

might all, by care and forethought, be surmounted. The remedy is suggested by Lord Chancellor Selborne's Bill. Confusion and difficulty might be avoided if the existing Registry of Deeds, and the enlarged and more comprehensive Register or Record of Title, were both placed in the fullest sense under the control of one Board of Registry, on which the executive Government would be represented, and over which the Lord Chancellor would preside.

This cursory sketch of the more important passages of the Report may now conclude. On many points the Commissioners were not agreed; and not only the Report and the separate notes and statements of the Commissioners, but also the criticisms of Sir R. R. Torrens upon their work, must be studied by anyone who desires a deeper insight into the question.

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III.—*Report on the Application of the Principles recommended by the Judicature Commission to the Irish County Courts.* By Constantine Molloy, Esq., Barrister-at-Law.

[Read 27th January, 1874.]

SINCE the subject of this report was entrusted to me, the principles recommended by the Judicature Commission has received the sanction of the Legislature, and become the law; and the year that has just now closed will always form a memorable epoch in the legal history of the Empire, signalized as it has been by the accomplishment, in a single session of parliament, of one of the most beneficial legal reforms ever effected. The fusion of legal and equitable principles, the simplification of law, and the preference for equitable principles over ancient statutes and harsh rules secured for England by the Judicature Act of 1873, must produce an improvement in the administration of justice, the importance of which it would be difficult to over estimate.

In this great legal reform Ireland is not, as yet, entitled to participate. Her right, as an integral portion of the United Kingdom, to have extended to her every beneficial reform effected for the sister kingdom is unquestionable, and is especially so in whatever concerns the due administration of justice, and the prompt and efficacious enforcement of civil rights, so that the extension to this country of the great legal reform of 1873 may be regarded as a mere matter of time. Desirable as it is in the case of the superior courts, the importance and urgency of extending it to the inferior courts are still more manifest; for the humbler the suitor is, and the less aided he is by legal assistance in his dealings, the more necessary it is that he should be able to obtain full and complete justice in one court, and the greater is the benefit conferred when law is freed from unnecessary complications, and framed in accordance with principles of natural equity, which are intelligible to all.

In Scotland, when, in the middle of the eighteenth century, nearly

all the hereditary jurisdictions were abolished, it became necessary to substitute some powers of administering justice in each district, and, accordingly, a local tribunal, known as the Sheriff's Court, was established. This court has now civil jurisdiction of a very complete and extensive nature. It can entertain all questions relating to moveables, and all questions of possession, even although these may involve the consideration of titles to real property, and questions between landlord and tenant. Its jurisdiction also embraces admiralty questions, and those relating to wills and bankruptcy. In a word, it affords to all a ready, local, and complete remedy under forms which make it easy of access, economical, and satisfactory.

The Irish county court was first established by a statute of the Irish Parliament towards the close of the last century, long before a similar court was instituted for England; and from the first establishment of these local tribunals in Ireland and in England, various measures have been, from time to time, passed for their improvement; but although the Irish county court was first started, the English county court has been suffered to outstep in the race of improvement its Irish prototype. Unfavourable as the contrast at present is between the Irish and the English county courts, as means of administering justice, that contrast will become still more marked after the second of next November, when the time will arrive for applying to all matters within the cognizance of the English county court, the new and enlightened rules of law enacted by the Judicature Act of last session.

The English county court has power to try all actions of contract or tort, where the debt, whether on a balance or otherwise, or the damage claimed does not exceed £50, except actions of libel, slander, seduction, malicious prosecution, and breach of promise of marriage. It can also try any claim for the recovery of any demand not exceeding £50, which is the whole, or part of the unliquidated balance of a partnership account, or the amount of a distributive share under an intestacy, or of any legacy under a will. It has also jurisdiction in any action of ejectment on the title, where the value of the lands, or the rent payable in respect thereof, does not exceed £20 by the year; and also in any action in which the title to any corporeal or incorporeal hereditaments is in question, where neither the value of the lands, tenements, or hereditaments in dispute, nor the rent payable in respect thereof exceeds the sum of £20 by the year; and also in case of any easements or license, where neither the value or the reserved rent of the lands, tenements, or hereditaments, in respect of which the license or easement is claimed, or on, through, or over which such easement or license is claimed, exceeds £20 by the year.

