

II.—*The Laws relating to the Transfer of Land, in Ireland and in England and Wales compared, especially with reference to (1) The extension of Lord Cairns's Land Transfer Act of 1875 to Ireland; and (2) The small use made of the Bright Clauses of the Irish Land Act of 1870.* By W. Neilson Hancock, LL.D.

[Read Tuesday, 19th December, 1876.]

THE defective state of the law as to the transfer of land in Ireland was brought before this Society some thirty years ago. Since then great legislative progress has been made in removing defects. The Incumbered Estates Court and Landed Estates Court Acts were passed successively, giving a parliamentary title, and clearing all the land sold by the court of all complications of title prior to the sale. New complications of title were, however, allowed to arise on the cleared title, so that the Incumbered Estates Court and Landed Estates Court produce only a temporary effect in clearing titles, which in the course of time will be entirely obliterated.

This great reform was followed by Lord Romilly's celebrated effort, in 1850, to utilise the Ordnance Survey, which was then much more complete in Ireland than in England or Scotland. Lord Romilly's Act was founded, in other details, on the adaptation of a draft that Mr. Field had proposed at that time for England. Lord Romilly's Act, however, never came into operation, for reasons which will be hereafter referred to.

The wonderful success of the Landed Estates Court in remedying some of the most immediate and glaring defects, produced a lull in the progress of land transfer reform.

The interest in the question was further diminished by the great prominence given to the question of landlord and tenant, from the introduction of the Land Bills of Lord Derby's administration in 1852, until the passing of the Landlord and Tenant Act of Mr. Gladstone's administration in 1870.

Notwithstanding this diminished interest and activity in the question, Lord Westbury's Land Transfer Act was passed for England and Wales in 1862, and it was followed by the Irish Record of Title Act, to a large extent on the same lines.

The Irish Record of Title Act contained some specialities, for which we are indebted to Sir Robert Torrens, the successful founder of the Australian system of land register. To Sir Robert Torrens and Mr. Henry Dix Hutton the passing of the Act in 1865, so soon after the English Act of 1862, is mainly due. As our last improvement in land transfer was the result of a preceding English reform of three years earlier date, it becomes a very natural and very important question, to what extent can the principles sanctioned by the English Land Transfer Act of 1875 be advantageously applied to Ireland?

(1) *Condemnation of the Irish system of registry of deeds involved in the new English Act.*

The Act of 1875 involves a strong condemnation of the system of

registration of deeds by memorials, which has prevailed in Ireland since the reign of Queen Anne.

The original Irish Act was framed on the model of the local registries of the West and East Ridings of Yorkshire and town of Kingston-upon-Hull, which were established in the same year (1707), and within one or two years before the Irish system. These local registries, and the one in Middlesex and North Riding of Yorkshire, to which counties alone this particular system of registration of deeds was ever extended in England, are so far superseded, that all land registered under the new Act is exempted from the local registries; and there is no provision for land once registered under the new Act being ever transferred back to the old registries. It is a most important circumstance to bear in mind that the direction which improvement of land registry has taken in England is neither the extension nor amendment of the system of registration of the memorials of deeds which corresponds to the Irish system, but involves the substitution of an entirely new plan instead thereof.

This solemn decision of Parliament dispenses with the necessity for considering the many plans which have been proposed for developing a perfect registry on the basis of the registry of memorials of deeds.*

(2) *Condemnation of the system of the Irish record of title involved in the new English Act.*

While the registry of deeds by memorials is condemned, the plan of the Irish record of title, starting with a declaration of title, and requiring the insertion of full copies of deeds in that registry, is no less distinctly condemned, all further registration under the somewhat similar system of Lord Westbury's English Land Registry Act of 1862 being absolutely prohibited.

