

**THE AMENDMENT OF THE LAW IN IRELAND AS TO
MAINTENANCE OF ILLEGITIMATE CHILDREN.**

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Difference between the Law in England and Ireland.

The statute law in force in Ireland differs in many respects from that in force in England, and there are many Acts of Parliament, which apply to England only, which might with advantage be extended to Ireland. One of these differences is to be found in the law as to the liability of a father to maintain his illegitimate child. There is no legal obligation upon either the father or mother of an illegitimate child to support it, save such as is given by statute. On the other hand, as its parents owe it no duty, neither does it owe them any, but, while their irresponsibility is not absolute, its freedom from all obligation towards them is unqualified, and it cannot be compelled to contribute to their support. In England the duty of maintaining an illegitimate child, or a bastard (to use the shorter term), until the age of 16, or in the case of a female until she marries, is cast upon the mother by the Poor Law Amendment Act, 1834 (4 & 5 Wm. 4, c. 76), s. 71. Failing her, the duty falls upon the guardians of the poor. The father may be compelled by legal proceedings to contribute to its support. These proceedings may be instituted at Petty Sessions by the mother, or, if the child has become chargeable to the parish or union, by the guardians of the poor (see 35 & 36 Vic., c. 65, Bastardy Law Amendment Act, 1872; 36 & 37 Vic., c. 9, Bastardy Law Amendment Act, 1873, referred to later). In Ireland by the Poor Relief Act, 1838 (1 & 2 Vic., c. 56), s. 53, the mother of every bastard child is liable to maintain such child until it attains the age of 15 years; if the child becomes chargeable to the union, the guardians may proceed by Civil Bill against the father to recover the cost of the child's maintenance (26 & 27 Vic., c. 21, Bastardy (Ireland) Act, 1863).

So far back as the year 1873 this question was very ably and exhaustively dealt with by the late Mr. William G.

Brooke in a report on the differences of the law in England and Ireland as regards the Protection of Women, read before this Society on January 21st, 1873 (Journal, Vol. VI., p. 202). This was one of a series of reports on the differences of the law in England and Ireland pursuant to a plan prepared by the indefatigable Honorary Secretary of the Society, Dr. William Neilson Hancock (Journal, Vol. VI.; p. 368). These reports led in several cases to an amendment of the law, but not in respect of this particular change, so well advocated by Mr. Brooke.

After pointing out the position of a bastard in the eye of the law, that at common law a father is not liable for the support of his child unless he enters into some express or implied promise to become so, he says:—

“Resting then upon the statutes, the mode in which the liability of a reputed father is enforced differs so materially in England and Ireland, and places the Irish mother at so supreme a disadvantage, that it is necessary to devote to it some little attention. The root of the distinction is traceable to the Irish Poor Law system, which takes the remedy out of the hands of the individual, and provides no remedy except through the medium of its own rather stringent machinery. In point of fact, a woman in Ireland cannot obtain an order for necessary maintenance unless she enters the workhouse; in other words, unless she is reduced to the last extremity of want and distress. The Irish Poor Law Act of 1838 declared that for the purposes of that Act the mother of every bastard child was liable to maintain such child until it attained the age of 15 years. It threw no responsibility whatever on the putative father, and this in the teeth of the prior English Act of 1834 (4 & 5 Wm. 4, c. 76, s. 72), which empowered the Court of Quarter Sessions to make orders on fathers, holding them accountable for the support of their illegitimate children, while such children were maintained by the rates.” Mr. Brooke then points out that it was not till the year 1863 that the Irish Act, to which I have referred, was passed, empowering boards of guardians to recover from the father the cost of maintenance of the child while in the workhouse.

“Under this statute, which is the only one in force in Ireland, an Irish mother has no power to recover maintenance from the father of her illegitimate child. She cannot sue him in her own name. She can put no one in motion on her behalf, unless by entering the workhouse she throws herself for support on public charity, and when she leaves the workhouse the liability of the father to contribute absolutely determines.”

The way in which the Act of 1863 came about is not mentioned by Mr. Brooke, and it is not unimportant, having regard to the object of this paper, but I must first state briefly how the law stood in England prior to and at the time, and the changes in public opinion as manifested in Parliament on the subject. The principle of contribution by the putative or supposed father dates back in England (says Mr. Brooke) to the reign of Elizabeth, when by 18 Eliz., c. 3, two justices were empowered by order to compel the mother and the reputed father of a bastard child to pay a weekly sum for its maintenance. The object of this enactment, as it appears from its words, was twofold—to punish the father and mother of the bastard, and to relieve the parish from the liability to maintain the child.

By 13 & 14 Car. II., c. 12, s. 19 (a Poor Law Act), after reciting that putative fathers and lewd mothers of bastard children run away out of the parish, and sometimes out of the country, and leave the said bastard children upon the charge of the parish where they are born, although such putative father and mother have estates sufficient to discharge such parish, it was enacted that the churchwardens or overseers of the parish, where any such bastard child should be born, might take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the land, of such putative father or lewd mother, as should be ordered by two justices for or towards the discharge of the parish, to be confirmed at the Sessions, for the bringing up and providing for such bastard child. Afterwards, an Act of 49 Geo. 3, c. 68, empowered the justices to enforce their maintenance orders on a father or mother at the peril of imprisonment with hard labour for terms not exceeding three months.

These enactments, which sanctioned the principle of joint parental responsibility, remained in force till 1834, when the Poor Law Amendment Act (4 & 5 Wm. 4, c. 76) was passed, and superseded all previous legislation respecting bastards born after the Act became law.

This Act, to put it shortly, exonerated the reputed father from punishment or contribution unless recovered at the suit of the guardians of the poor. It repealed the provisions of the earlier statute, which enabled mothers to obtain filiation orders against putative fathers (s. 69). It enacted that a bastard should follow the settlement of his mother, who should be bound to maintain him as part of her family while she remained unmarried or a widow until the child should attain the age of 16 years (s. 71).

It provided that when any child should thereafter be

born a bastard, and should by reason of the inability of the mother of such child to provide for its maintenance become chargeable to any parish, the overseers of the parish, or the guardians of any union in which such parish is situate, might apply to the next general Quarter Sessions after such child had become chargeable, for an order on the person, whom they shall charge with being the putative father of such child, to reimburse the parish or union for its maintenance, and provided that the Court, after hearing the evidence, if satisfied, after hearing both parties, that the person charged was really and in truth the father of such child, might make such order upon him as appeared to be just and reasonable, but no order was to be made unless the evidence of the mother was corroborated in some material particular by other testimony to the satisfaction of the Court; such order was not to exceed the actual expense incurred or to be incurred for the maintenance and support of such child, and was to last only till the child attained the age of 7 years (s. 72). These powers were in 1839 transferred from Quarter Sessions to Petty Sessions (2 & 3 Vic., c. 84).

