II.—Private Bill Legislation for Ireland. By Arthur W. Samuels, Q.C.

[Read Tuesday, 15th December, 1896]

The necessity for a reform of Private Bill procedure is so universally acknowledged, and the English, Scotch, and Irish press have, within the last few weeks, so emphatically reiterated the demand frequently put forward for such reform, that it is unnecessary to occupy time in again repeating the reasons upon which this demand is based, in again detailing instances of the extravagant and profitless expenditure which the present method compels, and in reciting once more the story of the worry, risk, haste, and oppression of the system that has so long depleted the capital and retarded and blighted the energies and efforts of industrial life in Ireland.

It will be a more profitable task to try and arrive at a practical conclusion. To see what best can now be done to effect a sound reform, and to endeavour to put forward such suggestions as may assist, through consideration and discussion of past efforts and recent proposals, to attain an effective result in the near future.

On many occasions this subject has been brought before this Society. Had the system been reformed upon lines from time to time advocated in papers here read, the industrial position of this country would have been very different, vast sums of money would have been saved to Irish enterprise, and schemes of local improvement would have been carried into effect which were hopelessly abandoned in consequence of the crushing load of taxation imposed, and unjustly imposed, upon any effort to promote them.

Articles by the late Mr. Joseph John Murphy on the 19th May, 1856, Mr. George Orme Malley, Q.C., on 16th February, 1869, the late Mr. Sergeant Heron on 22nd December, 1870, and Mr. John Norwood on 16th February, 1875, will be found published in the Journals of this Society. They are one and all full of interest. They each bear testimony to the oppressive character of the grievance, they give details of wasted effort and ruinous expenses, and they bear melancholy testimony to the almost insuperable difficulty of carrying a reform demanded for forty years, but during all that time successfully encountered by the passive but powerful resistance of the English Parliamentary Bar and Parliamentary Agents, and the vast number of those whose interest it is to maintain centralized at Westminster this system that has crippled the industrial vitality of Scotland and Ireland.

But exceeding in value these valuable papers is the masterly pamphlet on Private Bill Legislation, published in January, 1896, containing at once a most concise and a most complete study of the whole subject, not only from the Irish but the National point of view, a pamphlet which ought to be in the hands of every person who is interested in this all-important question, and for which the public is indebted to a member of our Society, Mr. Frederick W. Pim.

Since the Report of the Select Committee of both Houses of Parliament in 1888, it is unnecessary to argue that Parliament should be
relieved of this class of business, and that it should be entrusted to some external tribunal or tribunals. The finding of the Committee to this effect may now be considered as accepted by politicians on all sides and endorsed by public opinion. The statement of Mr. Gerald Balfour on the 4th December, 1896, to the deputation from the Dublin Chamber of Commerce, that the existing system is "doomed," must now be taken as the starting point for further consideration of this subject.

The real question for discussion and workmanlike proposal now is what is to be the tribunal? And is it to be one for the United Kingdom? or, is there to be a separate tribunal, and are there to be separate Acts of Parliament for Ireland and for Scotland and for England?

To take the last query first, I venture to urge that the reform should not begin with England, or with any measure introduced for all the three kingdoms, and that Ireland and Scotland should be separately dealt with by separate measures granting to them separate tribunals, and leaving England as yet untouched. The reasons for commencing with Ireland and Scotland are very similar—they are the chief sufferers. This paper is written from the Irish point of view, but I believe most of the principles it advocates are quite as applicable to Scotland as to Ireland. A reform, I submit, should commence with a separate measure for Ireland on the following grounds:

(1) She was the first to protest. Since 1870 she has repeatedly protested against the grievance.

(2) Ireland, so much poorer than England, must pay a higher price for each Private and Local Act. The travelling expenses are higher. The cost of bringing over witnesses is greater, and the necessity of maintaining them in London for lengthened periods is much more frequent than in the case of most English Bills. Ireland is fined for her remoteness. If, therefore, the actual cost is greater, how much more oppressive is the relative cost when we compare the limited means of Irish promoters and Irish opponents and Irish ratepayers with the cost of English promoters and English opponents and English ratepayers. Further, at Westminster, Ireland is exporting her capital, England is spending it in England.

