

The Remedy.

No more complete remedy could be devised than the Bill brought in by Mr. Findlater, and now before the House of Commons. It proposes to repeal all the appeal sections of the County Court Acts, and to give an appeal from every adjudication, whether legal or equitable, to the judge of assize, provided notice of appeal be given within four days after the close of the sessions; and it further gives a stay of execution only in case the amount decreed be lodged, or costs, as case may be, or sufficient security entered into within a like period, thus simplifying the procedure, allowing time for consideration before bringing an appeal, and enabling in equity cases the judge to hear the witnesses and judge of the facts from them—at once putting an end to every difficulty in the way of testing the validity of a decision, and as far as possible preserving a similitude to the mode of appeal in use in the superior courts since the Judicature Acts.

Extension of Jurisdiction.

Under the present system the court has no power to administer assets at the suit of an executor or administrator, nor has it power to set aside fraudulent deeds or bills of sale at the suit of creditors, to attach debts, or to make its judgments available against the lands of debtors; provisions giving such a jurisdiction would be useful, and attendant with considerable benefit.

VIII.—*Tramway Legislation, with Suggestions for Promoting Steam Tramways in Ireland.* By John A. Walker, Esq.

[Read Tuesday, 23rd May, 1882.]

I PROPOSE in the present paper to point out the legislation which has taken place for the promotion of tramways on country roads in Ireland. I do not propose to touch upon those Acts that have been passed by private companies for town lines. They form an interesting group, but are outside the scope of my present purpose.

In an agricultural country such as this is, with a comparatively scant population, having but few towns of any importance, and, with the exception of the province of Ulster, no manufacturing industries that gather around them an artizan population of any considerable extent, it is clear that the ordinary railway, constructed on plans even the least expensive, that experience has been able to suggest, would not prove to be lucrative investments. We need but refer to the reports of our railways—to the most favoured of them—to establish this. Consequently it was the opinion of the friends of Ireland in the Imperial Parliament, that if the country districts were to be opened up at all, and their latent wealth developed, a cheaper class of railways must be promoted, which would serve not only as an efficient means of intercommunication, but as feeders to

those great—what may be called—*arterial systems* that traverse the more thickly peopled parts of the country.

It was likewise the opinion of those friends of ours in Parliament that a cheaper and more expeditious mode of obtaining powers to enable such lines to be constructed, than prevailed in the case of railways, was desirable, and that it should assume the form of *Home Legislation*. We shall see how far this was accomplished.

In the year 1860 a *General Act* was introduced, consisting of some forty-nine sections and sundry schedules. It is entitled "An Act to facilitate internal communication in Ireland by means of tramroads or tramways," 23 & 24 Vic. c. 152. And the objects of the Act are set forth in the preamble, namely :—

"Whereas it would be of great public and local advantage if powers were given to persons desirous to promote the construction of tramways in Ireland, to make use for that purpose, under proper control, of public roads, post roads, and common highways, where the same can be done without injury to public interests, and to purchase and hold such lands contiguous to such roads and highways or agreed to be sold by the owners, as shall be found useful and necessary for the completion of such undertakings, and to use such tramways for the conveyance of passengers, produce, minerals, merchandize, and other goods in carriages, waggons, and trucks moved by animal power."

Sections 1, 2, 3, and 4 set forth the steps to be taken by promoters as to advertising, preparation of plans, service of notices, and so on, and the necessary forms are supplied by the schedules. Section 5 required that a preliminary investigation into the merits of the undertaking should be made by the grand jury, at the summer assizes, if the promoters had complied with the rules laid down in the previous four sections, and that upon this investigation they might if they pleased give a *provisional approval*. After this it was necessary to hold a public enquiry by an engineer appointed by the Board of Public Works, as to the merits of the undertaking in an "engineering, financial, or other respects." This being done and duly reported to the grand jury at the spring assizes, they having also had a report of the scheme from their own county surveyor, they were again to enquire into the merits of the undertaking, and to "definitively approve or disapprove of it" If they disapproved of it, the promoters might appeal to the Privy Council against the decision; but this was a very risky course. The Privy Council would not reverse the decision of the grand jury, unless under most exceptional circumstances. But whether the grand jury approved or disapproved of the scheme, and the Privy Council sanctioned it, the promoters could not proceed with it until it had been confirmed by an Act of Parliament.