This Act of 1834 was not passed until after a long debate in Parliament, the Bill being vigorously opposed in the House of Lords by the Bishop of Exeter and supported by Lord Brougham. (See *Annual Register*, 1834, pp. 226-255, and Molesworth's *History of England*, Vol I., p. 402).

Before this Act a husband was not bound to maintain his wife's children by a former marriage. But by this Act it was provided that every man who should marry a woman having a child or children at the time of such marriage, whether such child or children be legitimate or illegitimate, should be liable to maintain such child or children as part of his family, and should be chargeable with all relief granted to or on account of such child or children until such child or children should respectively attain the age of 16, or until the death of the mother of such child or children (s. 57).

Only ten years elapsed when, owing to a change in public opinion, an Act was passed repealing the Act of 1834, and reviving the principle of liability of the father on the application of the mother (7 & 8 Vic., c. 101, s. 2), and repealing the provision enabling the guardians to apply for maintenance orders in the case of children supported out of the rates. It was felt that the machinery of the Act of 1834 was such as to make it very difficult to establish proof of paternity, and that it was unjust that the whole burden of maintaining the child should fall upon the mother or the guardians. (*Annual Register*, 1844, pp. 219-220).

Accordingly, it was provided that any single woman with child, or who might be delivered of a bastard child after the passing of that Act, might apply for a summons against the man alleged by her to be the father, and the justices, if the woman's evidence received corroboration in material particulars, might make an order on the reputed father for a weekly payment to the mother of the child, and in default of payment, might levy distress upon his goods, and, if no distress could be found within their jurisdiction, send him to prison (7 & 8 Vic., c. 101, ss. 2, 3). This enactment was repealed by the Bastardy Law Amendment Act, 1872 (35 & 36 Vic., c. 65), which re-enacted it in wider terms, and under it the father may be ordered to pay a sum not exceeding 5/- a week for every week of the child's life until it attains 13 years of age, a term which the justices have a discretion of enlarging to 16. It also provided if a bastard should become chargeable to the union, and the father was paying to the mother under a bastardy order, the justices might order the money to be paid to an officer of the union instead of the mother.

This same Act of 1872 revived the power of the guardians to obtain an order against the father for payment of such weekly sum as the justices might think proper (35 & 36 Vic., c. 65, s. 8). This section was repealed by 36 & 37 Vic., c. 9, Bastardy Law Amendment Act, 1873, but re-enacted in the same terms by section 5 of that Act.

The history of the Irish Act of 1863 is curious. In 1861 a Select Committee of the House of Commons on the working of the Poor Law in Ireland was appointed, and took evidence, and reported in favour of several changes of the law, some of which were given effect to by the Poor Law Amendment Act of 1862 (25 & 26 Vic., c. 83). Mr. Cardwell was chairman. A mass of evidence was given as to the number of children, in particular illegitimate children, in workhouses. The figures given were astonishing.

Mr. Power, in answer to Lord Naas, said (*Irish Times*, 17/4/61):—"The women who come into the workhouse for confinement are generally the mothers of illegitimate children. The number of these has increased enormously these last four years. In 1856 the number of legitimate children in workhouses was more than three times the number of illegitimates, whereas in 1860 the number of legitimate was much smaller than that of illegitimate. In the half-year ended 29th September, 1855, the number of illegitimate children was 8,326, and of legitimate 25,764; while in the half-year ended 29th September, 1859, the illegitimate were 8,986 and the legitimate 8,591."

Mr. Power recommended that the law in Ireland should be assimilated to that in England, by allowing the mother

to proceed against the putative father for the expense of maintaining the child. He preferred this to giving the guardians power to sue the father.

A clause to that effect was inserted in the draft Report, but an amendment was carried that the guardians should have power to take proceedings against the putative father at Quarter Sessions. In 1862 Sir Robert Peel introduced a Bill to assimilate the law to that in England, but the opposition to it was so great that he withdrew the Bill, and an amendment was inserted in the Poor Law Amendment Bill of that year on the motion of Lord John Browne, who had been a member of the Select Committee, empowering boards of guardians to recover the cost of maintenance of illegitimate children in workhouses under 14 from the father at Quarter Sessions, and this Bill became law (25 & 26 Vic., c. 83). It was suggested that the jurisdiction should be given to Petty Sessions, but it was said that the justices would be for the most part guardians, and, therefore, interested parties.

This Act also gave power to the guardians to board out orphan or deserted children. Owing to a defect in the drafting of this enactment (s. 10) a special Bill dealing with the subject was brought in by Sir R. Peel in 1863, and became law (26 & 27 Vict., c. 21).

REPORT OF VICEREGAL COMMISSION.

This difference in the law is commented on in the Report of the Viceregal Commission on Poor Law Reform in Ireland under the head of *Mothers of Illegitimate Children*. After recommending that mothers of illegitimate children ought not to be inmates of institutions like workhouses, workhouse life tending to debase all unmarried mothers, and that girls after first lapse should be sent to institutions under religious or philanthropic management, the Commissioners say, at page 44:—"In order to compel fathers to contribute to the support of their children a great many witnesses recommended that the Bastardy Law of Ireland should be assimilated to that of England, and that mothers might accordingly be enabled to take proceedings at law in their own name.

"We do not see any objection to such a change in the law, but we do not like to make any direct recommendation in favour of it, as we feel there may be considerations in opposition to such a proposal, though we are not aware of them. We merely refer to the evidence we have received, and state that, as far as we can see, the object of the witnesses in endeavouring to enforce payment from the father is one that altogether meets with our approval."

The Commissioners say that the cost of maintaining these girls or women and their children in workhouses is very great. There were 2,129 unmarried mothers, and 2,764 (1,454 boys and 1,310) illegitimate and deserted children, that is a total of 4,893, in Irish workhouses at the date of their Report (1905).

I give some extracts from the evidence :—

EVIDENCE IN SUPPORT OF AMENDMENT OF THE LAW.

