tured, and it carries on an active transit trade. It was long the seat of a Roman garrison, and in the Middle Ages it gave the title to a powerful family of counts, whose territory passed to Austrian possession in the 16th century. In 1646 the town was captured by the Swedes; and in 1850 it gave its name to a treaty by which Austria, Bavaria, and Würtemberg formed an alliance against Prussia. Population in 1869, 3686.

BREHON LAW, the law of Ireland previous to the Conquest, and of some communities of the Irish down to the 17th century (from *breitheam*, genitive *breitheamain*, a judge; root, *breith*, a judgment; compare *Vergobretus*, "*vir-ad-judicandum*," Cæs., *De Bell. Gall.*, i. 16). Three volumes of these laws, comprising the code called the *Senchus Mor*, alleged to have been revised by St Patrick, have been published by a Royal Commission appointed in 1852, and other portions in the second series of O'Curry's *Lectures on the Materials of Ancient Irish History*, edited, with a learned introduction, by Dr W. K. Sullivan in 1873. The antiquated and often obsolete language both of the original text and of the interlined glosses, coupled with the fact that portions of both are cited in compilations considered not later than the 10th century, are arguments for their acceptance as fragments of a primitive system unmodified by Anglo-Saxon, Danish, or Norman influences. The Roman (or civil) law is hardly traceable in them, except as regards ecclesiastical affairs, and that *sub modo* only. From the first-mentioned cause also, the provisions are often obscure and sometimes unintelligible; but enough appears to indicate the general nature and much of the details of these laws.

As compared with the collections known under the generic title *leges barbarorum*, they are remarkable for their copiousness, and furnish a striking example of the length to which moral and metaphysical refinements may be carried under rude social conditions. They present a state of society such as may be conceived to have existed under the older manorial organization, when the land was to a greater extent "folk"-land than "boc"-land, and comprised commons of tillage as well as of pasture. This kind of occupancy entailed annual repartitions of the tillage, recalling the usage of the ancient Germans (Cæs., *Bel. Gall.*, vi. 20), and of which, as practised on a minor scale in Ireland in 1782, Sir Henry Piers has given an account in his description of Westmeath (Vallancey, *Coll.*, vi. p. 115). Traces of such repartitions survived under the name of Rundale (Irish *randach*, "partire") in the Highlands of Scotland and in some parts of the West of England till recent times (Maine, *Early Inst.*, p. 101). There is no evidence, however, in the Brehon code, as now published, of merely family occupancy, in which one household living together, or even one village community, enjoyed the land and its produce in common, although such an origin may be theoretically conjectured for the institutions described. The social unit comprised separate families and households numerous enough to occupy a *crich* or *quasi* manor, within which existed a court and complete system of primary social organization. In each of these, mensal lands were set permanently apart for the chief, and means existed by which portions of the common land could, within certain limits, be acquired in severalty by individual owners. The *crich* formed portion of the *tuath*, or *quasi* barony, one or more of which constituted the *mor tuath*, or petty kingdom, equivalent to a county or several counties, governed by a *ri* or *regulus*, who, in theory at least, bore allegiance, through superior *reguli*, to the monarch. The grades of rank were numerous, but the distinctions of wealth which grounded them appear very arbitrary. The upper classes were all "Aires." To be eligible to the *aire* grade, the freeman should possess, besides a certain amount of wealth in cattle, a prescribed assortment of agricultural implements and household goods, the meagreness of which exemplifies the slow progress of the arts of life in early states of society, and he should have a house of given dimensions, ranging from 17 to 27 feet in length, and containing a given number of compartments. The houses were of timber and wattle-work, surrounded by open spaces of prescribed extent for each class. The lower limit for this space was the distance to which the owner seated at his door could throw a missile of given weight; multiples of that distance determined its extent for the higher classes. Tacitus has noticed a like custom of keeping clear spaces round the several dwellings among the early Germans; and this regulation has probably contributed to retard the progress of the early Irish out of pastoral and agricultural into civic habits. There was a serf and slave population, who were designated *ernaans*, as representing the earlier Firbolg and Pictish colonists, who did not enjoy these privileges, except by the process of becoming *fuidhirs* or tenants of the separate lands of the nobles, who called themselves *Gaidel*, or Gael, and claimed a different descent. Besides these tenants, or "feuers," there were dependants called *ceilés*, who stood to the wealthy classes in a relation resembling that of the *clients* of the Roman commonalty to their patrons. Both they and the *fuidhirs* owed suit and homage to their *flaths* or lords, as well as services and rents in kind and in refections. The food-rents, *biadh*, corresponding to the Anglo-Saxon *feorme* (whence "farmer"), were supplied both at the residences of the chiefs and at the tables of their tenants, whence originated the customs of *coyne* and *livery* of later times.

