

~~We have also to recollect, in any estimate of their syndicates, the traditions and character of the German people. "They are," says Mr. Mason, "conservative in all that relates to matters of business. They are believers in thorough education; careful, scientific processes, and steady, solid, legitimate development of business enterprises. They are therefore, with few exceptions, opposed to speculations, and the taking of large risks for the chance of suddenly acquiring wealth. . . Employers and employed, alike, realise that the present and future greatness of Germany are largely dependent on the virility and growth of her foreign commerce, and they have thus far submitted, for the most part patiently, to the inevitable burdens and inconveniences of a commercial and industrial system, which, as they believe, contributes to that result."~~

5.—*Scottish Private Bill Legislation in Working.**

BY ARTHUR W. SAMUELS, K.C.

[Read April 21st April, 1904.]

WERE it not for the fact that a Private Legislation Reform Bill for Wales, passed unanimously on the 25th March, 1904. its second reading in the House of Commons, and that not a single Irish Member brought forward the case of Ireland or claimed extension to this country of a similar measure, I should have to apologise to the Society for bringing the subject of Irish Private Bill Procedure Reform again before it. There is no necessity to prove how much it is wanted. Every one admits it is wanted. There is no necessity to prove how much Ireland suffers under the existing system. This will not bring about a reform. It pays certain politicians to have a grievance, and as the removal of the grievance would only be a hum-drum piece of practical legislation it does not pay other politicians to trouble themselves to remove it. Business men and men anxious for industrial advancement, and municipal rate-payers in Ireland, and others indulging but little in the higher politics, and concerned chiefly about developing the resources of their country. have no representation in Parliament; quiet-going people, as they are, make but little noise outside. Parliament. They have learned by long experience that in their case the "agitate, agitate" advice has never had the slightest effect when followed, in bringing about any mere business-matter reform. A measure that would enable an Irish city to get powers to make a main

* On July 7th, 1904, the Report of the House of Commons Committee on the Private Legislation Procedure (Wales) Bill was published. The successful working of the Scotch Acts is testified by Lord Balfour of Burleigh, the Right Andrew Graham Murray, Secretary for Scotland, and many others

drain by a provisional order costing £1,000 instead of £10,000, or create a tramway system, after one Irish enquiry for £500, instead of two Westminster enquiries at the rate of £5,000 apiece, is not legislation for a star performer. It has not the flash of originality about it. The idea is fifty years old in Ireland if a day, and then the whole performance has been gone through in Scotland—it would be a mere copy of the canny Scotsman's prosaic and practical bawbee-begotten taste in statute-making, and has nothing of the glint of the Dark Rosaleen style about it. It would not "settle the Irish question," or unsettle any Irish class, it would merely keep much Irish capital in Ireland, create more capital in the country, develop some industries, relieve many rate-payers, cheapen railway and tramway construction, facilitate electric lighting and power schemes, increase shareholders' dividends, and give employment and payment to Irish engineers, architects, solicitors and barristers, clerks, scribes, printers, publishers, inn-keepers and jarveys, and it would put an end to the fat five-pound-a-minute Westminster Bills, and attenuate the portly proportion of the House fees of Peers and Commons. But this has always been too poor a performance for any Minister to bring about for a poor country. The reply to the demand has always been "wait a bit." When the Duke of Devonshire was over here as Chief Secretary, thirty years back in the last century, he told us the subject was so important that Ireland could not be dealt with apart from the rest of the three Kingdoms, and accordingly, he went to sleep over it. Mr. Arthur Balfour was open to conviction on the subject when he was here, and becoming much interested in it as a good Scotsman brought in a bill for Ireland and Scotland and dropped it. Then he brought in a Bill for Scotland without Ireland, and finally saw the Scotch Act passed, and told us Irish to be good and wait a few years till we saw how nicely Scotland could manage the business and shew us how to do it when our turn might come. Mr. Gerald Balfour told a big deputation from the Chamber of Commerce here when he was Chief Secretary, that we were "pushing at an open door," but a remarkable phenomenon occurred for no amount of pushing and pushing at the door ever since has had the slightest effect in getting us through it. Having failed to get through the door, we are now told we had better sit down at a round table and see what the planchette system of Irish administration will spell out for us.