In 1865 jurisdiction in equity was conferred on the English county court, and it was enabled to try suits in equity to the extent of £500. Its equitable jurisdiction is comprised under ten heads.

1. The administration of estates of testators and intestates.
2. The execution of trusts.
3. The foreclosure or redemption of, or enforcing, mortgages, charges, or liens.

4. The specific performance of, or reforming delivering up, or cancelling, agreements.
5. The relief of trustees.
6. Proceedings under the Trustee Act.
7. Proceedings relating to the maintenance or advancement of infants.
8. The dissolution of partnership.
9. Injunctions, and
10. Partition.

In the suits or matters within its equity jurisdiction, the county court has and can exercise all the powers and authority of the Court of Chancery.

While the English County Court was thus from time to time improved—its authority extended to classes of cases that were not originally within its province, while it was made a court of equity, with all the powers of the High Court of Chancery, and thus enabled to do full and complete justice between the parties in any matter within its jurisdiction—the Irish County Court has made but little advance in the way of improvement. True it is that the statute under which it is at present constituted declares that it shall be lawful for the Chairman “to hear and determine all disputes and differences between party and party for any sum, damages, or penalty not exceeding £40 sterling (slander, libel, breach of promise of marriage, and criminal conversation excepted), and for any unascertained and unpaid balance not exceeding £40 of a partnership account”; and also to decree payment of any pecuniary legacy not exceeding £20, payable out of any personal estate, whatever may be the amount of such personal estate, and also to decree the payment of any legacies or distributive shares, payable out of the assets of any deceased person, where the assets shall not exceed £200; and the chairman has also jurisdiction in ejectments between landlord, where the rent of the holding does not exceed £100; and in cases of ejectment on the title, his jurisdiction is confined to cases where the parties claim under a common title, and the rent of the lands sought to be recovered does not exceed £20 a-year, and are held under a yearly tenancy, or under a lease, the duration of which when originally granted did not exceed three lives, without any provision for the renewal thereof; or for a term of sixty-one years, and in respect of which no fine exceeding £20 shall appear on the face of such lease to have been paid on the granting or execution thereof. The statute, while it confers in these cases jurisdiction in ejectments on the title, declares expressly that in other cases the title to lands, tenements, and hereditaments shall not be drawn into question in any proceeding in the court.

It is unnecessary to enter into further detail for the purpose of contrasting the power and authority of the local courts in the three Kingdoms as tribunals for administering justice. The foregoing brief and necessarily incomplete summary is sufficient to show how far the Irish county court has been permitted to lag behind in the progress of improvement. Scarcely a sitting of the court is held in any part of the country at which one or more cases do not occur

where some suitor applies to the court for relief, to redress some wrong or enforce some right, and after expense, which to the humble suitor is considerable, has been incurred, and the time of the court has been, it may be for hours, occupied in ascertaining the exact nature of the matter in dispute, it is then discovered that all this expense, time, and trouble have been merely wasted—that the case is not within the jurisdiction, and the court is unable to enforce the right or redress the wrong.