(3) *Condemnation of the Irish judgment mortgage system involved in the new English Act.*

Some twelve years ago, the glaring defects of the Irish judgment mortgage system were very ably pointed out by Mr. Monahan, Q.C., in his report to the English and Irish Law and Chancery Commissioners. The whole of this difficult subject is dealt with in the English Act in four clauses. One (53) provides that

“Any person interested under any unregistered instrument, or interested as a *judgment creditor*, or otherwise howsoever in any land or charge registered in the name of any other person, may lodge a caution with the registrar, to the effect that no dealing with such land or charge be had on the part of the registered proprietor until notice has been served upon the cautioner.”

The caution is to be supported by affidavit or declaration. The

* It dispenses, too, with the necessity of noticing the very ingenious invention of Mr. Dillon, one of our members, which, however applicable to the existing system, would not be required in Lord Cairns's plan.

notice to the cautioner gives him only a prescribed number of days to stop a registered dealing; this may be extended on the cautioner giving security, and there is compensation for improper lodging of a caution. Here we have all the protection of the judgment creditor, which he may fairly ask for, without any of the defects of the judgment mortgage system.

(4) *Condemnation of the Irish system of searches and inquiries in a multitude of offices, in making out title, involved in the new English Act.*

Under the new English system, a purchaser or mortgagee will have only one office to go to, and can ascertain in a few minutes whether the vendor or mortgagor has the title he professes to have, just as a proprietor of government stock or railway shares can show his title in a few minutes.

In Ireland, in completing an ordinary title the parties will have to employ a solicitor to visit three at least, if not more, of the following offices:—(1) the Registry of Deeds Office; (2) the Stamp Office; (3) the Registry of Judgments Office; (4) the Record and Writ Office, for recently enrolled disentailing deeds; (5) the Public Record Office, for such enrolments twenty years old; (6) the Probate Court, for wills; (7) some local registry, for provincial wills; (8) the Record of Title Office; (9) the Landed Estates Court, for land improvements; (10) the Court of Common Pleas, for acknowledgments by married women; (11) some local registry, for a marriage or a baptism; (12) the central Registry, for a recent birth or marriage.

The new English Act strikes at the root of all these complications, and, getting all the persons now protected in this burdensome way to protect themselves by notices and cautions, it reduces the search on a transfer to a single visit to a single office. This complication of offices is one of the greatest burdens of the Irish system upon the small proprietor. If an attorney has to visit twelve offices to bespeak searches and to get them, the total charge, at 6s. 8d. a visit, will be £8; if an average fee of 10s. has to be paid for the search and certificate, the fees will amount to £6, and the whole cost to £14. On the new English system this would be reduced to 16s. 8d., allowing the same scale for professional and official charge.

(5) *Condemnation of the Irish record of title system of recording absolute titles only, involved in the new English Act.*

The English system is elastic; it allows qualified and possessory titles to be registered as well as absolute titles, in this way making provision for the large class of what are known as good holding titles, but which, from some doubt, or some complication, or defect which time alone will cure, could not be made absolute, without either a judicial interpretation of the doubt, or great expense to clear up the complication, or waiting for the Statute of Limitations to cure the defect. One of the fatal defects of the Irish Record of Title was that if the owner was once persuaded to reject the recording

within seven days after conveyance, he could not put it on ever afterwards, without having the intervening title made absolute, and incurring the heavy stamp duty for doing so. This all arose from the extremely narrow scope of the Record of Title Act, which recites only that "it was expedient that titles conferred by the Landed Estates Court should be kept from complication."

The Act had thus no pretence of establishing a comprehensive system; and it applied to the very estates where, the complications of the existing system having been all cured as to the past at the seller's expense, the purchaser was least likely to appreciate the value of an improved system.

(6) *Condemnation of the Irish system of keeping up old judgments before 1850, as permanent charges on land, subject to re-registry every five years, involved in the new English Act.*

There are in Ireland from 1,200 to 2,000 judgments obtained before 1850, and kept up by re-registry every five years since against the name of the judgment debtor, and through his name as a charge on lands not specified.

Now the English system does away with all this; it requires a creditor to know the lands which he claims to charge, and once he has registered a caution against these, exempts him from the obligation to re-register every five years.

