II.—*The Recommendations of the Land Transfer Commission of 1869, considered with especial reference to their applicability to Transfer of Land in Ireland.* By R. Denny Urlin, M.R.I.A., Barrister-at-Law.

[Read Tuesday, 16th December, 1873.]

One of the last letters written by Richard Cobden contains these remarkable words:

> "The Land Question has a wider bearing than has yet been given it in our public discussions; and it will not be seriously entertained by the people until it has been presented in its full significance."

If the lamented writer of these words had lived, and if his friend, Mr. Bright, had enjoyed health and vigour in the interval, the question of "Free Trade in Land" would have made more rapid progress. It is unnecessary in this Society to explain the true meaning of a phrase, in which some persons profess to see foreshadowed the forcible depriving of one class of the community of some of their property. "Free Trade in Land" simply means the removal of artificial obstructions to the sale and transfer of land—the rendering of transfers and transmissions of estates and charges as easy as possible—the approximation of dealings with land to dealings with government stock and railway shares.

The best, because the latest, summary of facts and arguments bearing on this somewhat abstruse question, is that contained in the Report of the Commissioners appointed by the Crown in 1868.*

The Chairman of the Commission was *Lord Romilly*, then Master of the Rolls, and who, before becoming an Equity Judge, had as Law Officer of the Crown gained the distinction of preparing and of passing through the House of Commons that most important and successful measure, the Incumbered Estates' Act, 1849. *Mr. Secretary Lowe*, whether popular in Ireland or not, is known to be one of the most acute and accomplished men of our time. *Mr. Hobhouse*, Q.C., formerly a leading Chancery Barrister, now holds the important post of legal member of the Supreme Council of India. *Mr. Waley*, one of the Conveyancing Counsel of the Court of Chancery, died this year, just as he attained the highest place in his own branch of the profession. *Sir H. Thring* is known to fame as the first of Parliamentary draftsmen, and is specially versed in the mysteries of Land Transfer. *Mr. Wolstenholme* is the learned editor of the latest editions of that best of text-books, *Jarman on Wills.* Two of the most eminent of these Commissioners, *The Right Hon. S. H. Walpole*, who practised in equity for many years before becoming a Cabinet Minister, and *Lord Justice Giffard*—whose premature death was justly regarded as a public calamity—declined to sign the Report. But their reasons for so declining are altogether in favour, not only of the

* The Report, which is dated November, 1869, was printed together with the evidence in 1870.

principle of Registration of Title, but of the working out of such a system under the orders of a Landed Estates' Court. In short, they preferred such a system as we find actually established in Ireland to that "Land Registry Office" which their brother Commissioners deemed sufficient for England. The other Commissioners, one of them a Solicitor in large practice, the others, though not lawyers, men of high general attainments, were selected for their fitness for the task committed to them—an inquiry of vast importance, especially if we look at the probability that so careful and elaborate an inquiry will be regarded as conclusive—at least for many years to come. Although there was not unanimity on many points, the general drift of the Report is clear. There was a Commission of a somewhat similar character in 1857*—resulting in a very large blue book which may be deemed to have settled in the affirmative the once-vexed question—whether *Registration of Title* is better than *Registration of Deeds*. Several years then passed away. Registration of Title was introduced in the meantime into most of the Australian colonies, under circumstances which have been brought before this Society by Sir R. R. Torrens and others. Lord Westbury, whose capacity and boldness as a law reformer none will question, framed and carried his experimental act for England. The line so traced out was followed in Ireland, still in the spirit of mere experiment. Practical lawyers began to be doubtful whether a merely optional system would ever work largely and advantageously; and the inconvenience of two opposite and mutually exclusive systems began to be felt, when this Royal Commission of 1868 was appointed.

The Report was very carefully prepared; and some of the Commissioners appended their own statements, showing minute study of the subject. The evidence was, for the most part, that of practising solicitors who had observed the working of Lord Westbury's Act. The Registrars under that Act also gave very full details of its working; and Sir R. R. Torrens contributed the results of his large experience in the Australian colonies.

The Report enters largely into the merits of the Middlesex Registry which (it is hardly necessary to add) is founded on an Act of Queen Anne, and in all essential points resembles the Registry of Deeds in Ireland.

