LAWS AND INSTITUTES OF IRELAND.

RETURN to an Order of the Honourable The House of Commons, dated 17 May 1852;—*for*,

COPY "of the REPORT of the COMMISSIONERS appointed by the Lord Lieutenant of *Ireland*, to Inquire concerning the ANCIENT LAWS and INSTITUTES of *Ireland*; also, COPY of the LETTER from the Chief or Under Secretary for *Ireland*, forwarding the same to the Lords Commissioners of the Treasury."

Sir, Dublin Castle, 27 April 1852.

I AM directed by the Lord Lieutenant to transmit to the Lords Commissioners of Her Majesty's Treasury a copy of the Report, &c. of the Commissioners appointed to inquire and report concerning the Brehon Laws, and his Excellency requests their Lordships' favourable consideration as to the publication of these laws.

I am, &c.

Sir C. E. Trevelyan, K.C.B. (signed) *John Wynne.*
&c. &c. &c.

THE REPORT of the Commissioners appointed to Inquire and Report concerning the ANCIENT LAWS and INSTITUTES of *Ireland*.

TO HIS EXCELLENCY GEORGE WILLIAM FREDERICK,
EARL OF CLARENDON, K.G., G.C.B., &c. &c.,
LORD LIEUTENANT-GENERAL AND GENERAL GOVERNOR OF IRELAND.

May it please your Excellency,

THE principal materials necessary for the preparation of a Report on the ancient Irish Laws being now collected and arranged, we have thought it our duty to lay before your Excellency a brief statement of the results at which we have already arrived; and to solicit some instructions respecting the time and manner of completing the task which your Excellency has been pleased to commit to us.

The first object to which our attention was directed was the formation of a Catalogue of all the manuscripts of the Brehon Laws which are known to exist in the United Kingdom. A numerous and valuable collection of these documents, originally made in Ireland by the eminent Welsh antiquary and philologist, Edward Lhwyd, is now preserved in the Library of Trinity College, Dublin, to which it was presented about 60 years ago by Sir John Sebright. In thus disposing of it, he appears to have been influenced by the advice of the celebrated Edmund Burke, who manifested on that occasion a lively anxiety to have the materials of Irish history placed within the reach of scholars by the translation and publication of all the ancient records of the country. Besides the Trinity College MSS. and a few belonging to the Royal Irish Academy, we have ascertained that transcripts of various portions of the Brehon Laws are to be found in the Bodleian Library at Oxford, in the Library of the British Museum, and in the Stowe Collection, now the property of Lord Ashburnham. All these MSS.; except the last mentioned, to which we have not as yet been so fortunate as to obtain access, have been described at great length in an analytical catalogue, made according to our directions by Dr. O'Donovan and Mr. Eugene Curry, and containing notices of their respective dates, and of the general nature of the subjects they treat of.

The dates of the existing MSS. of the Brehon Laws vary from the early part of the fourteenth to the close of the sixteenth century; but the authority of some is enhanced by the fact, that they were transcribed by persons in whose families the office of Brehon or Judge had been hereditary for several generations.

For the laws themselves a much higher antiquity may be safely asserted. So far as we have external evidence to guide us, there is no reason to suspect that they have undergone any material change since the time of Cormac Mac Cuilleanain, King and Bishop of Cashel, who died A.D. 908. He was a

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man of great learning and energy, who certainly promoted the execution of considerable literary works, and under whose influence it is not improbable that a systematic compilation of the laws may have been effected. Of this, however, we have no distinct record. On the other hand, we find scattered through all parts of the Laws allusions to a general revision of them made in the fifth century, at the instance of St. Patrick, who, in conjunction with certain kings and learned men, is said to have expunged from them all those institutions which savoured of Paganism, and to have framed the code called the Seanchus Mor. These same documents assert the existence of still more ancient written laws, the greater part of which are ascribed to Cormac Mac Art, monarch of Ireland in the middle of the third century. However slow we may be to acquiesce in statements of this kind, which contradict what we have learned concerning the progress of legislation in the remaining parts of Western Europe, we may readily admit that the subject-matter of many of the Laws demonstrates their great antiquity, as it indicates the primitive nature of the society in which they prevailed. In spite of the attempts to efface it, traces of heathenism are still discernible in many parts of them. They enumerate various ordeals of a Pagan character which are expressly termed *magical*, and specify the occasions on which a resort to them was prescribed. There are also provisions in the laws of marriage which prove that Christianity could have exercised but a feeble influence at the time when they were enacted.