Rev. J. Paterson-Smyth said.—“It seems a very curious thing that in England in such a case the woman has a remedy against the man; she can get maintenance for the child; here she has no redress except to go into the workhouse, and the guardians must attack the man at a heavy cost, and they generally don't do it.” (520.)

Lord Monteaale, Chairman of the Irish Workhouse Association, was of the same opinion. Mr. William Rodden, of Belfast, Organising Secretary in Ireland for the National Society for the Prevention of Cruelty to Children, gave valuable evidence as to the need for the assimilation of the English and Irish law. After explaining the procedure in England and Scotland, by which the father can be made to pay for the maintenance of the child, he said—“I mention these points to show that in England and Scotland girls who have been wronged have got the remedy within themselves if they wish to take advantage of it, and I ask the question, why is this remedy denied to Irish girls?” Mr. Rodden went on a deputation to the Chief Secretary on the subject ten years before, and received a sympathetic reply, but it was stated that the proposal would be regarded as a contentious measure, and, therefore, there would be a difficulty in passing it through the House of Commons. From returns made to him by inspectors of the Society, it appeared that in twelve months 119 children born out of wedlock had, so to speak, passed through the hands of the inspectors. In some cases the children were neglected, mostly by the mothers; in some cases the children were at nurse, but poverty was the root of it all; and in no one case was the putative father contributing to the maintenance of the child. He gave as an instance the case of a domestic servant, aged 21, earning £10 a year. She paid £6 10s. od. a year for the nursing of her child, and she had £3 10s. od. with which to clothe herself and the baby. The father of the child was earning 24/- a week, and he refused to contribute one penny. If the English Bastardy Law was extended to Ireland he believed that it would do an immense amount of good, and undoubtedly fewer

cases would go into the workhouse maternity hospital. He then dealt with that subject, and recommended that a home or special institution should be provided for such cases. It will be found that the Commissioners report strongly in favour of this. In 1901 Mr. Rodden read a paper on the subject at the Belfast Poor Law Conference.

Dr. Elizabeth Bell gave evidence as to the good done by the Rescue and Maternity Home in Belfast for the reception of unmarried mothers with their first children; "first cases," as they are called. The woman pays 5/- a week, or it is paid for her by some lady interested. "We make it a rule," she says, "to write to the alleged father, and usually the paternity is not denied." Mr. William Wallace, a Belfast Poor Law Guardian, supported Mr. Rodden's views. He stated that out of 262 births in the Belfast Maternity Home for the year ended June, 1902, 155 were illegitimate, or 50 per cent. of them born in the workhouse. He suggested, in addition, the establishment of an outside nursery, to which the mother of her first child should be taken, the child and herself, until re-employment could be obtained. Mr. D. MacArthur and Mr. William O'Hare, Poor Law Guardians in Belfast, agreed with Mr. Rodden as to the need for the application of the English Act. So did the Right Honourable Thomas Andrews, who gave evidence for the County Council of Down; Mr. Charles Eason, of Dublin, who represented the Philanthropic Reform Association; and Mr. Dinnage, a Guardian of the North Dublin Union. He says—"In England the person who is responsible is generally made to pay. We never can make anyone pay here at all. When girls come to the union, even if they do state the people who should be charged, you cannot prove it, or make these people pay. They should be made pay." Mr. James Murphy, a Poor Law Guardian of the Waterford Union, was in favour of making the law the same as in England; he thought it would prevent women remaining in the union, and going out and coming in with another child. Miss Rebecca Grubb, of Carrick-on-Suir, was of the same opinion. Mr. Daniel Barlee, Chairman of the Skibbereen Union, said that it was difficult for the guardians to succeed against a father for maintenance, but they had succeeded in some cases, but they had to keep the mother and child in the workhouse. He was in favour of the law being changed, so as to make it easier to penalise the father. Mr. D. L. O'Gorman, Poor Law Guardian, of Fermoy, was in favour of the change. The guardians hesitated to follow up the supposed father, because they generally failed; it was hard to prove the case. The present state of the law was very hard on the woman.

She could not leave the workhouse without leaving the child, and there were cases where a mother had to remain with her child for three, four, or five years. Mr. P. Meehan, M.P., Chairman of the Council of Queen's County, thought that the law should be altered so as to allow the girl herself to be the prosecutor.

LAW OF OTHER COUNTRIES.

SCOTLAND.

Proof of Paternity.

In Scotland the ordinary jurisdiction of the Courts has been found sufficient for this class of cases; while in England "Bastardy Orders" are obtained under statutory jurisdiction conferred on justices of peace and other courts of summary jurisdiction. In Scotland actions of filiation (or affiliation) and aliment are universally, though not necessarily, brought to the Sheriff's Court. This Court, and Courts of Summary Jurisdiction in England have, by the Summary Jurisdiction Process Act, 1881 (44 & 45 Vic., c. 24), ss. 4, 6, jurisdiction in such matters against persons "within the jurisdiction of the Court" . . . "notwithstanding that such person ordinarily resides, or the child has been born, or the mother of the child ordinarily resides, where the Court is English in Scotland, or where the Court is Scottish in England, in like manner as the Court has jurisdiction in any other case." Provision is made for enforcing this jurisdiction and for citing witnesses in England and Scotland respectively. (Bell's Principles of the Law of Scotland, 10th Ed., s. 2060.) The father and mother are both liable for aliment to the child, and the father, while concealing himself, is a debtor to the mother for his share, and she has all the remedies of a creditor. The debt transmits against the father's representatives. Only what is necessary for subsistence is allowed. The amount allowed against the father as his half varies slightly in different districts. In Glasgow it is £8 per annum. Refusal by father or mother to aliment a bastard, being able to do so, whereby it becomes liable to the parish, is punishable by fine and imprisonment (8 & 9 Vict., c. 83, s. 80).

The mother has the custody until 7 in males, 10 in females; after which, if the father is to assist to maintain the child longer, he may, unless the welfare of the child forbids, make his own arrangements for it. If the child be insane, or otherwise incapable of providing for itself,

the obligation of the parents will continue during life. The father's obligation to aliment lasts in the common case till puberty, with such differences as circumstances fairly justify (*Ib.*, s. 2062).

CIVIL LAW.

By the later Roman Law illegitimate children could claim against their mother, but not their father; natural children, *ex concubina*, had claims on both parents. The canon law first made the father (acknowledged or proved) liable for the aliment of his illegitimate children.

ROMAN AND DUTCH LAW.

