in different cantons nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, and twenty-five, and being all subject to variation—shows how impossible it would be to expect clergymen or registrars in the United Kingdom to be adequately informed on the subject, and that the most effectual way to protect British women and children is to require resort to the consuls and ambassadors, and to make their certificates conclusive as to the validity of the marriage.

At the conclusion of the paper, a resolution was moved in the section of Municipal and International Law, by Mr. Griffith, seconded by Dr. Hancock, and carried unanimously :—

"That the Council be requested to take into their consideration the complication of the British and French marriage law, and the frequency of invalid marriages contracted thereunder, and the inconvenience resulting therefrom, and to take such steps in reference to the subject as they may deem desirable."

VII.—*The Depositors in the Tipperary Bank, and the Cost of Proving Wills and distributing small Assets in Ireland.* By W. Neilson Hancock, LL.D. Q.C.

The case of the 647 *depositors in Tipperary Bank entitled to less than* £5 *each on an average.*

On the 16th of February, 1856, occurred one of the most serious calamities in Irish affairs in the past half century—the failure of the Tipperary Bank, consequent on the frauds of John Sadlier. In the *Annals of our Time* the deficit of the Bank is stated at £400,000, and the assets were stated would be little more than £30,000. Much sympathy was felt with the sufferers, as it was known that some part of the £400,000 was due to Tipperary farmers and labourers, who had been depositors in the Bank ; and considering that the amount of deposits in all the Joint Stock Banks was at that time only £12,000,000, a loss of £400,000, with only £30,000 assets, in four counties, was a very heavy calamity.

The story had, however, apparently passed into history, to be used to point a moral or adorn a tale, as Mr. Smiles has so ably used it in his interesting work on *Duty*—when a quarter of a century after the failure of the Bank, renewed interest in the story was revived by a remarkable advertisement from the official liquidator, filling two columns of our daily papers, and issued on the 12th of August, in 1881—addressed to 647 creditors of unclaimed dividends of the Tipperary Bank, whose names were all published. The notice recites:

> "Whereas dividends have been *from time to time* declared on the claims of the several persons interested in the Tipperary Joint Stock Bank, whose names (647 in number) are set forth in schedule hereto, and such persons have not hitherto made application therefor, nor have said dividends been paid, now notice is hereby given to such persons, or *their legal representatives*, that on application to the official manager, accompanied, where necessary, with proper evidence of identity, the dividends will be paid."

Then follows a notice that in default of application before 11th January, 1882, the dividends will be paid into the Chancery Division of the High Court of Justice, not be got at afterwards "except on application at

the expense of party entitled." What will happen the dividends in case they lapse to the Chancery Division the notice does not state. But that is provided for in an Act of 1867: they will lapse to the Suitors Fee Fund; and under changes about to be carried out under the Irish Judicature Act will lapse to the Imperial Exchequer, The question then arises: Is there any precedent in our legal arrangements for facilitating the payment of these dividends *to representatives* of the persons admittedly entitled to them when the amount is so low as I have ascertained it to be in this case—less than £5 each on the average of the 647 creditors, as the whole sum for these unpaid people is £3,000.

Precedent of paying small sums to Savings' Bank depositors.

Now so far back as 1829 the difficulty of repaying small deposits to the representatives of deceased depositors in Trustee Savings' Banks turned up. The cost of proving wills and taking out letters of administration when the sum was less than £50 was so great that this was often omitted, and by statute 9 Geo. IV. c. 92 trustees were enabled to pay to next of kin, without administration or probate, when the sum was less than £50. There was also power to pay deposits to minors, to married women (in certain cases), to trustees of friendly societies and charitable institutions. When the Post Office Savings' Banks were started in 1863, similar powers were taken of repaying deposits under £50, without probate or administration.

The Irish Trustee Savings' Banks have £1,980,000 on deposits; the Irish Post Office Savings' Banks have £1,426,000 in deposits. Now why should there be statutable facilities for repaying these deposits, when too small to bear the cost of probate or administration, and why should the same privilege be denied to the depositors of £28,289,000 in Joint Stock Banks? So far back as 1855 a Bill was prepared to place the depositors in Joint Stock Banks in the same legal position as the depositors in Savings' Banks. The Bill received the approval of the late Mr. Robert Murray, the chief officer of the Provincial Bank, and at that time considered one of the leading bank officers in Ireland.

