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I.—*Address by the Vice-President*, Right Hon. Mr. Justice O'HAGAN,
at the opening of the Nineteenth Session.

[Read Tuesday, 28th November, 1865.]

I HAVE answered, with pleasure, the call which has been made upon me, as Vice-President of your Society, to address you on the opening of this, its nineteenth session.

Unfortunately for myself, the pressure of many engagements has heretofore deprived me of the great advantage, which is conferred by habitual attendance at your meetings. I have rarely been able to be present at them; and I am not, perhaps, qualified to speak of your history or appreciate your labours, as I ought. But I do not think myself justified, on that account, in declining the responsibility you invite me to assume. Each of us should strive to do his best, according to his circumstances, in the position he has taken in the world. We are not at liberty to abstain from practical action, because we cannot lift ourselves to the level of our own ideal; and no vanity is more intolerable, than that which cloaks its morbidness under the show of modest self-distrust. Though with a full sense of my shortcomings in an unfamiliar field, I do not hesitate to approach my appointed task; somewhat sustained by the remembrance, that I have striven to co-operate with your endeavours in the sphere of action from which I have lately passed; and that I have never ceased to sympathise with your aspirations, and admire the constitution and procedure of your Association.

That Association has endured for nearly twenty years, continually acquiring strength and influence. It has been a remarkable phenomenon in the social state of Ireland—remarkable, alike, in its action and in its objects; and I can scarcely better begin to discharge the duty

of this evening, than by indicating, as one more free to speak of them, because he has had little participation in them, the character of its services in the past and the claim they give it to confidence in the future.

Its action has been honourable to Ireland, and its objects have been especially important in relation to her peculiar state. Economic science, and the inquiries ancillary to the establishment of its principles and their judicious application to the affairs of human life, have only for a very brief period commanded any attention amongst us. They constitute, indeed, almost a new department of knowledge, which has found its special cultivation everywhere, in latter years ; but, with ourselves, that cultivation was very long delayed. Political interests and political struggles absorbed the mind of the nation. We were cursed with an inheritance of sectarian strife ; and there was long no hope of the extinction of the passions which it engendered. In presence of those disturbing passions, calm thought and deliberate investigation of public questions found small acceptance, even amongst educated men : and such questions were regarded more in their possible relations to the triumph or defeat of party, than with an earnest regard to the truth of facts or the justice of conclusions. They were treated too much in the spirit of rhetorical exaggeration, and with too little of the simplicity and directness of those who honestly seek to know things as they are. Times have happily changed, and men with them ; and, though little more than a quarter of a century has passed, since one indispensable condition of harmonious progress was fulfilled for Ireland, and though the intervening years have been chequered by many contentions and darkened by many sorrows, there have arisen amongst us an ever-growing sense of the value of economic truth, and a desire to ascertain correctly the real circumstances which need to be considered with a view to our social and industrial progress. The change is partial and imperfect. We have still too much talk and too little work. Exploded fallacies as to the functions of government, and the foundations and the means of national prosperity, still linger around us. But we have made great and manifest advances ; and, in the making of them, your Society has been a very powerful agent.

It has afforded an arena for the free exercise of the speculative intellect, on the subjects especially submitted to its consideration, which could scarcely be found elsewhere. You have been gathered together by no prompting of ambition or hope of gain, and your deliberations have been unaffected by any thought of the action of their results, on the fate of a minister or the maintenance of a party. With perfect indifference to external pressure or warping influences, you have formed your judgments and expressed them, conscious that, in the formation of them, there has been nothing of biassed indirectness ; and knowing that, as you all stand on a perfect level, one with another, the expression of them is valued precisely for what it is worth. These are circumstances very favourable to candid investigation and truthfulness of speech ; and no one can read your transactions without the belief, that they have been pro-

ductive of very great advantage. You have dealt with the most important questions in a wise and manly spirit. Many of the valuable administrative and legislative improvements of latter years—to some of which I mean to call your attention, by-and-bye—have found their earliest, and not their least effective, advocacy in your assemblies; and some of the papers of your members have had imperial acceptance, and awakened thought and formed opinion beyond the bounds of Ireland.

You have striven fairly to maintain our position amongst European countries, in one of the most remarkable spheres of modern thought. In nearly every one of them—from Paris to St. Petersburg, from Copenhagen to Madrid—intellectual men have combined to gather statistical information and test the principles of political economy. Governments have advanced the work; and legislatures have competed with each other, in proclaiming its importance and furnishing facilities for its progress. It is pleasant to know that, through your efforts, Ireland has not been meanly represented in this rivalry of nations. You have given a reasonable contribution to the fund of intelligence which has availed to stimulate and aid the statesmanship of the world, in appropriating profitably to every land the fruit of the experience of every other. And, in widening the basis of your Association, and extending its researches beyond the problems of the economist and the tables of the statistician, to matters which concern the general life and well-being of communities, you anticipated the scheme of action, which has since commended the Social Science Congresses to popular favour and merited success.

