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## I.—*A Comparison between the English and Irish Poor Laws with respect to the Conditions of Relief.* By J. K. Ingram, LL.D.


[ Read Wednesday, 10th February, 1864. ]


In the address which I had the honor of delivering before the Society at the opening of the present session I pointed out certain differences as existing between the English and Irish Poor Laws. I expressed the opinion that these differences, being to the disadvantage of the Irish poor, were such as would naturally create or foster discontent in this country. I contended that the restraints on relief arising from the provisions of the Irish Poor Law tended to impede the inevitable transformation of the lowest class of farmers into labourers for wages, and to aggravate the inconveniences inseparable from such a transition. And for these reasons I urged the propriety of assimilating the laws relating to Poor Relief in the several parts of the United Kingdom.

It was natural to expect some diversity of opinion on such a subject, and I read with interest and respect whatever was written in a rational and candid tone on the other side of the question. But I soon found myself placed in a somewhat embarrassing position by the nature of the replies which I received from different quarters. For, whilst some persons, claiming for themselves an intimate acquaintance with the subject, congratulated Ireland on having a sounder and safer law than England, others, professing to be equally well informed, asserted that no assimilation was necessary, the law in the two countries being already in fact the same. The conversations and correspondence I have since had with various persons have satisfied me that there exists very general misapprehension, or at least vagueness and uncertainty, on the question of the identity or difference of the two laws.

Now this question is considered by many of our fellow-countrymen as one of great importance, and it is likely to occupy a good deal of attention for some years to come. It is therefore highly desirable that there should be no mistake or mystification about the exact truth of the case.

One of the most useful functions of such a Society as this is that of keeping the public mind right about facts; supplying the basis of statistics on which the reasonings of the practical Economist and Law Reformer ought to rest. Nor has the Society neglected its duty in relation to the question before us. Several of its members have pointed out, in papers read before you, particular differences between the English and Irish Poor Law; and these papers were my chief authorities for the statements made in my address. But as they regarded the subject from some special point of view, they did not enter on a general comparison of the conditions of relief prescribed by the two laws. No accurate, and at the same time complete, comparison of this kind has yet, so far as I am aware, been brought before either this Society or the Irish Public. Such an account of the matter it is my present object to supply. In preparing it I have relied only on original authorities—acts of Parliament, evidence before Parliamentary committees, documents issued by the Poor Law Board, Hansard's Parliamentary Debates, and the like. I have found the subject a complex and difficult one, and the facts are in some respects different from what I had anticipated.

You will observe that I do not propose in this paper to examine the question, on which so much may be said, of the policy of a more liberal outdoor relief in the present condition of Ireland. My object is simply to state, as correctly as I can, the actual facts—the provisions respecting Poor Relief now subsisting in England and Ireland—and to exhibit the differences of the powers vested in the English and Irish authorities, without discussing how far it would be expedient that any such powers should be exercised. I shall quote throughout, as far as possible, the exact words of the several documents to which I appeal, and I shall furnish such references to the sources of my information as will enable any one who wishes to verify every statement I make.

When we speak of the English Poor Law, we must clearly distinguish between the statute law on the subject and the law as it is fixed by the rules and orders of the Poor Law Board. The Amendment Act of 1834, (4 & 5 William IV., c. 76) created for the first time a central authority for the general control of the entire management of the poor throughout England and Wales. Beyond condemning the then prevalent abuse of the payment of wages in part out of the poor rates, the Act scarcely at all interfered with the administration of relief. But it gave to the Central Board very extensive powers; and they were authorized and required to make and issue all such rules, orders, and regulations for the management of the poor and the direction of matters connected therewith, as they should think proper. In particular, it was provided in the Act above mentioned, that "from and after the passing of this Act it shall be lawful for the said Board, by 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 ablebodied 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 outdoor relief may be afforded." The orders of the Board framed in the exercise of these powers can be issued to such Unions as they may think proper, and can be suspended, altered, or revoked at their discretion.

What, then, is the nature of the English Law, with respect to the conditions of relief, as laid down by the Orders of the Poor Law Board? I answer, there are in force two totally different codes for different parts of England. One part of the country is governed by what is sometimes called the Prohibitory Order, dated the 21st of December, 1844. The rest of the country is governed by what is called the Out-relief Regulation Order, dated the 14th of December, 1852.

Let me explain first the latter of these two, the Order of 1852. Its essential provisions are contained in the articles which I am about to quote:—

"Art. 1. Whenever the guardians allow relief to any ablebodied male person out of the workhouse, one-half at least of the relief so allowed shall be given in articles of food and fuel, or in other articles of absolute necessity.

"Art. 2. In any case in which the guardians allow relief for a longer period than one week to an indigent poor person resident within their union or parish respectively, without requiring that such person shall be received into the workhouse, such relief shall be given or administered weekly, or at such more frequent periods as they may deem expedient.

"Art. 5. No relief shall be given to any ablebodied male person while he is employed for wages or other hire or remuneration by any person.

"Art. 6. Every ablebodied male person, if relieved out of the workhouse, shall be set to work by the guardians, and be kept employed under their direction and superintendence so long as he continues to receive relief.

"Art. 7. Provided that the regulations in Arts. 5 and 6 shall not be imperative in the following cases.

"1st. The case of a person receiving relief on account of sudden and urgent necessity.

"2nd. The case of a person receiving relief on account of any sickness, accident, or bodily or mental infirmity affecting such person or any of his family.

"3rd. The case of a person receiving relief for the purpose of defraying the expenses of the burial of any of his family.

"4th. The case of the wife, child, or children, of a person confined in any gaol or place of safe custody.

"5th. The case of the wife, child, or children resident within the parish or union, of a person not residing therein."

