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THE
IRISH MAGISTRACY

BY



AN IRISH MAGISTRATE

DUBLIN

M. H. GILL AND SON

50 UPPER SACKVILLE-STREET

1885.

Price One Shilling.

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TO THE ADMIRERS

OF ENGLISH RULE IN IRELAND.

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Houses of the Oireachtas

AN IRISH MAGISTRATE

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OF
ENGLISH RULE IN IRELAND.

WE address ourselves all through this pamphlet to Englishmen. The reason is obvious: we Irishmen have at our fingers' ends the gross abuses existing under our present system of magistrates. We come daily, hourly, in contact with those abuses. The recital of them will not take a single *Irishman* by surprise. Our hope is that it may open the eyes of some *Englishmen*. John Bull has been credited with a love of fair play. We invite him to read this pamphlet (the main facts of which we defy the most servile Castle hack to contradict), and then to pronounce judgment as between the people of Ireland and their magistracy.

TO THE ADMIRERS

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THE IRISH MAGISTRACY.

“O Tempora! O Mores! Senatus hoc videt, consul intelligit, hi tamen vivunt.”

ENGLISHMEN must have lately asked themselves what was the meaning of those never-ending questions in the House of Commons about Irish magistrates. They see that the Irish members return again and again to the charge, and they can also see by the answers of the Ex-Chief Secretary for Ireland—

AN IRISH MEMBER—“What, then, is the use of the Irish magistrates?” Mr. Trevelyan—“I am sure I don't know”—

by the promises of reform he held out to them, and by the punishments meted out to some of the magistrates in the North of Ireland, that something is rotten in this department of the administration.

What that something is we propose to discuss in this pamphlet. We propose to lay before our readers facts and figures connected with the Irish magistracy as they present themselves to an impartial Irishman. We will show our readers that the unpaid magistrates are selected without any regard to the wishes of the people; that they are not selected for their fitness; that they are unqualified for the administration of law; that they use the law to defeat the law; that they are appointed solely with the view of strengthening a class which is antagonistic in religion and social traditions to the people, and that therefore they come before the people as prejudiced judges, whose administration of the law may also naturally be suspected. We shall charge them further with gross neglect of the public duties they are appointed to perform. We further propose to show that the Resident Magistrates, while not exempt from the defects of the unpaid magistracy, are open to this additional reproach, that they are mere tools in the hands of not too scrupulous employers. These are the charges we lay at the door of the Irish magistracy. We challenge refutation.

Lastly, we shall venture to give, in a skeleton form, a scheme of reform, which has suggested itself to us after deep thought, and with some practical knowledge of the defects of the present system.

In Ireland the unpaid magistrate is appointed by the Lord Chancellor, on the recommendation of the Lieutenant of the county. The chancellor has, indeed, the right to appoint an unpaid magistrate *proprio motu* wherever he thinks such an official wanting, and this without reference to the Lieutenant of the county. But this right he has hitherto rarely exercised. In England and Scotland there is always a plentiful choice of candidates for the magistracy; for both in England and Scotland there is a strong, sturdy, well-educated middle class—the bone and sinew of their country. In Ireland the Lieutenant of a county has very little choice, for in Ireland there is no middle class worthy of the name. We have the makings of a middle class—the makings, we are convinced, of the finest middle-class in the world—the makings of such a class, but that is all. At present, for all practical purposes, there are only two classes in Ireland—the landlords and the people—the owners and the occupiers of the soil. These two classes, differing, for the most part, in race and religion, are now, as they always have been, in open, irreconcilable warfare. Centuries of injustice (read the returns of the Irish Land Commission), injustice in every shape and form, injustice of the most odious and revolting character, have exasperated the Irish people. It was only yesterday that they were emancipated; it was only yesterday that they groaned under the most iniquitous land system that ever cried to heaven for vengeance. The landlords still cling to the memory of what has been, chatter about their rights and privileges, will not recognise the present situation, nor accept accomplished facts. The last four years have been big with events, but the Irish landlords are as the blind who see not. They are in much the same frame of mind as the French aristocracy were before the Revolution. This, then, is the condition of affairs. The man who selects for his office the unpaid magistrate is a member, and usually the most prominent member, of the privileged class. It is impossible to suppose that his choice will be made with any regard to the wishes of the class with

whom he is at feud. He is always a landlord, and nearly always a Tory, and generally owes his appointment to one or other, if not to both, these considerations. Of course as a landlord he sympathises with his class, and as a Tory with their politics. Of course he is entirely out of harmony with the people, and often personally very unpopular. He looks upon the agitation in this country as an unmixed evil. The people will tell you that it is to the agitation that they owe the Land Commission, and, in many cases, the substantial reduction of their rents. He views all liberal legislation with distrust. The people are advanced Liberals. If he is one of the few Liberal Lords Lieutenant he is only so in the sense of being a drag on the coach. Such a man, even with the best intentions of the world, cannot be impartial. He is a Protestant. Let us suppose (the supposition, we allow, is certainly far-fetched enough) that he is anxious to appoint Catholic magistrates. How shall he make a worthy selection? Whom can he consult? A Catholic gentry there is none. The parish priest? He undoubtedly, in many cases, would be able to give him valuable advice; but there is not a single topic of conversation upon which they two could agree. The breach between them is now more impassable than ever it was since the days when a like price was set on a priest's and on a wolf's head. They might, till recently, have discussed horses: perhaps his reverence's weight-carrier, known through the country for his "leaps," might have changed hands; but hunting, this chief pleasure of his life, is now taken away from the noble lord. It was only yesterday that he was pelted with rotten eggs in an ambush carefully prepared beforehand for his special benefit. The parish Land League, of which the priest was president, had banned hunting. The crops, indeed, might be safe enough, but it was only yesterday that the Land Commission reduced the rents of one of his lordship's tenants twenty-five per cent., and that tenant had gone into court at the instance of the parish priest. Neither can the priest conveniently allude to the missions lately held in his parish, nor of the good they had done the people. It was only yesterday that the noble lord soundly rated one of his labourers for giving up a day's wages to listen to "such cursed rant." The new Church he

has just built must also remain unmentioned. The priest cannot relate to the noble lord how he began to build that Church, which, finished, cost some thousands, without a halfpenny to hand; how he himself collected some part of the money at home, his poorest parishioners contributing their mite, and how his curate collected the rest in America and Australia. The noble lord's father had refused the priest's predecessor a building site; and it was only yesterday that the noble lord himself, thoroughly imbued with the spirit of his ancestors, planted a screen of trees in order to shut out the hated edifice from the windows of his lordly mansion.

Can he consult the strong farmer? He is a *rara avis*, but still sometimes to be found. He is a Catholic, and looked up to by the people. But it was only yesterday that he ousted the noble lord from the chairmanship of the Board of Guardians, which, in the good old days, was his by divine right, and told him to his face that he was very glad to see him attend his business as a guardian for once in a way, that he liked to see the face of a live lord at a public board, and further twitted him with representing himself alone, whilst he, the farmer, represented an electoral district. No, he cannot consult the farmer either.

To Englishmen this may appear an overdrawn picture. They have never realised the separation of classes as it exists in this country. They do not understand that it is either "the people" or "the landlords," and that there is nothing between them, no middle class, as in England.

The lords lieutenant of counties are specially jealous of their rights to recommend men for the magistracy. We find Lord Longford, Lieutenant for Co. Longford, in a state of fierce excitement because the following paragraph appeared in the Dublin newspapers of the 31st May last:—

"THE MAGISTRACY.

"Co. Westmeath.—On the recommendation of the Most Rev. Dr. Woodlock, Bishop of the diocese of Ardagh and Clonmacnoise, the Lord Chancellor has appointed Edward Gleeson, Esq., M.D., Banown House, Athlone, to the Commission of the Peace for Co. Westmeath."

"'The recommendation,' Lord Longford objected, 'appeared to be somewhat unusual in point of form.' But his lordship is the

pink of courtesy. 'He meant no personal reflection upon Dr. Woodlock, nor upon the persons appointed, nor upon the Lord Chancellor.' After this preface comes the crying grievance. 'What he desires to draw attention to is the ostentatious announcement that the appointment had been made on the recommendation of the Roman Catholic Bishop without apparently any reference to the Lord Lieutenant of the county. However,' he goes on, 'Ireland is an eccentric country.' But Dr. Woodlock was not a bad sort of a man after all, and might even to a certain extent be depended upon. 'He did not think Dr. Woodlock would knowingly recommend an unfit candidate; but they must recollect that Dr. Woodlock was the servant of a Master who never slept, and that his duty was to extend the power and influence of his Church without other considerations. But there were other prelates of his Church whose sympathies, if he might judge by their language, were more widely popular, and they might possibly be induced to recommend magistrates of whose impartiality there might be some question.'"

All this storm in a tea-cup because one Catholic magistrate was supposed to have been appointed for Co. Westmeath (where of 116 magistrates only 23 are Catholics) on the recommendation of Dr. Woodlock, the respected Bishop of the diocese of Ardagh and Clonmacnoise, without reference to the lieutenant of the county. For this reason my Lord Longford chooses to insult what he is pleased to call his country, and at the same time to revile the Catholic hierarchy and Catholic Church of Ireland. *Ex uno disce omnes.*

After all, Lord Longford's panic is intelligible. He was jealous of his privileges. What he complained of as having happened (it did not happen—Mr. Gleeson was not appointed on the recommendation of Dr. Woodlock) would have been a startling innovation on a prerogative which it was important for him to exercise. He has other motives than Dr. Woodlock would probably have had to guide him in his selection of candidates for the magistracy. It is generally the agent or some "good fellow" who recommends to the lieutenant of the county another "good fellow" to be recommended for the magistracy: a "good fellow" who will watch "those fellows at the boardroom," and be sure to vote straight at

the next election for the chairmanship of that board and "all that kind of thing, you know."

The magistrates have always been recommended with the one idea of strengthening the landlord party, and their fitness for the bench has been measured by their capacity to render this service. The chancellor may intervene, it is true, but he is usually a strong party man also, and his independent interference is of rare occurrence.

Things are mending a little in this direction. Only the other night the Ex-Chief Secretary, in answer to Mr. Sexton, said that "two hundred appointments were made, so to speak, over the heads of Lords Lieutenant of counties." There was a spice of humour in the remark that "anyone who knows Ireland must know that this is a great change of policy." Since we have written this Mr. Trevelyan has corrected himself:

"He was quite inaccurate when he said that the two hundred magistrates were appointed over the heads of the Lords Lieutenant of counties by the present Lord Chancellor. That statement did not at all represent the facts of the case. The Lord Chancellor had received valuable assistance from the Lords Lieutenant in the selection of proper persons for the commission of the peace; . . . in only four cases was it found necessary to make the appointments without the concurrence of the Lieutenants of counties."

Though there is a seeming great contradiction in Mr. Trevelyan's two answers, between his "two hundred appointments made, so to speak, over the heads of Lords Lieutenant of counties," and his "in only four cases was it found necessary to make the appointments without the concurrence of Lieutenants of counties," the contradiction is more seeming than real. What Mr. Trevelyan undoubtedly meant, though he expressed himself in an unfortunate manner, was that two hundred appointments had been made by the Lords Lieutenant of counties which they never would have made ("so to speak, over the heads of Lieutenants of counties") if they had not remembered a certain little hint previously conveyed by him in the House of Commons, that if they continued to make none but class appointments, the Lord Chancellor was ready to take the matter into his own hands. Those who run may read.

As a result of the system hitherto prevailing, the magistrates have

all been members or adherents of one privileged class. Landlords, landlords' sons, and agents made up the Irish unpaid magistracy, if we except the "shoneen magistrate," who owes his appointment to a "job" or to a promise made at an election, and (*mirabile dictu*) kept. The very form to be filled in by a candidate for the magistracy is nothing more or less than an examination as to whether he can be considered a landlord or not. If he could not prove this satisfactorily, then good-bye all hope of his becoming a magistrate.

"A rigid practice excludes respectable shopkeepers in the country towns and the most intelligent tenant farmers in the country districts. To restore confidence in the magisterial bench it is absolutely necessary that the plan of drawing the magistrates from one, and that the most unpopular class in the community, should be abandoned, and that the rural bench should present a fair microcosm of rural life." *

"There are a great many respectable men of the farming class, such as gentlemen farmers, and persons of that class, who are men of very marked intelligence and very great culture, and a good many of them who are not on the commission of the peace." †

Why should the mere possession of land entitle a man to be a magistrate? Does land possess the charm of imparting a knowledge of law, or even a measure of good sense to its owner? Every other profession or trade requires an apprenticeship, but the dispensing of justice evidently does not. Who in his right mind would give his horse to be shod, or his watch to be mended, or his clothes to be cut, to a man who was not an ironsmith, a goldsmith, a tailor? The local justice knows absolutely nothing about law. He is quite at sea about, for instance, the disposal of prisoners in indictable cases, the taking of depositions of persons who have received dangerous wounds, dying declarations,—a criminal case may often hang on the dying declaration having been properly taken—&c. &c. Whether to dismiss a case "on its merits," or "without prejudice," will often hopelessly puzzle him, especially

* *Freeman's Journal*, Tuesday, March 1st, 1881.

† Mr. Jeremiah C. Blake, Sessional Crown Solicitor for the city of Cork, in his evidence before the Select Committee of the House of Lords, 8th July, 1881.

if there is one attorney pulling one way, and another another way. The local magistrate has even been known to swear the defendant in a simple assault (not cross assault) case, and then to begin to subject him to a severe cross examination, till it was meekly whispered into his magisterial ear that he had "made a mistake."

"I do not know any class of the people so anxious to have justice administered as the Irish litigant in the poorer courts, and I have frequently seen them coming out expressing great disgust, and explaining their reasons, and the causes which unfortunately I often found to be too true."*

It is a pitiable sight to see the unpaid magistrates wriggling and writhing in the hands of every new-fledged attorney who ill-conceals his contempt for "your worship, who has the law at your fingers' ends." We once witnessed the ludicrous scene of a sergeant of police appealing piteously to the attorney employed by the man he was prosecuting "not to use his knowledge of the law to defeat justice." Whoever conceived the enactments that no justice can be called upon to assign a reason either for his judgment or for adjourning a case, must have been a provident legislator. And yet, ignorant of the law, as the local magistrate is, he is a judge and jury wrapped in one, and empowered to try and sentence his fellow-creature to a £1 fine, or a month's imprisonment, with hard labour, without the possibility of an appeal. Virtually there is no appeal from magistrates at Petty Sessions; for the higher Court of Quarter Sessions consists of the unpaid magistrates, presided over by the County Court Judge. There is a safeguard, it is true, in that no justice must take part at the Quarter Sessions, in the hearing of an appeal from an order in which he took part at Petty Sessions. But, against that, the Bench at Quarter, as at Petty Sessions, is a class Bench, and will be slow to reverse a decision made by one of its own order, if such decision can, by hook or crook, be upheld.