In the meantime, while the Irish audience is waiting for the fuller dénouements, and watching how well the Welsh can exploit their corner, we can perhaps occupy a little time in reading some accounts of how "Caledonia Stern and Wild," has managed to settle down under new conditions,

with the incentive to our task furnished by the fact that for Cambria—the other member of the Celtic fringe—five members have this Session introduced a Bill, framed on the Scottish Act, which the Government has adopted. But in Tristram-Shandy style I shall begin the chapter on Scotland in 1904, by digressing to Ireland in 1801, and quoting one of the last utterances of our great Irish historian, Mr. Lecky, whose loss is so recent and so great. Writing of the effects of the Union, he has introduced into the 1903 edition of *The Leaders of Public Opinion in Ireland*, this passage (page 264).

“ One great evil resulting from the measure, the expense ”
 “ of carrying witnesses to London for the trial of contested ”
 “ Elections, and for private Parliamentary business—was ”
 “ anticipated by Portland and Pitt, and they suggested a ”
 “ plan which appears to have been favourably received by ”
 “ the Cabinet for at least diminishing it. They proposed to ”
 “ enable the chairman of Quarter Sessions or the Sheriff to ”
 “ summon the contending parties in Ireland; to reduce their ”
 “ evidence to writing, which was to be certified to the Speaker ”
 “ in London, and thus to make it possible to dispense with ”
 “ their actual presence in the metropolis. It was suggested ”
 “ that though it would be difficult to embody the various ”
 “ regulations such a proceeding would require in an article of ”
 “ the Union, its principle might at least be stated in the Act, ”
 “ leaving the details to be settled by the Union Parliament. ”
 “ Probably through a desire to avoid all unnecessary subjects ”
 “ of controversy, this proposal was dropped, and the evil it ”
 “ was intended to remedy continued through the whole ”
 “ century. It was indeed immensely aggravated as the new ”
 “ powers granted to Municipalities and trading Corporations, ”
 “ and the vast enterprises in railways, telegraphs and gas ”
 “ and electric lighting, growing out of nineteenth century ”
 “ inventions multiplied the amount and cost of Irish ”
 “ private business in Parliament.”

For all the signs that one can at present discern of any active desire on the part of Ministers or Members to remedy this same Irish evil, the reader in Anno Domini 2004, of Lecky's monograph on Grattan, will still apply these words to the Ireland of the time, substituting merely for “ the whole century,” the words “ the whole two centuries.”

I venture to briefly sketch the main outlines of the Scotch Act of 1899, although they are doubtless familiar to most of the members of this Society.

Every application for Parliamentary business must originate in Scotland as a Draft Provisional Order.

The chairman of Committees of the House of Lords and of Ways and Means in the Commons consider the draft order.

If the Draft order does not relate wholly or mainly to

Scotland, or if it is of such magnitude, or raises some such question of policy or principle, that the chairmen think it should be dealt with as a Private Bill, it can proceed as a Private Bill in the usual course at Westminster.

The enquiry into the Provisional Order takes place in Scotland. The tribunal consists of four Commissioners chosen by the chairman of the two houses. As a rule two of the Commissioners are Peers, and two members of the House of Commons. A Parliamentary panel of Peers and a Parliamentary panel of Members of the House of Commons is formed each Session to hear these Scotch cases. If any difficulty arises in getting two representatives of each house to sit, three, or if need be, all, the Commissioners may belong to the same parliamentary panel, and, if necessary, resort can be had to the Extra Parliamentary panel to fill up a vacancy in the number of Commissioners to hear any case.

The Extra Parliamentary panel consists of twenty persons "qualified by experience of affairs," which is the Scotch for "good business men" to act as Commissioners. These twenty are selected by the Chairman of Committees of the Lords and of Ways and Means of the Commons acting with the Secretary for Scotland, and out of these twenty, one or two can be picked, if necessity arises, to man a tribunal, if a peer or member of Parliament cannot attend.

None of the Commissioners can act, if they have any local or personal interest in a case to be heard, and they must before sitting make a declaration to that effect, but Scotch Members of either House are not disqualified or preferred as Commissioners to deal with any case in which they have no local or personal interest.

A dissolution of Parliament does not put an end to an enquiry, and any Member of Parliament can continue to act as a Commissioner until the case is heard out.

The sittings are held in the most convenient locality in Scotland. When an inquiry is finished the order is drawn up and brought in by the Secretary for Scotland as a Confirmation Bill.

