reference to the question of expense, but the English and Scotch Acts contain some directions on the following points:—(1) the preparation of a table of allowances to be made to the persons employed in taking the census. (2) The ascertaining of the amounts that become due to the persons who shall have taken the census. (3) The manner of making the payments, when ascertained.

The differences of procedure in each country in this matter are not merely formal, but arise from difference of circumstances. Yet, they do not render necessary separate statutes, for they might be omitted altogether, as is the case in the Irish Act. The object is to secure that the census shall be taken with due regard to economy, and that the money spent shall be properly applied. These ends are really obtained, not by the clauses of the Census Acts, but by the control exercised by the Treasury and the census authorities.

In conclusion, we may notice some sections present in one or more of the Acts, but absent from the others. Thus, the English and Scotch Acts each have, while the Irish Act wants, a section giving the title of the Act, *e.g.*, this Act may be cited as the "Census Act, 1880." The Scotch Act contains a section directing that a printed copy of the Act shall be sent to the sheriff of every county, and the chief magistrate of certain burghs. The Irish Act contains a section which directs that "an account of the population of Ireland shall be taken at the time and in the manner hereinafter directed."

The consideration of these Acts suggests two leading principles which should regulate the construction of Acts of Parliament—first, that every public Act should extend to the whole of the United Kingdom, unless it can be proved that some part of the United Kingdom should be excluded from its operation; and, second, that corresponding Acts should agree, as far as possible, in form and terminology, so that identity of form and terminology would indicate identity of circumstances, and diversity of these would suggest and imply diversity of circumstances. The recognition of these principles would simplify the work of legislation, make the law plainer and more comprehensible, and facilitate its ultimate codification.

II.—*Irish Linen Laws and proposed Amendments thereof.* By Arthur Henry Bates, Esq. Barrister-at-Law.

[Read Tuesday, 25th January, 1881.]

THE custom, largely adopted in many manufacturing districts, particularly in the north of Ireland, of manufacturers in the linen and damask trade giving out to weavers the materials for webs to be woven by them in their own homes, has been the origin of a small code of laws. The fact that property, representing a very large amount of capital, is entrusted during a considerable time to men generally poor, and is left during that time under their complete control, in danger of being lost or injured, not only by their dis-

honesty but also by their want of care or of industry, or even by their misfortunes, as well as by the dishonesty, negligence, or misfortune of the other inmates of their houses, has been considered sufficient to justify the existence of special laws, containing provisions intended to protect the interests of the owners of such property. These provisions, with others regulating the sale of flax and linen, and intended to protect buyers of such against fraud, form the contents of the Acts which are the subject of this paper.

It is proposed in this paper to bring before the attention of this meeting, in such brief statement as is possible, the character of the existing laws on this subject, and of the enactments by which it has been proposed to supersede them, and to offer a few suggestions as to the nature of the measures which ought to be adopted in their place. At first sight it may not seem an interesting subject, but it can, I think, claim to be both interesting and practical. It is practical—for some change in the existing law is imminent. During the last five years three Government Bills, none of which became law, were introduced into the House of Commons, and the existing laws are only kept in force from year to year by the Expiring Laws Continuance Act. It is interesting, at least to those persons—so numerous in this Society—who have at heart the interests not only of trade and the country at large, but also of those classes in it who are not very well able to secure their own interests. It may be assumed that the employers have successfully demanded from the legislature such provisions as they have thought necessary for the preservation of their own interests. The present laws may be regarded as the results of attempts, enlightened or otherwise, to protect these. It is but just that now the interests of the employed should also be taken into account.

The Acts now in force.

The existing law is contained in 5 & 6 Will. IV. c. 27, secs. 1 to 8, 10 to 14, 16 to 25, and 31 to 36; the 3 & 4 Vic. c. 91, omitting 12, 23 and 29; the 5 & 6 Vic. c. 68; 7 & 8 Vic. c. 47; and 30 & 31 Vic. c. 60.

