Conclusion.

For these reasons I venture to submit that the Education Question, the Poor-law Question, and Cheap Law for Small-holders Question, are of equal importance with the Land Question at the present crisis in Ireland.

Postscript summary of recommendations in paper.

The specific recommendations in the paper are—*As to education;* the extension to Ireland of school attendance committees on the English model:* *As to Poor-laws;* the extension of union rating to Ireland and Scotland; the extension of the London common poor fund to the three unions in Dublin Metropolitan Police District, and to Glasgow and Edinburgh, and in case of migratory labourers over the area of migration: *As to cheap law for small holders of land;* the extension of Lord Cairns's Land Transfer Act, 1875, to Ireland; the extension of the railway principle of converting real into personal property at the will of the holder to all real property below £30 a year, which purchaser wishes to convert; local registries for such small holders in the 155 towns in Ireland where county courts are held, with clerk of guardians, petty session's clerk, or post-office savings bank, on ship's register plan, as adapted by Lord Cairns to land.

X.—*Some further information as to Migratory Labourers from Mayo to England, and as to Importance of Limiting Law Taxes and Law Charges in Proceedings affecting Small Holders of Land.* By W. Neilson Hancock, LL.D.

[Read, 17th February, 1880.]

Migratory labourers from Mayo and Donegal to England and Scotland.

THE great interest which has been taken in the facts I brought forward at the last meeting as to the migratory labourers, induced me to continue my researches. The points to which I specially directed my attention were: firstly, whether 1879 was the first year of the falling off in the employment of these migratory labourers; and secondly, to get more detailed information as to the period of the year when this employment commenced. As to a considerable body of these labourers I have learned that:—

"1876 was a good fair year.
"1877 not so good.
"1878 much worse, and *many had to borrow money to pay their way home.*"

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* For details see paper on "Feasibility of Compulsory Education in Ireland," *London Statistical Journal* for June, 1879.

I cannot pass this painful fact without referring to the many statements ascribing the bulk of the borrowing and indebtedness of the poor to extravagance. Amongst the rich that is the main cause of borrowing, and those who make little inquiry into the affairs of the poor too hastily ascribe the failings of one class to the other. I find a similar cause of indebtedness overtook the Donegal labourers going to Scotland in 1879.

> "In some cases, employment was so bad that money had to be sent them to pay their way home."

In my last paper I showed that the potato crisis commenced in 1877, and that 1878 was the second year of pressure from potatoes; and we have it now stated that a serious falling off of migratory labour occurred in 1878.

We can well understand how this second year of pressure from potatoes, and first year of pressure for want of work in England led to applications to America for remittances—and this preceded the letter from America in the middle of December, which an accomplished writer has described as the cause of the discontent in Mayo. We now know that this discontent had not an artificial but a painfully real cause, unfortunately not publicly noticed or observed, for reasons I shall presently explain. As to the past year, the information from a Connaught gentleman of great experience is :—

> "1879—Very bad indeed; in fact, the worst I ever recollect.
> "I should think not one-fourth or one-fifth of the usual earnings were received, as the weather so totally deranged all employment, and stopped it almost entirely.
> "Then there was a shortness of funds amongst the English farmers, I believe, to employ labourers in many cases."

This last remark of the failure of employment arising from shortness of funds amongst English farmers, makes it a matter to be anxiously watched this year, as such a cause is likely to continue in operation for one or even two years; and if so, the distress arising from want of employment this summer will last to the following summer.

As this cause of distress cannot be fully known till June, it would appear desirable that temporary relief powers should extend until 31st August, 1881, instead of ceasing, as proposed, on 31st December, 1880.

> "5,000 to 6,000 persons go from this part of Connaught to England each year for work.
> "*They begin to leave in March*, and go on gradually increasing, week after week, more or less, as the accounts are sent home of extent of employment. After the crops are tilled at home sufficiently to let wife and younger children finish them off—say second or third week in May—the numbers increase enormously, so much so, that for several weeks in succession, special trains are provided for the sole use of them and other harvestmen from all parts of the west."

Here we have the movements of this great body of labourers as clearly marked out as that of migratory birds. The statistics of their proceedings can therefore be observed in the easiest possible manner. The steamboat companies informed me that they go by a single

railway, except the few who use the Sligo steamers. The labourers from the Armagh mountains go by three ports—Warrenpoint, Greenore, and Dundalk, and those from Donegal by Londonderry. Then, as 1876 was a good year, it would not be necessary to carry statistics in the first instance back beyond 1876. Then the extent of employment of those who go could be readily ascertained by watching the period of their return.

> "As soon as the English harvest is over they begin to return, at first in very small numbers, gradually increasing as the labour in England decreased, and as they are required at home for saving their own crops. Many leave even this to be done by their wives and children, if they have only small crops. Being very small landholders, if they and their sons in England have good employment which they do not like to leave, they generally only return for want of further employment. A great many stay until near Christmas, and again come home for a few weeks and are off again. In fact, for a very large number, they just return to be at home with their families during the holidays, as the little pieces of land they have afford them but little employment; and if there is any sort of even fair extent of employment in England, the wages there tempt them off again."

I have heard it alleged that the discontent in Mayo in April, and especially in June last, could not have arisen from the state of the crops which up to that time had shown no failure, and that it must therefore have been artificially created for some purpose. But we now know that the migratory labourers of Mayo heard the first symptoms of their fate in March, and knew it certainly in June.