The language in which the Brehon laws are written is a convincing proof of their antiquity. They are not composed in a peculiar dialect, as many writers have maintained; but if their style differs from that of the vernacular Irish of the present day, as Anglo-Saxon does from modern English, this dissimilarity is to be ascribed mainly to the effects of time, by which the orthography and grammatical forms of the language have been modified, and legal terms and phrases of constant recurrence have become obsolete. The antiquity of the language of the Brehon laws being once established, it must be apparent that the publication of them would promote the study of philology in no ordinary way. From no other source could such abundant and precious materials be obtained by the scholar engaged in analyzing the Celtic languages, and determining their relation to other branches of the Indo-European family.

Apart from their mere antiquity, these laws are possessed of considerable interest to the historian and jurist. They lay down the privileges and duties of persons of all classes; they define the tenure of land and the rights of property of all kinds. In a word, they furnish a perfect picture of the society which they were designed to regulate, from the constitution of the kingdom, and the relation subsisting between the Sovereign and the provincial kings, down to the minutest details of domestic life among the serfs.

Such being the estimate which an examination of these documents has led us to form of their age and contents, we feel that we are fully warranted in recommending to your Excellency that the publication of them should be undertaken at the expense of the State, and under the superintendence of competent persons. All the arguments which induced the Government to order the publication of the Anglo-Saxon and Welsh laws might be used in favour of this measure. In fact, the publication of the Brehon laws appears to us to be essential to the completion of the works already put forth by the Commissioners of Public Records.

About 70 years ago Vallancey, in his "Collectanea de Rebus Hibernicis," published a few extracts from them, accompanied by translations. But both text and version were so full of inaccuracies, arising from the incapacity of the editor, that the value of the documents was not duly exhibited in these specimens. In truth, the work was too difficult and expensive to be undertaken by any individual. It requires a long time, a considerable outlay, and much co-operation for its proper execution. Persons possessing a vernacular knowledge of the Irish language, and accustomed to transcribe Irish MSS., must be employed in the work of copying and translating. These again would require the superintendence of accomplished scholars, versed in history, jurisprudence, archæology, and philology. Moreover, it would be necessary to procure copies or collations of MSS. in remote places. The work, when completed, would be an extensive one, occupying a large folio volume, which would possess but little popular interest, and would be consulted only by a limited class of historical readers. Taking all these circumstances into account, we are convinced that, notwithstanding its intrinsic importance, the publication of the ancient Irish laws could not be effected

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effected in the ordinary manner, and must be undertaken by the Government, if it is ever to be accomplished at all.

The present time affords facilities for the execution of the design now proposed. During the progress of the Ordnance Survey of Ireland, several persons acquainted with the Irish language were employed to collect information on matters of topography and ancient history. Under the direction of the officers conducting the survey these persons became well instructed and disciplined scholars. In a few years more this advantage will be irretrievably lost. The taste for antiquarian scholarship amongst the lower classes in Ireland is nearly extinct; whilst death and emigration are fast removing the few individuals who possessed the qualifications just mentioned. Without the aid of such labourers the task of transcribing and translating the Brehon Laws would become one of extreme, if not hopeless, difficulty.

There are some circumstances which would render the publication of these ancient laws peculiarly interesting in the eyes of the politician. It is not improbable that the habits of thought and action prevailing amongst the native Irish are reflected in the laws which they framed for themselves before they were affected by foreign influences, and to which they continued to cling with obstinate tenacity, even for centuries after they had been compelled to submit to British rule. The Brehon Laws were actually appealed to so late as the reign of Charles I. We must not, therefore, be surprised to find some traces yet remaining of their effect upon society.

We would also suggest that good results would be obtained by exhibiting the real state of this country at a remote period of its history. It would then be found that false or exaggerated notions have been entertained of the well-being of society and the advancement of civilization in early times. Ireland never enjoyed a golden age. It would be more true to say, that she suffered for many ages under an iron feudalism, which administered essentially different laws to the rich and to the poor. Ignorance on this head has certainly created in some minds an unreasonable dissatisfaction with the present order of things, and a perverse disposition to thwart the efforts of those who are doing their utmost to ameliorate it. Nothing could be more efficacious in dispelling such morbid national prejudices than a complete publication of the ancient Irish Laws.

Lest it should be supposed that any national partiality has affected the opinion which we have ourselves formed, we beg to direct your Excellency's attention to the accompanying copies of letters on this subject from Mr. Hallam, M. Guizot, Professor Ranke, and Professor Grimm. (Appendix A.) Other English and foreign scholars of the highest eminence have in similar terms expressed the deep interest with which they regard it.

We also annex a statement (Appendix B.) of the expenditure of the sum of 200*l.*, placed at our disposal by the Lords Commissioners of Her Majesty's Treasury for the purpose of enabling us to defray the charges necessarily incurred in the preparation of our Report. It will be observed that the great part of the money has been spent in the making of the Analytical Catalogue, the manuscript of which extends to 538 folio pages.

