

DESIRABLE AMELIORATIONS OF THE LAW.

By MR. JUSTICE JAMES C. MEREDITH, D.Litt.

(With Discussion.)

(Read on Thursday, 18th April, 1940.)

Those that call for respect for the law simply because it is the law and not because it expresses the conscience and will of the people and is adequate for modern requirements will call in vain—at all events, in Ireland. Nothing so undermines respect for the law as indifference to its defects: nothing fosters respect for the law so much as enthusiasm and concern for its perfection. It is this conviction that has prompted me to enquire in what directions our law has become more or less out-of-date and stands most in need of improvement.

What I have to say might, however, produce an unintended impression if my observations were confined to needed reforms and was to say nothing of the improvements effected in our law in recent years, of which the legislature and all law-respecting citizens have a right to be proud. I hope, therefore, to be pardoned for devoting a few short remarks to that matter, so that meritorious achievements and shortcomings being viewed side by side, the latter may not appear in undue proportions.

First of all we must not forget our great achievement in the way of Constitution building—begun by the Act of 1922 and completed, at all events for the time being—by our present Constitution which came into operation in 1937. In the law relating to the relations of landlord and tenant Ireland has always been in the van of progress. The Landlord and Tenant (Ireland) Act, 1860, commonly known as Deasy's Act, was in the main a great codifying Act, but it amended and simplified the law in several important respects, and particularly in that it made the relation of landlord and tenant depend fundamentally on contract. The Increase of Rent and Mortgage Restrictions Act, 1923, was in advance of and anticipated the English amendment of the Act of 1915. With the Landlord and Tenant Act of 1931 we again took the lead—a lead which has been maintained by our recent Act. The setting up of a new Constitution necessitated an independent Act dealing with Copyright and Patent Law in Ireland, and this was provided by the Industrial and Commercial Property (Protection) Acts, 1927 and 1929. So in several respects our legislature is well up to date. But my present concern is with legislation that is behind the times.

The most pressing and incontestible necessity for up-to-date legislation is in the case of company law, and, fortunately, the task entailed would probably give the drafting department less trouble than almost any of the many comprehensive Acts which that most efficient department produces year by year, for we are still administering the old Act of 1908, while Great Britain has the advantage of a much improved Act of 1929. The differences and the reasons for the changes—all of which seem to me as much applicable to this country as to Great Britain—are explained in all the large text-books published in England explaining the new Act

and it would be waste of time for me to give even a summary of the changes. There is much to be said in favour of having Company Law the same in Ireland as in England, and consequently what is required is only an adaptation, for the most part verbal, of the English Act. If thought necessary a committee could be set up to report on the changes advisable. Perhaps there are a few sections of the English Act which might be improved.

The most complicated branch of law which the law student in Ireland has to master is Real Property Law. It is the terror of every student. The English Act of 1925 abolished that law in Great Britain. The result is that Ireland is the only country in the whole world where that complicated system of law—based on the old feudal system—still applies. It does not apply, however, to any land in Ireland registered under the Local Registration of Title (Ireland) Act, 1891, and, as registration has now been made compulsory in the case of nearly all of the agricultural land in Ireland, the actual land for the sake of which the complicated system is still maintained is only a small decimal fraction of the land in this country. To my mind there is absolutely no justification for our conservatism. From a practical point of view the simplest course would be to make registration of the title to the fee compulsory in the case of every transaction involving a transfer of the fee. In a few years the amount of unregistered land would be reduced to almost insignificant dimensions, and an Act could then be passed making the registration of the residue compulsory. This course would have the advantage of spreading the work of registration over a number of years.

A monstrous injustice that still exists under our law is that a man is allowed a freedom in respect of his property after his death that he is not allowed during his life. In his life he may very properly have to devote a portion of his property to the support and maintenance of his wife and other dependents. But a wealthy man may die and leave his wife and children penniless, and give away his entire property to some other woman. This is the extreme case; but I do not think a man should be allowed to leave away all his property from his near relations. An Inofficious Wills Act—by whatever name called—should remedy this wrong. Under the English Inheritance (Family Provision) Act, 1938, the Court has power to order payment out of the estate of a testator or the benefit of a surviving spouse or child.