(7) *Condemnation of the Irish centralized system of registration in the new English Act.*

In England it has always been felt that the registry of land, to be useful, should be local; hence in Yorkshire there have been from the reign of Queen Anne and George II. four registries—one for each of the three ridings, and one for the town of Hull. Now, while the new English Act condemns the system of these ancient registries in other respects, it recognises the principle of the value of local registry, by containing complete provisions for the creation of local registries on the new system, not only in Yorkshire and Middlesex, but throughout England and Wales.

The value of local registration in Ireland has been shown in the very able report to the Council of this Society by Professor Donnell, which, being made before Lord Cairns's Act, was based on the Record of Title system, but which is still more applicable to the system under the new Act.

(8) *Merits of the new English system for the transfer of small estates.*

The best way of showing how suitable the new English system is to small estates, is to state that it is largely founded on the transferring and mortgaging shares in ships, which are of small value compared with landed estates. The register of shares of ships has been in complete operation since 1854. The ships' register is local; one in each port, kept in the custom house; and anyone who wishes to study the subject of registration cannot do better

than examine by inspection how simply and completely the registry of ships is managed.

(9) *Improvements on the Landed Estates Court and Record of Title practice involved in the new English system.*

It is well known that one considerable item of expense in sales in the Landed Estates Court, and one of the impediments to the sale of estates in small parcels, is the cost of determining the easements. Now in England, instead of a rigid system of absolute title as to everything, they have, besides qualified and possessory titles, a system of treating the liability to easements, and certain other rights, as not necessary to be investigated or determined prior to registration. For instance:—

1. Quit rents, crown rents, and certain other rents and charges.
2. Succession duty, and payment in lieu of tithe rent charge, etc.
3. Rights of common, rights of sheep walk, rights of way, watercourses, and other rights and easements.
4. Rights of mines and minerals.
5. Rights of entry, search, and user, and other rights and reservations included therein in connection with mines.
6. Rights of fishing, sporting, etc.
7. Leases or agreements for leases, or other tenancies for any term not exceeding twenty years, or for any less estate, in cases where there is an occupation under such tenancies.

The registration of these rights is by the Act made optional; but those who wish to adopt the complete system of the Irish Landed Estates Court can do so, for the section provides,

“Where the existence of any such liabilities, rights, or interests, as are mentioned in this section, is proved to the satisfaction of the registrar, the registrar may, if he think fit, enter on the register notice of such liabilities, rights, or interests, in the prescribed manner.”

Improvement in Lord Romilly's Map Registration Act of 1850, involved in new English Act, and rules under it.

Lord Romilly's Act of 1850 was passed on the now superseded plan of registering the deeds in full, with memorials in some special cases. It had the merit of introducing caveats, and the great merit of all—of using the Ordnance Survey as the basis of registration.

Unfortunately, instead of allowing this to be done tentatively and gradually, it provided a plan of having complete land indexes for all Ireland prepared before the Act was to be brought into operation; the result was, that the Lords of the Treasury considered the cost of the indexes too great, and they were never attempted.

In the Tenement Valuation, revised as it is each year by the official revisors, we have a complete land index for every district in Ireland.

These indexes were completed so far back as 1867; and from that time to the present there has been no real difficulty to bringing Lord Romilly's Act into operation; and it would have been an undoubted improvement upon the antiquated style of registering

memorials, which prevails at the office for the registration of deeds. About the time, however, that the Tenement Valuation was being completed, Lord Westbury's Act of 1862 in England, and the Record of Title Act of 1865 in Ireland, had in many respects gone in advance of Lord Romilly's Act.

The most valuable part of Lord Romilly's plan has been introduced in England, in a tentative way, by some very simple and comprehensive rules, which Lord Cairns made at the close of the past year, under the English Land Titles and Transfer Act of 1875.