"There is a clause, and a very proper clause, in an act passed about four years ago, that the same gentlemen are not to hear the same case over again; but

* Mr. Jeremiah C. Blake, Sessional Crown Solicitor, for the city of Cork, in his evidence before the Land Commission on Jury Laws, July 8th, 1881.

still, although they may retire from the Bench, another local gentleman does not like to go exactly counter to what has been done by his brother local magistrate.”*

But, worse than his ignorance of the law is the local magistrate's readiness, as during the days of the Land League, to use the law as a machine against the people in the interest of his order. The Land League was founded by monster meetings held all over the country. The landlords (that is to say the magistrates), conceived it to be their cue to stop these meetings at any price. “The law” was put into motion. The *Freeman's Journal* accurately described the process :

“Two or three magistrates meet together, a sub-Inspector makes an information before them that a breach of the peace is likely to be committed if a certain meeting takes place, and there and then four individuals of one class debar the whole community from the exercise of one of the most vital of the popular prerogatives. There is no appeal.”†

And Mr. Charles Russell Q.C., on the same subject, said in the House of Commons :

“I would like hon. members to mark by what a small thread the right of public meeting in Ireland hangs. It is most extraordinary that when a person is found to swear that an impending meeting is likely to create a disturbance of the peace, that the magistrates should act upon such an affidavit, and be supposed to be acting legally in so doing, putting an end to the right of public meetings. Hon. members must see how much hangs upon the right of public meetings. No such attempts ought to be made by high functionaries, unless upon the strongest conceivable grounds, and not on the affidavit of understrappers. The English people would never allow for one moment such things to be done in their own country.”‡

Even at present the magistrates have an idea that they have the right to suppress public meetings “on the affidavit of understrappers.” This idea of theirs may still become a great danger to the country, should we ever again have a Tory Government. Again, though the Land League had not yet been declared illegal, bail was frequently refused to a man, because he was a Land

* Mr. Arthur Hamill, chairman of the county of Roscommon, in his evidence before the Select Committee of the House of Lords, 30th June, 1881.

† *Freeman's Journal*, Wednesday, January 5th, 1881.

‡ *Freeman's Journal*, Tuesday, January 11th, 1881.

Leaguer. Imagine bail refused to a man in England because he is a Radical! Again, Mr. Russell denounced in the House of Commons this new bit of sharp practice :

“It seemed to him that in many cases the magistrate had gone, not on the principle of admitting all persons to bail, except when there were distinct cases where that should not be done, but on the opposite principle refusing bail in all agrarian cases. The refusal of the magistrates to give bail was in many cases a practical refusal of bail altogether. It was idle to say they could appeal to the Queen’s Bench, because that involved expenses beyond their reach.”*

In describing the Irish magistrate as one-sided by sympathy, by education, and class prejudices we must make an exception—though the existence of the exception is not wholly to the honour of the magistracy—in the person of the popularity-seeker, a magistrate, generally of the shoneen class, who is careful of his personal interests in his judicial functions, who will strain law and justice to do a service to a friend, or to avoid making an enemy. There was plenty of evidence of the mischief these men worked given by the witnesses examined by the Lords Committee in the summer of 1881. As we have already drawn from this evidence, and will continue to draw from it, it may be as well to mention, that amongst the witnesses examined were Resident Magistrates, future Specials, Clerks of the Peace, Crown Solicitors, eminent Queen’s Counsel, County Court Judges, Sergeant O’Hagan (now Judge O’Hagan of the Land Commission Court), Justices Barry (now Lord Justice Barry), Fitzgerald (now Lord Fitzgerald), and Lawson. Their evidence will amply repay the most careful study. If these witnesses could be suspected of partiality, it would be partiality to the magistrates. Many of them are themselves magistrates. What is Mr. Bence Jones’s evidence? He certainly could not be suspected of hostility to the magistrates of Ireland as at present constituted.

“EARL OF DERBY.—Rightly or wrongly, is there not a very strong conviction among the peasantry and poorer classes that everything depends upon the influence brought to bear upon the magistrate? Yes. With many magistrates

* *Freeman’s Journal*, Tuesday, March 1st, 1881.

it is so, no doubt: they often do not act right, most clearly. When I first went to Ireland I had the greatest difficulty to prevent people coming and begging me to listen to their cases before in Petty Sessions.”*

If the peasantry had not been taught that these embassies sometimes proved successful they would not have taken the trouble to come and worry Mr. Bence Jones. Again, Mr. Blake says:

“But in isolated parts of the country I have known very many cases, indeed, where the magistrates have been solicited, and have been influenced to a considerable extent in the administration of justice. Lord Penzance.—In favour or against, do you mean? That will altogether depend upon the party who solicited, whether it was for or against. Lord Penzance.—Both ways? Both ways. I have known it in very many cases, and with very great regret have seen it.” And again: “But I have known a great many cases of the kind where magistrates have been solicited before they have sat on the bench; and they have adjudicated according to the sympathies they took with them into court, from hearing the first side of the story.”†

What could be stronger than Mr. Clifford Lloyd’s evidence?

“Many of the local magistrates are now (I am sorry to say) of the class known as ‘popularity seekers;’ and I know that those gentlemen often come, and are coerced to come, with the deliberate intention to give their vote in favour of accused persons.”

And then he points out the consequences that ensue:

“Cases have to be struck off, which are very serious cases, affecting the peace of the country.” And again: “Chairman.—When you use the expression ‘coerced,’ do you mean that actual pressure is put on the local magistrate? A local magistrate told me once that he did not intend coming to court; I need not name the district, I suppose? I said to him: ‘I think it is fair to tell you, sir, speaking privately, that in these troublesome times I may, perhaps, have to administer the law in a somewhat firmer way than it has been done hitherto, with the view of restoring order. Of course, in these cases, I know what the effect upon

Mr. Bence Jones, in his evidence before the Select Committee of the House of Lords, on Irish Jury Laws, 23rd June, 1881.

† Mr. Jeremiah C. Blake, Sessional Crown Solicitor for the city of Cork, in his evidence before the Select Committee of the House of Lords, on Irish Jury Laws, 8th July, 1881.

gentlemen living in the place, and amongst the people is, and it is as well to tell you that beforehand, so that you may come and help me or not, as you please' [a curious speech for one magistrate to make to another]; and he decided, from the state of the district at the time, and from his connection with the land to stay away—and a very proper conclusion: it was sufficient excuse for him, at any rate. That gentleman told me afterwards that the people who were interested in a case told him that they would come to his house and drag him to the court, if he did not come. I call that very gross intimidation, if a magistrate does not, for his own reasons, think fit to come and attend, that the parties in connection with the case should actually threaten to drag him, a magistrate, out of his own house, and bring him to the court. Of course, what could that gentleman do afterwards but come [! !]; and, giving him credit for ordinary human feelings I cannot see what he could do but take a very lenient view of the case that was brought up. [The witness seems to be somewhat of a cynic.] What can you expect from a magistrate who came to see me after dark, and apologised for coming to see me after dark, saying, that he dared not come in the daytime? Is that a man to sit on the bench and to administer justice fearlessly?" And: "There is a lower social class of magistrates, who, I find on all occasions, when such cases [cases into which agrarian considerations enter] are being brought up, are either brought or make a point of coming—that is to say, those magistrates who have from their trade or calling to live amongst the people." And: "I have known very serious cases brought up and simply treated as a trivial matter, and laughed out of court by local magistrates."

He then shows how the conduct of those magistrates discourage even the police from doing their duty.

"In some serious cases the police must, of course, go to a local magistrate [there not being a resident or an unprejudiced magistrate available], and he may tell them that it does not matter, that there is nothing in it; and then the police get in the habit almost of giving up going and reporting cases to the magistrate, when they get no support, and when they do bring them forward. I have very often heard the police really abused for having done their honest duty, in order to gain some popularity with the populace in court."*

Again, the unpaid magistrate is nearly always a Protestant.† Some of our readers may be inclined to pooh pooh this last consideration. "You are always bringing up religion," we hear them object. "What does it matter what a magistrate's religion is. He is appointed to administer justice not to discuss theology." The Trimble case furnishes food for reflection. It was

* Mr. Clifford Lloyd in his evidence before the Select Committee of the House of Lords, 19th July, 1881.

† *Vide* Appendix E.

“An action brought by the Rev. John Frith, retired Episcopalian clergyman, Enniskillen, against Mr. William Trimble, proprietor and publisher of the *Fermanagh Independent Reporter*. It arose out of certain comments made in an article published in that newspaper on the judicial conduct of the plaintiff.”*

Captain M'Ternan, examined by the Solicitor-General, deposed that

“He had read the reports in the *Impartial Reporter*. It contained substantially a correct record of what had occurred. . . . He considered the decision in Ruskinson's case an unfortunate decision in the face of the disturbances that recently had occurred. . . . The decision in Potter's case was also partial. He considered that Mr. Frith led the other members of the bench not to give what was a proper decision. He was for sending all to gaol, Catholics and Protestants.”*

This last sentence referred to the fact that all the Catholics were sent to gaol, but none of the Protestants. A Presbyterian jury acquitted Mr. Trimble, and a motion for a new trial, brought forward by Mr. Frith, was refused by the judges. Ever since he has given his sworn evidence, Captain M'Ternan has been socially boycotted by those with whom, up to this extraordinary trial, he was on almost intimate terms. Is it because he did not perjure himself? If it were not that it is so painful, it is rather comical to find gentlemen who are usually so superb in their denunciation of the untrustworthiness of Catholic jurors so indignant with a Catholic Resident Magistrate for being too trustworthy. As long as 'tis “the other side” that is to be found guilty, well and good; but when they themselves are in question, then it is quite another matter. What are the feelings of the Catholic peasant who reads the following placard, and knows that the magistrate of his district is on the Committee?—

“Orangemen, let the rebels of the murderous Land League hear the roll of your drums to the tune of the ‘Protestant Boys.’ Let the old “No Surrender” cry be given in answer to the challenge of Rome, and with no uncertain sound compel the rebel conspirators to return to their haunts in the South and West, and under a guard of military and police, as in Dungannon on Thursday. By order of the Committee.”

* *Freeman's Journal*.

Or who hears Sir John Leslie, D.L., propose

“A resolution asking all Protestants to attend to the Registry, and to return none but Protestants to Parliament. The question at issue in Ireland now was whether loyalists or disloyalists would succeed. There was no third party; and for his part he would say that if he were asked whether he was a Radical, a Liberal, or a Conservative politician, he would answer that he was a Protestant politician; for that was the politician that was wanted now since the Monaghan election, when the Roman Catholic priests openly declared themselves on the side of rebellion.”

Can the Catholics in the Petty Sessions district of Sir John Leslie look upon him as an impartial and unprejudiced magistrate? These are by no means isolated quotations. For months the Protestant magistrates of the North of Ireland, headed by relatives of one of our former Lords Lieutenant, vied with each other in their abuse and denunciation of Catholics and of the Catholic religion. They who, as magistrates, must have known the intensity and bitterness of religious feelings in the North of Ireland—feelings too often culminating in crime—were the very men to appeal to those feelings for their own selfish ends; for it was not Popery they were fighting, it was the National League. It was under the banner of bigotry that the northern magistrates elected to fight the Irish Parliamentary Party in their campaign in the North. They began their pious work by their condolence addresses to Lord Rossmore, and went on to bribe and arm ruffians to thwart the will of the people, and to disperse legally constituted meetings. They threatened—they, the sworn defenders of law and order—to take the law into their own hands if their policy was not adopted by the Government.

“If they [the Government] do not prevent those hordes of ruffians from invading us, we will take the law into our own hands, and we ourselves will.”*

And when mildly remonstrated with by the chancellor, they replied in insolent and defiant language, and declared that they would do the thing over again. When, on a late occasion, Lord Spencer announced his intention of visiting the North to unveil a

* Extract from speech of Lord Claude Hamilton, 18th December, 1883.

public monument they held meetings for the purpose of denouncing his Excellency. They lost no opportunity of villifying him; they let it be understood that they would boycott him; told him, through their organs, that he might stay where he was, that they did not want him, and capped their insults by a ridiculous threat of bringing 5,000 men from England to prove that the North of Ireland was still loyal to the core. To prove that they were Christians, they stirred up the worst passions of the rabble. To prove that they were loyal, they insulted, in times of no ordinary difficulty, the Queen's representative in the country. To use the language of Macaulay :

“ We have lived to see Tories who, because they are not allowed to grind the people after the fashion of Strafford, turn round and revile the sovereign (through her representative) in the style of Hugh Peters.”

These are the men who are the judges of the people at Petty and at Quarter Sessions. Can we blame the Catholic peasant if, seeing these men outrage the law in their public acts, he doubts whether they will be dispassionate in administering it in court?

It would, perhaps, make some amends for the incapacity of the unpaid magistrate, so outrageously selected, if he displayed a genuine zeal for the duties to which he was appointed. But we cannot find that such has been the case. On the contrary, we have to complain of a neglect of those duties, on his part, which is little less than scandalous.* We take as an example of what we mean the attendance of magistrates at Petty Sessions of an important Irish county. We are warranted in believing that this gross neglect of his duty by the Co.— unpaid magistrate, revealed in the following statistics, is common to the unpaid magistrates of the whole of Ireland. The number of magistrates (exclusive of Resident Magistrates) for Co.—, in 1883, was 153. It is within our knowledge that about sixty of these magistrates did not, in 1883, live in Co.—, while twenty others who did live in the county never once attended Petty Sessions. Further, of the magistrates who attended Petty Sessions, about twenty of them only attended four times, and about forty only eight times in the course of the year. Thus about 120 of the 153 magistrates for Co.— did not, in 1883, attend Petty

* *Vide* Appendix F.

