ought alike to be continued till the object of it is in a condition to earn by labour an independent living. The choice would then be open to the boy or girl of remaining with the foster-parents if they desired to keep it, or of entering into service elsewhere; and if the former alternative were voluntarily chosen, as in many instances it would, the tie thus established would be alike honourable to both parties, and would most probably tend to their permanent happiness.

*Conclusion.*

Let me explain once more, in conclusion, that I and those who share my views, do not advocate any compulsory legislation, either to force the guardians to board out the orphans and deserted, or to oblige them to keep the children out to any fixed age. We should, on the contrary, deprecate any such interference. We believe that by the continued consideration and discussion of the subject, the advantages of boarding-out will become so plain, that it will be gradually adopted everywhere for the class of children for whom it is suitable. The only legislation we ask for is of the permissive kind. Irish guardians are not free to keep the children out beyond the age of 10. This limit is fixed by an Act of Parliament which does not apply to the other portions of the United Kingdom. We simply demand that Irish guardians shall be at liberty to continue the boarding-out, if they think proper, up to the age of 16. Having thus the same discretion as their English brethren, who exercise similar functions, they will be under the moral obligation of doing what is best for the children; and those who think the present system mischievous, if it is then pursued by the guardians, will have to deplore what they will consider the error of their fellow-countrymen, but will not be able to lay the blame at the door of Imperial Legislation.

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II.—*Complaints against Bankers in Ireland on account of the saved Capital of Ireland not being lent to a sufficient extent to the farmers and small owners of land in Ireland, considered, and traced to* (1) *Defective state of law as to Sheriff's sales;* (2) *Want of local jurisdiction in equity and bankruptcy;* (3) *Want of local map registration of such interests; and* (4) *The unreformed state of offices of Clerk of the Peace, Sub-Sheriff, and Sheriff's Bailiff, with suggestions for the reform of these offices.*—By W. Neilson Hancock, LL.D.

[Read 21st December, 1875.]

*Abundance of Capital and falling off of Tillage in Ireland, as compared with Scotland, especially since the Land Act.*

In the Autumn of the present year, some complaints appeared against bankers in Ireland, that the saved capital of Ireland was not freely enough lent to the farmers and small owners of land in Ireland.

These complaints rest on the now well established fact, that the

bank deposits of Ireland have increased in a very remarkable manner, and upon the equally well established fact, that the capital and deposits of Irish banks are largely employed in the discount market in London.

Private capitalists, as well as the bankers, employ their capital out of Ireland. Attention has been for some years directed to the large amount of foreign bonds held in Ireland, though it is impossible to have accurate statistics on the subject. After the last reference to this tendency of Irish capital, I received a communication from a member of the Council of Foreign Bond-holders in London, in which he said :—

> I have no doubt as to your being right, that a large proportion of Irish savings are invested in foreign bonds, for I have seen many proofs of it.

The unsatisfactory nature of this employment of capital is shown by the "Report of the Select Committee of the House of Commons on Foreign Loans," and by the fate of the Turkish bond-holders.

The question then arises, Why is all this capital sent out of the country for investment, and not employed at home?

In connexion with this inquiry, there is another set of facts very important to bear in mind. If we compare the condition of Scotland at present with what it was some years ago, we find that they have had a great development of cattle farming, just as we have had in Ireland; but they have so managed their cattle farming as to have combined with it an increase of tillage, whilst in Ireland the increase of cattle farming has been combined with a decrease of tillage.

THE ACREAGE UNDER CORN, GREEN CROPS, AND FLAX.

| *In Scotland.* | | Acres. | | *In Ireland.* | | Acres. |
|---|---|---|---|---|---|---|
| In 1855 | ... | 1,996,000 | ... | In 1855 | ... | 4,371,000 |
| „ 1873 | ... | 2,115,000 | ... | „ 1873 | ... | 3,432,000 |
| Increase | ... | 119,000 | | Decrease | ... | 939,000 |

Now, to carry on tillage to the extent that it is carried on in Scotland, and to combine cattle farming with tillage farming, as is done there, would give legitimate and profitable employment for a very large amount of the capital which is exported.