The use of coined money was practically unknown, and the unit of value (*sed*, *seota*, "assets") was the cow. The *ceilés* appear to have been attached to their lords by largesses, or "commendations" of cattle which they used in their own tribal lands. It is in the *fuidhir* class that a law of tenure of land originated, and possibly in these relations we may discover the rudiments of a partly-developed feudalism. The *fuidhir* is, in the theory of the native etymologists, the *fo-tir* or "land-underling," as one who holds land of another. The rules regulating these several kinds of enjoyment of the land are peculiar to the Brehon code, and, as may be observed of all its provisions, are extraordinarily minute, being designed to fix all rights and liabilities, under every probable state of circumstances, in values numbered, which may be one cause for the slow social progress made under their operation. For each supply of cattle to the *ceilé* a definite return to the *airé* is fixed to the end of seven years, when the property vests in the *ceilé*. But the supply should not exceed fixed limits if the recipient would preserve his *status* as a freeman. The *fuidhir*, or base tenant, was bound to larger returns in rent and services, and the lord might, on violation of the tenant's engagements, resume the possession of the land; but it would appear that during the *fuidhir's* occupation he could not be otherwise disturbed without a measure of compensation. On the death of the *ceilé* or of the *fuidhir*, a *quasi* heriot was payable to the lord.

The succession to the territorial headships was elective within hereditary limits; the succession to tribal rights of occupancy, and individual rights of ownership in the separate hereditaments acquirable by individuals, was hereditary. The law of *distribution* of a deceased person's property is very minute in its provisions, though obscure, owing to the technical description of the classes and persons entitled; but it appears to have contemplated divisions *per capita* and not *per stirpes*. The law of *marriage* is remarkable for the variety of irregular relations which it appears to sanction, and for its careful protection of the separate property of the irregular as well as of the lawful wife, both during cohabitation and on separation, which appears to have been frequent. The lawful wife seems to have had no other protection against the introduction of the "adaltraich" wife than the withdrawal of her separate property, in addition to certain mulcts payable to her on the occasion. She possessed independent rights of alienating a portion of her separate property, and could, to some extent, control the rights of alienation of her husband. The looseness of the marriage tie evidenced by these laws was one of the evils calling for reform alleged by the Irish prelates in their letter moving Pope Alexander III. to ratify the grant of the island made by Adrian IV. to king Henry II.

The practice of putting out the children of the wealthier classes to be nursed and educated may have contributed to make such relations less incompatible with domestic peace. The law of *fosterage*, of which few if any recognizable traces, outside the law of apprenticeship, have survived elsewhere, provides for the external nursing and educating of the children of the upper class by poorer members of the community, who, besides the fosterage-fee received with the infant, had a claim on the foster-child for support in old age. The fostering began from infancy, and terminated, in the case of daughters, at thirteen, and of sons, at seventeen years of age. A certain amount of instruction should be imparted. Girls of the less wealthy class should be taught to use the handmill (*quern*) and sieve, to bake, and to rear young cattle; those of the higher class to sew, cut out, and embroider. The boys should learn kiln-drying and wood-cutting, and those of the upper class chess-playing, the use of missiles, horsemanship, and swimming. The lawful food for all was porridge. Their clothing, besides the nursing clothes supplied by the parents, was according to their status, from sober coloured stuffs for the children of the less wealthy to scarlet cloth and silks for the children of those of the rank of king. Provision was made for the necessary correction of the pupil, with mulcts for excess. During the pupilage, the foster-father was entitled to all compensation for injuries to his charge, and liable to all mulcts for their offences. If the child died in its pupilage, another might be sent in its place. If returned before the completion of the term, or imperfectly educated, the foster-father should refund. The fixing of the proportionate amounts due in the several cases gives rise to much minute regulation. The law of *military service* like the others, was based on a system of fines leviable for non-attendance and even for desertion in the field. To what has been said on the land-law it may be added that public contributions were leviable for the repair of roads and bridges, and the maintenance of the chief's or king's fortresses; and that each community had a public mill, fishing-net, ferry-boat, &c., besides such objects of this kind as were possessed in severalty by the wealthier members. There was also a law of waifs and strays, and of wrecks of the sea, with provisions for the entertainment of shipwrecked seamen at the common charge of the district entitled to the distribution of the wreck. There is little mention of testamentary disposition; and from the language employed, a Roman origin may be probably surmised for it. To counterpoise the excess of privilege incident to the possession of wealth, the mulcts payable for misfeasances and nonfeasances of all kinds were graduated in the interests of the poorer classes. Crime and breach of contract might reduce from the highest to the lowest grade.

