Courts of Bankruptcy, and their inability to meet such catastrophes. The President also stated, that in consequence of the augmenting arrears resulting from the increase of the business of the court, the Tribunal of Commerce had thought it right to take steps for adding to the number of the commercial judges, with a view to holding more frequent sittings; and that there was every reason to believe the applications made on this subject in the proper quarter would be attended with success. This circumstance is worthy of attention, both as proving the value attached to the Tribunal of Commerce by the public, and as showing that, notwithstanding the disinclination of merchants to sacrifice their time, this difficulty does not present any insuperable obstacle to increasing the number of the judges.

II.—*The Report of the Registration of Titles Commission*, 1857.—By James McDonnell, Esq.

[Read Monday, 15th February, 1858.]

In the month of May last the Royal Commissioners appointed by her Majesty, "To consider the subject of the Registration of Title with reference to the sale and transfer of land," made their Report.

It opens by considering the subject of the registration of assurances, as distinguished from the registration of titles. By a registry of assurances is meant an office in which all deeds or wills relating to real estate, or abstracts of them called memorials, are lodged, arranged, and indexed, so that a purchaser, or other person dealing with any land, can, by searching, ascertain all the deeds affecting it.

The object of a registry is to secure purchasers, and prevent frauds and forgeries. This object is effected, partly by the publicity of the registry, but chiefly by the enactment, "That any deed shall be effectual according to the priority of time of its registry; and that deeds not registered shall be void as against deeds registered;" which effectually prevents secret deeds starting up to the prejudice of a purchaser, or other person whose deed is registered. A public registry of deeds has existed in Ireland since the year 1708. Its utility has, however, been in some measure lessened by the equitable doctrine of notice, and also by the registration of memorials—that is, short abstracts instead of the deeds themselves. The Commissioners admit that some important advantages would flow from a well-devised system of registration of assurances, but reject the plan, for the reasons set forth in their report (sections 16 to 24), which are thus shortly summed up at section 25:—

"The unmanageable accumulation of deeds and instruments in one place; the certainty of an immediate addition to the expense

and delay of every transaction relating to land; the risk of involving titles at no distant period in increased complication and embarrasment; the apprehension of disclosures, especially in cases of private settlements and family arrangements, and the diminished opportunities of obtaining loans on the security of land for occasional purposes; the risk of disturbing possessory titles, and the complication of indexes, have naturally induced the distrust of a scheme, the supposed advantages of which, as an additional safeguard and security to titles, are more or less speculative or remote. Even those advantages are much exaggerated, while the positive objections are certain and immediate. The main desiderata to which attention is most anxiously directed, are not so much security of title (for that, in fact, is to a great extent practically obtained), but the simplification of title, facility of transfer, simplicity of form, and the consequent diminution of delay and expense."

They then proceed to consider the subject of registration of titles, which may be shortly stated to be a plan for transferring real estate, in nearly the same way as the public funds are now transferred. They thus state at section 40 the problem which has to be solved :—

"By what means, consistently with the preservation of existing rights, can we now obtain such a system of registration as will enable owners to deal with land in as simple and easy a manner, as far as the title is concerned, and the difference in the nature of the subject-matter may allow, as they now can deal with moveable chattels or stock? No one doubts that it would be a great benefit to the proprietors of land, if they were able to convey it with the same facility as the owners of ships, or of stock, or of railway shares, can now assign their property in any of them. But the question is, can this be accomplished? and if so, how? In answering these questions, it must be assumed that no plan of registration will be acceptable or desirable, unless it leaves, substantially and practically, to the owner of land powers of disposition, and rights of enjoyment of similar extent and facility of exercise with those which they possess under the present system."

The following is a concise summary drawn up by the Right Hon. Robert Lowe, one of the Commissioners of the proposed plan of registration of titles:—

"1. A land registry office shall be established in London. (There should be a central office in Dublin for Ireland).