The matter in dispute may be about an obstruction of a water-course or a right of way, or an interference with a right of turbary, or some one of those questions that commonly arise between the occupiers of small holdings ; but if the rent of the holdings in respect of which the dispute arises, or the value of the right disputed be great or small, once a question of title is found to be involved, the jurisdiction of the court is ousted, and the suitor learns, to his surprise, that the court is powerless to afford him redress, and that if he wishes to obtain it he must seek it in the superior court, where the matter will be decided, after delay and at an expense that will most probably be ruinous to one, if not to both of the litigants. Everyday experience shows what is frequently the result of the Irish county court not having jurisdiction to deal with this class of cases. Men of humble means, seeing the expense with which the defence of their rights is attended in the superior courts, will not have recourse to the law to vindicate them, but will either altogether abandon their right and submit to wrong, or they will seek to maintain them by a recourse to force ; and then, if a breach of the peace ensues, the same judge who explained to the parties that he was unable by law to determine the dispute out of which the breach of the peace arose, is the judge delegated to preside in the court which has full power to deal with the criminal part of the case. The trial of this part of the case is conducted at the public expense ; and although the breach of the peace is dealt with, yet the civil question out of which it arose is left in exactly the same position as before, or, it may be, in a worse position—for if the man whose right is unjustly invaded happens not to be a man of cool temper, able to restrain himself under the infliction of wrong, advantage may be taken of this by the wrong-doer to provoke him, and so get him involved in a breach of the peace, and then have him punished, it may be by imprisonment ; and when this happens, things not unfrequently go from bad to worse ; evil passions are aroused, and what was originally a dispute about some small matter, sometimes ends in the perpetration of a fearful crime.

Where the question in dispute is too small to bear the cost and delay of a resort to the superior courts, justice and sound policy alike require that jurisdiction in such cases should be conferred on the local court. In such cases, resort is seldom had to the superior courts ; parties are deterred by the expense, and, as already observed, rights are either abandoned or attempted to be maintained by force ; and one of the most salutary reforms that can be effected for the benefit of the humbler classes of the community is to confer on the Irish county court the same power which the English county court

now possesses—of hearing and determining disputes where small questions of title are involved.

Even before the Judicature Act of 1873 gave effect to the principles recommended by the Judicature Commissioners in their Reports, the English county courts, as has been already shown, were far in advance of the Irish. But the Judicature Act of 1873 does not confine the application of those enlightened principles to the superior courts, but at once extends them to every court.

The 91st section of the statute declares that “The several rules of law enacted and declared by this act shall be in force and receive effect in all courts whatsoever in England, so far as the matters to which such rules relate shall be respectively cognizable by such courts;” and the 89th enacts that “Every inferior court which now has, or which may, after the passing of this act, have jurisdiction in equity or at law, and in equity and in admiralty respectively, shall, as regards all causes of action within its jurisdiction for the time being, have power to grant, and shall grant in any proceeding before such court such relief, redress, or remedy, or combination of remedies, either absolute or conditional, and shall in every such proceeding give such and the like effect to every ground of defence or counter claim, equitable or legal, in as full and ample a manner as might and ought to be done in the like case by the high court of justice.”

The rules of law declared by the Judicature Act are contained in the 24th and 25th sections of the statute, and may be thus briefly stated, viz. : That law and equity shall be concurrently administered, and that whenever there is any conflict or variance between the rules of equity and the rules of the common law, with reference to the same matter, the rules of equity shall prevail.

The English law was introduced into Ireland, and courts of justice in conformity with the laws of England were established, as early as the reign of King John—upwards of 650 years ago; and close upon three centuries afterwards all the then existing statute law of England was extended to Ireland by Poyning’s Act; and in 1782, when the Irish parliament asserted its legislative independence and repealed Poyning’s Act, the Irish parliament, in passing the statute known as Yelverton’s Act, recorded its opinion on the question of the assimilation of the laws of the two countries. The preamble to Yelverton’s Act recites that “a similarity of laws, measures, and customs must necessarily conduce to strengthen and perpetuate that affection and harmony which do and at all times ought to subsist between the people of Great Britain and Ireland,” and accordingly, by that statute, in pursuance of the policy of assimilating the laws of the two countries, the provisions of a considerable portion of the statute law of England were extended to Ireland.