(3) In the crush and competition of private business in the lobbies at Westminster, Irish business is frequently greatly hustled and neglected. The English cases are heavier and naturally command the attention of the practitioners in preference to the Irish Bills.

(4) If a reform is attempted for England as well as Ireland, the great power and influence of the English Railway Companies and Corporations, which can now kill the opposition of individual opponents by the ruinous expense of the present procedure, will be put in operation to delay, obstruct, and defeat any reform.

On Mr. Heron's Bill to reform the system for Ireland, coming on for second reading on 3rd May, 1871—the Marquis of Hartington, then Chief Secretary for Ireland, on the part of the Government, objected to the Bill being read, a second time, on the ground that the subject of Private Bill Legislation ought to be considered as
Private Bill Legislation for Ireland. [Part 77,

a whole and not merely as regarded one part of the United King-
dom. The Bill, he said, proposed to make certain alterations in
regard to Private Bill Legislation for Ireland only; but that legis-
lation as regarded England and Scotland required amendment.
Colonel Wilson Patten, Ex-Chief Secretary for Ireland, also admitted
that the expense of prosecuting Irish Private Bills was heavy, but
urged that the only way of handling the question was to treat it as a
whole and not to legislate on it for Ireland alone. Thus the question
was shelved—shelved for thirty-five years. If a similar plea is
again put forward and admitted, thirty-five years more will probably
elapse, and the Irish Reform remain as distant as ever. There has
been enough of shelving and enough of promising. Both great
parties in the State have admitted the claim of Ireland to be first
relieved.

On February 12th, 1872, Mr. Gladstone in reply to the late
Mr. Pim, Member for Dublin City, stated—

"It is the intention of the Government to make proposals, as I
hope in the present Session, with a view to facilitate the progress
of such business as is usually dealt with by Private Bills in the
case of Ireland, not upon the ground that there is anything in the
case of Ireland which is in principle distinct from the case of the
other portions of the United Kingdom, but on the ground that it is
extremely desirable to lighten, wherever it can unobjectionably be
done, the hands of this House, and to promote and expedite the

That "present Session" was twenty-four years ago. Sixteen
years ago, on the 22nd June, 1880, Mr. W. G. Foster, Chief Sec-
retary for Ireland, said—

"The case for reform was admitted, and was most abundantly
proved. The inconvenience affected England and Scotland too, but," he
said, "I think the case for Ireland is the strongest, and I not only
hope that some way may be found to remove the grievance, but I
think some way must be found."—Hansard, Vol. 253, No. 677.

But no way was found, or by that Government even attempted
to be found.

The present Government can rely on the Government Bills of 1889,
1890, 1891, and 1892, as authorizing the separate treatment of
Scotland and of Ireland. The Private Procedure Bills of 1889, 1890
and 1891, were limited to Scotland only. The Bill of 1892 was
limited to Scotland and Ireland. There is, therefore, ample Parlia-
mentary authority and precedent to justify the separate treatment of
both countries from England. The question whether Scotland should
now be treated separately from Ireland is a question for the decision
of the Government. Both Scotland and Ireland are entitled to a
reform. Apparently, however, the Scotch would be content with
a smaller change than the Irish would be. There exists in Scot-
land a Scottish Private Bill Procedure Committee, which was
constituted in 1887, and has ever since been working to effect a
reform for Scotland of the existing system. On this Committee
are representatives of every important city and burgh in Scotland and
of every important commercial and professional interest affected.
No association could be more influential, or more thoroughly acquainted with Scottish requirements. On the 20th October 1896, a deputation from this Committee was received by Lord Balfour of Burleigh, Secretary for Scotland. He admitted the anomalies and inconveniences of the present system, and promised to take some steps to remedy the Scottish grievance.