I have given the number of the Acts and sections now in force for the purpose of reference, but there is not time to go with any fulness of detail into their contents, nor is there much reason for doing so. It may be sufficient, with the other notices below as to the existing law, to state briefly that the surviving portions of 5 & 6 Will. IV. contain provisions intended to check fraud in the sale of flax and linen, and a number of regulations as to their sale, in which a system of inspecting and stamping the materials to be sold is adopted, with penalties for violating these provisions and regulations, and, generally, that this Act is concerned about buyers and sellers. The 3 & 4 Vic. c. 91, contains the law as to employers and employed. The remaining ones are amending Acts. By 3 & 4 Vic. theft or embezzlement by the weaver of the material entrusted to him is punishable by forfeiture to the amount of the value of the material, and by costs and penalty, not to exceed together £5, and, in default of immediate payment, with imprison-

ment not exceeding two months. Persons knowingly receiving, puchasing, or selling stolen goods, or having them without being able to give a satisfactory explanation of how such were come by, are guilty of a misdemeanour, punishable, in addition to deprivation of the goods, by a forfeiture of a sum not to exceed, with costs, £20, if tried at petty sessions, and in default of immediate payment, with three months' imprisonment. All the other provisions appear in the subsequent Bills, and will be noticed sufficiently below.

The recent attempts at legislation.

The first attempt at legislating on this subject which I will call attention to, was the Bill introduced in 1876 by Sir Michael Hicks Beach, then Chief-Secretary for Ireland. This was withdrawn without debate. It simply collected into one all the provisions now in force of the Acts I have named. Some trifling alterations were made, but, these excepted, this Bill gives, in the form of one measure, the existing law. The next Bill was introduced by the Hon. James Lowther, then Chief-Secretary, in 1878, and abandoned after the second reading and without debate. In consequence of an event, which I am about to mention, it differed very much from its predecessor; but, on the other hand, it was, excepting in two of its provisions—one of them of no importance—identical with its successor, and therefore it does not require any separate notice.

Its successor was a Bill introduced by Mr. Lowther in 1879, and abandoned after the first reading without debate. This as the last Bill on the subject, and thus the readiest precedent for future legislation to adopt, deserves some discussion. I must first mention the event before alluded to, as it affords an explanation of the form in which we find this Bill. The Bill may be shortly described as a remnant of the Bill of 1876. After the withdrawal of the last-named Bill, and in consequence of a letter in which Sir Michael Hicks Beach, expressing his wish to obtain the views of the persons engaged in the linen manufactures, or experienced in the administration of the laws relating to them, requested opinions as to the Bill, and as to which of its provisions were no longer necessary or suitable. A committee composed of an equal number of the representatives of the manufacturers and of the weavers in the damask and cambric trade in Lurgan considered the Bill. The manufacturers drew up a report, stating the views of the manufacturers, but adopting mainly the views of the weavers.

The effect of this report and appendix was remarkable, as is shown by the contents of the Bills which followed it. Sections 3–30 inclusive, which contained all that remains of 5 & 6 Will. IV. were omitted out of the succeeding Bill. Except as to the 3rd, 12th, 13th, and 29th, this was in accordance with the wishes of the manufacturers, who wished these latter to be retained; but the chairman argued in his report against their being retained. The following sections were also omitted—sec. 34, empowering a justice to issue warrant to arrest suspected offenders; sec. 36, empowering inspectors or sub-inspectors of police "*on receiving information that*" stolen yarns are deposited in certain premises, and that there

is reason to apprehend their removal before warrant can be obtained, to search without warrant the premises, and, if stolen yarns found, to summon or arrest the occupier—a section, according to the Report, "strongly objected to by the weavers;" sec. 49, providing for masters who refuse to pay wages due, being summoned before Petty Sessions; and secs. 39, 51–53, and 55–57, which are not important. The remaining sections of the Bill of 1876, with two not found in it, compose the Bill of 1879. Some of these remaining sections are considerably modified; and, when this is the case, it is frequently the result of suggestions contained in the report and appendix; and it is, apparently, in deference to the views there expressed that the sections named are omitted.

In discussing the provisions of the Bill of 1879, I may have occasion to refer to the suggestions contained there, as to the separate sections; but as the report contains a protest against any special legislation on this subject—a protest supported by arguments which go to the whole ground of the Bill, this seems the proper place to state this view of the question.

Suggestions for dispensing with all special legislation.

The Lurgan report says:—"The weavers, on the other hand, opposed all special legislation, and were anxious to have the benefit of the Employers and Workmen's Act, 1875;" and adds, "I concurred with the view taken by the weavers." "The whole of this special legislation," he thinks, "could be obviated by a few generalizations and improvements in the law." The generalizations and improvements by which he proposes to produce this effect may be comprised in two reforms which, he suggests, should be made in the existing law.