Respecting the several matters briefly touched upon in the present communication, we propose to lay before your Excellency more ample details in a report founded on the mass of information which we have gathered. It is our desire to confirm the general statements here made by extracts from the Irish laws and records of all kinds. But the preparation of such a report must be attended with considerable labour, and could not be accomplished very rapidly by persons having other official duties to discharge. We, therefore, pray your Excellency to inform us whether it is your pleasure that we should draw up such a full report, and to signify the latest time at which you could permit us to present it. We entertain the hope that your Excellency, having the case fully set before you, will see sufficient grounds to warrant you in recommending the application of public funds to the purposes here contemplated. At the same time, we apprehend that the materials for the decision of the Government must be furnished by us at an early period, if any grant for the publication of the Brehon Laws is to be included in the Estimates for the present year.

We have, &c.

(signed) *James H. Todd*, D. D.
Charles Graves, D. D.

19 February 1852.

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Note.—The Earl of Clarendon having resigned the office of Lord Lieutenant of Ireland a few days after the preceding Report had been presented, a copy of it was laid before his successor, the Earl of Eglinton, together with a letter requesting his Excellency's instructions. To this the Commissioners received the following reply:

"Sir, Dublin Castle, 27 April 1852.

"With reference to your letter of the 22d instant, enclosing a copy of a Report on the Publication of the Brehon Laws, I am directed by the Lord Lieutenant to inform you, that his Excellency, having before him the information therein contained, does not think it necessary that you should at present draw up such a full Report as the Commissioners propose. In the papers already submitted to him he sees sufficient grounds to warrant him in recommending the publication of those laws; and his Excellency has accordingly forwarded the Report, with the accompanying papers, for the favourable consideration of the Lords Commissioners of Her Majesty's Treasury.

"I am, &c.

"To the Rev. Charles Graves, D. D. (signed) "*John Wynne.*"

APPENDICES.

APPENDIX (A).

LETTERS and EXTRACTS of LETTERS received from eminent Scholars, with reference to the Publication of the BREHON LAWS.

No. 1.

LETTER from Sir *Francis Madden.*

Dear sir, British Museum, 6 June 1851.

IT is with much willingness I add my testimony in favour of the publication of the ancient Brehon Laws of Ireland, as I am convinced that a very important service would thereby be rendered to Celtic history and philology. It is indeed hardly possible to conceive, after the publication of the Anglo-Saxon and Welsh Laws, that the Government should refuse to aid a design having an object so desirable as the one you have so ably stated in the "Suggestions" for the transcription and printing of the ancient Irish Code.

I remain, &c.
(signed) *J. Madden.*

No. 2.

From *Henry Hallam*, Esq.

Dear sir, 24, Wilton Crescent, 8 July 1851.

I AM very glad to repair the unlucky abstraction of my former letter, by repeating its contents, as far as I recollect them.

There can be, as it seems to my apprehension, no doubt that the publication of the ancient Irish Laws, as a national undertaking, would be honourable to our Government; and I may add, that after the Welsh and Anglo-Saxon Laws have been so handsomely published, it is really no more than "justice to Ireland," of which one often hears, that she should be placed on the same level. But, in a literary view, such a publication would be of high value. The Brehon Laws, with which I can claim no great acquaintance, are the most ancient, perhaps, in their elements at least, which we possess, and must illustrate a history so obscure and so perverted by fable as that of Ireland. Laws do more to give a notion of society than the brief chronicles or the suspicious traditions, which alone survive among an uncivilized people. I trust, therefore, that your laudable anxiety to secure for literature those venerable documents, which so few are left to interpret, will not fail of success; and I am happy to bear testimony to my sense of its being well founded. My own judgment is, of course, only built on a general knowledge of the subject, to which my attention has not been particularly called. But I am convinced that all British antiquaries will agree in the opinion I have expressed.

I am, &c.
Rev. Professor Graves. (signed *Henry Hallam.*

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No. 3.

EXTRACT from a LETTER addressed to the Rev. *Charles Graves* by *R. G. Latham*, Esq.

"I am prepared to believe that the Brehon Laws are unsurpassed, and probably unequalled in value by any work hitherto unpublished."

No. 4.

From *M. Guizot*.

Val Richer (par Lisieux Calvados),
1er Août 1851.

My dear sir,

PARDONNEZ-MOI si je n'ai pas répondu plutôt à votre lettre du 1er Juillet dernier. Des voyages, des affaires, des dérangemens, ne m'ont laissé aucun loisir. J'espère que ma réponse vous arrivera encore à tems pour que vous en puissiez faire l'usage que vous désirez.