Sessions more than eight times in the course of the year. Consequently we must not be surprised at finding that, in 1883, there were about sixty Petty Sessions adjourned through the non-attendance of magistrates. Bad as these figures are, peep behind the scenes and they are still worse. We know, as a matter of fact, that of the magistrates residing in their districts who neglected to attend Petty Sessions, or attended only three or four times, some live, nearly the year round, within a mile or so of the Petty Sessions Courthouse. Surely gentlemen who are so dead to the sense of public duty ought not to be allowed to remain one hour in Her Majesty's Commission of the Peace. Again, although we have roughly set down the number of times Petty Sessions were adjourned in Co.—, through non-attendance of magistrates, as sixty, we must bear in mind that the Petty Sessions were frequently, when held, held by one unpaid magistrate only—in other words, were incomplete. A Petty Sessions adjourned through non-attendance of magistrates may have been held the time following, and even perhaps the time following that again, by only one unpaid magistrate. To illustrate what we mean, it is within our knowledge that in a Petty Sessions Court twelve miles from —, the chief town of Co. —, on the railway, and with six magistrates residing in the district, two months elapsed without complete Petty Sessions being held, they being twice adjourned through non-attendance of magistrates, and twice incomplete. The more immediate advantages supposed to lie in our courts of summary jurisdiction are, that a poor man can get justice cheaply and quickly. But a labouring man who would have been summoned to the above-mentioned court might, by the time his case was disposed of, have been brought within measurable distance of the workhouse. Each time he had attended Petty Sessions it would, most probably, have been at the cost of half a day's work. Besides, he would have to pay his witnesses for their trouble and for their loss of time. He would have discovered that two months of this would have been neither cheap nor quick justice. Complaints on this score are of almost daily occurrence amongst the poorer classes throughout Co.—. But perhaps some, perhaps all, of the twenty magistrates who, although living in their districts,

did not once attend Petty Sessions, did a good deal of useful work, such as signing warrants, &c? Perhaps. There are no means of ascertaining.

We pass now to the Resident Magistrates. A resident magistracy is the gift of the Lord Lieutenant. It is one of his perquisites. As the initial salary of a resident magistrate is £450 a year, rising to £800 a year, there are always shoals of candidates for the appointment. We have no reason to believe that in the case of resident magistrates better motives guide their selection than in the case of the unpaid justices. A resident magistrate ought to have the full confidence of the people of his district. They ought to be able to lay their grievances before him with trust in his integrity and impartiality, and appeal to his decisions as to a just interpretation of the law. He ought, therefore, to be well versed in at least the Petty Sessions Law, which he is called upon to administer, and be a man whose character and antecedents will commend him to the confidence of the people. But in Ireland it is exactly the reverse of all this. In Ireland everything is the reverse of what it ought to be. The people of this country look upon the Resident Magistrate as a mere Castle hack, utterly unqualified for the position he fills, and dependent for his promotion on the number of convictions he obtains. That he should be looked upon in this light is easily explained. For a long time a resident magistracy has been a cozy birth for friends of the cause—distressed landlords, needy cousins of great English noblemen, *et hoc genus omne*. Here is what Mr. M'Coan, the member for county Wicklow, and no extremist, says of them :

“The Resident Magistrates consisted in the main, he believed, of ex-army officers, or the nominees of the Lord Lieutenant of the county. Many of them were his relations or the relations of the great county landlords. Gentlemen they were of more or less education, but men who had been failures either in the army or some other line of life. By some sort of county jobbery those men were shunted on to the stipendiary bench of Ireland with very unsatisfactory results, in a large number of cases.”*

Mr. B—— at the last elections contested Co. C—— in the Liberal, or rather Whig interest. He was defeated by the

* Extract from speech of Mr. M'Coan, Monday, February 28, 1881.

Nationalist candidate. But he has done good service for the cause: he has proved that there are still loyal men left in the country. Of course he ostentatiously attends the first *Levee* of the season. His Excellency smiles and shakes hands with him as he passes, "just as if we were old friends." The next day he receives an invitation to dinner. The day following he again puts in an appearance, secondly, to use Dogberry's "division," to write his name down in the big book in the Castle hall, and, firstly, to have a chat with the "king's" private secretary. And when Mr. B—— returns to the county which has so unkindly rejected him it is with the inner consciousness that his services in the cause of West Britonism have been duly appreciated, and with the assurance from the powers that be that he has satisfactorily established the claims of his friend to the next vacant Resident Magistrateship.

In times of panic military Resident Magistrates are appointed. Why? The *Gazette* of Friday, December 16th, 1881, announced the appointments as Resident Magistrates of

Lieutenant-Colonel Rowland H. Fawcett for Co. Wexford.

Major Holt Waring for Co. Galway.

Major Pulteney E. Boulby for Co. Cavan.

Captain Anthony R. Hutchinson for Co. Carlow.

Henry Turner, Esq., for Co. Leitrim.

All five Protestants, and Englishmen, and four of them officers. The *Gazette* of July 11th, 1884, confirms the appointments of *Lieutenant-Colonel* Pulteney E. Boulby and also of *Major* Holt Waring. (Why does the *Gazette* ignore his title of *Major* and put him down as Esquire?) In the same *Gazette* we find

Lieutenant-Colonel J. A. Conolly, V. C., appointed for the Co. Armagh. (Was *Lieutenant-Colonel* Conolly at one time Assistant Commissioner of the Dublin Metropolitan Police? Under what circumstances and why did he resign?)

Captain Robert B. Stokes, appointed for the Co. Londonderry.

Lieutenant-Colonel Frederick Miller, appointed for Co. Tyrone.

Captain Champagne L'Estrange, appointed for Co. Tyrone.

Six officers, and, we have reason to believe, all Protestants.

"I have had vast experience of them, and I speak now from twenty-five years' constant intercourse with the people, and the administration of justice in the small courts, which, to my mind, are the most important of the country,

and I do not believe that magistrates selected from police officers, retired captains, and persons of that class are at all the fit persons to be selected to administer justice in the country. Lord Penzance.—Are the Resident Magistrates chiefly of that class? Very nearly all.”*

This a fitting commentary on those appointments. Nine out of every ten—the proportion is even greater—of the Resident Magistrates have no legal knowledge whatsoever. Even —— Club was startled the other day [Lord Cowper was the then Lord Lieutenant], when ——, an imported Englishman, who had just been pitchforked into an Irish Resident Magistracy begged of his friends on the club steps *to show him how to fill in a warrant, and where to sign his name.* He also was another of those orthodox appointments, a Protestant, an officer, and an Englishman. Take, again, the case of John Courtenay, tried sometime in 1882 at Hospital, before Colonel Pearse and Mr. Irwin, Resident Magistrates, and who was held to be “criminally responsible for the acts of any of his household,”† and imprisoned. Lord Spencer subsequently annulled the sentence. What must have been the effect of such a travesty of justice on the minds of the people. Another gentleman foisted upon us was Major Bond, who had been Superintendent of Police in Birmingham, and who resigned this post in November, 1881, under the following circumstances, the magistrates having passed this resolution:—

“That the Watch Committee be informed that in consequence of the Chief of Police having given elaborate detailed evidence of what took place upon an occasion at which he was not even present, and such evidence being wholly erroneous, the magistrates cannot continue to regard him with confidence.”

And the Watch Committee this other resolution:—

“That this Committee having carefully considered the report of the magistrates, and the conduct of Major Bond, in giving evidence as to proceedings which took place when he was not present, and also the importance of any evidence given by a chief of Police being fully reliable, feel that they cannot

* Mr. Jeremiah C. Blake, Sessional Crown Solicitor for the city of Cork, in his evidence before the Select Committee of the House of Lords, 8th July, 1881.

† *Freeman's Journal* report.

but concur in the resolution of the Justices in ceasing to regard Major Bond with confidence."*

Major Bond entered on his official duties in Ballinrobe, Co. Mayo, on Wednesday, February 1st, 1882, three months after he had resigned his post in Birmingham.† What was the excuse given by the Chief Secretary for the appointment? Forsooth that he did not know the circumstances of the case. He only knew that Major Bond was a Protestant, an officer, and an Englishman, and that was recommendation enough. What else need he inquire into?

Another gentleman (another officer), shortly after his appointment, favoured the *Times* with a gushing letter, in which he described his experiences as Resident Magistrate, how, if we mistake not, when he drove out, his servants scoured the ditches ahead of him with dogs in order to see that all was safe.

Now, are these the class of men likely to command the confidence and respect of the Irish people? What confidence could they have in the nice young Englishman who did not even know how to sign a warrant, or for the Hospital Solomons? What respect for the official who resigned his post in Birmingham, but was found good enough for this country? Can they be blamed if they did not cotton to the gallant letter-writer in the *Times*?

We find a further reason for this distrust on the part of the people if we inquire who is the immediate head of the Irish Resident Magistracy. He is no other than the Under Secretary to the Lord Lieutenant, one of the chief officers of the Castle. The three men who really govern Ireland are the Lord Lieutenant, the Chief Secretary, and the Under Secretary—the Castle. All three are Englishmen and Protestants. The system of government embodied in these three men has deservedly earned for itself the almost universal distrust and hatred of the nation, and every body of officials whom it immediately controls will share in the hatred and distrust which is bestowed upon the Castle.

It is the Under Secretary who, once the Resident Magistrate has been appointed, maps out his district; for, strange to say, our

* *Freeman's Journal*, Monday, February 13th, 1882.

† *Freeman's Journal*, Thursday, February 2nd, 1882.

English Government has not yet been able to determine the different districts. These districts he can change at will. For instance, the Petty Sessions Court of B. may, in 1882, have been in district C., and in 1883 be in district D. By this arrangement he can, if he has a friend who wants a quiet time of it, or who is a beginner, slice off a Petty Sessions Court or two from his district and tack them on to the district of a man in whom he feels a less lively interest. It is a primitive arrangement. He can, and frequently does, transfer them, without why or wherefore, without rhyme or reason, from one district to another, from north to south, from east to west. Their leave of absence is granted by him. Their promotion lies entirely in his hands. He can insist upon their retiring from the service. It is to him they make their reports, as to the state of their districts, crimes committed, &c. When anything extraordinary happens, or is about to happen, in their districts—say an Orange or a Nationalist meeting—they will often run up to Dublin to refresh themselves at the fountain-head, and be inspired by him. In fact, they are his creatures, completely dependent upon him, and through whom he feels the pulse of the country.* With the knowledge that their appointment is held subject to the good-will of the Government and of their chief, and that it may be cancelled at any moment, and also in their anxiety for promotion, it is only natural they should be most anxious to win favour with their masters, and that expediency and right are frequently left out of sight for “what will please the Castle.” They have been taught over and over again that there is one way certain to please the Government, one royal road to promotion.

* At times the Under Secretary feels the pulse of the country by setting the Resident Magistrates (for them) rather difficult questions. These examination papers (for the questions really take the form of examination papers) are very much dreaded by the poor Resident Magistrates, who are then to be found running amuck through the country in search of ideas, and consulting everybody—except the people—as to what answers they had best give. The Government of the “Even Keel,” in their excessive anxiety to do justice, and so forth, as between Paddy and his landlord, consult their English red-coat Resident Magistrates who, ignorant of law and of the government of the people, in their turn draw their inspirations from the landlords. The recent meeting of Resident Magistrates in Dublin was prefaced by a burlesque of this description.

This is to prove that they are active men—men who know a trick or two; men who, when a crime has been committed, can get convictions. Let them show that they are not men to be trifled with. “Who peppers the [natives] highest is surest to please.” To how many who have anxiously watched the trials going on through the length and breadth of this unhappy land has it not occurred that what the Resident Magistrate really has at heart is not so much the detection and punishment of crime as the conviction of the prisoners? If he can only get convictions, then is his reward certain. He will soon become a somebody, have a brace of detectives at his heels, be often closeted with his chief—the third person of the Castle Blessed Trinity; be caressed by the Chief Secretary—the second person of the Castle Blessed Trinity; be admitted into the presence of the Viceroy—the first person of the Castle Blessed Trinity—and fêted at the Viceregal board. Ultimately, he may even become an Under Secretary, if not, indeed, a full-blown governor. It is out of the question that an official thus intimately connected with, and individually directed by, the heads of the Irish Executive could enjoy the confidence or respect of the Irish people.

The Irish Resident Magistrate was also, until quite lately, in the anomalous position of being at the same time detective and judge. He had first to hunt down his men, and then to try them, and to try them with the full knowledge that their conviction would be the finest feather in his cap. Can a more barbarous or demoralising system be well conceived? Let us take a glance at the Resident Magistrate at work in his dual capacity. Father Feehan, C.C., Rathdowney, was tried under the Statute 34 of Edward III.

“That the said Rev. Thomas Feehan did then and there incite her Majesty’s subjects not to fulfil their lawful contracts, in pursuance of the principles of an unlawful society called the Land League, and that the said Rev. Thomas Feehan did then and there endeavour to incite her Majesty’s subjects to combine together to injure and impoverish persons who would not obey the orders of the said unlawful society of the Land League.”*

* Extract from the sworn information of Head-Constable Richard Tilson, as reported in the *Freeman’s Journal*.

Head-Constable Richard Tilson, cross-examined by Mr. Nicolls,

“Where did you get the words ‘endeavour to excite the people,’ &c.?— Shall I answer who drew out those informations? Mr. Blake, R.M. (Chairman).—Certainly. Head-Constable Richard Tilson—It was the Chairman on the bench.”*

And in delivering judgment Mr. Blake candidly acknowledged that

“Having seen this report [the report of Father Feehan’s speech] in the *Freeman’s Journal*, which was uncontradicted, he ordered Head-Constable Tilson to come before him and make the information.”†

Father Feehan was sentenced

“To enter into securities—himself in £200, and two sureties in £100 each—for good behaviour for six months, or, in default, that he be imprisoned in Maryborough jail for that period, or until the sureties be entered into.”‡

Father Feehan elected to go to jail. He was released by Lord Spencer. Now, the question is not whether Father Feehan was or was not rightly sentenced. That is quite another matter. Mr. Blake, too, in acting as he did, was unquestionably strictly within his rights. But how do the people view such proceedings? They will simply tell you, and honestly believe it, too, that the whole affair was arranged beforehand—that the Resident Magistrate was anxious to prove himself an “active man,” worthy of the confidence reposed in him, and what better way could there be to ingratiate himself into the favour of the English and Protestant Castle than by locking up “one of those fire-brand priests.” They would scoff at anyone who told them that the Bench was impartial. Did not the Resident Magistrate himself, they would say, order the Head-Constable to prosecute Father Feehan—did he not ferret out a musty-fusty old statute that had long dropped into desuetude—did he not himself draw up the very words of the information which was then sworn before himself; then did not he actually preside

* *Freeman’s Journal* report.

† *Ibid.*

‡ Mr. Blake, in delivering judgment, taken from the *Freeman’s Journal* report.

at the trial to make sure of a conviction, and was that an impartial Bench? This is only one out of hundreds of such cases. Are such proceedings calculated to inspire the Irish people with an overpowering reverence for the "majesty of the law?" Alas for the majesty of the law as administered in our Petty Sessions Courts!

The jurisdiction of the Resident Magistrate has always been much larger than that of the unpaid magistrate. He is able to deal with cases which require two of the latter, though in court their votes are as good as his. In latter times the Resident Magistrate has had the administration of the Crimes Act exclusively entrusted to his care, with the safeguard that a court held under this Act be held

"Before two Resident Magistrates in petty sessions, one of whom shall be a person of the sufficiency of whose legal knowledge the Lord Lieutenant shall be satisfied."*

This proviso is delightfully vague.