"2. District offices shall be established in the country, under the orders of the London (or Dublin) office.

"3. Any owner in fee-simple of freehold land, advowsons, or rent-charges, except tithe rent-charges, upon adducing evidence confirmed by his affidavit, that he claims *bona fide* to be owner in fee-simple, without any, or with specified incumbrances, may, after proper notice, be placed on the register as owner.

"4. The registered ownership will represent the fee-simple, and be attended by the right to transfer, charge, or lease.

"5. The registration will not of itself confer any title against claims existing at the time of registration.

"6. If such a title be desired, the registrar will examine (cause to be examined) the previous title, and warrant it, if good, on payment of a small charge.

"7. The warranted title will be absolutely indefeasible, and any person prejudiced by such warranty will be compensated by the consolidated fund.

"8. All estates other than the fee, except charges and leases, shall be excluded from the register, and protected by caveat.

"9. A caveat may be entered by the consent of the registered owner; or if that be improperly refused, by the order of a court of justice.

"10. The registered owner shall have absolute power to transfer, subject to caveats and leases, if all caveats be withdrawn.

"11. The registrar shall give to every registered owner a certificate, which may be pledged by way of equitable mortgage for temporary advances, and must be given up to the registrar before a transfer can be made.

"12. The Court of Chancery shall have jurisdiction over the registered ownership.

"13. Notice of an unregistered instrument shall not of itself, without fraud, bind a purchaser.

"14. Charges and leases may be manifested and transferred on the register."

I add to this summary the authority of the registrar, from section 82 of the Report :—

"With regard, however, to the powers to be entrusted to the registrar, we conceive that, as a general principle, his authority should be ministerial and executive in its nature, and not judicial. We agree in an observation contained in the evidence before us, that there is no feeling more strongly rooted in the public mind than dislike of official interference with their private affairs; and any system must be considered practically impossible, however theoretically perfect, which would render the approval or sanction of a registrar necessary for the completion of transfers, or would give him any discretionary power to prevent them."

I may here observe that I am not able to find in this report any actual definition of a caveat; but I presume it to be a short note, stating that the caveator claims an interest in the land mentioned in it, and objects to its transfer on the registry; and that this note, when registered, will have the effect of preventing a transfer without the consent of the caveator; but I do not think it will disclose his interest.

I propose to consider only the case of warranted titles, as that will be eventually the condition of all titles placed on the registry. That this is so, appears from sections 61 and 62 of the Report :—

"When the registered ownership is a warranted ownership, the

special advantages to be derived from the system of registration will immediately follow. In such cases the registered ownership will be subject only to other registered rights, and will be exempt at once from all latent claims and interests which may have been created previously to the time when the property is registered. The registered owner will, therefore, have forthwith, for the purposes of transfer, a simple, complete, and indefeasible title. Where the registered ownership has not been warranted, it will be subject to such rights and interests as existed in, or were capable of attaching upon, the property at the time of the first registration; but it will not be subject to any rights or interests arising or created at any period subsequent to the time when the first registry was effected, except charges and leases admitted to the register, and except interests protected by caveat or inhibition. Thenceforward the title to the property, for the purposes of transfer, will be manifested by the register, and by that alone; and so, eventually, the only title to the land which a purchaser need examine, will be the last transfer, as the same is recorded in the registrar's books. At the commencement, indeed, the validity of the title of the first registered owner will still depend, as it does now, on the validity of the title of the party by whom the tranfer has been made. But as time passes on, this title will gradually strengthen itself, until it has reached a period which, under the operation of the Statute of Limitations, will make it complete, and mature it into an unimpeachable statutory title."

I shall now endeavour to show that this system, if carried out, will give a parliamentary title to purchasers, without giving any adequate protection to persons having prior interests in the estate, and without regard to some of the most important means at present used to prevent such a title being improperly conferred.