The failure of the Tipperary Bank in February, 1856, prevented the Bill being introduced or passed; but now, at the end of twenty-five years, the sad fate of the representatives of the 647 creditors, chiefly depositors, whose dividends are unpaid, attests the justice and wisdom of the measure he proposed for affording equal facilities for repaying small sums to depositors in Joint Stock as in Savings' Banks. The failures of the Trustee Savings' Banks that have the privileges I have described, at Tralee, Killarney, at Cuffe-street in Dublin, and in other places, have been far more numerous than those of the Joint Stock Banks, the failures amongst which, since 1847, have been confined to the Tipperary Bank alone.

Precedent of the Tralee arbitrators under the Tralee Savings' Bank Act of 1876.

There is, however, another precedent. When the Tralee Trustee Savings' Bank failed in 1848, there was a sum of £2,000 standing to the credit of the trustees with the Commissioners for the Reduction of the National Debt. In 1876, at the end of twenty-eight years, attention was called to this sum of money, and at the suggestion of Sir Stafford Northcote, then Chancellor of the Exchequer, a local and personal Act of Parliament was passed, enabling it to be distributed, without legal expense or legal proof, amongst the representatives of the former depositors. Mr. Herbert Murray, the Treasury Remembrancer and

Deputy-Paymaster for Ireland, and Mr. Lane Joynt, the Crown and Treasury Solicitor for all Ireland, very kindly and generously volunteered their services to go down to Tralee, and on the spot investigate the cases and distribute the money without expense to the representatives of the depositors, as arbitrators under the statute.

The powers which it was necessary to give to these statutable arbitrators were very large, and included the dispensing with the productions of administration or probate. They are set forth in the 6th section of the Tralee Savings' Bank Act, 1876, as follows :—

"The Tralee arbitrators, if they think fit, and either with or without conditions, may amend a claim, dispense with a non-compliance with the provisions of this Act, or of any rule or order made by them, accept such evidence as they think proper, *dispense with any evidence, dispense with the obligation of any person to obtain or produce letters of administration or probate,* adjudicate upon a claim in like manner as if a person who was illegitimate had been legitimate, and may generally do such acts and things as they think necessary or proper for the purpose of a just distribution of the assets of the Tralee Savings' Bank."

Now why should what was done for the representatives of the depositors in the Tralee Savings' Bank not be done for the depositors in the Tipperary Joint Stock Bank? The facts of the case show that it is local distribution—a local investigation of the case—which is required. The creditors who are unpaid are connected with nine distinct branches of the Tipperary Bank, spread over four counties. The towns where the creditors had their accounts are thus divided : 175 creditors near Tipperary, 96 near Roscrea, 96 near Nenagh, 66 near Clonmel, and 53 near Thurles, and 50 near Carrick-on-Suir—all in the County of Tipperary ; 51 near Athy, in the County of Kildare ; 35 near Carlow, in the County of Carlow ; and 30 near Thomastown, in the County of Kilkenny. Now why should not the distribution of the dividends of the Tipperary Bank be entrusted to two magistrates and the petty sessions clerks in each of these nine towns, with the same powers that were entrusted to Mr. Herbert Murray and Mr. Lane Joynt (the Tralee arbitrators)? Or if it be thought necessary to have a crown official in the matter, why should not the local crown solicitors of the four counties be allowed to undertake the duty?

In Scotland the crown solicitors are all resident in their districts, and are employed for the civil as well as the criminal part of the crown business, as their title, procurator fiscal, shows—so there would be no difficulty in managing such a distribution in Scotland. If our crown arrangements were as well organised as in Scotland there would be no difficulty in successful crown administration of this kind, which, benefiting a large number of people, would be calculated to raise official management in public estimation.

Unclaimed dividends in Chancery Division of High Court of Justice.

This Tipperary Bank case is, however, only an illustration of a much larger question of the £5,000,000 invested with the Accountant-General of the Chancery Division : there is a very large amount of unclaimed property, probably not less than half a million, included in the £5,000,000. Now of all the difficulties of proving title to money of this kind, the most removeable cause is by diminishing the cost and difficulty of taking out probate or administration.

I recollect my attention being called to this by an English case many years ago. An Irish gentleman resident in London had been a depositor

in Fry and Chapman's Bank, which failed in London in 1829. He died intestate; and after his administrator died a small dividend was declared in the assets of Fry and Chapman's Bank. The cost of taking out fresh administration to the original intestate was greater than the dividend. When the English Probate Act was passed, the cost of taking out probate was largely diminished. A further dividend was declared; and the representative of the original depositor was able to take out fresh administration and get the two dividends.

Inferiority of the Irish and English to the Scotch arrangements for proving wills.

Now in Ireland the arrangements for proving wills are very far behind he similar arrangements in Scotland.