And, in fulfilling the purpose of your union, it has always seemed to me, that you have conferred on the country collateral advantages, of scarcely less account than those which directly result from the promotion of scientific and statistical inquiry. Your papers and discussions have tended to introduce amongst the young men of Ireland a proper appreciation of the value of accurate knowledge, impartial judgment, and precise and truthful statement of opinion. We have been too much disposed to deal in misty generalities, and be satisfied with that sort of information which comes to us at second hand, and is worthless in proportion as it is taken for granted, inexact, and unverified by our own industry and intelligence. In the conduct of affairs, forgetting that we live not "*in republica Platonis*," but "*in fœce Romuli*," we have too often aimed at impossibilities: and sacrificed great good within our reach, by striving after that which, even if more to be desired in the abstract, has been, for us, practically unattainable. And we have been induced, from circumstances at which I have already pointed, to utter stilted phrases, and promulgate extreme views, without regard to the reality of things and the sufficiency and cogency of evidence. The discipline which has prevailed amongst you has promoted the correction of these flagrant mischiefs. You have not had the temptation to extravagance of thought and utterance, which popular audiences and political excitement too surely supply; and you have learnt to seek self-satisfaction and the approval of your fellows, by

the search after sound knowledge and the imparting of it, in simple and intelligible language.

All men who have had to do with public life are well aware that, to success in it, training of this sort is of the highest usefulness. The cause which is fairly advocated, on the basis of proved facts and just deductions, will certainly prevail; and the man who aims to better the condition of his native land, and win for himself a place amongst its benefactors, must be content to toil through a period of earnest preparation, and arm himself, not merely in a panoply of glittering words—though eloquence is a precious gift and worthy of all praise, when it represents substantial thought and genuine feeling—but with the appliances which are to be won from patient and conscientious study of the events of history, the course of civilization, the characteristic qualities and conduct of aggregates of men in various climes and countries, and the special needs and aptitudes of his own people.

Another of the beneficial operations of your Society has been found, in the attraction and combination of men of various orders and pursuits. Generally, the condition of intellectual concourse in our public bodies, has been identity of worldly occupation. Physicians and lawyers have prosecuted, amongst themselves, the inquiries proper to their respective professions; and literary and scientific men have stood very much apart from the members of the mercantile community. There is evil in this isolation of classes. Wherever there can be combined action, on the part of educated persons, having different missions in the world—viewing its affairs from different stand-points—accustomed to special exercises of their mental faculties and rich in the teachings of a many-sided experience,—it is much to be desired and full of advantage. It tends to dispel prejudice, and correct error, and enlarge the sphere of human sympathies. It awakens us to worthy emulation, and pervades us with a spirit of wholesome activity. And this great good you have laboured to secure, by collecting, in a remarkable and almost unexampled manner, representatives of the various grades of Irish society—the industrial, the territorial, the professional, and the official,—who have striven with each other in the acquirement and diffusion of information, of the most valuable kind.

And your union has not been, merely, a union of classes. It has been more useful still, from its successful comprehension of different creeds and parties. It has proved that, for Irishmen, there is common ground, in connexion with questions of high public moment, on which they can stand together, in perfect amity, whilst they hold firmly by the antagonistic religious and political confessions to which they are respectively attached. Some of the subjects with which you habitually deal have often been made the shibboleths of factious strife, and others have touched closely the debateable land between social inquiry and moral science; yet, for nearly a score of years, you have been working together—Roman Catholics, Episcopalian Protestants, and Dissenters—all earnestly attached to the tenets and traditions of your several faiths; and neither in the multitudinous papers which have illustrated your transactions, nor in the

excitement of your oral controversies, has a word of acrimony or offence been written or uttered, during that lengthened period. I do not know that, in Ireland, such a demonstration has hitherto been afforded of the possibility of the pursuit of identical objects, by people of various denominations, with complete satisfaction and success. You have agreed to differ, without the least compromise of principle of any kind.

Hanc veniam petimusque damusque vicissim.

That such a spectacle should have been exhibited in a country so cursed by mad and wicked dissension, is surely a hopeful presage for the future ; and there seems no reason why diffused intelligence should not induce, through the length and breadth of Ireland, that true charity, which far transcends mere toleration—that thorough reciprocity of trust and kindness, which have made your meetings as delightful, as they have been abounding in profit, to you all.

In the ways I have indicated, and many others, the action of your Society has been of great utility. Let me say a word as to its general objects, before I proceed to observe upon some of the legal and administrative improvements, which we owe to the awakening and organization of opinion, on subjects of public interest, in Ireland. I do not mean to waste your time by any needless vindication of the value of economic science, or any encounter with the objections which formerly, to some extent, obstructed the progress of its investigations, and delayed the acceptance of its fruitful truths. As I have said, it is of modern birth. It required the general dissemination of intelligence, the comparative permanence of peace, the humanising influences of Christianity, and the free intercourse of nations, to enable it to grow into a settled and homogeneous system. It existed, always, implicitly and potentially, in the counsels of the rulers of mankind. Statesmen unconsciously acted on its principles ; and wise observers saw that the human family was governed by general laws, accomplishing their appointed ends, according to circumstances, for good or evil. But, it needed the changes of the modern world to work out its results ; and it had to battle with many a prejudice and many an apprehension of those who thought they saw, in some of its speculations, formidable danger to morals or religion. All this has passed away. Fallacy has vanished after fallacy, before the power of reason ; and it has been found that the revelation of God is not less consistent with that law which He has so marvellously established to make the free volition of His creatures work out foreseen results, than with the constitution of His physical universe. Alike in the dealings of great communities with each other, and in the condition of the households which compose them, the value of its discoveries has been happily demonstrated. They have taught men to emancipate themselves from many of the political superstitions, which long had an evil and unquestioned mastery. They have brought the canons of government more and more into harmony with the true theory of social life and the real interests of the people. They have given liberty

and expansion to the vast operations of commerce; and crushed down the dominion of monopoly, however it may have been consecrated by antiquity, or fortified by selfishness, or sustained by power. They have asserted the rightful claim of the masses to immunity from the mischiefs of class legislation; and, at once in the poor man's cottage and the palace of the prince, they have multiplied the means of comfort and enjoyment. They have caused the superfluity of one land to supply the wants of another, with the highest benefit to both. They have led distant nations to recognise their inter-dependence for the profitable exchange of their respective products; and made some of them,—which had been long estranged by hereditary hatred and traditionally bent to compass their reciprocal destruction, close friends and genial fellow-workers in the ways of industry,—no longer standing, in grim antagonism, holding it their duty and their interest to do, on either side, all the damage in their power, but, contrariwise, helpful ministers to their mutual happiness, finding the welfare of all advanced by the prosperity of each.