Owing to the enormous amount of building in the suburbs of London, the Middlesex Registry Office has become a very important one; and in it are registered as many as 28,000 deeds in the course of a single year. The indexing appears to be correctly and punctually attended to; yet the Report recommends without qualification the repeal of the Registry Act, and the shutting up (as regards future transactions) of the Middlesex Registry Office. Not a single lawyer or non-lawyer on the Commission but was convinced that a mere Registry of Deeds, without commensurate gain, adds delay and expense to every transaction; and that the only useful mode of Registration is Registration of Title or ownership.

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* See "Journal of the Statistical Society of Ireland," paper read by Mr. James McDonnell, February, 1858.

It is, therefore, on the assumption that the system of *Registration of Title* must ultimately prevail and supersede all other systems, that the Report proceeds. It first deals with the partial application of that system made under the Act of 1862, which it may be convenient to designate "Lord Westbury's Act." Three years later—in 1865—the Irish "Record of Title Act" was passed; and, as might be expected, it was framed after the model of the English Act. Apart from the desirability of bringing the legal systems of England and Ireland as far as may be into harmony, and, therefore, of following as near as possible the legislative example already set, there was a practical consideration—Lord Westbury could hardly have been expected to interest himself in, and carry through the House of Lords, a bill which materially varied from his own measure of 1862. This is the sufficient answer to critics, who say that a better model might have been chosen than Lord Westbury's Act.

Some inconveniences have followed from the too close imitation of the English Act; but one result of the assimilation referred to is very evident as we open the Commissioners' Report of 1869. A large portion both of the evidence and of the Report itself is applicable to Ireland. With regard to the slow progress made on both sides of the channel in registering indefeasible titles, and the necessity of enlarging the scope and increasing the efficiency of the machinery, many of the suggestions are extremely applicable. For this reason, therefore, the Commissioners' Report of 1869 deserves far closer attention here than it has hitherto received—especially if the conclusion be a right one, that wé shall, for a long time, at least, witness no more Royal Commissions of Inquiry—with resulting blue-books—on transfer of land and Registration of Title.

Let us glance for a moment at Registration of Title in Ireland. No titles can be placed on the new Record or Register except such as have passed through the Landed Estates' Court. On an average two hundred estates, large and small, pass through that court yearly; and although the calculation is disturbed by an enormous estate like that of Lord Waterford, it may roughly be stated that property of the value of about one million sterling passes through the court annually. Now the estimated value of all the landed property in Ireland, at twenty years purchase, amcunts to about £350,000,000 sterling. Therefore, even if all the Landed Estates' Titles passed (as they ought to pass) on to a register or record of ownership, instead of being left to drift towards entanglement and confusion, a whole century would elapse before the country at large would appreciably derive benefit from the system.

In fact, not the entire but only a small proportion of these titles are now preserved from deterioration by the new Record. On it there is inscribed property slightly exceeding in aggregate value two millions sterling. With these limitations it cannot be said that the system is effectively at work. It rather suggests the idea of a model farm, or a model of a new machine—of an experiment set on foot for the purpose, not of effecting much, but rather of showing what it is possible to effect under a much improved system.

In the face of many discouraging circumstances,* there is demonstration that the Transfer of Land can be worked out simply and rapidly.

For years past a dispute has been raging as to whether it is possible that landed property should be sold and transferred as simply and readily as railway shares. Many persons still contend that (notwithstanding the experience of the Australian colonies) land differs so essentially from other property that it cannot be rapidly and inexpensively transferred. These objectors only require knowledge of actual facts, which are now within the range of their observation. It is well known to all who care to receive the information, and it has been formally stated in the last return make to Parliament,† that the sale and Transfer of a landed property has on many occasions been begun and completed within the space of one hour. Such a transaction can never be literally as simple as a Transfer of Stock, because the descriptions of property vary considerably, and great care is requisite as to these descriptions and maps, especially in the case of sub-division. In other respects the transfers may be (and frequently are) very brief instruments, readily completed. The new proprietor has to make no inquiries, and no searches, beyond a simple inspection of the Record to show that he is paying over his purchase money to the recorded owner. His own name being then inscribed as owner, his position is perfectly safe, and a single sheet of parchment contains all the evidence of his ownership. This, I repeat, is to be now regarded not as a mere possibility, but as an accomplished fact.