Next, it cannot be disputed that our law as to procedure, etc., on arbitration is altogether out of date. The English Arbitration Act of 1889 was not applied to Ireland, and we carry on as best we can under the Common Law Procedure Act of 1856. There would be no difficulty in framing an Arbitration Act, on the lines of the English Act with some improvements, and such an Act is clearly required.

The Mercantile Law in general as now in force here should be compared with that in force in Great Britain, and our law brought up to date where necessary. There has been little change in recent years, but the question of enacting a provision similar to those contained in the American Harter Act, Sect. I, should be considered.

I now come to some more debatable matters, with which it will be necessary to deal at greater length. In my opinion, our whole law of evidence requires to be brought up to date, both in what concerns general theory and in particular respects. Perhaps the most convenient course is to deal first with the latter.

The present method of extracting statements from an accused, or prospective accused, is most objectionable. Statements are taken down

by the police, for the benefit only of the prosecution, and the procedure in respect of caution is often more or less of a farce. The method is resorted to by reason of the defects of the English system, under which the accused has every encouragement not to go into the witness box at the trial, and, if he does, only does so after he has heard the evidence produced against him and can shape his own evidence accordingly. Under the Indian Code, drafted by Sir James Stephens, confessions made to the police are not admissible at all. That is one way of dealing with the matter. My view is that there should be a procedure under which the accused would be brought before a district justice and his statements and answers to questions taken down by the district justice, whose duly authenticated report should be receivable. This would be analogous to the procedure before the examining judge which prevails in France and Germany and elsewhere. No doubt there would be resistance on the part of the profession to any change in this or, indeed, any other respect, since the most slavish admiration of English law exists in the minds of practically all members of the profession, quite irrespective of politics. Lawyers are as a class incurably conservative—and Irish lawyers are probably even more conservative than the English. There are many points in which Continental systems can boast of superiority. In my opinion, an innocent accused has a greater chance of being convicted, and a guilty accused a greater chance of being acquitted, under the English system than under the German—but, of course, I am not speaking of political cases. Our whole system of criminal investigation and methods of collecting evidence in criminal cases is defective, due, I think, to the fact that it is dominated by the English conception of sport—*i.e.* the criminal should be given a fair chance of escape, like the coursed hare, even if this involves a fair chance of an innocent person being convicted by reason of not being able, immediately on arrest, to give an account of his movements that is evidence in his favour. The theory that a criminal should not be obliged to answer a question that may incriminate himself is open to criticism. As a result of the defects of our system the police frequently, in my belief, overstep the law in their zeal to obtain information and evidence. So far as they do this they adopt the Continental system without its safeguards and its benefits in the case of an innocent accused.

Two collateral and subsidiary matters deserve consideration. One is the law in respect of perjury. Since I was called to the Bar I can only recall one conviction or even trial for perjury. During the criminal sessions while I was in the Saar I saw reports of three such prosecutions, and in two of them convictions were obtained. To my mind it is not because perjury is practically unknown in this country that there are no prosecutions for the offence, which is certainly one that greatly interferes with the course of justice. Unfortunately there must be cases—indeed many cases—in which it is certain that there has been perjury, but in which conviction would be out of the question, for, though it may be perfectly clear that one side or the other must be telling deliberate lies, it may be extremely difficult to say which. As allowances must be made for different points of view, I have always been extremely reluctant to accuse witnesses in particular or in general of telling deliberate lies in the witness box, and I think the only two cases in which I have actually done so were the Scala case, more than ten years ago, and three successive cases which I heard at the recent Circuit Sittings in Cavan. But cases of clear perjury, and still more often of most unsatisfactory answering, do occur, especially in criminal cases. Such cases would,

I believe, be reduced to practical insignificance were it not that the witnesses have no fear of a prosecution. Conscience is the only deterrent. The chief reasons why witnesses have little to fear are, first, that the question can rarely be decided without going fully into practically the whole original case in respect of which the question arises, and, apart from the expense of this, complete shorthand notes are rarely available. The second reason is that merely unsatisfactory answering is not an offence except in bankruptcy proceedings. I would, therefore, suggest what seems to me the obvious remedy. The judge should in all cases have the same powers with regard to unsatisfactory answering that he has now in bankruptcy. Then, in cases before a jury, I consider that at the conclusion of the case it should be possible for the same judge and jury to try any witness for perjury; all the evidence in the original case being *ipso facto* evidence in the criminal case. The general standard of truthfulness would be immediately raised by the mere passing of such legislation. Of course, those who take the English point of view would say that such legislation is not "cricket"—it does not give the perjurer a sporting chance.