These English rules of 24th December, 1875, provide as to applications to register under the new Act,

"A particular description of the land comprised in the applications, and, as part thereof, an extract on tracing linen from the public map, with a reference, where necessary, to a revision and enlargement of such extent, to be made also on tracing linen, delineating the land, and defining its locality, shall be left with the application."—*Rule 3.*

Then, under the 5th Rule, it is provided that,

"The Ordnance map, comprising the land and its locality, on the largest scale for the time being published, and not being smaller than that known as the 25-inch scale, shall be the public map of the land."

What are the steps necessary to give Ireland the benefit of the English legislation on land transfer of 1875?

(a) *As to map registration and Lord Romilly's Act.*

The rules of December, 1875, compelling the use of maps in England, should be enacted for Ireland. The revised maps of the Tenement Valuation should be declared as the public map for purposes of land registry in Ireland.

When the great object of securing the use of the Ordnance Survey and Tenement Index founded upon it, which is contained in the valuation, has been thus secured, then Lord Romilly's Act may be repealed, and the statute book no longer burdened by an Act that was never brought into operation.

(b) *As to the record of title.*

The Record of Title Office, founded in 1865, should be dealt with in precisely the same way as Lord Westbury's Land Registry Office, founded in 1862, was dealt with by Lord Cairns's Act of 1875. All further recording under the Record of Title Act should be prohibited, and it should be retained only for estates already recorded. Estates, however, should be only removable from it to the new registry on the English system, and not to the Registry of Deeds Office.

(c) *Staff for working the new English system if extended to Ireland.*

The staff used in England for working the new registry there was the staff under Lord Westbury's Act. So in Ireland the extension of the corresponding reform would involve the creation of no new office; as the Record of Title is under the Landed Estates Court, so the new registry should be under the same court and staff. There should,

however, be the like power as exists in England, of employing the local courts in small cases, where so prescribed by the rules. By this simple means the whole of the great English reform of 1875 would at once be extended to Ireland.

Collateral reforms : (a) Judgment mortgages.

The system of caveats should be applied to both the old registry of memorials as well as the new registry on the English system, and then all future right of registry of judgment mortgages be taken away. Existing judgment mortgagees should be allowed three years to enforce their mortgages, or obtain some other security, such as one of the cheap mortgages under the new Act, and failing to do so, should have, instead of their present rights, power of entering a caveat, as of the date and with the priority of their existing judgment mortgage.

Collateral reforms : (b) Old judgments prior to 1850 still charges on land.

The owners of these should, in like manner, be allowed three years to raise their charges or obtain new security ; or, failing to do so, should be required within that time to specify the lands against which they claimed to have a charge, and their claim should be protected by a caveat in the new or the old registry against such lands, with whatever priority now attaches to their judgment.

In this way, two of the principal peculiarities of the Irish law of judgments would disappear, and a basis would be laid of a perfect assimilation of the English and Irish law upon the subject, which was so strongly urged in the Report of the English and Irish Law and Chancery Commissioners of 1866.

Consolidation of offices connected with registry.

The selection of the Landed Estates Court as the centre for the new registry system would greatly facilitate the consolidation of offices, thus saving the professional and official costs of searches. Until the new system has been universally adopted and forty years in operation, a large number of searches on the old plan will be necessary, especially in connexion with titles in the Landed Estates Court, and sought to be placed on the new registry.

(1) The first consolidation would be of the office of the Registrar of Judgments with the staff of the Landed Estates Court. In the judgment office, the most valuable reforms in the direction of simplifying the transfer of land have been carried out within the past few years ; as the business of the judgment office would be specially diminished under the new system, the very efficient staff there could, if the consolidation took place, be advantageously employed in meeting the increased business which the new system would throw on the registry department of the Landed Estates Court.

(2) To the Landed Estates Court should be transferred all deeds for barring entails, enrolled in the Record and Writ Office in Chancery, and all other enrolled deeds relating to land ; and all future enrolments of this kind should be made in the Landed Estates Court.

(3) The deeds of this class, between twenty and forty years old,

transferred to the Record Office, should in like manner be transferred to the Landed Estates Court, and the rule of transfer of such deeds to the Record Office, for the future, should be extended from twenty to forty years.