It is needless to say, that having contended with and successfully overcome the prejudices of grand juries and other public bodies, having battled with the technical objections of engineers and county surveyors, and with private parties who might oppose from a variety of causes, and finally having had to submit to the requirements of the law officers of the crown and the judicial investigation of the Privy Council, it was rather unreasonable to have to wait for the sanction of an Act of Parliament, even though that Act might not involve any additional outlay of money. Considering that nearly eighteen months had

already been expended, it will be apparent to most persons that the Act failed in expediting legislation, if it did not also fail in diminishing the expense attending it, and that much the more expeditious course would have been to go to Parliament in the first instance, and so avoid the numberless difficulties that beset the path of the promoters.

I need not refer to the other sections of this Act, beyond stating that they fixed the gauge of the lines at five feet three inches, except where the Privy Council permitted a departure from it: it also bound the company to use *animal power only*, and settled the tolls on goods at rates that could never be made to pay. Although this Act was found to be practically unworkable when its provisions were examined into, it was, notwithstanding, a measure of great importance to Ireland, because it indicated a desire on the part of the government to facilitate the introduction of a cheaper system of railways which would be "of great public and local advantage," and for this purpose gave permission to use the public roads, post roads, and common highways. It was a step in the right direction, and only required to have some of the cogs which impeded its working removed, some of the restrictions and provisions withdrawn, and some necessary additions made to it to enable it to run smoothly.

This was partly effected in the following year by the Tramways (Ireland) Amended Act, 1861, c. 11.

This amended Act recognised the unnecessary expense and delay caused by the Act of 1860, and provided that one application to the grand jury was sufficient; and at this first application, which might be made either at the spring or summer assizes, they were required to "definitely approve or disapprove" of the undertaking. It also fixed the dates when notices, etc., must be served in case an application were made to the spring assize, the general Act having fixed the dates for application to the summer assize.

It likewise settled the rules to be observed in case the decision of the grand jury were traversed, and it limited the inquiry by the Board of Works' engineer to engineering questions alone, whilst it did not require the Order in Council except in case of an appeal, to be sanctioned by an Act of Parliament. It will be seen that this amended Act removed some of the obstructive and objectionable features of the Act of 1860; but unfortunately it retained others, so that although it was a decided advancement, it did not go far enough, it would appear, to develop enterprise. For it is a noteworthy circumstance that these two important Acts of Parliament recognizing, as they did the principle of *Home Legislation*, so much talked about and written about, and one would have thought so much desired, were allowed to lie as a dead letter for years without so much as an effort being successfully made to take advantage of their powers, so far at least as country districts were concerned. Either it was that the cry for home legislation had no substance in it, or the privileges conferred by these Acts were considered of so little account that no one thought it worth while to take advantage of them. It is probable that this latter consideration may have influenced the public mind; for it will be seen that both Acts permitted the use of *animal power only*;

and animal power, suitable enough for town traffic, would be far too expensive on country roads where long distances had to be traversed.

Lord Cairns saw the difficulty. He had seen steam working successfully on the Continent along the high roads, and conveying passengers and general merchandize, to the very great convenience and advantage of the districts through which they passed. And to make the Irish Acts operative, he determined that a further advance should be made in the direction of the continental example. He therefore prepared and introduced a short Bill in 1871, entitled "An Act to Amend the Tramways (Ireland) Acts, 1860 and 1861," 34 & 35 Vic. c. 114. This Act sanctioned the use of locomotive engines or other mechanical power under certain specified restrictions; but in giving this permission it required the rails to be laid on a level with the surface of the road, and it limited the rate of speed.

I must say, however, that when the bill was first introduced, the rate of speed was left an open question; but railway interests interposed so soon as steam on public roads was spoken about, and they succeeded in fixing the speed limit at six miles an hour.