The second subsidiary matter to which I referred is misprison of felony—which means there are numerous cases every year in which guilty persons are not brought to justice because the prosecution cannot get witnesses to give evidence which they certainly possess. This evil would certainly be remedied to a very large extent if an Act were passed extending the law so as to make the withholding of information at an inquiry before a district justice an offence under the Act. The inquiry should be held *in camera* so that the fear that at present exists in certain cases of giving information—*i.e.*, of being called an informer—would not exist, partly because the giving of the information would in most cases not leak out, and because, in any case, it is one thing to give information voluntarily and another to have it extorted on pain of imprisonment. It would require much elaboration to go into all the provisions necessary to make such an Act effective and, at the same time, to provide adequate protection to those giving useful information.

Looking broadly at the Law of Evidence, which we have inherited from England, and which is very much more complicated and refined than the law recognised in most other countries, it may be said, first of all, that there is probably no case in which our law admits evidence of a particular kind where such evidence would be excluded under the law of any other country. As regards such admissible evidence, the only difference between our law and that of other countries is that in many cases the admission is with us only effected after much discussion and dispute, where with others there would be no dispute or discussion at all. Frequently a piece of evidence is only admitted as the result of an ingenious device or skilful manœuvre by which, what otherwise would not be evidence at all, is made evidence—often with decisive effect. That this comment is thoroughly justified would appear clearly and incontrovertibly if one took a specimen hundred of the cases cited in the text-books in which, after much debate, evidence was admitted. It is safe to say that in 95 per cent. of the cases the evidence would in most foreign countries (*i.e.*, all except those which, like U.S.A., adopt the English law) be admitted without question; in the remaining 5 per cent. it is possible that the question of admissibility might be one of difficulty on any system.

Consequently, it is evident that the extreme intricacy and complexity of our Law of Evidence, so far as it can be justified, can only be so because

of the evidence which it excludes. Undoubtedly, there is a great deal to be said in favour of much, if not most, of this exclusion. It may fairly be contended that the extreme laxity of the French system, for instance, not alone tends to prolong the hearing of cases unduly, but also tends to allow the real issues to be obscured by the introduction of a mass of irrelevant matter. It is mainly to avoid this that the intricacies and complexities, which confuse and disfigure the English law, have been evolved by the judges (for the statute law has, it may be said, uniformly operated in favour of admission not exclusion, and allowed evidence to go to the juries—and, of course, the judges too, when they are judges of fact—for their consideration, which the judge-made law would have excluded as not being evidence at all). The fact is that the English judges, with their characteristic contempt for juries, have endeavoured to spoon-feed them; in the result, while they have succeeded in keeping from them much indigestible material, the struggle over what has been eventually let in is a discredit to the law. Furthermore, the system is frequently very irritating to witnesses, who are continually pulled up for infringing complicated rules, with the application of which they could not be expected to be familiar.