After this deputation had been received, the Committee drew up a most valuable report, dated 1st December, 1896, in which, after reviewing the history of the various attempts made since 1886 to reform the Procedure on Private Bills, they came to the conclusion that the Private Bill Procedure Bill of 1892 was the most practical yet proposed, and gave their adherence to its principles. If, however, a better scheme can be devised by the Government I am sure the Scotch Association will be only too delighted to accept it. This Bill was introduced by Mr. Arthur Balfour, it provided that there should be a Joint Committee of the two Houses of Parliament, composed of the Chairman of Committees in the Lords, and of Ways and Means in the Commons, and of two Members of each House appointed in the beginning of each Session. That the Joint Committee should sit and act notwithstanding the prorogation of Parliament, and might act by a majority of its members, and subject to standing orders regulate its own procedure. That any Private Bill which in the opinion of the Committee related wholly or mainly to Scotland or Ireland, should, with all petitions for and against the Bill, be subject to the orders of the Joint Committee, and if it did not, in the opinion of the Joint Committee, raise a question of policy or principle which ought to be determined by Parliament, and if the requirements of standing orders and the Joint Committee were complied with or dispensed with in respect of the Bill, it should be referred together with all petitions for or against it to a body of Private Bill Commissioners for inquiry and report.

The tribunal was to be the Railway Commissioners together with two Assistant Commissioners, one for Scotland and one for Ireland. The Commissioners were by two or more of their number to hold an inquiry at the place most convenient to all persons concerned, and to report to the Joint Committee, stating whether the preamble of the Bill was or was not proved, and also the evidence, but not the reasons for their decision. If necessary either House could send back the Bill to the Commissioners, but otherwise one inquiry was to be sufficient for both Lords and Commons. The close of the Session was not to affect the progress of the Bill, and when the Joint Committee reported that they had referred the Bill to the Commissioners it was to be read a first and second time, without debate.

The scheme of this Bill has not been as favourably received in Ireland as in Scotland. The defects from an Irish point of view were:

(a) It only dealt with opposed Bills leaving procedure on unopposed Bills unaffected.

(b) It left the preliminary procedure on all Bills unaltered, with the result that all expenses now incurred through
the necessity of employing agents at Westminster in addition to local solicitors, and the inconvenience and hurry caused by crushing the initial proceedings into the short period allowed by the standing orders, and the excessive expenditure on "House Fees" would still continue.

(c) No opportunity was given for a rehearing of evidence, or for a modification or reconsideration of the clauses of the Bill.

The objections to this Bill, from the Irish point of view, were pressed by Mr. Pim in his pamphlet. They seem to me, if I may be allowed to say so, most formidable. The Scotch Committee approve of this Bill. The Irish view, on the other hand, has, from 1870 down to the present time, consistently been in favour of a complete severance of Private Bill business from the Parliamentary Session, down to the final stage of adoption or rejection. The letter of the Dublin Chamber of Commerce to Mr. Arthur Balfour, of 22nd March, 1890, and their resolution lately laid before Mr. Gerald Balfour, the Chief Secretary, on the 4th December, 1896, insist on this requirement. The expression of their views, when the deputation was received by Mr. Balfour, as reported in the words of Mr. Pim, are as follows:

"There were one or two points in connection with the system that he wished to speak to, and one of them had been expressed by the Council of the Chamber of Commerce in the letter written in 1890 to Mr. Arthur Balfour—that no scheme would be satisfactory which did not remove this work entirely from the Session of Parliament. A great deal had been said on the question of expense. He thought it must be evident to anyone familiar with the subject that a great deal of the expense arose from the necessary hurry of squeezing everything into a Session of Parliament, and from the necessity of forming definite fixed dates at every stage of the process. He thought, therefore, that it was the unanimous opinion of the Council that such a scheme should be carried out—not that the Bills, having been once or twice brought in, and having passed their second reading, should be referred to an outside authority, and further reported to them at a later stage. He considered that such a system would rather increase the hurry than otherwise. Probably the confusion and hurry would be greater than ever. Authorities were so generally of opinion of the necessity of the separation from the Parliamentary Session, that he did not think he need labour that point any further."