The regulations which I have read, whilst they provide sufficient securities against fraud or abuse, are eminently liberal and considerate towards the poor. But even these are not absolutely imperative in cases where it appears to the guardians inexpedient to enforce them. It is provided by Art. 10, that "If the guardians shall, upon consideration of the special circumstances of any particular case, deem it expedient to depart from any of the regulations hereinbefore contained, and within twenty-one days after such departure shall report the same and the grounds thereof to the Poor Law Board, the relief which may have been so given in such case by such guardians before an answer to such report shall have been returned by the said Board shall not be deemed to be contrary to the provisions of this Order; and if the Poor Law Board shall approve of such departure, and shall notify such approval to the guardians, all relief given in such case after such notification, so far as the same shall be in accordance with the terms and conditions of such approval, shall be lawful, anything to the contrary in this order notwithstanding."

By this Order, you will observe, the granting of out-door relief in any case whatever is left at the discretion of the Board of Guardians; and is only fenced round with such regulations as to manner, time, and other circumstances, as are necessary to prevent fraud on the part of those relieved, or abuse on the part of the local authorities.

Let us next inquire—to what proportion of the population of England and Wales does this Order of 1852 apply? I have copied from the report of the English Poor Law Board for 1853 a list of the unions and separate parishes to which the Order was issued, and I have annexed to the name of each union and parish its population as stated in the Census Report of 1861.*

To these I have added certain other parishes, most of which are under Local Acts, and to none of which, as the well-known Poor Law Inspector Mr. Farnall informs us, the Prohibitory Order (to be hereafter explained), has ever been issued.*

The result thus arrived at is that the Order of 1852 represents the Poor Relief Legislation which is in force among more than seven millions of the inhabitants of England and Wales, or about 35 per cent. of the population. The localities to which it applies are for the most part metropolitan, or manufacturing, or maritime districts, including (besides London), Liverpool, Manchester, Leeds, Sheffield, Newcastle-upon-Tyne, Southampton, Sunderland, Coventry, and Nottingham.

Bearing in mind the liberal character of the law by which these seven millions are governed, you will be able to understand the force of some statements, which, when they appeared in the public journals, attracted a good deal of attention.

Mr. Farnall, whose name has become familiar to us in connexion with the relief of the distress in Lancashire arising from the cotton famine, was examined before the Select Committee of the House of Commons on Poor Relief which sate in 1861. To the question whether the relief given in the metropolitan districts was limited by the Poor Law Board, he replies :—

* See note, p. 59.

"Not in any way, either in-doors or out-of-doors; the guardians have full power and authority to give any amount of relief they please, either in-doors or out-of-doors: the only check, as it were, upon relief is, that if relief is granted out-of-doors to an able-bodied man, it shall be partly in money and partly in kind, but the amount is not limited at all." And he adds:—

"That is the direction of an Order of the Poor Law Board." And again, when asked to explain the Out Relief Regulation Order (the same to which I have been calling your attention), he replies:—

"3054. It is this, that if the guardians give out-door relief to an able-bodied man *(it does not include the women at all)*, they shall set him to work in return for the relief which he gets; and then there are a great number of exceptions. If he has a child ill, or if his wife is ill, or if there is anything the matter, then he is taken out of the class of able-bodied men. I have the order before me, and there are a great many exceptions; in fact, the only person that the guardians by this order are obliged to set to work is a man who is really and positively able-bodied, and in every respect able to work, and whose family are also perfectly well."

It is under the provisions of this order of 1852 that liberal poor law relief has been extended to the suffering operatives of the cotton districts, during the crisis arising out of the American civil war. Some persons seem to suppose that there was some change or relaxation of the previously existing law in order to meet the crisis; but such a notion is quite erroneous. The characteristic elasticity of the Order of 1852 enabled it to satisfy all the demands of this great emergency.

A remarkable statement in relation to this subject was made by Mr. Villiers, President of the Poor Law Board, to a deputation from Lancashire, and afterwards repeated by him in substance in the House of Commons (May 9th, 1862). I extract a portion of it from *Hansard*, vol. clxvi. p. 1500:—

"He was happy [he said] to receive from all those unions replies which indicated a very great confidence in themselves, and a knowledge and experience of the working of the system of public aid in this country, which relieved him very much from some apprehensions he had previously felt that they would be taken by surprise, and that their means would prove inadequate to cope with the emergency. There was throughout these answers an expression of satisfaction with the present state of things, and, with very few exceptions, there was in all of them the expression of the conviction that, come what might, they would be able to meet the emergency by the ordinary resources which they possessed." "From one statement [he proceeds] made by the deputation, it appeared that the people of Lancashire were under great uncertainty and doubt as to what the powers of the local poor law authorities were. There appeared to be some apprehension that these authorities were fettered, more or less, by some stringent rules of the Poor Law Board in London. He was surprised that any such doubt should have prevailed, but he was glad to have the opportunity of removing any misapprehension that existed upon the subject." . . . . . "There

was nothing so stern or so stringent in any order issued by the Poor Law Board which might not be relaxed, and might not be adapted to circumstances. The whole system was elastic, and capable of being adapted to extraordinary circumstances. In the time of the hon. member for Lincolnshire, some ten or twelve years ago, an order was issued for the guidance of the authorities with respect to relieving able-bodied persons. [He refers to the Order of 1852]. The Order required that when relief was given, such able-bodied persons should give work in return; but in that Order exceptions were specified, and instructions conveyed to the authorities, that if they thought it desirable under certain circumstances to give relief without exacting labour, they should do so for a period of twenty-one days, and communicate to the Central Board the special circumstances under which they thought it expedient to deviate from the order. It was not a stringent rule, but one which was adapted to every degree of distress." With respect to the question, Whether there was any stringent rule that required people to sell up house and furniture before receiving relief, he says :—"With respect to selling their furniture and household goods, it had been the law for nearly three centuries that those who asked for relief should possess no property, and no doubt provisions in acts of parliament to that effect were to be found; but no practical operation was given to those provisions, and in no instance were the people required to make such great sacrifices before they received relief."

