diet, cordials, and clothing for such poor, in such manner and to such extent as may seem equitable and expedient; and it shall be lawful for the Parochial Board to make provision for the education of poor children who are themselves or whose parents are objects of parochial relief.

Destitute Persons to be relieved, although having no Settlement in the Parish to which they apply.

LXX. And be it enacted, That in every case in which a poor person in any parish or combination shall apply for parochial relief, the inspector of the poor or other officer of such parish or combination whose duty it shall be to attend to such applications, shall be bound to make inquiry forthwith into the circumstances of the applicant, and shall, notwithstanding such poor person may not have a settlement in the parish or combination, if he be in other respects legally entitled to parochial relief, be bound to furnish him with sufficient means of subsistence until the next meeting of the Parochial Board; and such board shall continue to afford to such poor person such interim maintenance as may be adjudged necessary until the parish or combination to which such poor person belongs be ascertained, and his claim upon such parish or combination admitted or otherwise determined, or until he shall be removed; and every inspector of the poor, or other officer to whom application shall be made by or on behalf of any poor person for parochial relief, shall be bound to return an answer to such application within twenty-four hours from the time when it was made: Provided always, that if the necessary means of support are afforded to the applicant in the meantime, such inspector or other officer may delay giving a final answer to such application for any period which to him may seem necessary for prosecuting his inquiries: Provided also, that such poor person shall be bound to give to the inspector and Parochial Board of the parish or combination to which he has applied for relief all information and assistance which it is in his power to give, for the purpose of ascertaining the parish or combination to which he belongs, and every other matter regarding his case which the inspector may desire to ascertain, and shall be bound to answer upon oath, if required, all such questions as may be put to him before any justice of the peace or magistrate, and in case of false swearing, shall be liable to be prosecuted for perjury.

Expenses may be recovered from Parish of Settlement.

LXXI. And be it enacted, That where in any case relief shall be afforded to a poor person found destitute in a parish or com-

bination, it shall be lawful for the Parochial Board of such parish or combination to recover the monies expended in behalf of such poor person from any parish or combination within Scotland to which he may ultimately be found to belong, or from his parents or other persons who may be legally bound to maintain him: Provided always, that in all cases in which relief shall be afforded by one parish or combination to a poor person having a settlement in another parish or combination, written notice of such poor person having become chargeable shall be given to the inspector of the poor of the parish or combination to which such poor person belongs; and the parish or combination affording relief shall not be entitled to recover for any charges or expenses incurred in respect of such poor person, except from and after the date of such notice.

Where Parishes do not provide for Removal of their Poor from other Parishes after Notice.

LXXII. And be it enacted, That if within a reasonable time after notice, the parish or combination to which such poor person shall as aforesaid have been ascertained to belong shall not remove such poor person, or shall not make provision to the satisfaction of the parish or combination which has given notice for the constant weekly subsistence of such poor person, it shall be lawful for the parish or combination which has given the notice, to cause such poor person to be removed to the parish or combination to which he belongs, at the expense of such last-mentioned parish or combination, unless such poor person shall, owing to sickness or infirmity, be incapable of being removed; in which case the parish or combination in which he is shall be bound to relieve him, and shall be entitled to recover from the parish or combination to which he belongs the amount so expended, provided that such amount does not exceed the rate expended for relief of other poor persons in the parish so relieving such poor person.

Party refused may apply to Sheriff.

LXXIII. And be it enacted, That if relief shall be refused to any poor person who shall have made application for relief, it shall and may be lawful for such poor person to apply to the sheriff of the county in which the parish or combination from which such poor person has claimed relief, or any portion of such parish or combination, is situate, and the said sheriff shall forthwith, if he be of opinion that such poor person is, upon the facts stated, legally entitled to relief, make an order upon the inspector of the poor, or other officer of such parish or combination, directing him to afford relief to such poor person in the meantime until such inspector or other officer shall, on or before a day to be appointed by the said sheriff, and to be intimated in the same order, give in a

statement in writing, showing the reasons why the application of such poor person for relief was refused, which statement the said sheriff shall afterwards appoint to be answered, and shall, if required, nominate an agent to appear and answer on behalf of such poor person, and shall further, if necessary, direct a record to be made up, and a proof to be led by both parties; and it shall be lawful for the sheriff, if he shall see fit, to direct the interim support to such poor person to be continued, until a final judgment shall have been pronounced on the merits of the case: Provided always, that nothing herein contained shall be construed to enable the said sheriff to determine on the adequacy of the relief which may be afforded, or to interfere in respect of the amount of relief to be given in any individual case.

Proceedings when Amount of Relief considered inadequate.

LXXIV. And be it enacted, That in every case in which any poor person shall consider the relief granted him to be inadequate, such poor person shall lodge, or cause to be lodged, a complaint with the Board of Supervision, which board shall and is hereby required, without delay, to investigate the nature and grounds of the complaint; and if, upon inquiry, it shall appear that the grounds of such complaint are well founded, and if the same shall not be removed, then the said board shall by a minute declare, that in the opinion of the board such poor person has a just cause of action against the parish or combination from which he claims relief, and a copy of such minute, certified and signified by the secretary, shall, if required, be delivered to such poor person, and upon the production or exhibition of such minute or certified copy thereof such poor person shall forthwith, and without any further proceedings, be entitled to the benefit of the poor's roll in the Court of Session; and it shall be lawful for the Board of Supervision, after any action has actually been commenced by or on behalf of such poor persons, to award to him such interim aliment as to the said board shall seem just, during the dependency of such action, which award the Parochial Board of every such parish or combination shall be bound to obey.

No Action to lie relative to Relief, unless by consent of the Board of Supervision.

LXXV. Provided always, and be it enacted, That it shall not be competent for any court of law to entertain or decide any action relative to the amount of relief granted by Parochial Boards, unless the Board of Supervision shall previously have declared that there is a just cause of action as hereinbefore provided.

Settlement by Residence of Five Years.

LXXVI. And be it enacted, That from and after the passing of this Act, no person shall be held to have acquired a settlement in any parish or combination by residence therein, unless such person shall have resided for five years continuously in such parish or combination, and shall have maintained himself without having recourse to common begging, either by himself or his family, and without having received or applied for parochial relief; and no person who shall have acquired a settlement by residence in any parish or combination shall be held to have retained such settlement if, during any subsequent period of five years, he shall not have resided in such parish or combination continuously for at least one year: Provided always, that nothing herein contained shall be held to affect those persons who, previous to the passing of this Act, shall have acquired a settlement by virtue of a residence of three years, and shall have become proper objects of parochial relief.

Removal of English and Irish Paupers.

LXXVII. And be it enacted, That if any poor person born in England, Ireland, or the Isle of Man, and not having acquired a settlement in any parish or combination in Scotland, shall be in the course of receiving parochial relief in any parish or combination in Scotland, then and in such case it shall be lawful for the sheriff or any two justices of the peace of the county in which such parish or any portion thereof is situate, and they are hereby authorized and required, upon complaint made by the inspector of the poor, or other officer appointed by the Parochial Board of such parish or combination, that such poor person has become chargeable to such parish or combination by himself or his family, to cause such person to be brought before them, and to examine such person or any witness, on oath, touching the place of the birth or last legal settlement of such person, and to take such other evidence or other measures as may by them be deemed necessary for ascertaining whether he has gained any settlement in Scotland; and if it shall be found by such sheriff or justices that the person so brought before them was born either in England, or Ireland, or the Isle of Man, and has not gained any settlement in Scotland, and has actually become chargeable to the complaining parish or combination by himself or his family, then such sheriff or justices shall, and they are hereby empowered, by an order of removal under their hands, which order may be drawn up in the form of the Schedule (A) hereunto annexed, to cause such poor person, his wife, and such of his children as may not have gained a settlement in Scotland, to be removed by sea or land, by and at the expense of the complaining parish, to England, or Ireland, or

the Isle of Man respectively, according as such poor person shall belong to England, Ireland, or the Isle of Man: Provided always, that no person shall be so removed until there has been obtained a certificate, on soul and conscience, by a regular medical practitioner, setting forth that the health of such person, his wife and children as aforesaid, is such as to admit of such removal: Provided also, that nothing herein contained shall prevent any Parochial Board or their inspector from making arrangements for the due and proper removal of such poor persons either by land or water, provided the arrangement be made with the consent of such poor persons themselves.

Removing Officer to have Powers of a Constable.

LXXVIII. And be it enacted, That every officer, constable, or other person to whom any such order of removal shall be delivered, for the purpose of being carried into execution, shall, and may by virtue thereof, detain, and hold in safe custody, every poor person mentioned in any such order, until such poor person shall have arrived at the place to which he is ordered to be removed, and shall and may for that purpose, in every county and place through which he shall pass in the due execution of such order, have and exercise the powers with which a constable is by law invested, notwithstanding such person may not otherwise be empowered to act as a constable for the county or place respectively through which he may have occasion to pass, in carrying such order into execution, and although such order may not have been granted or backed by any judge or magistrate of such county or place.

Persons again becoming Chargeable to be Punished—1579, *cap.* 74.