It might be supposed that the Land Act of 1870 had checked this decrease of tillage; but while the figures for 1875 show a slight improvement on those of 1874, taking the whole period from 1870, there has been no serious check to the falling off of tillage to which I have called attention.

ACREAGE UNDER CORN, GREEN CROPS, AND FLAX IN IRELAND.

| | Acres. | Decrease. Acres. | Decrease per annum. Acres. |
|---|---|---|---|
| 1855 | 4,371,000 | — | — |
| 1870 | 3,868,000 | 503,000 | 33,500 |
| 1875 | 3,387,000 | 481,000 | 96,200 |

To show fluctuations since 1870, we have the following figures :—

| | Acres. | Decrease in year. Acres. | Increase in year. Acres. |
|---|---|---|---|
| 1870 | 3,868,000 | — | — |
| 1871 | 3,893,000 | — | 25,000 |
| 1872 | 3,687,000 | 206,000 | — |
| 1873 | 3,432,000 | 255,000 | — |
| 1874 | 3,362,000 | 70,000 | — |
| 1875 | 3,387,000 | — | 25,000 |

It is impossible to look at the figures in this table, and compare them with the Scotch figures, and be satisfied with the result.

Without for a moment underrating other causes for this state of affairs—the want of union rating as in England, the want of an educational system for small capitalists equal to the Scotch, and other causes which might be referred to—the question arises, does the unnatural falling off of tillage in Ireland arise to any extent from causes affecting the lending of money to farmers?

Now, those who have urged complaints against the banks on this subject, allege that the bankers will not lend unless they get a number of names on the farmers' bills. This at once points out some legal difficulty in recovering from farmers the money lent.

*Why is the saved capital of Ireland not lent more freely to the farmers in Ireland?*

The promptness with which money is lent depends on two considerations; first, the promptness and efficiency of the means of recovering the debt and interest if unpaid, and the facilities for transferring the securities for the loan from one person to another.

We have an illustration of the first of these causes in the case of large mortgages on land in Ireland. When the proceedings for the sale of Incumbered Estates were so expensive and dilatory as those in the Irish Court of Chancery before 1849, the usual rate of interest on mortgages was 6 per cent.; now that the proceedings are more prompt in the Landed Estates Court, the ordinary rate of interest on mortgages is from 4½ to 4¼, and in some cases 4 per cent. Now that the second judge has been restored to that court, if a suitable pressure was put on practitioners to accelerate the proceedings to the point that they can now be accelerated to, there would be a further fall in the interest on mortgages to 4, and for large sums, even below 4 per cent.

The effect of facility of transfer is shown by the railway securities. Some years since the railway companies had to pay 6 or 5 per cent. on their bonds and mortgages; but now, with the facility of transfer of the debenture stock in sums of any amount, the large companies can borrow at from 4 to 4¼ per cent.

*Defective nature of proceedings at a Sheriff's sale.*

In a paper which I read before this society in the month of June

last, I pointed out the singular contrast which the law as to Sheriffs' sales—the chief mode of recovering money lent to farmers—presents to the efficient procedure of the Landed Estates Court.

I will here repeat what I then said as to Sheriffs' sales, under the writ of seizure of goods, leaseholds, and yearly tenancies, called in law *fieri facias.*

*Defective nature of the proceedings at a Sheriff's sale, under a writ of "fieri facias."*

We now come to the sale of a leasehold or yearly tenancy under a writ of *fieri facias;* it is an antiquated remedy, and a most defective and expensive procedure.

The origin of a writ of *fieri facias* affecting land, was the crude idea of selling the lease by which the land was held, like a table or a chair. It arose in England and Ireland before there was any registry of deeds, and when the custody of the lease was some evidence of title.

So entirely is the original idea carried out, that the Sheriff who sells, though the great executive officer for putting people in possession of land, cannot, when he sells the lease, give possession. He only executes a conveyance; and then the purchaser from the Sheriff has to bring an ejectment—in the superior courts, if the rent exceed £20, and in either superior or local court, if the rent or value do not exceed £20.