You will have observed that the statements respecting the law here made by Mr. Villiers are very general; they are not limited to any district, but are expressed as if they applied to the entire country. This has probably caused a good deal of misapprehension on the subject. I myself, I confess, was at first led by these statements to suppose that the whole of England was governed by the Order of 1852. But this is not so. Whilst, as we have seen, 7,000,000 of the population are subject to this order, the remaining 13,000,000 are governed by the Prohibitory Order of 1844.

By this Order (Art. 1.) it is directed that "every able-bodied person, male or female, requiring relief from any parish within any of the said Unions, shall be relieved wholly in the workhouse of the Union, together with such of the family of every such able-bodied person as may be resident with him or her and may not be in employment, and together with the wife of every such able-bodied male person, if he be a married man, and if she be resident with him, save and except in the following cases :" [To the eight exceptions which follow I request your particular attention :]

"1st. Where such person shall require relief on account of sudden and urgent necessity.

"2nd. Where such person shall require relief on account of any sickness, accident, or bodily or mental infirmity affecting such person, *or any of his or her family.*

"3rd. Where such person shall require relief for the purpose of defraying the expenses, either wholly or in part, of the burial of any of his or her family;

"4th. Where such person, being a widow, shall be in the first six months of her widowhood;

"5th. Where such person shall be a widow, and having a legitimate child or legitimate children dependent upon her, and incapable of earning his, her, or their livelihood, and have no illegitimate child born after the commencement of her widowhood;

"6th. Where such person shall be confined in any gaol or place of safe custody. . . . . ;

"7th. Where such person shall be the wife or child of any able-bodied man who shall be in the service of her Majesty as a soldier, sailor, or marine;

"8th. Where any able-bodied person, not being a soldier, sailor, or marine, shall not reside within the Union, but the wife, child, or children of such person shall reside within the same, the Board of Guardians of the Union according to their discretion may afford relief in the workhouse to such wife, child, or children, or may allow out-door relief for any such child or children, being within the age of nurture, and resident with the mother within the same."

The importance to the poor of these eight exceptions, and the liberal interpretation some of them receive, are well brought out in an answer of Mr. Farnall, when under examination by the Commons Committee of 1861.

"3052. Will you shortly state what the Prohibitory Order is?—The Prohibitory Order, which has been issued to a great number of parishes and Unions in England, obliges the guardians to relieve indoors every able-bodied person; but then there are many exceptions even to that rule; for instance, if a man has a sick child, he is no longer considered to be able-bodied himself, and the relief would be given out of doors; the Prohibitory Order, in fact, obliges the guardians to relieve in the workhouse men who are perfectly able to work, and perfectly well in mind and body, and whose wives and children, if they have any, are equally well with themselves." If to these remarks of Mr. Farnall we add the observations naturally suggested by the exceptions relating to widows, to the families of soldiers and sailors, and to those of prisoners, and to wives deserted by their husbands, we shall conclude that this Order, though far inferior in liberality to that of 1852, is yet not unduly harsh or wanting in consideration to the poor.

Turning now to the case of Ireland, we shall find that the Poor Law under which we live is different from both the systems which are in force in England, and is less liberal than either of them.

The broadest contrast between the English and Irish laws consists in this, that in Ireland the conditions and nature of the relief to be afforded are prescribed not, as in England, by general orders of the Poor Law Commissioners, but by Acts of Parliament. This produces, instead of the elasticity which is so much and so justly praised in the English system,* a degree of rigidity which makes it

* "The advantage," to quote the words of Sir George Nicholls, [History of the English Poor Law, vol. ii, p. 457], "of having a flexible power of this nature lodged with the Commissioners and ready for use as occasions arise, is

far inferior in adaptability to special temporary or local exigencies. If a great agricultural crisis should occur in England from the universal failure of a staple crop, or from any other cause now unforeseen, the Poor Law Board could at once extend the order of 1852 to the whole of the country. But no such change could be made by the Commissioners in Ireland; the main restrictions being statutable, the intervention of Parliament would be necessary for any relaxation of them.

Even independently of the powers possessed by the English Poor Law Board of issuing new orders or revoking or modifying old ones, the system established by their Order of 1852 is in a very high degree elastic. It fully sufficed to meet the crisis at Coventry produced by the treaty of commerce with France; and it has proved equal to the emergency in Lancashire arising from the stoppage in the supplies of cotton. But in Ireland we not only do not live under this system of Poor Law, but our Commissioners, even if they thought it expedient, and desired it ever so much, could not bring similar provisions into operation here. Let me suppose a case which will illustrate the inferiority of our position as compared with those English districts which are governed by the Order of 1852. Our most important manufacture is that of linen. A considerable part of the population of Ulster is occupied in it, and efforts are even now being made to extend it to other provinces. We import a large part of the raw material from foreign countries, particularly from Russia and Prussia. Suppose that by some European complication we were engaged in hostilities with these two countries—a supposition which, in the present state of foreign politics, is surely not an extravagant one—our supplies of flax would thus be in a great measure cut off, and the operatives of Antrim and Armagh thrown out of employment. In fact, the linen trade of Ulster might be as completely paralysed as the cotton trade of Lancashire. Now, under such circumstances, we should not have anything like the same facilities for dealing with the crisis as the English manufacturers possess under the Order of 1852. The Poor Law Commissioners could not reassure the sinking courage of the employers of labour in our northern counties with the same words which Mr. Villiers addressed to the Lancashire deputation. They could not say, "Gentlemen, no stringent rules fetter your action; you have full power to give indoor or outdoor relief at your discretion; applicants need not sell their furniture or break up their homes; the only condition imposed on you is to require from the ablebodied men labour in return for the relief they obtain." But more than this. The Commissioners, if they wished, could not confer on the guardians ampler powers. Queen, Lords, and Commons must be set in motion to do it. If the difficulty occurred, as it would be most likely to occur, in the autumn; if it was then found that the new crops from Russia and Prussia could not be brought to our shores, and the consequent distress set

sufficiently obvious Without it, the administration of relief under the varying circumstances of the times could not be well and efficiently conducted, but would be apt to occasion undue hardship and suffering to the poor, or to become lax, indiscriminating, and burthensome to the rate-payer."

in as the winter approached; parliament would actually have to be called together, before outdoor relief could be administered in the same manner and on the same conditions as it is now daily given in Lancashire without the necessity of any such cumbrous and dilatory proceedings.