Mr. Forster's circular to the Hon. T. Plunkett, Mr. Clifford Lloyd, Captain Butler, Captain Slacke, and Mr. Henry Blake marked a new era in the Irish Resident Magistracy. In this panic-stricken production, Mr. Forster resigned his functions in favour of a roving commission of the above-named five Resident Magistrates. They were to

"report to him [His Excellency] as soon as possible whether the police force in any particular district is sufficient; if not, to what extent it should be increased, and what arrangements you consider should be made for the better distribution of the police force and more efficient system of patrolling, and also for the co-operation of the military and police in patrolling, so that the constabulary and the troops within these counties can be most efficiently used for the prevention of crime and the protection of life and property."†

And, after paying them some compliments, the circular goes on to say:

"His Excellency thinks it probable that you and they [the Resident Magistrates,

* Prevention of Crime (Ireland) Act, 1882, Part V., Sec. 22.

† *Vide* Appendix A.

the county, and sub-inspectors of constabulary, and the commanders of detachments of troops in the counties scheduled] may agree in the advisability of some beneficial changes in the present arrangements. If so, time being of great importance in the present emergency, His Excellency desires that these changes should be at once carried into execution [here His Excellency's self-respect had to be asserted, it was necessary], subject to the subsequent revision of the Inspector-General, with His Excellency's approval."*

The civil power having been vested in their hands, the next step was to hand them over the army as well:

"You will also report whether you consider the present detachment of troops within these counties should be changed in number or force, and whether any additional detachments are required, and if so how and where to be accommodated, and of what force."*

A month or two later on we find these plenipotentiary commissioners "special Resident Magistrates." Each special Resident Magistrate had several counties in his charge. The ordinary Resident Magistrate, police, and military, in those counties, were under his orders. He directed the movements of the ordinary Resident Magistrates, and received their reports. He was their centre, and they stood in the same relation to him, as he stood to the Under-Secretary. He even practically himself appointed magistrates—and what magistrates!

"The Crimes Act is not administered, as was intended, by magistrates of experience, or lawyers, but by young, inexperienced men, who are sent about the country, not by Government but by the specials."†

He distributed the police through these counties as he thought fit, superseding their own officers. The military were also under his orders as a kind of supplement to the police force to help them in eviction and patrol work and the protection of private individuals. We have said that the ordinary Resident Magistrate was both detective and judge, the special Resident Magistrate was, besides, governor and commander-in-chief. We, who are taken into equality with the great English people, are desirous of knowing how they would relish the *regime* forced upon us? But dust, dust, and more dust, has been the Castle motto ever since the Castle was the Castle, and we do not, cannot, believe that England knows

* *Vide* Appendix A.

† *Vide* Appendix D.

one-half the iniquities perpetrated in this country in her name.

Who were the special Resident Magistrates? An Irish Resident Magistrate exaggerated when he wrote :

“Of these specials five [this letter was written after Lord Cowper had left Ireland—Lord Spencer reinforced the specials already appointed by one man more] are magistrates who really did seldom anything but hunt, and buy, and sell horses.”*

They were not quite so bad as that—though many may not agree with us—but they were totally unqualified for the enormous and unconstitutional powers given to them. They were average Resident Magistrates, that was all. One of them—we do not know whether it was the one referred to by an Irish R. M.—Mr. Blake, had had a long experience of constabulary work. He had been a sub-inspector of constabulary. He had worked his way up to the top. All credit to him for it. But Mr. Blake was not, on that account, the man to be entrusted with the entire administrative and executive work of several counties. And if we say that of Mr. Blake, what must we say of the others? It is also to be noticed—the old story—that of these five appointments only one was given to a Catholic. The specials very soon became intolerable—regular little despots or “kings,” as they were nicknamed, who, to use the words of one of their number, “ruled Ireland from the centre to the sea.” They were a source of unqualified mischief to the country. They rubbed up where they ought to have smoothed down, and were dictatorial where they ought to have been conciliatory. Mr. Trevelyan, it is true, later on gave them credit for inflicting small penalties. But tact—and Mr. Trevelyan seems to have forgotten this—goes a far greater way even with magistrates than the infliction of small penalties, and in tact they were absolutely and entirely deficient. They who ought to have made it their first business to earn the confidence and good-will of the people so bullied them that they shortly became the best-hated men in Ireland. They who in very decency ought to have done their work quietly were for ever proclaiming themselves on the house-tops. Their powers, purposely never clearly defined, they

* *Vide* Appendix D.

stretched to the utmost. They blustered, they swaggered, they crammed the jails with untried men, and left them to linger there month after month without trial—this was a favourite device—till the country was on the very verge of civil war and then they clamoured for more coercion. Parliament for awhile disregarded their cry, and Mr. Forster and Lord Cowper left Ireland. Lord Spencer and Lord Frederick Cavendish took their places. The future seemed full of promise for Ireland, but the cup was again to be dashed from her lips. The evening of the very day on which Lord Spencer and Lord Frederick Cavendish made their entry into Dublin—Saturday, May 6th, 1882—the latter and the Under Secretary were butchered in the Park. The whole world was horrified, and Ireland certainly no less so than England. The unfortunate men who so cruelly stabbed the Chief and Under Secretaries stabbed Ireland too. The nerveless Whig section of the Cabinet once more carried the day, and rushed the Prevention of Crimes Bill through Parliament. In the teeth of the entreaties of the united representation of Ireland, her right of public meetings was taken away from our country, her children were subjected to the insult of being liable to arrest if found out of their “places of abode at any time after an hour after sunset, and before sunrise,” and of having their houses entered and searched at any time of the day or night; visitors to her shores were liable to arrest and expulsion from the country, her press was muzzled, trial by jury allowed only on sufferance, and a Star-Chamber court sat in Dublin Castle. It would be quite out of place to discuss in these pages the “Prevention of Crimes Bill.” What we want to point out is that it is our Major Bonds, and our Major Trails, our incompetent Protestant, English, and military Resident Magistrates who are charged with administering the provisions of that bill. Lord Spencer did something to remedy the anomalies of the specials’ despotic authority. On Tuesday, May 25th, 1882, Mr. Trevelyan made an announcement in the House of Commons which was hailed in Ireland as an omen of better things to follow.

“He quoted a passage in a letter from Lord Spencer, in which his lordship stated that there was a feeling with which he sympathised that magistrates who

hunted up criminals should not themselves try prisoners for offences committed on occasions when they were engaged in executive duties (Irish cheers). He was ready at once to direct that no special resident magistrate act judicially in such cases."*

In accordance with this promise, Mr. (now Sir Robert) Hamilton, in a circular to the Resident Magistrates, instructed them that

"Resident Magistrates will continue to exercise both executive and judicial functions, but no Resident Magistrate will sit on the Bench to try a case in the preliminary investigation of which he may have taken a part."†

The rest of the circular was disappointing in the extreme. The specials were to be continued. Mr. Forster's system was flouted by Lord Spencer. It was only for a time, however. The specials were soon—to use a forcible expression—to cut their own throats. Their original commission (and this was confirmed in Sir Robert Hamilton's circular), placed them virtually over the military and constabulary authorities in their respective divisions. But they interpreted too literally this portion of their commission. They harassed the military by the most conflicting orders, hurriedly sending them where they were not wanted, or else on ludicrous expeditions, like the storming of Tim Quinlan's Castle, near Pallas. The police were dragged hither and thither by day and by night, sometimes by one authority, and sometimes by another. The truth is, they had now two masters—their own officers, the County and Sub-Inspectors of Constabulary, and the special Resident Magistrate and his myrmidons. Human nature could stand it no longer, and the finest body of men in the world were driven into revolt. The constabulary strike broke out in Limerick, the headquarters of Mr. Clifford Lloyd. In William-street police barracks 100 men refused to parade before him, and, it is asserted, hissed him, whilst they cheered their own officers. Never have a body of men shown themselves more unswerving in their loyalty (true loyalty, not brag—in Ireland the expression is capable of much misconstruction), and conducted themselves on all occasions with greater

* *Freeman's Journal* report.

† *Vide* Appendix B.

devotion, amounting even to heroism, than have the Royal Irish Constabulary, and never have men received less thanks, if we except the "one shilling per man per night, for the men assembled for the protection of sheriffs, or for other Land League duties." The strike of the constabulary was followed soon after by the strike of the Dublin Metropolitan police, also a body of men of whom Ireland may be well proud. It is an ill wind that blows nobody good. With this double strike fell the Specials. Mr. Clifford Lloyd was immediately promoted to Loughrea, and in 1883 to Egypt, and Mr. Blake in the same year (1883) to the Bahamas. The remaining four Specials were transformed by another circular of Mr. Hamilton's, September 13th, 1883, into Divisional Magistrates, a cross between the special and the ordinary Resident Magistrates. This circular it was also that intimated that

"The office of special Resident Magistrate will cease on the 30th September, instant."*

It then went on to state the different divisions of the country assigned to the Divisional Magistrates. But the pith of the circular was contained in the paragraph that

"Resident Magistrates will not in future be required to report as heretofore, either to the Divisional Magistrate or to Government, in case of crime or outrage, in which their services may have been put in requisition, nor will they be required to assume the direction of the steps to be taken by the police for the detection of crime. This duty will be discharged by the constabulary officers, under the supervision of the Divisional Magistrate."*

And

"The Divisional Magistrate will supervise, through the constabulary officers the police and military patrols, and *Resident Magistrates will interfere as little as possible with the direction of the police.*"*

The Castle is a luminously intelligent institution. It discovered at last that the judicial character of the Resident Magistrate must no longer be imperilled by continuing him in his capacity of policeman. And it assented all the more readily to the change, because, desirable and important as that change is, it hangs only on the slender thread of a solitary paragraph in one out of a host

* *Vide* Appendix C.

of circulars which are everlastingly undoing to-day that which was solemnly enacted yesterday.

The Divisional, as distinguished from the Resident, Magistrate is essentially a police officer, only with exaggerated powers. The new Police Bill still further accentuated the intentions of the Government. But that the Government have still a hankering after the special Resident Magistrate system is only too obvious; else what is the explanation of the Bill which was lately introduced in the House of Commons, backed by Mr. Courtney and Mr. Trevelyan, "to amend the Act regulating the salaries of Resident Magistrates in Ireland, in certain cases."* This Bill did not pass into law, but it was clearly an unworthy, unstatesmanlike, and even wicked attempt to find cozy berths for some discredited officials. Would Englishmen like specials in their own country? Would they like to see England parcelled out between a half dozen amateur despots? Their fathers' fathers would not have tolerated it—they would have rebelled first. Will England never apply the maxim: "Do unto others as you would be done by," to her dealings with Ireland?

We have pointed out the gross neglect of his duties by the unpaid magistrate. The Resident Magistrate is here again equally in fault, though in his case there can be even still less excuse for negligence; for he is paid out of the public fund for discharging functions which the other undertakes voluntarily. It is almost incredible that although there were no less than seven Resident Magistrates in Co. — in 1883, they only deigned to attend about half the number of courts which ought to have been held. It is positively disgraceful. But what, in the name of

* "Notwithstanding anything contained in the Act of the Session of the 37th and 38th years of the reign of her present Majesty, chapter 23, it shall be lawful for the Lord Lieutenant, with the consent of the Commissioners of the Treasury, to direct that any Resident Magistrate may be paid annual salary not exceeding the sum of £1,000; and the Lord Lieutenant may order that such increased salaries shall be computed from the 1st day of April before the passing of this Act, provided that not more than five of such magistrates shall at any one time be entitled to receive, by way of salary, any sum in excess of what they would have been entitled to receive if the Act had not been passed."

common sense, were they paid for? What were they doing? Where were they? Playing whist at the club, and deploring, between the whiffs of their cigars, the big majority of the Government on the last vote of censure? It is rubbish to plead ministerial duties, &c, as the cause of their absence. The country had, comparatively speaking, quieted down and for the greater part of the time, too, Co.—, as it knows to its cost, had the benefit of a special Resident Magistrate drawing over £1,800 a year, with a private secretary at £150 and a clerk at £100 a year, a police orderly at four-and-sixpence a day, and, finally, with a police officer attached to him.* It is clear, therefore, that it was not the ministerial duties of the Resident Magistrate—duties taken over by the special and his staff—which prevented the seven Resident Magistrates of Co.— from attending the Petty Sessions Courts in their districts. Nor can the Resident Magistrates any longer plead ignorance of their duty, nor allege that they are only called on to attend Petty Sessions, when there is a danger of a Petty Sessions being unheld through the non-attendance of the local magistrates. Those excuses, for which we are fully prepared, are futile. Sir Robert Hamilton put his finger on the gross negligence of their duty by the Resident Magistrates in his circular to them, to which we have already referred, of 13th September, 1883. “It is the duty of Resident Magistrates to attend all the Petty Sessions attached to them if possible.” But it would seem that Sir Robert Hamilton’s circular has remained a dead letter in Co.—. There, at all events, the Resident Magistrates have not taken their chief *au sérieux*, and interpret their duty differently from what he apparently does. We happen to know that in a certain fortnightly Petty Sessions Court in Co.—, Petty Sessions were adjourned, between the 8th of January, 1884, to the 24th of June, 1884, inclusive, no less than four times (twice consecutively) through non-attendance of Magistrates; and on two other occasions were respectively attended by only one unpaid magistrate, and adjourned on account of Quarter Sessions. Thus in six months the Petty Sessions of — were adjourned or incomplete no less than six times. Who

* *Vide* Appendix D.

will carry the day, the old Resident Magistrate or the new Under Secretary?