As to the view I put forward at the last meeting, that the entire charge of supporting these migratory labourers should not be thrown on the electoral divisions in Mayo, I find a Connaught gentleman had, without any communication with me, put forward a similar objection. He states the matter thus:—

> "I can, I think, fairly add an idea here; that I think it the greatest injustice that the support of the families of all these small landholders should now be endeavoured to be thrown, in a crisis like the present, on the landlords on whose estates these families live. This enormous extra population sprang up generations back on these estates, never by the landlord's consent or wish, or for his profit or gain, nor does he keep them there now for his profit or gain in any shape or way whatsoever.
>
> "They are, in fact, the source from which the extra labour of the nation is supplied, chiefly in recruits for the army and navy, in peopling the colonies, in carrying on the mining and factories, and all the other extensive works in England. And the moment the labour, so profitable to these employers, falls short and is not required, these men are turned back to their small homesteads in Ireland, to be a burden on the kind charitable landlord who has fostered them.
>
> "They are a great strength for the nation—for her army, her navy, and her colonies, and should not, in a time like the present, be supported at the expense of the estates or localities where they have in reality their homes for from one-third to one-half the year only."

Now when there is a common poor fund in London for 3,000,000 of people for workhouse relief, and union rating established all over England, throwing the cost of relief of these migratory labourers on *electoral divisions* in Mayo, of which this Connaught gentleman so justly complains, must be admitted to be an exceptional arrange-

ment. A common poor fund (like the London common poor fund) extending over the area of migration of labourers, as suggested in this Society so far back as 1871, in a paper on Poor Removals in England, Ireland, and Scotland, is the true solution of the migratory labourers' question, and the basis of a complete abolition of the law of poor-removal, and reform of the vagrant laws which are exceptionally harsh in Ireland.

Why has the state of these Mayo, Armagh, and Donegal labourers escaped official cognizance, and come on the public by surprise?

I believe this arises from three mistakes in the policy adopted after the last famine of 1847. First, the policy was pursued of discouraging the growth of the potato altogether. Instead of this, the Agricultural and Royal Dublin Societies and the managers of model farms should have had their attention directed to the important subject of the best seed suited for different districts and situations. The "champion" seed comes from Arbroath, in the east of Scotland, one of the coldest places where the potato has been acclimatized, and where seed to stand a cold year can be best obtained. This only indicates the line of research that might have been pursued, and can now be undertaken with great advantage.

The second mistake was the quarter-acre clause. This at once ignored the existence, as it were, of the migratory labourers. They would not accept relief on the terms of giving up their holdings, for the houses would have been pulled down. This was experienced at the intervening crisis of the wet seasons of 1860, 1861, and 1862, and in 1862 the first clause of Lord Palmerston's Irish Poor-law Act of that year was the complete repeal of the quarter-acre clause, and it passed the House of Commons. The late Lord Donoughmore carried the proviso in the Lords—that the holding of upwards of a quarter of an acre should prevent relief except in a workhouse. This did not remove the fear of their homes being pulled down, so they were again practically outside poor relief. The consequence of this has been that the numbers relieved under the Poor-law returned each week to Government, and each year to Parliament, gave scarcely any, if any, notice of the increase of pressure on this class.

The third mistake is the statutable prohibition in Ireland of outdoor relief to the able-bodied. This does not exist in England. To those suffering from unavoidable calamity or derangement of employment that could not be foreseen, outdoor relief is the natural and suitable method of relief. But for these two statutable restrictions, peculiar to Ireland, the falling off of the employment of these migratory labourers would have been known in June, 1878, instead of January, 1880, in time to be considered last session by the Select Committee on Poor Removals.

Lord Donoughmore's quarter-acre proviso and the migratory labourers.

I pointed out in my last paper that the migratory labourers were peculiarly injured by the quarter-acre proviso in the Act of 1862.

Since then, two important steps have been taken to mitigate the pressure of the proviso. In the first place, the construction commonly put upon Lord Donoughmore's proviso in the Act of 1862 has been carefully considered by the counsel of the Irish Local Government Board, and the Attorney and Solicitor-Generals for Ireland, and they have advised in favour of a more liberal construction than has been hitherto acted on. It is, they say, the occupier alone of a quarter of an acre of land who is prohibited from getting outdoor relief by the proviso. Accordingly, a circular has been issued giving new explanations which were not given in the circular of 1862, namely :—

> "That the wife and any member of the family of a man holding more than a quarter of an acre of land, if permanently disabled from labour by reason of old age, infirmity, or bodily or mental defect, or disabled from labour by reason of severe sickness or serious accident, the guardians can relieve such person, being destitute, either in or out of the workhouse."

The small remains of the original clause, as construed in 1847 and 1848, after this interpretation, is besides to be suspended in certain cases until the expiration of a two months' order issued in 1880, when the Relief Bill passes. Is the remnant that is left worth continuing ?

It amounts to this: that the workman himself, holding more than a quarter of an acre of land, though suffering under some of the above hardships that would entitle his wife to relief, cannot be relieved in his own house, but in the workhouse only. So, if an old married couple be both permanently disabled from labour, and in the same house, the relieving officer may give food to one but not to the other. Of the two, the man is more likely than the woman to be disabled by serious accident or severe sickness. But the imperial statute takes no account of this, and gives no power to any authority to relax the law. Then, it is the man who has spent a third or half his time in England, and seen the different rule there, who is likely to be discontented at the difference. But suppose the man should die, leaving his widow the occupier with one child, the outdoor relief she had been receiving as a wife, permanently disabled from labour by reason of old age, is stopped if she becomes a widow and occupier; and, notwithstanding the declared policy of the state in favour of boarding-out in certain cases, she and her child must go into the workhouse—though there has on this very point of the widow and single child been a different rule in England since 1844.