Why should this system be restricted in its operation to a two-hundreth part of the land of Ireland?

Under existing laws this must remain so, because, being optional and permissive, it applies only to a small share of the limited quantity of land which annually passes through the court. In like manner the English Act (Lord Westbury's) confers a benefit only on the very limited number of persons who, at considerable expense, submit their Titles to thorough examination—an examination so strict that many are rejected—and so costly that the leading solicitors of England cannot advise their clients to have recourse to the Act. No Irish landowner in the same way can have his title put on record, without going through the process of obtaining a Conveyance or Declaration—at very great expense. The Duke of Leinster, who was Chairman of the Registration of Title Association in this city, and who manifested great interest in the question, unwillingly gave up the idea of registering his Title when he found that it would involve an outlay of some £6,000.‡

The Report of the Commissioners does not therefore profess to invent a new remedy for admitted evils. It recognises as the true and only remedy a public Register of the ownership of land, on which transfers may take place. Such a Register it finds already existing in

* The first and heaviest blow was the sudden death, at an early age, of the eminent Judge of the Court (Hargreave), who took an interest in the new machinery, and was prepared to superintend its working.

† Return (House of Commons) 23rd May, 1872.

‡ Report, p. 29: Evidence of Sir R. R. Torrens.

England (as in Ireland), but limited in operation, and hampered by a variety of conditions which have to be cleared away. The mechanism is to be relieved from obstructions, and allowed to work freely and extensively.

I propose now briefly to advert to some of the more important of these recommendations.

1. Citing and adopting the language of the Report of 1857, the Commissioners recommend that the Record or Register of Title shall "manifest only the actual and existing ownership of the land for the time being, without laying open the history or past deduction of it."*

2. The Report recommends that a Title when once registered shall not be removed from the Register.† Heretofore the system has been so completely optional that on the application of all persons interested, the Record as to any particular estate can be closed. This works unfavourably towards the owner, who is at a disadvantage when he seeks to borrow money; for the legal advisers of a proposed lender, not being acquainted with the system, or having a dislike to it, sometimes decline to proceed with the loan, unless the property be at once removed from the Record. There is, however, the broader reason—that if the Legislature deliberately prefers and adopts a certain system, it is unstatesmanlike to allow the option of having recourse to a worse system; and it imposes an unfair and unusual responsibility on individuals. In branches of jurisprudence where results have been inquired into and ascertained, the public mind expresses itself through the Legislature; and even those who remain unconvinced‡ have to submit to the ruling of the majority. Government on any other theory would be feeble, inconclusive, and in the end disastrous.

3. The Report recommends that Provincial Registries shall be opened, inasmuch as the delay and expense caused by transacting the whole business of Registry in the Metropolis becomes an appreciable evil in the case of small properties.§ From this it would seem that large estates are not considered to require any local arrangements; and a line should therefore be drawn at some estimated value, distinguishing the cases in which local Registration should be provided for. The Report expresses no opinion as to details. The Government Bill for England (to be mentioned presently) proposes to commit all the details of Local Registry to a Board of Registry, of which the Lord Chancellor is to be the head. It may be premature to speculate upon the best local centres of Registration which might be devised for Ireland: the most feasible plans which have been suggested are as follows:—

To improve the offices of Clerks of the Peace, and to make these officers Local Registrars; or else

* The Commissioners are not unanimous as to whether there ought to be a similar entry of the existing incumbrances, and of Leases (Report § 66-70); but such a Record exists under the system now existing in Ireland, and it is found useful.

† Report § 93.

‡ As in the case of the Vaccination Laws, imposed on even those who do not believe in the efficacy of the system.

§ Report § 93; and evidence of Messrs. Sewell.

To commit the work to the Clerks of the Poor Law Unions, who being 163 in number are found even in the remotest parts of Ireland.