They have practically affirmed, in a larger and deeper sense, perhaps, than that in which he understood it, the saying of Charles James Fox—"Whatever is morally wrong can never be politically right!" They have proclaimed, that the same great law of love should regulate the relations of bodies politic and of individuals; and that for states and continents, as for the humblest units of humanity, the command of the Saviour—that we do unto others as we would they should do unto us—is pregnant to all in its obedience with abounding peace and joy. They have proved that the abandonment of privilege is often the wisest exercise of power; and that nations, ceasing to hedge themselves round with jealous exclusiveness and dark distrust, and freely mingling in generous rivalry of kindly offices, promote their several interests and the well-being of the race, far more than if they continued to keep apart in selfish isolation, seeking aggrandizement at each other's cost, instead of rejoicing in that happy interchange of benefit and service, which

Blesseth him that gives and him that takes.

We must not dream of days, in this probationary state, when strife and penury and sin shall cease to plague the world; but it is impossible not to see, that the science of which I speak, directing the policy of statesmen and the action of parliaments, and permeating unconsciously, by the patent results of its teaching, the spirit of the multitude in many lands, has made some little progress towards the formation of a community of peoples,—slow to quarrel and eager to unite,—with bonds of common interest and intelligence holding them together, in spite of the dis-severing strain of passion and caprice and headstrong self-will, and with an ever-growing horror of the misery and the crime involved in the achievement of martial renown or territorial greatness, by the lavish outpouring of human blood.

These things are manifest; and I need dilate on them no more; but I may fitly say, that, at this time in Ireland, there is a special and a hopeful mission for such a society as yours. It is a period of

great social change. Old things are passing away before our eyes; and we should be prepared for the new order, which even our own generation may be destined to inaugurate. The famine which mowed down our people in myriads, extinguished an insolvent proprietary, transferred a tenth of the soil to new possessors, and issued, with other causes, in an emigration so appalling in its vastness, so irresistible in its accumulating volume,—this and its consequences have greatly altered the face of Ireland, and made it absolutely certain, that her state hereafter must be very different from her condition in the past. For myself, I do not believe that our ancient race will be annihilated, or our distinctive character destroyed. They will out-last the social revolution which assails them; and, modified and shaped by the force of events and the necessities of the times, they will receive a new and prosperous development. That is my earnest hope and strong conviction. Ireland has a destiny yet to be accomplished; and I have deep faith that the workings of Providence, in her regard, of latter days,—so terrible in their seeming, so disastrous in their temporary results,—will be found to have opened her way to a better future. Meanwhile, she is in a transition state, and that is exactly the state in which a country most temptingly invites the study of the economist and statistician. The opportunity of testing the truth of their conclusions is rare as it is precious, when the elements of society are in a state, so to speak, of fusion, instead of being crystallized into a rigid form; and the opportunity, also, of salutary counsel and practical usefulness is especially great at the perilous period of the birth throes of a new social organization.

Note, too, that the majority of the questions, which, at this moment, are of chief importance to us, are social rather than political. Some there are, no doubt, of the latter kind which will force themselves to solution by the legislature; but, assuming the settlement of two or three of them, there remain mainly those which touch the economic condition of the people; the relations of classes; the possibility of introducing new industries and improving those which exist; and others of a kindred nature, especially of interest to an association such as yours.

And, finally, I would say, that, whilst your enquiries may enable you thus to assist, more or less, in making the future of our country very different from the miserable past, you may be of peculiar efficiency in averting the mischiefs, which might be wrought by a too trenchant application of economic principle to the management of Ireland. Our circumstances are, in many respects, abnormal. Our society is studded all over with anomalies. We need to be dealt with, in no spirit of forgetfulness of the peculiarities which have characterized our history and affect our actual state; and we may fairly desire, that our affairs shall not be transacted, merely according to the abstract views of philosophic thinkers, even though they have had prosperous application, in countries which have reached a different stage of progress. We have endured much mischief from indifference to this principle of action, in some most important epochs of later times; and we have had reason to desire, that

the advice of Mr. Senior had always been held in view, in legislative dealings with Irish interests. In speaking of the political economist, that able man observes:—"His conclusions, whatever be their generality and their truth, do not authorize him in adding a single syllable of advice. That privilege belongs to the writer or the statesman, who has considered all the causes which may promote or impede the general welfare of those whom he addresses, not to the theorist who has considered only one, though amongst the most important, of those causes. The business of a political economist is neither to recommend nor to dissuade but to state general principles which it is fatal to neglect, but neither advisable, nor perhaps practicable, to use as the sole, or even the principal guides in the actual conduct of affairs." These are pregnant words, and through you, who are labouring in the field, not of abstract science, but of social inquiry,—collecting, marshalling, and expounding facts which indicate the condition and the wants of your own country, and the measures calculated to advance it in wealth and prosperity—through you, they may be made availing, to ward away the quackeries of merely scientific legislation, and accommodate the laws to the genius, the feelings, and the present necessities of the Irish people.