Je regrette de n'avoir pas gardé copie de la première lettre que j'ai eu l'honneur de vous écrire; je vous la renverrais purement et simplement.

Je regarde la publication de vos anciennes lois Irlandaises comme de la plus grande importance pour les études historiques, non seulement chez vous, mais dans toute l'Europe. Ces lois sont le monument à la fois le plus ancien et le plus récent de la vieille civilisation des premières populations Européennes; puisqu'elles remontent à une époque plue reculée et sont restées en vigueur jusqu'à une époque plus rapprochée de nous qu'aucun autre recueil de ce genre. Elles sont en outre le monument le plus pur, le plus exempt de tout mélange étranger, qui nous reste de l'etat social de la race Celtique. Nous autres Français, qui avons tant de peine à démêler, dans nos origines, l'élément Celtique, l'élément Romain, et l'élément Germanique, nous avons un intérêt particulier à la publication des anciennes lois Irlandaises, et cette publication causerait certainement, parmi les hommes qui s'adonnent chez nous aux études historiques, une vive satisfaction. J'espère que votre Gouvernement vous aidera à faire, au monde savant, cet utile présent. Ce sera le complément de ce qu'il a déjà fait par la publication des lois Galloises et des lois Anglo-Saxonnes. Vous mettez, en ce moment, sous les yeux du public Européen toutes les richesses des sociétés modernes; livrez lui aussi et placez à sa portée tous les débris des sociétés anciennes qui ont vécu sur votre territoire. La reconnaissance de nos savans ne sera pas aussi bruyante que celle de nos fabricans; la Sorbonne ne vous donnera pas des fêtes aussi magnifiques que l'Hôtel de Ville; mais elle sentira vivement le prix de ce que vous aurez fait pour la science, et elle saura en profiter.

Soyez assez bon, my dear sir, pour me tenir au courant de ce qui sera décidé sur cette question, et recevez, je vous prie, l'assurance de ma consideration et de mes sentimens les plus distingués.

Rev. Charles Graves, D. D. (signed) *Guizot*.

No. 5.

From *Leopold Ranke*.

(Extract.)

Berlin, 2 August 1851.

IT was with much interest I received the information that several influential members of the Royal Irish Academy are occupied with the project of publishing that very remarkable monument of old Irish legislation called the Brehon Laws.

Perhaps those laws, thus preserved, are not so very ancient as has been supposed. It is also possible that in their composition old Northern and Germanic influences have not been entirely excluded. But they cannot fail to contain a rich stock of genuine historical knowledge.

In the institutes of the old Irish judges, derived from early manners and customs, the primitive ideas of the nation may be discovered; and it will be also particularly curious to investigate the analogy and the dissimilarity between the Irish and Welsh laws.

Imperfect fragments of the *Leges Brehonicæ* have been already presented to the public; but they have merely tended to awaken curiosity; whereas a complete collection of them, well deciphered and faithfully interpreted, would be a valuable acquisition to science; and I consider that their publication would not only be meritorious, but is in fact a national duty.

Rev. Charles Graves, D. D. (signed) *Leopold Ranke*.

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No. 6.

From *Jacob Grimm.*

Berlin, den 8 August 1851.

AUFGEFORDERT über eine in Irland beabsichtigte Herausgabe der *Brehon Laws* mich zu aüssern, erkläre ich:

I. Dass ich mit dem Gegenstand nur durch die Abhandlung von Edward O'Reilly im 14 Band der "Transactions of the Irish Academy," so wie durch die *Capitula selecta ex antiqua Canonum collectione facta in Hibernia seculo circiter viii.* in D'Achery *Spicilegium, ed. Paris,* 1723, tom. i. p. 492–507, bekannt bin. Diese Canones müssen mit dem altirischen Recht vielfach zusammen hängen, und einen Massstab für die Beurtheilung der in Irland aufbewahrten späteren Handschriften der Brehon Laws darreichen.