Take, again, the case under second section of the Act of 1847. It is now explained in the circular of 7th February, that when an order under this section is in force—(that is when it is declared that adequate relief cannot be afforded to able-bodied in a workhouse, or, that the workhouse by reason of fever or infectious disease is unfit for the reception of poor persons)—

> "The wife or children of a man holding more than a quarter of an acre of land may be relieved out of the workhouse, though healthy and able-bodied."

But the only place the man himself can get relief is the work-

house, declared too full for the relief of able-bodied, or unfit from disease to receive any poor! Is a distinction of this kind worth continuing? It is in the case of the migratory labourers applied to the very men who during a third or half their lives seen a different rule in England.

The distinction is further impolitic, for it takes away the stimulus which would otherwise exist on the guardians using the powers the state has given them for borrowing money to secure employment—powers which might be advantageously extended to neglected arterial drainage, and bye roads not on grand jury presentment.

Duties of poor-law guardians in times of distress like that which has overtaken the migratory labourers.

When there is a paralysis of private credit, and a stoppage of private expenditure, and consequently a number of labourers deprived of their usual employment, then is the time for the local and central state to step in with its unimpaired credit and to execute such useful works—small, for local labourers, and large for migratory labourers, as will meet the exceptional cessation of employment which the labouring classes could not have foreseen or guarded against. This is precisely what was done at Manchester during the cotton crisis, not by any *violation of the law*, as was recently suggested by a distinguished political leader, but in exercise of the discretion which the law in England gives to the Local Government Board, and which they gave to the guardians. This Manchester plan rests on the soundest principles of economic science—to so arrange public works as to fit in with the slack season of private work. They are then executed at less expense. A wise poor-law puts the stimulus upon and holds out inducements to capitalists and the local state to arrange their works so as to give employment in such seasons. The pressure on the workman should be, not refusal of relief, but refusal of out-door relief if he declines work offered to him; and if afterwards he refuses suitable work in a workhouse, then liability to imprisonment.

History of the quarter-acre proviso in the Poor Relief Act of 1862.

The history of the proviso against out-door relief in 1862 does not make it one of those decisions of Parliament that is not open to reconsideration.

The Select Committee on Irish Poor-law Administration of 1861, presided over by Viscount Cardwell, and on which the late Lord Mayo served, unanimously recommended the total repeal of the quarter-acre clause of the Act of 1847.* This was accepted by Lord Palmerston, and the repeal was made the second clause of the Irish Poor Relief Bill in 1862, and this clause passed the Commons without opposition,† Sir Robert Peel defending the repeal on the grounds that "in neither England nor Scotland did any similar

* *Par. Pap.* 1861, vol. x. p. 15. † *Hansard*, vol. 165, p. 1972.

restriction exist."* In the Lords, Lord Donoughmore moved an amendment† that the quarter-acre man should get relief in the workhouse only. This was accepted by the Duke of Newcastle in the Lords and by Sir Robert Peel in the Commons. The latter appears to have been under a misapprehension as to the full effect of the amendment, for he said:—‡

> "If a workhouse was full, the guardians would have power to give out-door relief, not in money but in food, to the holders of a quarter of an acre, if in distress."

The opinion of the present law officers, as stated in the circular of 7th February last, is that such is not the case, *as the man in occupation cannot receive out-door relief* in the case stated, but their families only. So that Lord Donoughmore's amendment would appear to have been accepted in the Commons on a construction not acted on and not now proposed to be carried out. There was no division in the Commons on the Lords' amendment, though some members dissented. Lord Emly contended that "if out-door relief were advisable in any case it was especially so in that of the class of persons in question"—occupiers of above a quarter of an acre of land. Under these circumstances, whether we consider the history or the effect of Lord Donoughmore's proviso in the Act of 1862, limiting by statute the discretion of Irish guardians of the poor to an extent that English and Scotch guardians are not limited by statute, a fair case would appear to be made for the entire repeal of Lord Donoughmore's quarter-acre proviso, so that these migratory labourers who spend half their lives in England may be treated in Ireland exactly as their fellow-workmen are treated in England. When the proviso is so worded that after eighteen years' administration it cannot be interpreted without the assistance of the counsel of the Local Government Board and two law officers, and when they arrive on a leading point at a different construction from that which Sir Robert Peel stated in the Commons as the reason for accepting the proviso, a strong case is made for the repeal of the proviso.

Conclusion as to Poor-laws and charity arrangements.

What Mr. Joseph T. Pim has suggested—poor-law guardians completely authorized to deal with all destitution in their locality, and empowered to provide works—only requires to be supplemented by school attendance committees, as in England, and with every assistance and encouragement to the development and organization of private charity, like blind asylums, deaf and dumb institutions, and industrial schools, partly aided by the local and central taxes, and cordial co-operation with other charities. In this way we might have, as contemplated by the State Charities Aid Association of New York—a sensitive organization over the whole state, that would give as early and as certain notice of social depressions affecting the humbler and more helpless of our fellow-men, as the meteorologist now gets through the telegraph of the atmospheric depres-

* *Hansard*, vol. 165, p. 340. † *Ib.* vol. 168, p. 416. ‡ *Ib* vol. 168, p. 261.

sions that cause the storms and tempests that the mariner has to guard against and escape.