(1) Such amendment of the general criminal law as may be necessary, in order that such of the offences by weavers against the property of their employers, as are really criminal, may be included in the definitions of the crimes already known to the law.

(2) The conferring on the courts of petty sessions universal jurisdiction up to the amount of £10. Of the powers which this latter change is intended especially to confer on these courts, and from the exercise of which by these courts, it is anticipated that the greatest advantage would result, the Report selects the following:—jurisdiction in the matter of sureties, whether given in or out of court, so as to tend to bring about the substitution of the system of sureties in place of that of damages and penalties; complete equitable jurisdiction, enabling the court to adjudicate between the employer and weaver, where the relation between them produces relative rights and duties, really amounting to trusts and the offences of the weaver are really breaches of trust—thus giving the employer an adequate civil remedy against such; useful powers of injunction, to prevent injury or loss of the property entrusted to the weaver; the power to try issues of interpleader, should such arise between landlord distraining articles claimed by the employer while on the premises of the weaver; and, finally, all the advantages of a single forum, in which all questions between employers and

employed could be tried and determined, and the affairs of the weavers settled without any recourse to the Court of Bankruptcy, or elsewhere, being necessary.

The existing law as to larceny, and the present criminal jurisdiction of the petty sessions courts.

In connection with the first reform suggested by the Report, a short notice of the state of the existing general criminal law as to larceny, and as to the jurisdiction of the courts of petty sessions to administer this law, may be useful.

In order to constitute the crime of larceny (under which head the theft or embezzlement of the weaver ought to fall) the common law requires that there should be a *wrongfully taking* by the offender of the article stolen, and not merely a *wrongfully conversion* of it to his own use. Consequently a person who had obtained lawful possession of an article could not, while the article was so in his possession, commit a theft of it. A servant who has received some property for his master and before his possession has become mere controul (that is, when the possession of the servant is deemed by the law to have become that of the master, and when, consequently, a wrongful *conversion* would amount also to a wrongful *taking*, and render the servant guilty of larceny), and a person who, working in his own home, has received some article or materials to be used or made into anything, and then returned to the owner, are both of them in the lawful possession of such property, articles, or material, and, while in this position, could not, at common law, commit theft by a wrongful conversion of such to their own uses. Now, by statute law, a *wrongful conversion* on the part of the persons I have named is made a larceny. The offence on the part of the first-named person is a theft, or, as it is more precisely called, an embezzlement "by a clerk or servant;" that on the part of the last-named person is a "theft by a bailee." The position of a weaver, entrusted with the tools or materials of his employer, must be either that of "a clerk or servant," or of "a bailee." He is one or other at least.

The 68th section of 24 & 25 Vic. c. 96, provides for embezzlement by "a clerk or servant," and so far as a weaver comes within the definition of "a clerk or servant," he is punishable under this section for theft of the property entrusted to him. Under ordinary circumstances, however, and while working in his own home, a weaver does not, I think, come under the definition of "a clerk or servant."

The 3rd section of the last-named Act provides for theft by a bailee. It is as follows:—"Whosoever, being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use, or to the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof, upon an indictment for larceny; *but this section shall not extend to any offence punishable on summary conviction.*" As to this proviso, Mr. Graves, at page 105 of his edition of the *Consolidated Criminal Statutes*, says:—"The proviso was intro-

duced to prevent the clause applying to the class of persons employed in the silk, woollen, or other manufactures, liable to be convicted under sundry statutes." It was undoubtedly owing, in part, to the defect I have mentioned in the common law which made the *wrongful taking*, and not the *wrongful conversion*, the test of what was theft, that the "sundry statutes" Mr. Graves speaks of, and which include the laws we are discussing this evening, were found necessary. So that, if Mr. Graves is right, we have the legislators of the country, while introducing a reform into the laws, carefully limiting its effect, so as to avoid interfering with a certain portion of existing law, which owed its existence to one of the very defects that their reform was intended to remove from the law.

This explanation, which appears to be the only possible one of what Mr. Justice Stephens, in his introduction to his *Digest of the Criminal Law*, calls a "strange proviso," is there shown by the latter gentleman to be utterly unsatisfactory as justifying the existence of this proviso.

Thus we see how easily the first step suggested by the Report could be taken. It involves only the striking out of the "strange proviso," which has no business to be where it is.