II. Sollten auch die Handschriften nicht hinausgehn über das vierzehnte und fünfzehnte Jahrhundert, so können sie gleichwohl einen weit älteren Inhalt bergen. Er muss sich ergeben theils aus der Beschaffenheit des Fenischen Dialects, in welchem sie der Angabe nach abgefasst sind, theils aus der Art und Weise der Rechts-Bestimmungen selbst, wenn man dazu die Gesetze der übrigen Völker vergleicht, namentlich der Welschen, der Scandinaven und der übrigen Deutschen. Ich erlaube mir ein Beispiel aufzustellen. Jul Cæsar, Diodor, Pompon. Mela, melden uns, dass die Gallier ihre Leichen verbrannten, das Christenthum aber hob diesen Gebrauch auf. Enthalten nun die Brehon Laws, indem sie von Gräbern reden, noch Spuren des Leichenbrands, so erhellt daraus, dass ihre erste Fassung über die christliche Zeit hinauf in die Heidnische reicht; ich vermuthe das, denn jene *Canones,* libr. xlii., cap. 26, besagen ausdrücklich *primis temporibus reges tantum sepeliebantur in basilica, nam ceteri homines sive igni sive acervo lapidum conditi sunt.* Natürlich kann aber ein einzelner Punkt nichts entscheiden, sondern mehrere müssen zusammen treffen.

Den europäischen Historikern und Philologen, die sich beeifern werden eine Menge solcher Untersuchungen anzustellen, liegt ein werthvolles und wichtiges Denkmal des Irischen Alterthums noch verschlossen. Es ist der Würde des Irischen und Britischen Volks angemessen eine Ausgabe der *Brehon Laws* zu veranstalten, wie sie bereits für die *Laws of Wales* erfolgt ist.

Rev. Charles Graves, D.D. *Jacob Grimm.*

(Translation.)

Berlin, 8th August 1851.

Being applied to for an expression of my opinion respecting the proposed publication of the Brehon Laws, I beg to state,—

I. That my knowledge of the subject is derived exclusively from the Essay of Edward O'Reilly, in the fourteenth volume of the Transactions of the Royal Irish Academy, and from the *Capitula selecta ex antiqua Canonum collectione facta in Hibernia seculo circiter viii.,* in D'Achery's *Spicilegium, ed. Paris,* 1723. These canons must have an intimate connexion with the ancient Irish jurisprudence, and furnish a criterion by which to judge of the value of the later manuscripts of the Brehon Laws preserved in Ireland.

II. Supposing even that the manuscripts reach no farther back than the fourteenth and fifteenth centuries, their contents may, nevertheless, be much more ancient. This may be made to appear, partly from the nature of the Fenian dialect, in which they are said to be composed; and partly from the matter and form of the enactments themselves, when they come to be compared with the laws of other nations, as, for instance, the Welsh, the Scandinavians, and the other German races. I may be allowed to give an example of this. Julius Cæsar, Diodorus, and Pomponius Mela inform us that the Gauls used to burn their dead. Christianity abolished this custom. If, therefore, the Brehon Laws, when treating of sepulture, still contain any traces of cremation, it clearly follows that their original composition reaches beyond the Christian period, and back into that of Paganism. I conjecture that this will be found to be the case; for the canons above mentioned, Lib. xlii. cap. 26, declare expressly, "*primis temporibus reges tantum sepeliebantur in basilica, nam ceteri homines sive igni sive acervo lapidum conditi sunt.*" No doubt a single point can determine nothing, but several coincidences must be established.

To the historians and philologists of Europe, who would be anxious to undertake many researches of this kind, a valuable and important monument of Irish antiquity remains as yet shut up. It is only suitable to the dignity of the Irish and British nation to effect the publication of the Brehon Laws, as has been already accomplished in the case of the Laws of Wales.

(signed) *Jacob Grimm.*

Rev. Charles Graves, D.D.

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APPENDIX (B.)

STATEMENT of the Expenditure of the Grant of Two Hundred Pounds received by the Commissioners from Her Majesty's Treasury.

	£.	s.	d.
Paid travelling charges of Mr. Eugene Curry, sent from Dublin by the Commissioners to examine the MSS. in the Bodleian Library and in the British Museum	5	15	3
Paid to Mr. Eugene Curry, for cataloguing the MSS. of the Brehon Laws in Oxford and London; 35 days, at 15 *s.* per diem	26	5	–
Paid to Mr. Eugene Curry, for cataloguing MSS. of the Brehon Laws in Dublin; 132 days, at 10 *s.* per diem	66	–	–
Paid to Mr. O'Donovan, for cataloguing MSS. of the Brehon Laws in Dublin; 120 days, at 10 *s.* per diem	60	–	–
Paid for stamped receipt, on receiving grant of 200 *l.* at the Treasury	–	4	–
Cost of printing Report to His Excellency the Lord Lieutenant	7	9	6
Paid cost of journey to London of Rev. Charles Graves, D.D., on the business of the Commission	10	–	–
Paid for binding a portion of the MS. Catalogue	–	3	–
Car hire	–	4	6
Paid for Mackeldey's Introduction to the Roman Law, for the use of the Commissioners	–	9	–
£.	176	10	3
Balance remaining in the hands of the Commissioners	23	9	9
£.	200	–	–

APPENDIX (C.)

