

II — *Report of the Council at the opening of the Twenty-Fifth Session.*

[Read 21st November, 1871.]

At the last annual meeting of the Society reference was made to the Land Act as an important application to the solution of Irish difficulties of principles of social science which had long been advocated in this Society.

On the present occasion the Council have much pleasure in referring to three very large and important measures of law reform, which received the sanction of the Legislature in the past session of parliament, upon subjects to which the attention of this Society had long been specially directed—namely, the amendment and consolidation of the Jury Laws, the better Protection of Lunatics, and improvement of Town Government.

The jury laws in Ireland have been in a most unsatisfactory state for many years, and the subject was brought before the Society by Mr. Houston in 1861, and by Mr. Constantine Molloy and Professor O'Shaughnessy in 1865. Mr. Molloy directed attention to the urgent necessity there was for reform, from the large number of illegal qualifications on the lists of some counties, and the dearth of jurors in other counties, where the lists were revised in accordance with the law. The evil to which he directed attention reached such a height in 1870, that, as appears from the Judicial and Criminal Statistics, out of 43,705 jurors on the revised lists of counties at large, no less than 4,985 had illegal qualifications returned on the face of the lists; and in counties of cities and towns, out of 11,297 jurors, the illegal qualifications were 5,599.

Lord O'Hagan, our late President, has dealt with this great and pressing evil, and has succeeded in passing through the legislature a measure which will put an end to all exclusion from the jury box, of persons entitled in point of value for want of tenure, and will also terminate the discretion of the sheriff in selecting and arranging the panel, and so tend to secure an equal distribution of duty amongst those qualified to serve.

The necessity of this great reform was admitted by the leaders of both political parties so far back as 1854, when a jury bill was introduced by Chief Justice Whiteside, Mr. Napier, and Earl Mayo; and subsequently in same year, another bill by Lord Lisgar (then Sir John Young) and Mr. Justice Keogh. Subsequent law officers were also parties to subsequent bills—Mr. Justice Fitzgerald, Mr. Justice Lawson, the Master of the Rolls, and Judge Warren—so that in all nine bills had been before the legislature between 1854 and 1870. It is a matter of satisfaction that Lord O'Hagan has, by the Juries' (Ireland) Act, 1871, brought to a successful termination a subject which has been so long before the legislature.

A second important law reform was also introduced by Lord O'Hagan, and the Lunacy (Ireland) Regulation Act received the royal assent at an early period of the session. The jurisdiction in lunacy in Ireland, exercised under the sign manual of the Crown,

had for centuries been the same in Ireland as in England; but in consequence of the intervention of parliament in 1853, and again in 1862, introducing reforms which were limited to England and Wales, Her Majesty's delegate in Lunacy in Ireland had not the same powers and facilities for protecting the property and persons of lunatics as the delegates of the Crown had in England.

By Lord O'Hagan's act this state of affairs has been terminated, and Ireland, after having been left by Parliament behind in this reform, has been now restored to her fitting place. Indeed, in extending the protection of the Crown to the property of persons of weak mind not actually insane, the Irish law is now in advance of the English law.

The value of these measures is not to be estimated alone by the importance of the subjects with which they deal, but they afford encouragement by showing that it wants only zeal and ability well directed, for Irish statesmen to secure what is wanted in social and legal reforms.

His lordship introduced and carried two other measures of law reform—one carrying out the recommendations of the Law and Chancery Commissioners for reforming the office of Registrar of Judgments, and reducing the searches by purchasers for crown debts from twenty years to five the same period as for other charges—thus facilitating the transfer of land; the other, for extending the power of the Commissioners of Charitable Donations and Bequests, in enforcing, protecting, and facilitating the application of charities.

The third great measure of law reform adopted by the legislature was upon a subject that has long occupied the attention of this Society—the improvement of the town government of Ireland. The act on this subject was founded upon a bill introduced by the Marquis of Hartington and the Solicitor General. The various statutes under which towns are governed in Ireland have been all derived from corresponding legislative provisions for towns in England and Wales. But Irish Statute Law upon this, as on so many other matters, had been allowed to lag behind.

Thus facilities for obtaining increased powers of governing towns without the expense of private acts of parliament, costing, as in the Newry case last session, £7000, to authorize an expenditure of £21,000, had been granted to England in 1858, and to Scotland in 1862, but were only extended to Ireland in 1871 by the Marquis of Hartington's act.

The state of town law in Ireland was brought before this Society by Mr. John Hancock, Chairman of the Lurgan Town Commissioners, so far back as 1865 and again in 1869; his second paper being a continuation of a paper he had read on the same subject at the Social Science Congress of 1867.

