

which this has been done would in my opinion afford a sufficient answer to the complainer's plea. I think any reasonable grounds that the Court can find in the terms of the statute for construing its provisions so as to prevent such injustice as I have described ought to be adopted, and as the promoters of that Act have incorporated the Harbour and Piers Act not with reference to Harbours and Piers only, but with reference to their whole undertaking generally, they have thereby incorporated the provisions of the Harbours Act which give a right to compensation for injuries done in the course of their operations on the river.

As to the Lands Clauses Act, I do not think it is of the same importance, incorporated as it is in the Act of 1858. It appears to me that by the Act of 1858, section 4, the Lands Clauses Act is incorporated generally and without limitation in point of time, and that the proviso only is limited to the period of three years. The Lands Clauses Act does not provide compensation for such injuries as are here complained of, but it provides the machinery by way of procedure for ascertaining and fixing the amount of compensation as between the landowner and the Trustees.

The Court adhered.

Counsel for Complainers — Solicitor-General (Asher, Q.C.) — Mackintosh — Ure. Agents — Webster, Will, & Ritchie, S.S.C.

Counsel for Respondent—Trayner—J. P. B. Robertson—Dundas. Agents—Dundas & Wilson, C.S.

Wednesday, June 6.

SECOND DIVISION.

SPECIAL CASE—INSPECTORS OF POOR OF SOUTH LEITH (SIMPSON), NORTH LEITH (MILES), AND THURSO (AULD).

Poor—Settlement—Derivative Settlement—Minor—Forisfamiliation.

Held (in conformity with *Inspector of Poor of St Cuthbert's v. Inspector of Poor of Cramond*, November 12, 1873, 1 R. 174) that a derivative settlement which a pupil had at the date of his father's death in the parish of his father's residence was not lost on his attaining the age of puberty and going to sea to earn his livelihood, or by the marriage of his mother to a person who had a settlement in another parish.

This Special Case was brought by the Inspectors of Poor of the parishes of South Leith, North Leith, and Thurso, to determine which of the three parishes was liable for the support of a pauper named Hugh Donald M'Lean. The pauper Hugh Donald M'Lean was born on the 10th of January 1866 in the parish of North Leith, where his father Hugh M'Lean then resided. In January 1868 the pauper's father removed to the parish of South Leith, and continued to reside there with his wife and family, including the pauper, until his death on 6th September 1875,

at which date he had a settlement by residence in the parish of South Leith. On his death his widow and children, of whom the pauper was the second, and who were all in pupilarity, continued to reside in South Leith.

On the 8th May 1879 the pauper's mother married a second husband, William Dundas, and in May 1880 removed with her husband and family to Ardsshellach, in the parish of Ardnamurchan, Argyllshire. William Dundas was born in the parish of Thurso, and had never acquired a residential settlement in any other parish.

In May 1880, the pauper, who was then aged fourteen years and four months, joined as a seaman the ship "Rosenath" of Glasgow, then lying at Granton, with the intention of following the occupation of a sailor. While in this employment he fell into ill-health; and the ship having called, on the passage from Java to Boston, at Durban, Natal, he was discharged there, being left in hospital, and was thereafter sent back to this country. On his arrival at Southampton in the end of March 1881 he was taken by his mother and stepfather to their residence in Argyllshire.

On 5th December 1881 the pauper was apprehended at Ardnamurchan on a charge of assault, for which he was tried before the Sheriff of Argyllshire. He was then found to be insane, and the Sheriff ordered him to be confined as a lunatic. At the date of this Special Case he was an inmate of the District Asylum at Lochgilphead, and a proper object of parochial relief.

The parish of Ardnamurchan, as the parish where the pauper was apprehended, had hitherto defrayed the cost of his maintenance in said asylum, but it had given notice to each of the parties to the present case claiming to be relieved thereof. It was admitted that the pauper had no settlement in the parish of Ardnamurchan, and that that parish was not liable for his maintenance, but was entitled to be relieved thereof by one or other of the parties to the present case.

The parish of South Leith maintained that the parish liable for the maintenance of the pauper was North Leith, the parish of his birth, in respect (1) that as a lunatic he became a proper object of parochial relief in his own right after attaining the age of puberty and being emancipated, his parents not being paupers; and (2) that any derivative settlement which the pauper might have had in South Leith at the date of his father's death came to an end in 1880 by the pauper attaining the age of puberty, and then leaving his mother's house with the intention of earning his own livelihood. Alternatively, South Leith maintained that the parish of Thurso was liable, as being the settlement of the pauper's stepfather, the said William Dundas, in respect that the settlement which the pauper's mother had in South Leith was lost, not only for herself, but for her pupil children, by her marriage to the said William Dundas in 1879, at which time the pauper was under fourteen.

The parish of North Leith, on the other hand, maintained that South Leith was liable, in respect that the pauper's father had at his death a residential settlement in that parish, which enured to the pauper, and was never thereafter lost; or, alternatively, that the parish of Thurso was liable, in respect that it was the settlement of the pauper's stepfather, the said William Dundas.