The father was obliged to contribute towards the maintenance (alimentation) of his illegitimate child during its minority, or until it had reached an age when it was considered to be able to maintain itself. The action to enforce this duty could be brought by the mother, or, in default of her, by those who acted as guardians to the child on behalf of the child itself, or by the authority of the municipality.

MODERN CONTINENTAL LAW.

LAW OF FRANCE.

New Legislation.

The law amending the well-known Article 340 of the Civil Code, "*La recherche de la paternité est interdite,*" was promulgated in the Official Gazette of November 17th, 1911.

This enactment of the French Code Civil, Article 340, is, perhaps, more widely known than any other, and has entered into the language and literature of Europe as a maxim of such varied application that the importance of its special significance for illegitimate children and their parents in France has almost been forgotten. The law which is now promulgated has practically abrogated the famous prohibition.

Article 340 of the Code permitted the responsibility of the father of an illegitimate child to be established only in cases where the mother had been abducted. The new law admits a great variety of other circumstances as warranting the establishment of the father's responsibility. These include abuse of authority and promise of marriage, or of betrothal, where there is sufficient proof in writing. The

action for recognition of paternity lies with the child itself within one year after it has attained its majority. But the mother may bring an action on behalf of the child within two years of its birth, or the action may be brought by the Court which, according to the law of July, 1907, acts in the capacity of the "conseil de famille."

The new law contains precautions against blackmailing and similar abuses, and secures that actions under its provisions shall be tried in camera. It imposes a penalty of from one to five years' imprisonment for actions brought in bad faith, and also subjects the fraudulent plaintiff to a prohibition of residence in the district for not less than five and not more than ten years.

The famous Article 340 was introduced into the Code Napoleon in consequence of the public feeling which had been excited by the scandalous and vexatious actions for establishment of paternity in the last years of the old regime. Under the legislation of the Code the abuses have been on the other side, and a great deal of misery and crime has been attributable to the desperation and the helplessness of young girls left with the sole charge and burden of their illegitimate offspring. The new measure is entirely in the spirit of the social legislation, which now forms a prominent part of the programme of all political parties in France.

Alexandre Dumas, fils, who himself was the illegitimate son of an illegitimate son, raised the question in several of his dramas, and discussed it in his pamphlet "La Recherche de la paternité," published in 1883. He engaged in a controversy on the subject with Brunetiere. (*Times*, Nov. 18, 1911).

LAW OF ITALY, SPAIN, GERMANY, AND SWITZERLAND.

In Italy the obligation exists in the case of natural children on the parents who have recognised them, or whose parentage has been judicially declared. In Spain illegitimate children have a right of aliment only if their paternity or maternity results from a definite judgment, civil or criminal, or from a document of acknowledgment.

In Germany the father of an illegitimate child is bound to supply it with maintenance in accordance with the mother's standard of life (including cost of education and of preparation for a business or profession) up to the age of 16.

Further information as to the law in practice in Germany and Austria will be found in an article in the *English Review* for June, 1912, by C. Smyth Rossie, p. 445. The

writer points out that, though there are differences of local legislation in the German States, they all agree in this:—

1. That the father of an out-of-marriage child—*uneheliches kind*—(I should have translated it “born out of wedlock”) shall not only provide it with aliment, but also that the word “aliment” shall be understood in so wide a sense as to include some sort of training to fit the child to earn its own livelihood in after life. Further, that should the child be mentally or physically so deficient that it is unable to support itself after the age of 16, then the father must support it all his life.

2. That for every such child there shall be a Normund or guardian officially appointed to enforce the laws; that this Normund or guardian shall never be the mother.

In Germany the mother may be guardian, but seldom is. In Austria it is illegal for her to be guardian. The objection is that she might not like to displease the father of the child by putting in force the full laws to protect the child, and as a result the child might be neglected. In Austria the local head of the Voluntary Poor Law Association, known as the *Armenpflege*, is named Normund in the cities. He works by means of the lady members of the society, the *Armenpflegerinnen*. The writer goes on to point out that it is the part of the Normund to encourage the legitimisation of the child by the father marrying the mother, and that the percentage of children so legitimised is very high, *e.g.*, at the end of five years from birth of all those living, about two-thirds were legitimised in Dresden, and about one-half in Austria.

If a child has attained that age, and owing to physical or mental defects is incapable of earning a livelihood, the father continues liable for the child's maintenance.

Hungary, Law of.—See *La Droit de l'Enfant Abandonné et Le Systeme Hongrois de Protection de l'Enfant*. Per de Bosnyak and Edelsheim-Gynlai; Buda Pest, 1909.

In Switzerland a new code came into operation on January 1st, 1912. It showed marked leniency to unmarried mothers, and is far more humane in its treatment of illegitimate children, while at the same time more severe on the fathers of illegitimate offspring. As regards the situation of unmarried mothers, it is now ordained that they shall always have the right to require the paternity of their offspring to be fixed within a year of its birth. The father of an illegitimate child can be compelled to contribute to its support a sum fixed in accordance with his social position, and to continue this contribution until the child has reached the age of 18.—(*Times*, January 25th, 1912.)

LAW OF THE BRITISH DOMINIONS.

In most of the British Dominions provision has been made by statute on the lines of the English law for the maintenance of illegitimate children by the putative father. There is legislation on this subject in the Dominions, whether their legal systems are based on the common law or on the French and Roman Dutch Law. Reference to particular Statutes will be found in the notes to Burges' *Colonial Law* (1908 edition), Vol. 2, pp. 577-579, to which work I am indebted for this summary of the law. In South Africa the Roman Dutch Law doctrine prevails unaltered. The claim for maintenance is brought by way of summary application to the Court. In Ceylon the Roman Dutch Law rules are left untouched.

CODE OF CRIMINAL PROCEDURE (INDIA.)

S. 488 of the Indian Code of Criminal Procedure provides that if any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the magistrate may upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding 50 rupees in the whole, as such magistrate thinks fit, and to pay the same to such person as the magistrate from time to time directs.

The order is enforceable by warrant levying the amount due as for levying fines, and by imprisonment in default of payment. The accused may tender himself as a witness and may be proceeded against in any district in which he resides or is, or where he has last resided with his wife, or, as the case may be, the mother of the illegitimate child.

S. 489. The allowance may be altered on proof of change of circumstances, not exceeding 50 rupees in the whole.

S. 490. The order may be enforced by any magistrate in any place where the person against whom it is made may be.

LAW OF QUEBEC.