LXXIX. And be it enacted, That if any person who has been removed to England, or Ireland, or the Isle of Man, from any parish or combination in Scotland, under any order of removal, shall afterwards return to Scotland and apply for relief, or again become chargeable by himself or his family to the same parish or combination without having obtained a settlement therein, such person shall be deemed to be a vagabond under the provisions of an Act of the Scottish Parliament passed in the year one thousand five hundred and seventy-nine, intituled *An Act for punishment of strange and idle beggars, and Relief of the pure and impotent*, and may be apprehended and prosecuted criminally before the sheriff of the county in which such parish or any portion thereof is situate, at the instance of the inspector of the poor of the parish to which he shall have so applied for relief or become chargeable, and shall, upon conviction, be punishable by imprisonment, with or without hard labour, for such a period as the said sheriff shall think proper, not exceeding two months.

Punishment for Desertion of Wives, and Refusal to maintain Illegitimate Children.—1579, *cap.* 74.

LXXX. And be it enacted, That every husband or father who shall desert or neglect to maintain his wife or children, being able so to do, and every mother and every putative father of an illegitimate child, after the paternity has been admitted or otherwise established, who shall refuse or neglect to maintain such child, being able so to do, whereby such wife or children or child shall become chargeable to any parish or combination, shall be deemed to be a vagabond under the provisions of the aforesaid Act of the Scottish Parliament passed in the year One thousand five hundred and seventy-nine, and may be prosecuted criminally before the sheriff of the county in which such parish or combination, or any portion thereof, is situate, at the instance of the inspector of the poor of such parish or combination; and shall, upon conviction, be punishable by fine or imprisonment, with or without hard labour, at the discretion of the said sheriff.

Penalties—how to be recovered.

LXXXI. And be it enacted, That every penalty or forfeiture imposed by this Act, the recovery of which is not otherwise provided for, may be recovered by summary proceeding, upon complaint in writing made in the name of the secretary to the Board of Supervision, or of any agent to be appointed by a minute of the said board, to the sheriff of the county in which the offence shall have been committed, or to the sheriff of any county in which the offender may be found; and on such complaint being made, such sheriff shall issue a warrant for bringing the party complained against before him, or shall issue an order requiring the party complained against to appear on a day and at a time and place to be named in such order; and every such order shall be served on the party offending, either in person, or by leaving with some inmate at his usual place of abode a copy of such order, and of the complaint whereupon the same has proceeded; and either upon the appearance or upon the default to appear of the party offending, it shall be lawful for the sheriff to proceed to the hearing of the complaint, and, upon proof of the offence, either by the confession of the party complained against, or other legal evidence, and without any written pleadings or record of evidence, to convict the offender, and upon such conviction, to decern and adjudge the offender to pay the penalty or forfeiture incurred, as well as such expenses as the sheriff shall think fit, and to grant warrant for imprisoning the offender until such penalty or forfeiture and expenses shall be paid: Provided always, that such warrant shall specify the amount of such penalty or forfeiture and expenses, and shall also specify a period at the expiration of which the party

shall be discharged, notwithstanding such penalty or forfeiture or expenses shall not have been paid, and shall in no case exceed three calendar months.

Application of Penalties—To be prosecuted for within Six Months.

LXXXII. And be it enacted, That the sheriff by whom any penalty or forfeiture shall be imposed by virtue of this Act, the application whereof is not herein otherwise provided for, shall award such penalty or forfeiture to the poor of the parish or combination in which the offence shall have been committed, and shall order the same to be paid over to the inspector of the poor or other officer for that purpose, provided that no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act, unless such penalty or forfeiture shall have been prosecuted for within six months after the commission of the offence for which it has been incurred.

Ratepayers competent Witnesses.

LXXXIII. And be it enacted, That no inhabitant or other person liable to be assessed for the relief of the poor in any parish shall be deemed an incompetent witness in any proceeding for the recovery of any penalty or forfeiture inflicted or imposed for any offence against this Act, notwithstanding such penalty, when recovered, shall be applicable as aforesaid.

Penalty on Witnesses making default.

LXXXIV. And be it enacted, That if any person who shall be summoned as a witness to give evidence before any sheriff in any matter in which such sheriff shall have jurisdiction under the provisions of this Act, shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, or appearing shall refuse to be examined upon oath, or to give evidence before such sheriff, every such person shall forfeit a sum not exceeding five pounds for every such offence, over and above any other punishment to which such person may by law be liable for every such refusal.

Informalities.

LXXXV. And be it enacted, That no proceeding for the recovery of penalties or forfeitures in pursuance of this Act shall be set aside for want of form, or on the ground of no record having been made, nor shall the same be removed by suspension, advocation, appeal, or otherwise into or be in any manner subject to review or reduction by any superior court.

Limitation of Actions—Tenders of Amends.

LXXXVI. And be it enacted, That all actions on account of anything done in the execution of this Act shall be brought before the Sheriff Court, and every such action shall be commenced within three calendar months after the fact committed, and notice in writing of such action, and of the cause thereof, shall be given to the defender one calendar month at least before the commencement of the action; and no pursuer shall recover in any action for irregularity or wrongful proceedings, if tender of sufficient amends shall be made by or on behalf of the party who shall have committed or caused to be committed any such irregularity or wrongful proceedings before such action shall have been brought; or if, during the dependence of such action, a tender shall be made of sufficient amends, and of all charges and expenses which the pursuer may already, at the time of such tender being made, have incurred in prosecuting such action.

Provision for Refusal or Neglect of Parochial Boards.

LXXXVII. And be it enacted, That in case any Parochial Board shall refuse or neglect to do what is herein or otherwise by law required of them, or in case any obstruction shall arise in the execution of this Act, it shall be lawful for the said Board of Supervision to apply by summary petition to the Court of Session, or, during the vacation of the said Court, to the Lord Ordinary on the Bills, which Court and Lord Ordinary are hereby authorized and directed in such case to do herein as to such Court or Lord Ordinary shall seem just and necessary.

Assessments for the Poor may be recovered summarily as Land and Assessed Taxes.

LXXXVIII. And be it enacted, That the whole powers and right of issuing summary warrants and proceedings, and all remedies and provisions enacted for collecting, levying, and recovering the land and assessed taxes, or either of them, and other public taxes, shall be held to be applicable to assessments imposed for the relief of the poor; and the sheriffs, magistrates, justices of the peace, and other judges, may grant the like warrants for the recovery of all such assessments in the same form and under the same penalties as is provided in regard to such land and assessed taxes and other public taxes: Provided always, that it shall nevertheless be competent to prosecute for and recover such assessments by action in the Sheriff's Small-Debt Court; and all assessments for the relief of the poor shall, in case of bankruptcy or insolvency, be paid out of the first proceeds of the estate, and shall be preferable to all other debts of a private nature due by the parties assessed.[1]

[1] See 52 Geo. III. cap. 95, secs. 13 & 14; 25 & 26 Vict. cap. 82. This is now regulated by 43 & 44 Vict. cap. 19.

Parochial Board may borrow Money on Security of Assessment remaining due.

LXXXIX. And be it enacted, That if the Parochial Board of any parish or combination shall find it necessary in any year or half-year to make disbursements for the relief of the poor beyond the amount received of the assessment applicable to the expenditure of such year or half-year, it shall be competent for such board to borrow money on the security of such part of the assessment as is still due and unreceived, but not to an amount greater than one half of such part of such assessment; and when any money has been so borrowed as aforesaid on the security of assessments, it shall not be competent to borrow on the security of any future assessment, until the money borrowed as aforesaid shall have been paid off.

Notices—how to be given.

XC. And be it enacted, That in all cases in which, by the provisions of this Act, notice or intimation is required to be given without prescribing the particular form of the notice, or the manner in which the same is to be given, it shall be lawful for the Board of Supervision, from time to time, to fix the form of such notice or intimation, and the manner in which the same is to be given.

Former Acts repealed which are at variance with this Act.—7 & 8 Vict. cap. 6.

XCI. And be it enacted, That all laws, statutes, and usages shall be and the same are hereby repealed, in so far as they are at variance or inconsistent with the provisions of this Act: Provided always, that the same shall continue in force in all other respects: Provided also, that nothing herein contained shall be held to affect or repeal an Act passed in the seventh year of her present Majesty, intituled "An Act for the Liquidation of the Debt owing by the Charity Workhouse of the City of Edinburgh," in so far as such Act relates to that debt, and the powers thereby conferred for paying off the same.

Alteration of Act.

XCII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present session of Parliament.

APPENDIX II.

Report of Mr. Craufurd's Select Committee of 1869, Dated 3rd July, 1871.

The Select Committee appointed to inquire into the operation of the Poor Law in Scotland, and whether any and what Amendments should be made therein;—Have considered the matters to them referred, and have agreed to the following Report:—

In entering upon the large investigation referred to them, your Committee felt it necessary from the commencement to divide the subject into the various heads under which the details of the question could be most conveniently grouped, and which should serve as guides in the examination of the several witnesses. Accordingly, the following Heads of Inquiry were proposed by the Chairman, and adopted for the guidance by the Committee:—

1. Constitution and power of the Board of Supervision, and the principles and practice by which it has been guided in the administration of the law.
2. Results effected by the law on the condition of the people and on pauperism, distinguishing, as far as possible, those due to the principle on which the law is based, and those due to its administration, and pointing out the causes of a constantly increasing expenditure.
3. Constitution and power of the local parochial boards, and how far uniformity of action in the administration of the law has been secured under the guidance of the Board of Supervision.
4. Operation and effect of the Law of Settlement.
5. Area of chargeability and management in relation to uniformity of rates and economy of expenditure.
6. Incidence of taxation, and abolition of all exemptions.
7. Abolition of *ex officio* representation on parochial boards, and modification of the Law of Mandates.
8. Poorhouses and their effects:
    1. On pauperism.
    2. On expenditure.
9. Treatment and condition of pauper lunatics.
10. Medical relief, its conditions and efficiency.