I have thus endeavoured to indicate the nature of the action of your Society, the worth of its objects, and its peculiar fitness to do public service in the time in which we live. I would add some words of encouragement to further effort, by pointing to the successes of the past; and I should refer to the labours of your last session, but that they have been so admirably summarized in the report which has been read. They were conversant with some of the most serious questions of economy and jurisprudence, of legal reform and sanatory arrangement, and they were characterized by clear intelligence, sound information, and large and liberal thought. I may, I think, more profitably, invite attention to some of the changes which have been recently accomplished. Most of them occurred during my own brief period of office, and I can, therefore, speak of them with some assurance of accurate knowledge. They seem to be of much importance to the interests of statistical investigation and social progress.

In the first place, a great reproach has been taken from Ireland, and a great advantage bestowed upon her, in the establishment of the system of Registration of Births, Deaths and Marriages, which came into action on the first of January, 1864. Through all Europe, such systems had long been in effective operation. They were felt, everywhere, to have the closest relations with the well-being of communities and individuals—with the nicest problems of social science, the course of sound legislation, the satisfactory administration of law, and the devolution of property with security and justice. Publicists and legislators had laboured to perfect the means of registration; and Great Britain, though lagging behind other countries, had secured them for itself, by acts which passed—for England, in 1836—and for Scotland, in 1854. We were alone amongst civilized nations in the absence of those means, and, for a

long series of years, every effort to acquire them proved strangely abortive.

The Presbyterian Marriage Act of 1844 (the 7th and 8th Vic., c. 81) provided for a very partial registration of the marriages of a portion of the people; but those of all the rest, and births and deaths universally, were without any authoritative legal record. From 1846 downwards, scarcely a session passed, in which the matter was not mooted in the House of Commons. Private members and successive administrations endeavoured to deal with it; and various proposals were made, from time to time, with various shows of feasibility and various measures of success; but, until the year 1863, they were all rejected. In that year, the Act now in operation for the registration of births and deaths only, was introduced and passed by the government; and the machinery of the poor-law and the services of the medical officers of the dispensary districts were employed for carrying it into effect. Marriages were excluded from the scope of the measure, as it had been found extremely difficult to frame any machinery with reference to them which would be generally satisfactory in Ireland, and several bills had been defeated, through the operation of this difficulty. However, a separate bill, providing for the registration of Roman Catholic marriages was framed by my friend, Mr. Monsell, on the model of the Scotch statutes, for the same purpose. His great influence and energy mastered obstacles which before had proved insurmountable; and the bill passed both houses and came into operation with the Act of the government, on the 1st of January, 1864. These have been important advances. We should be thankful for them; and I have no doubt that the legislation will yet accomplish its object fully. But it has been in operation only for a short period; and new things are sometimes not willingly or trustfully accepted in Ireland.

The returns of the Registrar-General show, clearly enough, on a comparison with those for England and Scotland, that our registration is still, practically, very imperfect indeed.

As to births, there is, I believe, reason for thinking that their number is greater in Ireland, in proportion to the population, than in England or Scotland. Yet, whilst, in England, the registered births were in the proportion of 3.561 per cent. or 36 per thousand, and in Scotland there was a somewhat similar per centage; in Ireland, the proportion was only 2.400 or 24 per thousand. According to the British proportion, there should have been registered, in Ireland, in 1864, 204,038 births, but there were actually only 136,643 registries, leaving 67,395 unregistered, a deficiency of over 49 per cent. So stood the figures in 1864, and I am informed by Mr. Wilkie, Chief Clerk in the Registrar-General's Department,—to whose courtesy, in connexion with this inquiry, I have been much indebted,—that there has been scarcely any improvement, so far, in 1865.

As to deaths in 1864, whilst, in England, the proportion of registered deaths to the estimated population, was 2.385, or 1 death amongst 42 persons, and in Scotland the per centage was 2.382, and

the ratio 1 death amongst 42 people; in Ireland the proportion of registered deaths to the population was only 1.652, in the ratio of 1 death to 61 persons. If the same proportion had prevailed in Ireland, as in England and Scotland, the number of registries should have been 135,712 instead of 94,075, making the deficiency 41,637, which is equal to 44 per cent. Neither, as to death registration, has there been much improvement in 1865.

As to marriages, the defectiveness of the registration is still more striking. The number of marriages registered in 1864 was only 27,373; whilst, according to the ratios prevailing in England and Scotland, there should have been, in proportion to the population, 45,408. This would make the number remaining unregistered 18,035, or almost 66 per cent.

Of course, these figures cannot pretend to approximate precision; but they demonstrate conclusively, if roughly, that a great deal remains to be done to get our registration machinery into full working order. I would recommend the subject to your consideration, and invite the earnest co-operation of all who can aid the Registrar-General and his assistants, in discharging the onerous and important functions which they so well fulfil. Perhaps, as to births and deaths, it may be found desirable to bring the constabulary force in aid of the medical officers. At least, the suggestion is worthy of attention.

As to the Marriage Act of 1863, the active assistance of the Catholic clergy is vital to its success. I am sure they will give that assistance readily. The Act—I can speak with some authority as to this—was carefully framed to avoid any conflict with Catholic doctrine or discipline in any way. It comes in aid of the traditional policy and the authoritative teaching of the Church, as to the necessity of registration. It has been worked efficiently and intelligently in this archdiocese; and any shortcomings in remoter districts will, I have no doubt, be supplied, when the value of its provisions to the safety of individuals, and the peace of families, and the general welfare of the country is better understood.