The main defect in the theory and statement of our inherited law of evidence is its negative character. It begins properly with the positive conception of relevance, but on the important question of hearsay evidence its mode of approach is altogether negative and proceeds by way of exceptions followed by exceptions to the exceptions. But the really fundamental conception is the positive conception of credibility, the probable veracity of testimony. Or one may look at the matter in this way: what has to be proved must be established by relevant facts—*i.e.*, as an inference to be drawn from relevant fact. The question then arises as to when testimony is a relevant fact. To begin with, all direct or immediate testimony should be regarded as a relevant fact. The question then arises as to when indirect or mediate testimony should be regarded as a relevant fact. First of all, immediate testimony should, subject to certain exceptions, be preferred to mediate—*i.e.*, the evidence should be the best evidence reasonably procurable. This corresponds with the German *Princip der Unmittelbarkeit*. Subject to this principle the circumstances under which mediate testimony should be admitted should be set out in a positive manner. It is here, and in the exceptions to the best-evidence rule, that the law should be brought more into accord with our experience, knowledge of human nature and our common sense. There are some cases in which some hearsay evidence would, and should, weight more than direct evidence, owing to absence of motive for falsehood, combined with the clearness and definiteness and decisiveness of the evidence itself. I need not dwell longer on this question of hearsay evidence as it is a common subject of adverse criticism, and the only point ever seriously contested is the extent to which the present rigour of the rules should be relaxed.

In my opinion, the cases in which character and opinion are deemed relevant, *i.e.*, admissible evidence, should be extended.

The Garda, for instance, have, let us say, frequently observed the driving of a particular motorist and have received many complaints. Then the motorist is defendant in an action for negligence, and he and those in his car swear he was only driving at twenty miles an hour and blew his horn coming to a particular corner. The jury ought to be allowed to know that the motorist's habitual speed on the road in question was

about forty miles an hour, and that on no other occasion was he heard to blow his horn coming to the particular corner.

Then, in many running-down cases the evidence of an onlooker would best be given in the form of a general impression, or of a statement as to who was to blame and why, followed by cross-examination. I also think that the trial of cases of this class should be more in the nature of an investigation, and that disinterested third parties should be produced rather as *amici curiae* giving testimony, than as witnesses for one side or the other—a party producing a witness being assumed to put him forward as a credible witness—"the defendant's own witness X, said," seems to me a poor argument when X was a person whom a party was practically bound to call. The rules as to cross-examination of a party's own witness in such cases are much too rigid.

The law of contract is perhaps the most satisfactory branch of our law, but the law of torts could, I think, be improved in many respects. Considering that it is the law itself that makes money payment the sole mode of redress for the infringement of certain rights, it does not appear to me to lie properly in its mouth to refuse redress in that form on the ground of the inadequacy of or difficulty of applying its own remedy. If the plaintiff is willing to be redressed in money, the law should not rely on the difficulty of putting a money-value on the damage caused by the wrong. It is the law of libel and slander that suffers most from this point of view. The Continental codes are much more adequate, and, in general, recognise that the redress by appeal to the law should be an adequate substitute for the old method of seeking redress by challenge to a duel.

I further think that in all collisions of mechanically-propelled vehicles the law that applies to collisions at sea should be adopted, that is to say, where both parties are to blame, the damage should be apportioned. This rule operates more fairly and is more in accord with the conceptions of juries, and its adoption would prevent many miscarriages of justice, besides simplifying the most difficult cases that juries have to try. There seems to me no justification for the present distinction in the law.

With us an accused person may be kept in prison for months, and then, if he is found not guilty he receives no compensation. In Germany he does receive compensation, and the result is that he is not kept in prison unless the Court is of opinion that, if left at large, he might escape the jurisdiction. Our rule as to bail is, in my opinion, indefensible. An innocent person may not be able to find the bail required, and bail is frequently refused in cases where the possibility of the prisoner escaping or trying to escape is negligible, and in which the prisoner would never be kept in custody if there was any chance of his being able to claim compensation. This defect of our inherited law is one of several which give the lie to the English conviction that there is no system of law as fair to a prisoner as the English system.

The notion that a criminal trial cannot proceed unless the accused is good enough to plead guilty or not guilty has led to the criminal court in this country having been made a laughing-stock of by prisoners when put on trial simply saying, "I refuse to recognise the Court." Owing to the state of the law the Court cannot give the obvious answer: "the jurisdiction of the Court to try you does not depend on your recognition." In other countries the charge is read to the prisoner, and he is then, as a matter of justice, given an opportunity of answering as he pleases. It is entirely a matter for himself. I do not know the origins of our law on the subject, but I should imagine it depends on the obsolete social contract theory.