It is obvious, however, that the various matters falling under the several heads are so interwoven in their mutual action, that it

is not possible to treat them as distinct and several topics, and therefore, in framing this Report, your Committee have not found it convenient to adhere to the subdivisions indicated by those heads.

Your Committee do not consider it to be necessary to enter upon a question which has been raised in the course of the examination; viz., whether the existence of a poor law is not in itself so great an evil that it can only be removed by the total abolition of the law. On this point your Committee consider the evidence to be conclusive, and whatever may be the evils inherent in a public provision for the poor and infirm as encouraging improvidence, your Committee consider that the facts disclosed in the inquiries carried on by the Commission which was appointed in 1843 are decisive against reverting to a system which left the support of the poor to a large extent dependent upon private and precarious charity.

The changes introduced by the Poor Law of 1845 (8 & 9 Vict. cap. 83) did not affect the principle upon which the claim to relief was based in Scotland ever since the Act of 1579, viz., that the persons entitled to parochial relief are those who are either wholly or partially disabled on account of age or infirmity, so as to be incapable of working or earning for themselves a sufficient maintenance. The main objects of the Act of 1845 were to regulate the mode of raising the funds to meet the legal claims, and the mode of administering them. It provided the pauper with greater facilities for enforcing his claim to relief by giving him an appeal to the sheriff in case of relief being refused, and an appeal to the Board of Supervision in the event of the relief offered being inadequate in amount. Formerly his only recourse was to the cumbersome and expensive machinery of an application to the Court of Session. The jurisdiction of the Court of Session has not indeed been abolished, but the pauper cannot invoke its aid except with the consent of the Board of Supervision.

The Act further provides for the raising of the funds for the relief of the poor by assessment, and in all cases in which the persons administering or entitled to administer the laws for the relief of the poor in any parish, resolve that the funds shall be raised by assessment, the collection and management of the funds for the relief of the poor in the said parish are transferred to a new body, called the Parochial Board, consisting in purely burghal parishes of a number of managers elected by the ratepayers, of four members nominated by the magistrates of the burgh, and of not more than four members nominated by the kirk-session; and in parishes which are entirely rural, or partly rural and partly burghal, of all owners of lands and heritages of the yearly value of twenty pounds and upwards, of the provost and bailies of any royal burgh, if any, in such parish, of not more than six members of the kirk-session, and of a certain number of members elected

by the ratepayers. The Act further provides for the establishment of a central authority under the name of the Board of Supervision, whose functions are to secure as far as possible uniformity in the administration of the law by the local boards, and to protect the interests of the pauper. Each parish is required to appoint an inspector of the poor, who, though appointed by the parochial board, is only dismissable by the Board of Supervision. He has the whole charge of looking after the poor under the control of the local board, but being dismissable only by the Board of Supervision he occupies a somewhat independent position. Parishes are required to provide medical relief, clothing, and education, as part of poor relief, and provision is made for the erection of poorhouses and for the care of lunatic paupers, subject to the approval and under the inspection and control of the Board of Supervision. By a subsequent Act, however, passed in 1857, the care of lunatic paupers was transferred from the Board of Supervision to the Board of Lunacy, which was established in that year.

The Poor Law Act (1845) further provides for the relief of all persons legally entitled to parochial relief, although they have no settlement in the parish to which they apply, recourse being given to the relieving parish to be reimbursed by the parish of settlement when ascertained. The time for acquiring an industrial settlement is extended from three years to five years continuous residence. But such settlement is lost if the pauper during any subsequent period of five years has not resided in the parish of settlement for at least one year.

The main provisions of the Act were framed in the interest of the poor. The startling disclosures brought out by the Report of the Royal Commission appointed in 1843 to inquire into the state and management of the poor in Scotland, rendered legislative action necessary to cure the evils which were rife in the populous towns and manufacturing districts, as well as in some counties. The Act was framed on the assumption that it had become necessary to protect the poor against parsimony of the local authorities arising out of the views then prevalent as to the demoralizing tendency of a public system of relief; the opposite danger of abuses arising from a careless administration of funds raised by taxation does not appear to have been so fully considered. The measure, therefore, was so conceived as to give increased facilities to the pauper, both to establish his claim to relief and to increase the amount of it, and it contains no provisions whatever for checking or reducing any unnecessary or even extravagant expenditure of the funds by the local boards.

The general results of the law passed in 1845 appear from the concurrent testimony of those witnesses most competent to express an opinion, to have been decidedly beneficial as regards the condition of the paupers. The allowances are better and more

certain than they were under the administration of the old law. As regards the people, the burden of maintaining the pauper has, by the operation of a legal assessment, in a great measure been transferred from the poorer to the richer classes. There are no doubt marked exceptions, as pointed out by witnesses from Edinburgh, Glasgow, and Ayr; but the evidence of these witnesses points rather to the demoralizing effects which are to a certain extent the necessary concomitants of any poor law, and which are fully admitted even by those who most uphold the benefits of the Act of 1845, but who concede that the Act has had the effect of creating a great amount of improvidence amongst the poor. It is chiefly in this sense that the allegations that the Act has had the tendency of increasing pauperism should be read.

The statistics which have been laid before your Committee show that immediately after the passing of this Act there was a great and rapid increase in the number of registered poor. The number of registered poor increased from 69,432 on the 1st February, 1846; to 74,161 on the 14th May, 1847; to 77,730 on the 14th May, 1848; to 82,357 on 14th May, 1849.

This is the highest number of registered poor since the Act came into operation. These first three years were in many respects exceptional years, and 1849 was especially so. It is only from 1850 that the statistics relative to the poor can be fairly counted as of value in reference to the normal condition of the country. Previous to the 14th May, 1850, we have no reliable account of the casual poor or their dependants. The first return we have of the dependants of the registered poor is on the 14th May, 1847, when the number was 31,849; on the 14th May, 1848, they were 34,547, and on the 14th May, 1849, they were 36,603.

Thus, the total number of registered poor and their dependants rose from 106,010 on the 14th May, 1847, to 118,960 on 14th May, 1849, representing a ratio in the former year of 3·811 per cent. of the population, and in the last year a ratio of 4·196 per cent. But these figures must not be assumed to denote an increase of pauperism in the country arising solely from the operation of the Act. The great mass of this pauperism existed at the time the Act was passed, and was only brought into evidence by the Act which altered the mode and shifted the burden of relief; and this will appear still more clearly when it is observed that whereas in August, 1845, there were 230 assessed parishes, and in the remaining 650 the poor were dependent on the more or less precarious relief of voluntary contributions. In August, 1849, the state of things had been almost exactly reversed, and a legal provision for the poor had been adopted in no less than 625 parishes.

Starting then from 1850, which may be taken as the first normal year for reference, we find the number of registered poor

on the 14th May to be 79,031, the number of their dependants 35,124, the number of adult casual poor 426, and the number of their dependants 3,308; thus showing a total of 114,155 of registered poor and dependants, and 7,575 of casual poor and dependants, or a total of all classes receiving relief of 121,730, being 4·256 per cent. of the population. Taking then the year ending 14th May, 1869, we find registered poor, 80,334; their dependants, 48,005; adult casual poor, 3,690; their dependants, 4,036; making the total of registered poor and their dependants 128,334, the total of casual poor and their dependants 7,726, and the total of all classes receiving relief 136,065, being 4·250 per cent. of the population. If, on the other hand, the two decennial periods, 1850 to 1859, and 1860 to 1869, be taken, it will be found that the average percentage of all classes receiving relief to population is 4·098 in the first ten years, and 4·104 in the second 10 years. Again, the average percentage of registered poor and their dependants to population is 3·842 in the first ten years, and 3·875 in the second ten years. Taking the average number of each class, we find—

		Number.	Percentage.
1850-59.	Registered poor, . .	78,129	2·650
1860-69.	,, . .	78,308	2·498
1850-59.	Dependants, . . .	34,971	1·192
1860-69.	,, . . .	42,763	1·377
1850-59.	Casual and dependants, .	7,545	·276
1860-69.	,, ,, .	7,726	·229

Showing that while the general average percentage of all classes relieved is almost stationary the percentage of registered poor has diminished sensibly; the percentage of casual poor has also diminished, though to a much smaller extent, but the percentage of dependants of the registered poor has increased in a marked degree. Your Committee have failed to obtain any satisfactory explanation of this fact. It is stated in evidence that the distinction between paupers and their dependants is not so carefully maintained with regard to the out-door poor as in the case of the inmates of the poorhouses, and the increase in the number of poorhouses may account for some portion of the increase of dependants. Your Committee venture to suggest that the increase in the percentage of dependants may to some extent be accounted for by the practice which has grown up under the law of giving out-door relief to able-bodied women with more than than one illegitimate child, and in proportion to the number of children. And it may further be accounted for by an increased number of desertions of wives and families, and the difficulty of punishing the men who desert them under the present state of the law. There is some doubt how far the statistics as to the relative number of registered poor, and of their dependants, during the

first ten years since the passing of the Act, can be relied upon; but at any rate, since the year 1855, they may be taken to be sufficiently reliable. Taking the number of dependants in that year, on 14th May, viz., 34,187, and comparing it with the number on 14th May, 1869, viz., 48,005, the increase is 13,818 in 14 years, while the increase of the total population in the same period is about 303,000. Comparing again the total of all classes receiving relief on 14th May, 1855, viz., 121,770, with the total of all classes receiving relief on the 14th May, 1869, viz., 136,065, the increase is 14,295. It is also remarkable that in the same period the adult casual poor have decreased, while their dependants have increased. The increase in the latter has been from 3361 to 4036, or a difference of 675, which, added to 13,818 (the increase of the dependants on registered poor), gives a total of 14,493. From this it appears that the increase in the number of paupers relieved is entirely due to the increase in the number of dependants. Your Committee advert to these figures as illustrative of the necessity of efficient checks upon the evil tendencies incident to a poor law.