Before noticing the jurisdiction of petty sessions courts in administering the general law as to larceny and embezzlement, I should mention the 7th section of the Summary Jurisdiction Amendment Act, 1862, 25 & 26 Vic. c. 50, which is as follows:—

> "Any artificer, workman, journeyman, apprentice, servant, or other person, who shall unlawfully dispose of, or retain in his possession, without the consent of the person by whom he shall be hired, retained, or employed, any goods, wares, work, or materials, committed to his care or charge (the value of such goods, etc. not exceeding the sum of £5), shall pay to the party aggrieved such compensation as the justices shall think reasonable, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for a term not exceeding one month."

I am not aware how far this section is employed in punishing offending weavers. It is evident that, if necessary, it could be so used; but it appears itself to be objectionable, as a bit of special or, at least, piecemeal legislation.

The present limit to the jurisdiction of the courts of petty sessions in the administration of the general law as to larceny and embezzlement is that the value of the article stolen or embezzled does not exceed five shillings, and can only be exercised where the prisoner consents. The Summary Jurisdiction Act, 1879, if it were extended to Ireland, which it is not yet, would substitute the value of forty shillings for that of five shillings. This limit does not exist where the accused pleads guilty, or where he is a juvenile (unless his parent or next friend objects), or under the last mentioned Act, where he is under sixteen, and consents.

The present civil jurisdiction of the petty sessions court.

The civil jurisdiction of these courts at present extends to debts, strictly so called, which have been contracted within one year previously, the amount of which sought to be recovered does not exceed

£2; but under this term nothing in the nature of damages is recoverable.

If the Report means by *universal jurisdiction*, a jurisdiction criminal as well as civil, it is evident that this present limit, or even that which would be substituted for it, by the extension of the Summary Jurisdiction Act, 1879, to Ireland, is a long way below his proposed limit, and the adoption of the latter in the case of criminal jurisdiction might seem a very serious step. The force of any objections that could be urged against it, would, I think, be considerably weakened, were all the advantages of the last named Act extended to Ireland. The most noticeable of these advantages are—a right to demand a trial by jury, and the right to appeal in every case where imprisonment is inflicted without the option of a fine. On this point I refer my hearers to a paper read before this Society on the 25th of May last.

The provisions of the Bill of 1879.

I pass now to the provisions of the Bill of 1879, which we can consider only very briefly. The first two sections contain respectively the short title of the Act, and the repeal of the existing Acts which I have named. The third section is the principal one. It is as follows:—

> "3. If any person whosoever intrusted, for the purpose of manufacture, or for any special purpose connected with manufacture, with any linen, hempen, cotton, silk, or woollen yarns, or any two or more of these materials mixed with each other, or any cloths made of any one or any mixture of these materials, or tools or apparatus for manufacturing the same, shall sell, pawn, purloin, embezzle, secrete, exchange, or otherwise fraudulently dispose of such yarns, materials, cloths, tools or apparatus, or any part thereof, he shall, upon being convicted, be liable to forfeit the full value thereof, and also be liable to a penalty not exceeding *ten pounds*."

By the 20th section, the above forfeiture and penalty, as well as the other forfeitures and penalties under this Bill, are to be enforced in the manner directed by the Summary Jurisdiction Acts—that is, the justices may, in their order, direct that in default of the amount of the penalty or forfeiture being paid forthwith, or at such other time as shall be named, the goods of the offender shall be distrained, and that in default of such amount being so paid, he be imprisoned for a term, not exceeding the terms named in the scale contained in 14 & 15 Vic. c. 93. By this scale, if the amount exceeded £5, the term may be three months; if it exceeded £10, four months.

As we have seen, in the existing law, the forfeiture is the same, but the penalty, with costs, is not to exceed £5, with imprisonment not exceeding two months in default of immediate payment.

The corresponding section of the Bill of 1876 is identical in terms with the existing law, and its contents are pronounced, in the Appendix to the Lurgan Report, to be an "objectionable union of civil and criminal procedure," as indeed they are. So far as the offences of the weavers are criminal, the latter cannot complain against any law which punishes them as crimes; but they are entitled, I think, to have the criminal character of their offences tested by the ordinary criminal law of the country, and to complain against such being dealt

with under a special law, which is wide enough in its terms, and likely to be lax enough in its application, to include, and to punish with much of the ignominy and severity of criminal punishment, offences which really ought to be treated as civil. For offences of the latter class, the employers ought certainly to have an adequate civil remedy; but the weavers may complain that the mixture, which they object to in this section, is one which is not only harsh to them, but is made in the employer's favour, as it is intended to secure to him all the advantage which a civil remedy would give him.