I pass to another subject of special interest to us—the publication of the judicial statistics of Ireland. In the want of this, also, we have had cause for national self-reproach. Other countries have long been careful to record the history of the action of their tribunals; and England has followed their example successfully, for some years past. There were various difficulties attendant on a similar undertaking in Ireland, and it was much delayed; but they have been overcome, and two most valuable volumes have been prepared under the supervision of our secretary, Dr. Hancock. They exhaustively present such information as is available, with reference to our civil and criminal courts, the organization of our police, and the management of our prisons. The arrangement is lucid and intelligible; and the facts they present are, in many cases, very curious and suggestive. I have no time to dwell upon any of them, in detail; but they seem to me to furnish much matter for your thoughtful consideration. They are satisfactory, as indicating the general order and morality of the people,—the continuing success of that admirable convict system, in which Ireland has afforded

a model for imitation, not unappreciated by other lands,—and the progress of education amongst the poorer classes; the proportion of those who can read and write having increased from 23.14 per cent. in 1855, to 34.51 per cent. in 1864. But these gratifying indications of our condition have something to balance them in other disclosures. Two of the questions they present, I think most worthy of your intelligent attention, with a view to the quick reform of very portentous abuses.

The first regards the jury system, as it exists in Ireland; and the second, the condition of lunatics in the public gaols.

As to the first, the law under which jurors are still selected and empanelled had regard to a state of things, which has become so gravely altered, as to require its substantial modification. The leasehold tenures which were made the basis of the qualification, have,—I think, unfortunately,—to a large extent ceased to exist, and the jurors' lists have necessarily got into a lamentable condition of illegality and disorder. Dr. Hancock's tables inform us, that the number of jurors is four times greater, in proportion to the population, in some counties than in others; and that, in no less than twenty-nine districts, the classification prescribed by the law receives no attention. In such a state of things, there is danger of the administration of justice sometimes coming to a dead lock. A new basis of qualification must be sought, and it must be very well considered, both as to character and amount. The lists in many counties need careful revision, and, certainly, not less the arrangements which furnish jurors to the courts of the metropolis.

The second matter, which has greatly impressed me, in glancing through these statistics, is the condition of lunatics in our common gaols. In England, by the statute 1 and 2, Vic. c. 14, passed in the year 1838, justices, who had theretofore possessed the power, were forbidden to commit any lunatics to a gaol, and directed to commit them, instead, to the county asylum, or to some public hospital or house duly licensed for the reception of insane persons. In the very same year, by a precisely contradictory piece of legislation, justices in Ireland were, for the first time, empowered to commit lunatics to gaols. That law was prompted by the panic which was caused by the murder of a citizen of Dublin, and it has been productive of very lamentable results. Whilst, since 1838, no lunatic, as such, could be committed to any gaol in England, we learn from the returns that 1077 of those unhappy persons have been confined in Irish gaols, and in those gaols they have constituted one-third of the entire number of prisoners under detention. "Of these two had been "upwards of ten years in gaol; thirty-four, above five years and less than ten; forty-seven, above three or less than five; fifty-nine, above two years or less than three; and one hundred and nineteen, above one year." Now, the system which has had such results is utterly inhuman. It was declared, so long ago as 1807, by a select committee of the House of Commons, that "to confine lunatics in common gaols is destructive of all possibility of the recovery of the insane and of the security and comfort of the other prisoners." The Act of 1838 was condemned by Lord St. Leonards, when Chan-

cellor in Ireland, by a Committee of the Lords in 1843, and by the Asylums' Commission in 1858, which recommended that its provisions "should be at once repealed." Yet they still exist, demoralising our prisons, destroying the chance of improvement in curable cases, and often ending life and hope together. On my late circuit I have seen, with deep concern, the wretched results of this barbarous system. They will, I suppose, be mitigated when the asylums which are now in progress shall be completed; but the law should promptly be assimilated to that of England, and the possibility of a practice abhorrent to humanity, and disgraceful to our civilization, should, once and for ever, be removed.

This subject, also, I recommend to your grave consideration; and there are others indicated by these judicial statistics to which I would willingly allude; but I have no time to do so, and I must content myself by congratulating you on the increase of the means of important knowledge which they undoubtedly supply.

A third improvement, to which I deem it right to advert, has been accomplished by the passing of the "Record of Title Act" in the last session of Parliament. I may fairly say, that this ought to be a subject of peculiar satisfaction to your Society. The measure was originated and carried to a successful issue, mainly by members of it. The opinion of the country,—of its landed gentry, its leading commercial men, its corporations and representatives,—was roused in favour of the change by Mr. Pim and others of your associates. The Bill was drafted, under my own official supervision, by Mr. Umlin. I introduced it, before I left the House of Commons; Lord Westbury then took charge of it; it was passed with some modifications, and I am glad to see that our fellow labourer, Mr. Hutton, proposes to favour the public with a legal exposition of its provisions. It therefore, in a special sense, belongs to ourselves; and, if it be a good thing, its success should be gratifying and encouraging to us all. It has just come into operation; and I may aid in the practical application of its capacities of usefulness, if I point, briefly, to the mischief it was meant to rectify, and the nature of the remedy it supplies.