Turning now to the effects of the law upon expenditure, the results are as follows:—The total expenditure for the year ending 1st February, 1846 (being the last year under the old system), was £295,232. In the year ending 14th May, 1847, it had risen to £433,915, being an increase of £138,683, or 47 per cent., and by the end of the first ten years, viz., at 14th May, 1856, it had reached the sum of £602,823; being an increase of £307,591, or 104 per cent. During the next ten years, to 14th May, 1866, the increase was £136,491, or 22 per cent., and in the last three years the further increase has been £81,870, or 11 per cent. The total expenditure for the year ending 14th May, 1869, being no less a sum than £821,124. These figures are all exclusive of outlay on buildings. A strong impression has prevailed that the total increase of expenditure since February, 1846, is attributable to the Act of 1845, and that it represents the absolute increase of cost of the poor since that time; but as the increase in the number of poor in the first years after the passing of the Act has been shown above to have been in a considerable degree only apparent, so in the expenditure the increase in some degree is likewise only apparent, and due to the transference of the charge from voluntary and charitable sources to a public legal assessment. But, besides these considerations, it will be found on examining the amounts raised for the relief of the poor during the ten years previous to February, 1846, that they were already increasing in a rapid ratio for each year; the total increase being from £171,042 to £306,044, or £135,000 for the ten years from 1836 to 1846, or 79 per cent. Without entering into the question as to whether the ratio of increase has been greater or lesser since than before the Act of 1845, for which there are not sufficient data for accurate calcula-

tion, it is evident, at any rate, that the fact of a considerable annual increase in expenditure cannot be ascribed solely to the new law. Assuming again the year 1850 as the proper normal starting point, the total expenditure in that year, exclusive of buildings, was £534,353, and comparing it with £643,303, the similar expenditure in 1860, the increase in those ten years is 20 per cent. Comparing £821,184, the expenditure in 1869, with that for 1860, there is a further increase of nearly 28 per cent; from which it appears that the expenditure has increased in a higher ratio during the latter period.

It should be noted, however, that a very large portion of this increase is due to the cost of lunatic paupers. The cost of lunatic paupers, which is stated by Sir John M'Neill to have been £40,000 at the commencement, had reached to £87,490 at 14th May, 1860, and to £124,812 at 14th May, 1869, an increase of 41 per cent. in the last ten years. If the cost of the lunatic paupers in those ten years be deducted from the total expenditure, it will be found that during those years the increase in expenditure on ordinary paupers was only 25 per cent.

Examining the various heads of expenditure, it will be found that the relief of registered and casual poor absorbs nearly 80 per cent. of the whole; management between 10 and 11 per cent.; buildings nearly 6 per cent.; medical relief, 4 per cent.; while the whole of the law expenses only amount to a little over 1 per cent. Considering the strong opinion of many witnesses as to the oppressive amount of law expenses, it is somewhat remarkable that in 1852 and 1853, the years of highest expenditure on law, the amount never reached 6d. in the £ on the whole expenditure; while the average of the last ten years has been less than 3d. in the £.

That this increase of an expenditure, four-fifths of which are applied to the relief of the poor, represents an improvement in the material condition of the poor, your Committee entertain little doubt. The increase is certainly due to an increase in the rate of allowances, which may be to some extent attributable, as some of the witnesses suggest, to a rise in the cost of living; but, in the opinion of your Committee, much more to the different estimate which is now held of the wants of the poor.

The constitution of the parochial boards is not such as to secure any effective check generally on the increase of expenditure. The low qualification has been known to bring persons to sit on the board who are related to paupers, and who prefer casting them on the public rate rather than maintain them themselves. This tends in many cases to favour increased allowances, and to foster opposition to the application of the poorhouse test. The power of increasing expenditure is in fact entirely in the parochial boards. There is no compulsory audit of the accounts of the local boards.

Again, in parishes which are partly burghal and partly rural, the boards are so unwieldy in size that the management falls

practically into the hands of the chairman by means of the present system of mandates.

The general evidence in regard to the Board of Supervision is favourable to its constitution, and to the influence which it has had in the management of the Poor Law. It is important to notice that even those who find most fault with the action of the Board of Supervision, admit the necessity of some central authority to secure uniformity in the administration of the law. As at present constituted, the Board of Supervision has no power of initiation; it acts only when set in motion by the local boards, or by the complaint of a pauper; its powers, in fact, are of a negative, and not an active nature. Suggestions have been made for giving larger powers to the board, and more especially for making it the final arbiter in all cases of settlement, with a view to saving law expenses. Your Committee do not think that any advantage is likely to accrue from adopting such a proposal, and they entertain serious doubts whether it would really have the effect of diminishing the legal expenses. The secretary of the board does act now as arbiter, by consent, in cases of settlement where the parties can agree as to the facts. This practice, your Committee think, might be advantageously made part of the statutory duty of the board.

It is by no means clear that in cases where the facts cannot be agreed upon their proof could be established more cheaply before the Board of Supervision than before any other tribunal. A better scheme would be, as proposed by the chairman of the board, that all actions on questions of settlement should be competent only in the Sheriff Court, with an appeal to the Court of Session on a special case. At any rate, the legal expenses in connection with settlement cases form only a portion of the whole law expenses arising under the Poor Law administration, which, as shown above, constitute too small a proportion of the Poor Law expenditure to have any appreciable effect on the local rates.

On the whole the action of the Board of Supervision appears to have secured a considerable amount of uniformity in the administration of the law, but it has no power to vary or recall any minute, either under the 60th or 74th section of the Act, and your Committee think that, in this respect, the power of the board should be increased, and that still greater uniformity and an additional check on expenditure might be obtained by means of more frequent inspection by the superintendents, coupled with an efficient system of audit.

Your Committee are further of opinion that it would be advantageous to abolish the jurisdiction of the sheriff, and to leave to the parochial board the right to decide as to the claim for relief subject to appeal, for which due facilities should be given to the Board of Supervision. In this case the inspector should be made primarily responsible for the consequences of any refusal of relief.

It seems very doubtful whether any advantage would accrue from any material change in the present law of settlement. There are one or two defects in the law, however, which require correction. The principal defect arises from the wording of the 76th section of the Act of 1845, by which a person who has acquired a settlement by five years' residence in any parish or combination loses that settlement "if during any subsequent period of five years he shall not have resided in such parish or combination continuously for at least one year." So that a five years' settlement may be lost by absence for four years and a day. The practical result is to throw many paupers back on the parish of their birth, frequently at the close of a long life spent in a totally different part of the country. This evil is aggravated by the fact that most of the towns which constitute the chief centres of labour are divided into more than one parish, and a change of residence from one part of the same town to another may either prevent the acquirement of a residential settlement, or defeat it after it has been acquired. To obviate these evils it has been suggested, in the first place, that no person should lose a residential settlement once acquired in any parish or combination until he shall have been absent for a period sufficient, at any rate, to enable him to acquire a fresh settlement; and, in the second place, that in all towns consisting of more than one parish the whole of those parishes shall be formed into one combination.

Whether any further extension of the area of chargeability and management would lead to satisfactory results is a question on which there is much difference of opinion. The only combination which was attempted under the provisions of the law (8 & 9 Vict. cap. 83, sec. 16) was in the island of Islay, and the results were found to be so unsatisfactory that a special Act was passed to dissolve the combination, there being no power in the Poor Law Act to put an end to any combination formed under the Act. Your Committee think that it would be desirable to give to the Board of Supervision a power to dissolve any combination that may have been formed, and which shall be proved to their satisfaction not to work advantageously.

Some of the witnesses have complained of the incidence of the assessment for the relief of the poor. The principle of the old Scotch Poor Law was that every one should contribute to the relief of the poor according to his ability, or as the old law of Scotland expresses it, according to his means and substance. To a certain extent this principle was retained in the Act of 1845, which provided three modes of assessment, any one of which might be selected by the parish, subject to the approval of the Board of Supervision. Two of these modes made the assessment fall in part upon means and substance. By an Act passed in 1861, however, the assessment upon means and substance was abolished, and the only mode now left of imposing an assessment is that known

as the first mode under the Act of 1845, which provides that "one-half of such assesment shall be imposed upon the owners, and the other half upon the tenants or occupants of all lands and heritages within the parish, rateably according to the annual value of such lands and heritages."