The Code Civil of Lower Canada expressly declares that illegitimate children can demand maintenance from their father and mother.

CHANNEL ISLANDS.

The custom of Normandy recognised the obligation to furnish alimant for bastards by their fathers. In Jersey there are legal provisions providing for the maintenance of bastards.

LAW OF UNITED STATES.

The duty of parents to contribute to the support of illegitimate children is based entirely upon statute, and under the Bastardy Statutes the father can, generally speaking, be ordered, on proper proof of his paternity, to maintain such children.

CONFLICT OF LAWS.

The father's personal liability has been variously referred to the mother's personal law at the date of conception and of birth, the law of the place where the conception took place, the personal law of the father, and the *lex fori*. There seems some reason (says the editor of Burges, p. 595) for not applying the personal law of any of the parties concerned, between which it is difficult to justify a preference, and for treating the question as one of public order for the Court, and one in which it can apply the *lex fori*. This is the view taken in England, but apparently not in Scotland. By English law there is no obligation of alimant on the father except after his paternity has been established by affiliation proceedings under the statute. To found this liability the child must have been born in England, or in English territory, such as a British ship on the high seas; it is immaterial whether the child was begotten abroad, or whether the father is a foreigner, or whether the mother conceived while domiciled or resident in England, and came back there with the child very soon after its birth. The father must be within the jurisdiction, and a summons cannot be served on him beyond its limits, even under the Summary Jurisdiction Procedure Act of 1881, to which I have already referred. In the United States the principles and procedure of the Bastardy Statutes of the different States vary. In some States the statute is essentially criminal, and designed to punish the father, though the penalty enures to the benefit of the wife and child. In these the action must be brought by the State, and the child must be begotten within the State, and the residence of the mother and child at the time the proceedings is brought is not material. In another group of States a right of action in the name of the people against the father is given to the mother, by imposing on him a legal

duty to support his child. The father must be resident in the State in which the action is brought; it is immaterial whether the child was begotten or born elsewhere or that the mother had ever resided within the jurisdiction. In some States the right of action is only available to the mother when single; in others it is immaterial whether she is married or not. A third group of States, though regarding proceedings as civil in their character, take for their immediate purpose the protection of the State against the expense of maintaining illegitimates, and give the right of action to some local body, such as the guardians of the poor, and the mother must be a resident of the State in which the proceedings are taken, but it is immaterial that the child was begotten and born in another State. Even though the proceedings given by the statute be civil and not criminal, the result is considered as imposing a penalty on the father, and not as derived from relationship or status. Accordingly, the remedy granted by a statute in one jurisdiction will not be enforced in any other.

ILLEGITIMACY IN IRELAND.

BIRTHS IN IRELAND, 1912.

The following statement is taken from the Report of the Registrar-General for Ireland, 1912, p. xii. :—

The births registered during the year 1912 numbered 101,035—51,700 boys and 49,335 girls, or 104.8 of the former to every 100 of the latter—the ratio to the estimated population being 1 in 43.4, or 23.0 per 1,000, which is 0.3 below the average rate per 1,000 for the ten years, 1902-1911.

Of the 101,035 births registered in Ireland during the year 1912, 98,188, or 97.2 per cent. were legitimate, and 2,847, or 2.8 per cent., were illegitimate, the latter being 0.2 above the corresponding average percentage for the preceding ten years. These results bear favourable comparison with the returns for most other countries.

The male children born in wedlock amounted to 50,278 and the female to 47,910, or 104.9 of the former to every 100 of the latter; of the illegitimate children, 1,422 were males, and 1,425 females, being 99.8 boys to 100 girls.

From Table VII., it appears that of the children born in Ulster, 3.8 per cent. were illegitimate; in Leinster, the percentage was 2.9; in Munster, 2.3; and in Connaught, 0.7.

TABLE VII.—Showing the percentage of LEGITIMATE and of ILLEGITIMATE Births registered in Ireland during the years 1908-1912 by Provinces:—

PROVINCES.	Proportion per cent. of Legitimate Births.					Proportion per cent. of Illegitimate Births.				
	1908	1909	1910	1911	1912	1908	1909	1910	1911	1912
IRELAND	97.5	97.3	97.2	97.2	97.2	2.5	2.7	2.8	2.8	2.8
Leinster	97.4	97.4	97.2	97.1	97.1	2.6	2.6	2.8	2.9	2.9
Munster	97.9	97.5	97.5	97.8	97.7	2.1	2.5	2.5	2.2	2.3
Ulster	96.6	96.4	96.3	96.3	96.2	3.4	3.6	3.7	3.7	3.8
Connaught	99.3	99.3	99.3	99.3	99.3	0.7	0.7	0.7	0.7	0.7

The proportion per cent. of illegitimate births in Scotland and England is considerably higher than in Ireland; being in Scotland 7.2 in 1910, and in England 4.2 in 1911.

These statistics are open to this observation, that it sometimes happens that illegitimate children are registered as legitimate, the mother stating when she goes into hospital that she is married, and giving a false name and address of herself and her husband. This is entered in the hospital books and a corresponding entry is made in the registrar's book when the birth is registered.

Again, it is, I am informed, the case that most of the mothers of illegitimate children in the South Dublin Union come from the country, being sent away from their homes or places of residence. The children are born in Dublin, and the illegitimacy is put down to it, or to the province of Leinster, whereas the woman may have come from Munster, Ulster, or Connaught.

The poor rate in Dublin is thus unduly burdened with the maintenance of such cases. In England they could be sent back to the place where they resided. The number of illegitimate children (infants under one year) and unmarried mothers in the nursery of the South Dublin Union at present is 28 of each. The number is lower than usual, there have often been as many as 40 of each, but it is stated that those who are insured go out to get the maternity benefit. The number of illegitimate children in the South Dublin Union Hospital during 1913 was 81. There are about 600 children altogether in the Dublin Workhouse School at Pelletstown, in the infirmary, and boarded out, at least one-half of these are illegitimate. The guardians can

only board out orphans or deserted children. The latter are generally those who have been let out on pass without the child and have not returned, thus getting rid of an unwonted burden. A large number of these mothers and children remain in the workhouse for a long time, some few never go out at all until the child is old enough to earn, *i.e.*, 15 years, and then go out and in, forming with the very low class couples, the "ins and outs," whose children make up the number of about 300 all told in the school at Pelletstown.