If a Member of either House moves that the Confirmation Bill shall be referred to a joint Committee of the two Houses of Parliament, and succeeds in carrying the motion, it must be so referred and heard at the peril of costs to the opponent. There have been two or three instances of an attempt to carry such a motion in the House of Commons, but none has ever yet succeeded, and the Confirmation Bills have passed in every instance without any additional expense to the promoters.*

* Since this passage was written the Leith Corporation Tramways Order Confirmation Bill was referred to a Joint Committee of both Houses on the ground that a *locus standi* had been wrongly refused to a petitioner. See *Parliamentary Debates*, 1904. Vol. 136, pp. 211-222 and 351-354.

The travelling and subsistence allowance of the Commissioners who sit to hear the enquiries are provided for by moneys voted by Parliament.

The Act came into operation at the end of the year 1900. The Provisional Orders are divided into two classes :—

1ST CLASS :—

Arbitration in respect of the Affairs of any Company, Corporation, or Persons.

Burial Ground, Making, Maintaining, or Altering.

Charters and Corporations, enlarging or altering Powers of.

Church or Chapel, Building, Enlarging, Repairing, or Maintaining.

City or Burgh, Paving, Lighting, Watching, Cleansing, or Improving, Incorporating, Extending, Altering, or Regulating.

Company, Incorporating, Regulating, or giving Powers to.

County Rate.

County Buildings, Court House.

Crown Church, or Corporation Property, or Property held in Trust for Public or Charitable Purposes.

Ferry, where no work is to be executed.

Fishery, Making, Maintaining, or Improving.

Gaol or House of Correction.

Gas Work.

Improvement charge, unless proposed in connection with a Second Class Work to be authorised by the Provisional Order.

Land, Inclosing, Draining, or Improving.

Local Court, constituting.

Market or Market-place, Erecting, Improving, Repairing, Maintaining, or Regulating,

Police.

Poor, Maintaining or Employing.

Poor Rate.

Powers to sue and be sued, conferring.

Stipendary Magistrate, or any Public Officer, Payment of.

And

Continuing or amending an Act passed, or Order confirmed, for any of the purposes included in this or the Second Class where no further work than such as was authorised by a former Act or Order is proposed to be made.

2ND CLASS :

Making, Maintaining, Varying, Extending, or Enlarging any

Aqueduct.	Ferry, where any work is to be executed.
Archway.	Harbour.
Bridge.	Navigation.
Canal.	Pier.
Cut.	Port.
Dock.	Public Carriage Road.
Drainage—where it is not provided in the Provisional Order that the Cut shall not be more than Eleven feet wide at the bottom.	Railway.
Embankment for reclaiming Land from the Sea or any Tidal River.	Reservoir.
	Sewer.
	Street.
	Subway.
	Tramway.
	Tramroad.
	Tunnel.
	Waterwork.

If the promoters of any Provisional Order are of opinion that it does not fall within either the first or the second class they inform the Secretary for Scotland to that effect, and if he concurs in their opinion, they give the like notices, and take the like action in regard to the preparation of the draft Provisional Order, as if it were a Private Bill.

Application for Provisional Orders can be made twice a year, on 17th April and 17th December, and not only once, as in the case of a Bill under the Parliamentary system. This is a great advantage.

The examination into compliance with the General Orders takes place wherever it is convenient to the parties interested, or seems otherwise advisable in Scotland.

The quorum of the Commissioners is three. All questions are decided by a majority of votes, and the chairman has a casting as well as a deliberative vote.

The Commissioners sit from day to day, and they have to report specially the cause of any adjournment on any day not being a Sunday or public holiday. This means a great saving of expense as contrasted with the non-sitting of the Parliamentary Committees on Wednesdays and Saturdays. The Scotch have a working week of six days at home, instead of four days at Westminster.

The saving to promoters and opponents in the scale of fees is one of the most striking and beneficial results of the Act.

The scale is as follows :—

(1.) Fees payable by Promoters of a Provisional Order :—

On application	.. .. .	£25
On issue of modified draft Provisional Order	.. .. .	25
On signature of Provisional Order	.. .. .	25

[The above fees to be increased by one-third when the capital or money to be raised exceeds £100,000 and does not exceed £250,000, and to be doubled when the capital or money to be raised exceeds £250,000 or is not defined in amount. The fee payable on application to be returned to Promoters if it is decided that the proposed Provisional Order can only proceed as a Bill.]