The passing of the Irish Land Act of 1870 has increased the number of wills proved, and administrations taken out in Ireland. The number in 1880 was 4,460, as compared with 3,413 in 1869, or an increase of 1,047, or 30 per cent. The Land Act of 1881 will still further increase the business. But there is still a wide margin for increase of business; as it is estimated that there are 30,000 persons dying in Ireland in a year, whose property, such as it is, passes without either will or letter of administration.

"The Intestate Widows' Acts of 1873 and 1874 have failed to meet this evil. There were only 32 proceedings in the year 1880, as compared with 156 in 1879 and 26 in 1878. The whole of the increase in 1879 was in a single office in Armagh, where there were 137 cases; in the other ten District Registries there were only 19 cases. In 1880 the cases in Armagh fell to 7, and in the other offices increased to 25.

"The Acts are very inferior to the concurrent and subsequent Scotch Acts, 36 & 37 Vic. c. 52; 38 & 39 Vic. c. 27. (1) The Scotch Acts provide the cheap proceeding for property up to £300.* In Ireland the limit is £100. (2) The Scotch Acts extend to wills. The Irish are limited to intestacies. (3) The Scotch Acts prescribe the course to be pursued, and supply the appropriate forms. (4) The Scotch Acts limit the cases by value only. The Irish, adopting a lower limit of value, exclude from the benefit of the reform those who reside within three miles of the office; then instead of utilizing the Clerks of the 608 Petit Sessions Courts, giving a really local machinery for poor people, the 40 Clerks of the Peace alone are used."

In Scotland the proving of wills has been consolidated with the jurisdiction of the Scotch County Court, and the arrangements are so convenient that if adopted in Ireland they would give fifty towns where wills could be proved. In Ireland there are, however, only twelve, most inconveniently situated, corresponding neither to the ancient division of Ireland into dioceses, nor the more modern division into counties, but corresponding to the twelve united dioceses—arranged in 1835 for the convenience of the Protestant Church, when the bishoprics were reduced in number by the late Lord Derby.

Now why should this be so? Why should the Irish Intestate Widows' Acts be inferior to the Scotch? Why should the number of places to prove wills in Ireland depend on the number of United Dioceses to which the Church of Ireland was reduced in 1835? Why should there not be as many places to prove wills in proportion to population as in Scotland? Why should not the officers of the County Court and of the Petty Sessions Court be used for the purpose of facilitating the proof and administrations of the wills and affairs of the poor? Why should

* Raised from £150 to £300 by Inland Revenue Act, 1881.

not the High Court of Justice, the County Courts, and the Petty Sessions Courts form one complete system of tribunals, that the whole machinery of justice might be used for the convenience of suitors?

When there are only 4,460 probates or administrations granted in the year, when there might be 35,000, what a mass of property passes without legal sanction, to escape the cost of the proceedings. Are not the privilege of Savings Banks, and the Intestate Widows' Acts admissions that the system is defective? Why should the Imperial Exchequer gain from £500,000 to £1,000,000 of money off suitors in Ireland, from the cost of the state arrangements being greater and more burdensome than in Scotland?

Why should the whole organization for proving wills be under the control and patronage of a single official? When the state has had such wonderful success in accommodating the Post Office arrangements to the affairs of the poor by penny and halfpenny stamps, Post Office Savings Banks, and last year Penny Savings Banks, why should there be no systematic effort to carry out the principle of the Judicature Acts, and consolidate our tribunals into one complete organization, so as to localize the proving of wills and the administration of property to the extent that exists in Scotland, and that has become absolutely necessary in Ireland?

Inadequacy of the arrangements under the Inland Revenue Act, 1881, *to meet the evil.*

The instructions which have been issued under the Inland Revenue Act of last session afford the strongest possible evidence of the necessity of the reform which has been urged in this paper. At page 13 we have the districts for the Probate Court Registries; they are eleven in number:— Armagh, Ballina, Belfast, Cavan, Cork, Kilkenny, Limerick, Londonderry, Mullingar, Tuam, and Waterford. Take the hardships that occur. Newry is only 21½ miles from Armagh. If a person dies in the County Armagh part of Newry, the will can be proved at Armagh, 21½ miles off by railway; but if the testator dies in the County Down part of Newry, the will must be proved at Belfast, 45 miles off. Take, again, Drogheda. It is only 32 miles from Dublin by railway, with frequent trains; it is 57½ miles from Armagh; yet Drogheda is included in the Armagh and not the Dublin Probate District.