The tramway legislation had now arrived at a point where it was possible to apply it to practical purposes with advantage to the public—but the public were slow in taking it up, they seemed to prefer to support tramways in towns as offering quicker returns, and for a time these were the only schemes that received attention. Private firms in several places availed themselves of the Act of 1871, by employing the rather unwieldy-looking and cumbersome traction engine to convey their produce from place to place, but with very doubtful economy. And so objectionable had this engine become to the public, that when an application was made in 1877 for the first steam tramway, it was with the utmost difficulty grand juries could be induced to give their consent. All sorts of danger to life and limb were predicted—horses would be frightened, carriages would be smashed, life would be sacrificed, and cattle would be maimed or killed. It took some time to persuade these road authorities that their fears were groundless, and that the engines to be employed were both smokeless and noiseless, whilst the machinery was so boxed in as to be completely concealed. The rapid improvement in the construction of engines of this kind, and their pretty general employment, even in towns, in England and Scotland helped to remove their prejudices, so that the grand juries of Antrim and Down, to whom the first applications were made, gave their consent, which was immediately followed by an Order in Council. Unfortunately this Order in Council was practically reversed by the decision of the Privy Council in another case the following year, and the scheme had to be abandoned. The case the following year was that of the *Dublin and Baltinglass Steam Tramway*.

In the previous cases the Privy Council permitted the lines to be constructed on a raised footpath on the side of the road. This was their interpretation of the Act, it was also the interpretation put upon it by the grand juries; but when the promoters of the Dublin and Baltinglass appeared before the Privy Council in 1878, it was decided that the previous interpretation was wrong, and that the line must

be laid on a level with the surface of the road, thus necessitating the employment of a groove-rail as in towns. Now a groove-rail is very suitable for a town or suburban district, or even where it passes through villages and crosses roads and gate entrances, but along country roads, for long distances and especially on high levels, where it would be exposed to the severe and often long-lying frosts and snows of winter, the groove-rail would be found objectionable, chiefly from the impossibility of keeping it clean. Besides the public roads are, as a rule, very wide, and in most cases there is plenty of room along the side of the road for a raised foot-path without in any way interfering with the space usually allotted to the ordinary vehicular traffic.

The promoters of the Dublin and Baltinglass Steam Tramway—since called the Dublin and Blessington—decided to suspend operations until the Act of 1871 was amended, so far at least as the ambiguous wording of the 2nd section of that Act was concerned. They consequently obtained last year a short Act, entitled “An Act to Amend the Tramways (Ireland) Acts, 1860, 1861 and 1871,” 44 & 45 Vic. c. 17. By this Act, which is one of the most important of the series, it was permitted to increase the tolls chargeable on goods from one penny and one penny half-penny to three pence per ton per mile. It also sanctioned an increase of speed from six miles to ten miles an hour outside of towns and villages. It amended the section in the Act of 1861, in reference to an appeal to the Privy Council, and finally it empowered the tramway to be constructed on a raised siding, leaving a clear roadway of eighteen feet, if sanctioned by the grand jury and Privy Council. It thus permitted the substitution of the T rail for the groove rail, and so got rid of the difficulties and dangers, as well as of the heavy expense attending the latter. This last Act was the outcome of practical experience and of close and accurate observation, and has placed the tramway legislation for Ireland on a level with the demands of the age and the requirements of the country.

Suggestions.

I have now submitted to you the legislation which has taken place on this important subject, and the question naturally arises, should not the public be advised to take advantage of these Acts and thereby secure the benefits which they are intended to bestow?

That steam tramways are well adapted to the requirements of the country there can be little doubt. They are cheaply constructed, they are safe, they are efficient, they can be worked at small cost, and the present rate of speed is ample for ordinary rural traffic.

To promote them, however, certain difficulties stand in the way; but they are slight now in comparison with what they were some years ago.

The difficulties at present are two-fold—the first is to obtain the order, the second the capital. As to the first: it will be found that grand juries are now much more ready to entertain a proposal for a tramway through their district than formerly, only

care should be taken to have their approval of the scheme made *free from conditions*—it should be a simple approval. Grand juries are too prone to attach conditions to their approval, which, when submitted to the Privy Council may render the sanction of the Lord Lieutenant impossible. I am acquainted with two cases in which the order was refused on this ground. The second difficulty is a more serious one—it is one of *capital*.