THE following Paper (No. 1) was circulated about a year ago, and previous to the appointment of the Commission, for the purpose of diffusing information on the present subject. After it had been read by the persons to whom it was communicated, the annexed Statement (No. 2) received their signatures.

No. 1.

SUGGESTIONS with a view to the Transcription and Publication of the MSS. of the BREHON LAWS, now in the Libraries of the British Museum, the University of Oxford, the Royal Irish Academy, and Trinity College, Dublin.

IN the public libraries of Great Britain and Ireland are preserved a number of MSS. in the Irish language, containing copies of the ancient Irish laws, commonly called the Brehon Laws, together with commentaries upon them, and written for the most part in the fourteenth and fifteenth centuries. Without assenting to the statements made by a certain class of writers, who have not hesitated to represent these documents as faithful transcripts of a code framed fourteen centuries ago, it cannot be denied that, in their present state, they bear the marks of great antiquity, and are of singular interest.

Several circumstances concur to support the opinion, that as the Brehon Laws continued to have force in Ireland in comparatively recent times, so the extant copies exhibit them in the condition in which they existed a thousand years ago. The invasion of the Danes failed to produce any appreciable change in the customs or legislation of Ireland, though they maintained settlements on its coast for three hundred years. Again, the Anglo-Norman conquest left the Brehon Laws still subsisting, in spite of rigorous enactments prohibiting any appeal to them. Anglo-Norman nobles settled on the lands, and taking the place of Irish chieftains, chose to accommodate themselves to the *lex loci*; so that it was not until about 200 years ago that English law and usage completely displaced the decisions and the practice of the Brehons.

The contents of the laws which have been preserved are very various, and may be found to have important bearings upon the existing condition of society in Ireland. Some relate to offences against person and property, and regulate in the most minute manner the fines to be paid by the offenders, as well as the compensations to be received by the injured parties, or their representatives. Others prescribe the prices to be paid for work done or articles purchased. A very interesting class of laws lays down the privileges attaching to persons in the different ranks of society. Others have reference to the distribution and transfer of land.

It must be apparent that documents of such a nature are of great importance, not only as illustrating the customs and character of the ancient Irish, but even as throwing light upon the earliest and most obscure part of European history. As the Celtic nations retired westward before the pressure of the new colonizing swarms, they carried with them into the British islands much of their primitive language and usages. The former remains to this day. It is therefore unreasonable to deny the probability of their having also preserved such

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such remnants of the latter as might serve to supply the philosophic historian with valuable materials.* It ought to be added, that the study of comparative philology would be promoted in no ordinary way by the publication of the ancient Irish laws. They are written in a dialect almost as different from the vernacular Irish of the present day as Anglo-Saxon is from English. They abound, too, in technical terms and titles of persons, which are obviously among the most unvarying parts of a language. From no source could the scholar engaged in analyzing the Celtic languages, and determining their relation to the other branches of the Indo-European family, derive more abundant or precious materials. †

The present time is favourable for the execution of the design now proposed. During the progress of the Ordnance Survey of Ireland, several persons possessing a vernacular knowledge of the Irish language, and familiar with MSS., were employed to collect information on subjects of topography and ancient history. Under the direction of the officers conducting the survey, these persons became well instructed and disciplined scholars, perhaps better qualified than any men who have lived within the last century, to perform the task of translating the Brehon Laws.

In a few years more this advantage would be irretrievably lost. The taste for antiquarian scholarship amongst the lower classes in Ireland is nearly extinct; whilst death and emigration are fast removing the few remaining specimens of the Irish *Seanachie*. The co-operation and superintendence of more accomplished scholars, versed in history, archæology, jurisprudence, and philology, would no doubt be indispensable for the completion of the work; but without the aid of such labourers as have been just mentioned, the first operation of extracting the ore, as it were, from the mine, would become one of extreme, if not hopeless, difficulty.

Abundant examples might be referred to in proof of the importance attached in other countries to the publication of records similar to those now under consideration. The governments of many foreign countries have devoted the funds of the State to the publication of their national annals and laws. Under the auspices of the Royal Academy of St. Petersburgh,

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* This course of inquiry was indicated by the illustrious Leibnitz, in his "Collectanea Etymologica:"

"Postremo ad perficiendam vel certe valde promovendam *Literaturam Celticam*, diligentius *linguæ Hibernicæ* studium adjungendum censeo, ut Lloydius egregie facere cœpit. Nam, uti alibi jam admonui, quemadmodum Angli fuere colonia Saxonum, et Britanni emissio veterum Celtarum, Gallorum, Cimbrorum; ita Hiberni sunt propago antiquorum Britanniæ habitatorum, Colonis Celticis Cimbricisque nonnullis, et ut sic dicam mediis, anteriorum. Itaque ut ex Anglicis linguæ veterum Saxonum, et ex Cambricis veterum Gallorum, ita ex Hibernicis vetustiorum adhuc Celtarum Germanorumve et ut generaliter dicam accolarum Oceani Britannici cismarinorum antiquitates illustrantur. Et, si ultra Hiberniam esset aliqua insula Celtici sermonis, ejus filo in multo adhuc antiquiora ducerem'ur."—*Leib. Op.* vol. iv. p. 131.)