4. The question of settled estates is largely entered into by the Report, and it is shown that where there is a power of sale the trustees should alone be inscribed on the Register as owners, having in that capacity power to transfer. To meet the case of an estate in settlement, where there is no power of sale, the Report recommends* that extended powers of ordering a sale should be vested in the Court of Chancery. In Ireland any such extension of power would of course be shared by the Landed Estates' Court, which tribunal would occupy, with regard to any comprehensive system of land transfer, exactly the position which in England is occupied (for want of an Estates Court) by the Court of Chancery. There would also be (under the control of the court) a system of *caveats* to check improper dealings, or to give notice of adverse claims where such exist.

5. It follows from the recommendation that "absolute ownership only should appear on the Register"† that trusts and equitable interests of all kinds must be protected by *caveats*. The conveyancing forms would be necessarily simple, and none but the prescribed forms would be accepted or used. Under the present acts, both in England and Ireland, the use of simple forms of Transfer, etc., is optional ; and frequently very long and complicated instruments are brought in—a practice which would be absolutely incompatible with the rapid transaction of a large quantity of registration business. The transfer of stock at the Bank evidently could not proceed unless the forms in use were simple and uniform.

6. The last point to be adverted to is the most important. So far as we have proceeded, the recommendations of this Report are not aimed at any great increase in the quantity of land inscribed on the Register. Let us now regard, and rather less hurriedly, the portion of the Report which is aimed at comprehending all the land in the country sooner or later within the Register of Title. Under Lord Westbury's Act a tedious and costly investigation of the title was absolutely required in every case, before any landowner could take advantage of the measure. This was found such a discouragement, that comparatively few persons were willing to submit to an expensive and vexatious process for the sake of ulterior and (it might be) distant advantages. A great mass of evidence before the Commissioners tended to convince them that an absolutely good and indefeasible or Parliamentary title may not, after all, be worth the enormous trouble and cost of obtaining it. Where an estate must be judicially sold, it is doubtless advisable that a purchaser in open court shall be guaranteed against every risk. But many a vendor and purchaser are quite satisfied to conclude a bargain without the safeguards of a Parliamentary Title and an ordnance map. A moderately safe holding title, based on possession for twenty years or more, is in practice found to be accepted with little hesitation; and property so held is even found to bring as high a price as an indefeasible or Parliamentary Title.

* Report § 92. † Ib. § 66.

This is the sum of the evidence brought before the Commissioners on this point, and although evidence and Report are too much limited to the English aspect of the question, yet it is possible that light may be thrown by them on one of the most difficult problems connected with the Irish Land question.

How is a title to be registered without being first investigated? This will be the inquiry to arise in the mind of every one accustomed to look on a Parliamentary Title as the necessary basis on which the superstructure is to stand.

First, let it be admitted here, as it is fully admitted by the Report, that Parliamentary Titles are superior to any other. But, like all other expensive commodities, they are often dispensed with. Estates, freehold and leasehold, where the value is not large, change hands every day in Ireland, without any guarantee of indefeasible title The purchaser in such cases has confidence in the vendor—he knows the property—and he has all reasons for believing that the transaction is unstained by fraud or by error. And these cases of small purchases, where it is certain that the long delay and considerable expense involved in obtaining a Parliamentary Title will *not* be incurred—these small transactions are precisely those which most stand in need of Registration. The Report, therefore, proposes to leave all existing facilities for such as desire to obtain a perfect or indefeasible Title, while opening a *new branch of the Register for defeasible or unguaranteed Titles.* Let us see how this proposal is to be worked out.

A proprietor who will not submit—if in Ireland, to the incidents of a suit in the Estates Court for obtaining a perfect title, if in England, to the terribly numerous requirements of Lord Westbury's Act—thinks that at some future time he may have occasion to sell or to mortgage. He brings in a map of his property, with primâ facie evidence that he is the owner and in possession. He is registered as owner accordingly in the year 1874, at a very small expense. This Registration is in the department of unguaranteed Titles, and the transaction is carefully distinguished as being *without* Parliamentary Title. From that time forward his title is improving year by year. If he wants to sell or mortgage in 1884 the range of inquiry and of search is *pro tanto* limited; and as time goes on he is gaining, without expense or trouble to himself, the benefit of Registration, until at last—thirty years after Registration, according to the evidence before the Commissioners—nobody will question his title or will hesitate about accepting it.*

> "This lapse of time will confer a title increasing in validity, till it becomes marketable in the technical sense, and practically indefeasible. It is as if a filter were placed athwart a muddy stream, the water above remains muddy, but below it is clear, and when you get so far down the stream as never to have occasion to ascend above the filter, it is the same as though the stream were clear from its source"†

If this very apposite illustration does not satisfy any hearer, I must

* This result would be aided further by a shortening of the periods fixed by the Statute of Limitations, which has long been recommended on high authority.