As regards the law of *contracts* generally, the disabilities arising from tribal partnership, infancy, imbecility, coverture, and obligation to the lord give rise to many exceptions and qualifications, the general rule being that acquiescence, after notice, by the parties jointly interested, or standing in relations of protectorship, has the effect of validating what would otherwise be void. Distinct periods are limited within which the parties entitled to disagree may avoid the bargain; and, in all cases, a *locus pœnitentiæ* of twenty-four hours is annexed to the oral agreement, within which time either party may rescind it. The nature and effect of a *warranty* on sale appears also to have been understood and provided for; and frequent reference is made to the cases arising on unsoundness, latent or supervening. There are some traces of a law of the *market*, but how far, if at all, it qualified the ordinary rules of contract, does not appear. The *Aenachs*, or great fairs, were held at distant places and at long intervals of time. Various immunities are given to the persons frequenting them; and a violation of some of the necessary provisions for securing the peace and decorum of the meetings was exceptionally punishable with death, while almost every other offence might be condoned by a pecuniary payment. A highly interesting account of one of these great assemblages, which was held triennially at Carman, near Wexford, is given in a tract translated in the 2d series of O'Curry's *Lectures*, where, among the various classes resorting there for amusement and traffic, mention is made of Greek merchants bringing commodities for sale. The laws themselves give little intimation of their own origin or sanctions. They appear to have undergone no substantial changes from time immemorial; but some evidence exists of local law-making authority exercised at meetings of the freemen of the *crich*, subject to revision by some higher authority, and one of the objects of these fairs or *comitia* was to publish such enactments as well as the general body of the laws and customs from time to time. The law of *torts* regarded all offences, with the nominal exception of murder, as condonable by fines until the offender and those liable for him could pay no more, when the defaulter lost his *status* and fell into the servile class. For some of the offences of the individual, the *finné* or family were responsible; for others, particular sureties. Whether this system of *quasi* frank-pledge did not extend to breaches of contract, as well as to cases of non-feasance, misfeasance, and breaches of the peace, appears uncertain. The scale of mulcts for the several sorts of homicides, wounds, and personal hurts, is in outline the same with those of the other western European nations; but, in addition to their definite fine of so much for such and such a lesion or bruise, it provides by rateable deductions for excusatory circumstances of intention, knowledge, contributory negligence, accident, and necessity, all of which are considerable refinements on the contemporaneous systems of the Continent. The penalty of death for murder was of ecclesiastical introduction, and, like the law ordaining the payment of tithes, appears to have fallen into desuetude before the Conquest. Chief Baron Gilbert, in Dwyer's case (Gilb., *Ev.*, vol. i. p. 9) has an observation apposite to the state of society disclosed by this system of measured mulcts and mutual suretyship, in treating of the state of Britain before murder had become punishable with death under the later law of Canute:—

"It is not very hard to conceive how the kingdom was maintained by *pecuniary mulcts* only; for in those days every man was put in the *Decenna* (tything); and if found wandering three days out of the *Decennary*, he was taken up and imprisoned, and he was presently to abjure the kingdom, or else be lay at the mercy of every one that could lay hands on him. And if any offence was committed in any of the *Decennaries*, if the party was brought to answer, he was obliged to pay his fine for his offence, or he was *imprisoned* for ever; and, if he fled, the *tything* was answerable for his fine or mulct to the king. So that by this discipline men were put under a necessity of being innocent, or paying a grievous fine, or being totally deprived of the conversation of mankind. And the laying of the fine on the tything, in case the offender fled, made it the interest of every man to bring the offender to light, and made it exceeding difficult to conceal a theft or a murther."