In 1862 the English and Irish Law and Chancery Commission was appointed, consisting of Lord Romilly, Lord Carnes, Lord O’Hagan, Lord Selborne, Chief Justice Monahan, Sir Joseph Napier, Mr. Justice Lawson and others, upon the question of assimilating the details of Irish and English law. The Commissioners, after noting the fact that the practice and procedure in equity of the two

countries, which were originally similar, had by modern legislation become almost entirely different, and that this difference had been caused by separate attempts at carrying out Chancery reform in each of the two countries, expressed the unanimous opinion that "it was of paramount importance to restore and preserve, as far as possible, a uniformity of system in the equity jurisprudence of the two countries," and that "the practice and procedure of the superior courts of common law in England and Ireland should, as far as practicable, be assimilated."

Parliament, so far as the courts of equity were concerned, adopted the opinion of the Commissioners, by passing the Irish Chancery Act of 1867; and bills were brought in by successive law officers to carry out the assimilation of the practice and procedure of the courts of common law, which were finally postponed for the report of the Judicature Commission.

When the Judicature Act declares that certain enlightened and just rules shall be observed for the future as part of the law of England, in every court whatsoever in England, it is of paramount importance that the same salutary principles should be extended to this country, and in like manner be observed in every court whatsoever in Ireland. Thus will be best carried out that policy of assimilating the laws of the two countries, which was originated centuries ago, in the reign of King John—sanctioned and acted upon by the Irish parliament, and approved of by the high authority of the Commissioners already referred to.

While the Irish County Court possesses the public confidence, nevertheless, year after year, the demand for its improvement is becoming more urgent, as the defect in its power to decide completely various questions that arise, in cases where some humble suitors seek its intervention, becomes more manifest. The Irish Land Act has brought under legal cognizance tenant interests of great value. Formerly claims arising out of such interests, and disputes between small tenants about rights of way, turbary, fences, and other matters—fruitful sources of contention between neighbours, and which the Irish County Court has not jurisdiction to hear and determine—were settled by the agent and landlord, who exercised in such cases a species of unauthorized, but yet beneficial, jurisdiction. Their interference was quite optional. In some cases they declined to interfere; while in others, by their kindly interference, bitter disputes were settled, and injustice in many instances prevented. But all this is now changed, with the altered position of the parties, consequent on the passing of the Land Act. Landlords and agents will be very slow to interfere in disputes between tenant and tenant, but will rather leave such matters to be settled as best they can by the tribunals of the country; and hence it has latterly become a matter of paramount importance and urgency that the Irish County Court should now be enabled to deal with cases of this kind, which, owing to the smallness of the interest involved, are but very rarely submitted to the superior courts, as they cannot bear the expense of a recourse to the latter courts.

While the Land Act recognizes the necessity of a guardian *ad litem*

being appointed in the cases of idiots, lunatics, and minors, it only provides for the appointment of such guardians for the purpose of any proceedings under that act; but the permanent protection of the interest of tenants under leases and tenant-right usages requires a cheap machinery for appointing guardians of idiots, lunatics, and minors, and for making such guardians account.

In 1870, Mr. Henry Dix Hutton, in his *Report on Admiralty Jurisdiction*, read before the Society, called attention to complaints made by foreign traders, that while the Court of Admiralty in Ireland possessed jurisdiction to proceed against the masters of ships at the suit of merchants employing their vessels, it had no corresponding power of entertaining complaints by captains in respect of freight and demurrage—a state of things which caused delay, involving hardship, and not unfrequently a practical denial of justice. Strong representations on this unsatisfactory state of the law were made by some of the foreign consuls resident in Dublin, to the Commissioners appointed to inquire into the High Court of Admiralty in Ireland, who sat in 1864; and while the Commissioners, in their report, state that they do not think it expedient to extend the jurisdiction of the Admiralty Court to cases of freight and demurrage, because the effect would be to give to the Irish court a wider jurisdiction than that possessed by the English admiralty court, they are, at the same time, of opinion that the object should be to assimilate the jurisdiction of both courts, and that if such a jurisdiction were given to the English court, a corresponding jurisdiction should be also given to the Irish court.