These are a few, a very few, of the defects of the Irish magisterial system. What is the remedy for this deplorable state of affairs? Lord Spencer has set hard to work tinkering the existing system. He has, as we have elsewhere seen, appointed over 200 magistrates, who, without his intervention, would never have been recommended by the lieutenants of counties. If this had been done ten years ago what an amount of bitterness would have been avoided. Now it is not the English Government that the people will thank for what Catholics cannot help looking upon as their right—it is Mr. Sexton.* The great misfortune of English legislation for Ireland is that whatever it does it does too late, and with a bad grace. Now who is the more grateful, the wretch whom you relieve unsolicited because you see that he is in want, or the wretch who has followed you whining, for half a mile, and to whom you throw your alms in order to be rid of him? The one may remember you in his prayers, the other will take your sop with a curse. Ten years ago the appointments he is now making would have earned for Lord Spencer the heartfelt gratitude of the Irish people. Now ——. But assuming that Lord Spencer, in his anxiety to grapple with the question does not intend staying his hand at the appointment of a few Catholic magistrates, but aims at levelling the Bench, we question the result. To popularize the Bench under the present circumstances is a dangerous experiment. It is to be feared that it will have the effect of turning it into what the Boards of Guardians have become, a political arena, where both parties are equally intolerant, abusive, and violent. Popularize the Bench at this hour of the day, and if we do

* Since writing the above we stumbled across the following paragraph in the *Limerick Chronicle* of Saturday, August 2, 1884: "Another Nationalist J.P.—Another Nationalist in county Donegal has received the Commission of the Peace from the Lord Chancellor. The gentleman in question is Mr. Patrick Gallagher, Ardloher House, Castlegoland, near Glenties; and on the fact of his appointment becoming known a great "popular" demonstration was held in his honour. Mr. Gallagher is said to be a "moderate Nationalist." In thanking the people for the demonstration, he said no one was to be thanked for the distinction he had received but the Irish Parliamentary party."

not actually witness all the painful scenes now of daily occurrence at the Boards of Guardians, we shall most assuredly have the landlord's magistrate, and the people's magistrate, the Protestant magistrate and the Catholic magistrate. There will be unseemly wrangles, Trimble cases will be quadrupled, and justice made subordinate to party. Nor will the so-called people's magistrate be respected by the people. They will look upon him as one of themselves, who must do their pleasure. If, carefully packed as the Bench is at present, Mr. Clifford Lloyd was able to complain, in 1881, as we have already seen, that a magistrate told him "that the people who were interested in a case told him that they would come to his house and drag him to the court if he did not come;" that "there is a lower social class of magistrates who I find on all occasions when such cases are being brought up, are either brought or make a point of coming; that is to say, those magistrates who have, from their trade or calling, to live amongst the people." If Mr. Clifford Lloyd could, in 1881, say that, what must we expect if the Bench is now popularized? Its last stage will be worse than its first. The present magistrates are incompetent and bigoted, but a lower social class would, in all probability, be more incompetent and more bigoted still. If Mr. So-and-So, the gentleman, is totally unfit to be a magistrate, so, too, is Mr. So-and-So, the miller. Apart from politics and religion both of them know "absolutely nothing of the law or of the government of the people." A few impartial appointments, made by fits and starts, a few Catholics more or less will leave the system as vicious as ever, but to level the Bench down would be confusion worse confounded. No; a man should no more be appointed a magistrate, paid or unpaid, simply because he is a Catholic, than he should be appointed a magistrate, simply because he is a Protestant, simply because he is a farmer, or simply because he is a landlord. Such reasons are nonsense. There is another standard to go by—the highest standard of all—the standard of merit. This is the true solution of the difficulty, and come soon, come late, come it must. Let a man prove that he is fit to be a magistrate before he is made one. In other words, throw the magistracy open to competition. The magistracy should no longer be allowed to remain a

mere hole-and-corner affair, but be raised to the dignity of a branch of the public service. Abolish unpaid magistrates, and substitute in their place "well-qualified" Resident Magistrates.

"If I had my choice of magistrates," said Mr. Blake, in his evidence before the Select Committee of the House of Lords on Irish Jury Laws, 1881, . . . "I would get rid of the whole lot as far as I can see."

And again :

"I would get rid of the whole class."

Mr. Clifford Lloyd was equally outspoken :

"In my opinion, a local magistracy at all in such a country as Ireland is a mistake."

Of course, one of the objections that will be immediately raised against the abolition of the unpaid magistracy is, "Oh, you will sever the last remaining link between the upper and lower classes." It is the landlords only who call it a link; the people call it a fetter. And even if it were ever at any time a link between the two classes it has completely ceased to be so, since the Irish magistracy signed the Rossmore addresses, and declared themselves openly, shamelessly, partisans, orangemen, and bigots. "The link" is nothing more or less than an astute bit of landlord sentimentality. But, even if the unpaid magistrates were not abolished *en bloc* no new appointments need be made. Or again, if too scrupulous or too nervous politicians thought our unpaid magistracy worthy of further trial, future appointments might be made only on the joint recommendation of (1) the High Sheriff of the county; (2) the elected guardian of the district the Petty Sessions Court (to be distinctly specified), of which such magistrate proposed to attend; (3) the Catholic and Protestant Bishops of the diocese. The unpaid magistrates might be further dealt with in the directions of either of the following schemes A or B :—

Scheme A would reduce the unpaid magistrates to the level of mere French *Juges de Paix*. Scheme B, whilst continuing to them the powers they have at present, would weed out the drones, and would secure to the country the benefit, such as it is, of their services.

B would thus meet the objection of Mr. O'Connor Morris, the able County Court Judge of Kerry, that invidious distinctions between the local and Resident Magistrates "tend to sow jealousy and dissatisfaction on the Bench;" though if scheme A was carried out the unpaid magistrates could hardly be called a Bench.

A.

(1.) The jurisdiction of the unpaid magistrates to be confined to such cases as can now be dealt with by one unpaid magistrate.

(2.) The attendance of unpaid magistrates at Quarter Sessions to be dispensed with. At present it is the County Court Judge who does all the work of the Quarter Sessions.

"Practically they [the magistrates], do not attend, and I have never more than two or three magistrates [at Quarter Sessions]." "There are 140 magistrates in Clare, and they never sit with me, with the exception of two or three."*

We must except cases where religious or political feeling runs high, for then they pour in—on the very occasion when they ought to stay away. Also, by excluding them from Quarter Sessions, their services as jurors might be utilised.

"I say also that the magistrates ought not to be excluded from the panels in the Courts of Quarter Sessions. The reason why they are excluded is, because they are supposed to be the judges as they are in law; every magistrate in a county is at liberty to attend at Quarter Sessions on an equality with the chairman; I am merely their chairman. . . . The effect of that is, that they are relieved from acting as jurors in my court, and they do not act as judges."*

We cannot agree with Mr. Kelly, that even under existing circumstances the unpaid magistrates should be liable to act as jurors at Quarter Sessions, where they sit with coequal powers with the County Court Judge, he being "merely their chairman;" but with their power curtailed, as indicated, and no longer able to sit at Quarter Sessions, they might undoubtedly then be called on to act as jurors.

* Mr. Kelly, Q.C., Chairman of the Co. Clare, in his evidence before the Select Committee of the House of Lords on the Irish Jury Laws, 1881.

B.

(1.) No magistrate (unpaid), to be magistrate for more than one county, or to sit at more than one Petty Sessions Court. Why should we have knights errant, in the shape of local justices, making occasional sallies, two or three in a year, into districts in which they neither reside nor have property.

(2.) Every magistrate (unpaid) to live in the district the Petty Sessions Court of which he attends, unless by special leave, which might be given, for instance, for such a reason as that the said Petty Sessions Court was in a remote part of the county, where there was a want of local magistrates. This, of course, would not prevent his travelling abroad, &c. ; what is sought to be prevented, is a man who lives all his life in one county, being a magistrate for another county in which he hardly ever sets foot.

(3.) No magistrate to adjudicate in a case, even on adjournment—this to prevent sharp practice—which at present requires more than one magistrate, if he had not attended the three previous Petty Sessions Courts. This latter provision would put an end to a good deal of jobbing.

(4.) The Resident Magistrate to be the Chairman of Petty Sessions.

These would be only make-shifts, more or less good, and which should sooner or later come to grief. The real remedy lies in the total abolition of the unpaid magistrates. It would at first sight, seem that the abolition of the unpaid magistrates would lead to a great increase of paid or Resident Magistrates. This is really not the case. There are altogether in Ireland 580 Petty Sessions Districts. If the Resident Magistrates presided over between six or seven Petty Sessions Courts each (we mean that one magistrate might have six, another seven Petty Sessions Courts), the number of Resident Magistrates need only be ninety. But already, in 1883—*plus* the unpaid magistrates—there were ninety Resident Magistrates in Ireland, and at present they number eighty. The number of Resident Magistrates in Ireland in normal times was about seventy, or a little over seventy—say

seventy-five. This would therefore give us, were there no Resident Magistrates appointed, an increase of only fifteen Resident Magistrates above the number always in Ireland, and of only ten above the present number.

But assuming that the magistracy was to consist of Resident Magistrates, how is the Resident Magistracy to be reformed? Nothing is easier than to expose abuses, rail at present institutions, and even pull them down, but it is very hard to construct. It is therefore with great diffidence that we have approached this part of the question which deals with the reconstruction of the magistracy of this country. We do no more than offer such suggestions as have presented themselves to us after a careful study of the subject.

*Scheme C, for the reconstruction of the Irish Resident
Magistracy.*

(1.) Resident Magistrates, how to be appointed :

The Resident Magistrate to be appointed by limited competition.

Change ought always to be progressive. Limited competition would soon give way to open competition.

(2) To whom nominations to be given :

Nominations for a Resident Magistracy to be given only to Irishmen, and in the southern and western counties—where the mass of the people is Catholic, and nearly all the Resident Magistrates Protestants—the nominations for every second vacancy for the next three years to be further limited to Catholics only.

We suggest a limit of three years for these Catholic nominations, as we hold such denominational nominations to be odious in principle. For the public service it ought really not to matter what a man's religion is so long as he proves himself duly qualified in other respects. Three years would soon pass away, and by that time there would be in the south and west of Ireland a fair proportion of Catholic Resident Magistrates. It may be urged that a better plan would be to confine the nominations to barristers of some years' standing ; but against that we must remember that no successful barrister would care for such an appointment, which

for him would be ill-paid, and would cut off his career. Besides, it is not so much lawyers, "with their quiddits, their quilletts, their cases, their tenures, and their tricks," that are wanted as men of sound, shrewd, common sense. The view that Mr. Morris takes is a very sound one, when he says:

"The Resident Magistrate should be taken from no particular class, I do not know that lawyers would make the best class of Resident Magistrates."*

We would go even further and say that as second class lawyers or broken-down solicitors would be lamentable appointments, but, if nominated, would carry the day against non-legal appointments, it would be advisable that neither lawyers nor solicitors should be appointed.

(3.) Subject matter of examination :

Subject matter of the examination for candidates for a Resident Magistracy to comprise such subjects as English Composition, English History, a little Criminal Law, proceedings before Justices of the Peace, and the Law of Evidence.

But this after all is a mere matter of detail.

(4.) Appointments to be for life :

The appointments of Resident Magistrates to be for life.

Temporary appointments are an excrescence of disturbed times. If a man holds an appointment which he knows may be taken away from him at any moment, it cramps him, ties him down, or makes him careless and indifferent, or too frequently makes of him a slave. The judges get large salaries, they cannot be removed, and they have extraordinary privileges, on the ground that they must be perfectly independent of everybody. The Resident Magistrates ought to be judges in miniature.

(5.) Promotion to be determined by seniority :

Promotion in the Resident Magistracy to be strictly determined by seniority.

Avant tout pas de zele : the "few-more-convictions-and-you-will-

* Evidence of Mr. O'Connor Morris, Chairman of Quarter Sessions and County Court Judge of Kerry, before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

be-promoted" man must disappear, as also "the Under Secretary's protégé." The Resident Magistracy might be divided into three classes, the rise from the one to the other carrying with it an increase of salary.

(6.) The Resident Magistrates to attend Petty Sessions regularly :

'The Resident Magistrates to attend regularly every Petty Sessions Court in their districts, as a matter of strict duty.

(7.) The Magistrates not to be policemen :

To possess the confidence of the people the new Resident Magistrates should no longer continue to be at one and the same time judges, detectives, and policemen.

The police work should form an entirely separate branch of the public service. The two professions are quite different. It may be, and has often happened, that a man who is thoroughly well qualified for the one service is as thoroughly disqualified for the other service.

(8.) Jurisdiction of the Resident Magistrates to be increased :

The jurisdiction of the Resident Magistrates to be increased, but not so much in the sense that they would be able to inflict more punishment, as that they would be enabled to take cognizance of offences which they are now obliged to remit to higher tribunals.

Paragraph 68 of the Report of the Lords (1881) Committee on Irish Jury Laws points out in what direction this increased jurisdiction might be given to them :

"68. We are of opinion that the powers of the Magistrates ought to be sufficiently extensive to enable them to deal with such offences as the following :

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Rioting. 2. The commission of aggravated assaults. 3. Cases of taking forcible possession where the question of right has been already disposed of by a court of law. | <ol style="list-style-type: none"> 4. Assaults on process-servers and all agents of the law. 5. Posting or sending threatening notices or letters. 6. Intimidation and other offences of like character." |
|--|--|

1. "If once you send forward a case of riot, there are so many people about, and every person taking a different view, and every person swears so queerly at the assizes, and the constitution of the juries at present is so unsatisfactory, that you can scarcely ever look with confidence for a verdict."*

2. "At present they (the magistrates) can try assaults; but if the assault is accompanied by actual bodily harm, a breaking of the skin, that is supposed to exclude it from their jurisdiction. In cases where the assault has been followed by breaking a man's head, I would leave it to their own good sense as to whether they would deal with it or send it on."†

3. "I do not see why, if the judgment of a court of law has awarded and given the possession of land to the proprietor, and it is taken from him by force, a Justice would not be competent to deal with that case, not alone to punish the offender, but to award restitution immediately. I only deal now with cases where the title would not be at all in question, and where a court of law had already determined the right."‡

4. "I further think that they (the magistrates) should have a considerable increase of jurisdiction in such matters as . . . and cases of forcible possession. Why should not magistrates try those? Take the common case, of which we have had many in Ireland within the last year, of a tenant ejected or evicted: he is turned out and audaciously goes back and squats on the land, to use a vulgar expression. That is as simple an issue to try as any that a sensible man can try. Surely there is no objection to letting magistrates adjudicate upon that kind of case."§

* Evidence of Mr. Neligan, Q.C., Chairman of Meath, Westmeath, King's County, and Longford, before the Select Committee of the House of Lords on Irish Jury Laws. *Vide* also evidence of Messrs. Mitchell in paragraphs 1920, 1921, 1922, 1923; Clifford Lloyd, R.M., 3207, 3209; Hamilton, Q.C., Recorder of the city of Cork, and of the East Riding of the county of Cork, 3295; Morris, Chairman of Quarter Sessions and County Court Judge of Kerry, 3668, 3725.

† Evidence of Mr. Neligan, Q.C. *Vide* also evidence of Messrs. Morphy, Crown Solicitor for Kerry and Clare, 2038; Boyd, Sessional Crown Solicitor for Tipperary, 2514; Hamilton, Q.C., Recorder of the city of Cork and of the East Riding of the county of Cork, 3295; Morris, Chairman of Quarter Sessions and County Court Judge of Kerry, 3725; Ferguson, Q.C., Chairman of the West Riding of the Co. Cork, 3358.

‡ Evidence of Mr. Justice (now Lord) Fitzgerald before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

§ Evidence of Mr. O'Connor Morris, Chairman of Quarter Sessions and County Court Judge of Kerry, before the Select Committee of the House of Lords on Irish Jury Laws, 1881. *Vide* also evidence of Messrs. Boyd, Ses-

5. "Posting or sending threatening notices or letters" would, perhaps, be better dealt with by a jury. "I would put that [a threatening letter] in a very different category, because you do not immediately get at who is the writer of that letter, and it is a thing only sometimes to be ascertained by experts, and by comparison, and it is difficult." *

6. "Intimidation and other offences of a like character" is vague, and would require to be more clearly defined.