On this point, then, there can be no doubt as to the views entertained by Irish men of business. I find, too, an almost unanimous expression of similar opinion in the Irish Press, of all political tenets, within the last fortnight. They, one and all, press for as complete a severance as possible of the business from the exigencies of the Parliamentary Session, and, I may add, for an immediate reform of the system within the next Session of Parliament. On the other hand, that most influential journal, the Scotsman, in its leader of the 1st December, 1896, commenting upon an article published in the New Ireland Review for December on this subject writes:
"However desirable it may be to relieve the Legislature of the waste of time caused by discussions on the preliminary stages of Private Bills, and especially of Irish Private Bills, it seems to be indispensable that Parliament itself should decide upon these stages. The advocates of Private Bill Legislation for Scotland do not make so large a demand as is put forward in the name of Ireland. They would leave Parliament to allow or disallow the introduction of a Private Bill, and to affirm or condemn the principle of the measure. It would be for Parliament to say whether or not it was a measure fit to be proceeded with, and then to entrust the local inquiry and manipulation of the Bill to the external tribunal, and finally to pass the Bill or reject it."

If the Government do not see their way to provide a satisfactory remedy for both countries by one measure, then let there be separate measures. Scotchmen undoubtedly know best what is best for them, and they certainly ought to get their way; and I think every Irishman would rejoice that they should at length be relieved in such a manner, and in such a measure, as they think best from the evils of the present centralized system. On the other hand, Irishmen may be admitted to know what would suit their requirements best in this matter, and should get similarly the reform they want.

As to the tribunal—the tribunal proposed in the Bill of 1892 was the Railway Commission, with a Special Commissioner for Scotland and a Special Commissioner for Ireland. It is very clear, from the resolutions of the Dublin Chamber of Commerce, and from the articles in the Irish Press, of all political complexions, that such a tribunal would not be acceptable in Ireland; that it must be of a more elastic character, and more in touch with business views and public life.

To combine a Scotch and Irish Reform of Private Procedure in one Bill ought not to be impossible; whether it is expedient, having regard to the exigencies of political life, is a question for the Government. The principle of reform might be the same for both countries; the details may have to be different.

The second question of importance is the extent of the powers that should be delegated to an Irish tribunal. On this point the traditional Irish opinion, as I have said, has been in favour of dissociating all stages of the procedure up to the final one of approval or rejection from Parliamentary life, as urged by Mr. Courtney, Chairman of Ways and Means, in his evidence before the Select Committee of 1888. This was the principle of Mr. Heron's Bill of 1870, of Mr. Pim's Bill of 1872, of the reiterated resolutions of the Dublin Chamber of Commerce, and of the powerful pamphlet published by Mr. Pim in 1896.

A question of gravity exists in the point whether Parliament is to entrust such questions as those relating to franchise of municipalities to the tribunal, or other questions involving the application for the first time of novel principles to Private Bill business. It may be well urged that questions of franchise are not fit subjects for Private Bill legislation at all, that they are public questions, and ought to be dealt with by Public Bills; but, however this may be, frequently
Private Bills do involve questions of public policy, and bills introduced as Public Bills contain provisions which assimilate them to Private Bills. A description of these so-called hybrid bills will be found in May's *Parliamentary Practice*. Now, to prevent any question arising as to the powers of the proposed tribunal in such cases as those above referred to, I think that the proposal made in the Government Bill of 1892 should be adopted—that a Joint Standing Committee of the two Houses should be constituted; that all petitions relating to Irish private business should be examined by such Joint Committee, as proposed in that Bill; that relations should be established between it and the new tribunal; and that any Bill which might involve any such question as those of franchise or of new principle should not be proceeded with by the Irish tribunal without submitting the matter for consultation to the Joint Committee, which should have power to decide whether the Irish tribunal should proceed with the Bill, either wholly or in part, and with or without instructions from Parliament, or should be retained to be dealt with under the now existing procedure. In the same way Public Bills of a hybrid character should, through the medium of the Joint Committee, be referred, if desirable for local investigation, to the Irish tribunal, with such directions as might be necessary. Standing Orders could be framed to deal with questions such as these, which, after all, arise but in comparatively few cases.