Following out the recommendations of the Commissioners in favor of assimilating the law of both countries as to admiralty jurisdiction, the Court of Admiralty (Ireland) Act of 1867 was passed, assimilating the Irish to the English jurisdiction: but it did not make any provision for trying cases of demurrage or freight.

By this act of 1867 the Lord Lieutenant was empowered by order in Council to confer a limited jurisdiction in admiralty cases on the Irish local courts; but this power has not as yet been exercised. In 1868 the English County Courts' Admiralty Jurisdiction Act was passed, enabling her Majesty in Council to confer a limited admiralty jurisdiction upon the English county courts; and both in 1868 and 1869 orders in council were issued, conferring this admiralty jurisdiction upon thirty-six of the English county courts. The English act of 1868 did not provide for cases of freight and demurrage; but in 1869 this omission was supplied by the statute 32 & 33 Vic. c. 51, which conferred in those cases a limited admiralty jurisdiction upon the English county courts. It is to be regretted that the policy of assimilation recommended by the Admiralty Commissioners in 1864, carried out by the Admiralty Act of 1867, was not acted upon in 1868 and 1869, when the English county courts obtained their limited admiralty jurisdiction, and the Irish county court thereby enabled to afford the same redress to the foreign trader as he would be able to obtain in an English port, if business had brought his vessel to that country instead of to Ireland.

Under the English Bankruptcy Act of 1867 the county courts in

England have a bankruptcy jurisdiction. The Irish county courts, up to 1873, had jurisdiction in insolvency; but that jurisdiction, except as to pending matters, ceased on the 1st January, 1873, when the Irish Bankruptcy Amendment Act, 1872, came into operation. And even no matter how small the value of the bankrupt estate may happen to be, the Irish county court has no jurisdiction in bankruptcy unless in cases which, after being proceeded with to a certain extent in the Court of Bankruptcy, are then remitted to the county court, to be there dealt with, and after being so dealt with, there is a right of appeal back to the court of bankruptcy. A great boon would be conferred both on small debtors and those who may have dealings with them, by conferring directly upon the Irish county court a limited jurisdiction in bankruptcy.

Sufficient, I think, has now been said to indicate how defective the Irish county court is as a means for administering ready and efficacious justice between parties of humble means, and how much this tribunal requires in small cases that complete and effective jurisdiction possessed by the corresponding tribunal in the sister kingdom. Many legal reforms from time to time, usually applied to the English county court, have rendered that tribunal what it now is; but these reforms have not been applied to the Irish tribunal, and hence it is that the Irish county court, originally established to supply a great public requirement, has been suffered to fall behind in the progress of improvement. This is much to be regretted on many grounds. To repeat what I said four years ago, when bringing the subject of the Irish county court under the notice of this Society: "The cause of law and government in Ireland has suffered great loss of prestige from the delay that has occurred in the extension to Ireland of the most obvious reforms, till long after they have been introduced in England; and one of the most effectual means of restoring that prestige and imparting confidence in the law, would be found in the prompt carrying out of practical legal reforms in which large, and especially the humbler, classes of the people are deeply interested."

The suggested improvement of the county court raises questions that concern the constitution of the court; 1st, as regards the judge, and 2nd, as regards the chief administrative officer of the court.

Upon the first of these questions it is right to bear in mind that the institution of the county courts in Ireland was borrowed from Scotland, where, upwards of a century and a half ago, analogous tribunals were established. The Scotch court is presided over by a lawyer, whose official name as sheriff is likely to mislead in Ireland, and cause him to be confounded with the officer in this country who bears that title. The Scotch sheriff is the judge of what may be called the Scotch county court. He has both a civil and criminal jurisdiction; but in trying criminal cases he has not any of the justices of the peace associated with him. He alone is the judge of the court; just like the case of a recorder of a borough in this country.