There is an evident objection to a special law like the above section. It is not only comparatively new, and, therefore, more or less in need of interpretation, but its loose string of terms renders its interpretation uncertain, and a very wide and lax application of it, possible; while the tribunal which is to interpret it is hardly one qualified by legal training, to do so properly. If only crimes are aimed at by this proposed law, it is clearly the correct course to deal with these crimes under the ordinary criminal law of the land, with its strict definitions, and the full and authoritative interpretation which it has already received from the proper law tribunals.

The change in this section to the £10 as the limit to the amount of the penalty, instead of the £5 as the limit to the amount of the penalty and costs in the Bill of 1876, is clearly a step in the wrong direction, and it does not appear why it was taken.

The Report and Appendix I have spoken of contain objections to this and the most of the following sections in detail; except occasionally, I refrain from repeating what is stated better there, as the most of my hearers can study that document for themselves.

The 4th section is to the effect that any person entrusted as above with any yarns, etc., who shall neglect or delay to return the same for the space of fourteen days after notice in writing from the person so entrusting him, or his agent (unless prevented by reasonable and sufficient cause, to be allowed by the court), is to be deemed to have embezzled the same, and is punishable in the same way as the offender against the 3rd section.

This, and section 20 as to procedure, are the only sections of the present Bill which have none corresponding to them either in the existing law, or in the Bill of 1876. Section 29 of 5 & 6 Wm. IV. c. 27, which is in the part of that Act repealed by the 3 & 4 Vic. c. 91, was similar. This section is taken from the English Act of 6 & 7 Vic. c. 40. No doubt, it is intended to relieve the employers in a difficulty which they may be in danger of experiencing; but, surely, it is harsh towards the weaver, and likely to work injustice against him. Surely it would be sufficient and more proper that the weaver should by his contract bind himself to pay a fine, like any other contractor, for failing to finish his work within a certain time, or to return the materials after such a notice as is mentioned in the section, and that means like those contained in the Summary Jurisdiction Act, 1879, should be given to the employer for securing and enforcing this fine, as well as other debts and liabilities due to him from the weaver. The justice could also be empowered, in case of such a violation of his contract by the weaver, to make an order, on

the manufacturer's application, for the immediate return of the property.

By the 5th section, any person purchasing or receiving any of the articles mentioned above, knowing the same to have been embezzled, or that they are being fraudulently disposed of, is liable, in addition to being deprived of the articles, to a penalty not exceeding £20.

In the corresponding section of the Bill of 1876, the punishment is the same, with the addition of costs, and the offence is there declared to be a misdemeanour.

Once the weaver's theft or embezzlement is brought within the provision of the 3rd section of 24 & 25 Vic. c. 76, as it could be by the omission of the "strange proviso," this present section becomes perfectly useless, as the offence aimed at would then be provided for by the 91st, 95th and 97th sections of that Act.

Whatever arguments can be used to justify the course of providing against the offences of the weavers in regard to the property intrusted to them by special legislation, it is difficult to understand how anything could be said in justification of treating the receivers of stolen yarns as a class of offenders distinct from ordinary receivers of stolen goods. It certainly seems very anomalous that while the latter are under the 24 & 25 Vic. c. 96, guilty of a felony or misdemeanour, as the case may be, and liable to a heavy sentence of penal servitude or imprisonment, the receivers of a certain class of stolen goods should, under another and subsequent Act, be liable only to the punishment named in the present section. It may at least be said in favour of this bit of special legislation, that it does not err on the side of severity.

The 6th section imposes the same penalty as in the 5th, on every person who—

> "Shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of or offer to sell, pawn, pledge, exchange, or otherwise dispose of, any such materials, cloths, tools, or apparatus as aforesaid, knowing them to have been purloined or embezzled, or received from persons fraudulently disposing thereof."

The Appendix to the Lurgan Report contains a criticism of this section. I cannot refrain from quoting a part of this comment here:—

> "So far as it does not make what is evidence of receiving stolen goods a distinct offence, clause 33 (the present section) must be intended to meet the case of a person paying full value for embezzled goods not knowing them to be embezzled, and after he has lawfully acquired them discovering that they originally had been stolen."