Now can anything be imagined more cumbrous and burdensome? A creditor of £25 wants to make a debtor, with a farm of ten acres, pay his liabilities by the sale of his interest in his holding. He sues in the local court, and gets a decree. He then applies to a judge of the superior court to remove the decree by *certiorari.* He then obtains a writ of *fieri facias* from the superior court. The Sheriff, upon that, sells, makes a return to the superior court, and executes a conveyance to the purchaser. The purchaser brings an ejectment; and then, under the execution in ejectment, the Sheriff puts the purchaser into possession. During all this complicated procedure, there is no real examination or guarantee of title,

The purchaser has to investigate for himself, as best he may, the debtor's title, and the prior claims, if any, to his own; and after he gets into possession, he runs the risk of civil bills for legacies, ejectments on title paramount, and suits in Chancery for equitable charges.

The tenants complain of these sales—that the time they occur is under no regulation or control—"Crops in, or crops out, June or December, satisfy the Sheriff or the land must go."

The policy of the Land Act was that notices to quit should all end with the last gale day, when the crops were out. Under the sheriff's sales there is eviction without restriction.

Again, in case of eviction for non-payment of rent, the tenant has six months to redeem; but as to the eviction after a Sheriff's sale,

"It is sudden death—it provides no season for redemption—no day for mercy."

It may be said in answer to all this, that the debt is due, and the price must be fair, and the purchaser well selected, because the sale is by auction. But as the title is not examined, as the purchase-money is not administered to satisfy claimants, as the landlord is not consulted beforehand, as there is no lengthened notice to the occupier, the purchaser buys, not an ascertained interest in a holding, but a law suit. His first step is to bring an ejectment; he has the opposition of everybody to contend with; he shares the odium of the successful creditor at whose suit he has purchased, who is called "a judgment raider." The small creditor, who has been anticipated because he sued in the local court—the large creditor, who has been anticipated because he gave time—the mother and sisters of the tenant, whose equitable claims have been confiscated because a Chancery suit could alone protect them—are all dissatisfied. The landlord, again, is dissatisfied, because he has not been consulted—the debtor because he has been taken short in the midst of his last effort to work the farm.

Under all these circumstances, how can it be a fair competition price that is given; how few will bid under such circumstances? If the purchaser gives a

large price, the money is not lodged to satisfy the claims in just priority, as the price of tenant-right interests used to be lodged in the agent's office. The Sheriff has no jurisdiction to apply the balance in payment of the equitable claims of the widowed mother and sisters of the debtor, or in the payment of debts on notes or bonds, unless the parties have incurred the cost of obtaining a garnishee order, which the local court cannot grant. Whether he can even apply it in payment of the civil bill decrees, is still an unsettled question; he can safely apply it only to satisfy the claims of other creditors who have adopted the same expensive mode of enforcing their debts, and have lodged their executions between the lodgment of the first *fieri facias* and the sale.

If the purchaser gives a small price, in consideration of all his risks, then he incurs the odium of having taken advantage of everybody.

It follows at once from this state of affairs that one of the chief causes of the capital of Ireland not being lent to the farmers of Ireland is the state of the law as to sheriffs' sales. The reform of this state of the law, however, turns upon the reform of the office of Sub-sheriff.

*Reform of the office of Sub-sheriff.*

I pointed out in the paper quoted above how it had been proposed nearly fifty years ago by a Royal Commission to reform the office of Sub-sheriff, by making the office permanent, on the Scotch model, by paying the office entirely by salary out of local rates, from which the salary now comes, converting the fees into stamps, and paying the produce of them in ease of the local rates.

There is one branch of the reform of the Sheriff's office which I did not then enter upon, but which the Royal Commissioners of 1826 referred to as of very great importance.

*Reform of the office of Sheriff's Bailiff.*

The precarious tenure of the office of Sub-sheriff has the effect of rendering precarious the office of Sheriff's Bailiff. His office, too, is not, like the Sub-sheriff's, paid partly by salary charged as rates, and partly by fees, but is in the more unsatisfactory position of having no salary from rates.