For every day on which the Examiner shall inquire into compliance with General Orders	3
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For the first day on which the Promoters appear at a local inquiry before Commissioners	10
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For each subsequent day	5
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The Promoters in addition are to provide at their own expense suitable accommodation for the inquiry in the place determined by the Commissioners, and also to provide *verbatim* shorthand notes of evidence and transcript, to be handed in daily to the Commissioners; and the shorthand writer's fee and the cost of transcription in respect of any day to be divided between the Promoters, who shall pay one-half, and the Petitioners appearing on such day, who shall jointly pay the other half in equal shares.

(2.) Fees payable by Opponents and other Petitioners :—

On deposit of memorial complaining of non-compliance with General Orders	£	1
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For every day on which the Examiner shall inquire into such memorial	3
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On deposit of Petition praying to be heard against a proposed Provisional Order	2
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On deposit of Petition in favour of or against a proposed Provisional Order not praying to be heard	1
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On deposit of Petition in favour of a proposed Provisional Order, and praying to be heard against alteration therein	2
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For the first day on which an Opponent or other Petitioner appears at a local inquiry before Commissioners	£	8
For each subsequent day		4

[The fees payable on deposit of Petitions to be returned to Petitioners if it is decided that the proposed Provisional Order can only proceed as a Bill.]

(3.) General :—

	£	s.
For each witness to whom an oath or affirmation is administered at a local inquiry before Com- missioners—payable by the Promoters, Op- ponents, or other party calling such witness ..	0	10
For each order for the attendance of witnesses or for the production of books, papers, plans, or documents—payable by the applicants for such order	0	10

Compare these fees with those charged for Parliamentary procedure :—

FEEs TO BE CHARGED AT THE HOUSE OF COMMONS TO PRO-
MOTERS OF A PRIVATE BILL.

	£
On the deposit of the Petition, Bill, Plan, or any other Document in the Private Bill Office ..	5
For every day on which the Examiners shall inquire into the compliance with the Standing Orders ..	5

FOR PROCEEDINGS IN THE HOUSE.

On the presentation of the Petition for the Bill ..	5
On the First Reading	15
On the Second Reading	15
On the Report from the Committee	15
On the Third Reading	15

The preceding Fees on the Petition, First, Second and Third Readings, and Report, to be increased according to the money to be raised or expended under the authority

of any Bill for the execution of a work, in conformity with the following scale :—

If the sum be £100,000 and under £500,000, twice the amount of such Fees = £130.

If the sum be £500,000 and under £1,000,000, three times the amount of such Fees = £195.

If the sum be £1,000,000 and above, four times the amount of such Fees = £260.

FOR PROCEEDINGS BEFORE ANY COMMITTEE OR THE REFEREES.

For every day on which the Committee or the Referees shall sit :—

If the Promoters of the Bill appear by Counsel	..	£	10
If they appear without Counsel	..	..	5

I do not occupy space with details of Opponents, and General Fees, which mount up rapidly at Westminster day by day during the hearing.

In the House of Lords the Promoters' fees are as follows. I leave out all miscellaneous and daily fees :—

On First Reading—£5.

On Second Reading—

When capital to be raised does not exceed £50,000—£81.

When capital to be raised exceeds £50,000, but is under £200,000—£108.

When capital to be raised exceeds £200,000—£135.

Third Reading—

If the Bill contains not more than 20 pages of print—£10.

If more than 20 pages—£15.

Amendments on Third Reading for H. L. Bills—£3.

H. C. Bills—£5.

In the case of an unamended measure requiring £500,000 capital to be raised, therefore, the fees payable by the promoters alone on the first, second and third readings, leaving out of question altogether the fees for each day of hearing