With regard to the question of Procedure in the event of a reform being granted, it appears to me to be desirable to move, as far as possible, on existing lines, and in this respect Mr. Heron's proposal, which was first put forward in a paper read before this Society on 20th December, 1870, and afterwards embodied in a Bill introduced by him into the House of Commons in 1871, may be referred to with advantage. It provided that all Private Bill Legislation in reference to Ireland should be initiated by a Petition to the Lord Lieutenant for a Provisional Order; that the Standing Orders of the House of Commons should, with necessary variations, apply to all the proceedings; that in unopposed cases a Provisional Order should be made after such enquiry as the Lord Lieutenant should direct, in accordance with the prayer of the petition, or with such modifications as might be requisite; that in opposed cases the Lord Lieutenant should direct the trial of the objections, and of the whole matter in reference to the petition, to take place before one of the Judges on the rota for Election Petitions, either in Dublin or elsewhere in Ireland, as should be most convenient; that at the trial the Judge should exercise the same powers and jurisdiction which a Select Committee of the House exercises when a Bill has been read a second time and committed; that after hearing the parties the Judge should make a final Provisional Order; that the Judge might order the minutes of any evidence taken before him to be printed and annexed to the final Order; and that whenever any such final Provisional Order should have been made, whether in opposed or unopposed cases, the Chief Secretary for Ireland should take all necessary steps for its confirmation by Act of Parliament.
The scheme of this proposal was clear and simple, and many of the provisions with regard to procedure contained in his Bill could with great advantage be incorporated in any Bill now prepared. With regard to unopposed Bills, it certainly provided an excellent, expeditious, and inexpensive local procedure, instead of the cumbersome, extravagant, and centralized system that prevails. In reference to opposed Bills, the difficulty at once occurs that a Judge sitting alone is not the class of tribunal by which, in the opinion either of the public and of most of those who have knowledge of Private Bill legislation as experts, this class of semi-legislative, semi-judicial work should be discharged. With a change in the constitution of the tribunal, and with the insertion of some provisions for keeping up intercommunication with Parliament, this Bill might very well be taken as a precedent for the procedure clauses of any intended Bill.

The Bill of 1870, which, I believe, I am not incorrect in saying was prepared by Sergeant Heron, with the assistance of the late Mr. Justice Lawson, is, as might be expected, an exceedingly clear and well-drafted Bill. The provisions were afterwards, with some additions, incorporated into the Bill introduced into the House of Commons by the late Mr. Jonathan Pim in 1872. The principles of the substitution of an improved procedure on Provisional Orders by replacing the inquiry before a Local Government Board Inspector by a trial before a strong tribunal—received the approval of the Liberal Government as embodied in a series of resolutions moved by Mr. Dodson (now Lord Monk-Bretton) then Chairman of Committees, and Deputy Speaker on 15th March, 1872. His speech upon this occasion is well worth perusal. It contains a clear exposition of the long-acknowledged evils of the system:

"All these evils and inconveniences, however," he said, "were aggravated by the fluctuating nature of the Committees. The members of them showed great industry, sometimes great ability, and always high honour, and they rendered a service for which they received a very inadequate credit from the House or the public. They were men who were accustomed to watch and allow for public opinion. The number of members, however, having the leisure to devote themselves to the work who from legal antecedents or special knowledge were peculiarly fitted for a judicial investigation and for presiding in fact over a lawsuit was limited. Members in general had not the habits and training which fitted them to control an active and energetic Bar, and to decide what evidence should be excluded or admitted. The result was that there was a Bench much weaker than the Bar before it. Moreover, all these inquiries were crowded into a few weeks; the comparatively few qualified members were wanted in half-a-dozen or a dozen committee-rooms at once; members were pressed into the service regardless of their qualifications, and the committees sat all at once with no knowledge of each others proceedings, and consequently with conflicting decisions. Members, too, had public duties in the House, and their physical powers being limited, committees could only sit for a few hours in the day. Hence there were frequent adjournments, long detention of witnesses and legal practitioners—every element insuring a lengthy, costly, uncertain and unsatisfactory inquiry."
The suggestion made by Mr. Dodson on behalf of the Government was that Parliament should simply part with provisional jurisdiction, reserving the ultimate control.