The Royal Commissioners of 1826, referring to the Sheriffs' Bailiffs, report:—

> They are employed . . . . . to assist in executing the process of every description. It is not customary to require security from those bailiffs, who are in general persons of low description, and from their character unworthy to be employed confidentially. However, to this there appear some exceptions, where the Sub-sheriff seems to rely on their fidelity. The general inefficiency and corruption of this part of the establishment of the Sheriff's office, appears to us a practical evil which has in a great degree contributed to the mal-administration of its duties. . . . . And we have anxiously endeavoured to provide some remedy.

Having thus described the unsatisfactory state of the office in 1826, which indeed might be expected from the precarious pay and precarious tenure of the office, they then proceed to explain their remedy for it:—

> Should the suggestions as to the change in the constitution of the Sheriff's office, which will be found in the sequel of this report [viz., that the office of Sub-sheriff should be made permanent, and put upon a salary] be adopted, we would

contemplate the proposal of enabling the Sheriff to appoint persons with a suitable salary to act in the capacity of bailiffs, of a more respectable class than those hitherto appointed for that purpose.

The importance of reforming the office of Sheriff's Bailiff, and the serious results that arise from the delay of the reform of the office of Sub-sheriff, which has stood in the way of the reform of the subordinate office, is shown in a remarkable way in recent years.

In 1864 great complaints were made of the evil results of leaving the execution of civil bill decrees to private bailiffs, nominated by the plaintiff, and a measure was introduced in terms I shall hereinafter refer to, to supersede private bailiffs, and substitute, in every case of civil bill decrees, the Sheriff's Bailiff.

After, however, seven years, this important reform had to be reversed in 1871, and the system of private bailiffs to a large extent restored. This restoration passed *sub silentio* through Parliament, as it well might, being one of those retrograde measures that have such an injurious tendency in weakening the prestige of parliamentary government—especially in matters so closely affecting the condition of the humbler classes of our fellow-subjects in Ireland.

This Act of 1871 compels the Sheriff to grant a warrant to the plaintiff in a decree, or defendant in a dismiss—nominating one or more bailiffs, and his or their assistants, to execute the decree or dismiss at the peril of the plaintiff or defendant. The chairman has power to prevent this mode of execution, and a bailiff guilty of misconduct may be prevented from acting again.

But, subject to these slight checks, the injurious system of plaintiffs and defendants employing their own bailiffs was restored in 1871.

Now it is a matter of plain inference that if the office of Sheriff's Bailiff had been reformed by the officers being made permanent and placed on a salary, as recommended by the Royal Commissioners in 1826, the retrograde legislation of 1871 need not have been passed.

The state of affairs restored in 1871 may be judged of by the description of the evils of plaintiffs and defendants employing their own bailiffs, which existed before 1864.

The Attorney-General for Ireland, in introducing the Bill in 1864, said :—

There was one portion of procedure which was the subject of almost universal condemnation in Ireland, and for the reform of which this measure was introduced, that was the mode of execution of the process of the courts which operated mainly amongst the humbler classes, and in whose case it was extremely important not only that the process should be efficient but that it should be controlled by means of a machinery to which due responsibility should attach.

At present (1864) the execution of the county courts in Ireland was as badly carried out as it could possibly be.

By the 14 and 15 Vic. it was directed that the decree of these courts should be executed by the Sheriff or by a special bailiff nominated by him ; but the practical result was that the Sheriff never executed a decree.

Thus it came to pass that while in the superior courts the Sheriff was responsible in these instances both to the plaintiff and defendant for any mischance that might arise, the person generally appointed to execute process by the plaintiff in the county court was someone of rather low character, to whose performance of the duty cast upon him, great extortion, and great oppression, and great public misdoing were incident.

Indeed he had heard of cases in which the execution of a decree for a sum of £20 in such hands, had cost £3, £4, or even £5; while in addition, frequent assaults and rescues were the consequence of committing the execution to ignorant and truthless persons, who are apt to display great recklessness and violence of conduct.