We would further add to this list of offences which paragraph 68 of the Lords Committee recommended might be dealt with by the Resident Magistrates :

"7. Assault cases in which title to land is involved, without prejudice to the right. And also

8. Make it mandatory on the Resident Magistrate to try those indictable offences which at present they have the option of either trying themselves or remitting to a superior tribunal."

7. "At present the magistrates have no jurisdiction to try cases in which title to land is involved. Most of the assault cases being in some way or another connected with disputes about land, or bog, or right of way, or of turbary, the magistrates generally send them on for trial at the Quarter Sessions or Assizes. I would empower them to decide all these cases without prejudice to the right." †

"The impression prevails through all the counties that I know anything about, that where the slightest pretext of title of any kind, no matter how insignificant, is involved, it ties their [the magistrates'] hands up, and they cannot interfere. That is a most ridiculous idea which sometimes suggests itself. Supposing that there is an ordinary case of trespass, if a party comes and gets anybody to state that he has the right to do the act complained of, they send the case for trial. Chairman.—A paltry dispute about turbary, for instance? The most paltry and insignificant cases." ‡

sional Crown Solicitor for Tipperary, 2461 ; Bolton, Crown Solicitor for Tipperary, 3905, 3906.

* Evidence of Mr. Hamill, Chairman of Co. Roscommon in his evidence before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

† Evidence of Mr. Kelly, Q.C., Chairman of Co. Clare, in his evidence before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

‡ Evidence of Mr. Dowling before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

8. "A Resident Magistrate can try cases where there is contradictory evidence far more satisfactorily than a jury can. Where there is contradictory evidence, as, for instance, in cases of assault and cross assault, that is the very case magistrates ought to decide, because they have both sides, whereas the jury hear only one side. When there are two cases to be tried, and they are trying the first case, the jury do not know what the prisoner will say, whereas the magistrates hear both cases before they decide, and where there is contradictory evidence they think they are bound to send it before a jury."*

(9.) Appeal from Resident Magistrates :

The present right of appeal from magistrates—anything over a £1 fine, or a month's imprisonment—to remain unchanged.

Whilst we advocate an extension of the Resident Magistrates' jurisdiction we would by no means like to see such extension accompanied by larger punitive powers than they already possess. The present scale of punishment should be preserved, and applied to the offences now brought under their cognisance. Severity of punishment is not so much what is needed as certain punishment. This was pointed out over and over again in the evidence before the Lords' Committee :

"I think a speedy conviction with a very small punishment more beneficial than a deferred conviction with a greater amount of punishment. A speedy and prompt conviction is far beyond a deferred one. The memory of the thing is gone away from the people, and they forget all about it." †

(10.) Appeal from Resident Magistrates, to whom?—

The appeal from the Resident Magistrates to be to the County Court Judge sitting alone, and, as at present, without a jury."

(11.) Resident Magistrates' Districts to be once and for all clearly determined.

* Evidence of Mr. Kelly, Q.C., Chairman of Co. Clare, before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

† Evidence of Mr. Hamill, Chairman of Co. Roscommon, before the Select Committee of the House of Lords on Irish Jury Laws, 1881. *Vide* also evidence of Messrs. Morphy, Crown Solicitor for Kerry and Clare, in paragraphs 2039, 2041, 2117, 2118, 2119; Gibson, Q.C., 2349, 2350; Blake, Sessional Crown Solicitor for the city of Cork, 2864, 2865, 2866; Kelly, Q.C., Chairman of Co. Clare, 3050; Ferguson, Q.C., Chairman of the West Riding of Co. Cork, 3368; Neligan, Q.C., Chairman of the Counties of Meath, Westmeath, King's County, and Longford, 3433; Judge Lawson, 4067, 4158; and Judge Fitzgerald, 4208.

The Resident Magistrates' Districts to be once and for all clearly mapped out. The more responsible districts to fall to the senior, and the lighter districts to the junior Resident Magistrates.

Then come two other questions: (1) Who is to nominate the candidates for the Resident Magistracies? And (2) are the Resident Magistrates to remain under the control of the Under Secretary?

The first question, at all events, bristles with difficulties, and that it should do so is the direct result of the system of limited competition. Limited competition, patronage, and favouritism are intimately bound together. Nobody in this world is perfectly impartial. Some are more so than others; but none entirely so. History has given us but one Brutus, and if we search our inmost hearts we must confess that the character is an unlovable one. Whoever dispenses patronage is inclined to dispense it rather in favour of his friends, social or political, perhaps even unconsciously, than in favour of a stranger or an enemy. Theoretically this is very wrong; practically it is what has happened since the world first began, and will last as long as it lasts. And whoever will have in his hands the nomination of candidates for the competitions for a Resident Magistracy will be open, at any rate, to the taunt that he has not left his friends out of sight. Perhaps on the whole it would be better that these nominations should rest with the Lord Lieutenant. He is, perhaps, by the nature of his position, more untrammelled than any other official. Lord Spencer has shown himself more impartial than any other of our Lords Lieutenant. We cannot, we honestly confess, say that we are quite in love with his Excellency's appointments. Many of the gentlemen chosen have, as far as the outer world can judge, no other recommendation than the fact of their being good officers. Why a man who is a good officer should necessarily make a good Resident Magistrate we fail to understand. Did Lord Spencer ever read the evidence of Mr. Clifford Lloyd about officers made Resident Magistrates, we wonder?

“You may obtain a good soldier now in these troublesome times in Ireland, and with the best intentions he will not know his powers or how to exercise them. He is helpless; everybody has his eye upon him to report him and to

sue him, and to ask questions about him; he is as unqualified as if you were to take anybody haphazard and put him there. Of course in quiet times he will learn by degrees; but if he is appointed now he is appointed to be used, and he is put, perhaps, into some disturbed district, and he does not know what to do. He cannot know what legally constitutes the serious offences he finds being committed, or what power the law gives him in dealing with them."*

This is sound common sense. But sound common sense is at a discount in Dublin Castle. We must, however, be thankful for small mercies, and undoubtedly, as we have already pointed out, the proportion of Catholics in his Excellency's appointments of Resident Magistrates is greater than in the appointments of any other of our Viceroy's; and the unpaid magistrates are not now taken wholly, as heretofore, from the one class. Besides, by confining the nominations for the Resident Magistracies to Irishmen, and in some instances to Catholics, even if Lord Spencer was succeeded by some less impartial Lord Lieutenant, much mischief could not be done. Then, too, from limited to open competition there is not such a big step. Now as to question 2, whether the Resident Magistrates should remain under the Under Secretary. The Resident Magistrates should be under—in that sense—nobody, and least of all under the Castle. The Lord Chancellor might be their titular head, but the Resident Magistrates should no longer be Castle police, administering Castle justice. Nor should we be any longer treated to the sublimely ridiculous spectacle of justice by circulars. Every verdant Chief and Under Secretary tries his nascent statesmanship on our unfortunate country by penning to the Resident Magistrates one or two of these proclamations explanatory of his peculiar views. The Resident Magistrates in the hands of the Castle worthies are like nine-pins—set up to be bowled over again.

The constitution of the Resident Magistracy, and how it can best be reformed, is a very vast subject. Our sketch is necessarily only a skeleton one. We have only aimed at pointing out the grosser abuses that exist in that body. Every day in Ireland the feeling is growing stronger and stronger that something must be done, that the present system is intolerable. It is, perhaps, a rash

* Evidence of Mr. Clifford Lloyd before the Select Committee of the House of Lords on Irish Jury Laws, 1881.

hope, but still we do hope, that England, in this matter at least, will take "time by the forelock." "New delays breed new remorse." Before justice be done must there be another agitation, this time against the justices; or will England boldly set her foot down on those caricatures of law and order, the unprincipled landlord magistrate, the despicable shoneen magistrate, the cowardly people's magistrate, and the brazen-faced Castle hack, and build up, on the basis of a perfect impartiality, a magistracy worthy of her, and of our country, and to whom all classes and all creeds shall look up with respect and confidence?

but still we do hope that England in this matter at least will be "true by the forelock." "New delays breed new remedies." Before justice be done must there be another agitation, this time against the justices; or will England boldly set her foot down on the independence of law and order, the unprincipled land-lord magistrates, the "A.P.D.I." magistrates, the cowardly people's magistrates, and the human-faced Galleys, and build up, on the basis of perfect impartiality, a magistracy worthy of her, and of her country, and to whom all classes and all creeds shall look up with respect and confidence?

Houses of the Oireachtas

APPENDIX.

A.

CIRCULAR TO RESIDENT MAGISTRATES.

THE following circular was addressed to the Resident Magistrates—Hon. T. Plunkett, Captain Slacke, Captain Butler, Mr. Clifford Lloyd, and Mr. Henry A. Blake :—

“ Dublin Castle, 28th December, 1881.

“ SIR,—The disturbed condition of the counties named in Schedule A hereto annexed, and especially the prevalence of intimidation and agrarian outrage therein, is engaging the anxious attention of the Lord Lieutenant; and I am directed by his Excellency to inform you that he has been pleased to appoint you a Resident Magistrate for those counties.

“ His Excellency requests that you will, with all convenient despatch, visit the different constabulary districts in the counties named in Schedule B hereto annexed, and, in the first instance, after conferring with the resident and local magistrates, the county and sub-inspectors of constabulary, and also the military authorities, report to him as soon as possible whether the police force in any particular district is sufficient; if not, to what extent it should be increased; and what arrangements you consider should be made for the better distribution of the police force and more efficient system of patrolling, and also for the co-operation of the military and police in patrolling, so that the constabulary and the troops within these counties can be most efficiently used for the prevention of crime and the protection of life and property; and that his Excellency's orders to the constabulary on the above subject may be promulgated to county sub-inspectors by the Inspector-General.

“ The Resident Magistrates, the county and sub-inspectors of constabulary, and the commanders of detachments of troops in these counties will be requested to give you every information and assistance in their power, and the constabulary will be instructed to produce to you their patrol books and all other documents relating to crime in the district you may wish to consult, whenever required; and, relying on the knowledge and experience both of yourself and of these gentlemen, his Excellency thinks it probable that you and they may agree in the advisability of some beneficial changes in the present arrangements. If so, time being of great importance in the present emergency, his Excellency desires that these changes should be at once carried into execution, subject to the subsequent revision of the Inspector-General with his Excellency's approval.

“ You will also report whether you consider the present detachments of troops within these counties should be changed in number or force, and whether any additional detachments are required, and if so, how and where to be accommodated, and of what force.

“ You are also requested to report as to the working both of the Protection of Person and Property Act and the Peace Preservation Act in these counties.

Upon the completion of the above-mentioned duties, you will receive further instructions as to the other duties you will be required to perform.

“In order that you may devote your whole time to the performance of the above-mentioned duties, a temporary Resident Magistrate will be appointed to take charge of your present district.—I am, sir, your obedient servant,

(Signed),

“W. E. FORSTER.”

The counties referred to in the Schedule are—Limerick, Clare, Galway, Cork, Kerry, King’s County, Queen’s County, Westmeath, Leitrim, Roscommon, Waterford, and Tipperary.

B.

CIRCULAR TO RESIDENT MAGISTRATES.

“Dublin Castle, 22nd June, 1882.

“SIR,—1. The Lord Lieutenant having had under his consideration the position and functions of special resident magistrates in connection with the resident magistrates and constabulary, and the necessity of having a supervising authority in the centres of disturbed districts, has come to the conclusion that the state of Ireland necessitates for the present the continuance of special resident magistrates in certain portions of the country.

“2. These magistrates, being on the spot, can rapidly and effectually deal with disturbances and crime, and can arrange for the combined action and co-operation between the several resident magistrates, the constabulary, and the military, which are required in a larger tract of country than that now forming a resident magistrate’s district. They can for the same reason secure that efficient arrangements for preserving order are made in every part of their divisions.

“3. There are now six divisions, comprising fifteen counties. Adding five counties, which, in his Excellency’s opinion, should be placed under the administration of special resident magistrates, there will be twenty counties which will form sub-divisions as follows :—

Name of County.	Headquarters.
1.	
Leitrim, Cavan, Longford, Westmeath, Meath.	} Mullingar.
2.	
Sligo, Roscommon, Mayo.	} Westport.
3.	
Galway, Clare.	} Galway.
4.	
Limerick, Tipperary, Waterford.	} Limerick.
5.	
Cork, Kerry.	} Cork.
6.	
King’s County, Kildare, Queen’s County, Kilkenny, Carlow.	} Maryborough.

“There remain twelve counties in which the system at present in force will remain unaltered.

“In order that the administration of the special resident magistrates and of the resident magistrates in the six divisions may be efficient, and that there may be harmonious working between the different officers concerned, his Excellency desires that the following instructions may be observed :—

“Each division will be divided into resident magistrates’ districts, composed of one or more sub-inspectors’ districts. These districts need not necessarily be situated in one county only, but their boundaries should be coterminous with those of sub-inspectors’ districts. For executive purposes resident magistrates will act only within the limits of their districts, but they will attend such petty sessions outside their districts as may be allotted to them in addition to those situated within their districts.

“6. The first step to be taken on receipt of these instructions will be to subdivide the divisions into resident magistrates’ districts. The special resident magistrate, after consultation with the resident magistrates, county inspectors, and sub-inspectors, will submit for the approval of his Excellency a report showing the districts, with the proposed number and location of resident magistrates.

“7. All reports of any outrage, of any meeting, or of any important matter relating to the preservation of order will be transmitted by the resident magistrates through the special resident magistrate to the Government. On receipt of such reports the latter will communicate, if necessary, his views to the resident magistrates or sub-inspectors, will take steps to secure co-operation when required between the different magistrates and constabulary officers in his division, and when he thinks it desirable will proceed to the spot and exercise the executive powers which he has as a magistrate.

“8. The special resident magistrate will also have the general supervision of all matters connected with patrolling and the establishment of military and constabulary posts, and will settle and subsequently superintend any operations where the military may be called in to assist the civil power, whether in patrolling, establishing protection posts, or in escorting sheriffs or other persons.

“9. He will inform the resident magistrates concerned of all such arrangements, and also of any measures taken by him for the prevention of crime.

“10. It is desirable that the special resident magistrates should not hear or adjudicate cases at quarter or petty sessions, but when necessary they would exercise the quasi-judicial functions of

- (1.) Examining witnesses, and taking informations on oath, in cases of serious outrage.
- (2.) Taking the depositions of persons who may have been dangerously wounded, or the declarations of dying persons.
- (3.) Taking depositions against persons charged with indictable offences, granting warrants, and returning persons for trial.