In short, we want poor-law guardians with equal powers as in England; superintended by a Local Government Board, also with equal powers; school attendance committees, as in England. Then the outburst of charity that the crisis has produced, which has created so many state charity aid associations, should not be allowed to subside without the formation of some permanent state charities aid associations or charity organization societies—to secure such study of the preventable causes of distress, that as this is the third great crisis since poor-laws were introduced into Ireland in 1838 it may be the last.

Legislation for preventing suitors resorting to an expensive mode of litigation.

The legislature by recent statutes has manifested the policy of preventing suitors resorting to an expensive mode of litigation, when equally efficacious means of obtaining legal redress are within their reach: for example—in the case of suitors resorting to a superior court when the local court is competent to afford the same remedy. This policy is carried out by some statutes limiting or taking away costs when a party pursues the expensive mode of litigation.

In 1853 the legislature, by the Irish Common Law Procedure Act of that year, declared (in section 243) that in case (1) the plaintiff in any action of contract, except for breach of promise of marriage, recovered, exclusive of costs, less than £20, or (2) in an action for any wrong, except replevin, or slander, libel, malicious prosecution, seduction, or crim. con., less than £5, such plaintiff should be entitled to no more than half costs, unless the action had been brought to try a right to property more extensive than the sum sued for.

This policy of the legislature was found so just and advantageous, that three years afterwards the legislature extended it further by the Common Law Procedure Act, 1856, sec. 97, by enacting, in the first class of cases above mentioned, and also in the second class of cases, that if the parties resided within the jurisdiction of the local court of the county in which the cause of action arose, the plaintiff should not be entitled to any costs, unless at the trial the judge certified (1) that the case was one that could not be tried in the local court, or (2) that, although within its jurisdiction, the case was a fit one to be tried in one of the superior courts, or (3) in case there shall be no trial, unless the court or a judge should on motion make an order to the like effect, although the jurisdiction of the local courts in ejectment for non-payment of rent or overholding was given when the yearly rent did not exceed £100; double the jurisdiction in most other cases in the local courts. The legislature omitted to include actions of ejectment in the above legislation.

The Judicature Act, 1877, extended still further this wise policy, by giving the judge at the trial, or the court for special cause shown and mentioned in their order, power to direct that the costs of the action should not follow the event, and thus empowered the court or judge, in an action of either of the classes No. 1 or No. 2, above

mentioned, in which plaintiff recovered not more than £20 in contract or £5 in tort, to deprive such plaintiff of the costs.

It may be said that a defendant who is sued in the High Court of Justice for a cause of action within the jurisdiction of the local court, has a remedy under the Common Law Procedure Act of 1870 which he may avail himself of and get the action remitted to the local court; but he cannot do so in the case of ejectments for overholding, as this class of ejectment does not come within the 60th section of the Judicature Act, which extended the remitting power to actions of ejectment for non-payment of rent.

Furthermore; a resort to the remedy provided by the Act of 1870 is attended with the expense of a special application to the court, and the defendant, if eventually unsuccessful in the action, may have to bear the costs of proceedings in the superior court up to the remittal of the action.

The effect of proceeding in the superior court is not merely to put the increased cost of recovering the possession on the tenant, but also, in case he should be able to redeem, to oblige him, in case his right to redeem is not admitted, to institute proceedings for that purpose in the more expensive courts.

The provisions of the Act of 1870 as to remitting actions, while carefully framed to protect the rich from being sued by the poor in the central courts, breaks down completely as a protection for a small tenant against being sued for non-payment of rent in the more expensive form of proceeding, because it is only in cases where the whole or part of the demand of the plaintiff is contested that the jurisdiction arises.

Action of the Lord Chancellor and Land Judges in the matter.

With respect to property under the management of state officers (the Chancery receivers), Lord Chancellor Ball, with the concurrence of the Land Judges Flanagan and Ormsby, has given full effect to the policy the legislature has been pursuing in favour of the poor since 1853, and in plainer terms than the Chancery rule of 1857.

The rule, made in June, 1878, is in these terms* :—

> "Where rent, the amount of which is within the jurisdiction of the civil bill courts, is in arrear for the space of three months, in case of half-yearly payments, . . . a receiver may proceed by civil bill process for the recovery of said rent without any order or direction."

If the receiver proposes to take proceedings in the High Court, he must apply to the Land Judge for his direction.

> "This application must always be made on statements duly verified, showing the reasons why the receiver considers proceedings necessary, and what course he wishes to take."—*Lyle*, p. 16.

What the Lord Chancellor and the Land Judges have thus established is the usual practice of resident agents and resident

* *Handbook on Receivers*, by James Acheson Lyle, p. 15; *Madden's Landed Estates Court*, p. 426.

solicitors of great proprietors. Suits against tenants are brought in the local courts, wherever the jurisdiction allows of it.

The law, however, unfortunately throws out a temptation to non-resident agents and non-resident solicitors to adopt the more expensive mode of proceeding. It also enables them, in case they are not satisfied with an application for reduction of rent, to meet such application by what is called "making an example of the tenant," that is, sue him in a way that puts him in immediately for treble costs, even if he pays within the few days limited in the writ, for he must pay £1 10s. costs, instead of 10s. It is said "it is the last pound which breaks the camel's back." This power of an agent or solicitor, or landlord, to inflict a fine of £1 on a tenant who in a hard year is in arrear, at his sole will and pleasure, may prove "the last pound" that breaks up the ordinarily peaceable and order-loving habits of the people. In a recent case, where a process-server had to be protected by an escort of 100 of the Royal Irish Constabulary, it was a writ of the High Court of Justice he was serving, and the arrears of the rent was only £15. It was an ejectment for overholding in Connaught; and yet the venue was laid in the County of Dublin.