With a view to provide for an equitable distribution of the burdens under this mode of assessment a provision was inserted in the Act of 1845, giving power to parochial boards to divide the various occupants of lands and heritages into classes, and to impose different rates of assessment on the several classes, subject to the approval of the Board of Supervision. The necessity for some such arrangement was so clearly felt that, by the Act of 1861, classification was made compulsory in all parishes where, by the Act, assessment on means and substance was changed to assessment on lands and heritages only. There can be little doubt that a fair classification, when attainable, greatly tends to equalise the rate, and, in a rough sort of fashion, to secure that each ratepayer shall contribute in proportion to his ability to pay. But as the adoption of classification rests in the first instance with the parochial board, the nature and degree of that classification depends much on the constitution of that board, and may vary according to the majority of any particular interest sitting at the board. And though the Board of Supervision may veto any classification which they consider decidedly unfair, they have no power to compel the parochial boards to classify; nor can they, if a scheme of classification be once approved, take any steps to alter that classification if it should afterwards prove to be inequitable in its operation; on the other hand, parochial boards have no power to alter or vary a classification once approved of by the Board of Supervision without the consent of that Board.

A far more difficult question is raised in considering the incidence of the burden on owners of property. The principle of a law which leaves so large a portion of the wealth of the country exempt from contributing to a charge, which should be common to all, has naturally given rise to complaints. Public attention, it should be observed, has been especially directed to this question in Scotland, owing to the repeal in 1861 of the law by which the means and substance of every individual was, at the discretion of the local board, made to contribute to these funds.

Suggestions have been made to your Committee, with a view to the alleviation of the burden on lands and heritages, that mortgagees and proprietors of feu duties and ground annuals should contribute to the poor-rate, and that the machinery of the income tax might be made available to bring the wealth of the country to bear its share in the charge. With regard to the first of these proposals, your Committee are of opinion that it could not be entertained, as regards existing charges, without a violation of the engagements under which they have been contracted; b :t if the law

was only made applicable to future incumbrances no relief would be afforded to the proprietor; but in considering this and similar proposals, it is necessary to keep in view the leading principle of Poor Law administration, as a local burden involving local responsibility and management. It must be obvious that, so long as this principle is maintained, it would be unjust to tax persons only indirectly connected with the assessable district without giving to classes, such as mortgagees having a lien on the land, some share in the administration; or, in other words, shifting the burden from those who have a permanent interest in the proper administration of the funds to those whose interest might be of a transient character. Again, injustice would be done to holders of stock or securities, who are connected by property or residence with more than one parish, if they were taxed to the full amount of their income in each. But, further, commercial profits, though in many cases derived from the immediate locality where the business is carried on, are frequently derived from transactions only partially connected with the neighbourhood, but extending to different parts of the United Kingdom and to foreign countries. Your Committee will not affirm that it is impossible to apportion such sources of income so as to meet local charges which arise under the Poor Law, but no suggestion has been made to the Committee which lead them to suppose that this principle can be practically applied without creating greater inequalities than it removes; and they are of opinion that the attempt to enforce it would lead ultimately to the levying of a national rate.

The evidence which has been given before your Committee shows that the former practice of assessing income for Poor Law purposes was a fertile source of contention and difficulty; that attempts to enforce the law with strictness invariably provoked resistance, and that this mode of levying the assessment was falling gradually into disuse before its repeal. Your Committee are of opinion that the practical difficulties which arose in levying the rate did not arise merely from jealousy of the local authority which enforced it; but they are inherent in the attempt to assess income for local taxation. Your Committee cannot but feel that they are considering a principle which, if sound, could not be limited to a poor-rate, but would be applicable to other local charges. But, dealing with the question merely as regards the object of the inquiry committed to them, it must be kept in mind that the income tax touches a portion only of the national revenue; its principle has been constantly impugned; and your Committee fear that the attempt to apply it to the objects of the Poor Law, with all its inequalities, exemptions, and with the inquisitorial process by which it is levied, would endanger the tax itself; and we should either have to fall back on the present mode of assessment, which is limited to lands and heritages directly connected with each parish, and which is the principle under which the Poor

Law is administered in the United Kingdom, or we must have recourse to a national rate.

Upon a full consideration of the difficult questions here raised, your Committee desire to state their opinion that an obvious mode by which relief can be afforded from the imperial exchequer to local taxation, under the Poor Law, is by grants for special purposes, such as are now partially afforded in aid of medical charges, and the principle of which is applied to a greater extent in England. Any inequality which would then remain would be still further removed if the Treasury contributed a portion towards the support of pauper lunatics, as it now does towards the expense of the police. But, to carry the principle further, by allowing local authorities to draw on imperial funds for the ordinary relief of the poor, would, in the opinion of your Committee, be liable to abuse.

At the time of the passing of the Act of 1845 there was no provision in existence for the valuation of lands and heritages. It became necessary to define the mode of ascertaining annual value, and this was done by the 37th section of the Act. This section is based upon the principle of ascertaining the net rental for taxation. But since that time a General Valuation Act was passed, which is founded upon the principle of adopting the gross rental as the basis of taxation. There is no object for retaining any longer the net rental as the rateable basis of the Poor Law, while all other taxation is based on the gross rental; indeed, the ascertaining of the net rental is attended with much trouble and inconvenience, and the chairman of the Board of Supervision concurs in what is the very general opinion of the country, that the 37th section of the Poor Law Act should be repealed. At the same time if lands and heritages are to continue alone to be taxed to the poor-rate, the provisions of the 36th section relating to classification require improvement and extension, by giving greater power to the Board of Supervision to require proper classification, and also by so constituting the parochial boards as to give a fair share of representation to the various classes of occupants in each parish.

Your Committee are of opinion that all exemptions should be abolished, and that all real property, of whatever kind, whether private or public, including Crown property, and whether dedicated to charitable purposes or not, should bear its fair share of taxation for the poor.

Your Committee are further of opinion that the term "lands and heritages," in the Valuation Act of 1854, should include shootings and deer forests in the occupation of owners; and that such shootings and deer forests should be assessed for the poor at the yearly value at which they might be reasonably expected to let for sporting purposes.

The evidence regarding the treatment and condition of pauper lunatics is on the whole satisfactory. The expense of maintaining

pauper lunatics in asylums is a heavy and increasing charge, and it is suggested that with a proper system of supervision, many more harmless lunatics might be advantageously either boarded out or removed to the lunatic wards of poorhouses, where the cost is much less than in asylums.

The present condition of medical relief is not generally satisfactory. The parochial boards are not obliged to appoint medical officers, and, if they are appointed, their tenure of office is uncertain, and their emoluments are not always such as to secure competent men. In England and in Ireland the public exchequer contributes one-half the actual amount expended in salaries to medical officers and medicines, whereas in Scotland a fixed sum of only £10,000 is granted from the public funds, which does not meet one-third of the very limited expenditure which occurs under this head in Scotland. Your Committee agree with the suggestion that Scotland should be put upon as favourable a footing as England and Ireland in respect of grants from the public exchequer on this account; that the local boards should be required to appoint medical officers, with a suitable salary, which should be exclusive of the cost of medicines; and that the dismissal of medical officers should be subject to the approval of the Board of Supervision.

There is another class of officers who might also, with advantage, be placed on the same footing. At present the governors of poorhouses are appointed and dismissed solely by the local board, while the rules and regulations of the house are drawn up by the Board of Supervision. It appears to your Committee that the Board of Supervision should have some control in the dismissal of governors and matrons of poorhouses; and they see no reason why there should not be given a power to the parochial boards to give them superannuation on retirement, and also to grant superannuation to inspectors of poor. All such superannuations to be subject to the approval of the Board of Supervision.

Although your Committee, as stated at the commencement of this Report, do not see the possibility of abolishing the Poor Law, they are fully sensible of the grave evils, moral, social, and economical, which are created by granting to any class in the community a legal claim for relief on their wealthier neighbours. Your Committee are not prepared to accede to the suggestions which have been made from many quarters, that a discretion should be given to parochial boards to grant relief out of the poor-rate to able-bodied poor in cases of commercial distress.

Your Committee are of opinion that the application of a poorhouse test would be generally advantageous in the administration of the Poor Law. They are supported in this opinion by the evidence of the effect of a properly applied poorhouse test given by Sir John M'Neill, confirmed by Mr. Bett, and more fully illustrated in the statistics of the results of the poorhouse system

furnished by Mr. Walker, the present chairman of the Board of Supervision. Its beneficial operation is also illustrated in the evidence given by Mr. Lambert, in regard to the administration of the Poor Law in Ireland, and the Thirteenth and Fourteenth Reports of the Board of Supervision contain many interesting observations on the comparative expenditure on the poor in Ireland and Scotland, illustrating the results of a system of strict in-door relief as administered in the former country.

There may be difficulties in some parts of Scotland in enforcing a test of this kind, but your Committee would advise that in the case, at any rate, of women with illegitimate children, no relief should be allowed except in the poorhouse.

At the same time it is necessary to place the inmates of the poorhouse under greater control, to restrict, in certain cases, the present great freedom of egress and ingress, and to render penal the act of repeatedly absconding from the poorhouse, and of making away with the clothing of the house.

There is one portion of the administration of the Poor Law in Scotland of which your Committee would desire to record here their unqualified approval. They refer to the practice which for many years, and in some places long before the Act of 1845, has existed, and is now pretty generally adopted, of boarding out all children who are either orphans, or are deserted, or separated from their parents. The evidence on this subject is so unanimous as to the marked benefits of the system that your Committee would recommend that every encouragement should be given to its maintenance and to its further extension.