It has been suggested that with the proposed improvement of the Irish county court it will be necessary and desirable to prohibit the



Irish county court judges from practising, and also to oblige them to reside in their counties. In that suggestion I cannot agree; for I fail to perceive the necessity or expediency of making in the constitution of the Irish county court so great a change. In my humble judgment such an alteration will not tend to promote the efficiency of the tribunal or secure it public confidence; but may, on the contrary, be attended, I greatly fear, with results the reverse of beneficial.

The same suggestion has been from time to time made as regards the Scotch county court; and I beg to call attention to this fact, not merely because it fortifies the opinion which I have expressed, but especially because it shows how the proposed alteration in the constitution of the Scotch court was regarded and dealt with in the case of a people who are so keenly alike to their true interests, and who know how so well to promote them.

The Commissioners appointed to inquire into the courts of law in Scotland had amongst them such men as Lord Colinsay, Lord Selborne, Lord Moncreiff, the late Mr Justice Willes, the present Lord Advocate, the Lord Advocate of Mr Disraeli's administration, and Mr. Selater Booth. In their fourth report, made in 1870, these Commissioners, when dealing with the subject of the proposed changes in the constitution of the sheriff's court, say:

"The most important general question in regard to the constitution of these courts which we had to consider, was a proposal, by no means new, to prohibit the sheriff from practising before the supreme court; to compel him to reside in his county. On this and other proposed changes there was submitted to us a very large body of evidence, which we have considered very anxiously, along with the views of the Law Commission, presided over by Sir Ilay Campbell, which reported in 1818, and also the report of the Law Commission in 1834. That report, which is signed by very eminent names, including Professor G. J. Bell, Andrew Skene, Robert Jameson, Andrew Rutherford, and Adam Anderson, very elaborately discussed this question, and stated the result of their opinion in the following terms:

"Upon this subject it has been strongly pressed upon us that if resident sheriffs were appointed in all the larger and more populous counties, and if the other districts were enlarged so as to afford full employment to the principal sheriffs, a salary might be attached to the office sufficient to induce men in high practice and repute at the bar to accept of the situation. But after much consideration we are unanimously of opinion that this change would be highly prejudicial to the administration of the law in the local courts."

When giving the grounds of their unanimous opinion, the Commissioners of 1818 remarked:

"There is great risk of evil in the provincial residence of a judge, even when persons can be obtained confessedly competent to discharge the duties. An individual in that situation is exposed to all the influences, attachments, prejudices, and local feelings disadvantageous to his character and authority, and even if he be supposed free from the operation of such bad influence, the mere circumstance that he has already reached the summit of his ambition, will tend to

diminish his industry and utility as a judge ; while his remote and insulated situation excludes the salutary and counteracting effect of public opinion, by which the exertions of those who fill the highest judicial stations are animated and controlled."

"Nor is this mere speculation. We have ascertained it to be a matter of fact that, notwithstanding the well known talent and integrity of the Sheriff Substitute, there is in Scotland a strong feeling of confidence in the decision of a judge who is remote from all local influences ; and, independently of any superior qualifications for the office, the mere circumstance that the principal sheriff is not resident in the county is considered both by litigants and practitioners as a practical advantage."

"Many of the witnesses examined by us concur in this opinion , but if the feeling thus expressed is less marked than it was in 1834, it must be recollected that our predecessors reported under circumstances to which the act of 1838 has practically put an end. At that time the practitioners and the public had witnessed before them the evils of an uncontrolled resident sheriff"

The Commissioners of 1834 thus state the conclusion at which they had arrived :

"We are decidedly of opinion, therefore, that such a change in the existing system of the local jurisdiction in Scotland is not only uncalled for, and unlikely to afford any solid advantage which we do not at present possess, but that it would be attended with the most injurious consequences to the administration of justice in our local courts."