If we are to discover in England any parallel to the Irish Poor Law, it must be in the Order of 1844. But when we come to compare it even with this, we find that, though our system has a much closer resemblance to it than to the state of things established by the Order of 1852, the Irish law is yet inferior to the less liberal of the English codes in many and important particulars.

Let me first explain the provisions of the Irish Poor Law now in force.

By the Irish Poor Relief Act of 1838 (1 & 2 Vic. c. 56), it was enacted (sect. 41) that when the Commissioners created by the Act should have declared any workhouse of any Union to be fit for the reception of destitute poor, and not before, it should be lawful for the guardians at their discretion, but subject in all cases to the orders of the Commissioners, to take order for relieving and setting to work therein, in the first place, such destitute poor persons as by reason of old age, infirmity, or defect may be unable to support themselves and destitute children; and in the next place such other persons as the said guardians should deem to be destitute poor, and unable to support themselves by their own industry or by other lawful means.

The only kind of relief authorized by this Act was that given within the workhouse, and no other was permitted by law until the enactment of 10 & 11 Vic. c. 31 (1847), commonly known as the Irish Poor Relief Extension Act. The first and second sections of this Act contain the provisions relating to the conditions of relief.

The first enacts that "the Guardians of the poor of every Union in Ireland shall make provision for the due relief of all such destitute poor persons as are permanently disabled from labour by reason of old age, infirmity, or bodily or mental defect—and of such destitute poor persons as, being disabled from labour by reason of severe sickness or serious accident, are thereby deprived of the means of earning a subsistence for themselves and their families whom they are liable by law to maintain—and of destitute poor widows having two or more legitimate children dependent upon them; and it shall be lawful for the said guardians to relieve such poor persons, being destitute as aforesaid, either in the workhouse or out of the workhouse, as to them shall appear fitting and expedient in each individual case; and the said Guardians shall take order for relieving and setting to work in the workhouse of the Union, at all times when there shall be sufficient room in the workhouse of the Union to enable them so to do, such other persons as the said Guardians shall deem to be destitute poor and unable to support themselves by their own industry or by other lawful means."

In the second section the circumstances are described under which the Irish Commissioners are permitted to authorize outdoor relief to other classes than those named in the first section.

"And be it enacted that, if at any time it shall be shown to the

satisfaction of the Poor Law Commissioners, that, by reason of the want of room in the workhouse of any Union, or in such additional workhouse or workhouses as may have been or may be provided for the reception and maintenance of the poor of such Union, adequate relief cannot be afforded therein to destitute poor persons not being persons permanently disabled, or destitute poor persons disabled by sickness or accident as aforesaid, or such destitute poor widows as aforesaid—or that the workhouse or workhouses of any Union, as the case may be, by reason of fever or infectious disease, is or are unfit for the reception of poor persons—it shall be lawful for the said Commissioners from time to time, by order under their seal, to authorize and empower the Guardians of such Union to administer relief out of the workhouse to such destitute poor persons for any time not exceeding two calendar months from the date of such order—and at any time after the making of such order to revoke the same by an order under their seal for that purpose; and on the receipt by the Guardians of any Union of any such order authorizing relief out of the workhouse as aforesaid, they shall make provision for the relief of the destitute poor persons of the said Union accordingly, for such time as shall be specified in the said order, or until the said order shall be revoked: provided always that all relief given out of the workhouse to able-bodied persons under the authority of any such order shall be given in food only, save as hereinafter provided in any case of sudden and urgent necessity." [This saving clause has reference to the powers here, as in England, given to relieving officers of affording relief in pressing cases until the next succeeding meeting of the Board of Guardians.]

The conditions of relief in Ireland are at present in the main fixed by these two sections. Now if we compare the provisions thus enacted with even those regulations which prevail in the less favoured English districts governed by the Order of 1844, we shall find the following differences to exist:—

1. In England the Guardians can grant outdoor relief to able-bodied persons in any case of sudden and urgent necessity. [This power is additional to that given in both countries to the relieving officer.]

   In Ireland the only case of this kind provided for is that of persons evicted from their dwellings, to whom, by 11 & 12 Vic. c. 47, (1848), the Guardians can give outdoor relief for a period not exceeding one month.

2. In England the Guardians can grant outdoor relief to able-bodied persons in case of any sickness, accident, or bodily or mental infirmity affecting either themselves or any of their family.

   In Ireland the Guardians are not permitted to grant it (supposing the workhouse not full or infected) except in case of the head of the family himself being disabled by severe sickness or serious accident.*

* The epithets "severe" and "serious" are not without significance in the present comparison. In the English Order the words used are simply "sickness" and "accident."

3. In England an able-bodied person may obtain outdoor relief for the purpose of defraying, wholly or partially, the expenses of the burial of any member of his family.
   In Ireland no such power exists.
4. To all widows the Guardians may in England grant outdoor relief during the first six months of their widowhood.
   In Ireland the Guardians cannot do so.
5. In England outdoor relief may be granted at any time to a widow having one legitimate child depending on her.
   In Ireland the Guardians cannot grant it to a widow, unless she have at least two legitimate children depending on her.
6. In England outdoor relief may be granted to the family of any person confined in a gaol or other place of safe custody (which latter phrase will include lunatics).
   In Ireland there is no such power.
7. In England outdoor relief may be granted to the wife and children of any soldier, sailor, or marine in Her Majesty's service.
   In Ireland (which furnishes no small proportion of such servants of the crown) such relief cannot be given.
8. In England outdoor relief may be allowed for the children of non-resident persons, when those children reside with their mothers within the union; and thus provision is made for families deserted by their natural heads.
   In Ireland the Guardians have no such power.