"Provisional Orders," he said, "were at present made by Government departments and were confined to matters in which the capital at stake was small. The parties generally consented, and the opinion of the locality affected could be ascertained; but if extended to matters where great interests were at stake and where feeling ran high, people would not be satisfied with an order made upon the decision of an official sitting in a Government office and on grounds of evidence which nobody knew, nor with an order made by a Government Inspector sent down to hear ex parte statements. Provisional Orders to be generally acquiesced in must be made by a tribunal possessing public confidence after a public hearing, where all concerned had an opportunity of appearing by witnesses and counsel. An hon. and learned member (Mr. Heron) had introduced a Bill for one part of the United Kingdom, remitting the investigation to the judges of the land, but their . . . habits and training would lead them to adhere to precedents, whereas this tribunal ought to allow amply for the variation of public opinion."

The Provisional Orders made by the tribunal whether granted or refused should, he stated, be laid before Parliament, with the object of guarding against the risk of the tribunal having it in its power altogether to suppress some new invention or to prevent a scheme of novel character being submitted to the Legislature. The Government proposed to appoint a tribunal of three Commissioners for the United Kingdom, with power to sit locally, and to provide that an appeal should lie from them to a Consolidated Committee of the two Houses if the Standing Orders Committee should report to the House that in their opinion a prima facie case for appeal had been made out on a petition stating the grounds of the application for liberty to appeal.

On behalf of the Government he moved the following resolutions:

"That, in the opinion of this House, the system of Private Legislation calls for the attention of her Majesty's Government, and requires reform."

"That it is expedient to substitute as far as possible an extended and improved system of Provisional Orders for local and personal Bills."

"That Provisional Orders should be obtainable in England, Scotland and Ireland on application to a permanent tribunal of a judicial character, before which promoters and opponents should be heard in open Court, and the decisions of which should be subject to confirmation by Parliament."

"That in case of either House of Parliament admitting an appeal against a decision of the tribunal in the matter of any Provisional Order, such Provisional Order should be referred to a Parliamentary tribunal composed in the manner recommended in 1869 by the Joint Committee of the House of Lords and House of Commons on the despatch of business in Parliament by both Houses."

These resolutions received general support, but they were of course violently opposed by the Parliamentary Bar and Agents and by those who represented their interests in the House. The debate upon the
matter chiefly turned upon the constitution of the proposed tribunal which was attacked on the ground that it did not possess sufficient flexibility. Finally, the first resolution was passed, and the discussion on the others was adjourned, and nothing practical ever came of the resolutions.

The suggestion as to the substitution of the Procedure on Provisional Orders before some external tribunal for that of the existing Procedure by Bill was in the debate admitted to be sound, and the principles of Mr. Heron's Bill, so far as procedure was concerned, may be said to have received the sanction of Government and the House of Commons.

The next attempt at reform is one which I think it desirable to refer to, as the suggestion contained in it has been revived in some quarters recently. The Local Industries (Ireland) Bill of 1880 was introduced into the House of Commons by Mr. P. J. Smith, Colonel King-Harman, Sir Joseph Cowen, Sir Harcourt Johnstone, Dr. Cameron, and Sir Joseph M'Kenna. It provided for the establishment of a branch of the Private Bill Office in Dublin for the deposit of Irish Private Bills. The examination of Irish Private Bills was to be conducted in the Dublin Office by Examiners appointed by the House of Lords for Bills originating in the Upper House, and by the Speaker for Bills originating in the House of Commons. The constitution of the tribunal was to be as follows:—"The Committee on a Private Bill originating in the House of Lords shall consist exclusively of Irish representative Peers or Peers of Parliament connected with Ireland by having a residence in Ireland; and the Committee on a Private Bill originating in the House of Commons shall consist exclusively of Irish Members of Parliament; and any person who shall have served on any such Committee shall not be, without his consent, appointed to serve during the Session of Parliament on a Committee on any Private Bill not within the meaning of this Act." The Committee was to hold its sittings in Ireland, while Parliament was not sitting, in either Dublin, Cork, Limerick, Londonderry, Waterford, Kilkenny, Armagh, Belfast, or Galway, as convenience might suggest. The Standing Orders of the House of Lords and of the House of Commons were to be so modified as to carry out the provisions of the Act. The Bill was debated on the 22nd June, 1880 (Hansard, vol. 253, p. 659). Mr. Fay, in the progress of the debate, calculated the cash loss to Ireland since the Union up to that time, for legal and other incidental costs, at nearly £3,000,000, and adding to this the travelling and hotel expenses of the witnesses interested in the Bills, he estimated the probable loss to Ireland as £6,000,000. I do not know what figures he based his calculations upon, but he gave the instances of the Bill to create the Clonmel Borough, which cost £20,000; the Sligo Borough Bill, which cost £14,000; and the abortive Dublin Trunk Connecting Railway Bill, which cost £54,000! If we add to Mr. Fay's estimate the costs and expenses incurred since 1880, how ruinous this exportation of capital appears, how deplorable this waste on unproductive expenditure has been. Well, indeed, may the people of Ireland, and, not least, the citizens
of this metropolis of Ireland, beseech this Government, pledged to help the industrial welfare of the country, to listen to its litany, and at length deliver it from this tribulation. In the face of a verified expenditure of £54,000 upon one abortive attempt to secure a connecting railway in this city, how puerile appears the stock argument of the Parliamentary agent recently reproduced in a letter to the Times, under the nom de plume of "Investor," that this system should not be changed, because under it sums twice exceeding in amount the National Debt have been spent on industrial schemes. The obvious reply is that if we were able to add to the sums so invested, the capital sucked from the industrial life-blood of the nation, and absorbed by this vampire system, the productive expenditure would have been vastly greater.