The law administered in the Republican Courts during their existence differed from the English law administered in the Four Courts as to the right in a seduction action of a seduced woman to recover for medical attendance and necessities supplied to her as the consequence of the birth of a child. According to the latter law the woman herself has no right of action, the ground being that a man is not by the English Common Law under any obligation to contribute to the support of his illegitimate child, and, consequently, no contract could be implied. Under the old Brehon Law the father was liable to contribute, and, accordingly, it was held by me, first in a case tried in County Cork, that such a contract could be implied, and the woman was allowed to recover. That case was subsequently followed uniformly in the Republican Courts. Whether it is the law now in this country depends upon the vexed question as to whether the law that was carried over on the passing of the Constitution was the law administered throughout Ireland by the Republican Courts or the law administered in such Dublin Courts as recognised the jurisdiction of the Anglo-Irish Courts. This interesting and debatable question has never yet been decided.

It was only in the last half of the last century that the efficacy of vaccination and, later, of other inoculations and injections was discovered. Since the Act of 1863 and the Acts collectively entitled the Vaccination (Ireland) Acts—and because of those Acts small-pox has been practically stamped out in this country—there has, at least, been no epidemic of small-pox, and science has made great progress in all departments of bacteriology, so that the position is radically different from what it was at a time when small-pox was a national menace. It is, therefore, inevitable that the old Act should have become in part obsolete and that some amendment of the law should be desirable. Such amendment has been rendered difficult by the nature of the propaganda campaign against vaccination that has been conducted by the extremists who, as extremists generally do, have got control of certain societies. Instead of confining themselves to a few facts that they could stand by, they overlay the truth with such strata of false statements and exaggerations that most members of the public do not know what to believe. As the late T. H. Green said: the main obstacle in the way of true reform is the reformers themselves. In my opinion reform in Ireland should not lag behind that in England, where under the Vaccination Act 1907, no person is liable to a penalty under ss. 29 or 31 of the Vaccination Act, 1867, if within the statutory period he makes a statutory declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers or sends by post the declaration to the vaccination officer of the district. I think, however, that where there is danger of an epidemic, a certificate from the medical officer should be required in addition. The present position is that there are prosecutions and convictions in some cases where subordinate authorities become afflicted with excessive zeal, though everyone knows that no government would face the sensation that would arise if a rigorous inquiry were made, and everyone was prosecuted who was actually guilty of an offence under the Acts.

I have now pointed out most of what I regard as the crying needs for reform. If I live to see one half of them realised—unless I myself happen to be one of the would-be reformers whom it might be necessary to assassinate before such amelioration of the law could be effected—I shall die a happy man. Perhaps there are some younger members whose greed for reform would require the realisation of more extensive schemes to fulfil their desire for a happy ending on Irish soil.

DISCUSSION ON MR. JUSTICE MEREDITH'S PAPER.

MR. E. BLYTHE proposed a vote of thanks to Mr. Justice Meredith for his very thoughtful and very stimulating paper, and said if they had a whole day to spend in debate there would be plenty of points on which they might talk. Mr. Justice Meredith said that the need for reform in Company Law would be met by adopting the existing English legislation, but conditions differed very considerably here industrially and commercially, and there were various respect in which it would be desirable to have the law here different from the law in England. Industrial and commercial development was just beginning to take place here, but in England the development took place before the Public Company appeared, Consequently the Public Company would play a more important role here than it had played across Channel. With regard to Real Property, Mr. Blythe said he had always felt that it ought to be as easy to sell land or a house as to sell a cow. They could not perhaps go that far, but some of the formalities involving difficulty and expense were very much out of date.

A very good case had been made out for a change in respect of the taking of statements from accused persons. There had been cases of excessive zeal on the part of police and of attempts, well-intentioned attempts, to get information by methods that could not be approved. It was all very well for that sort of thing to happen during a real emergency, and when it was almost more important to convict the guilty than to protect the innocent. In normal times, however, it was undesirable that there should be such exhibitions of excessive zeal; but on the other hand if the police were tied up too much it might discourage them from really tackling their job. It might, therefore, be a very good thing, and would not be too expensive, to have a District Justice or a specially appointed legal man to conduct the examination of prisoners on the lines followed by the Examining Magistrate in France.