It cannot be charged against this section that it is superfluous, or that it deals with offences which ought to be provided for elsewhere; for it, or rather the corresponding portion of the existing law, creates a new offence.

> Section 7.—"If any credible person shall make oath before a justice of the peace that there is a reasonable cause to suspect that any person has in his possession or on his premises any purloined or embezzled cloths, yarns, materials, tools, or apparatus, such justice is hereby authorised and required to grant his warrant to search the dwellinghouse and premises of such person; and if any such property shall be found therein, to cause the

> same, and the person in whose possession or on whose premises the same shall be found, to be brought before him or some other justice of the peace, who is hereby authorised to order his detention until the next court of petty sessions of the district, unless he enter into bail for his appearance before the said court; and if the person so apprehended shall not give an account to the satisfaction of such court how he came by the same, then the said person shall, in addition to being deprived, without compensation, of such cloths, yarns, materials, tools, or apparatus, be liable to a penalty, not exceeding *twenty pounds*, although no proof shall be given to whom such property belongs: provided, etc."

If the weaver's offence was brought, as it ought to be, within the 3rd section of 24 & 25 Vic. c. 96, a justice would have a power similar to this, and quite sufficient under the 103rd section of that Act. In any case, this present section ought to be amended by substituting for the words, "make oath" in the beginning of the section, the words, "prove upon oath," thus making the justice the judge of whether the facts sworn to justify the issue of the warrant in the first instance, as under the 103rd section of the 24 & 25 Vic. c. 96, and also by allowing, as under the repealed section of 14 & 15 Vic. c. 92, the person arrested an opportunity of satisfying the justice that he came lawfully by the stolen goods, and thus getting released, without his being simply given, as he is here, the alternative of giving bail or going to jail.

To the 8th section the weavers naturally object, as by it—

> "Every constable shall and may apprehend, or cause to be apprehended, any person whom he may reasonably suspect of *having or carrying, or in any way conveying* any such property as aforesaid suspected to be purloined or embezzled, and shall lodge such person, together with the property, in a police office or other place of security, in order that they may be brought before a justice of the peace as soon as possible, who is empowered to act as in the last section."

By the common law, a constable, who has reasonable grounds for suspecting that a felony has been committed, or a private person, who can prove that such has been committed, can, without warrant, arrest the suspected offender. The slight alteration suggested in section 3 of 24 & 25 Vic. c. 96, would make the thefts by weavers, and the receiving of stolen yarns, etc., felonies. The common law could thus be used to arrest, without warrant, any person in the possession of stolen yarns, provided that the person arresting him had a reasonable suspicion—and surely so much ought to be required—that he was guilty of a felony in the way he came by them.

The loose wording of this section seems to confer a dangerous discretion on any constable, and goes beyond the powers given by the common law, and by section 103 of 24 & 25 Vic. c. 96, which contains some of the general law on this point. The present section is the same as section 8 of the existing Act 3 & 4 Vic. c. 91, and section 37 of Bill of 1876. No wonder the weavers object to special legislation containing provisions as oppressive, and as liable to abuse, as the above.

Sections 9 and 10 provides respectively for adjournments of the time of trial on behalf of the prisoner, and for the disposal of stolen property recovered.

Section 11 is as follows:—

> "It shall be lawful for the owner or owners of any such materials as aforesaid, or any other person duly authorised by him or them, from time to time, as occasion shall require, to demand leave of entrance, and enter at all reasonable hours in the daytime, into the shops or outhouses of any person or persons employed by him or them to work up or manufacture any of the said materials, or other place or places where the work shall be carried on, and there to inspect the state and condition of such materials; and in case of refusal by any such person or persons so employed to permit such entrance or inspection, such owner or other authorised person may go before any justice of the peace, and make oath that such materials have been entrusted to a weaver, sewer, or other person, and that he has reasonable grounds for suspecting some loss or injury to the property so intrusted as aforesaid, as such person has refused to permit the same to be inspected; and it shall be lawful for such justice, and he is hereby required, to issue his warrant to search the dwellinghouse and premises of such person; and such person shall, on conviction for so refusing to permit such entrance for reasonable inspection, be liable to a penalty not exceeding *twenty shillings*."

