

EDITORIAL NOTES.

capacity, then he ought not to be allowed to go at large; for he is a greater enemy to society than one who, with evil intent, has nevertheless sufficient reason to guide him. . . . The question, therefore, in the case of a criminal, should not be, 'Is he insane?' but, 'Is he responsible?' When this change is effected, we shall hear very little about disagreement between medical experts and jurists relating to who should, and who should not be punished. And again no degree of insanity should absolve a criminal from the minimum amount of punishment that may be necessary to protect society against him and others like him. When there is less morbid sentimentality relative to the rights of certain kinds of lunatics, who are no better than wild beasts, we shall have fewer outrages to record, and few monsters in human form to perpetrate them."

The session of the Social Science Congress, which opened on Oct. 3rd ult., at the Exhibition Hall, Dublin, does not seem to have furnished much of special interest. The address of Lord O'Hagan, the President, related chiefly to the recent beneficial changes in the law of practice and procedure in Ireland. With reference to the recent abuses of the jury system in that country, he justly observes that it would be very unreasonable to form an adverse judgment as to the permanent action of a just principle, because, from a passing disturbance of the general mind, its application may have produced a temporary mischief. The section of jurisprudence and amendment of the law was opened by Dr. Ball, ex-Lord Chancellor of Ireland. He first mentioned the subjects set for discussion, which were:—

"1. Is it desirable that there should be periodical meetings of representatives of various States, to which all disputed international questions should be referred? 2. Should the procedure on private bill legislation in reference to local improvements be amended so as to facilitate inquiries on the spot by Parliamentary committees or otherwise? 3. Are any, and what, alterations in the jury laws desirable?"

The first he answered in the affirmative, citing a passage in support of his view from the celebrated treatise of Grotius, which first reduced the law of nations to a system. With regard to the second he expressed an opinion that, when the matter is minutely examined, there will be found a range of subjects, of lesser magnitude, over which central control is not so much needed, and as to which Parliament might safely delegate jurisdiction. On the third subject, which seems to be exciting so much discussion in many quarters, and on which Mr. Justice Cameron made some interesting and impressive remarks in his recent charge to the Grand Jury at the opening of the York Criminal Assizes, Lord O'Hagan spoke as follows:—

"The questions which arise in connection with the jury system as existing in England and Ireland seem to be principally in reference to the qualification of jurors, and the obligation of unanimity in order to a verdict. How far beyond the effect of a fixed qualification in limiting the number and securing the requisite fitness for discharge of their duty selection may be applied, and whether in criminal cases there should not be some mode of correcting erroneous conclusions of the jury, as in civil there is, from the power vested in the Court of directing new trials, are also matters respecting which difference of opinion prevails among jurists. With respect to unanimity, there can be no question that it enforces careful examination and sifting of the evidence, and tends to give weight to the decision, and to produce acquiescence in it. If disagreement is revealed, the defeated party may be expected to cite the favourable suffrages of the minority, and to insist that their authority is equal to that of the majority; while the external public will most probably regard the whole proceeding as infected with doubt and uncertainty. In criminal cases, the disclosure of the disagreement would place the members favourable to conviction in an invidious position; and this would particularly apply to trials of political offences. It would also embarrass the judge when awarding punishment, and the Executive Government afterwards in resisting applications for its remission. These considerations seem decisive.