Following on this report of the Commissioners of 1834, the statute of 1 & 2 Vic. c. 17, was passed in 1838. It contains the following provision in clause 3 : "Every person who shall be hereafter appointed to the office of sheriff's depute shall be an advocate of three years' standing, at least, and shall have been at the time of his appointment in practice before, and in political attendance upon the court of session, or acting as sheriff's substitute ; and after such appointment every such sheriff, with the exception of the sheriffs of the counties of Edinburgh and Lanark, shall be in habitual attendance upon the said court of session during the sitting thereof."

In 1853 the bill for the act of that year, which at present regulates the procedure in the sheriff's court, was submitted to a select committee of the House of Commons , and this question in regard to the residence of the sheriff in his county was very fully brought before them, and it was resolved to adhere to the present constitution of those courts.

"We (the Commissioners of 1870) see no reason for disturbing the system thus deliberately and repeatedly approved of. The evidence before us proves that, as regards the functions of the judges, these courts are in thorough working order. Not a trace of the evils alluded to in the Report of 1834 is to be found in the testimony of the witnesses we have examined. So complete, although imperceptible and silent, has been the executive control of the sheriffs, that the community have forgotten that there ever was a time when a resident sheriff was suspected of local partialty."

It will be thus seen that the suggestion of making the county court judges reside in their counties, and cease practising before the superior courts, has been repeatedly considered, as regards Scotland, by the eminent men who formed the commissions of 1818 and of 1834, by the legislature itself in 1838, when the 1st and 2nd of the Queen was passed; again, in 1853, by a select committee of the House of Commons, when the statute which at present regulates the procedure of the Scotch county court was passed, and finally by the Commissioners of 1870. And on each of these occasions we see that the suggestion was strongly disapproved of.

For the proper and effective carrying out of the administrative duties that will arise when jurisdiction in equity is conferred on the Irish county courts, the judge will require and should have the assistance of an efficient and competent officer to assist him in discharging these duties. To secure this object it will not be necessary to create any new office. It will be only requisite to apply to the office of clerk of the peace the same principles for the regulation of the office as exist in England. In this country the clerk of the peace is registrar by statute of the county court (14 & 15 Vic., c. 57, s. 10). In England the patronage of those who appoint to the office of registrar of the county court is restricted by an act passed in 1846, by which the registrar of the county court is required to be an attorney of one of the superior courts, and be approved of by the Lord Chancellor. The registrar in England is not enabled to appoint a deputy, except in cases of illness or unavoidable absence—and then only an attorney approved of by the judge. Had a similar restriction been adopted in 1851, when the present Irish County Court Act (the Civil Bill Act) was passed, the majority of the present clerks of the peace would all be qualified as the corresponding officers are in England. It is unnecessary to disturb the existing patronage; it is only necessary to restrict it as in England.

The office of clerk of the crown has been long since recommended to be consolidated with that of clerk of the peace. From the diminution of crime in Ireland, and the large amount of criminal business disposed of at the quarter sessions, the duties of clerk of the crown have been very considerably lessened from what they were formerly. As the clerks of the crown and of the peace are each of them required to keep an office open every day in the county town, there would be a great economy in having only one office, and the consolidation of the two offices would enable the new officer to have an effective assistant to attend in his office, or assist him, when the clerk of the crown and peace would be elsewhere employed, or engaged in one or other of the courts at the assizes.

Both the clerk of the crown and the clerk of the peace are paid upon a most complicated system. By some statutes they were allowed expenses only; by others they were allowed both expenses and remuneration; some duties are covered by salary, and others are paid for by fees—the latter being of a most complicated nature under numerous statutes. This should all be terminated by the fees being converted into stamps, as has been done in the case of the petty sessions' clerks. The stamps should be under the regulation of the

Registrar of Petty Sessions Clerks, who should thenceforward be called the Registrar of Local Court Officers—all cases where expenses have been allowed to clerks of the peace, being provided for out of the stamps, and the balance handed over in aid of local rates, upon which salaries and superannuations are charged. This regulation of the office would enable the principle of superannuation, already applied to other county officers, to be extended to clerks of the peace. The consolidation of the offices of clerk of the crown and clerk of the peace would be accelerated by extending to these cases the principle of superannuation applied in 1866 to the case of county treasurers, in order to facilitate the transfer of their duties to the county banks and secretaries of grand juries.