All claims by tenants under the Land Act must be brought in the local courts, and the policy of recent law reforms is to have all pending disputes between the same parties tried by the same tribunal. While the landlord is carefully protected by the Land Act against the tenant resorting to expensive proceedings against him, we see here that there is not similar and corresponding protection of the tenant against the landlord resorting to expensive proceedings. Nevertheless, the costs of these expensive proceedings are set off against any sum the tenant may be awarded for improvements. So while the landlord has to pay for improvements, the money goes—not into the tenant's pocket—but in law taxes to the state, and to officers still paid by fees, and in law costs. The difference of the accumulated charges to which a tenant sued in this hard year becomes liable on execution in the supreme court is £7 instead of £4; and if the favourable weather which we now have should providentially be continued, and the migratory labourers be blessed with a good year to bring back £10 from England, the effect of the agent proceeding in the supreme court is that the redemption will cost the tenant £7 instead of £2. Now why should every agent in Ireland have the power in a year of distress of fining every tenant he chooses who is in arrears the sum of £1, even if he pays his rent, and the fine of £8 if he should be ejected, and seek to redeem within the six months allowed by law. Some newspapers have tried to make out that the migratory labourers only bring £4 and not £10 from England. Whilst this criticism has the effect of stopping the flow of charity to these poor people, it is observable that those critics have not a word to say for cheap law; whilst, if their contention be true, it only makes the case against this liability to an £8 fine still stronger.

Then the agent can not only do this, but he can obtain the apparent sanction of the Executive Government and the High Court of Justice for inflicting these fines. As he has a legal right

to adopt the more expensive mode of proceeding, if he chooses, the Executive Government appear to be irresistibly bound to give 100 police or 1,000 to assist him in exercising the right the law gives him.

Nay more, when he comes into the High Court of Justice, it is apparently only necessary to show that he has been resisted, and an order to substitute service at further heavy taxes to the state and law charges to the tenant is granted to him—the question of the amount of rent, and whether he might or might not have been sued in the local court, being apparently a matter beyond the jurisdiction of the court. If he were a trusted public officer, a receiver under the Chancery Division of the High Court of Justice, he must ask leave of the court before he inflicts the fine.

Now why should private agents not be under the same restriction as Chancery receivers? Why should they not be bound to resort to the local court in the first instance for cases within its jurisdiction?

It may be said the case I have mentioned is an isolated one—selected as an example. But I find the same landlord inflicting the fine in six other cases to enforce payment of the year's rent up to 1st of November last, allowing a very short time for payment.

Date when Rent fell due.	Year's rent.	Arrears.	Date of Expensive Writ.
	£ s. d.	£ s. d.	
1st Nov. 1879	14 5 0	—	24th December.
,,	14 10 0	—	,,
,,	20 0 0	—	,,
,,	16 0 0	8 0 0	,,
,,	25 0 0	—	5th January.
,,	40 0 0	—	,,

Remedy against small holders of land being brought into Supreme Court, where there is an adequate remedy in the Local Court.

Now the remedy for this is extremely simple; it is only necessary to provide that an agent or landlord who resorts to the supreme court where he has an adequate remedy in the local court, shall do so at his own expense and not at that of the tenant, and shall not recover any law taxes or charges he may have paid, beyond the county court costs which the tenant would have had to pay had the jurisdiction of the local court been used; and that in case the tenant should seek for redemption, the proceedings for that purpose should be in the local court. Such a restriction could have a very slight effect on the business of the High Court of Justice. In an ordinary year, like 1877, out of 21,000 writs filed in the superior courts, the ejectments for non-payment of rent were about 600, and it may be fairly assumed that a considerable number of these were for sums above £100, or above the jurisdiction of the local court.

The ejectments entered and lodged in the local courts were, on the other hand, 6,000. The rule would only restrain non-resident agents and others from departing from the ordinary practice of

resident agents, and the practice sanctioned by the rule of the Lord Chancellor and Land Judges.

Effect of excessive costs in producing the amount of irritation that leads to crime.

In a recent book by a lady, published in London, giving an account of twenty years' residence in Mayo, there is on the cover the picture of an assassination, and the case referred to is that of a Scotch farmer who was murdered in the autumn of 1869. As the book is calculated to check the flow of charity to the distressed districts, I think it right to recall attention to the full facts of the case, which were very notorious at the time. I will therefore quote the note of the case I made at the time (1869):—

> "*The Right of Turbary case.*—The sad murder of the Scotch farmer Hunter, in Mayo, is undoubtedly to some extent to be ascribed to the very costly proceeding to which he was forced to resort in order to determine a dispute between him and a small neighbouring tenant, who also was of so humble a rank in life as to be paying only £8 a year rent. The matter in dispute was only a right of turbary of small pecuniary value but of deep interest to the small tenant. The landlord had allowed this to some thirty or forty tenants, and then omitted to except it from a subsequent letting of land, including the turbary, to Hunter."