Names of Commissioners appointed.			No. of days on which each Commissioner attended	No. of days on which each body of Commissioners sat.	First sitting of Commissioners.	Last sitting of Commissioners.	Names of Orders.	Days occupied by each Draft Provisional Order before Commissioners.	Preamble Proved.	Preamble not Proved.	Withdrawn.	Remarks.
Peer.	Member of Parliament.	Member of Extra-Parliamentary Panel.										
<i>Group A :</i>												
	Lord Clifford of Chudleigh (Chairman).		6	6	Mar. 22	Mar. 28	Highland Railway	1	Mar. 22	—	—	Commissioners sat in Edinburgh.
	The Earl of Mansfield.		6				Ayr Harbour	4	Mar. 25			
	The Honourable J. E. Gordon.		6				Ardrossan Harbour	2	Mar. 25			
	Mr. Eugene Wason		6				Arizona Copper Company, Limited	1	Mar. 26			
			6				Falkirk and District Tramways.	3	Mar. 27			
<i>Group B :</i>												
	Lord Belhaven and Stenton.		6	6	Apr. 18	Apr. 25	Glasgow Corporation (Police)	3	Apr. 22	—	—	Commissioners sat in Glasgow from 18th to 22nd April, and in Ayr from 23rd to 25th April.
	Sir Walter Thornburn.		6				Ayr County Buildings	2	Apr. 23			
	Sir Thomas Gibson Carmichael, Bart. (Chairman).		6				Ardrossan Gas & Water	1	Apr. 24			
	Sir M. Mitchell Thomson, Bt.		2				Irvine Corporation	2	Apr. 25			
<i>Group C :</i>												
	The Earl of Camperdown (Chairman).		7*	6	May 3	May 9	Paisley Corporation Tramways, and	6	—	May 9	—	These were competing Orders, and were considered together.
	The Earl of Glasgow		6				Paisley District Tramways		May 9	—	—	
	Sir John G. S. Kinloch, Bart.		6				Clyde Navigation	1	—	—	May 8	
	Mr. Charles Guy Pym.		6				Glasgow Corporation (Tramways & General)	1	—	—	—	Remitted to Scottish Office as an unopposed order Commissioners on group C. in Glasgow.

* The Chairman had a meeting with promoters' agents to adjust clauses on the day after the Commissioners rose.

and all the miscellaneous fees, amount at Westminster to £200 in the Commons, and £150 in the Lords, making £350, but in Scotland the same measure can be passed through the corresponding stages for fees amounting to £100. When the schedules of miscellaneous fees are compared the cheapness of the daily Scotch expenditure is just as striking. For instance, the fee for every day of hearing after the first in Scotland, is £5 for the promoters, while in the House of Commons it is £10 per day.

When we consider the immense difference in these fees alone it does certainly seem a strange thing why any Irishmen having the interests of the country at heart, should object to the introduction into Ireland of the Scotch system of Private Legislation.

I am indebted to the courtesy of the Under Secretary for Scotland, for very full Parliamentary Returns, showing the method of procedure and the character and numbers, and progress of the Provisional Orders applied for since the Act came into operation, and the constitution of the various tribunals which sat to hear the different groups of Provisional Orders.

It appears from these returns, that in the year 1900 to 1901, thirty-five Provisional Orders were applied for. Seven of these were directed to proceed as Private Bills. The others were heard in Edinburgh, Glasgow, Ayr, and elsewhere, locally, by a tribunal consisting of two Peers and two Members of the House of Commons, and in three instances only was resort had to a member of the extra Parliamentary panel to complete a tribunal. The members were in some instances Scotch Members of Parliament, in others English or Welsh, and an Irish member, the Right Hon. W. G. E. Macartney, took part as chairman in the hearing of some of the cases. In 1902 there were thirty-five applications, five of which were directed to proceed as Private Bills. In 1903, thirty-six applications were made.

The orders deal with railways, tramways, Electric powers and lighting, gas, waterworks, corporations, harbours, ports, navigation, borough extensions, markets, lunatic asylums, charitable and other trusts, insurance company, powers, &c., &c.

A birds-eye view of the system under which contested cases are heard, can be obtained from a glance at the return of the draft orders reported on by the Commissioners sitting in March, April, and May, 1901. The return is shown on the interleaved page.

I have received official information that public opinion in Scotland is (as can be well imagined) favourable to the working of the Act.

The saving in expense, and the other advantages gained by the local conduct and hearing of the applications, has been frequently pointed out, and analysed particularly by Mr. C. A. Stanuell, in papers read before this Society, and in communications to the Press. I am indebted also to Mr. Stanuell for the following communication received by him from a gentleman in high position in Scotland, whose information may be taken as thoroughly reliable :—

“ We had a meeting of our Society yesterday, which was largely attended, and I had an opportunity accordingly of ascertaining the views of representatives of a great part of Scotland regarding the Private Bill Procedure Act. The views expressed were all favourable to the new procedure ; and I may add, that I had recently the opportunity of asking the solicitor of one of the most important railway companies in Scotland, as to his view of the working of the Act. The opinion which he expressed was in the highest degree favourable to the new procedure. He stated several points which seemed to me of importance.

“ He said, that instead of having to fee a number of expensive counsel in London, who were often not in a position to give constant attendance to a Bill before a Committee of the House, he could obtain at less expense in Scotland the full and undivided attention of the best Scotch counsel. Then he finds that the Commissioners could also give close attention to the inquiry regarding a Bill until it is finished, and apply their minds without distraction to the evidence led, and dispose of the whole matter within a couple of days.