The case of the blind, in relation to the Poor Law, has been submitted to the consideration of your Committee, but they do not see their way to make any special recommendation on this head beyond expressing the opinion that the poorhouse test should not be rigidly exercised in the case of the blind, the deaf and dumb, or others whose physical condition precludes the risk of imposition, and that provision should be made for the education of blind children.

The question of vagrancy, although not directly embraced in the matters referred to your Committee, is nevertheless closely allied to them, and has been directly adverted to by the Board of Supervision in their Twenty-fourth Report. Your Committee have therefore taken some evidence on this subject, to which they beg to call special attention. They are of opinion that it is absolutely necessary for the satisfactory administration of the Poor Law to adopt some means to check this evil, which is greatly on the increase. The provisions now in force against vagrants in towns under the General Police Act have been found to work satisfactorily, and your Committee are of opinion that they might with advantage be extended to counties.

In conclusion, your Committee beg to submit the following recommendations for the amendment of the Poor Law :—

Constitution of Parochial Boards in Rural Parishes.

The number of owners sitting at the parochial board without election to be reduced by raising the present qualification of £20. Occupiers of lands and heritages to be also members of the parochial board, without election, the qualification in value, in their case, to be not less than shall be fixed in the case of owners. All ratepayers who are not members of the parochial board, as at present, to elect representatives; the number to be fixed in each case by the Board of Supervision. No member of the kirk-session to be, as such, a member of the board. No one to be elected as representative unless he be assessed to the poor, and pay assessment to the parish.

Elected members to remain in office for three years; one-third, as near as may be, going out of office each year.

The Board of Supervision to have power to make rules for conducting elections, as they now have in burghal parishes.

Absent heritors may be represented at the board by their factors or agents. No mandates to be allowed otherwise.

Constitution of Parochial Boards in Burghal Parishes.

Nomination by kirk-session to be abolished.

Managers to remain in office for three years; one-third, as near as may be, going out of office each year.

Constitution of Parochial Boards in Parishes partly Rural and partly Burghal.

Same as in burghal parishes.

Combinations.

In all towns consisting of more than one parish, the parishes to be combined.

The terms of combination, and all other questions arising out of it, to be determined by the Board of Supervision.

The parochial board to consist of managers elected as in burghal parishes, a certain number being elected by each parish in the combination, the proportion to be settled with the approval of the Board of Supervision, and a certain number to be nominated by the magistrates of the burgh.

Assessment.

Section 37 of the Act of 1845 to be repealed.

All exemptions from assessment to be abolished, except on the ground of inability to pay.

Greater power to be given to the Board of Supervision to require proper classification under the provisions of the 36th section of the Act of 1845.

The valuation assessors to furnish the Board of Supervision every year with a copy of the valuation roll for each parish. The Board of Supervision to publish the total amount of valuation in each parish in their annual reports.

A portion of the amount expended on the relief of pauper lunatics to be repaid by the Treasury, on a certificate from the Board of Lunacy that the expenditure has been properly incurred.

Superannuations.

The parochial board to be empowered to superannuate inspectors of poor, and governors and matrons of poorhouses, subject to the approval of the Board of Supervision.

Audit and Accounts.

An annual official audit to be required in every parish, to be conducted by auditors appointed by the Board of Supervision according to rules to be framed by them, and with a right of appeal to the board in the event of any sums being disallowed by the auditor. An annual grant to be made for audit.

All parochial boards to publish annually an abstract of their accounts as audited, together with a list of the poor and their allowances in a form to be approved by the Board of Supervision.

Poorhouses.

Every parochial board to provide poorhouse accommodation in one or other of the ways permitted by sections 60, 61, or 65 of the statute, unless exempted on application by the Board of Supervision.

Inmates of poorhouses to be placed under greater restriction as to egress and ingress, and to be subject to punishment for repeatedly absconding from the poorhouse, and for making away with the clothing of the house. Governors and matrons of poorhouses not to be removed, except with the approval of the Board of Supervision.

Relief.

Jurisdiction of sheriff to hear appeals against refusals of relief to be abolished. Appeal to be made to the Board of Supervision instead, and the board to be empowered to order relief to be given if they are not satisfied with the grounds of refusal. The inspector

to be made primarily responsible for the consequences of any refusal of relief.

No woman whose disability arises wholly from her having illegitimate child or children to be relieved except in a poorhouse.

On the complaint made by any ratepayer or ratepayers assessed upon one-fifth of the assessable property in a parish, the Board of Supervision to be empowered to disallow or reduce the allowance of a pauper.

Paupers required to remove to their own parish to be entitled to appeal to the Board of Supervision, as they now can on the ground of inadequate relief; and in such cases the board to determine whether the requirement to remove is reasonable and proper, or not.

Medical Relief.

Every parochial board to be required to appoint a medical officer at a suitable salary, exclusive of the cost of medicines; regard being had to the population and extent of the parish and the number of paupers. Medical officers not to be removed from office, except with the approval of the Board of Supervision. The Parliamentary grant in aid of medical relief to be placed on the same footing as it is in England and Ireland. Every parochial board to be required to have and furnish with requisite medicines a dispensary at or in the vicinity of the residence of their medical officer, and to publish in their annual accounts a statement of medicines so supplied.

Children.

No orphan or deserted child above two years of age to be retained in a poorhouse for a longer period than three months, except upon certificate of medical officer that its health would suffer from removal. Such children to be boarded as far as possible in rural districts, and with persons of their own religion.

All pauper children under 13 years of age to be made to attend school regularly.

Settlement.

No residential settlement to be lost until a new one is acquired.

In all cases of disputed settlements in which the parties agree upon the facts, and refer the case to the arbitration of the Board of Supervision, it shall be the duty of the board to give a decision, and such decision shall be final.

Miscellaneous.

Section 80 of the Act of 1845 to be amended so as to make it apply to the mothers as well as to the fathers of illegitimate children.

Prosecutions under this section, and claims against fathers of illegitimate children, to be conducted at the instance of the Procurator Fiscal.

Claims against relatives of paupers to be sued for as ordinary debts.

The acceptance of relief to be declared to operate, *ipso facto*, as a disposition in security of advances *omnium bonorum* both present and subsequently acquired.

Parochial boards to be made bodies corporate; to have power, in certain cases, to take land under the Land Clauses Acts, and to obtain loans from Public Works Loans Commissioners.

Shootings and deer forests in the occupation of owners, to be assessed for the poor at the yearly value at which they might be reasonably expected to let for sporting purposes.

The laws relating to vagrants at present in force in towns, under the General Police Act, to be extended to counties.

In order to enable the Board of Supervision to carry out these amendments, and to make a more frequent and close inspection of parishes, the number of general superintendents to be increased.

The Board of Supervision to have full power at any time to recall or vary any minute or order made in exercise of its powers.

3rd July, 1871.

APPENDIX III.

Valuation of Lands and Heritages (Scotland) Act, 17 & 18 Vict. crp. 91, secs. 1, 6, 20, 21, and 22.

Whereas, it is expedient that one uniform valuation be established of lands and heritages in Scotland, according to which all public assessments leviable, or that may be levied according to the real rent of such lands and heritages may be assessed and collected, and that provision be made for such valuation being annually revised: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Commissioners of Supply of every county, and the magistrates of every burgh in Scotland respectively, shall annually cause to be made up a valuation roll, showing the yearly rent or value

for the time of the whole lands and heritages within such county or burgh respectively, and separately, within each parish or part of a parish, situated within such county or burgh respectively, and specifying in each case the nature of such lands and heritages, and the names and designations of the proprietors or reputed proprietors, and where there are tenants or occupiers, of the tenants and of the occupiers thereof respectively; and within two months after the passing of this Act, the Commissioners of Supply of each county, and the magistrates of each burgh, shall hold a meeting and adopt such measures as will enable the first valuation roll under this Act to be made up by the fifteenth day of August one thousand eight hundred and fifty-five.

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6. In estimating the yearly value of lands and heritages under this Act, the same shall be taken to be the rent at which, one year with another, such lands and heritages might, in their actual state, be reasonably expected to let from year to year; and where such lands and heritages consist of woods, copse, or underwood, the yearly value of the same shall be taken to be the rent at which such lands and heritages might, in their natural state, be reasonably expected to let from year to year, as pasture or grazing lands; and where such lands and heritages are *bona fide* let for a yearly rent conditioned as the fair annual value thereof, without grassum or consideration other than the rent, such rent shall be deemed and taken to be the yearly rent or value of such lands or heritages in terms of this Act: Provided always, that if such lands and heritages be let upon a lease, the stipulated duration of which is more than twenty-one years from the date of entry under the same, or in the case of minerals, more than thirty-one years from such date of entry, the rent payable under such lease shall not necessarily be assessed as the yearly rent or value of such lands and heritages, but such yearly rent or value shall be ascertained in terms of this Act, irrespective of the amount of rent payable under such lease, and the lessee under such lease shall be deemed and taken to be also the proprietor of such lands and heritages in the sense of this Act, but shall be entitled to relief from the actual proprietor thereof, and to deduction from the rent payable by him to such actual proprietor, of such proportion of all assessments laid on upon the valuations of such lands and heritages made under this Act, and payable by such lessee as proprietor in the sense of this Act, as shall correspond to the rent payable by such lessee to such actual proprietor as compared with the amount of such valuation.