When Parliament is now engaged in special legislation enabling boards of guardians to supply fuel to the poor in Mayo, we may form some opinion of the responsibility incurred by the omission to secure their turf for these poor people. The note of 1869 then goes on:—

> "The county court judge in the County of Mayo has a salary of £1,000 a year, and holds courts in seven towns in the county; but in consequence of a peculiar limitation he is precluded by statute from determining this dispute of, at most, for all the tenants, as it appeared, about £10 a year. If the parties had happened to claim under the same lease the county court judge could have determined the case; but as the question in dispute was which of two conflicting lettings should prevail, the chairman's jurisdiction was ousted, and the Scotchman was forced to resort to the superior courts. Thus the tenant who was selected by him to try the right of all the tenants was, besides the cost he had incurred, mulcted in £40 for plaintiff's costs—a ruinous sum to a man paying £8 a year rent. The case would not appear to have been more satisfactorily tried on account of the great cost, it being alleged that the defendant lost, through some defect in the pleadings in Dublin, which the plaintiff refused to be allowed to be amended at the assizes. Apart from the other questions involved in this case, it is plain that the dispute was aggravated by the want of jurisdiction of the local court."

The sad tragedy of Hunter was overruled for good; for the facts it brought to light were mainly instrumental in the carrying the reform of the law in extending the jurisdiction of local courts to questions of title, which the late Sir Colman O'Loghlen had the honour of carrying in 1874. Now when the noble Irish lady who so fittingly represents her Majesty the Queen's well known and often exercised sympathy with every special adversity of her subjects, has set such an example of truly Christian charity in the fund she has inaugurated, is it not a lamentable thing that an English authoress should write, or English publisher issue a book for circulation amongst educated Englishmen, raking up bygone crimes in a way so calculated to stop

the flow of imperial justice and human charity to what is conceded to be the most distressed district in Ireland, and the district of all other parts of Ireland most connected with England through its 27,000 migratory labourers?

When the story of this old crime is brought up with an affectation of superiority of race and religion, it is only right to notice —that it took the earnest men who read the true lesson of the crime five years to carry the simple reform I have mentioned, that it was carried in the Imperial Parliament by a private member, and that the more complete government reform was not carried for eight years. At the end of eleven years the still more complete reform is not even thought of—of having what has been provided for the Celtic population of Scotland for a century or more—local courts in each county, with officers discharging their duties in person and not by deputy, and giving their whole time to the work, and paid by salary and not by fees—the courts having complete jurisdiction to deal with all the matters affecting the affairs of suitors of small property.

The extension of that reform to Ireland was recommended by a Royal Commission, when the Duke of Wellington was Prime Minister. Fifty years have elapsed, and the main elements of the reform—permanent sub-sheriffs and local bankruptcy jurisdiction—are still uncarried; and yet we have grave publications omitting all mention of these patent facts, and all consideration of the responsibility of the race and religion of those whom the authors claim to be superior, while the whole of the responsibility for the existing state of affairs in Ireland is sought to be cast on the religion and race of the humbler class of migratory labourers and small occupiers of land.

Summary of conclusions.

The following are the leading results which I submit for your consideration:—

1. In 1878 some of the migrating labourers of Mayo had to borrow money to pay their way back from England instead of bringing home their wages. This loss of usual employment, coinciding with the second year of the potato crisis, led to applications to the Irish in America for remittances at the end of Autumn, 1878. To the double and exceptional pressure which led to such applications the discontent in Mayo at the end of 1878 may be more accurately ascribed, than to the accident of a single letter coming from America, as has been suggested by an accomplished writer.

2. The pressure on the Mayo migratory labourers from the falling off of English employment in 1879 was the worst an old inhabitant ever knew. This loss was partly known to the labourers in March, and completely in June, and coinciding with the running out of the short potato crop of 1878, after the serious failure in 1877, produced the pressure which led to the discontent exhibited in Mayo from March to June, 1879; and it is not necessary to look for any private or artificial cause to account for this discontent.

3. The quarter-acre proviso in the second section of the Poor Relief Act of 1862, and the construction in practice put upon it (until the issue of the circular of 7th February, 1880), of excluding

not only the occupier but members of his family from out-door relief, had the effect of excluding the bulk of the migratory labourers and their families from the only form of poor-relief they could accept, if they were to occupy their holdings and preserve their houses from being pulled down.

4. In this way the Poor-law statistics were prevented from giving notice through the weekly reports to the Government, and through proceedings of boards of guardians to the public, of the sad calamity that was falling on these migratory labourers—through, first, the diminution in one season, and then the more serious depression, in a second, of their usual employment in England.

5. This defect in the Irish Poor-law (the quarter-acre proviso, which has no existence in the English or Scotch Poor-law), of giving no indication of the state of these industrious men, has had a peculiarly unfortunate result. Though some of them have been suffering since June, 1878, and a select committee of the House of Commons was, during the session of 1879, considering the law of poor removals (one branch of the migratory labourers' question), yet the sufferings of this important and well conducted class of our fellow-countrymen, which had been going on for a year, were not brought before the committee by the official or other witnesses who were examined, or by the Irish members who were serving on the committee; and the whole subject of poor removal will be legislated upon this session, without the questions raised by the sufferings of these migratory labourers having been examined or reported upon by that committee.

6. When there is a common poor fund for workhouse relief over the 3,000,000 inhabitants of the London Metropolis, and union rating established all over England, throwing the cost of relief of these migratory labourers on *electoral divisions* in Mayo (corresponding to the *old parishes* in England and existing parishes in Scotland), is a very exceptional arrangement.

7. A Common Poor Fund (like the London Common Poor Fund), extending over the area of migration of labourers, was suggested in this Society so far back as 1871, in a paper on poor removals in England, Ireland, and Scotland. This, or a United Kingdom Common Poor Fund for all migratory labourers, would appear to be the true solution of the migratory labour question, and to lay the basis of a complete abolition of the laws of poor removal, and of a reform of the vagrant laws, which are exceptionally harsh in Ireland.