In this country it is found that the investing public, as a rule, will not support undertakings until they become, what are called “going concerns;” but to make them going concerns requires the expenditure sometimes of a great deal of money, and how to raise the money is the question. There are several ways that may be suggested—for example: a number of gentlemen interested in opening up a district might become security to a bank for a sum sufficient to construct the line and provide a reasonable amount of rolling stock. And so soon as the public saw it working the shares of the company would move off and the guarantors would be released from their liability. Another plan would be to get a contractor with plenty of capital; pay him a good price in shares, and let him finance the scheme. A third, and by far the better way, is to obtain a baronial guarantee. To get this, as the law is at present, requires the sanction of an Act of Parliament, which is troublesome and tedious. But if Parliament would grant authority to the Lord Lieutenant to permit any barony or townland, so disposed, to give a guarantee, and would confirm the same by an Order in Council, as in the case of the tramway order, it would be sufficient at all events to induce capitalists or even the Treasury itself, through the Board of Works, to advance the necessary funds.

It will be borne in mind that an Act was passed in 1880 called the Relief of Distress Act, which was further amended in the same year. Power was given in the 13th section of this Act to the Board of Works, with the sanction of the Treasury, to make loans for the construction of tramways, and by the 14th section of that Act the Lord Lieutenant had power to convene an extraordinary presentment sessions of any barony, and to authorize the justices and associated cess-payers to charge the barony with a guarantee for the repayment of whatever money was advanced. This Act has expired. Its existence was too brief to enable tramway projectors to take advantage of it. But there may be a possibility of its renewal, at least of the re-enactment of the 13th and 14th sections. It would be a most important thing for Ireland if these two sections were re-enacted. By giving an impetus to the construction of tramways all over Ireland, and so opening up the country, it would facilitate the establishment of manufacturing industries, develop our mineral wealth, and our fisheries; and by affording the farmer a better, cheaper, and more expeditious mode of conveyance for the produce of his farm, it would greatly enhance the value of his land.

I do not think that recent legislation as to land will be found to interfere with granting a baronial guarantee. The re-valuation of land every fifteen years might be thought to have this effect; but as the guarantee would be divided equally between landlord and tenant,

I can see no just ground for apprehending any opposition to it on the part either of landlord or tenant.

In future tramway legislation, for I suppose we have not come to the end of it, it would be desirable that the same powers as to taking land should be granted as exists in the case of railways. At present only thirty feet from the centre of the road can be compulsorily taken, but where roads are very steep, and it would be an advantage to diverge so as to avoid hills, it would be important that the company should have power of compulsory purchase at a price not greater than the ordinary agricultural value of the land.

IX.—*Arrangements for Putting Out Fires in Dublin City and the Townships of Drumcondra, Clontarf, Kilmainham, Pembroke, Rathmines, Blackrock, and Kingstown.* By W. N. Hancock, LL.D. Q.C.

[Read Tuesday, 27th June, 1882.]

THE last great improvement in the arrangements for putting out fires in Dublin arose from the burning of Kildare-street Club in 1860; and some papers read at this Society, and the discussion thence arising, contributed to the changes then introduced.

The burning of the workshops of the Artane Industrial School, and of the boarding-house in Kingstown, where a life was lost, bring up the consideration of the question for reconsideration. Are the existing arrangements throughout the whole metropolitan area as satisfactory and complete as the latest experience and the latest legislation on the subject would suggest?

Let us for a moment consider what were the evils which existed before 1860. These were: 1st, the unequal arrangements for putting out fires in different parishes; 2ndly, the divided authority amongst the persons engaged in putting out fires. Some parishes had fire engine, like St. George's; others had not. The Corporation engine and brigade was primarily for the city alone. The limited and defective arrangements thus made by local taxation were supplemented by the Dublin Metropolitan Police brigade and engine, which included Kingstown, Blackrock, Pembroke, and Rathmines, but which did not extend to Clontarf or Drumcondra. The emulation of the different engines prevented the boundaries being adhered to: this only increased the divided authority.

The state arrangements were still so imperfect that those who were provident enough to insure against fire, were further taxed to maintain insurance companies' fire engines, like the National, Patriotic, and Royal Exchange engines.

The reform then decided on was to follow the example of Glasgow and Manchester, and have a single fire authority and a single brigade. Unfortunately this improved system was confined to the municipal boundary. Within that boundary the arrangements are perfect: we have fire escapes stationed in different parts of the city, a set of light