(4) The offices of the Probate Court should be transferred to the Four Courts; and all wills under forty years be lodged in the Landed Estates Court, and above forty years in the Record Office.

(5) The jurisdiction as to acknowledgments of married women should be transferred from the Court of Common Pleas to the Landed Estates Court.

Reasons for the proposed reform being promptly adopted.

Such is an outline of the reform I venture to propose on this important branch of our law.

The unsatisfactory state of the Registry of Deeds has been long admitted. I will on this subject quote a few passages from the very able report of Mr. Lane, Q.C., commenced under the orders of Lord Mayo, and completed under those of Viscount Cardwell.

This report, made in 1861, speaking of the state of the books in the Irish Registry of Deeds Office, as required to be kept by the Act of 2 & 3 Wm. IV. c. 87, passed thirty years before, says:—

“The books have never, since the Act was passed, been here all regularly kept; that a very large part of those *which should be now ready for the public* HAVE NOT BEEN AS YET ATTEMPTED [*i.e.*, thirty years after the Act prescribing them was passed]; that some of those which have been made are, from various causes, useless: there appears to me to be but one conclusion to be arrived at, *viz.*—that the books used in the Irish system of registry are too multifarious and complicated; that too much is attempted, *while very little is done perfectly.*” “This, however, I consider,” says Mr. Lane, “to be the fault of the system, and not of the officers.”

Here is about as strong a condemnation of a system as could be well conceived—books prescribed by Act of Parliament not commenced thirty years after the Act passed.

The defective nature of the system is shown by some other statements in this report. The intention of the whole legislation since the reign of Queen Anne, as to the Office of Registry of Deeds, was to provide a simple and secure way of registering them; yet Mr. Lane says:—

“In the course of my investigation I have been more than once asked, ‘When is a deed registered?’ a question not very easy to answer.”

So complicated is the system, that from 1st of May to 20th October, 1860, one in every eleven deeds were returned to the parties for errors in the particulars required.

This would be material if Mr. Lane thought the particulars useful and necessary; but speaking of some of the matters prescribed, he says:—

“The compliance with these requirements creates a great deal of trouble, expense, and difficulty, with apparently very little advantage.”

So much importance was attached to Mr. Lane’s Report, that in 1864 a section was introduced in an Act relating to the Registry Office, to make certain classes of defective registries before the passing of the Act, valid.

No step was, however, taken to check the cost, delay, and trouble, and risk of future errors, from the causes Mr. Lane pointed out.

Speaking of another requirement, Mr. Lane says :—

“ The effect of the non-compliance with this requirement is so serious as regards indices, and *the intention of the legislature with respect to it has been violated in so many different ways*, that it calls for some additional observations.”

Again, he says the intention of the legislature as to the county, barony, and parish in which the lands are situate being stated, has been entirely defeated, and “ confusion in the office has been the result.” The legislation which has led to this result—the Registry Act of Anne, as amended by the registry Act of 2 & 3 Wm. IV.—Mr. Lane describes as “ rather curious and not very careful.”

Mr. Lane sums up his account of the registration of memorials, which is the distinguishing feature of the old Yorkshire system of registration extended to all Ireland in Queen Anne’s reign :—

“ It may be thought that I have dwelt too particularly upon the contents of the memorial. It is, however, the root of the entire system of registry. Any error in it is stereotyped, as it will be seen hereafter, on every book, and influences every proceeding in the office, and it is necessary to understand accurately its contents and defects before it can be perceived *how destructive the way in which memorials are prepared is to the entire system of registry at present existing in Ireland.*”

This powerful condemnation of the memorial system by so able and impartial an authority as Mr. Lane, shows what a wonderful improvement on it would have been Lord Romilly’s plan of registered copies of deeds.

As to the law of judgments : the account given by Mr. Monahan, Q. C., in his statement to the English and Irish Law and Chancery Commissioners as to the Judgment Mortgage Act, which is peculiar to Ireland, gives a graphic idea of the defects of the system. He says :—

“ I here confine myself to what I venture to suggest are the great inconveniences of this system of security.