The report of 1870, already referred to, upon the Scotch court, contains a valuable suggestion for consolidating the office of clerk of the commissary court and that of the registrar of the Scotch county court. The clerkship of the commissary court is an office corresponding with our district registrarship of the Probate court. In order to make the consolidation of the offices of clerk of the peace and clerk of the crown as effective as possible, and also to secure an adequate salary, without creating unnecessary charges upon the taxpayers, and, further, to provide for more local means of proving wills and obtaining administration in the cases within the jurisdiction of the county court, I would suggest that whenever the office of a district registrar under the Probate court should become vacant, the duties of the office should thenceforward be transferred to and discharged by the clerks of the peace in each of the counties included in such district.

In order to effect the improvement of the Irish county courts above recommended, I beg to submit the following summary, or heads of suggestions :—

1. That the Irish county courts should have, as in England, jurisdiction in any case where the title to any land, hereditament, easement, or license is in question, provided the value or rent of the land or hereditament in dispute, or affected by the easement or license, does not exceed £20.
2. That the Irish county court should have complete jurisdiction in all cases in Equity, limited in value and amount to the same extent as its probate jurisdiction is now limited—viz, where personalty is affected up to £200, and so far as realty is affected up to £300.
3. That the county courts of Meath, Kildare, Wicklow, and Dublin should have the same jurisdiction in probate cases as the other county courts in Ireland.
4. That whenever the office of district registrar becomes vacant, the duties of such office in each county within the district should thenceforward be performed by the clerk of the peace.
5. That the clerk of the peace in the counties of Meath, Kildare, Wicklow, and Dublin, respectively, should perform the duties of a district registrar for those counties.
6. That the Irish county courts in all maritime counties should have the same jurisdiction in cases of freight and demurrage and admiralty cases, as the English county court has.

7. That the Irish county court should have jurisdiction in bankruptcy to the same limit as it now has in cases of wills already referred to.
  8. That the rules of law for fusing law and equity, and for giving preference to equitable principles, and all the rules of law enacted and declared by the Judicature Act, 1873, should be in force and have effect in the Irish county court, so far as the matters to which such rules relate shall be respectively cognizable by such court, to the same extent as such rules will, after the 2nd November, 1874, be in force and receive effect in the English county courts.
  9. That the power of appointing to the office of clerk of the peace should continue as at present, but subject to the same restriction as in England, so that every future clerk of the peace shall be a solicitor approved of by the Lord Chancellor, or one of the existing deputies who has discharged the duties of his office to the satisfaction of the county court judge.
  10. That the right of appointing a deputy by any future clerk of the peace should, as in England, be limited to cases of illness or unavoidable absence, and to a person who may be qualified to be a clerk of the peace, and approved of by the judge.  
That all fees received by the clerk of the peace should be converted into stamps, and be accounted for with the Registrar of Petty Sessions Clerks, to be thenceforward called the Registrar of Local Officers, and the surplus, after payment of salaries, to be applied in relief of the local taxes
  12. That the salaries of all future clerks of the peace, and of such existing clerks of the peace as submit their emoluments to regulation, shall be fixed by the Lord Lieutenant, who shall also have power to apply the rules of the General Superannuation Act to their superannuation.
  13. That in any county where, from its size or other cause, the Lord Lieutenant shall approve of an assistant to the clerk of the peace being employed, the salary and superannuation of such assistant shall be subject to the like regulation; and an assistant shall be provided in every case where the offices of clerk of the crown and clerk of the peace are consolidated.
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