

OUR CRIMINAL TREATMENT, &c.—THE O'KEEFE CASE AND THE LAW OF LIBEL.

cedure to find that these steps have been taken by so thoughtful and able a people. But it will be remembered that we have also a "register" of "habitual criminals," and that the "Prevention of Crime" Act has placed them under certain disabilities which bring them specially under the knowledge of the police, and give to our statistical information a value which it has not before possessed. It will be at once obvious that no fair comparison could be drawn between statistics collected in such a manner and those of other States which have not equal cognizance of their criminals, for the conditions are unequal. As a test of the merits of prison systems, the figures would be worse than useless, for they would be entirely misleading.

It will be remembered that for many years I demurred to a comparison between the statistics of the Convict Departments of England and Ireland. In the latter country there was registration, police supervision, and a systematic communication by means of photographs and returns between gaols periodically made. In England, at that time, the information was based upon re-convictions which in some haphazard manner were brought under notice. As between ourselves and other States which do not register and supervise their criminals, there would be the same great distinction in comparative statistics. A good sample of the errors of "Negative Statistics" is afforded by the fact that at one time it was given in evidence to a committee that the hulk system reformed 80 per cent. The apparent elements of reform being card playing, singing, dancing, and drinking.

I have repeatedly pointed out that even when the conditions are equal, a great fallacy may exist in assuming that a small percentage of reconvictions on a prison population is necessarily an indication of a good prison system. A good prison system will ultimately clear the gaol of those prisoners most amenable to amendment, and will leave behind, as its more permanent occupants, the residuum, or those who may be considered as almost, if not altogether, irreclaimable. Under these circumstances the percentage of such a prison population will be necessarily high, although the system will have acted most beneficially in reducing the total number in the gaol by operating on

those who are open to reformatory influences.

These are matters which will require the attention of the International Statistical Prison Congress, to be held in Brussels during next September.

In conclusion, I beg to express my hope that I have succeeded in explaining points about which there appeared to be some ambiguity in the Congress, and also in shewing that although I hold a very strong opinion that we, so far as principles are concerned, are upon the right lines in our criminal treatment, we have still some work to do to develop these principles, which need not however be attended with difficulty, or be calculated to disturb our present control as magistrates.

THE O'KEEFE CASE AND THE
LAW OF LIBEL.

The case of *O'Keefe v. Cullen* is not, perhaps, so important from a legal as from an ecclesiastical and social point of view; and, however interesting a discussion of its legal bearings might be, we are unfortunately not in possession of sufficient material to enable us to exhaust the subject. But it is not so difficult to extract from the reports which have been published the true nature of the action and the legal principles which it involves, the materials wanting to enable us to complete the examination being an abstract of the pleadings and a reliable report of the Chief Justice's summing up.

The cause of action arose out of two alleged libels published by Cardinal Cullen, the first a suspension and deprivation, and the second an interdict, and the whole question turns upon the relationship created between a man who becomes a Roman Catholic priest and his ecclesiastical superiors. Has a Roman Catholic Cardinal absolute power over a priest in matters pertaining to the Church, so that no form of suspension, deprivation, or interdict can be actionable as a libel? Chief Justice Whiteside, as we understand, ruled that whilst a priest owes due allegiance to his superiors, and indeed absolute obedience in matters ecclesiastical, he retains his rights as an individual, and if he be suspended in