† Report § 75. It is not proposed to inquire into and specify rights of way and other rights and easements—the compulsory investigation of which adds so considerably to the cost of Parliamentary Title in Ireland.

refer him to the Report itself (§ 72-90) where the proposed system is very fully explained.

The Report does not recommend this as a perfect plan, for it is unquestionable that the best Title which can be asked for or given is an indefeasible or Parliamentary Title, with the boundaries of property, as well as all rights and easements, ascertained and defined. The Commissioners say :—

> "What we propose does not aim at the completeness and comprehensiveness of the system established by the Act of 1862. . . Nor would it at any time confer a title theoretically and in terms indefeasible. It would aim at practical indefeasibility by excluding unregistered interests subsequent to the date of registration and not protected by stops (*caveats*). But we think it likely to be attractive enough in the advantages which it offers in the future, and to be less repellant in respect of present trouble and expense, while if it should become generally accepted it is capable of larger expansion Speaking now with the light of six years' actual experience, we may say that the more highly wrought system is not and will not become popular. We have, therefore, endeavoured to ascertain by evidence what it is that people want, and to suggest a machinery for supplying them with that thing and nothing else."

The question now for Ireland is, whether the plan elaborated by the Commissioners would not be a valuable alternative plan—having regard to the difficulties in the way of obtaining that perfect Parliamentary Title which the Report recognises as the best of all possible Titles, and proposes to continue for such as choose to avail themselves of it.

The Estates Court in Ireland confers a Parliamentary Title on the estates *judicially sold* by it—the value of which (as we have seen) averages in the year about 1 350th of the aggregate value of the land in Ireland. Contracts for the sale of large estates are also carried out by the Court, and evidently they will continue to be so carried out. But it is not a common thing for a proprietor to apply, for his own satisfaction, to have his title examined and judicially declared. The expectation that these applications would be numerous has been signally disappointed.* The system, as the Report declares, is "too highly wrought" and too expensive for general adoption.

The very limited success of part II. of the Land Act of 1870 illustrates this position in a remarkable manner. The process of sale by landlord to tenant was somewhat simplified by the reservation of rights and easements, thus obviating the necessity of inquiry into them ; but, with this exception, the procedure (as finally settled) was but slightly modified, and the scale of fees and costs applicable to Landed Estates proceedings was adopted *in omnibus*.† Therefore a small purchase of a holding, if accomplished through this act, is liable to the tariff of professional charges which is followed when some vast estate is sold in one lot to a millionaire. If the tenant-farmers of Ireland are really to be encouraged to withdraw their savings from the banks, and to invest them in the purchase of their farms, several changes must be made in the system, and chiefly these :—

* The Declarations of Title applied for average only twelve in each year.

† Paper read before the Social Science Congress (Plymouth), 1872. A shorter paper on the same subject was contributed by the present writer to the Congress of 1873 (Norwich).

(1.) The loan of public money, which the act led them to expect, must be easily obtained on defined and intelligible terms.
(2.) The payment of purchase money, and the completion and registration of the sale must be effected locally, where the tenant can see it completed.
(3.) This must be done without the formalities of a suit in a Court of Equity located in Dublin.

The purchases of farms by their tenants seems peculiarly to call for some such system as that which forms the most novel and important feature in the Report before us.

The tenant knows exactly the boundaries of his own farm, and whether there are rights of way over it. Knowing these details, there is the less need to inquire into them, or to make a special survey.

He knows to whom his rent is paid, and during what space of time that payment has been made ; therefore, where the relation of landlord and tenant has existed for a series of years, the preliminaries of registration are reduced to a *minimum;* and it is almost certain that the tenant might be registered as owner without risk of serious error.