It is stated at clause 10 of Mr. Lowe's Summary, that the registered owner shall have absolute power to convey, if all caveats be withdrawn. If, therefore, by fraud, ignorance, or error, the caveats are withdrawn, the owner can convey an indefeasible title, and the caveator is left without remedy, so far as the land is concerned, and is in exactly the position in which A would be, if (as some persons suppose happens) his estate were sold by the Commissioners for sale of Encumbered Estates in Ireland to pay the debts of B. He might pursue the money if he could, but his remedy against the land is gone. But in case of the sale in the Encumbered Estates' Court, A has at least this security, that the judge, who is supposed wrongfully to convey his estate, has the fullest power to investigate the title, and ascertain the rights of all parties to the land before he conveys it; his character is at stake, and he is therefore likely to exercise all the vigilance he can. Again, the whole transaction is very public; numerous advertisements are published in the papers, naming both the lands and the alleged owner, and calling on all persons claiming the estate, or any interest in it, to state what their rights are, and notices of the intended sale are served on the occupying tenants, so that even if the judge improperly approves of the title, A has a very good chance of hearing of the matter, in which case he can himself de-

fend his own title; and, finally, the parliamentary title which we are now considering is almost always granted to a stranger, who immediately goes on the land, and commences exercising rights of ownership; so that if A has any intercourse or connexion with the lands whatever, he can hardly fail to hear that some one else is dealing with his property, and this gives him a second opportunity of coming forward and claiming either the land or the purchase-money. The case of the caveator is quite different. The registrar's duties are strictly ministerial; he has no judicial authority; all that he can look to is, that the official forms are complied with, and, after a short time, from deaths and other causes, he will find it very dangerous to remove caveats without an order from some judicial tribunal. Caveators will thus have either a very inadequate or a very expensive protection; then the registrar will not feel the same responsibility as the judge; he has no power to institute any inquiries, and certainly any error will not affect his character, as it would if he were invested with greater power and greater responsibility. There will be hardly any security from publicity, for the transfer may, and generally will, be quite secret; and, finally, there will be quite as many (if not more) cases in which there will be no change of ownership visible to persons on the land, as of cases when there will be such change, for transfers will be made on the registry on such occasions, as marriages, deaths, &c., without any change of possession whatever. It thus seems that the present proposal is to confer a parliamentary title on purchasers, without the three principal safeguards against error or fraud which have hitherto existed, viz., judicial investigation of the title, publicity, and change of possession.

In the foregoing observations I have considered only the case of persons who are protected by caveats; but the same arguments will equally apply, if the protection is afforded by tranferring the ownership into the names of trustees.

If the trustees are either fraudulent or ignorant they may ruin their *cestui qui* trusts, by transferring the property on the registry. If they are honest, and well informed as to their duty and responsibility, they will probably refuse to transfer without the direction of a court of competent jurisdiction, and thus put their *cestui qui* trusts to the expense and delay of a Chancery suit. I know it may be urged against what I have said, that these trustees can do no more with the land than they could do with stock, or other personal estate, not being chattels real. This is quite true; but I think the trusts of real estate require to be better guarded than those of chattels, for they are, partly by custom and partly by the nature of such property, more onerous and intricate, continuing for longer periods, and therefore more likely to be misunderstood or badly executed.

The ordinary trusts of a marriage settlement of personal property (stock for instance), are for the husband for life, then for the wife for life, then for the children of the marriage in certain proportions absolutely. There is seldom much delay in winding up the trusts of such a settlement, after the fund becomes divisible among the children, as it is a property easily divided or sold, and the pro-

duce distributed as may be right. None of the family have any wish to preserve it entire, and it is rarely subject to incumbrances, for this, among other reasons, that persons do not like to advance money on the security of a property which they cannot follow in the hands of a purchaser.