He was surprised that, in the early part of the paper, dealing with the undermining of respect for the law, Mr. Justice Meredith said nothing about the Jury system, because that was one of the things that most brought the law into disrespect in this country. They constantly heard of Juries being squared. Anything he had heard of discussions that had taken place in Jury rooms led him to believe that chance and prejudice and irresponsibility generally determined the decision. The history of Juries in this country was bad. In political cases the Jury system had been abused in the British time by packing, and at present they often heard of the Jury panel being canvassed in advance. The Jury system was entirely unsuitable to this country. His opinion was that it would be far more satisfactory and fair and more effective to have cases decided by a number of Judges, and it would be cheaper to the community if not to the Exchequer than bringing hundreds of jurymen to the Court to waste their time. He knew there were some Judges who would not like the change, but the Judges, who were paid for it, should take the responsibility of deciding guilt or innocence rather than throw it on men who go into Court as conscripts. The Jury system encouraged perjury, and for that reason he was the more surprised to find that Mr. Justice Meredith did not mention it, when he referred to the slavish admiration for the English system that remains here, because Juries had nothing to recommend except that they prevailed in England. If they had a group of Judges instead of a Jury it would be very easy to carry out the suggestion of charging a person with perjury immediately

on the conclusion of the case in which he had given his false evidence. The fact that perjury goes on, drives decent people into committing perjury themselves in an attempt merely to get their rights. Prompt convictions for perjury would do much to discourage it.

MR. KINGSMILL MOORE, K.C., seconding the vote of thanks, said he had read and listened to the paper with the greatest possible interest, and found himself in violent agreement with it. He agreed that nearly all the reforms advocated were necessary, and so he thought would every lawyer in the Four Courts, but he did not entirely endorse the proposed methods of reform. There was a suggestion in one part of the paper that lawyers oppose reform and that they were over-conservative; that was not so. Every reform in the main framework of the law had been worked out and drafted by lawyers, so much so that nearly all the great Acts were known by the names of the lawyers who framed them. It was the lawyers who knew where an Act was wrong and where it required to be amended. The reason the law lags behind the times rests with the Government. Reforms in law were things which the average person did not understand, and for which a Government got very little credit and no votes if they did initiate a change. It was the lawyers who were always inclined to sweep away technicalities, and it was the Government who would not give them the opportunity to make reforms. They may ask then why should not all the suggestions of Mr. Justice Meredith be carried into effect at once. There was very little reason why most of them should not. Mr. Justice Meredith said that we had adopted here the English system of law, and Mr. Blythe very shrewdly said there was a difference in the economic systems. But instead of Ireland being the experimental ground for England, England could be the experimental ground for Ireland. The new Company's Act had been tested for ten years in England and found beneficial. There was no reason why it should not now be adopted in Ireland. They should not be afraid to adopt English laws where it suited them, with certain modifications. If there was one thing that caused trouble in this country it was taking over an English Section, changing a few words here and there for the sake of assisting a drafting independence, and incorporating it into an Irish Act, which made the Act almost impossible to construe. There was a difficulty in dealing with purely Irish law. In Ireland lawyers were not specialists. The reforms embodied in the Real Property Acts and Trustee Acts were worked out by English specialists, lawyers who dealt exclusively with these matters. It was easy to take advantage of their work when the codes of the two countries overlapped. Mr. Kingsmill Moore suggested that there should be a standing Committee of the Bench and Bar who should have it in their power to recommend to the Government certain fields of law which should be brought up to date. When a lawyer came across a case in the text books, and had to advise that that case was binding, although he did not agree with it, he should be able to refer such a case to the Committee for revision. Similarly Judges who reluctantly have to give a decision based on an old case should be able to refer that case to the Committee. The Government should have a Law Revision Act passed every year for abolishing cases, sections or rules that were out of date. With regard to the Jury system, it was a mistake to imagine that Juries were the only people who were infallible. When he was a young man at the Bar he heard his brothers say that if such and such a case comes before Judge A. the plaintiff will win, and if it comes before Judge B. the defendant will win. And that if a matter came before

a Court constituted in one way, X. would win, and if constituted in another way, Y. would win. Every man had his own intellectual and temperamental bias. It occurred even in the House of Lords. It could not be helped. He thought one Judge was less reliable than 12 jurymen : but a bench of a number of jurors was superior to either. If they had five Judges sitting it would be well not always to have the same five, as the strongest characters might gain ascendancy over the others. In considering the abolition of the Jury system there was this difficulty to be contended with, that the Juror represented most closely the man in the street and so avoided a divergence of law and public opinion. He was thoroughly in favour of a Committee of Judges, and not because it made more promotions from the Bar.