“ Further, the cost of witnesses is much less. They are all at hand, and the days for the inquiry being fixed, and certain, there is no cost for keeping witnesses in Glasgow or Edinburgh. He told me that his Company had saved a large sum by the new procedure.” *

During the recent debate in the House of Commons on the Transit question in Ireland, Mr. Wyndham stated that it was most desirable that amalgamation of the Irish Railway Companies, should, to a considerable extent, take place. But in the face of the enormous expense of the Amalgamation Bills of the G.S. & W.R. Co., Irish shareholders and promoters must shudder at the idea of any further attempts in the direction of such legislation under the Westminster

* See also the endorsement of Mr. H. B. Neave, Solicitor to the Caledonian Railway Co. and the Table Appendix No. 10 to the Report of the Committee on the Private Legislation (Wales) Bill, pp. 98, 207. He gives the savings of the Railway Co. as £20,126 in the years 1901-1903 under the Scotch System, as compared with the three years 1898-1900 under the Westminster System.

system. These Bills, as the late Mr. Pope, K.C., stated during their hearing, cost at the rate of £5 per minute. How can any tangible hope exist of reducing transit rates when the tremendous expenses of Irish Railway Bills are taken into account? This is capital expenditure, and dividends have to be paid upon it out of earnings, and directors must naturally feel timid in adventuring any scheme of reduction of freights, when they have to provide for such enormous waste of capital as every extension of their system or alteration of their powers involves under the Private Bill Procedure methods of Westminster.

It would seem at first sight, that no rational objection could exist on the part of any one to have Irish cases heard in Ireland by a Joint Committee of Lords and Commons, as is done in the case of Scotch cases.

No difficulty has been found in getting Peers and Commoners to go to Scotland for a week or ten days, and dispose of a group of Orders from time to time. No difficulty would in all probability be found in getting Peers and Commoners to take a trip to Ireland for a similar purpose. And in any event, it certainly seems a very rational substitution for a Peer or Member of the House of Commons that a good business man should be selected by the two chairmen of Lords and Commons, and asked to make up a quorum if necessary. One would suppose that the chairmen of the Lords and the Commons, acting with the Chief Secretary for the time being, would make a very fair and capable selection, but so suspicious are certain Irishmen of anything that has the slightest "Castle" flavour about it, that objection has been put forward to such a method of selecting the extra Parliamentary panel for Ireland. Well, to meet this objection, I suggest that the Irish extra Parliamentary panel might be chosen from a list of twenty-five or thirty names of good business men nominated every five years by the General Council of the County Councils in Ireland (a body which under the Local Government Act of 1902, has received legislative recognition), associated in making the nominations with a few representatives from the Committees of the Chambers of Commerce of Dublin, Belfast, and Cork. From the men "qualified by experience of affairs" thus nominated to them the chairmen of Committees of Lords and Commons could select one or more, if ever it became necessary to supply on a tribunal the place of an absent Peer or Member of Parliament, and all would go on just as satisfactorily in Ireland as it now goes on in Scotland.*

In Scotland in the year 1903 three groups of enquiries

* Unfortunately since this suggestion was made the General Council has been broken up owing to the introduction by some members of resolutions relating to party politics

were held. The first group of Commissioners included two Peers and two Members of Parliament, and the second and third groups three Members of Parliament and one member of the extra Parliamentary panel. Thus experience proves that Peers and Members of Parliament are quite willing to serve on the tribunals.

That all is not perfection at Westminster under the present system for such interests as are mere Irish, is perhaps fairly demonstrated by the following quotation from the words of that very superior person and parliamentary counsel in his day, Sir E. Beckett, afterwards Lord Grimthorpe. They present a skiagraph of the mental anatomy of a certain class of parliamentary counsel, whose inability to attend in Ireland before local tribunals we are sometimes assured would be so deplorable a loss that Ireland had better put up with any inconvenience and bear any expenses, rather than be deprived of their invaluable advocacy. Lord Grimthorpe was examined before the Select Committee on Private Bill legislation in 1888: I take the following passage from his evidence (Select Committee on Private Bill Legislation, 1888, p. 229):—

1907.—Mr. John Morley.—“You had experience of Scottish and Irish cases, of course?”

“Yes of Scotch business. I always had a great deal of Scotch business.”