The trusts of a marriage settlement of land are generally for the husband for life, and then for the first and other sons in tail, subject to a jointure for the wife and portions for the younger children. The trusts of this settlement are by no means likely to terminate on the death of the husband and wife. The family may have associations connected with the property, and be unwilling to sell it. The importance of the eldest son would be diminished by a sale of part of his estate, and his influence and that of his family lessened thereby, or at least they think so, and accordingly no part of the estate is sold, nor the younger children paid their portions, but only the interest of them; and if one of the younger children wants his money, the estate, or a part of it, is not sold to pay him, but his charge is assigned to some one else. The portion of another is settled on his marriage, that of a third mortgaged to his creditor, and when at length a sale is desired, the title is in a very complicated state. Under these circumstances the trustees are required to transfer the estate on the registry. No trustees, however, who are both solvent and sane, will be induced to do so without the protection of the Court of Chancery, for in no other way could they hope to escape litigation and responsibility of the most dangerous kind. I have chosen the simplest cases to illustrate what I mean; it is, however, quite obvious that the complications might, and probably would, be much greater than I have mentioned; for the estate may be subject to caveats, and registered in the names of trustees at the same time, one class of interests being protected by the caveats, and another by the trustees, who would also be affected by notice of any equitable dealings with the estate of which they were informed. To be a trustee now is bad enough; then it would be intolerable, so much so, that in a short time the Court of Chancery would have to execute all trusts of real estate.

Serious objections in principle may be made to the proposal at clause 8 of Mr. Lowe's Summary, to admit mortgages and leases to the register, and exclude all other derivative interests. Mr. Headlam, himself one of the Commissioners, in his memorandum on the report, p. 51, makes the following very just remarks:—

"The Report does not recommend one simple registration of of land for the purposes of transfer, leaving all persons having subordinate estates in the same position to be protected by powers and facilities for preventing a transfer prejudicial to their interests, but it proceeds to make a distinction between mortgagees and leaseholders on the one hand, and the owners of different partial estates on the other hand, and endeavours to confer on the former the benefits of a registration of their titles distinct and separate in kind from the privileges of the latter class. This distinction seems to me to be totally untenable in principle. Even supposing the

two classes could be accurately and intelligibly defined—which I very much doubt—there is no reason why the one class should be put in a materially different position from the other. If it is possible that there can be one registration of a piece of land for the purpose of transfer, another registration of the same piece of land by a first mortgagee, a third registration of the same piece of land by a second mortgagee, a fourth to a leaseholder, and that the benefits to a purchaser of registration can with respect to this piece of land still continue, then it seems clear that the same facilities of registration should be given to persons having charges upon land by will, to tenants for life, to claimants for executory devise, and to all other owners of partial or limited interests. If no security can be found in the plan, by restraint upon transfers sufficient to protect the interests of leaseholders and mortgagees, then it would appear that the plan is defective, in not providing adequate security for many other claimants quite as much entitled to consideration as leaseholders and mortgagees."

An important practical difficulty in the working of this system will arise with respect to caveats, which will, I think, be found a very objectionable mode of charging lands, for they will be notice of rights without giving any information as to the nature of such rights, which must generally be known before the caveats can be removed. A places a caveat on the title of B and dies, having lost or mislaid the papers disclosing the object of the caveat. His representative will be applied to in vain to remove it, for before doing so he will require to know that he is acting properly. A case very analagous to this sometimes occurs in examining Irish titles. A blind memorial (as it is called) turns up on the registry search, which states that the land, the subject of inquiry, was conveyed upon certain trusts mentioned in the original deed (which is not now forthcoming), but not set forth on the memorial. There is no worse blot on a title, for you have distinct notice of the existence of a deed, and no means of ascertaining its contents. The caveat system would render defects of this kind very numerous. I think it would soon be found to be the worst description of a registry of assurances.

Having now pointed out what seem to me to be some of the most obvious objections to the principle, and probably practice of the proposed system, I shall proceed shortly to inquire what are the principal obstacles to the sale and transfer of land, and how far they are capable of removal. The observations which I shall make have reference to Ireland; many of them apply to England also, but not all, as the Irish registry acts, and other causes, produce some differences in the conveyancing system of the two countries.