The mischief arose from the expense and the complication, with which the existing system embarrasses the transfer of land, and renders the title to it doubtful; and the remedy is sought in a scheme, which will make the transfer cheap and easy and the title simple and secure. I do not need to advert, at any length, to the injury and inconvenience which have perpetually arisen from the necessity of a retrospective deduction, ranging back through a multitude of years,—renewed on every fresh transaction, either for the purpose of sale or of incumbrance,—attended with obscurity and doubt in its successive stages,—involving large expenditure,—creating vexatious delay, and, in the end, leaving the lender or the purchaser without any absolute assurance that his security or his acquisition is beyond impeachment; whilst it may subject him to the annoyance of going again through the same tedious and tormenting course, if he should at any time desire to assign the security or part with the acquisition. The results, unquestionably, have been, that the value of land is

lowered and the ready disposal of it made very difficult. As to all other kinds of property, simplicity of title and facility of transfer have been long secured. It can be conveyed promptly, by means within the power of every one, at an outlay which burthens no one, and with a certainty which removes all ground for apprehension or misgiving. The owner or the incumbrancer of land, alone, is forbidden to use what belongs to him, with perfect freedom. This is manifestly wrong and greatly mischievous; and if it be possible to have free trade in the soil as in the wealth which it produces, if the artificial obstructions to its transmission from hand to hand can be done away, all classes will reap the benefit of the change. The great proprietor will be aggrandized by the increase in the worth of his estate, for which many, if he desire to part with it, will be enabled to compete. The capitalist will more easily find a profitable investment for his money; and the tenant-farmer, with moderate means, will have the opportunity of acquiring an independent position on his native soil, which is now beyond his reach.

What seems so desirable, and is nowhere more desirable than in Ireland, has actually been accomplished in many parts of the world. The system of registration or record of title, giving an indefeasible estate, without retrospective investigation, has been established, for a long period, in many of the countries of continental Europe, and it has been successfully applied in Australia by Mr. Torrens, with the most beneficial results. The act in question proposes to apply it here; and for its easy and successful application we happen to have greater facilities than, perhaps, any other nation of the earth.

It has been our fortune to anticipate England in several arrangements of great legal and local importance. We supplied, in the Court of the Assistant Barrister, the model of the English County Courts. We have peculiar institutions of much public usefulness in our national Registry of Deeds, which has existed for many generations; in our national Tenement Valuation, and in our Ordnance Survey; and these are all especially available to aid in the establishment and the working of a record of title. But, we are eminently favoured in this respect by the possession of the Landed Estates Court, which has now become a permanent institution. It has dealt, largely and safely, with the property brought under its jurisdiction, and that property, already, comprises more than a tenth part of the entire surface of the island. Now, as to all the estates which have passed through this Court, the title is absolute and secure, and none of the mischiefs of cost and complexity, to which I have adverted, attach to it any more. But this advantage belongs to it, only whilst it continues vested in the first purchaser. When he aliens or incumbers, the ordinary system of inquiry and conveyancing resumes its operation, and subsequent transactions expose him, and those deriving under him, to the same expenditure and inconvenience which affect common titles. Each successive devolution increases the cost and difficulty. Searches must be made; abstracts must be prepared; opinions must be taken; and, in the course of a few

years, the benefit of the parliamentary title becomes comparatively trifling.

The Act, which has been framed to extend and perpetuate that benefit, by introducing the simple and sufficient machinery of a record of titles may be briefly thus described.—It affects only those estates which have come, or may come hereafter, under the operation of the Landed Estates' Court, and as to which its conveyance or declaration has cleared the title, and made it indefeasible. It is a permissive bill, and gives to proprietors the choice of availing themselves of its provisions, or dealing with their possessions, according to the old mode of proceeding, in connexion with the registry of deeds. But all who so desire may, on obtaining the parliamentary title from the Court, have it recorded in a book framed in such a way that any subsequent dealing with it, whether for sale or for mortgage, may be registered in the same folio, which will thus disclose, at once, the condition of the estate, the precise charges which affect it, and the existing title to every portion of it. The act provides that the alienation of, or the incumbrance upon, any part of the recorded land shall be effected by deeds of the shortest and simplest description, in forms which it prescribes: and when these deeds are executed, and the entry is made on the record, that entry constitutes, in itself, the title, and is as conclusive and indefeasible as the original conveyance or declaration of the judges. In this way, without cumbrous investigation of past transactions, by a brief and inexpensive instrument and a plain and intelligible record, the sale or the mortgage will be effected, and remain, until displaced by a further dealing, valid against all the world. The transfer of the land or any charge upon it will thus be as easy and complete as that which may now be made of stock, or railway shares, or an interest in a ship, however great may be the value of property of that description.

Of course, I shall not weary you by discussing the details of the measure. I believe it to be sound in its principle, simple and effective in its machinery, and intelligible in its terms; and, being so, I trust that it will, gradually but surely, exert a most useful influence on the condition of the people of Ireland. It will tend to promote mercantile progress by relieving land, as an article of commerce, from the embarrassments which now clog its alienation. It will increase the value of estates to those who possess them; and afford the industrious agriculturist the chance of purchasing by the fruit of his toil. The legislative change, which dissociated the franchise from tenure, whatever may have been its political justification, was injurious in its social results, for it discouraged the giving of leases and multiplied tenancies from year to year, with all the incidents of uncertainty of continuance, and all the obstructions to substantial improvement, which, unfortunately, attach to those tenancies in Ireland. I have hope that, through the action of the new system, and the development it may have hereafter, not only may the leaseholder be better secured in his position and the landlord induced and assisted to make him so; but that the capital which undoubtedly exists amongst our small farmers and peasantry,

comparatively unproductive to them and wholly useless to the country, may find an occasion for profitable employment. That more than sixteen millions should have been lodged in the local banks, bearing interest at two per cent., is surely a striking indication of the want of opportunity for investment in the land, either in the way of purchase or improvement; and, unquestionably, that want has very much resulted from the expense and difficulty attendant on the acquisition of small holdings, which have been such as to render it generally impracticable. This will no longer be so, if the principle which the act affirms be carried out, with full effect, and with all its natural consequences, and we may trust that it will promote the formation of a substantial middle class,—a body of small, independent proprietors, whose interest in the soil and security in the enjoyment of the fruits of their labour will render them industrious, law-respecting and order-loving citizens,—the truest strength and safeguard of a nation. This is, in my judgment, a great necessity of Ireland. I do not mean to say that it will be supplied by the single measure to which I have been adverting. Other and powerful agencies will need to concur for the accomplishment of such a change. But the influence of the Act runs in the right direction; and it furnishes means, to an end which all good men must desire, such as we have never enjoyed before.