8. As a select committee of the House of Commons in 1861, on which Lord Cardwell and Lord Mayo sat, unanimously recommended the complete repeal of the quarter-acre clause of the Poor Relief Act of 1847, as its repeal passed the House of Commons unopposed in 1862, and as the quarter acre proviso introduced by the late Lord Donoughmore in the Lords in 1862 was assented to by Sir Robert Peel upon a more favourable construction, in some respects, of the proviso, than the law officers (according to the circular of 7th of February last), now pronounce it to have, a strong case is made for the complete repeal of Lord Donoughmore's quarter-acre proviso in the second section of the Irish Poor Relief Act of 1862.

9. The wise rule of Lord Chancellor Ball and the Land Judges requiring receivers to take the cheap proceedings of the local courts in all suitable cases, should be extended for the protection of all small holders of land. It should therefore be provided by statute, that an agent or a landlord who resorts to the supreme court, where he has an adequate remedy in the local court, shall do so at his own expense, and not at that of the tenant, and shall not recover any law taxes or charges he may have paid beyond county court costs. In case a tenant, paying rent recoverable in local court, should seek to redeem his land within the six months provided by law, he should be allowed to resort to the cheap proceedings of the local courts, although the landlord may have ejected him by suit in the supreme court.

10. When the noble Irish lady who so fittingly represents her Majesty the Queen's well known and often exercised sympathy with every special adversity of her subjects, has set such an example of truly Christian charity in the Fund which she has inaugurated, it is a lamentable thing that an English authoress should write, and an English publisher issue a book for circulation amongst educated Englishmen, raking up bygone crimes in a way so calculated to stop the flow of imperial justice and human charity to what is conceded to be the most distressed district in Ireland, and the district of all other parts of Ireland most connected with England through its 27,000 migratory labourers.

11. The extension to Ireland of the Scotch reform of complete local courts for dealing with the affairs of the poor, was recommended by a Royal Commission when the Duke of Wellington was Prime Minister. Fifty years have elapsed, and the main elements of the reform—permanent sub-sheriffs and local bankruptcy jurisdiction, are still uncarried; yet we have grave publications omitting all mention of these patent facts, and all consideration of the responsibility of the race and religion of those whom these authors claim to be superior, while the whole responsibility of the existing state of affairs in Ireland is sought to be cast on the religion and race of the humbler class of migratory labourers and small occupiers of and.

Postscript.

Importance of the migratory labourers' question.

Without taking into account the great number of labourers who reside in a different electoral division, and often in a different union from that in which they are employed for some weeks in the year (a point not yet investigated), if we take the migratory labourers to England and Scotland only, estimated at from 30,000 to 35,000 in a good year, they represent, with the usual proportion of women and children and old people, a population of 130,000 persons. There are, however, thirteen counties out of thirty-two in Ireland in none of which the entire population reaches this figure. Now, if a special cause plunged a whole county, or one-fortieth of the population of Ireland, into distress, it would be at once admitted to deserve the most careful consideration.

Corroborative testimony as to the good conduct of the migratory labourers.

In the 5th clause of the summary on page 74 I called the migratory labourers "well conducted"—an opinion founded on careful observation since. I first called attention to them in 1848, in a paper read at this Society "On the Condition of the Irish Labourer."

I have much pleasure in quoting the corroborative testimony of two newspapers—one the oldest Conservative paper in Dublin, and the other a very earnest advocate of the strongest Irish views. In a leader in the *Dublin Evening Mail*, of the 18th of February, on the second paper, there is the following passage:—

> "We have no doubt that Dr. Hancock's high opinion of these people is fully deserved. We are all familiar with the appearance of what are called 'Connaught harvestmen.' They pass through Dublin in great numbers at certain periods of the year, on their way to and from England, with the regularity, as Dr. Hancock observes, of migratory birds; and neither on their departure, with their pockets empty, or on their return with their pockets full, do they excite any feelings but those of sympathy and respect from the population of this city. We cannot call to mind a single instance in which one of the tribe has figured in any of our police courts or taken part in any riot or even trifling disturbance, such as might be expected from any large swarm of travellers, consisting exclusively of adult males, and belonging to a very humble condition in life. The most timid Dublin lady, walking without a protector, meeting a hundred of these rough-looking men, pursues her way among them without a momentary apprehension of so much as a word or a look of insult. . . . Observed with some attention, the appearance of the migratory Irish labourer bespeaks a life of active toil and self-denial, and the possession of much intelligence, which, no doubt, has been developed by his being brought into contact with a great variety of persons, places, and circumstances."