The parish of Thurso maintained that either the parish of South Leith or the parish of North Leith was liable, and that at all events no liability could be established against the parish of Thurso, with which the pauper had no connection except through his stepfather William Dundas.

The following question of law was submitted for the opinion and judgment of the Court:—“Whether the parish bound to support the said pauper is the parish of South Leith, or the parish of North Leith, or the parish of Thurso?”

Argued for the parish of South Leith—(1) Any derivative settlement which the pauper might have had in South Leith at the date of his father's death came to an end in 1880 (a) by the pauper attaining the age of puberty—*Craig v. Greig and Macdonald*, July 18, 1863, 1 Macph. 1172; *Greig v. Ross*, February 10, 1877, 4 R. 465; and (b) by his then leaving his mother's house with the intention of earning his own livelihood—*Ferrier v. Kennedy*, February 8, 1873, 11 Macph. 402; North Leith was therefore liable; or (2) Thurso was liable as being the settlement of the pauper's stepfather, in respect that the settlement which the pauper's mother had in South Leith was lost, not only for herself but for her pupil children, by her second marriage—*Greig v. Adamson and Craig*, March 2, 1865, 3 Macph. 575.

Argued for North Leith—This case was indistinguishable from the case of *Inspector of Poor of St Outhbert's v. Inspector of Poor of Cramond*, November 12, 1873, 1 R. 174. In that case the Court had before them, and fully considered the Judges' opinions in, the case of *Ferrier v. Kennedy*, decided in the First Division in the same year, and relied on here by the parish of South Leith. The *Cramond* case was authoritative, and was directly in point.

Counsel for Thurso were not called upon.

At advising—

LORD JUSTICE-CLERK—The decision in the *Cramond* case rules this one in terms, and I am not going to consider whether that was a right or a wrong judgment. It has stood for ten years, and I can see no ground for reconsidering it. As I have often had occasion to say with regard to these poor-law cases, they are really encumbrances on the law, and the parties litigating in them have no substantial interest. The very next case which occurs may make the parish which was successful in the former one liable. This case must be held to be completely ruled by the *Cramond* case, it being impossible to distinguish them.

There is a subordinate point as to the effect of the pauper going to sea. I do not think that creates any difficulty. Going to sea in the prosecution of a seafaring mode of life does not affect a settlement already acquired.

The question will be answered to the effect that the parish of South Leith is liable.

LORD YOUNG—I am entirely of the same opinion.

It has been explained to us that this case has been brought here because it was supposed that the decision in the *Cramond* case was in conflict with certain observations made by the Judges who decided the case of *Ferrier v. Kennedy*, although these observations were not necessary to the judgment in that case— that is, the case

was capable of being decided as it was on other grounds. But then these observations were cited to the Court during the discussion in the *Cramond* case. The *Cramond* case therefore was decided ten years ago, after these observations and all the cases which have been cited to us to-day had been fully considered. This case is admittedly the same on the facts as the *Cramond* case, and no argument, no fact, and no decision have been submitted to us which were not made the subject of decision in that case—and then we are asked to reconsider that judgment. I entirely agree with your Lordship that we should follow the judgment of this Division of the Court, which is the last upon the point, especially seeing that the circumstances are exactly the same.

I also concur in the observation that these litigations are greatly to be regretted, and this is no exception. The question raised does not seem to be one of importance, or likely to recur often. It has not been before this Court for ten years, when it was disposed of by a unanimous judgment after all the authorities had been considered. The result one way or the other is of infinitesimal importance. I think we should follow the decision in the *Cramond* case.

LORDS CRAIGHILL and RUTHERFURD CLARK concurred.

This interlocutor was pronounced—

“The Lords are of opinion and find that the parish of South Leith is bound to support the pauper Hugh Donald M'Lean, and decern.”

Counsel for South Leith—Scott—Begg. Agents—Snody & Asher, S.S.C.

Counsel for North Leith—Guthrie Smith—Salvesen. Agents—A. & G. V. Mann, S.S.C.

Counsel for Thurso—Trayner—J. A. Reid. Agents—Currer & Cowper, S.S.C.

Wednesday, June 6.

SECOND DIVISION.

[Sheriff of the Lothians.

HINDS v. SCHOOL BOARD OF DUNBAR.

School—Schoolmaster, Dismissal of—Public Schools (Scotland) Teachers Act 1882 (45 and 46 Vict. cap. 18), sec. 3—Notice by Circular.

By the Public Schools (Scotland) Teachers Act 1882 no resolution of a School Board to dismiss a teacher is valid unless adopted at a meeting called not less than three weeks previously by circular sent to each member intimating that the dismissal is to be considered, and unless notice of the motion for his dismissal has been sent to the teacher three weeks previous to the meeting.

A School Board who had appointed a teacher before the passing of the Act on an agreement providing for three months' notice of termination on either side, passed at a meeting held subsequent to the Act, and not called in the manner nor intimated to the teacher as directed by the Act, a resolution