The way Connaught is divided is still more extraordinary. If a man dies at Boyle, his will has to be proved at Tuam. The executor's railway route is through Mullingar, Athlone, and Athenry, to Tuam; he passes by Mullingar, which is 56 miles off, and where there is a district registry; but the executor is not allowed to prove the will there, and has to travel 73 miles further to Tuam, or 129 miles in all. Take, again, a death in Sligo. The executor's route by railway to Ballina, where the district registry office is, is through Mullingar, Athlone, Castlebar, to Ballina. The Mullingar registry, which he passes, is only 84 miles off, but he has to go over 116 miles further, or 200 in all to Ballina. Can anything be conceived more cruel or unreasonable? The Commissioners of Inland Revenue concede this point, for they appoint Newry, Drogheda, and Sligo as places where the offices of the Inland Revenue have been authorized to carry out the provisions of the 33rd section of the Inland Revenue Act, 1881, as to cases where property is under £300. They appoint 29 other towns (not being Probate Court registry towns), or 32 in all. These make, with the central Probate office, and the 11 Probate District registry offices, 44 towns in all, where same facilities for proving some wills are given. This, how-

ever, is short of the number of places which the analogy of the Scotch arrangements would give, which are for Irish population, not less than 50 towns in number. Amongst the 44 towns I may mention that Boyle is not included.

But how far short of the Scotch are the Irish arrangements. In the Scotch 50 towns there is a local officer on the spot, trained to the business. There is a code of law as to small estates recognised by the Inland Revenue Act of 1881 as satisfactory. In Ireland in only 12 towns is there a local officer trained to the business, and able to answer questions. For as the 32 other towns the officers of Inland Revenue receive these instructions: –

> "If any application should be made to the Inland Revenue officers not contemplated in these directions, or *any difficulty presents itself* in carrying out these directions, the *applicant* should be at once *referred* to the principal, or one of the eleven District Probate Registries."

In other words, the Inland Revenue officer is not bound to learn anything about the law of granting wills, or to take any trouble in the matter. Besides this general instruction to refer the applicants to seek information at the distant probate registries, in particular cases they are expressly ordered to do so. Special provisions are made by law for the protection of the property of married women. And it might be supposed public officers would be instructed to take some trouble in the case of their wills, being often cases where minors have to be specially guarded against improvident fathers; but the instructions state :—

> "The will of female testatrix married at the time of making it, can only be admitted to prove under special circumstances, and the *applicant* for probate of such a will, or for letters of administration with such a will annexed, *should be at once referred for instructions* to the District or Principal Probate Registrar."

There is a similar instruction as to wills defective in the slightest particular of the prescribed conditions necessary to its being received without evidence, such as the instructions of the Probate Court Registrar, sanctioned by the Commissioners of Inland Revenue. The Inland Revenue Commissioners issue further instructions to their own officer. They refer to the Irish and English Intestate Widows' Acts, and say—

> "It may be noticed that in the case of intestacies, *i.e.*, where there is no will, and the whole estate and effects of a deceased shall not exceed in value the sum of *one hundred pounds*, the widow or children of a deceased person, if they reside more than three miles from the Registry of the Court of Probate, can apply to the Registrar of the County Court, who is required, on payment of certain prescribed fees, ranging from 5s. to 13s., to assist them in taking out administration (see 36 & 37 Vic. c. 52; and 38 & 39 Vic. c. 27)."

The Commissioners thus instruct their officers to refer poor people to Acts of Parliament, which have been reported to Parliament, so far as Ireland is concerned, to have totally broken down. The inconvenience of employing Revenue Officers in Ireland and England as mere intermediates, as a substitute of the Scotch system of completely localizing the administration of justice, is shown by the instruction as to the transmission of wills. The Commissioners at p. 5, say :—

> "It may be here remarked that in transmitting documents to the various Registries, the Board enjoins on all their officers the utmost care in making the address on the envelope distinct, so that there may be no miscarriage of the contents.
>
> "In the event of the loss of any document, the inconvenience would be very serious, *but as to the case of a will, it would be irremediable.* Letters,

therefore, containing wills must always be registered, the cost being claimed in the same manner as postage. Special envelopes will be provided for the transmission of documents to the Registries, and a supply will be sent to each officer."

Now, surely the logical consequence of the loss of a will being irremediable is that in any system of protecting property passing under a will, the primary duty of the first public officer into whose custody a will comes of the class the state proposes to benefit and assist is, before parting with it, to take a copy of it. Those instructions, the more they are examined, are admissions that the reform of localization of jurisdiction as to wills is necessary. The demand to have the reforms as to Scotland, which Parliament accepts in 1881, as satisfactory and complete, in the very Act in which the imperfect substitute I have described is applied to England and Ireland, is irresistible on any rational principle of equal laws for the humble suitor in whatever part of the United Kingdom he resides.*

Summary of Conclusions.