The principal obstacles to the transfer of land are, 1st, the number and variety of rights and interests which our laws recognise as capable of co-existing in respect of the same real estate. 2nd, the great length of time during which our Statute of Limitations permits persons to prosecute dormant rights. 3rd, our very artificial and prolix system of conveyancing. The first of these obstacles is by far the greatest. The remedy for it is as obvious as in the

present state of society it is impracticable, and is of course not to permit such numerous interests. The Commissioners seem to point to some such solution of the difficulty, when they propose to admit to the register only fees, mortgages, and leases. If something of this sort were done, the analogy between real and personal estate might be pursued with some show of fairness; as it is there is no analogy whatever between them. Since, however, our laws do, and in all probability will continue, for a long time to recognise the complicated and numerous interests which now exist, we may discharge from our minds all ideas of extreme facility of transfer, such as that existing with respect to the public funds. We may, however, greatly mitigate the evils of this obstacle by keeping a very complete record of all dealings with land, and having some tribunal capable of giving a parliamentary title, whenever the prior dealings have become so numerous or intricate as to require the creation of a new root to the title. I can suggest no means of attaining these ends so good as a well-devised registry of assurances, in connexion with, and under the control of, a court having jurisdiction over all real estate (including chattels real), somewhat similar to that now vested in the Court for the sale of Incumbered Estates in Ireland. If Sir John Romilly's Registry Act, 13 and 14 Vic., c. 72, were put in force, it would, I think, meet most of the defects of the present system of registration in Ireland. I would, however, alter the 60th section of that act, by requiring all recognisances, and the other charges mentioned in it, to be registered against the lands. It is just as reasonable that they should be so registered as judgments; and I think that every reason that can be given for the propriety of a registration of judgments as mortgages under the 13 and 14 Vic., c. 29, will equally apply to a registry of recognisances, &c., against the specific lands sought to be charged with them.

I have already stated the principal objections urged by the Commissioners against a registration of assurances. They are, its publicity, cumbrousness, expense, and delay.

I need not stop to consider the objection on the ground of "diminished opportunities of obtaining loans on the security of land for occasional purposes," as it is quite obvious that the proposal at clause 11 of Mr. Lowe's Summary to meet this difficulty, is as applicable to a system of registration of assurances as to one of a registration of titles.

If publicity is an objection at all, remove it by not allowing an inspection of the registry without proper authority. Publicity of transfer has, however, always been considered an advantage in place of the reverse, as witness the levying of seizin on a fiefment, the enrollment of bargain and sales, and proclamations on levying prices, and the various modes of transfer by secret assurances which have from time to time sprung up and prevailed, were frauds, so to speak, on the laws of England, as will abundantly appear to any one who will read the preamble to the Statutes of Uses, and the acts for the enrolment of bargains and sales.

Wills are registered *in extenso*, and may be examined by any one who will be at the trouble of doing so; and I believe it is