But to return; the Government in 1880 admitted the grievance to the full, and, as usual, promised to take an early opportunity of dealing with the question, and, as always hitherto, did nothing.

I refer at some length to the debate on this Bill, as the scheme of the measure has been again pressed upon public attention, and the scheme is, prima facie, a taking one. The objections on behalf of the Government raised by Mr. Hugh Law, then Attorney-General for Ireland, to the Bill, seem very difficult to answer. He admitted the grievance and the necessity for a remedy. To use his words:

"It has been," he said "for some time one of the features of our system that all inquiries of a judicial or semijudicial character should be conducted as near as possible to the place concerned. But, whilst he entirely agreed with the principle of the Bill, and in the desirability of the object it sought to attain, he regretted to say that, when he passed on to the mode in which it was sought to carry these intentions into effect, he was obliged to differ altogether. Whatever tribunal might ultimately be chosen as the best, the present attempt to combine Parliamentary action with local inquiry only increased the difficulty. It was now proposed that local inquiries should be conducted in Ireland by a committee of each House, sitting in Dublin or elsewhere in Ireland. Now, let the House consider how this would work with Private Bills; the first reading and second reading, and, in fact, the several stages, followed very much the course taken with public legislation. Suppose the Bill now before the House became law, the course would be this:—A Private Bill would be introduced, and read a first time and second time, suppose early in the Session; it would then be submitted to a committee, who would hold their inquiry during the long Parliamentary recess; then the progress of the Bill would, after the second reading, be stopped until August or September. Having got thus far, and reached, say, October, the committee would have to meet and make its report to the House in the following February; after that a third reading might, no doubt, be had before the close of the month. But then the Bill must be sent to the House of Lords, and there have to go through the same process, with a similar occupation of time; so that in reality it would take over two years to pass a measure of the kind. . . . To attempt to conduct local inquiries by committees of the House would probably increase the existing difficulties; for, though it might be that some difficulty would be thus avoided, it must certainly cause increased delay."
But it may be said a Joint Committee of both Houses could be substituted for the separate Lords and Commons Committees, and thus one year might be saved. The practical objections to this proposal, however, are almost as great. Mr. Robertson, Lord Advocate for Scotland, in the debate on 22nd January, 1891, on the Private Bill Procedure Scotland Bill of 1891 (Hansard, 3rd series, vol. 349, p. 795), stated some of them:

"It is further said," he says, "that there might also be a system of Joint Committees of both Houses which would avoid the expense and delay of a double inquiry, and that such Joint Committees might sit locally. But even if that remedy were practicable—owing to Parliamentary considerations—it would not meet all the objections which have been raised to the present system. I will not dwell upon that proposal, however, because I think that anyone who is conversant with life in this House, and with the proceedings in the other House, will say that it is hardly conceivable that a peripatetic Committee consisting of four or five trained members of both Houses—inasmuch as the whole strength of such a Committee would lie in its Parliamentary qualities—could conduct such inquiries without the assistance of some permanent element in the tribunal, because the absence of one or more of them might bring the local enquiry prematurely to an end."