1908.—“Do you think that more justice would have been done if the circumstances had been inquired into by the tribunal on the spot?”

“No.”

1909.—“Then with regard to Irish cases from your experience, do you know if any projects which have been blighted because of the expense of bringing people over here?”

“No.”

1910.—“Have you heard of the Newry Waterworks case?”

“I ought to tell you that I took as little Irish business as I could. I do not mean to say that I had not some; but whenever I had a pressure of business, and wanted an excuse for knocking off some, I always knocked off the Irish business.”

1911.—“May we ask why?”

“You may ask if you like, but I decline to tell you.”

1912.—“But your reason for declining to take the business would perhaps be a reason for relegating the Irish business to Ireland?”

“You must judge that for yourself. I do not think Irishmen would think so.”

Terrible things, indeed, were prophesied for Scotland when its Bill was being passed, in anticipation of its being

deprived of the inestimable advantage of this class of advocate which moves in the empyrean of Westminster. The letter that I have cited already, and a further quotation from an admirably compiled summary of the three years working of the Scotch Act, which appeared in the *Irish Times* of 19th August, 1903, show us that Scotland has consoled herself. The author of the article writes:—"The " "costs of counsel and other legal officials are much less " "when the inquiries are in the capital or in Glasgow, because " "there is a saving in time, in travelling, and in the other " "fees, which accumulate with a mushroom growth when " "gentlemen learned in the law are called upon, to make " "excursions from the High Courts. This saving much more " "than compensates for the expenses of a few additional " "witnesses.

" Experience has dissipated another fear. The opponents " "of the change never wearied in declaring that in order " "to have the proceedings properly conducted it would be " "necessary to take to Scotland this and the other leader " "of the Parliamentary Bar, and 'Just think,' it was said—" " 'Just think what a tremendous expense that will involve.' " "As a matter of fact, once or twice members of the Parlia- " "mentary Bar have been briefed, but it has been learned " "that the members of the Scotch Bar are quite equal to " "the duties, and I have heard no allegation that in any case " "the interests of promoters or opponents have been pre- " "judiced by the absence of the 'big wigs' of Westminster."

The following quotation, from the *Times* of 26th March, 1904, of speeches made on the introduction of the Welsh Bill on 25th March, prove the success of the Scotch Act in working. Mr. Brymnor Jones, who acted as chairman of a committee which considered several Scotch Orders, stated, in introducing the Welsh Bill, that "from his own experience " "as a Commissioner, he bore testimony to the smooth " "working of the Scottish Enquiries and to the ability of " "the counsel and experts whose services were locally " "available. There were manifest advantages in the readiness " "with which ample local evidence could be obtained with " "regard to legislative projects which referred generally to " "tramways and other local enterprises."

Mr. E. WASON, who also had acted as a Commissioner in Scotland, stated that "he was convinced from his " "experience of the working of the Scottish Act, that the " "private legislation of Scotland was done as well and " "efficiently by the Commissioners as it could be done by " "the House of Commons. Opinion in Scotland was " "unanimous that the Act was an unqualified success."

Mr. T. Shaw (Hawick Burghs) said, "no inquiry into the experience of Scotland was necessary. That experience

had been so entirely satisfactory that no one in Scotland would dream of reverting to the old system."

Mr. Munro Ferguson (Leith Burghs), said, "the system had worked admirably in Scotland."

As to the fate of those smaller interests which must to protect themselves oppose at enormous and irrecoverable cost a Bill at Westminster, the Lord Advocate for Scotland stated in the House of Commons on the introduction of the Scotch Bill:—

"We are accustomed to see cases in which the smaller interests are simply bludgeoned by the great corporations such as the railways or municipal corporations; the way oppositions are treated is a great scandal."

This sort of thing no longer exists in Scotland. Why in the name of all that is rational or national should we in Ireland still be cumbered with it?

The promise of reform for Ireland used to turn up now and again in Queen's speeches, but always there was "no time for it," and Hibernia was told she would get it some other day. She is situate like Alice in *The Looking Glass*, hired by the White Queen at twopence a week, and jam every other day. The Government says to Ireland, as the Queen to Alice; "The rule is jam to-morrow and jam yesterday, but never jam to-day."

"It must come sometimes to jam to-day," Alice objected;

"No it can't," said the Queen. "Its jam every *other* day; to-day isn't any *other* day you know."

The following extracts from the latest Parliamentary return of Private Bill expenses issued (6th August, 1900, 344., I.), may throw some light on the question of high railway rates in Ireland, and partially explain their existence.