In the *Irishman* of 31st of January, in a leader on the first paper, there is this passage:—

> "We find some very remarkable details in the paper contributed by Dr. Hancock, the well-known statistician. In the first place he discusses the question of the migratory labourers of the west.
>
> "No strangers to the country, few people in Ireland itself, have any idea of what these words really mean. They are, however, full of meaning, for they indicate that, year by year, there proceeds, from the west of Ireland to Britain, a multitude of humble Irish peasants. These men labour in the fields of England and of Scotland from spring to autumn—save up wages, and return home with their hard-earned reward, pay the rent of their small, half-sterile farms, assist those of their families who remained to till the land, and sustain their kindred around the old, homely hearth.
>
> "What numbers go over to Britain? Before the great famine nearly 60,000 labourers went, armed with spade and sickle—a noble ARMY OF INDUSTRY!
>
> "The population of Ireland has decreased vastly; and, on the other hand, various engines have been brought into the harvest field to replace manual labour. Hence, a decrease in the number who proceed—but still that number is vast, and this fine hardy ARMY OF INDUSTRY stands at about 30,000!
>
> "Think of it. Ponder over it. Every year 30,000 Irish labourers have travelled, often for long distances on foot, to the nearest seaport, crossed the Channel, dispersed themselves all over England and Scotland, not to plunder, rob, or slay, *but to work steadily, manfully, peaceably*—

> and then, gathering again towards the western ports of Britain when the harvests had been garnered, they turned their faces towards their own dear Irish mountains, and came to share their gains with their parents or their little ones—and their landlords. And *whilst that great Army of Industry has been passing to and fro, its thousands have marched so quietly, soberly, and steadily, that no special notice has been taken of this remarkable, this exceptional, and truly marvellous fact!"*

Now, when my small efforts on this great question of migratory labourers have touched such opposite chords of Irish feeling and elicited such a concurrence of opinion, does it not show how easily many matters that are considered difficult in Irish affairs might be solved, if approached with good feeling and earnestness of purpose?

Complaints of defective sheriff's jurisdiction, and want of local bankruptcy jurisdiction in Ireland.

The strongest complaints on this subject came not from the Celtic but from the Anglo-Saxon districts. Thus, so far back as 1875, Mr. Howe, at the County Down Constitutional Association, complained of this state of the law to the Ulster Protestant farmers in these terms:—

> "No matter *how small the debts*, or how large the farm, crops in or crops out, June or December, *satisfy the sheriff* or the land must go; then follows an ejectment decree and certain eviction at the suit of the buyer, armed with his newly acquired rights; legatees and creditors left without legal security—every interest other than *the judgment raider* swept down upon the *legal whirlwind*."

Five years have elapsed, and this grievance has not been redressed, though the law of judgments thus referred to was reported by the English and Irish Law and Chancery Commission so far back as 1866, to be

> "in a very complicated and unsatisfactory state, and to differ in some material respects from the law of England on that subject."

The Irish Registry of Deeds Commissioners, while differing on other points, came to unanimous recommendations last year, of a remedy for the defective state of the law of judgments; but no Bill has been introduced to carry out their recommendations.

The most urgent applicants for local bankruptcy are the Anglo-Saxons in Belfast. With a narrow humility they seek only for the reform of district courts in a few towns, which was conceded in England in 1842; but the more complete reform of 1861, giving all the English county court judges jurisdiction in bankruptcy, which is now exercised in 151 towns in England, they do not help the farmers of Ireland in carrying. Their importance is flattered by having a Bill introduced last session to meet their case and that of a few towns only; but their narrowness in not seeking for the more recent and larger reform, that would benefit all Ireland, has prevented their securing the strength of public opinion that would secure the passing of the Bill.

Mr. W. H. Dodd, Barrister-at-law, in his prize essay on the "Jurisdiction of the Local Courts in Ireland, Scotland, and England,"

in January, 1877,* has the following passage on the *want of local Bankruptcy jurisdiction*:—

> "But it is to be observed that there is one great gap in the proposed [Judicature] Bill [since passed]. No Bankruptcy jurisdiction was proposed to be given. And why? Is it not as necessary that the insolvent estate of a living person should be as cheaply and expeditiously administered by a local court as the estate of a deceased person? *This Bankruptcy jurisdiction of the English County Courts has been characterized by the Judicature Commission as the 'most important of all,'* and if it were necessary to give instances of hardship in this particular also, I might show that as the Equity judges have given evidence of the injustice done to the poor by compelling them to go into the Court of Chancery, so the Bankruptcy judges have commented upon the hardships inflicted in their courts. Take the report of one very recent case before Judge [now Mr. Justice] Harrison, from the *Freeman's Journal* of the 26th December, 1876:—
>
> "'The bankrupt was described as a provision dealer, and Judge Harrison, in commenting upon the case, is reported to have said:—'This was one of those pauper Bankruptcy cases *which have been cropping up very frequently of late*, and that he was at a loss to account in any way for the mode in which such were usually conducted. In the present instance this wretched man—wretched in the sense that he had no property—*had been put into Bankruptcy without the slightest hope of any ultimate gain resulting.*' [In concluding he said] 'He had dispensed with the further attendance of the bankrupt, who, when he appeared in court last week, presented a terrible picture of want and misery. He would now adjourn the matter generally; but hoped that an endeavour would be made to get the man, as well as the case, out of court as soon as possible.'
>
> Mr. Dodd adds: "Now, we are compelled to ask, where are the man and the case to go to? and is there any reason why the local courts should not be Bankruptcy courts?"

The denial of local jurisdiction in Bankruptcy to all county courts as in England and Scotland, further leads to what would appear to be a serious evil—the application of central jurisdiction to farmers, whose liabilities, from the nature of the case, are usually all local, and whose assets are best sold locally. To have this the only remedy in Bankruptcy is contrary to the whole policy of the Legislature since 1853 (see p. 68), for the protection of the poor against expensive law taxes and charges; and when judges condemn the application of the central jurisdiction to poor cases in such terms as Mr. Justice Harrison used in the above judgment, an irresistible case is made for complete assimilation of Irish to the English law as to local jurisdiction in Bankruptcy.

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* *Dublin Statistical and Social Inquiry Journal*, vol. vii. p. 99.