The following passage, in a letter addressed by Leibnitz to Dr. William Wotton, the learned editor of the "Leges Wallicæ," contains a statement of the same view, but in terms sufficiently different to make it deserving of quotation:—

"Porro Hibernos crediderim profectos ex antiquis Britannis; et majoris adhuc antiquitatis testes esse. Solent enim venire insulanæ gentes ex vicino littore continentis, et facilius in remotioribus locis antiqua servantur.

"Ut igitur ex Anglis vestris discunt nostri Saxones partem suarum antiquitatum, ita ex Britannis vestris discemus nonnihil, quis sermo Cimbrorum ante Saxones; et ex Hibernis, qui in Britannia fuerint ante hos Britannos; adeoque qui in cismarino littore ante ipsos Cimbros."—(*Ib.*, p. 219)

† M. Adolphe Pictet, in his "Memoir on the Affinity of the Celtic Languages with the Sanskrit," spoke thus of the subject which he undertook to discuss:—

"Il est temps de trancher enfin cette question: l'ancienneté de ces idiomes, le nombre et l'importance historique de leurs monuments écrits, presque inconnus encore, le fait qu'ils renferment une partie des origines de la langue Française: tout se réunit pour réveiller l'intérêt sur ces curieux débris de la primitive Europe. En attendant des travaux plus complets sur leur histoire, travaux qui ne peuvent être entrepris avec succès que par les savants nationaux, on peut, au moyen des matériaux existants, les rattacher à leur véritable souche, qui est, sans contredit, Indo-Européenne."—(P. vi.)

The interest of these philological researches, and their bearing upon historical studies, are well stated by M. Pictet in the following passage of the same work:—

"Je répèterai ici, avec quelques nouveaux développements, ce que j'ai dit dans ma troisième lettre à M. de Schlegel ('Journal Asiatique,' 3e série, t. ii., p. 455, et suiv.) sur les avantages qu'offrira l'étude des langues Celtiques pour la solution des grandes questions relatives à l'origine et à l'histoire de la race Arienne ou Indo-Européenne.

"La race Celtique, établie dès les temps les plus anciens dans l'Europe occidentale, a dû y arriver la première, et, selon toute probabilité, elle s'est séparée avant les autres de la souche commune. Cette circonstance pourrait expliquer peut-être pourquoi les langues Celtiques, à côté d'une plus grande richesse en radicaux Indo-Européens, offrent un système moins complet de formes grammaticales que la plupart des autres branches de la famille; soit qu'à l'époque de la séparation, l'ensemble de ces forme n'eût pas encore atteint tout son développement, soit, ce qui est plus probable, qu'un temps plus long ait exercé, sous ce rapport, une influence plus destructive. Quoi qu'il en soit, les analogies de ces langues avec le Sanscrit nous reportent à l'époque la plus ancienne à laquelle nous puissons atteindre par la philologie comparée, et deviennent ainsi une des données les plus importantes pour rechercher quel degré de développement avait atteint la langue-mère de toute la famille. Ainsi, par exemple, l'examen des idiomes Celtiques me paraît démontrer avec évidence qu'au moment de la séparation, la langue-mère possédait déjà tout un système de lois euphoniques, que le Sanscrit a le mieux conservé, si bien que certaines anomalies du Celtique trouvent encore leur explication dans les règles euphoniques de l'idiome sacré de l'Inde. L'ensemble des formes grammaticales, ainsi que le système de dérivation et de composition, pourront être l'objet d'investigations analogues.

"Un sujet de recherches plus attrayant encore, c'est l'état de civilization qu'avait atteint le peuple-père de toute la race Indo-Européenne. Une comparaison approfondie, et toujours fondée sur les vrais principes étymologiques, des termes appliqués à désigner les objets de la vie matérielle, les animaux domestiques au sauvages, les plantes utiles à l'homme, les produits de l'industrie humaine, puis, sur-tout, des expressions qui se rattachent à l'organisation sociale, à la vie intellectuelle, aux croyances religieuses, pourraient, à ce que je crois, jeter sur cette obscure question une lumière inattendue."