Mr. Rodden, in the paper to which I have referred, states that he obtained returns from 8 workhouses in Antrim and Down, from which it appeared that £1,193 had been spent in one year in affording relief to unmarried mothers and their children, and that at least 75 per cent. of the unmarried mothers who with their children obtained relief in the Belfast Workhouse during the period stated were either domestic servants, or girls employed in warehouses, mills, and the like. He was of opinion that if the English Bastardy Act was made to apply to Ireland the fact that a girl had within her reach such a remedy as that Act provides would have such a deterrent effect as would make for the moral and social well-being of the country. He informs me that the number of illegitimate children born in the maternity ward of the local workhouse for the past five years was as follows:—1909, 177; 1910, 180; 1911, 215; 1912, 195; 1913, 154, making a total of 921 for the entire period.

POSSIBLE OBJECTIONS.

Sir Robert Peel's Bastardy Bill of 1862 was objected to in the Dublin Press (Post) on the ground that it would give dangerous facilities to profligate and unprincipled persons to bring false accusations under circumstances when it would be very difficult, if not impossible, to disprove the charge by evidence. Lord John Browne, in moving the adoption of a clause to the Poor Law (Ireland) Bill of 1862, enabling the guardians to recover from putative fathers the cost of maintenance of illegitimate children during the time they were in the workhouse, said that in England the prosecution was taken by the woman, but in Ireland he feared that that system would lead to abuse. He added that in Ireland there was not the same regard among the poorer classes for the sanctity of an oath as in England. Mr. Maguire denied that perjury was more rife among the poorer classes in Ireland than among the same classes in England. He supported the clause, considering it was far preferable to a Bastardy Bill. The clause was

carried by III to II, but the same journal which I have mentioned declared that the carrying of the clause was a deplorable state of affairs. The clause was amended in the House of Commons by inserting words providing for corroboration of the evidence of the mother, and extending the operation of the clause to children receiving out-door relief.

Objections such as these will not I think, be urged at the present day. The statement of the law prevailing in other countries shows that it is now recognised (save in Ireland) that it is only just that the father of an illegitimate child should be responsible for its maintenance, and that the mother has to bear the entire burden unless she goes into a workhouse, or is fortunate enough to have relations or benevolent persons to relieve her. Unfounded charges may sometimes be made, but so they may in the case of other legal proceedings: it is to meet such cases that corroboration is required, as in breach of promise, treason, perjury, personation at elections, offences against women and children under the Criminal Law Amendment Act, 1885, offences under the prevention of Cruelty to Children Act, 1904, under the Children Act, 1908, and under the Motor Car Act, 1903.

The English Bastardy Act provides that an affiliation order cannot be made unless the evidence of the mother is corroborated by other evidence in *some material particular*.

PROPOSED ALTERATIONS OF THE LAW IN ENGLAND.

In England, so far from the law on this subject being considered open to objection, attempts have been made from time to time to consolidate and amend the law. In 1909 a Select Committee of the House of Commons was appointed to report as to the law relating to the making and enforcement of bastardy orders, and to report what, if any, amendments were required in the same. The Committee considered that as there was no procedure in Ireland corresponding to the making and enforcement of orders under the Bastardy Acts in England and Wales, the question of extending those Acts to Ireland was outside the scope of their inquiry, except as regards the proposal to make orders made in English Courts enforceable in Ireland.

They recommended (1) that the justices should have power, (a) on application by the mother, or by the guardians, or by the person maintaining the child; to make a bastardy order, which might be enforced by the mother, or by the guardians, or by the person maintaining the

child, or by the person appointed by the Court to receive payment from the father. They were of opinion that this provision, giving power to any person actually maintaining the child to apply for an order, would tend to secure payment by the male parent, which is sometimes not enforced, or is allowed to lapse in cases where the care of the child passes from one party to another; (b) on application by the mother or guardians after the birth of the child, to reimbursement of expenses incidental to birth, including expenses due to illness or loss of work, within a period not exceeding one month previous to confinement, and to order such payments to be made by instalments; (c) to dispense with the mother's evidence in case of the mother's death or insanity when the paternity is admitted by the father; (d) to vary the weekly sum mentioned in the order within a limit of 10/- and to order that payments made under any order be made to a third person appointed by the Court; (e) to assign the custody of the child to a person other than the mother; (f) to order in suitable cases payment of a lump sum, to be invested upon trust for the benefit of the infant, in place of a weekly payment; (g) in special cases to order the father to contribute for the whole lifetime of a cripple or mentally defective child; (h) with consent of both parties to exclude the public from Court during the hearing of the evidence of women or girls. To order costs against vexatious applicant.

(2) That the period of one month, before which recovery or payment may not be made, be reduced to one week.

(3) Extension to one month of the time during which the father may give notice of appeal to Quarter Sessions and power to Quarter Sessions to modify the decision of the justices as to the amount payable for expenses incidental to birth and confinement.

They recommend that the provisions of the Summary Jurisdiction (Process) Acts of 1881 be extended to Ireland, and that power be given to enforce payment by attaching a portion of a defendant's income, such as wages or payments made periodically to him. These suggested amendments of the law adopted in the main the recommendation of the Royal Commission on the Poor Law (Report, p. 667), and were framed to carry out the objects to be aimed at by a "general and well founded consensus of opinion (1) to secure the adequate care and maintenance of the child until it reaches an age when it may be expected to earn something for itself; and (2) to facilitate the process by which mothers, guardians, and other persons, may recover from the male parent expenses which they have incurred in connection with the birth or maintenance of the child."

In 1912, Mr. King, member for North Somerset, introduced an Illegitimacy and Maternity Bill.

The principal object of this Bill is to substitute for the present Bastardy Laws in England and Wales a statute which should consolidate, simplify and amend them.

The chief amendments in the law proposed by the Bill were as follows ; I quote them accordingly :—

1. Proceedings can in certain cases be taken by the mother of an illegitimate child *previous* to the birth of the child for a "maternity order," under which the father of her child can be required to contribute towards her support for three months before and four weeks after her delivery.

2. The maximum amount payable towards the maintenance of a child is raised to 10/- a week. In the case of a soldier, payment is to be in accordance with a scale prescribed by the War Office.

3. Sums due under a maternity or an illegitimacy order are payable to the person named in the order ; but if such person so desires, an officer of the Court, or some person nominated by the Court, is to act as receiver.