No doubt, manufacturers ought to have a right similar to that contained in this section; but the proper means by which it ought to be obtained, seems to be by contract between manufacturer and weaver, and the proper means of enforcing it, a civil remedy, such as a penal sum recoverable under the provisions of the Summary Jurisdiction Act, 1879, or where necessary, by an immediate order for entry by the constable, as suggested in the Report. In any case, in order to avoid the danger of its being abused, this section ought to be amended by inserting after the words "duly authorised," the words "in writing," and by substituting the words "and that" in place of the word "as," immediately following the sentence, "that he has reasonable grounds for suspecting some loss or injury to the property so intrusted as aforesaid." According to the present wording of the section, the fact of the *refusal* appears to be sufficient "reasonable ground" for taking the oath required. This section corresponds to the 13th of 3 & 4 Vic., and the 41st of the Bill of 1876, except that in the above the forfeiture is double the amount in that of the latter.

In section 12 (21st of 3 & 4 Vic., and 48th of Bill of 1876), which protects the employer's property from distress by the weaver's landlord, the weavers are not interested, but I may remark that the clause in the section of the existing law and former bill, which the Report calls harsh and unjust, as it forfeits the employer's property if he fail to comply in three days with a notice from the landlord, does not appear in the above section.

Section 13 is as follows:—

> "If any manufacturer, agent, or any other person duly authorised by him, shall make oath before a justice of the peace that any such materials as aforesaid have been intrusted to a weaver, sewer, or other person, and that he has absconded, or that the deponent has just cause to suspect, and does suspect, that such person is about to abscond, it shall be lawful for such justice, and he is hereby required, to issue his warrant to apprehend such person, and bring him before him or some other justice of the peace; and if such person shall have absconded, or shall not forthwith give security, to be approved of by the said justice, for the return, in a finished state, of all such materials so intrusted to him, within such time as shall be then agreed on, such justice shall, by warrant, order any constable with

his assistants to enter the house or other premises of such person, and take possession of all such materials so delivered to him as aforesaid (if a warp on the beam, with the beam and mountings), and to bring the same before the said justice, when the said justice shall direct the same to be delivered to the owner or other person duly authorised by him, and forthwith release the person in custody; but if all such materials are not in the house or possession of such person, or cannot be produced to such constable, such person shall be deemed and taken to have purloined or embezzled such materials, and shall be liable to any of the punishments awarded for such offence."

The existing law, and section 42 of the Bill of 1876, are to the same effect.

Under section 17 of 14 & 15 Vic. c. 93 the justices have a similar power, but it is only given against persons actually charged with an indictable offence, for whose appearance bail has been taken, and is only to be exercised on application by the surety, and on information *in writing, and on oath,* and the justice is only to issue his warrant "*if he shall see fit,*" and he shall only commit the person to prison in default of the latter finding other sufficient sureties, and if the justice is "*satisfied that the ends of justice would otherwise be defeated.*"

Even in its terms, the present section does not compare favourably with the carefully guarded words of that just referred to, but the provision itself is objectionable, as all who read the Lurgan Report and Appendix will admit. The object of the employer in putting this section in force, would, in the first instance, be merely to obtain security. Let him then in all doubtful cases insist upon having security before intrusting their property to the weaver, or stipulate for security being given by the latter on demand. The immediate restitution of the property might then justly be ordered by the justices where the weavers violated this agreement. The employers, if they found that their interests require it, could make such an agreement for security in all cases, whether doubtful or not.

Section 14 empowers the justice to make the person making a charge under the last section, if in the opinion of the justice he shall have made it malicious, pay to the person so charged a sum not exceeding £10.

Sections 15 and 16 direct tickets of particulars to be given by the manufacturers with yarns to the weavers, and in default of their doing so, or not producing the duplicate of such tickets when bringing any complaint under this Act, deprive them of all the advantages of this Act. These two sections seem to belong to the still existing, but thanks to the document so often referred to, already doomed provisions of the 5 & 6 Wm. IV., regulating the dealings between parties.

Section 17 renders liable to a penalty, not exceeding £2, any person receiving any of the materials aforesaid in a fictitious name, in order to be manufactured, or designedly transferring or delivering the same to any person other than the person for whom they are intended.

Section 18 empowers the justice who has committed a person for embezzling the property entrusted to him, or the court convicting a person for an offence under this Act, to issue a warrant to take

possession of property of the manufacturer found on the premises of such person, and to restore the property to its owner.

Under the 19th section the court has power to award costs to the defendant, if acquitted, to be paid by the plaintiff; and if the charge appear to have been made from malicious or improper motives, to award the former a further sum, not exceeding £20, as compensation, to be paid by the latter.