found that this trouble, and the small fee charged by the office (2s. 6d. I think) quite exclude the gossiping public, who generally prefer to draw on their imagination for their facts. If, however, any person, a creditor or purchaser for example, is really interested in the contents of a document, it seems very reasonable that he should have access to it. It is obviously inconvenient and unjust that I should be obliged to disclose my title to any inquisitive person who may demand to see it; but it is not a just reason for objecting to a registry of assurances that I may be thereby obliged to disclose the disagreeable fact, that I am unjustly or illegally possessed of another man's property. I am opposing a public good in order that I may be enabled to commit a private wrong. It is surely contrary to equity and good conscience that I, holding another's estate merely because he is ignorant of his rights, should demand that no law should be made, however advantageous in other respects, which might possibly deprive me of this unjust privilege, for I cannot call it a right. Yet the objection to a registry, on the ground of publicity, resolves itself into this. Suppose it to have been objected to the institution of the metropolitan police that they would very likely trace a good deal of stolen property into the hands of certain disreputable pawnbrokers, and possibly be the means of recovering some of it for the rightful owners, and so interfere with the rights of the said pawnbrokers, disturbing their possessory titles, and disclosing their private arrangements, would such an objection have been listened to? I think not. I even think that there are some who would have considered it an argument in favour of the police. Yet it seems, *mutatis mutandis*, the very objection made to the publicity of the registry. I am quite aware that a public registry may sometimes be the means of disclosing technical flaws, of which unfair advantage may be taken; but this is not the fault of the registry; it is the fault of the legislature and the judges, who permit technicalities to prevail over justice; and the remedy for it consists, not in keeping titles secret, but in sweeping away all frivolous and unnecessary technicalities, which are a disgrace to our law, and constantly mislead not only the unwary public, but even the most cautious and skilful conveyancers. As regards the cumbrous nature of such a registry, it is, I think, so far as Ireland is concerned, a conclusive reply to this objection, that our registry having existed for 150 years, it has not been found in practice that the accumulation of deeds has become unmanageable; on the contrary, they are all easily arranged, and kept in a single building.

It may be urged that a system of registering deeds *in extenso* would be more cumbrous; but I think if our conveyancing were improved, as I shall presently mention, an entire deed could easily be written on the parchment now used for a memorial.

So far from adding to the expense and delay of investigating a title, the registry would, I think, cause a considerable saving of both time and money.

All people agree that any business can be transacted on a large scale cheaper than on a small one; and it is quite manifest that deeds must be kept somewhere, and whoever keeps them remunerated for his trouble. For these reasons I think the public would

gain by having their title-deeds kept by the registrar. They would also be much less exposed to risk of loss or destruction of their deeds, which would be an immense advantage; for although it may seem hardly credible, it is nevertheless true, that on the sale of an estate all the deeds are never forthcoming. Searches both tedious and expensive have to be made, and, after all possible inquiry, it is ascertained that some of the deeds are irretrievably lost, and the rest are with difficulty recovered from trustees, solicitors, and other persons into whose hands they had got; and if the title is common to several estates, the deeds, or some of them, may be in the hands of third parties, and only copies obtainable. Then a condition of sale (which always depreciates the value of an estate) must be made to meet the non-production of some of the deeds. All this expense and delay would be saved by having the originals on the registry, and a damaging condition of sale rendered unnecessary. I am convinced that the expense and delay of getting in the deeds on the occasion of a sale in the Incumbered Estates' Court, or giving satisfactory evidence of their loss and secondary evidence of their contents, is vastly greater than the cost and delay of searches in the registry office, notwithstanding that fully one-half the cost of the searches in the registry consists of stamp duties, which are taxes for the purposes of revenue, and have nothing to say to the necessary expense of the system. Such a registry, and a court capable of conferring a parliamentary title, would work well together; each would render the other more effectual and useful. A negative search in the registry would disclose all acts affecting land, and render it less dangerous than at present to grant a parliamentary title, and the parliamentary conveyance, when such was obtained, would clear the registry and render searches prior to its date unnecessary in future transactions. It would in this manner be possible to confer on proper occasions a parliamentary title, applying proper checks against error and fraud; but it would not be necessary to confer such a title on every dealing with an estate. The advantages of the parliamentary title would thus be secured with the minimum of risk. If such a title be granted on every transfer of an estate, the risk of defeating latent rights is increased to an unnecessary extent; for it is obvious that for a considerable period after a parliamentary conveyance has been given, the title will be so clear that a purchaser will readily treat for the property out of court, and persons will certainly do so on all such occasions, as those of marriages or family settlements. The registration of title system would on the contrary increase this risk to a maximum; for every transfer of an estate on the registry would be of necessity indefeasible, and therefore, on every such occasion, any latent rights might be destroyed. The second obstacle which I mentioned arises from the great length of time during which, by our law, dormant claims may be prosecuted; and this, I think, would be quite removed by shortening the time allowed by the Statute of Limitations (3 and 4, Wm. IV., c. 27, 1833) for bringing actions to recover such rights. When that act was passed there was hardly any railway communication in the United Kingdom. Ocean steamers were unknown. The electric telegraph had not been dreamt of. There