PROFESSOR WIGHAM said that he was very glad to have an opportunity of thanking Mr. Justice Meredith and the other speakers, although he had not intended to speak on a paper which was much more a subject for lawyers. Still we were all occasionally involved in legal affairs. Having been called as a witness lately in two murder trials, and one of compensation in a case of a workman's death, his interest had been roused in the subject of evidence whether for a jury or otherwise. A great deal of evidence given in court seemed quite useless and took up a lot of time, and it often struck those who looked on from outside that as a case went on it seemed the business of everyone to hide the truth. The lawyers possibly tried to get at the truth, or as much of the truth as was of value, but it so often seemed that an effort was being made on both sides, by legal arguments and the way lawyers dealt with witnesses, to hide the truth from the jury rather than to reveal it. It may be that a Judge sitting without Jury would understand what counsel were getting at. Mr. Justice Meredith's suggestion of getting information about a criminal case before a proper officer as soon as possible, as is the practice in France, seemed especially useful. His own experience, as a member of a sailing committee, in hearing and judging evidence when a protest for breach of rules in a yacht race occurred, had impressed upon him that if the inquiry was postponed for some time memories and opinions as to what was said or done were certain to change, even although offered in all good faith and when the decision was a sporting one among amateurs. The difference of opinion between two sides and of memories for facts always varied in accordance with the length of time that had elapsed. Even in courts of law when there was delay, and possibly without any definite intention to deceive, it was interesting to see the way in which a man's memory changed with the date.

Compulsory vaccination was a difficult question. One would wish to give freedom to the individual in such matters, especially if it was a matter of conscience, but it should not be at the expense of danger to the community. He took it that the suggestion in the paper was that the regulations in regard to vaccination might very well be altered or lightened because the necessity no longer existed. The suggestion was good, but in his opinion the reason for it was bad. The whole aspect of medical prophylaxis against disease had lately been very greatly extended, and it was time that its relation to the health of the community and the individual should be considered.

Professor Wigham concluded by advocating the abolition of the death penalty. Had there been time he would have liked to put forward various reasons why they should consider making a change in this country. He knew that many people thought it necessary to retain it, but the

experience of those countries which in times of peace had abolished the death penalty was that it was a useful reform. The administration of the law in those two cases to which he had referred would have been much easier if there had not been this death penalty standing in the way of finding out the truth. To stand before a court on a capital charge is often to become a hero, and Juries have often brought in a verdict of not guilty or of manslaughter because they did not want to be responsible for the death of an individual who was just possibly not a murderer.

MR. J. C. M. EASON, joining in the vote of thanks, said Mr. Justice Meredith had given them a very useful paper. Looking over the records of the Society it was very clear that in the early days the Society's interest in legal matters was extraordinarily close. Mr. Eason mentioned a number of changes and reforms that were largely sponsored by members of the Society, and went on to say that in recent years the Society had missed the assistance of lawyers in connection with discussions and proposals, and he hoped that this paper would lead to some practical suggestions being put forward. He had always felt that there was not the respect for the law in this country that there should be, and for that the Government was partly responsible. Acts rushed through the Oireachtas are going to lead to complete contempt for the law. Laws were being neglected in their administration, and there was nothing more calculated to cause disrespect for the law than failure to administer it. Don't pass laws that you cannot administer. Dealing with Company Law Mr. Eason said he did not think that human nature here in its attitude to Company Law would be very much different from that in England, and they should adopt the English Act here. That Act protected people who put money into public companies. There should be proper protection for shareholders who put money into companies. Mr. Justice Meredith did not say anything about Bankruptcy Law. The other day the Minister when asked said it was not necessary to deal with the Bankruptcy position. That was a serious matter, and there were a number of things going on which should not be allowed. They had been dealing with these things in the Chamber of Commerce, and had sent recommendations to the Government, but it was impossible to get any satisfaction. He was very interested in what Mr. Kingsmill Moore said about the possibility of getting improvements formulated if the Government agreed that they may go through. Of course the Government had their own views about these matters, but people could not help feeling that there was too much politics and not enough business. He thought the Jury system was not so much to be despised as Mr. Blythe seemed to think. There was some security where twelve men had to arrive at a conclusion. All ranks of the business community would be delighted if some change were made so that people would not be called needlessly to Court.