Thus, the detailed comparison which I have instituted establishes beyond doubt or cavil this important conclusion, that the inhabitants of Ireland are governed by a system of Poor Law which is marked by broad and substantial differences from either of the two systems in force in England. It will be observed, also, that all the differences I have mentioned are to the disadvantage of the Irish as compared with the English poor.

There is a further general difference between the English and Irish Poor Laws, in relation to the legal right of destitute persons to relief out of the rates. The existence of the right in England I need not take pains to establish; it is admitted by every one. But it is sometimes alleged that the same right exists in Ireland. Such a statement I believe to be incorrect. It cannot be maintained, and indeed, I think, is never asserted that the Irish Poor Law Act of 1838 created the right. It was certainly not intended by its framers that it should have that effect. Sir George (then Mr.) Nicholls says distinctly in his First Report (dated 22nd August, 1836):—"I do not propose to impart a right to relief, even to the destitute." And he quotes in his History of the Irish Poor Law (p. 221) the following note entered in his Journal after the third reading of the Bill:—"The bill is now clear of the Lords, altered and in some respects improved, although the localization of the charge upon the Electoral divisions approximates too nearly to settlement to be quite satisfactory. I wish this had been left as it first stood; but so long as *no right to relief*, and no power of removal, are given, we shall, I trust, be able to avoid the infliction of actual settlement."

But, it may be said, a right to relief was established by the Irish Extension Act (10 & 11 Vic. c. 31). So far as relates to the classes named in the first section of that act, viz. 1, persons disabled by old age or infirmity; 2. persons disabled by sickness or serious accident, and 3. widows having two or more legitimate children dependent on them, such a right does seem to be conferred by this Act. "The guardians," it is enacted, "shall make provision for the due relief of *all such destitute* poor persons." But, with respect to the other classes of the destitute, it is remarkable that different words are used:— "The guardians shall take order for relieving such other persons as they *shall deem to be* destitute poor." Why the change in the form of words, if no change in their effect was intended? Such a change was, I believe, intended, and is produced, by the alteration of the words. With respect to persons not aged, infirm, or widows, the opinion of the guardians is made the ultimate legal criterion of destitution. The guardians are bound to examine into the case of any applicant, and if they refuse to hear it, a mandamus would issue to compel them to do so. But it would be a complete bar to legal proceedings against them, if they could reply that they had heard the case, and did not deem the applicant to be destitute. Whereas, under the English law, where this form of words is nowhere used, they would have to plead not merely that they had heard and judged the case, but that the person who had applied for relief was not, in point of fact, in such circumstances as would entitle him to relief.

That this is the legal effect of the words cannot of course be ascertained beyond doubt, otherwise than by a judicial decision as to their meaning. But, in the absence of such a decision, I may be permitted to refer to some remarks which were made in Parliament during the debate on the Act we are considering, which show that it was not then understood as conferring a right to relief on all classes of the destitute.

On the 26th January, 1847, Mr. Poulett Scrope, member for Stroud, said, "he wished to know distinctly whether any security would be introduced into the Bill that the relief might in all cases be effectually afforded? . . Was a right of relief to be introduced in any practical way?" Earl (then Lord John) Russell, who had charge of the Bill, replied that, "according to the provisions of the Bill introduced last night, those paupers who were unable to work, from age, from permanent infirmity, or bodily defect, would be entitled to relief from Boards of Guardians. For other classes of paupers provision was made for particular cases."

On the 1st. March, 1847, Mr. Poulett Scrope said, "there was one alteration which he thought of very material importance, viz. that there should be a right of relief, in some shape or other, in the workhouse or out of it; so that in Ireland, as in England, no one should be allowed to starve." On the 19th of the same month Mr. Wakley, member for Finsbury, said "they were giving to the Irish poor at present a right to relief in another country which they were not to have in their own; which, in his opinion, was a departure

from the highest principles of justice and humanity, and alike unworthy of, and disgraceful to, a British Legislature."

These observations show very plainly what was at the time believed to be the effect of the Act. Upon the whole, the weight of evidence seems to me decidedly to preponderate in favour of the opinion that the general right to relief possessed by the destitute in England does not exist in this country.

I have as yet spoken only of such differences between the English and Irish Poor Laws as are of a broad and prominent kind, having relation to large classes and not to special or exceptional cases. But when we come to examine the latter, we find a great mass of these minor differences, in which the superiority, as it regards humanity and liberality, is almost always on the side of the English system.

Thus, it is provided by the 27th section of the English Poor Law Amendment Act, that "it shall be lawful for any two justices of the peace, at their just and proper discretion, to direct by order under their hands and seals that relief shall be given to any adult person who shall from old age or infirmity of body be wholly unable to work, without requiring that such persons shall reside in any workhouse; provided always that one of such justices shall certify in such order, of his own knowledge, that such person is wholly unable to work." This power, it is to be observed, is distinct from, and additional to, the powers of the Guardians for granting relief. No such power is vested in magistrates in Ireland: the decision whether outdoor relief shall be given to any aged and infirm person belongs altogether to the Guardians, and from their judgment in the matter there is no appeal.

Again, it is humanely enacted by 7 & 8 Vict. c. 101, s. 25, that "so long as it may appear that the husband of any woman is beyond the seas, or in custody of the law, or in confinement in a licensed house or asylum as a lunatic or idiot, all relief given to such woman, or to her child or children, shall, notwithstanding her coverture, be given to such woman in the same manner and subject to the same conditions as if she was a widow." By this enactment, which overrules any order of the Poor Law Board, guardians are enabled to grant out-door relief to such women in the same cases as they could give it to widows. No such provision exists in Ireland; and guardians are not permitted to extend to women in the circumstances above mentioned the privilege accorded to them by the English law.