In connexion with the "Record of Title Act" another very important statute,—*"for authorizing transferable debentures to be charged upon land in Ireland,"*—also became law in the last session of Parliament. It enables an owner of recorded land to issue debentures, provided not more than one half of its yearly value be attached; and the debentures, thus issued, are made transferable by a simple entry in the books of the Court. In the existing circumstances of Ireland, this is an Act of great practical value. It will enable owners of land, who are disposed to improve it by expenditure in buildings, offices, fences, or otherwise, to borrow on moderate terms. Great proprietors, undertaking very expensive operations, are helped by the Board of Works; but there are large classes who must act without its aid; and the facility of raising money which is now afforded to them will enable, and should encourage, them to make the most of their estates. The security they may present is of the highest order. The debentures can only be issued by the owners in fee of recorded land. The title is, therefore, unimpeachable, and the value is conclusively ascertained by the Court, which, beyond the sum secured, must see that a moiety of the income remains unincumbered. It is impossible to doubt, that money will thus be cheaply obtained and fruitfully expended; and we need not be alarmed by the argument which assailed the Act, as offering temptations to improvidence. The existing landholders of Ireland have had a very solemn warning in the fate of so many of their predecessors. They are not disposed to indulge in the extravagance which surely leads to ruin. And, at all events, as it is the course of the Creator to endow us with freedom of will, and then righteously make us responsible for the conduct of our lives; so, is it not the function of states and sovereigns to hold

grown men in perpetual pupillage, lest they may go astray, but, on the contrary, to afford them the opportunities of honest and useful action, and leave them to take the consequences, if those opportunities are neglected or abused.

Of measures of less, but still of considerable value, I might speak as having been recently accomplished: *e g.* the act for the protection of married women; the act to prevent the continuance of the extortion and oppression to which the poor were formerly subjected in the execution of the judgments of the Civil Bill Courts, and others also. But I have done enough for my purpose, in pointing to so many beneficial changes, crowded into so brief a time, and directly resulting from a true ascertainment of social wants and the proper development of sound opinion.

And as, to all the beneficial changes in the past to which I have adverted, societies like yours have been assistant, in an eminent degree; and, as every one of them has had your cordial sympathy and pronounced concurrence, so, in the future, you will have no lack of occasion for useful effort. The field of social inquiry is illimitable. The great characteristic distinction which separates our race from the rest of the animated creation is its capacity of indefinite progress, and, whilst the world endures, mankind will be ever striving to advance. Questions affecting the dearest interests of our country press continually on our attention; and you will never want employment, in dealing with them, for your most sedulous industry and your highest intellect.

At this moment, Commissions of inquiry are in progress, which demonstrate, by their very existence, and the subjects with which they deal, how great and how arduous is the work still remaining to be accomplished. We have Commissions on Law Reform; on Capital Punishment; on the Laws of Marriage as they affect the subjects of the Empire, in the Three Kingdoms, the Colonies, and Foreign Countries; and on the condition of our railways. The range of these inquiries is very wide, indeed; and, if there were no others to be prosecuted, we should have more than ample occupation for thought and study in assisting them to a prosperous termination. Of three of these Commissions, as I serve upon them, it would not become me, in the least degree, to anticipate the action; but, as to the fourth, I am free to observe, that I believe it to be concerned with matters urgently and imperatively demanding the attention of all intelligent Irishmen; and I would indicate, very briefly, before I conclude, my deep sense of its importance to the country.

The character and conduct of the railway system must manifestly affect most materially our social and industrial future; and the arrival of the period appointed by the legislature for the possible intervention of the government, concurring with the financial difficulties of the great majority of the companies which regulate the lines, and complaints, arising in various quarters, coerce consideration of the mode of their management, and raise the issue whether this has not been, in many respects, erroneous and unhappy? When we find that two Irish railways are bankrupt, that others

have ceased to work, that some pay no dividends on their ordinary shares, and some leave even preference shareholders without dividend, it cannot be improper to reflect on the causes which have led to those results, and the possible remedies for such serious mischiefs. It seems necessary to inquire, whether the application of the principle of *laissez faire* to Corporations, which are necessarily monopolists, unaffected by the ordinary influences of open competition, was not a great mistake? Whether the supervision of government should not have been applied, as in continental nations, in mapping out the roads and regulating the use of them? Whether it is unavoidable that, in one of the poorest countries of the world, the rate of traffic should be higher than in some of the most prosperous? Whether an experiment should not be made for testing the capabilities of our railways more successfully to assist in the expansion of our manufacturing industry, in the realization of our mineral wealth, in the improvement of our cattle traffic, and in the enlargement of the opportunities of cheap and convenient locomotion, which will increase, for the masses of our poor people, facilities of intercourse with each other and their neighbours beyond the Channel, with all the advantages of the habits of punctuality, energy, and enterprise, so eminently promoted by a well-ordered and largely available railway system? And if it should prove that this experiment is beyond the power of individuals or trading companies; if they cannot be induced to sacrifice present profits, though with the fair prospect of augmented gain in the future, from changes which will certainly work great advantage to the community at large; the question will occur, whether a special case has not arisen for the aid of the government, and whether, either partially or universally,—permanently or for a time,—by tentative endeavour or the adoption of a settled policy of regulation and control, which has had great advocates and great results elsewhere,—it should not attempt to rectify the evils which undoubtedly exist, and secure the advantages which, without its assistance, may be long delayed or wholly lost to Ireland? And this, the more, if it appears, on careful inquiry, that imperial advances may be more than repaid by local returns; and that, according to all experience, the wonderful power of development in railways, under wise and liberal supervision, may be trusted to justify any present effort and outlay which the state may find needful, to remove the obstacles by which it has heretofore been opposed?