THE PRESIDENT, conveying the vote of thanks of the meeting to Mr. Justice Meredith, said he thought the contributions of the several speakers who took part in the discussion were in keeping with the high standard of the paper itself, which ranks as a first class contribution to the records of the Society. He said there was much in the paper that was provocative of amendments in the existing legislation in the country and that he had heard from several quarters of the urgent call for remedying the present Company Law. On the question of the verdicts of Juries as against decisions of cases by Judges or even a simple Judge, referred to by Mr. Blythe, the President referred to a case he knew of concerning a commercial

traveller who had to have a leg amputated arising out of an accident which occurred in a public garage and which was tried before a Judge and Jury—when the Judge submitted a list of questions to the Jury for answer, one of the questions was something like this: Was the plaintiff aware that there was a pit in the garage? The Jury when they came to this question paid little attention to it, answered “of course he did; everyone knows that,” and proceeded to discuss the amount of damages. I think they assessed these at £1,400, and on their view brought in a verdict for the poor plaintiff. The Judge according to law, because of the answer regarding the pit, gave the decision to the defendants. Mr. Justice Meredith put a great deal of work into the paper and must have been pleased with the discussion.

MR. JUSTICE MEREDITH, replying to the vote of thanks, said it was his misfortune that no matter what words he used he seemed to find it impossible to make his meaning understood. With regard to Mr. Blythe's criticism of his remarks on Company Law, he thought he had made his position as clear as possible. There was no excuse for not advancing from the 1908 Act to the English Act of 1929. Surely Mr. Blythe would agree that, with all the Companies that had been started here, there was no excuse whatever for relying only on the Act of 1908 and not introducing the safeguards of the 1929 Act. In connection with the first paragraph about respect for the law, he had totally failed to indicate what he was driving at. What he meant to say was: “I don't think there is much use in asking the public to have respect for the law if you, the Government, will not change a single bit of law that you know is bad unless there are votes in it.” He had tried to put that politely. On the matter of Juries, apparently, there was a great difference of opinion, and he would not go the whole way with Mr. Blythe. He would not really trust a Judge who only drove from the Court to his own study and lived there apart from everybody and did not know the people of the country at all. The majority of cases could be disposed of in the same way as when he was in the Saar, where five Judges sat together, and they were Judges of fact. Judges who adopted the attitude of living in the moon could not be good judges of fact. He had more respect for Juries than Mr. Blythe had. There was another matter in which he was entirely misunderstood. He thought he had made it perfectly clear, on the subject of vaccination, that there were a lot of faddists. He would like to brush this aside and get down to realities. Dr. Wigham said that certain men should not have the right to refuse to do what the medical men assert was necessary. He did not know that they have a right to object, and he would not go so far as the English Act where there was an epidemic. It was very hard to get statistics, but within a very small range he knew of three cases of vaccination in which people got serious troubles that lasted for some years. His own daughter owed her life to getting inoculated for diphtheria, so he was not a faddist at all on the subject. But he knew of two cases very intimately where certainly people got trouble from inoculation for smallpox, and one other person who got trouble from an inoculation for influenza. At the time this Act was brought in and made compulsory for everyone there was imminent danger to the whole community, and it was stamped out. Conditions are different at the present moment, and there should be a revision. May not the danger of vaccination be greater than the danger of smallpox, where there has not been a case for a great number of years?