Thirdly, it is provided by 10 & 11 Vict. c. 109, sec. 23, that "when any two persons, being husband and wife, both of whom shall be above the age of sixty years, shall be received into any workhouse, such two persons shall not be compelled to live separate and apart in such workhouse." The Consolidated Order of the Poor Law Board accordingly directs "that the guardians shall set apart, for the exclusive use of every such couple, a sleeping apartment separate from that of the other paupers." No such provision as the above exists in the Irish law; and the rules respecting the classification of the inmates of Irish workhouses make no arrangement to prevent the separation of aged married persons.

The fourth special difference which I shall mention has relation to what is called the Quarter Acre Clause. It was enacted by the Irish Poor Relief Extension Act, sect. 10, that "no person who should be in the occupation of any land of greater extent than the quarter of a statute acre should be deemed and taken to be a destitute poor person . . . . and that, if any person so occupying more than the quarter of a statute acre should apply for relief, or if any person on his behalf should apply for relief, it should not be lawful for any board of guardians to grant such relief, within or without the workhouse, to such person." This clause was ere long condemned by public opinion, and it became necessary to repeal it. Accordingly, in introducing the Poor Relief (Ireland) Bill of 1862, Sir Robert Peel said:—"The first and most important clause in the Bill proposed the repeal of the Quarter Acre Clause. In neither England nor Scotland did any similar restriction exist." And the Duke of Newcastle, in moving the second reading of the same Bill in the House of Lords, "apprehended their Lordships would agree with him that the clause ought to be repealed, and the law in that respect placed on the same footing as it now stood in England and Scotland." But an Irish peer, I regret to say, interfered to prevent the assimilation. The Earl of Donoughmore proposed an amendment that though the holder of more than a quarter acre might be relieved in the workhouse, he should be incapable of obtaining out-door relief. This amendment was incorporated in the Bill; and the consequence is that the law respecting this class of persons in Ireland has not yet been placed on the same footing on which it stands in the sister country.

The fifth and sixth special differences which I shall mention were brought under our notice in this Society since my address was delivered. At the last meeting two of our members, without any reference to the comparison I have been instituting between the English and Irish Poor Laws, advocated, the one the removal of young girls from workhouses to training schools, the other the removal of imbecile and idiotic persons from workhouses to institutions in which they could be properly tended, and the feeble germs of intelligence within them be, as far as possible, developed. Strange to say, it appeared—though the writers were, I believe, unaware of the fact—that the English law made provision for both of these cases, while in the Irish law both were overlooked. The 25 & 26 Vict. (1862) c. 43, after stating in its preamble that it is expedient that facilities should be given to Guardians of the poor to provide education and maintenance for poor children in certain cases where they are not empowered to do so by the laws now in force," goes on to enact (sect. 1) that "the guardians of any parish or Union may send any poor child to any school certified as hereinafter mentioned, and supported wholly or partially by voluntary subscriptions, the managers of which shall be willing to receive such child; and may pay out of the funds in their possession the expenses incurred in the maintenance, clothing, and education of such child therein, during the time such child shall remain at such school (not exceeding the total sum which would have been charged for the maintenance of

such child, if relieved in the workhouse during the same period), &c."

And in the 10th section it is provided that the word "school" shall extend to any institution established for the instruction of blind, deaf, dumb, lame, deformed, or idiotic persons.

But the 11th section, unhappily, runs as follows:—"This Act shall not extend to Scotland or Ireland;" and thus the benefits conferred on our English fellow-subjects by this enlightened enactment are withheld from us.

Two years ago we were in advance of England with respect to legislation on behalf of the unhappy classes enumerated in the 10th section. For by the 6 & 7 Vic. (1843), c. 92, Guardians had been empowered to send destitute poor deaf and dumb or blind children, under the age of eighteen, to any institution for their maintenance which might be approved of by the Commissioners, and might pay the expenses of such maintenance out of the rates. When this Act was passed, the powers it bestowed on Irish guardians did not exist in England; but we have again been outstripped in the race of improvement by the more comprehensive provisions of the Act of 1862, which, as we have seen, does not extend to Ireland.

I am glad to be able to state that there is one piece of legislation which places us still somewhat in advance of England. I mean the provision in the Act of 1862, enabling Irish Guardians to send orphan or deserted children out of the workhouse to be reared in families in the country. No such provision appears to exist in England, the system of district schools having there been adopted instead. But here again the rigid genius of the Irish Poor Law has intervened, and has restricted the age up to which this can be done to five years, except when the Guardians shall think it necessary, after inquiry, to keep the child out of the workhouse for its health's sake. A yearly examination of the state of the child's health must in this case take place, and the out-maintenance of the child cannot under any circumstances be continued beyond the age of eight years. These restrictions defeat the principal objects which the advocates of this mode of rearing the children had in view in proposing it.

The waste of social power produced by the system of separate legislation for the different portions of the United Kingdom is well illustrated by the Act respecting certified institutions of which I spoke just now. A valuable reform is, by the influence of Miss Twining and others, pressed on the attention of our legislators, and they are induced to provide the legal sanction necessary for its practical working in England. But Ireland and Scotland are excluded from the operation of the Act, and accordingly, when the same social needs arise in those countries, as they inevitably must in states of society so closely resembling that of England, the whole operation of inquiry, argument, solicitation, legislation must be gone through over again in both, before the same facilities can be obtained for introducing changes admittedly beneficial to the public. Such a mode of proceeding is too clearly opposed to the spirit of our time to be much longer tolerated.

The best safeguard for a poorer and less cultivated community, bound by a legislative union to a richer and more advanced one, lies in identity of legislation as far as possible for both. When that is the practice, the stronger nation, in taking care of itself, takes care of its weaker partner. Every improvement which a powerful and enlightened public opinion effects in the one becomes, without separate effort, the property of the other. If this rule be carried out with relation to England and Ireland, the latter will be continually gaining the benefit of the larger experience and riper reflection of the former; and the union will be productive of real and undeniable blessings.