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Petersburgh, and at the expense of the empire, a complete collection is now being made of all the known documents in any way bearing upon the history of that country. The national resources of France and Germany have long ago effected the publication of the Salic Law and of the Codes of the Ripuarian Franks, the Burgundians, and the Visigoths. More recently the Danish government furnished the means of publishing the Icelandic Laws, documents remarkably similar in their nature to the ancient laws of Ireland.

It is not necessary, however, to point to examples derived from the practice in other countries, when a precedent exactly applicable has been lately furnished in our own. The codes of the Anglo-Saxon Kings occupy one of the volumes published at the expense of the nation by the Commissioners of Public Records; and in another of these volumes, printed in the year 1841, are contained the ancient Welsh Laws. In both cases, along with the original text, are given a translation and a glossary.

From these stores of early English and British history modern writers have derived copious information. A reference to Mr. Kemble's learned work on "the Anglo-Saxons" will show how much and how skilfully he has availed himself of his knowledge of their laws. The publication of the Welsh Laws has not yet produced such valuable fruits. But it is certain that a comparison of them with the Irish Laws would be attended with important results. Parts of them which appear obscure would thus receive elucidation, and acquire a fresh interest. In fact, it may be said that the publication of the Irish Laws is essential to the completion of the work undertaken by the Commissioners of Records. Many purposes which it was intended to promote by the publication of the Laws of England and Wales would be furthered, in like manner, by the publication of those of Ireland. These works are alike calculated to aid the labours of the historian and the philologist. Perhaps even there are circumstances which would render the publication of the Brehon Laws especially interesting in the eyes of the politician who has studied and been perplexed by the anomalies of Irish character. Is it unlikely that the Irishman's habits of thought and action were, in the first instance, reflected in his laws, and have been influenced, even down to the present time, by institutions to which his countrymen clung for centuries with a desperate tenacity? The ancient Irish had nearly as much respect for their laws as for their religion. If this be so, the politician dealing with the present state of Ireland ought to acquaint himself with its ancient laws, as being the best exponents of its early history.*

May we not conjecture, too, that exaggerated notions of the well-being of society and the advancement of civilization in remote periods of Irish history, combine, with other causes, to create in some minds an undue dissatisfaction with the present order of things, and a perverse disposition to thwart the efforts of those who are doing their utmost to ameliorate it? Nothing could be more efficacious to dispel errors of this kind than a statement of the real facts of the case, which probably could be elucidated in no other way so completely as by the publication of the code of Brehon Laws.

The expense of executing the design now suggested would not be considerable. Recent researches carried on by scholars in Ireland have led to the collection of materials available in the translation of the laws. It might, therefore, be safely calculated that the cost of preparing an edition of them would fall short of what has been expended in publishing the volume of the Welsh Laws.

No. 2.

We have read the paper intituled "Suggestions with a View to the Transcription and Publication of the MSS. of the Brehon Laws," and are of opinion that it would be desirable to have these suggestions carried into effect by the publication of a complete and well-edited collection of the ancient Laws of Ireland.

We conceive that such a work would be a proper supplement to the volumes of the Anglo-Saxon and Welsh Laws already published by the authority of the British Government, and would be highly conducive to the promotion of historical and philological knowledge.

(signed) *Maguire Brady*, C.
Leinster.
Dunraven.
Rosse.
Monteagle.
Talbot de Malahide.
Newcastle.
Mahon.
T. B. C. Smith, M. R.
Francis Blackburne, Chief Justice, Q. B.
D. R. Pigot, Chief Baron.
James H. Monahan, Chief Justice C. P.
John Romilly, M.R.
T. R. Robinson, D.D., Pres. R. I. A.
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W. R. Hamilton, Ex-Pres. R. I. A.
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George A. Hamilton, M.P.
James Whiteside, M.P.
Joseph Napier, M.P.
Robert Harry Inglis, Bart. M.P.
Sidney Herbert, M.P.

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* Admirable examples of the use to be made of ancient laws, as illustrative of the history and character of nations, are to be found in M. Guizot's "History of Civilization."

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LAWS AND INSTITUTES OF IRELAND.

REPORT of the COMMISSIONERS appointed by the Lord Lieutenant of *Ireland*, to Inquire concerning the ANCIENT LAWS and INSTITUTES of *Ireland*; also, COPY of the LETTER from the Chief or Under Secretary for *Ireland*, forwarding the same to the Lords Commissioners of the Treasury.

(*Sir Robert Ferguson.*)

Ordered, by The House of Commons, *to be Printed,*
17 *May* 1852.

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