“ The creditor, no matter how small the amount due to him on foot of his judgment, can, without any notice to the debtor and by a purely *ex parte* proceeding, divest the whole of the debtor’s estate in lands of any value, and vest them in himself.

“ If the debtor’s estate be legal and vested in possession, the creditor, without any demand of possession, can, immediately after registering his affidavit, bring an act of ejectment on the title.

“ Notwithstanding the harshness of this statute to judgment debtors, it fails to give a satisfactory remedy to judgment creditors. The registry is liable to be vitiated by minute and apparently trifling inaccuracies in the form or in the substance of the affidavit.”

Then, referring to the position judgment mortgagees are in as to priority, he says :—

“ The decisions which have established these points have thrown so much discredit upon judgment mortgages, that few would now accept them as security.”

The unsatisfactory way in which the Judgment Mortgage Act is drawn is shown by some other remarks of Mr. Monahan :—

“In the absence of express decision by the highest tribunal, it is rash to predict what will be the construction ultimately put upon any clause of this statute ; but it is easy to foresee that very serious questions must yet arise, and that judgment creditors, who have registered affidavits, may have incurred risks and responsibilities of which they have very little notion.”

With this statement of Mr. Monahan before them, the very influential body of judges and lawyers who constituted the English and Irish Law and Chancery Commission of 1866, condemned the Irish law of judgments in these terms. They reported to Her Majesty that

“They found the law of judgments of the Superior Courts of Common Law in Ireland, and the practice, process, and procedure therein, to be in a very complicated and unsatisfactory state, and to differ in some material respects from the law of England on that subject.”

Though ten years have elapsed since that report, the defects in the law of judgments in Ireland are still unremedied.

In Mr. Pim's address at our last night of meeting, he brought forward the case of the tenants who have purchased under Church Act of 1869. Out of 1,750 cases in which offers had been made to tenants in perpetuity to purchase, only 712 had been accepted ; and of 7,600 offers to tenants holding from year to year, only 3,106 had been accepted. The Commissioners were, however, making renewed offers with further explanations, and hoped for further acceptances. Mr. Pim then adds :—

“This affords full proof of the desire of the Irish tenantry to become owners of their farms, and I have already noted the purchases by tenants under the second part of the Land Act. But will the ownership of these small estates be really useful to the purchasers ? *The expense of all dealings respecting land renders the possession of these small estates of very doubtful advantage, under the present complicated state of the law relating to the ownership and transmission of real property,*” &c.

Now, nothing interferes so much with the prestige of Parliamentary and executive government as a state of affairs such as Mr. Pim describes.

The policy of encouraging small freehold estates in Ireland was adopted by Parliament in 1869, and again in 1870. In the latter year, £1,000,000 public money was offered to be lent, on terms favourable as to the rate of interest, to compensate for past impediments which prevented land to be so held.

At the end of seven years the policy of Parliament has been so imperfectly carried out, that only £281,752 out of £1,000,000 had been applied up to the 31st of March last. One of the causes of this failure I believe to be the great cost attending the transfer of land. Of the causes of that great cost, the most obvious and most remediable are those arising from our defective system of registration of deeds, and complications as to judgments and other securities that are charges on land.

The remedy I venture to propose for these great and pressing evils is one that does not admit of much controversy. It has, for England, received the sanction and support of the last three Lord Chancellors there—Lord Hatherly, Lord Selborne, and Lord Cairns

The reform, too, is no doctrinaire or compulsory system, pressed on Ireland to a greater extent than it prevails in England, like the old registry of memorials of deeds; neither is it a novel plan not sanctioned for England, like Mr. Field's scheme, which was taken up by Lord Romilly, and which, though a great step in its day, is now out of date; neither is it one that requires elaborate, costly indexes to be prepared like the same plan, and so likely to be defeated in practice from reluctance to incur the expense. Again, it does not propose the creation of a single new office; so it cannot be met with the great embarrassment to earnest reformers—the imputation of creating places.