This principle of identical legislation might doubtless be carried to unreasonable lengths. All practical rules,—as the common sense of mankind has recognised—admit of exceptions. In some cases the particular historical antecedents or social condition of Ireland may recommend, or even necessitate, special legislation adapted to her circumstances. But identity ought to be the rule; and in every instance the onus of proving the necessity or advantage of diversity should be thrown on those who seek to introduce or maintain it.

The regulations of a poor law ought to be founded either on the facts of individual human nature, or on the relations and mutual duties of the members of a human family. Those facts are the same in Ireland as in England; these relations are alike sacred on both sides of the channel. Whether aged couples should be separated in a workhouse—whether widows with one child, or widows with two, ought to have outdoor relief—whether deserted wives should be placed in the same position as widows—whether the wives of soldiers and sailors in Her Majesty's service are entitled to any special consideration—whether the occupation of a quarter acre of land should exclude from outdoor relief—these are questions which, if decided by reason, and not either by prejudice or by haphazard, must, I think, be answered alike, whether proposed in the one country or in the other.

What is now, above all things, to be desired with respect to the Poor Laws, is that the same discretionary powers vested in the English Poor Law Board should be confided to the Irish Commissioners. Whatever may be our opinions as to the extent to which outdoor relief ought now to be given in Ireland, the same power of authorizing it, whenever and wherever circumstances may require it, ought to belong to the central authorities in both countries. The joint action of the Poor Law Board and the Guardians of each Union is in England almost absolutely unrestricted; I do not see why in Ireland it should be hampered and fettered as it is. Our Poor Law authorities ought, like those in England, to be armed with all the power necessary for dealing in the most complete and satisfactory manner with industrial crises; and for preventing and mitigating, as effectually as in England, the unmerited sufferings of the working classes arising from circumstances beyond their control. That temporary or local pressure produced by irresistible physical or social causes acting on a great scale can be effectually met by human intervention is one of the best results of modern civilization; and this advantage ought, in my opinion, to be enjoyed by Ireland in no less ample a measure than by the sister country.

NOTE *referred to in page* 46.

UNIONS *to which the order of* 1852 *was issued :—*

| | |
|---|---|
| Anglesey ... ... | 17,840 |
| Ashton-under-Lyne ... | 134,753 |
| Barnsley ... ... | 45,797 |
| Barton-upon-Irwell . . | 39,038 |
| Bierley, North . . | 85,775 |
| Blackburn ... .. | 119,942 |
| Bolton ... ... ... | 130,269 |
| Boughton, Great ... | 18,800 |
| Bradford (in the West Riding of Yorkshire) .. | 106,218 |
| Brentford .. ... | 50,516 |
| Builth ... ... . . | 8,305 |
| Burnley ... ... ... | 75,595 |
| Bury . . ... .. | 101,135 |
| Carlisle . . ... .. | 44,780 |
| Chichester . . ... | 8,687 |
| City of London ... ... | 45,555 |
| Chorley ... ... .. | 41,678 |
| Chorlton ... ... ... | 169,579 |
| Clitheroe ... ... ... | 20,476 |
| Conway ... ... ... | 13,896 |
| Coventry ... ... | 41,647 |
| Dewsbury . . ... | 92,883 |
| Dolgelly . . ... ... | 12,482 |
| Dulverton ... ... | 6,051 |
| East London ... ... | 40,687 |
| Ecclesall Bierlow ... | 63,618 |
| Edmonton .. ... | 59,312 |
| Fulham ... . . ... | 40,058 |
| Fylde, The . . . . | 25,682 |
| Garstang ... .. ... | 12,425 |
| Gateshead ... ... | 59,409 |
| Greenwich . ... | 127,670 |
| Hackney ... ... | 83,295 |
| Halifax .. . . | 128,673 |
| Haslingden . ... | 69,781 |
| Hemsworth ... .. | 7,793 |
| Hendon ... ... ... | 19,220 |
| Holborn ... ... ... | 44,299 |
| Huddersfield ... ... | 131,336 |
| Keighley ... ... ... | 43,122 |
| Kendal ... ... ... | 37,463 |
| King's Lynn ... ... | 16,701 |
| Kingston-upon-Hull ... | 56,888 |
| Lampeter . . ... | 9,994 |
| Lancaster ... ... | 24,004 |
| Leicester . . . ... | 68,190 |
| Leigh . . . . ... | 37,700 |
| Lewisham .. ... | 65,757 |
| Machynlleth . . .. | 12,395 |
| Merthyr Tydvil . . ... | 107,105 |
| Mutford and Lothingland | 24,050 |
| Newcastle-upon-Tyne . . | 110,968 |
| Northallerton ... .. | 12,174 |
| Nottingham ... ... | 74,693 |
| Norwich ... ... ... | 74,329 |
| Oldham ... ... .. | 111,276 |
| Pately Bridge ... ... | 9,534 |
| Penistone ... . | 14,419 |
| Poplar .. .. . | 79,196 |
| Prescot . . .. . . | 73,127 |
| Presteigne .. ... | 3,741 |
| Preston ... ... ... | 110,523 |
| Prestwich .. .. | 58,578 |
| Radford ... ... .. | 30,479 |
| Rhayader . ... | 6,316 |
| Stepney . . ... . . | 56,572 |
| Stockport ... ... | 94,335 |
| Strand .. . . .. | 42,898 |
| Sunderland .. . . | 90,704 |
| Todmorden . . ... | 31,113 |
| Tregaron ... ... | 10,737 |
| Ulverstone ... ... | 35,738 |
| Wakefield ... ... | 53,126 |
| Wandsworth and Clapham | 70,403 |
| Warrington . . | 43,875 |
| West Derby .. | 156,561 |
| West London .. ... | 26,997 |
| Whitechapel .. ... | 78,970 |
| Wigan .. ... . | 94,561 |
| Wight, Isle of ... ... | 55,362 |
| Wortley ... . . ... | 24,092 |
| Total, | 4,583,721 |