was no penny postage, nor were penny newspapers then in existence. All these powerful agents for saving time and increasing publicity have sprung up since, so that it is possible to acquire information now with a rapidity and cheapness then inconceivable. If, therefore, the periods fixed by the act I have mentioned were then reasonable periods to name, within which claims must be prosecuted, much shorter periods should now suffice. If they were reduced by one-half, ample protection to parties not in possession would still be given, and much more than they enjoyed thirty years ago; and it would then be possible to reduce very considerably the length of time during which title must now be shown to an estate. The last obstacle I shall notice is our system of conveyancing, the evils of which arise partly from the necessity of the case, (for it is not possible to deal with numerous and intricate interests in few words), and partly from the technicalities of the old and artificial code of rules relating to our landed property, but most of all from the way in which the legal profession is paid, viz. by the length of the document. They are paid by length, and therefore documents are long. Pay them without reference to length, and useless prolixity will cease, and they will readily accept such legislative changes as will still further diminish prolixity. I shall read part of a deed to give some idea of what I mean; all of it, except the names of the parties and lands, is taken from a recent edition of Blackstone, published in 1844:—"Now this indenture witnesseth, that the said John Smith hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, and confirm unto the said Thomas Jones, his heirs and assigns, all that and those the town and lands of Kill, situate, lying, and being in the barony of Dunluce, and county of Antrim, containing 500 acres, or thereabouts, be the same more or less; together with all and singular houses, dovehouses, barns, buildings, stables, yards, gardens, orchards, lands, tenements, meadows, pastures, feedings, commons, woods, underwoods, ways, waters, watercourses, fishings, privileges, profits, easements, commodities, advantages, emoluments, hereditaments, and appurtenances whatsoever to the said town and lands belonging or appertaining, or with the same used or enjoyed, or accepted, reputed, taken, or known as part, parcel, or member thereof, or as belonging to the same, or any part thereof (all which said premises are now in the actual possession of the said Thomas Jones, by virtue of a bargain and sale to him thereof, made by the said John Smith for one whole year, in consideration of 5s. to him paid by the said Thomas Jones, in and by one indenture bearing date the day next before the day of the date hereof, and by force of the statute for transferring uses into possession); and the reversion and reversions, remainder and remainders, yearly and other rents, issues, and profits thereof, and every part and parcel thereof; and also, all the estate, right, and title, interest, trust, property, claim, and demand whatsoever, both at law and in equity, of him the said John Smith, in, to, or out of the said town and lands, tenements, hereditaments, and premises. To have and to hold the said town and lands, tenements, hereditaments, and all and singular other the premises hereinbefore men-

tioned, to be hereby granted and released, with their and every of their appurtenances, unto and to the use of the said Thomas Jones, his heirs and assigns for ever."

This deed would be as effectual if it ran thus:—"This Indenture witnesseth, that the said John Smith doth grant unto the said Thomas Jones the lands of Kill, situate in the barony of Dunluce and county of Antrim, containing 500 acres or thereabouts, with the appurtenances, to hold the same unto, and to the use of the said Thomas Jones, his heirs and assigns." This is about one-sixth of the length of what I read first, and is, I think, more intelligible. Take therefore one-sixth as necessary, and there remain five-sixths of useless matter, of which rather more than a sixth is owing to the technical mode of conveying by lease and release, and nearly four-sixths to pure prolixity. It serves very well to illustrate what I mean, as, although the deed was drawn after the passing of the Act 4 and 5 Vic., c. 21, it still preserves the old mode of conveying by lease and release, showing not only a good example of the absurd technicalities of our laws, but also how unwilling, under existing circumstances, the profession is to avail itself of simpler forms.