4. Any orders (including orders made under the existing statutes) can be amended, revoked, or revived ; and the Court can extend an order so as to require the father of a physically deformed or mentally defective illegitimate child, or of an illegitimate child who is a confirmed epileptic or permanently injured, to contribute during the lifetime of the child or any shorter period.

5. The Court can, under certain circumstances, order payment to trustees of a lump sum.

6. Cases can be heard *in camera* to the extent possible for children cases under the Children Act, 1908 ; and must be heard wholly *in camera* if both the mother and the defendant so desire.

7. The mother of an illegitimate child is authorised to appoint a guardian of the child in the event of her death.

8. Boards of Guardians are required to make, so far as reasonably practicable, provision in separate wards for unmarried women and girls, not being persons of abandoned character, who are confined for the first time.

9. Marriage is to render legitimate a son or daughter born out of wedlock.

The Bill did not reach a second reading, and met with no better fortune in 1913.

In the present Session, a Bill was brought in by Captain Jessel to amend the law relating to the collection and recovery of moneys due under affiliation orders. The Bill, he said, was one which he introduced last Session, but it did

not then reach the second reading stage. It was also introduced in the House of Lords by Lord Bathurst, and after undergoing amendment at the instance of Lord Strachie, representing the Home Office, it was passed through all its stages in that House. The Bill did not deal with the question of increasing the limit of payment under an affiliation order from 5/- a week. It simply gave effect to two of the recommendations of the Select Committee of 1909. One was that the money should be paid by the father to the mother through the agency of a third person, who should be an officer appointed by the Court which made the order. The House (said Lord Bathurst) would easily see how hard it was for a mother who had obtained an order to approach the father for the weekly payments. The other recommendation was that the period of time which elapsed between the service of a summons and the hearing of the case should be reduced, in view of the fact that frequently the putative father got away, and evaded service altogether. The Bill required that, instead of "at least six days," the interval should be "a reasonable time." It was some forty years since any alteration was made in the Bastardy Laws, and as they stood they were very defective. The Bill has been read a second time. †

PROPOSED LEGISLATION FOR IRELAND.

In the autumn of 1911, at the instance of a Committee of Belfast ladies, a Bill was prepared for introduction in the House of Commons to make the provisions of the English Bastardy Acts of 1872 and 1873 apply to Ireland. I have set out this Bill at the end of this paper. The only amendment it proposed to make in the law was to give a right of appeal to Quarter Sessions by either party, and to empower that Court to increase the amount directed to be paid. As the law stands the right of appeal is only given to the alleged father, not to the applicant, and there is no power to increase the amount on appeal. Mr. King's Bill proposed to do the same.

Section 2 provides for the summoning of the alleged father before a Court of Summary Jurisdiction on the application of any single woman who may be with child or who may be delivered of a bastard child after the passing of the Act. If the application is made before birth, the woman must make a deposition on oath stating who the father of the child is.

Section 3 enables the Court to make an order on the alleged father to pay a sum not exceeding 5/- a week for the maintenance and education of the child, and of expenses incidental to the birth of the child, and of the

† And passed on July 31, 1914. Affiliation orders Act, 1914 (4 and 5 Geo. 5, c. 6.) It also provides for attachment of pension or income, and for payment to person having custody of child.

funeral expenses, if it had died before the making of the order. Section 4 provides for the enforcement of the order by distress and commitment. Section 5 provides that the order is not to be in force after the child attains 13 years of age (or 16 years of age if it is so directed in the order). Section 6 provides for proof of the summons. Section 7 provides that payments ordered to be made on the application of the mother may be made to the Guardians of the Union, if the child becomes chargeable to it. Section 8 enables the Guardians of a Union to which a bastard child becomes chargeable to apply to the Court of Summary Jurisdiction for an order on the alleged father to pay a weekly sum towards the relief of the child while it remains chargeable to the union. Section 9 gives the right of appeal to either party, which I have already mentioned. Section 10 provides for the making of forms by the Lord Chancellor. The authority to make forms should, I think, be the Local Government Board, as in England.

Much good would be done if the guardians were authorised to proceed summarily (as proposed by s. 8). The present procedure by Civil Bill at Quarter Sessions under the Act of 1862 is dilatory and cumbrous. The woman has to make an affidavit in a form prescribed by the Act before a Justice in Petty Sessions, or in Dublin before a Divisional Magistrate, and a copy of this affidavit has to be served along with the Civil Bill on the defendant.

A considerable time may elapse (one or two months) before the Civil Bill can be heard by the County Court Judge, and in the meantime the defendant may have left the country. Again, even if a decree is obtained, it may be impossible to enforce it. Proceedings have been taken from time to time by Guardians in Dublin before the Recorder, but with indifferent success. In the case of a soldier, the Army Act, 1881, s. 145, provides that a deduction may be made from his pay to satisfy an order for payment by him of the cost of maintenance of a bastard child.

This has often proved an efficient remedy.

But the remedy given to the Guardians only meets the case of a mother and child in the workhouse, and leaves unprovided for the case of a woman who would not enter a workhouse unless in dire necessity. In England the law says firmly, reputed fathers must contribute to the support of their illegitimate children; they may be sued by the mother, and ordered to pay her money directly, and without the intervention of third parties. In Ireland, reputed fathers are only liable at the suit of Guardians, and in respect of destitute and pauper children. Why should the father in Ireland go scot free, and the father in England and other countries be liable to maintain his child?

APPENDIX.

Be it enacted by the King'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.—This Act may be cited as “The Bastardy Law (Ireland) Act, 1911.”

35 & 36 V. c.
65 (E.), s. 3,
which was
substituted
for 7 & 8 Vic.
c. 101, s. 3.

Putative
father to be
summoned to
Petty
Sessions on
application
of mother of
bastard child.

2.—Any single woman who may be with child, or who may be delivered of a bastard child after the passing of this Act, may either before the birth or at any time within twelve months from the birth of such child, or at any time thereafter upon proof that the man alleged to be the father of the child, has within the twelve months next after the birth of such child paid money for its maintenance, or at any time within the twelve months next after the return to *Ireland* of the man alleged to be the father of such child upon proof that he ceased to reside in *Ireland* within the twelve months next after the birth of such child, make application to any one Justice of the Peace having jurisdiction in the place where she may reside, or to any *Divisional Police Magistrate in the Police district of Dublin Metropolis (when she resides in such police district)* for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child, the woman shall make a deposition upon oath stating who is the father of such child, and such Justice of the Peace or *Divisional Police Magistrate* shall thereupon issue his summons to the person alleged to be the father of such child to appear at a *Court of Summary Jurisdiction* to be holden for the Petty Sessional Division, City, Borough, or *Police district* in which such woman resides.