The results which I venture to submit to this section are:—

(1) That there should be the same legal facilities for repaying the depositors who have £28,289,000 in the Irish Joint Stock Banks, as have been found necessary, and have existed for years, in respect of the repayment of the depositors who have £1,980,000 in Trustee Savings Banks, and those who have £1,426,000 in Post Office Savings Banks.

(2) That the representatives of the depositors in the Tipperary Bank are as much entitled to sympathy and consideration as the representatives of the depositors in the Tralee Savings Bank.

(3) That as central public officers (Mr. Herbert Murray and Mr. Lane Joynt) were allowed to volunteer their services as statutable arbitrators under the Tralee Savings' Bank Act of 1876, to secure the payment of £2,000 without expense of the Tralee depositors, local public officers in Ireland should be allowed to volunteer their services, with like powers, to secure the payment of £3,000 of the depositors of the Tipperary Banks.

(4) That as care was taken in 1876 not to forfeit to the Imperial Exchequer the fund which belonged to the depositors of the Tralee Savings, but special provisions were made by Parliament to remove the legal difficulties in the way of payment, so now the dividends declared payable to the representatives of the depositors of the Tipperary Bank should not be forfeited to the Imperial Exchequer under the earlier Act of 1867, on account of the cost of proving wills; but that the same provisions which were made in the Tralee case to guard against such a hardship, should be applied to the case of the representatives of the 647 depositors and creditors of the Tipperary Bank.

(5) That the Tipperary case calls attention to the hardships arising from only 4,500 out of 35,000 wills or intestacies being legally managed in Ireland.

(6) That the places where wills can be proved should, in proportion to the population, be as numerous in Ireland as in Scotland—or fifty places instead of the existing number of twelve places in Ireland; the

* See the very interesting paper of Mr. Alfred Webb "On the Difficulty of Proving Wills" at the Central Office in Dublin, read December, 1880, *Statistical and Social Inquiry Journal*, vol. viii. p. 192; and paper of Mr. Smith the District Registrar at Armagh, in the *Statistical and Social Inquiry Journal*, vol. vii. p. 413, which Mr. Webb quotes, where the means of extending the Scotch law to Ireland is pointed out.

smaller number arising from the number of united dioceses in the Church of Ireland for Protestant Episcopalians.

(7) That the improvements which have been introduced in the Scotch Intestate Widows' Acts, for the benefit of people with assets below £300, should be extended to Ireland.

(8) That the Petty Sessions Clerks should be used as officers of the Superior and County Courts, to the extent necessary for the adequate localization of the proving of wills and administration of assets of people with less than £300 assets.

(9) That the provisions of the Land Act of 1881, as to the legal representatives of tenants, makes the reforms suggested in this paper of urgent importance at the present time.

(10) That the principle of the Tralee Savings' Bank Act of 1876 is applicable to the representatives of the owners of several thousand pounds of unclaimed property in the Chancery Division of the High Court of Justice; and the contemplated transfer of that property to the Imperial Exchequer makes the application of the principle one of immediate importance.

(11) That it is of great importance at the present time to afford as many public officers as possible an opportunity of showing, as was shown in the case of the Tralee Savings' Bank in 1876, zeal, activity, and administrative talent, exercised for the benefit of the poor and helpless, and of the representatives of those who have been the victims of a calamity.

VIII.—*Report of a Local Committee as to the best Means of Diminishing Vice and Crime in Dublin.*

I.—On Protection and Rescue of Girls under Twenty-one years of age.

In respect of marriage, the law draws a clear line for the protection of minors under twenty-one years of age. By Lord Hardwicke's famous Act against clandestine marriages, Parliament lays down the principle that they are not to be allowed to marry under that age without the consent of their parents or guardians. This principle is laid down for the protection of the young people themselves, of families to which they belong, and of society, against the consequence of premature and improvident marriages.

If this principle be sound, it follows as a logical consequence that there should be a power vested in parents, in guardians, and in the State, of rescuing girls under twenty-one from a life of prostitution. If they are not of an age to decide their own fate irrevocably in marriage, neither are they of an age to make the no less serious decision of devoting themselves to a vicious life—with consequences still more disastrous to themselves, their families, and society, than those arising from their contracting an improvident marriage.

In the session of 1880, Parliament adopted this principle so far as girls under the age of fourteen are concerned, by the amendment of the Industrial School Act, introduced through the instrumentality of Colonel Alexander, M.P., at the suggestion of Miss Ellice Hopkins, and extended to Ireland through the instrumentality of the Solicitor-General