The subject of Private Bill Legislation was brought before the Society by Mr. George Orme Malley, Q.C., in 1869, and by Mr. Heron, M.P., in 1870. Mr. Heron embodied the views contained in his paper in a bill which he introduced to the legislature, and the Marquis of Hartington's act carries out part of the objects of Mr. Heron's bill. It, however, deals with other important parts of

the town government question besides the extension of powers by provisional order, to which Mr. Heron directed special attention. It contains provisions as to markets, audit of accounts, trial of controverted elections, town borrowing powers, and appeals against rating. It also extends to Ireland the public health legislation since 1866, and so completes the assimilation of the legislation in Ireland and England and Wales on this important subject, which had been carried out up to 1866 by the Sanitary Act of that year.

In addition to these measures which received the royal assent, the Solicitor-General and the Marquis of Hartington introduced two important measures of law reform upon subjects which the Council referred to in their last annual report—one for the abolition of imprisonment for debt, and the other for the amendment of the bankruptcy laws.

The present Irish law upon these subjects is similar to that which was in operation in England and Wales in 1857; since that time the English bankruptcy law has undergone two reforms, neither of which have been extended to Ireland.

Upon such an important principle of jurisprudence affecting personal liberty as the abolition of imprisonment for debt, it is of great importance upon constitutional grounds that there should be no diversity of law in different parts of the United Kingdom, and from the great commercial intercourse between Ireland and England, it is a matter of obvious convenience to have the same bankruptcy law in both countries.

In our last annual report we mentioned the bill which the Solicitor-General introduced at the end of 1870, for the expurgation of the Statute Book of ancient statutes which were obsolete or no longer applicable. In the past session this bill was not re-introduced, and on this branch of jurisprudence Irish law is now far behind the corresponding parts of English law.

In England an expurgated edition of statutes in two volumes down to the 10th of King George III., 1770, has been published. The statutes of the Irish parliament down to the same period have not been expurgated, and are contained in five volumes.

The acts of the English parliament passed before 1495, which were extended to Ireland by the act of the Irish parliament called Poyning's Law, are properly, so far as Ireland is concerned, treated in consequence of such extension by the Irish Parliament as ante-union acts of the Irish parliament. The chronological index recently published of the statutes omits the Irish and Scotch ante-union statutes, and omits these ante-Poyning acts as affecting Ireland, and treats them as not in force if they have ceased to be in force in England, without reference to the question whether they are still in force in Ireland or have been repealed, as regards Ireland, by acts of the parliament of Ireland. In the expurgated edition recently published of the English statutes these ante-Poyning acts have been omitted if repealed for England. So that while the statute law affecting England, which dates prior to 1770, can be found in two convenient volumes, the Irish law for the same period is spread over seven volumes—five of acts of the Irish parliament, and two

of ante-Poyning acts of the English Parliament. For the examinations of these seven volumes of Statute Law affecting Ireland, there is no index worked out on the plan of the English chronological index of 1870

The passing of the Church Act has cleared the Irish statute book of all ecclesiastical statutes. The passing of the Land Act has introduced a new standpoint from which the numerous statutes relating to land may be advantageously reviewed, so that the time is most opportune for an expurgation and consolidation of the statute law of Ireland. The success which has attended the codification of the laws applicable to India, and the codification of the laws of New York, and the favourable reception given to the propositions that have been made for a digest and code of English law, render it of the utmost importance that the expurgation of the Irish statutes should proceed at the same rate as the corresponding work in England, and that all those parts of Irish law which are distinct from the English law should be as promptly as possible reduced to a consolidated statute or code. If this were done, those parts of the law which rest on the different circumstances of the two countries would be clearly understood, and those which are accidentally variations of the same principles, arising from the different periods of legislation or from the language of different draughtsmen, would be got rid of, by the Irish law being extended to England, or the English law to Ireland, and so for all the ordinary relations and purposes of life there would be the same law in both parts of the United Kingdom. If this were done the understanding and interpretation of the law would be simplified, and the time of the legislature for all future legislation greatly saved.

During the past session the Council availed themselves of the opportunity of the Right Hon. W. Monsell, M.P., one of their body, being appointed to the position of Postmaster-General, to bring under his notice an improvement in his department in which the poorer classes in Ireland are much interested—the extension of the money order system to remittances between this country and the United States of America—so important to facilitate and protect the remittances of emigrants to their friends. Mr. Monsell at once took the most active interest in the matter, and was fortunate enough to bring the negotiations on the subject to a successful issue, and since the commencement of October last the system of international money orders exists between the United Kingdom and the United States.

The agitation of this question commenced some seven years since, and was instrumental in introducing money order offices into the United States, and such is the rapid growth of institutions there, that in that short period 2,455 offices have been established, and from 570 of these it is possible (since the treaty Mr. Monsell concluded has come into operation) to receive direct at any money order office in Ireland a remittance from an Irish emigrant without any risk of commercial or bank failure.