“11. The special resident magistrates will not interfere in any way with the exercise of the judicial functions of the resident magistrates.

“12. Resident magistrates will continue to exercise both executive and judicial functions, but no resident magistrate will sit on the bench to try a case in the preliminary investigation of which he may have taken a part.

“13. Resident magistrates will, on the receipt of information from the special resident magistrate of arrangements made for patrolling, establishing posts, and the prevention of crime, give their fullest assistance and co-operation to further these arrangements.

“14. Resident magistrates will, from time to time, send reports to the special resident magistrates on the states of their districts for the information of the Government.

“15. The Inspector-General of Constabulary will instruct the county inspector at the head-quarters of the special resident magistrate, in addition to his other duties, to assist the special resident magistrate in all matters relating to the maintenance of order, and the prevention and detection of crime in his division, issuing such orders to the county and sub-inspectors as he may be required by the special resident magistrate to issue. In the absence of the special resident

magistrate the county inspector at head-quarters will receive and transmit reports from the other county inspectors, and from sub-inspectors in the division. It will be a general instruction to him to give effect to the wishes of the special resident magistrate.

“16. County inspectors will be instructed by the Inspector-General to keep the special resident magistrates informed of all matters of a general character in their counties with which it is desirable that the special resident magistrate should be acquainted.

“17. Sub-inspectors will be instructed to report through the resident magistrate to the special resident magistrate, except where their doing so would lead to delay, or when otherwise instructed by the special resident magistrate.

“18. On the occurrence of an outrage the Constabulary officer on the spot will give the earliest possible information to the resident magistrate and the special resident magistrate. He will subsequently furnish them with such reports as they may require. He will be guided by the orders about to be issued by the Inspector-General as to the reports he is to furnish to his superior officers in the Royal Irish Constabulary.

“19. When once the resident magistrate or special resident magistrate has assumed the conduct of a case the Constabulary will act under his guidance, and he will be responsible for the Government being kept properly informed.

“20. During the conduct of an inquiry, or at any other time, should there be any misconduct or neglect of duty on the part of any member of the Constabulary, it will be the duty of the special resident magistrate to report the same to Government in order that the case may be dealt with by the Inspector-General.

“21. These instructions are not intended to supersede any previous orders under which resident magistrates are held responsible for order in their districts, and are bound to assist and guide the Constabulary in the investigation of crime.—I am, sir, your obedient servant,

“(Signed),

R. G. HAMILTON.”

C.

CIRCULAR TO RESIDENT MAGISTRATES.

Dublin Castle, 13th September, 1883.

SIR,—I am directed by the Lord Lieutenant to inform you that the office of Special Resident Magistrate will cease on the 30th September instant.

The service of the Secretaries and the Office Staff attached to each Special Resident Magistrate will also be dispensed with on the same date.

His Excellency does not intend at present to make any change in the limits of the Districts assigned to Resident Magistrates, but the employment of unattached * Resident Magistrates in Special Resident Magistrate's Divisions will be discontinued.

In order to retain the advantages which have arisen from assigning certain divisions of the country to Special Resident Magistrates, his Excellency intends to appoint four officers, to whom will be assigned special duty in the counties now under Special Resident Magistrates, as follows:—

<i>Stations.</i>	<i>Counties.</i>
Mullingar, . . .	Kildare, King's County, Westmeath, Meath, Cavan, Longford, Leitrim, and Sligo.
Athlone, . . .	Galway, Mayo, Roscommon, and Clare.
Waterford, . . .	Waterford, Kilkenny, Tipperary, Queen's County, and Carlow.
Cork,	Cork, Kerry, and Limerick.

*The unattached Resident Magistrate was a kind of A.D.C. to the great Special.

These four officers will act as Divisional Magistrates, obtaining such clerical assistance as they may require at their stations by the employment of members of the Constabulary Force to be assigned to them by the Inspector-General.

The provisions of the Circular of 22nd June, 1882, are modified as follows:—

Resident Magistrates will not in future be required to report, as heretofore, either to the Divisional Magistrate or the Government in cases of crime or outrage in which their services may have been put in requisition, nor will they be required to assume the direction of the steps to be taken by the Police for the detection of crime. This duty will be discharged by the Constabulary Officers, under the supervision of the Divisional Magistrate; but it will be the duty of the Resident Magistrate to keep the Divisional Magistrate fully informed of any circumstances which may come to his knowledge bearing on the detection and prevention of crime.

The Divisional Magistrate will supervise, through the Constabulary Officers, the Police and Military Patrols, and Resident Magistrates will interfere as little as possible with the direction of the Police.

It is his Excellency's desire to maintain to the fullest extent the judicial independence of Resident Magistrates, while, at the same time, he is anxious that the detection of crime should not suffer from their withdrawal from directing such work, and he relies upon the fullest communication and co-operation being maintained between the Resident Magistrates, the Divisional Magistrate, and the Police, whose business it is to follow up all clues which may lead to the conviction of criminals; the advice and guidance of the Resident Magistrates in such matters will always be of great value.

Resident Magistrates, as Justices of the Peace, are bound to do all in their power to maintain order. Even without receiving a requisition it is their duty to attend any gatherings within their districts at which a breach of the peace may be apprehended, and when their attendance is requisitioned by the Divisional Magistrate or the Police, they should invariably attend, unless unavoidably prevented, in which case the reasons for their non-attendance should be reported to the Under Secretary.

In constituting courts under the Prevention of Crime Act, it will be the duty of each Resident Magistrate to attend when he receives notice from the Divisional Magistrate that a court is to be held at any place in the counties for which he is qualified to act. Detailed lists of these will be supplied to the Divisional Magistrates and to the legally qualified Resident Magistrates.

It is the duty of Resident Magistrates to attend all the Petty Sessions allocated to them if possible. But cases may arise in which the Divisional Magistrate knows that important cases are coming on for hearing and may have reason to think that no Resident Magistrate will be present. In such cases he will communicate with the Resident Magistrate of the district, with the view of securing his attendance, or, in his unavoidable absence, the attendance of the Resident Magistrate of an adjoining district. In such cases it will be the duty of the Resident Magistrate receiving such notification to attend, or, if this is impossible, promptly to notify the fact to the Under Secretary, who will direct the attendance of some other Resident Magistrate.

Resident Magistrates are empowered under Sec. 16 of the Prevention of Crime Act to hold sworn inquiries into offences committed, although no person may be charged before them with the commission of such offences. It is obvious that such inquiries should not be lightly undertaken, and that want of due care in holding them might militate against the detection of crime. It is recommended, therefore, that such inquiries should not be held except with the concurrence of the Divisional Magistrate.

His Excellency takes the opportunity of this Circular to place upon record his high appreciation of the services of the body of Resident Magistrates during the recent disturbed times.

I am, Sir,

Your obedient servant,

(Signed)

R. G. HAMILTON.

D.

"SPECIAL" RESIDENT MAGISTRATES.

THE following letter, signed "Irish R.M.," appeared in the *Pall Mall Gazette* of 12th October, 1882:—

"SIR,—Perhaps you will allow me to give you a few facts concerning the history of Ireland during the past few months. After the appointment of Lord Spencer twenty counties were placed under the sole control and orders of six very junior R.M.'s, who were called 'specials.' They were to do everything; their seniors were to report to them instead of to the Castle, to apply through those 'specials' for leave of absence; and, in short, they were to be the 'governors of the country,' and we were directed to work in harmony with these men. They were to do nothing but sit at ease in their offices, draw big salaries—over £1,800 a year each—have a private secretary at £150, a clerk at £100 a year, a police orderly at 4s. 6d. a day, and, finally, a police officer attached to them. Five out of the six special R.M.'s appointed were junior to more than half of the R.M.'s. The fixed number up to lately was 72. On the 30th June I find there were 87, and since then a great many more have been appointed. Of those 'specials' five were magistrates, who really seldom did anything but hunt, and buy and sell horses. They had, too, very quiet districts. The junior of the five had only five years' service as R.M. when he was put over the heads of us all. The expense of Government for doing exactly the same business, costing, in poor Mr. Burke's time, say all round £3,000 a year, was increased up to £22,000 a year. Soon afterwards, too, another official was required in Colonel Brackenbury, who was brought over. He gracefully retired, when Lord Spencer at once appointed an old Indian civil servant (Mr. Jenkinson, already in receipt of £1,000 a year from the Indian Government after twenty years' service in India) to succeed Colonel Brackenbury at a salary of £1,500 a year, and appointed the Crown Solicitor of the county of Dublin to be an assistant to Mr. Jenkinson at £500 a year, in addition to his other official salary. Fifteen resident magistrates are to be retired at an early date—many of us are young and active and perfectly fit for duty for many years to come—on a plea of 'abolition of office.' Almost every resident who was senior to the 'specials' has been moved, at great personal inconvenience and expense, all over the country, mostly to the North, and the North men sent to the South and West. Of course the public pay £32 to each magistrate moved towards his expense. The Crimes Act is not administered, as was intended, by magistrates of experience or lawyers, but by young inexperienced men, who are sent about the country, not by Government but by the specials. I can assure you, the most intense discontent prevails everywhere, the local magistrates are utterly ignored, and the police have felt and complained of the interference of the special magistrates in their affairs. I doubt the Government possessing the power to compulsorily retire a stipendiary magistrate, unless for misconduct, of course. The 26th Vic., chap. 26, sec. 10, gives no power, unless owing to certified infirmity of mind or body."

[We should like to see the question raised of whether the Government have "the power to compulsorily retire a stipendiary magistrate, unless for misconduct."]

E.

ANALYSIS OF BLUE BOOK,

Giving the names, occupations, and religions of all persons holding the Commission of the Peace in Ireland, issued March 24, 1884.

The return moved for by Mr. Sexton, on the 14th November, 1882, giving the names, occupations, and religions of all persons holding the commission of the peace in Ireland, together with the dates of their appointment, was issued March

24, 1884. The return is very bulky, filling a blue-book of 117 pages; but the following analysis conveys with sufficient accuracy the character of information it gives respecting the constitution of the Irish magistracy:—

<i>County.</i>	<i>Total Magistrates.</i>		<i>Catholics.</i>
		<i>Of whom</i>	
Antrim	145	8	
Armagh	109	9	
Carlow	48	5	
Cavan	98	17	
Clare	148	39	
Cork	432	107	
Donegal	138	9	
Down	208	22	
Dublin	305	79	
Fermanagh	74	1	
Galway	209	91	
Kerry	118	32	
Kildare	100	19	
Kilkenny	103	31	
King's County	102	11	
Leitrim	72	10	
Limerick	169	42	
Longford	66	14	
Londonderry	118	9	
Louth	57	18	
Mayo	115	26	
Meath	145	12	
Monaghan	66	7	
Queen's County	83	14	
Roscommon	108	42	
Sligo	81	15	
Tipperary	216	50	
Tyrone	159	6	
Waterford	102	31	
Westmeath	116	23	
Wexford	114	35	
Wicklow	104	5	
<i>Boroughs.</i>			
Belfast	72	11	
Carrickfergus	16	1	
Clonmel	10	5	
Cork City	52	28	
Drogheda	12	5	
Dublin City	94	29	
Galway City	19	9	
Kilkenny City	9	5	
Limerick City	27	18	
Derry City	22	14	
Sligo	18	6	
Waterford City	20	14	

Antrim thus has 145 magistrates. Of these only eight are Catholics, the remainder, with the exception of one, whose religion is unknown, being Protestants. Of the Protestants, 114 belong to the Church of Ireland, nineteen are Presbyterians, two Quakers, and one Unitarian. As to occupation, sixty-four are landed proprietors, fifteen are landed proprietors and manufacturers or professional men; eleven are land and estate agents; four are "gentlemen;" five Queen's counsel; three are linen merchants, and the remainder are merchants, retired traders, distillers, and millowners.

Armagh has 109 magistrates. Of these ninety-two belong to the Church of Ireland, six are Presbyterians, nine are Catholics, and two belong to other persuasions. As regards occupation, fifty-nine are landed proprietors, fifteen are agents, eleven are millowners, three bank managers, ten merchants, two Queen's counsel, one farmer, and the remainder retired officers and medical men.

Carlow has forty-eight magistrates. Of these forty-three are Protestants and five Catholics, thirty-five are landowners, three are agents, one a medical doctor, three retired officers.

Cavan has ninety-eight magistrates. Of these sixty-seven are Church of Ireland Protestants, three Presbyterians, one Methodist, ten religion unknown, and seventeen Catholics. Forty-seven are landlords; the occupations of nine are unknown, eight are land agents, two gentleman farmers, one clergyman, one doctor, one merchant, one solicitor, one bank manager.

Clare has 148 magistrates, 109 of whom are Protestants and 39 Catholics, 108 are landlords, one merchant, four gentleman farmers, three retired officers, seven land agents, one farmer, one engineer, one barrister, three Queen's counsel, two doctors.

Cork has 432 magistrates. Of these 292 are Protestants, 107 Catholics, thirty-two unknown, and one other persuasion. Of the total, 175 are landlords, eighteen are military officers, retired and in commission; the occupations of thirty-six are unknown, ten are Queen's counsel; the proportion of gentlemen farmers and farmers is infinitesimal.

Donegal has 138 justices. Of these 121 are Protestants of the Church of Ireland, and nineteen Presbyterians. There are only nine Catholics. Ninety-one of the total are landed proprietors or land agents.

Down has 208 magistrates, of whom 121 are Church of Ireland Protestants, forty-one Presbyterians, sixteen Unitarians, three Quakers, twenty-two Catholics, two Methodists, and one Baptist. Of the total, sixty-three are landed proprietors or land agents. The occupations of six are unknown; three are clergymen; the remainder is composed of merchants, farmers, and professional men, the county in this respect comparing favourable with others.

The county of Dublin has 305 magistrates, of whom 179 are Protestants and seventy-nine Catholics, the religion of forty-seven being unknown. Of the total, sixty-six are landlords, twenty-four Queen's counsel, twenty-five are army officers, and the occupations of forty-one are unknown.

The county Fermanagh has seventy-four magistrates, of whom seventy-three are Protestants and one Catholic. Over forty of the whole number are landlords and land agents, and there is a substantial representation of army officers.

The county Galway has 209 magistrates, of whom 111 are Protestants and ninety-one Catholics. The religions of seven are unknown. Of the total, 108 are landlords or land agents, and the occupations of twenty-three are unknown.

Kerry has 118 magistrates, of whom eighty-six are Protestants and thirty-two Catholics. The Protestants include one member of the Church of England and three Plymouth Brethren. Of this county it may be said that from the information in the return every magistrate is a landlord or land agent.

Kildare county has 100 magistrates, of whom sixty-eight are Protestants and nineteen Catholics, the religion of thirteen being unknown. Of the whole, over sixty are landlords or land agents. The occupations of twelve are returned as unknown.