Ib., s. 4.

Justices in
Petty
Sessions may
make an
order on
putative
father for
maintenance
and educa-
tion of
bastard child

3.—On the appearance of the person so summoned, or on proof that the summons was duly served on such person, or left at his last place of abode, the *Court* shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the *Court*, the *Court* may adjudge the man to be the putative father of such bastard child, and may also, if it sees fit, having regard to all the circumstances of the case, proceed to make an order in the prescribed form on the putative father for the payment to the mother of the bastard child, or to any person who may have the lawful custody of such child, of a sum of money weekly, not exceeding five shillings a week, for the maintenance and education of the child, and of the expenses incidental to the birth of such child, and of the funeral expenses of the child, provided it has died before the making of such order, and of such costs as may have been incurred in the obtaining of such order, and if the application be made before the birth of the child, or within two calendar months after the birth of the child, such weekly sum may, if the *Court* thinks fit, be calculated from the birth of the child.

Ibid., s. 4—
con.—and en-
force the
same by
distress and
commitment.

4.—If at any time after the expiration of one calendar month from the making of such order as aforesaid, it be made to appear to any one Justice (*including a Divisional Police Magistrate*) upon oath or affirmation that any sum to be paid in pursuance of such order has not been paid, such Justice may, by warrant in writing in the prescribed form, cause such putative father to be brought before a *Court of summary jurisdiction*, and in case such putative father

neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension and bringing up of such putative father, such *Court*, by warrant in writing in the prescribed form, may direct the sum so appearing to be due together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he give sufficient security by way of recognizance or otherwise to the satisfaction of such *Court* for his appearance before the said *Court* on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security: but if upon the return of such warrant, or if by the admission of such putative father, it appear that no sufficient distress can be had, then any such *Court* may, if it sees fit, by warrant in writing in the prescribed form, cause such putative father to be imprisoned for any term not exceeding three calendar months, unless such sum and costs be sooner paid and satisfied.

5.—No order for contribution towards the relief of any such child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child, in respect of whom it was made, has attained the age of thirteen years, or after the death of such child, provided that the *Court* may in the order direct that the payments to be made under it in respect of the child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period.

6.—In cases where the putative father of any bastard child resides out of the Petty Sessional or *Police* district where the application is to be heard, it shall be lawful to prove by affidavit in the prescribed form that such summons or order has been duly served. Any affidavit purporting to be made and attested in the prescribed form shall be received in evidence, and shall be deemed to be duly made and attested until the contrary be shown.

Ibid., s. 5.

Time of cessation of order.

36 & 37 Vict. c. 9, s. 4 substituted for 35 & 36 Vict. c. 9, s. 4.

Proof of service of summons in certain cases.

35 & 36 Vict. c. 65.

Ib. s. 7.

Payments ordered for bastard children may be made to Guardians of Union if child becomes chargeable to Union.

7.—When and so often as any bastard child, for whose maintenance an order has been made by a *Court of summary jurisdiction* on the application of the mother, shall become chargeable to any *Poor Law Union*, any *Court of summary jurisdiction* having jurisdiction in such Union may, if it shall see fit, by order in writing in the prescribed form from time to time, appoint some relieving or other officer of the Union to which such bastard child shall be so chargeable, to receive on account of the *Guardians* of such Union such proportion of the payments then due or becoming due under the said order as may accrue during the period for which such child is chargeable, and such appointment shall remain in force for the period of one whole year whenever the bastard child shall be or have become chargeable as aforesaid, and may afterwards from time to time be renewed by indorsement under the hand of any one Justice for the like period: and any payment so ordered to be made shall be recoverable by the relieving officer or other officer appointed to receive it in the manner provided for the recovery of payments under an order obtained by the mother.

36 & 37 Vict.
c. 9, s. 5.
Substituted
for 35 & 36
Vict., c. 65,
s. 8.

Guardians
may recover
costs of relief
of bastard
child in
certain cases.
26 & 27 V. c.
21 (I.), by
which
Guardians in
Ireland can
proceed by
Civil Bill.

8.—When a bastard child becomes chargeable to a *Poor Law Union*, the Guardians may apply to a *Court of summary jurisdiction* having jurisdiction in the Union, and thereupon such *Court* may summon the man alleged to be the father of the child to appear before any *Court* having the like jurisdiction, to show cause why an order should not be made upon him to contribute towards the relief of the child, and upon his appearance, or in the event of him not appearing, upon proof of due service of the summons upon him such *Court* may, if satisfied that he is the father of the child upon such evidence as is by this Act required in the case of a summons issued upon the application of the mother, make an order upon such putative father to pay to the Guardians, or one of their officers, such sum, weekly or otherwise, towards the relief of the child during such time as the child shall continue or afterwards be chargeable as shall appear to them to be proper: and such order shall, if the payments required by it to be made be in arrear, be enforced in the manner provided for the recovery of payments under an order obtained by the mother. Provided as follows:

- (1). That no payments shall be recoverable under such order except in respect of the time during which the child is actually in receipt of relief.
- (2). That an order under this section shall not be made; and if made shall cease (except for the recovery of arrears) when the mother of the child has obtained an order under this Act.
- (3). That nothing in this section shall be deemed to relieve the mother of a bastard child from her liability to maintain such child.
- (4). That any person upon whom an order is made under this section shall have the same right of appeal against such order as in the case of an order obtained on the application of the mother.
- (5). That if, after an order has been made under this section, the mother shall apply for an order under this Act, the order made under this section shall be *prima facie* evidence that the man upon whom the order is made is the father of the child.

35 & 36 Vict.
c. 65, s. 9.
Appeals.

9.—The Court of Quarter Sessions, on appeal to them in the *prescribed form (by either party)* against any order made pursuant to the provisions of this Act, may, if they think fit, reduce (*or increase*) the amount directed to be paid for the maintenance and education or on account of the relief of the child named in such order, and they shall thereupon alter the order accordingly.

36 & 37 Vict.
c. 9, s. 6,
which gives
power to
Local Govern-
ment Board
to issue forms.

10.—The *Lord Chancellor* shall prescribe such Forms as may be necessary for carrying this Act into effect.

11.—This Act shall come into operation on the day of 191 , and shall apply only to Ireland.