This is, however, thrown out merely as a suggestion. In my opinion every purchasing tenant should have the option of obtaining a Parliamentary Title at a moderate cost. *Mr. Heron, Q.C., M.P.* during the past session brought in a bill which would, if passed, confer this immense benefit on the purchasing tenant, viz., by enabling him, on payment of a sum of money adjudged to be an ample price by the local Judge (Chairman of the county), to lodge his purchase money in court, obtaining from the local court an order placing him in the position of proprietor of his holding. The expense of this procedure would be trifling compared with that to which a purchasing tenant is now subjected; and to tenants who may prefer a strictly indefeasible or Parliamentary Title, this course should be open.

In either case the new ownership should be inscribed on a Local Register, which (as we have seen) the Commissioners unanimously recommend. I have no hope that the number of small proprietors in Ireland will materially increase, so long as all the facts and dealings with property must be registered in an office in Dublin—an office only known by hearsay, and by entries in bills of costs, to the rural landowner.

I shall conclude this paper—which professes to notice only some of the chief recommendations of the Report—by a brief reference to the Bill introduced by Lord Chancellor Selborne, and printed in May, 1873.

It provides that Registration may be (at the option of the owner) either with or without a certified or Parliamentary Title; and points out the mode of proceeding to obtain Registration in either case.

The part of the Bill relating to *Judicial Sales* will afford us few hints, as in this particular the system in Ireland is almost faultless.

The portions of the Bill relating to the keeping of the *Record,* and the Instrument of Title, very closely follow the clauses of the Record of Title Act, and therefore testify to the excellence of mechanism in which few defects have been discovered.

"Registered Titles are to be transferred in the prescribed manner only." This is of vast importance, and assimilates the system to that long used with regard to Stock and Railway Shares. There is but one clause of higher moment; and it remains to be seen how this will be regarded by the legal profession in England. After a fixed date, *every sale of land is to be registered under the Act*. Any Conveyance not registered will be ineffectual to pass the estate, and will only operate as an agreement in equity. There is to be a map of every estate on the Register; and the important power of rectification will be vested in the court—the word "court" signifying throughout the Bill either the Court of Chancery or the County Court —as may be prescribed by rules. The rules are to be made, and the Register presided over, and generally controlled, by a Board of Registry, of which the Lord Chancellor is to be the chief member.

It must occur to any one acquainted with the legal history of Ireland that there is a large class of Titles especially calling for registration—the by-gone Conveyances granted since 1850 by the Incumbered and Landed Estates' Court. These Conveyances can hardly be short of 15,000 in number, and the property comprised in them can hardly be of less value than forty millions sterling. These were all perfectly clear titles, which, year by year, are now deteriorating. The benefit so obtained is slowly fading away, as complicating facts arise; and in a few years more these titles will be little better than others. The original grantee or his immediate representative would, under such a system as that recommended by the Report, bring in the Conveyance to the Land Registry, with an affidavit, a map, and evidence of possession, and register himself *de bene esse*. The process of dilapidation and decay in title is then arrested, and the process of improvement begins; and this, with so large an amount of property to operate upon, would be no trifling matter. From the date of Registration no searches elsewhere would be necessary, and year by year the title would improve by mere lapse of time.

The last point to be adverted to is the existing Registry of Deeds. No advocate of Registration of Title can admit that simplification of Title is helped forward by depositing in any office (however well managed) memorials of deeds and instruments. But the office may be useful for many other purposes. For example, if the trustees of a settled estate, with power of sale, are recorded as owners, the trusts will not be regarded in Registration of Title, the very object of which is to secure that a Transfer by persons on the Register is sufficient. But it is desirable that deeds relating to the beneficial interest should find some place of safe custody; nor would it be difficult to enumerate other good reasons for the continuance of a Registry of Deeds. Some confusion already exists between the two systems. This would increase if a Registration of Title were operating largely. Therefore it seems necessary that the two systems should be worked in concert. For example, every instrument presented for Registration should be examined by an official, and handed over to the particular department to which it relates. When I say that this is a mere difficulty of detail, I mean not that the difficulties of detail in this inquiry are not both numerous and important, but that they

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.

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