County Kilkenny has 103 magistrates, of whom seventy-two are Protestants and thirty-one Catholics. Nearly all the magistrates are landlords. Since the Marquis of Ormonde became Custos Rotulorum of the county in 1878, he appointed twelve landlords and agents, one colliery proprietor, one brewer, one starch manufacturer, and one "gentleman."

King's County has 102 justices, of whom ninety are Protestants and eleven Catholics. Nearly every magistrate on the King's County bench is a landlord or land agent.

Leitrim has sixty-two justices, of whom 52 are Protestants and ten Catholics. With the exception of about half-a-dozen military officers, Protestant clergymen, and engineers, all the Leitrim magistrates are landlords or land agents.

Limerick county has 169 magistrates, of whom 123 are Protestants, forty-two Catholics, and four of other persuasions.

Here again the vast majority are landlords, though a considerable number are returned with "occupations unknown."

The county of Londonderry has 118 justices, of whom nine only are Catholics, the remaining 109 being Protestants, eighty-four being Church of Ireland and twenty-five Presbyterians. The London Company have four agents in the position of justices in this county. Only two magistrates have been appointed since 1882.

In the county of Longford there are sixty-six magistrates, of whom sixty-two are ordinary justices. The number comprises fifty-two Church of Ireland Protestants and fourteen Catholics. Thirty-six of these are landlords, five land agents, and seven military officers; the only farmers are the two coroners for the county.

Louth has fifty-seven magistrates, of whom sixteen are Presbyterians, thirty-eight Church of Ireland, and eighteen Catholics. Three are returned as noblemen, thirty-nine as gentlemen. One of them was appointed so far back as 1827, and the power of appointment has only twice been exercised since December, 1881.

Mayo, with 115 magistrates, has only twenty-six Catholic justices, while eighty-eight are Protestants, the remaining one being unspecified. Seventy-seven are returned as landed proprietors, and the list also includes land agents and military officers, and only one farmer, who happens to be coroner. No one has been appointed since 1882, and several have been in commission since before 1840.

In Meath there are 145 magistrates, of whom forty-two are Catholics, ninety-seven Church of Ireland, and one Presbyterian. Sixty are landed proprietors.

The county Monaghan has sixty-six magistrates, of whom only seven are Catholics; one is a Presbyterian, and the remainder Church of Ireland; forty-four are landlords. Independent of those landowners who are land agents, there are nine other land agents with the Commission of the Peace in this county, and not one ordinary farmer or merchant.

Queen's County has only fourteen Catholic magistrates, while sixty-seven belong to the Church of Ireland, and two are Quakers. Every magistrate appointed down to 1860 was either a landlord, a land agent, or a military officer; and the list now includes fifty-eight landed proprietors and fifteen land agents.

The county Roscommon has 108 magistrates, of whom forty-two are Catholics, and sixty-six Protestants. Col. King-Harman is Lieutenant and Custos Rotulorum for this county, and thirty-seven are landed proprietors.

The county Sligo has only fifteen Catholic magistrates, the remainder consisting of sixty Church of Ireland, four Presbyterians, and two Plymouth Brethren. Of the total of eighty-one magistrates, fifty-seven are landed proprietors. Mr. Sexton gave notice of a question in regard to the recent action of Colonel Cooper, the lieutenant of this county, with reference to the recommendation of justices.

County Tipperary, with 216 magistrates, has 138 of them Protestants, one Quaker, fifty Catholics. Of these fifty-four were given the commission before the present Lieutenant Viscount Lismore was appointed in June, 1857, and those fifty-four are either landlords, peers, noblemen, or military officers. Landlords and military officers predominate largely in the recommendations of Viscount Lismore, and the only farmer who figures on the list is likewise an agent.

County Tyrone has six Catholic justices out of a total magistracy of 159. There are 126 belonging to the Church of Ireland, twenty-four Presbyterians, two Methodists, and one Quaker. Forty-two have been appointed on the recommendation of the Earl of Charlemont since February, 1820, and these only include eight landed proprietors.

County of Waterford has 102 justices, seventy-one are Protestants and thirty-one Catholics. Sixty-six are landed proprietors. Since the Marquis of Waterford was appointed lieutenant of the county, in 1874, thirty magistrates have been given the commission of the peace, and of these fourteen are landlords, three gentlemen, seven land agents, one solicitor, three retired military or naval officers, one director of a steamship company, and one bank manager.

County Westmeath has 116 magistrates. There are twenty-three Catholics and ninety-one Protestants.

County Wexford has 114 magistrates, only twenty-five of whom are Catholics.

There are seventy-seven landed proprietors Lord Maurice Fitzgerald was appointed lieutenant of the county in Oct., 1881, and in the following month he recommended a landlord for the magistracy. Of the six justices who have since been appointed five are landlords and the sixth is a land agent, and as no one has been recommended for appointment since June, 1882, it may perhaps be assumed that the stock of landlords and land agents in Wexford has been exhausted.

County Wicklow has only five Catholic magistrates out of a total of 104. This county affords one of the most shameless revelations in Ireland. Of the 104 magistrates eighty are landed proprietors, eight are land agents, six are Queen's counsel, and the remainder are returned as "gentlemen." The lieutenant of the county is the Earl of Meath, and, excepting two, every person appointed to the commission of the peace under his auspices is a landlord or a landlord's agent.

In the borough of Belfast there are sixty-five magistrates, of whom sixteen are Presbyterians, one Methodist, thirty-six Church of Ireland, one Unitarian, and eleven Catholics.

In the borough of Carrickfergus there are ten Church of Ireland magistrates, five Presbyterians and one Catholic.

In the borough of Clonmel there are five Protestants and five Catholic magistrates, one of the Protestants being a Unitarian.

The borough of Cork has fifty-two magistrates, of whom twenty-eight are Catholics, eighteen Church of Ireland, one Presbyterian, three Methodists, and one Quaker.

The borough of Drogheda has twelve magistrates, of whom five are Catholics.

The borough of Dublin has ninety-four magistrates, of whom twenty-nine are Catholics, fifty-nine Church of Ireland, two Presbyterians, two Quakers, and one unknown. Of the thirteen appointed in 1882, twelve are military officers.

In the borough of Galway there are eight Church of Ireland, two Presbyterian, and nine Catholic magistrates.

The borough of Kilkenny has nine magistrates, of whom five are Catholics.

The borough of Limerick twenty-seven, of whom eighteen are Catholics.

The borough of Londonderry twenty-two, of whom four are Catholics, ten Presbyterian, and eight Church of Ireland.

The borough of Sligo eighteen, of whom seven are Church of Ireland, four Methodist, and six Roman Catholics; and

The borough of Waterford twenty, of whom fourteen are Catholics, five Church of Ireland, and one a Quaker.

[This list is not now, of course, strictly accurate, for Lord Spencer has created additional Catholic magistrates since March last. Still this list was accurate *only so late as March last.*]

F.

PETTY SESSIONS (IRELAND), 1883.

*Return to an Order of the Honourable The House of Commons,
dated, 11th November, 1884;—for,*

Returns "showing, for the year 1883, the total number of Petty Sessions Districts in Ireland; the total number of Petty Sessions appointed to be held; and the total number of Petty Sessions actually held:"

"And, the total number of Magistrates in Ireland; and the total number of such magistrates who did not attend any Petty Sessions; and the total number who attended five times and under, between five and ten times, between ten and fifteen times, between fifteen and twenty times, and so on up to fifty times, and

between fifty times and the highest number of times upon which any one Magistrate attended during the year."

Total number of Petty Sessions Districts in Ireland,			610	
Total number of Petty Sessions appointed to be held in 1883,			14,706	
Total number of Petty Sessions actually held,			13,502	
LOCAL MAGISTRATES.				
Total number of Magistrates in Ireland,			3,887	
Total number of Magistrates who have not attended Petty Sessions in 1883,			1,541	
Total number of Magistrates who have attended Petty Sessions five times and under,	855	}	1,434	} 2,346 being the total number of Magistrates who attended Petty Sessions during the year 1883.
Total number of Magistrates who have attended between five times and ten times,	579			
Do. do. 10 and 15 times	359	}	595	
Do. do. 15 and 20 times	236			
Do. do. 20 and 25 times	132	}	201	
Do. do. 25 and 30 times	69			
Do. do. 30 and 35 times	43	}	68	
Do. do. 35 and 40 times	25			
Do. do. 40 and 45 times	18	}	25	
Do. do. 45 and 50 times	7			
Number who have attended between 50 and 291 times,	23		23	
Being the maximum attendance of any one Magistrate.				

(Signed)

RICHARD O'SHAUGHNESSY,
Registrar of Petty Sessions Clerks.

17th November, 1884.

G.

THE MAGISTRATES IN THE "GOOD OLD DAYS."

"To obtain justice a magisterial intervention was a sort of favour and compliment, rather than a right that could be practically enforced; but there remained little good feeling or kindness between those who sought for and those who had the power of granting the favour. If a peasant or a farmer had a complaint to make to a justice, he might parade for hours, sometimes for days, before his worship's door before he could gain a hearing; and if his complaint lay against a neighbouring squire or squireen, no summons for the latter could be procured; but, perhaps, a sealed note inviting his attendance, to be humbly delivered to him by the complainant with his own hands. A distant day was then probably appointed for the hearing, when the defendant was received with friendly courtesy, while the plaintiff was suffered to resume his parade before the door until it suited the convenience of the justice to call him into the hall. If then his case was so clear, or so feebly opposed, as to necessitate a decree in his favour, the law provided another distant day for the settlement of his claim, allowing no compensation for the three or four days' time which in all likelihood he had lost in prosecuting the suit."*

"The effect of such a state of the magisterial Bench was very mischievous. It created a suspicion in the mind of the lower order of the Irish they owed nothing to justice, and they sought to win the favour of the local magistracy by the most

* "Personal Recollections of Lord Cloncurry."

slavish submission and cringing demeanour. If a tenant of one of these county magnates was prosecuted, he felt quite easy about the result of his case, for 'the masher' had only to put in a good word for him to the judge to get him off. I remember, when on the Munster Circuit, a prisoner in the Cork dock, on being asked, 'Are you ready for your trial?' replied in the negative; whereon Judge Perrin, who presided, inquired the reason, and the answer was, 'Bekase the Fermoy coach is not in yet, me lord, an' I expect Captain Collis, the magistrate, in it, to see me justified.' In remote districts the favour of a local magistrate was often purchased by most corrupt means, and when a case was to be decided, each party worked every engine to bring influence to his aid; personal application, letters of recommendation, presents of various kinds were given to further or defeat the litigant's case." *

"No person, not in the secret, can imagine the love our inferior magistrates have for the Castle yard. Though the secret service money can no longer be so freely lavished on the contriver of a good plot, there still remains a SMELL of it which possesses most attractive properties. Nothing tends so much to keep away English capital, and to increase the number of absentees, than the lies told of the country by those who fatten on its misery and degradation." †

"Appointments to the magistracy were so essentially political, that even in the present century landlords have been refused the dignity because they were favourable to Catholic emancipation." ‡

"A magistrate who gave a decision in favour of a tenant against his landlord was liable to be called out, and by the same process landlords are said to have defended their own tenants against prosecution." §

H.

WHAT DANIEL O'CONNELL THOUGHT OF THE IRISH MAGISTRATES.

" Now, with respect to the Ministerial acts, the magistrates are very much in the habit of receiving written informations brought to them ready prepared, drawn up in general by some person who was sometimes a school-master, and in general called a hedge attorney (that is, did not belong to the profession, but had the name), who put down the most violent terms that his knowledge of the law admitted; introducing felony and burglary into every case—'feloniously milking a cow,' I recollect; and 'feloniously digging potatoes.' Then upon these informations the magistrates were in the habit of committing persons to gaol upon charges of felony, and they lay in gaol then until the ensuing Assizes; sometimes three, four, five, and six months, and sometimes seven, between the Autumn Assizes and the ensuing Spring Assizes. Then, when the judges arrived, it turned out that the utmost the charge could be was a civil trespass, or some slight misdemeanor; but the man had been in jail for months. That was a thing of by no means unfrequent occurrence. They were also in the habit of turning almost all cases with respect to civil rights into criminal offences, and beginning by inflicting punishment (that is, imprisonment), by sending an individual, who frequently was least in favour, for it came to that, to gaol.

"Do you think the Roman Catholics in the part of Ireland to which you have adverted have any reason to complain of the conduct of the magistrates in point of partiality in the administration of justice?"

"The system has left just this impression upon their minds, that in all cases where they are before the magistrates it would be better for them to be Protestants than Catholics; that they would prefer their being Protestants.

* O'Flanagan's "Lives of the Irish Chancellors ("Life of Lord Manners").

† "The Life and Times of Cloncurry." By William John Fitzpatrick.

‡ Lecky ("Daniel O'Connell"), page 251.

§ Lecky ("Daniel O'Connell"), page 251.

“Have any instances come to your knowledge of abuses in issuing summonses ?

“Yes ; summonses have been issued for very trivial matters. Favouritism subsists in the South, that is very little aggravated by any religious differences, but it is sometimes tinged with that.

“Has the authority of magistrates been in any degree perverted, so as to turn it into a grievance in this respect ?

“Yes ; my opinion is, that the magistrates, taken altogether, have not that feeling that men ought to have, who hold any species of judicial station ; there is not the generous sentiment of abhorrence of wrong and oppression among the class of men who are magistrates in Ireland, which there ought to be. It is a convenient thing for a man to have a Commission of the Peace in his neighbourhood ; he can make those he dislikes fear him, and he can favour his friends. A great deal of that prevails, and must necessarily prevail, in a state of society such as subsists in Ireland.

“Can you mention any instances in which the judicial authority of magistrates have been abused ?

“ We have complaints professionally coming constantly before us of the modes of inflicting fines for various offences ; and we have reason to believe the complaints are well-founded, though it is almost impossible to procure redress for them.

“What opinion prevails among the lower orders of the people in respect of the administration of justice by the magistrates ?

“The lower class of the people conceive that it is not the justice of the case that is to decide it before the magistrates, but the person who has most favour and interest ; and the moment they have anything to be decided before magistrates they ransack the entire neighbourhood to get letters of recommendation to the magistrates.

“Do they adopt any other means of influencing magistrates in their favour ?

“It is familiar in belief, and I have no doubt of it, that magistrates have received money and various articles : where they could not give money, eggs and butter, and fowls, and presents of various kinds.

“Do they ever give free labour ?

“Yes ; and free labour where they can give nothing else ; *and immorality where females are interested. Complaints of that description have been made, that they purchase favour in a mode which is not difficult to be understood.*” *

* Daniel O’Connell (evidence before a Committee of the House of Lords).