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20. In order to the making up of valuations and valuation rolls of lands and heritages in Scotland belonging to or leased by railway or canal companies, and forming part of the undertakings of such companies, it shall be lawful for Her Majesty to appoint,

as occasion requires, a fit and proper person to be assessor of railways and canals for the purposes of this Act; and the remuneration or salary to be paid to such assessor of railways and canals in respect of his own time and trouble, and in respect of any clerks or other officers whom he may be allowed by the Commissioners of Her Majesty's Treasury to employ in the execution of his duties under this Act, shall be fixed from time to time by the said Commissioners of Her Majesty's Treasury; and such assessor of railways and canals shall, before entering on the duties of his office, declare that he will faithfully and honestly perform the duties thereof, and shall be removeable by Her Majesty at pleasure.

21. The assessor of railways and canals under this Act shall, on or before the fifteenth day of August, one thousand eight hundred and fifty-five, and on or before the fifteenth day of August in every subsequent year, inquire into and fix *in cumulo* the yearly rent or value, in terms of this Act, of all lands and heritages in Scotland belonging to or leased by such railway and canal company, and forming part of its undertaking, and shall also inquire into and fix the amount which one year with another would be required in order to the acquisition, formation, and erection of the several stations, wharfs, docks, depots, counting-houses, and other houses and places of business respectively, in Scotland, of or connected with each such undertaking (including the solum on which such stations and others are erected), and shall also inquire into and fix all other matters necessary to enable him to make up a valuation roll of railways and canals as after-mentioned; and such assessor of railways and canals shall make up a valuation roll, applicable to all railway and canal companies having lands and heritages as aforesaid, in which valuation roll shall be set forth in columns the yearly rent and value, in terms of this Act, of the whole lands and heritages in Scotland, belonging to or leased by each such railway or canal company respectively, and forming part of its undertaking; the names of the several parishes, counties, and burghs through which the line of such railway or canal company runs, or in which its said lands or heritages, or any part thereof, are situated; the lineal measurement of its entire line, and the portion of such lineal measurement situated in each such parish, county, and burgh; the amount of the cost as aforesaid of its several stations, wharfs, docks, depots, counting-houses, and houses and places of business in Scotland (including as aforesaid), the proportion of such gross amount expended in each such parish, county, and burgh, and, where any stations, wharfs, docks, depots, counting-houses, or other houses or places of business are held, or used jointly by any two or more railway or canal companies, the proportions in which such railway and canal companies are respectively interested

therein, and also the yearly rent or value, in terms of this Act, ascertained as after-mentioned, of the portion in each parish, county, and burgh in Scotland, of the lands and heritages belonging to or leased by such railway and canal company, and forming part of its undertaking.

22. The yearly rent or value, in terms of this Act, of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway or canal company, and forming part of the undertaking of such company, shall be ascertained as follows:—that is to say, there shall be deducted, in the first place, from the *cumulo* yearly rent or value of the whole lands and heritages in Scotland, as aforesaid, of each such railway or canal company, a sum equal to three pounds per centum of the whole cost as aforesaid of the stations, wharfs, docks, depots, counting-houses, and other houses and places of business in Scotland of and connected with the undertaking of such railway or canal company (including as aforesaid); and the proportion of such diminished *cumulo* rent or value corresponding to the lineal measurement of the portion of the line, including ferries attached thereto, of such railway or canal company, situated in such parish, county, or burgh, as compared with the lineal measurement of the entire line, including ferries as aforesaid, of such railway or canal company, with the addition of a sum equal to three pounds per centum of the cost as aforesaid of any station, wharf, dock, depot, counting-house, or other house or place of business within such parish, county, or burgh, or of or connected with the undertaking of such railway or canal company (including as aforesaid), shall be deemed and taken to be the yearly rent or value, in terms of this Act, of the lands and heritages in such parish, county, or burgh belonging to or leased by such railway or canal company, and forming part of its undertaking.

Valuation of Lands (Scotland) Amendment Act, 1867 (30 & 31 Vict. cap. 80).

Sec. 3.—In ascertaining the yearly rent or value in terms of the first-recited Act of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway company, and forming part of the undertaking of such company, one-half of the expenses incurred in maintaining or repairing the permanent way of railways, and charged to revenue in the published accounts of such railway company for the year preceding that for which the valuation is made, shall be allowed by the assessor of railways and canals as a deduction before the *cumulo* yearly rent or value of each railway is fixed, provided that such assessor is satisfied

that such expenses have been truly expended in maintaining or repairing the permanent way of each such railway: Provided always that the cost of repairs of stations, engine-houses, work-shops, wharfs, docks, depots, counting-houses, and other houses and places of business belonging to or leased by any railway company, and forming part of the undertaking of such company, shall not be deemed to be expenses to be allowed by the said assessor in terms of this section.

APPENDIX IV.

A Bill [as amended by the Select Committee] to amend the Acts for the Valuation of Lands and the levying of Assessments in Scotland. Session 1870.

(Prepared and brought in by Lord-Advocate Young).

Whereas an Act was passed in the seventeenth and eighteenth years of the reign of Her present Majesty, intituled "An Act for the Valuation of Lands and Heritages in Scotland," and that Act was amended by the Act twentieth and twenty-first Victoria, chapter fifty-eight, and by "The Valuation of Lands (Scotland) Amendment Act, 1867;" which Acts are hereinafter termed the Valuation of Lands Acts:

And whereas it is expedient that the said Acts and the Acts relating to the imposing and levying of assessments for the relief of the poor and other purposes in Scotland should be amended, and that further provision should be made with respect to assessments on railways, canals, waterworks, and gasworks:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The thirty-seventh section of the public Act eighth and ninth Victoria, chapter eighty-three, with respect to the Relief of the Poor in Scotland, and the third section of "The Valuation of Lands (Scotland) Amendment Act, 1867," are hereby repealed.

2. In ascertaining the yearly rent or value, in terms of the Valuation of Lands Acts, of the lands and heritages in any parish, county, or burgh, belonging to or leased by any railway company and forming part of their undertaking, the expenses incurred in

maintaining or repairing the permanent way of the railway, and charged to revenue in the published accounts of such railway company for the year preceding that for which the valuation is made, shall be allowed by the assessor of railways and canals as a deduction before the *cumulo* yearly rent or value of the railway is fixed, provided the said assessor is satisfied that such sums have been truly expended in maintaining or repairing the permanent way of the railway; but the cost of repairs of stations, engine-houses, workshops, wharfs, docks, depots, counting-houses, and other houses and places of business belonging to or leased by any railway company, and forming part of their undertaking, shall not be deemed to be expenses to be allowed by the said assessor in terms of this section.

3. In ascertaining the yearly rent or value, in terms of the Valuation of Lands Acts, of the lands and heritages in any parish, county, or burgh, belonging to or leased by any water company or gas company, or any corporation being the owners of waterworks or gasworks, or any commissioners or trustees of waterworks or gasworks, and forming part of their respective undertakings, and valued by the assessor of railways and canals, the whole sums expended in maintaining and repairing the waterworks or gasworks belonging to or leased by such company, corporation, commissioners, or trustees, including reservoirs, aqueducts, conduits, bridges, culverts, retorts, gasholders, and other works, and mains and pipes, and charged to revenue in their accounts for the year preceding that for which the valuation is made, shall be allowed by the said assessor as a deduction before the *cumulo* yearly rent or value of such waterworks or gasworks is fixed, provided the said assessor is satisfied that such sums have been truly expended in maintaining and repairing such waterworks or gasworks; but the cost of repairs of workshops, depots, counting-houses, and other houses and places of business belonging to or leased by such company, corporation, commissioners or trustees, and forming part of their respective undertakings, shall not be deemed to be expenses to be allowed by the said assessor in terms of this section.

4. The provisions of the first-recited Act with respect to the valuation by the assessor of railways and canals of lands and heritages belonging to or leased by water companies or gas companies shall be and are hereby made applicable to lands and heritages belonging to or leased by any corporation being the owners of waterworks or gasworks, or any commissioners or trustees of waterworks or gasworks, having respectively any continuous lands and heritages liable to be assessed in more than one parish, county, or burgh.

5. Nothing in this Act contained shall prejudice or affect the

recovery of any assessment, rate, or tax imposed or made before the passing of this Act.

6. The term "valuation roll" in this Act shall mean the valuation roll for the year in which any assessment, rate, or tax is imposed, made up in pursuance of the Acts for the Valuation of Lands and Heritages in Scotland in force for the time being; and the term "permanent way" in this Act shall have the meaning assigned to that term in "The Valuation of Lands (Scotland) Amendment Act, 1867."

7. This Act shall extend to Scotland only, and may be cited for all purposes as "The Valuation of Lands and Assessments (Scotland) Act, 1870."

APPENDIX V.

The "Mellor" Clause of the Divided Parishes and Poor Law (Amendment) Act, 1876, 39 & 40 Vict. cap. 6.

Sec. 23.—Where any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may from time to time pay to the Board of Guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him as a debt, or from his executors, administrators, or assigns in case of his death, the sum so expended by them as aforesaid, and the managing body of such society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be required to pay the same to such guardians, and shall be exonerated on payment thereof from any further liability.

Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at

once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.

APPENDIX VI.