During the past year courses of Barrington Lectures on Social Science were delivered by Mr. Robert Donnell at Portadown, Ballymoney, Belfast, Galway, and Dublin; and by Mr. William Mulhol-

land at Cork, Roscrea, Limerick, and Dublin. From the attendance at the provincial lectures the Council have every reason to be satisfied with the change in name and scope of the lectures from "political economy" to "social science." They re-appointed the lecturers for another year.

In connection with the teaching of economic science, an important step has been taken in Scotland during the past year. The Merchant Company of Edinburgh, which had large endowments for education, hitherto applied in supporting boarding schools for free scholars (there called hospitals), obtained an act of parliament for boarding the children out, and opening these endowments to day scholars; they have retained a higher class of masters, and to secure a higher training for the ablest pupils, they have founded a chair, with an endowment of £450 a year, besides fees in the University of Edinburgh for commerce, economics, and mercantile law. To this chair, Dr. Hodgson, a distinguished economist, who has long been a corresponding member of this Society, has been elected, and thus the University where Adam Smith received his first instruction and first lectured, has taken an important step for extending the teaching of economic science, by applying it to secure higher education for those engaged in the direction and management of capital.

It remains to notice the papers read during the session. Mr. Ross, at the request of the Council, read a paper on "The Prison Association of New York, and the State of Prison Discipline in the United States," and Mr. Adam Duffin read a cognate paper on "The System of Prison Discipline in Ireland." The prison reformers of the United States have made arrangements to secure an international congress in London next summer upon this subject, and Dr. Wines, a distinguished American philanthropist, recently visited this country while on his mission from the American government, to make arrangements for the congress. It is a matter of importance that some steps should be taken to have Ireland represented at the congress, and some account of what has been achieved by the Irish Prison system, and by Reformatory and Industrial Schools in Ireland brought forward.

Mr. William John Hancock gave an account of the calculating machine of the celebrated Mr. Babbage (since deceased), the Swedish machine of M. M. Scheutz, and the French machine of M. Thomas de Colmar. This has led to increased attention to the French machine which has been found most valuable in practical use.

Dr. Hancock read a paper on the anomalies connected with the diversities of the laws of Chargeability and Poor Removal in the different parts of the United Kingdom. This subject had been brought before the legislature by Mr. Maguire and Mr. Downing, and Mr. Stansfield, the President of the Local Government Board in England, has promised an inter-departmental inquiry into the whole subject, with a view to legislation next session.

Mr. George Orme Malley read a paper "On the Expediency of the Total Abolition of Grand Juries in Ireland;" and Dr. Hancock read a paper "On the Grand Jury Question in Ireland, considered with reference to the latest English Analogues."

The amendment of the local government of counties, is obviously a complement to the improved legislation for the government of towns. The English Bill for the amending the government of counties in England was postponed, and the settlement of the question there will facilitate the solution of this important branch of Irish Local Government.

At no former period of the Society's history had the Council to report the same progress in the adoption by the Legislature of views that had been advocated in this Society as during the past two years, and they feel that this progress ought to be a great encouragement to members, to exert themselves with still more zeal in applying social science to the numerous Irish questions which require to be dealt with to secure that our progress shall be equal to the rest of the United Kingdom.

III.—*On the Landlord and Tenant (Ireland) Act, 1870.* By D. C. Heron, Q. C. M. P.

[Read Friday, 22nd December, 1871].

I DESIRE in the present paper to give a short sketch of the several Bills which were introduced into Parliament in reference to the Irish Land Question, in order to compare the Act of 1870 with the attempts at previous legislation. I desire, also, to exhibit the practical working of the Act during the brief time it has been in operation.

The land question of Ireland was before the House of Commons from the year 1835. In that year, Mr. Sharman Crawford and Mr. M'Cance brought in a bill which applied only to tenants holding a lease or an agreement for a lease, and provided that on ejection for non-payment of rent or on the determination of the lease, the tenant was to get a certain number of years' purchase of a proportion of the increased rent produced by the tenant's improvements in the soil, or by buildings suitable to the holdings. The amount was to be fixed by arbitrators or by the county court, or at the assizes.

In 1836, Mr. Sharman Crawford and Mr. Shiel introduced a bill, which was not confined to leaseholds but extended to all tenancies. The greater part of Ireland had been held under forty-shilling freeholds. This franchise was for many reasons abolished on the passing of the Emancipation Act of 1829, and it was now perceived that the greater part of the land of Ireland would ultimately be held by tenants from year to year. Mr. Sharman Crawford introduced another bill in 1843, and a third and more important bill in 1845. The bill of 1845 was introduced after the Land Occupation Report. The bill of 1845 contained many meritorious provisions. The claim for compensation on behalf of the tenant was to arise on demand of possession, on the expiration of the tenancy, on the service of a notice to quit, on the demand of an increased rent by the landlord, and on the service of process of ejection. The claim was to be made in