The reform is so easy, that the main part, the extension of the English Act, would be effected in a bill of ten clauses.

With this simple basis, all the collateral reforms would only require a Bill of twenty, or at most thirty clauses. The pendency of other measures of reform is thus no reason for delay.

In 1875 the Supreme Court of Judicature Amendment Act, with all the rules, extending over 138 pages of the statute book, and a County Courts Amendment Act, were passed for England and Wales, in the same session as the Land Titles and Transfer Act; so the pendency of parallel reforms is no reason why three similar Acts might not be passed for Ireland in 1877.

This, again, is not one of those reforms to which Irish feeling or Irish institutions oppose any impediment.

The existing laws are all based on English precedents, whether the copy of the Yorkshire Registers in the reign of Queen Anne, or the partial copy of Lord Westbury's Act in the Record of Title Act of 1865, or the Judgment Office organized by Lord St. Leonards. Why should proprietors of land in Ireland be forced to use for two years, and perhaps for many more, old English modes of registering acts and dealings in relation to land, that have been condemned in England as antiquated and unwise?

Why should Irish proprietors, especially those whose small estates can ill bear the burdensome expense of the present complicated and defective state of the law, be denied the opportunity which every proprietor has had in England since the commencement of the present year, of availing himself of the latest improvements in jurisprudence in this most important branch of human affairs?

Conclusion.

Before concluding, I would like to say one word personal to myself. I have been led to bring this question at such length before the Society at the present moment for several reasons. I have been asked within the last two months, first, by a leading Irish statesman, and then by an accomplished and influential English Member, to explain why more use has not been made of the Bright Clauses of the Land Act.

Then the very interesting address of Mr. Pim carried back my recollection to that early and remarkable work of his, *The Condition and Prospects of Ireland*, in which he embodied the experience he

acquired as Hon. Secretary of that excellent charity, the Friends' Relief Committee for the Famine.

That book, more than any other, stimulated me to look into this question of the transfer of land some thirty years ago. Once convinced of the evils of the system, I have never lost sight of an opportunity of helping to have those evils removed, whether by papers before this Society, evidence before committees or commissions, or in official reports. Mr. Pim's address has stirred me up to look into the question again; and I see in the great measure of 1875, which embodies the results of so many committees and commissions, and the thoughts of so many statesmen and law reformers, and which Lord Cairns has the credit of carrying, a more complete solution of the question than has ever been hitherto attempted. Under these circumstances I feel the strongest possible conviction that it requires only to state the case simply and clearly, to secure for Ireland, and at an early period too, the benefit of that great and wise reform.

III.—*Prize Essay on the Jurisdiction of the Local Courts in Ireland, Scotland, and England compared.* By William H. Dodd, Barrister-at-Law.

[Read Tuesday, 23rd January, 1877.]

THE Council of this Society have done me the honour of selecting me as essayist "On the difference of division of jurisdiction between Local and Central Courts in Ireland, Scotland, and England." I have inquired into the matters on which the Council have desired me to write, and I respectfully submit to the Society the result of my inquiry.

(1) *Origin and constitution of the present local courts.*

(a) *Scottish local courts.*

The local courts of Scotland are called Sheriffs' Courts; the local courts of England are called County Courts; the local courts of Ireland are called Civil Bill Courts. The difference of name indicates a difference in origin, and this difference in origin accounts for and explains many of the existing differences in the constitution and jurisdiction of these courts. The Scottish local courts were remodelled after the rebellion of 1745, "to extend the influence, benefit, and protection of the King's laws and the courts of justice to all His Majesty's subjects in Scotland." They were designed to take the place of the hereditary jurisdictions, which it was then thought expedient to abolish. The head of the court is a judge, who is called sheriff, and who must be a member of the Bar. These sheriffs, being themselves allowed to practise at the Bar, were from their first appointment allowed to appoint substitutes, for whom they were to be responsible. The duties of the substitutes were, in the first