If I hire a cab by the hour, I do not expect to be driven at a very rapid pace; or, if I do, I shall be disappointed, for the driver is naturally anxious, when hired by time, to consume as much of it as he can in my service; and although the social position of cab-drivers and members of the legal profession is very different, they are both sensibly affected by their obvious interests, and it is a mere folly to expect anything else. I believe it is perfectly well known that much more medicine is ordered in England than in Ireland for the sick, owing to the circumstance that general practioners are there paid, not for their skill, but for the medicines consumed; while here, medical men are paid for their skill, irrespective of the quantity of medicine used. If members of the legal profession in Ireland were paid as Irish physicians are, prolix conveyancing, as well as excessive drugging, would be very much confined to England; and legislative measures to abolish technical and artificial rules of conveyancing would meet with much less opposition than might now be expected. A well-drawn Deeds, Clauses Consolidation Act, containing also a clause to the effect, that in taxing any bill for preparing and executing any deed, the taxing officer shall, in estimating the proper sum to be charged for such transaction, consider not the length of such deed, but only the skill and labour employed, and the responsibility incurred in the preparation thereof, would remove this obstacle in a great degree. Such a measure would work, if entrusted to the court I have mentioned to carry it into execution; for the judges of such a tribunal would have so strong an interest in putting a stop to prolixity (seeing that they themselves would have personally to peruse all titles brought before them), that they would, if necessary, take the taxation of costs into their own hands until the new system was successfully launched.

Having thus briefly considered the principal obstacles to the transfer of real estate, and the manner in which I think they may

be removed or lessened, it only remains for me to state in conclusion, that while such complicated and various rights and interests in real estate as now exist are permitted to last, it does not seem possible to unite perfect protection to all parties with perfect simplicity or extreme facility of transfer. The present system sacrifices the purchaser and impedes transfers to an unreasonable extent. That proposed by this Report would protect the purchaser at the expense of all other persons, and would shake public confidence in the security of settlements and other derivative interests. I propose a middle course, which would give reasonable security to all parties, and would greatly simplify and facilitate sales, but would not, I admit, make a sale of land as simple as a sale of stock, which is not in my opinion practicable under existing circumstances.

III.—*Some facts which suggest the idea that the desire for Alcoholic Stimulants is not only transmitted by Hereditary Descent, but that it is also felt with increasing force from generation to generation, and thus strongly tends to deteriorate the human race.*—By James Haughton, Esq.

[Read 15th February, 1858.]

Gentlemen,

I purpose in this paper to bring under the notice of the Society rather a novel view of a subject which has, for some years past, engaged a considerable amount of public attention.

There is a deeply important principle in relation to the drinking customs of society, that has not yet received the consideration of the educated classes which it deserves. I refer to that hereditary tendency to a craving appetite for alcoholic stimulants which is transmitted from parent to child, and which facts that do not appear yet to have attracted much attention seem to prove have a greatly accelerated force from generation to generation; thus indicating strongly that if some counteracting tendencies were not, from time to time, brought to bear upon the evil, it would result in the rapid deterioration of our race, both physically and morally. It needs no argument to prove that the use of the poison alcohol has an injurious effect upon the health and the virtue of the people. Some faint attempts have been made by a few writers to prove that this poison, when used in small quantities, may be taken not only without injury, but with advantage by persons in health. But the weight of evidence against this opinion is so overwhelming, it may be considered as having no force in the minds of well-informed men. So far from this spirit being now looked upon as the "water of life," it is pronounced by almost all scientific men to be at war with man's constitution, and in no degree capable of building up a healthy frame, or of supplying the waste which is constantly going on, and which creates a necessity for the daily supply of nutritious food for the sustenance of our bodies. Alcohol has no power to meet this want; on the con-