We are not forbidden to hope, that means may be devised for the combination of the efficiency of individual energy, prompted by private interest, with the salutary control of authority, "looking before and after," and only careful of the general good. And we may not unreasonably expect some favourable attention to a claim on the co-operation of the State, solicited, in exceptional circumstances, for no temporary benefit of any class or section of the community, and open to no impeachment as offered for purposes of politics or party; but legitimately sought for the promotion of great national enterprises, which, if they be well established and maintained, may reach, with a wholesome influence, as universal as

the air, the remotest hamlet and the humblest hovel, and radiate prosperity all round the island, from the centre to the sea.

On the pregnant queries which I have suggested, the pending investigation and the declaration of the intelligent opinion of the country will enable Parliament safely to pronounce; and it should not forget, in reaching its conclusion, that, thirty long years ago, the subject was considered by a commission under the presidency of Thomas Drummond, one of the ablest administrators and the truest men who have ever had to do with public affairs amongst us. A stranger, who, like many of his race, clung fondly to Ireland, as, in the words of Burke, his "adopted and his dearer country,"—he perished in his prime, labouring overmuch for a people who mourned, in him, their friend and benefactor—

Untimely lost
When best employed and wanted most !

The Commission of which he was the head, in one of the most remarkable reports ever submitted to Parliament, protested against the formation of unregulated and unchecked monopolies, and anticipated, with a sadly truthful prescience, as the results which might flow from them, the very evils we are now driven to remedy—the waste of national wealth and the defeat of industrial enterprise, in operations practically unproductive, the maintenance of fares at too high a rate, and the existence of many inconveniences which Corporations clothed by the law with authority, to a large extent, irresponsible, cannot be compelled to mitigate or remove.

It is remarkable, that, after the lifetime of a generation of men, we should be trying back upon the courses which were indicated so clearly, as those of safety and profit, by the Commissioners of 1837. Their advice did not prevail. It was accepted by the Government, but failed to receive the approval of the Parliament of the time. A tottering administration sought to give Ireland the benefit of its suggestions; but the opposition was roused to resistance by the expectant premier, and it succeeded in defeating the measure of those whom it sought to supplant, and to whom it grudged the credit of any great achievement. Still, if, in the circumstances in which we find ourselves, we see reason, from large experience during the lapse of so many years, in the old world and the new, to believe that the rejected counsels of Mr. Drummond and his fellows did not command the attention to which they were entitled, we may look back with interest to the record of the parliamentary struggle which they originated, and trust that, hereafter, some other man may take the place of one whose rich and genial eloquence, not unknown to this Society, was then, as often before and after, employed to advance the interests of Ireland. "We propose," said Lord Morpeth, in concluding the speech with which he introduced resolutions to carry into effect the report of the Commission,—*"We propose to employ the credit of England for the benefit of Ireland; but, at the same time, to secure England against all outlay for the benefit she confers. We propose, not as in the case of private companies, that, if there is a profit, that profit*

“ shall go into our own pockets, but that, whatever does arise over and above the profits of the promoters, shall be applied to the general benefit of the Irish people. We propose to substitute the public and responsible management of an official department, for that of a private company, accompanied, as private enterprise must be, by irresponsibility. * * * We think that, by these means, we shall be able, most considerably, to lessen the cost of the construction of the works, as well as to reduce the rates of travelling.”

These were some of the proposals of the government of that time. They may not precisely suit the changed condition of things; but they are worthy of the highest consideration from our existing statesmen; and they ought not to receive that consideration less effectually, because the Prime Minister of this day then sustained them, as leader of the House of Commons. Whatever may be the precise shape which a reform, in *some* shape manifestly necessary, may ultimately assume, I confidently trust, that it will secure to Ireland all the civilizing influences which have been exerted by railways in other lands, and which have yet had only partial and obstructed operation amongst us. The time, perhaps, has come, when we may more hopefully repeat the invocation of the poet, with which the Chief Secretary, of 1839, sought to rouse the Legislature to action for Ireland.

Bid harbours open; public ways extend;
 Let temples, worthier of the God, ascend;
 Bid the broad arch the dangerous flood restrain;
 The mole projected, break the roaring main!
 Back to his bounds the stormy sea command,
 And roll obedient rivers through the land!
 These honors, peace to happy Britain brings,
 These are imperial works, and worthy kings!

For Ireland, also, it is surely possible to excel in “imperial works,” like these, and, uniting material and industrial progress with intellectual activity and moral culture, to shape her fortune to happier issues. It behoves us all to aid, according to our power, towards the attainment of that good result; and, if we can promote it, even in an humble measure, our Society will worthily accomplish the purpose of its existence, and deserve well of a renovated people.

II.—*Report of the Council at the Opening of the Nineteenth Session.*

[Read Tuesday, 28th November, 1865.]

The Council, with much confidence, renew on this, the commencement of the nineteenth session of the Society, the congratulations offered to the members on many similar occasions. Taking an active and useful part in the promotion of social science, and in