Old Age Pensions—Draft of Mr. Chamberlain's Scheme, Dated March, 1892.

(Reprinted from *Glasgow Herald* Newspaper.)

I. *Establishment of Fund.*

A State Pension Fund to be established, to which Parliament should be asked to make an annual grant, to be supplemented by contributions from local rates.

II. *For Males—Money Returnable.*

(*a*) Every male who, for the purchase of a pension under this head, shall pay £5 to the Post Office Savings Bank before he is twenty-five years of age, shall thereupon be credited with a further sum of £15 from the State Pension Fund, and thereafter for forty years he shall pay £1 per annum to the Post Office Savings Bank. On these forty annual payments being duly paid, and on his reaching sixty-five years of age, he shall be entitled to a pension of £13 per annum.

(*b*) If the insured person die before the third annual sum of £1 is due and paid, the sum of £5 which he deposited shall be returned to his widow or other authorised representative.

(*c*) If the insured person die after the third annual sum of £1 is due and paid, and before reaching sixty-five, leaving a widow and young children, or children without a widow, the widow (if any) shall receive 5s. per week for *twenty-six weeks*, and there shall be paid for each child under twelve years of age (if any) 2s. per week until he or she reaches the age of twelve years, but so that the total sum paid to one family shall never exceed 12s per week during the first twenty-six weeks or 8s. per week thereafter.

(*d*) If the insured person die after the third annual sum of £1 is due and paid, and before he reaches sixty-five, leaving neither widow nor children, there shall be paid to his duly appointed representative the sum of five pounds (£5).

(*e*) Every male under twenty-five years of age may insure under this head for a pension larger than £13, but not exceeding £26 per annum. For each £1 over and above £5 deposited before the age of twenty-five his pension will be increased by 5s. 4d. per annum, and for each 10s. over and above £1 paid annually between twenty-five and sixty-five years of age his pension will be increased by £3 6s. 8d. per annum. In the event of his death before the age of sixty-five the amount of the additional deposit or annual sums thus paid will be returned to his widow or authorised representative, in addition to the amount to which they would otherwise be entitled.

Arrears.

III. *For Males—Money not Returnable.*

(*a*) Every male who for the purchase of a pension under this head shall deposit £2 10s. in the Post Office Savings Bank before he is twenty-five years of age shall thereupon be credited with a further sum of £10 from the State Pension Fund, and thereafter for forty years he shall pay 10s. per annum to the Post Office Savings Bank. On these forty annual sums being duly paid, and on his reaching sixty-five years of age, he shall be entitled to a pension of £13 per annum.

(*b*) Every male under twenty-five years of age may insure under this head for a pension larger than £13, but not exceeding £26 per annum. For each £1 over and above £2 10s. deposited before the age of twenty-five his pension will be increased by 11s. 8d. per annum, and for each 5s. over and above 10s. paid annually between twenty-five and sixty-five years of age his pension will be increased by £2 16s. 10d. per annum.

APPENDIX VII.

Memorandum regarding Exemptions from Payment of the Poor-Rate.

When the proof sheets were passing through the press a written communication was made to me by the chairman of a large parish to the effect that in the eastern parts of Scotland there was no uniformity in the practice of parochial boards in the matter of allowing exemptions from payment of the poor-rate, and that the rights and duties of the boards in the matter did not appear to be thoroughly understood, and requesting that I should treat expressly of that subject.

Although the suggestion came too late to allow of the subject being incorporated in the text, and although the book does not pretend to be a purely legal treatise, I have pleasure in adding the following short Memorandum:—

The assessment is regulated by sections 34 to 42 of the Act of 1845.

The assessment, having been resolved upon, must be levied strictly in accordance with the Act, and impartially as regards both persons and property; and the boards have no discretion as to granting exemption from its payment. The only exemption recognised by the Act is that contained in the 42nd section. "It shall be lawful . . . to exempt from payment of the assessment, or any part thereof, to such an extent as may seem proper and reasonable, any person or class of persons on the ground of inability to pay."

This does not allow the boards to exempt a class of property,[1] nor does the exemption extend to institutions devoted to charitable and benevolent objects, such as a general hospital,[2] nor to a house of refuge,[3] nor to universities,[4] nor to public docks and harbours.[5]

But certain classes of property are exempt from the rate by special statutory enactments, and others by the common law as interpreted by judicial decision. Thus, property occupied by the

[1] Murray *v.* Bruce, 25th May, 1852, 24 *Scottish Jurist*, 447.

[2] Mayor, &c., of London *v.* Stratton, L.R., 7 H.L. 477; Greig *v.* Feoffees of Heriot's Hospital, 28th March, 1866, 4 Macpherson's Reports, 675.

[3] Greville *v.* Beattie, O.H. 20th December, 1856.

[4] Greig *v.* University of Edinburgh, H.L. 8th June, 1868, 6 Rettie, 47; Kirkwood *v.* University of Glasgow, 19th July, 1872, 10 M'P. p. 1000.

[5] Adamson *v.* Clyde Navigation Trustees, 26th June, 1863, 1 Macpherson's Reports, p. 974, and H.L. 22nd June, 1865, 3 M'P. p. 100; Gardner *v.* Commissioners for Harbour and Docks of Leith, 26th November, 1852, 15 D. 950; H.L. 6th February, 1855, 2 M'Queen's Appeals, 28; 17th June, 1864, 2 Macpherson's Reports, 1234; 7 *Poor Law Magazine*, 61; Jones *v.* Mersey Docks and Harbour Board, H.L. 22nd June, 1864, 2 Clark's Reports, p. 443, and 8 *Poor Law Magazine*, p. 42.

Crown, or the servants of the Crown, for exclusively public purposes and purposes connected with the Government of the country, such as barracks, jails, and courts of justice, are exempt.[1]

In the Mersey Docks case, the Lord Chancellor (Westbury) expressed the principle of the exemption thus—"The only ground of exemption from the statute of Elizabeth is that which is furnished by the rule that the sovereign is not bound by that statute, and that consequently when valuable property (that is, property capable of yielding a net rent above what is required for its maintenance) is sought to be exempted on the ground that it is occupied by bare trustees for public purposes, the purposes must be such as are required and created by the Government of the country, and are therefore to be deemed part of the use and service of the Crown." Lord Cranworth in that case said—"The Crown not being named is not bound by the Act. It follows, therefore, that lands or houses occupied by the Crown, or by the servants of the Crown, are not liable to be rated. . . . This principle exempts from rates not only royal palaces, but also the offices of the secretaries of State, the Horse Guards, the Post Office, and many similar buildings. On the same grounds, police courts, county courts, and even county buildings occupied as lodgings at the assizes for the judges have been held exempt."

This principle was again clearly enunciated by Lord Chancellor Cairns in deciding Greig *v.* The University of Edinburgh just cited.

But where the occupant of property used for Crown purposes is accommodated beyond what is necessary for the performance of his official duties, he is liable to be rated in respect of his personal occupancy beyond such use.[2]

Exemption also extends to the manses and glebes of the Established clergy in respect the ministers are by section 49 of the Act of 1845 liable to assessment in respect of their stipends;[3] to churches, chapels, and places of worship exclusively devoted to these purposes;[4] to ground exclusively devoted to purposes of burial;[5] to reformatory schools;[6] to militia and volunteer stores and depots,[7] and also to institutions devoted exclusively to

[1] As to Court Houses, see R. *v.* Manchester, 3 E. & B. p. 336; as to Police Buildings, Lancashire *v.* Shelford, E. B. & E. p. 230; as to Gaols and Barracks, R. *v.* Shepherd, 1 Q.B. 70.

[2] The Advocate General *v.* Beattie, 29th January, 1856, 18 D. 378; Young *v.* Commissioners of Supply of Perthshire, 8 *Poor Law Magazine*, 393.

[3] Cargill *v.* Tasker, 29th February, 1816, Faculty collection; Forbes *v.* Gibson, 15th December, 1850, 13 D. 341, and H.L. 14th June, 1852, 14 D. p. 18, and 1 M'Queen's Reports, p. 106.

[4] 28 & 29 Vict. cap. 62; 37 & 38 Vict. cap. 20; and 35 & 36 Vict. cap. 62, sec. 44. These statutes are limited to the poor's-rate, and do not warrant exemption from the school-rate subsequently imposed by the Education Act of 1872.

[5] 37 & 38 Vict. cap. 20.

[6] Queen *v.* Wallingford Union, 10 Adol and Ellis Reports, p. 259; and Sheriff Glassford Bell, 5 *Poor Law Magazine*, N.S., 1872, p. 466.

[7] 16 & 17 Vict. cap. 106, sec. 36; 26 & 27 Vict. cap. 65, sec. 26.

purposes of science, literature, and the fine arts, provided they obtain a certificate from the Lord Advocate to that effect.[1]

By the Education (Scotland) Act, 1872, it is enacted that "the school-rate shall in all cases be levied and collected in the same manner as poor's assessment, and the levy applicable for the time to the imposition, collection, and recovery of poor's assessment shall be applicable to the school-rate."[2]

Whatever persons and subjects, therefore, are entitled to exemption from the assessment for the poor are entitled to exemption from the school-rate, and in practice the exemption is allowed.

[1] 6 & 7 Vict. cap. 36; R. *v.* Phillips, 17 L.J.M. C. 38.
[2] 35 & 36 Vict. cap. 62, sec. 44.

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