The return only deals with expenses incurred between the years 1892-1898, in promoting and opposing Private Bills in Parliament by Irish railway companies, it does not include the vastly greater expenses of the more recent G.S & W. and other Amalgamation Bills.

Donegal Railway—1892-'93-96	..	..	£10,863
Dublin Wicklow and Wexford—1892-1898	..	..	18,158
Great Northern of Ireland—1892-1898	..	..	11,026
Waterford and Central Ireland—1894-1898	..	..	3,864
Waterford, Dungarvan and Lismore—1897-1898	..	..	3,858

Total expenses of Irish Railway Companies incurred			
1892-1898	..	..	£75,450
Do. of Irish Tramway Companies	..	..	30,537

Since this paper was written, I have received by the courtesy of Mr. Thomas Jones of Glasgow University, lately appointed Barrington Lecturer, some valuable information on the working of the Scotch Act. Mr. Charteris of Glasgow of the firm of Charteris & Hill, writers, says: "The Act has effected a great saving in expense, and proceedings are conducted with great celerity. It is to be noted, in

regard to these points, that Lord Balfour of Burleigh, in September, 1900, stated to a deputation that the object of the fees under the Act was to pay expenses, and not to make a profit. Accordingly on March 25th, 1902, the fees of £15 for promoters and £5 for opponents, which were imposed by the original General Regulations of 1900 on an inquiry before Commissioners being directed were abolished.* The provisions of the Act, enjoining the Commissioners, when conducting a local inquiry, to sit from day to day, and not to adjourn without cause stated, naturally conduce to the despatch of business. The costs of the new procedure are undoubtedly much less than at Westminster. The House fees are saved, and the fees of Scotch counsel are much smaller than those of English parliamentary counsel. The only complaint I have heard is that the Commissioners are somewhat favourable to promoters, but there may not be anything in this. The constitution of the panel of Commissioners, as to which the critics of the Bill had most doubt, has proved in practice to be satisfactory. The Chairman of the Commissioners, on whom so much depends, has almost always been a strong as well as an able man, and has not allowed time to be wasted." The *Scottish Law Review* for February 1900, Vol. XVI (No. 182), p. 27, contains an admirable article on the Act, by the late Sheriff Vary Campbell, K.C., who for many years led, if he did not originate the agitation for this reform. In the *Judicial Review* for 1900 (published by Messrs. Green of Edinburgh), Vol. XII, p. 187, there is a note on the General Orders relative to the Act. In Vol. XIII., p. 88, there is a statistical note of the proceedings under the Act to date, and in Vol. XIV., p. 167, there is another note expressing the satisfaction of the legal profession with the working of the Act. A volume of the reports of proceedings under the Act has been published (Private Legislation (Scotland) Report I. (1901)). At pages 18 and 36 of this volume will be found two instances in which it was sought unsuccessfully by petitioners to exercise the power of appeal to a joint Committee of both Houses of Parliament, which section 9 of the Act allows to be taken in a proper case within seven days after the introduction of a Confirmation Bill into either Houses of Parliament. The discussion which took place in Parliament on the motion to refer the Bill to a joint Committee, is fully reported here. At p. 22 the Lord Advocate said that the procedure, as far as it had gone, had worked with extraordinary little friction and conspicuously well. Again at p. 24 he gave the following statistics as to the year (1901) "There were 31 provisional orders deposited in the Scottish Office, and of these, 6 and a portion of a 7th was, by the decision of the Chairman, left for the decision of the House. Of the 25 others retained for the new procedure, 3 were withdrawn, one had been refused by the Commissioners, and 11, including that one, had been inquired into locally, but of these 11 orders, in four cases the Confirmation Bills had been already read a third time in both Houses without any further inquiry, and a fifth had passed the stage at which further inquiry was possible. A second inquiry was possible in the case of five others but so far as they knew there was no probability of any further action being taken. Therefore, practically there had been only one case of appeal." This was the case of the Arizona Copper Company, Limited, Provisional Order. The second attempt to review the decision of the Commissioners came on in Parliament shortly after in the case of the Glasgow Corporation (Police) Provisional Order, and there motions were made in both Houses successively to refer the Bill to a Joint Committee. A table at the end of this volume gives a list of all the orders applied for in the session of 1901, and the procedure ordered thereon.

W. LAWSON.

* Statutory Rules and Orders 1900, No. 148; 1902, No. 254.