Further if the enquiries are to take place during the session, the members, or some of them, may be summoned back at any moment to Westminster to discharge the duties they were sent to Parliament to perform. They could not, even "barring they were birds," be at Westminster discussing the Fall of the Turkish Empire at the same time as they would be at Limerick considering the fall of a sewer.

If the enquiries are to take place out of Session, it must be remembered that the members of the High Court of Parliament, like ordinary mortals, require occasional vacations, and practically the result would be that all Irish Private Bill business would have to be done in October, November, and early in December, and the crush and rush would be as bad or worse than ever. Again, this proposal ignores the fact that (as Sir J. Mowbray, Chairman of Committees, said in 1888, in his evidence before the Select Committee), it is almost impossible to man the Committees at Westminster. From the statement of Lord Balfour of Burleigh, on 20th October, 1896, to the Scotch deputation which waited on him to urge a reform, Sir John Mowbray has, it appears, since 1888, informed Lord Balfour that this difficulty is increasing, and is not likely to be diminished. If members will not serve at Westminster a fortiori, they will not leave Westminster and serve in Dublin, Belfast, Cork, Derry or Galway.

Such have been the chief legislative attempts to deal with this question for Ireland. I have in a recent article in the New Ireland Review for December, 1896, put forward some suggestions for the creation of a tribunal which would, as I believe, contain the elements of cheapness and efficiency, stability and elasticity, and which would unite the permanence of judicial authority with the fluctuating element supplied by a legislative, commercial, and technical experience, sensitive to public opinion. This suggestion has been received with some favour.
The main features of it is a judicial element to be supplied by rota, as in the case of Parliamentary Election petitions, and a lay element to be provided from a panel of fifty or thereabouts, to be returned either directly or by way of nomination, partly by the Chambers of Commerce and larger Municipal Bodies and Corporations in Ireland, and partly to be selected from Irish Peers and Members of Parliament, or from experts and others nominated by the Lord Lieutenant. The technical business to be discharged under the control of the Judges, the actual hearing and decision on the Bill to take place before a Judge assisted by two or four other Commissioners selected by ballot or as might be arranged. The lay Commissioners to be paid for each day they are engaged in the business of the tribunal. Provision could be made for an appeal or rehearing and for the awarding of costs.

The procedure suggested by Mr. Heron's and Mr. Pim's Bills, analogous to that on Provisional Orders, could be adopted.

There is a machinery existing in the offices of the Court entrusted with decision of questions under the Parliamentary Elections Act which, with the importation at first of a trained Examiner, would soon work effectively in dealing with the preliminary business of Private Bill Legislation. Private Bill business is no mystery. The practice is, in fact, simple, and there is no want whatever of talent in Ireland fit to discharge all duties connected with it with thorough efficiency.

Intercommunication can without difficulty be established between an Irish Tribunal and a Standing Committee of both Houses of Parliament, which would secure the control and the instructions of the Legislature in any cases of novel or exceptional importance.

Objections can be and will be made to any scheme by powerful vested interests at Westminster. The arguments against any change will be found summarized in the last chapter of a most able work, Clifford's History of Private Bill Legislation, published in 1887. Most of them are directed against any hitherto proposed class of tribunal. I believe all of them, of whatever kind, can be successfully answered. A non-possimns attitude is now out of date, since the Select Committee's Report of 1888, the Government Bills of 1889, 1890, 1891, and 1892, and the recent declaration of the Chief Secretary that the old system is doomed. But to effect a change will require energy, persistence and vigilance. The Protean skill of the powerful body which has hitherto baffled all reform still exists. Against new proposals new objections will be made. Pleas for delay will again be urged, and efforts will again be used to elude a result by admitting the principles of any and every measure, but objecting to its details—

"Ille suae contra non immemor artis, Omnia transformat sese in miracula rerum."

But it is to be hoped that at length achievement is at hand, and that before long Irishmen of all political parties will rejoice in escaping from the meshes of this system which has so retarded the progress of their native land in the paths of industry.