PARISHES *to which the order of* 1852 *was issued :—*

| | |
|---|---|
| Leeds ... ... ... | 117,566 |
| Liverpool ... ... | 269,742 |
| Manchester ... ... | 185,410 |
| Paddington ... ... | 75,784 |
| St. George in the East ... | 48,891 |
| St. George the Martyr, Southwark ... ... | 55,510 |
| St. Giles, Camberwell . . | 71,488 |
| St. John, Hampstead ... | 19,106 |
| St. Luke, Chelsea ... | 63,439 |
| St. Martin in the Fields | 22,689 |
| St. Mary Abbots, Kensington . ... | 70,108 |
| St. Mary, Lambeth . | 162,044 |
| St. Mary Magdalen, Bermondsey ... ... | 58,355 |
| St. Mary, Rotherhithe . . | 24,502 |
| St. Matthew, Bethnal Green .. . . ... | 105,101 |
| Total, | 1,349,735 |

*Additional* PARISHES *to which the Order of* 1844 *has never been issued* —

| | | | |
|---|---|---|---|
| Clerkenwell ... | 65,681 | St. Margaret and St. John, Westminster | 68,213 |
| St George, Hanover Sq. | 87,771 | St Pancras | 198,788 |
| St Giles and St. George, Bloomsbury | 54,076 | St. Mary, Newington | 82,220 |
| St. Mary, Islington | 155,341 | Shoreditch | 129,364 |
| St. James, Westminster | 35,326 | Total, | 1,095,533 |
| St. Luke, Middlesex | 57,073 | | |
| St Marylebone ... | 161,680 | | |

*Aggregate Total,* 7,028,989

## DISCUSSION.

MR. JAMES HAUGHTON complained of Professor Ingram's leaning to the English system of relief, and contended that the Irish system was sufficiently expansive; and that out-door relief, if carried to the length to which the writer of the paper seemed to go, would be destructive of the self-reliance of the working classes. He (Mr. Haughton) did not think there was any right to relief in England, or that any real differences existed between the law there and that in force in this country. In a paper read before this Society (*Journal*, vol. iii. p. 158) he had shown that there was amongst many in enlightened England and Scotland a feeling adverse to the out-door system, and in favour of the in-door system as a test of destitution.

MR. POLLARD URQUHART, M.P., thought the observations of the last speaker calculated to lead to misapprehension. As chairman of a board of guardians in Scotland and also in Ireland, he could testify that many in Scotland were anxious to have the workhouse system, not for the purpose of giving up out-door relief altogether, but merely in order to secure thoroughly the application of the workhouse as a test of destitution. They met with many doubtful cases which could only be settled by the workhouse-test. That could, however, be pushed too far; it would be too hard on the poor to say that in an industrial crisis no relief should be given except in a workhouse. How would England have got through her crises in 1841, in 1848, and an industrial crisis such as lately occurred in Lancashire, if relief were entirely confined to inside a workhouse? If out-door relief were more extensively adopted in Ireland, they would hear less about Irish distress. He could not help thinking that Irish distress, from which the country cannot be wholly exempt, would be much less heard of if the poor law were a little more liberally administered, so that every district should meet the cases of distress that actually occurred within it. There was no class really more interested in having a *bonâ fide* poor law than the Irish landlords. In spite of all that was said, more of them were brought to the Incumbered Estates' Court by the want of a poor law than by claret. When there was no poor law, there was a good deal of misplaced charity; feeding persons at the kitchen door, keeping useless labourers, and the employment of persons whose labour was not needed, did much to embarrass the Irish landlords. He had endeavoured, but vainly, to impress these facts upon the English legislature. He did not mean to say that there should not be a workhouse, but it

was hard to confine it to that altogether, for a great many people would almost rather starve than go into the workhouse for relief.

Mr. R. Denny Urlin said that the paper showed that the poor laws of England and Ireland differed, but so did most other branches of law. It was very important that the laws of the two countries should be assimilated so far as could be done. It might be conceded that the poor laws were too stringent, and enforced the "workhouse test" too rigidly. It might be dangerous to entrust unlimited powers of giving out-door relief to guardians, and the best method of providing for sudden or pressing emergencies, as a failure of crops or any other crisis, without the necessity of applying to Parliament, would be to entrust ample powers of relaxing the poor law to the Board of Commissioners in Dublin, who from their position and abilities were incapable of abusing such ample powers. It was a singular fact, little known, that the clause allowing poor couples to live together in English workhouses was forced upon the government, on a division, by an "independent" member of Parliament. If the Irish members, one hundred and five in number, a powerful phalanx, were able to carry in the face of England the "Galway Contract," they were surely able, if they could unite for any other purpose, to infuse a more humane spirit into the Irish poor law. The workhouse test was, however, in any case, essential to prevent abuses; and he ventured to assert that the very wide powers of relieving destitution, to which Dr. Ingram had called their attention as existing in England, had some bad effects on the people at large. The poor labourer or artisan in England was too much in the habit of saving nothing, making no provision for sickness and old age, and relying altogether on the poor rates as the resource for his closing years of decrepitude. The truth, as was often found to be the case, lay between the two extremes. In England poor relief was too freely given, and in Ireland too often denied.

Mr. H. Dix Hutton believed the question to be not whether more relief should be given, but whether larger discretion should not be allowed? He concurred in the view that if increased discretion were to be given, it should be vested rather in the central power than in local boards. It would seem that there was not a right to relief in Ireland, inasmuch as the decision of each case was left to the guardians. He knew that there were many in England who held that the English poor law was not as valuable as people thought. The law of settlement gave the right to relief in England. Now, in Ireland there was no law of settlement, and in this respect the Irish was, in his opinion, superior to the English poor law.

Dr. Ingram said his intention had not been to examine the policy of the two systems, but to show what was the actual state of the law in each country. With respect to England, what he sought to show was, that either in the workhouse or out of it the applicant had a right to relief. Attention should be given to the fact that relief as administered in England was subject to different systems; one, under the Order of the Poor Law Board in 1844; another, under the Order of 1852.