None of these sections, nor of the remaining ones, the 20th, 21st, and 22nd, which deal with the procedure and application of penalties under the Act and the construction of its terms, require any special comment.

In conclusion of my observations on this Bill, I refer all persons, not already familiar with the Lurgan Report and its Appendix, to that document. Though often obliged to borrow my observations from it, it contains a great deal that I have not attempted to repeat. After studying it, a comparison between the Bill of 1876 and of 1879 is very interesting, and shows how much has been done by the Lurgan Report towards a satisfactory settlement of this question.

In my concluding remarks I must make a more successful attempt at being brief than I have hitherto done.

I think few can doubt that the Lurgan suggestions, if adopted and acted upon, would not only render any special legislation quite unnecessary and confer very great advantages on persons engaged in this and other kinds of manufacture, whether as employers or employed, but also effect a great improvement in the general body of the law.

We have seen how easily part of the suggestions as to the criminal law could be carried out. The simple removal of the "strange proviso" would make the theft or embezzlement of the weaver a crime under the Consolidated Criminal Statutes, and thereby would make the receivers of stolen yarns, etc., punishable like any other receivers, and would give the power to issue a warrant, on information, to search for such goods, and the power to arrest without warrant, given by the common law and by the 103rd section of 24 & 25 Vic. c. 96.

The remaining part of his suggestion, namely, the conferring on petty sessions courts an universal criminal and civil jurisdiction extended to £10, in which latter would expressly be included the useful powers as to making orders in a summary way, and in other respects, which he suggests, involves a more difficult step. Some objections might naturally be urged against such a serious extension of the petty sessions jurisdiction. In answer to such the Report would point out that a £10 jurisdiction is already, by the Employers' and Workmen's Act, 1875, conferred on these courts, in the case of disputes between masters and men; that under the 7th section of 25 & 26 Vic. c. 50, given above, these courts have a criminal jurisdiction up to £5, as to offences of a special class; that the proposed Bill, like the existing law, itself disregards such objections by not only giving these courts power to convict on a criminal charge of a particular character, without any limit as to amount,

and thereupon to inflict a ruinous punishment, but also, as he points out, to try what are really actions for malicious prosecutions under the Act. These objections would also be weakened were the Summary Jurisdiction Act, 1879, extended to Ireland.

Even if the legislature should refuse to confer so extended a jurisdiction on the petty sessions courts, yet if a jurisdiction up to £5 or £6, of the kind suggested, were given to them, the change would be of the greatest importance and advantage. According to the Report, the value of the yarn entrusted to the weaver in the cambric trade, in which, according to him, 95 per cent. of the hand-loom weaving population about Lurgan are engaged, ranges from 15s. to £6.

At whatever point the petty sessions jurisdiction stopped, the quarter sessions would be available. Indeed, the aggrieved party, whether employer or employed, might advantageously be allowed, even when the matter was within this limit, the option of going to the latter court in the first instance.

The objections against the Lurgan suggestions might, however, be disposed of without removing a real obstacle which lies in the way of the course recommended. This will be found in the difficulty of inducing the legislature to set itself to effect a wide and important change, however beneficial, in the general law, as the alternative of the easy plan of passing a bit of special legislation, for it must be remembered that, in order to dispense with the need of any special legislation, it will not be sufficient merely to amend the criminal law, and extend the petty sessions jurisdiction as to it, but the civil jurisdiction of these courts must also be amended and extended, as the Report suggested. The justification of a measure like this Bill depends not only upon the existing defects in the criminal law, but also, as it points out, on the want of a sufficient civil remedy. The present Bill, like the existing law, is not merely intended to punish the crimes of the weavers, but also to give to the employers remedies which may answer the purpose, so far as their interests are concerned, of civil remedies.

No doubt, in time, the weavers' friends, if they display the same power of argument and disinterested activity shown by the Report will surmount this obstacle; but it presents a difficulty which ought, I think, to be recognized. If for the present it is found insuperable, I would suggest that the weavers' friends should accept, as a temporary measure and an improvement on the existing law, the present Bill cut down and amended. In this case they ought to insist on sections 4, 6, and 8 being omitted, and the remaining sections amended in the way suggested above. The penalty named in the 3rd section, and wherever else in the Bill the same penalty is provided, ought to be reduced to the present amount of £5. Some of the sections thus left standing would appear unnecessary, but not worth objecting to.