This description shows at a glance that our law reforms, to be of any use, must be complete.

Of what use would the penny postage have been if the letter carriers were paid by fees, and were occasionally employed, and were of the character of the special bailiffs as thus officially described?

One great feature of the cheap postage reform was the substitution of publicly-appointed letter carriers, for private messengers calling for letters. Another great feature was the increase in the number of district post-offices and pillar letter-boxes; the advantages were not a mere reduction of part of the charge, but a complete organization of the whole care of letters.

So in law reform: if it is to be complete, it should include the whole legal machinery, and should, as pointed out by the Royal Commissioners of 1826, include the Sheriffs' Bailiffs.

And in the order of reform it would appear important to commence with the most numerous class of public functionaries, and these who come into such direct contact with the people. For, as in the case of the post-office, the employment of public letter-carriers, and the increase in the number of post-offices, and the extension of business to money orders, savings' banks, and telegraphs largely increased the whole business, and so increased the business of the head office to a wonderful extent; so in the case of law reform, a complete organization of the staff, to execute all legal process, or reform the local courts so as to include the administration and protection of property of the poor in cases of minors and lunatics, and of successions at death, would increase the business of central courts of control and revision, to an extent that cannot now be estimated.

Where the law now protects in the year the property of only 25 out of 724 lunatics, and of only 1,098 out of 250,000 fatherless minors, and of only 4,043 out of 35,000 successions, the really important question is, how to extend the protection of law to all those cases; and if so, the local court reform is the most important. And of all the local court reforms, that of the Sub-sheriff and the Sheriff's Bailiff are, upon the principle pointed out fifty years ago by the Royal Commission of 1826, the most urgent.

All subsequent investigation has shown that the Scotch analogy, upon which the Commissioners of 1826 proposed to act in the reform of the offices of Sheriff and Sheriff's Bailiff, is the true one, and affords a safe and useful precedent, adapted in all respects to the state of affairs in Ireland.

*Other causes of the saved capital of Ireland not being lent to the farmers and small owners of land in Ireland. Want of equitable jurisdiction in the local courts.*

One of the simplest securities on which a banker advances money is a deposit of title deeds, thus creating an equitable mortgage. In

Ireland such a mortgage can be enforced only in the Court of Chancery, and the Landed Estates' Court. In Scotland, the Scotch sheriff's court has had an equitable jurisdiction for years; and in England and Wales the county courts have had an equitable jurisdiction since 1865.

By the Judicature Act of 1873, the Queen in Council is enabled to grant an equitable jurisdiction to all inferior courts in England, to the extent it exists in the English county courts.

In Ireland, while the county courts want the necessary equitable jurisdiction, it was not proposed, in the Judicature Bill of 1874, to grant it to them, nor was any power taken to confer equitable jurisdiction on the inferior courts; there was only a provision to regulate it where it existed.

Thus up to the latest moment, in this simple reform, on which all facile lending of money on title deeds rests, we are still ten years behind English legislation, and many years behind Scotch legislation.

*Want of reform in office of Clerk of the Peace.*

If we look for a reason for this strange anomoly, it will be found in the long delayed reform in the office of Clerk of the Peace. The Clerks of the Peace are made by statute the registrars of the court of the Chairman of the county. Under a statute of the reign of George IV., Clerks of the Peace have still the privilege of discharging their duties by permanent deputies. Although the office has important legal duties to discharge, no legal qualification is required either for the Clerk of the Peace or the deputy.

In Scotland, the registrar of the county court is a regular trained professional man; in England the registrar of the county court must fulfil the same conditions.

In Ireland, the state of the Clerk of the Peace's office has been well known for years, and recommendations have been made and bills introduced. The jurisdiction of the local courts has been from time to time increased: especially a great and important increase was made to the jurisdiction by the passing of the Land Act; but though five years have elapsed since this increase of duty, the office is still unreformed.

As part of the reform of the county offices, to secure an efficient staff at a moderate expense, it has long since been proposed that the office of Clerk of the Crown should be consolidated with that of Clerk of the Peace—the Clerks of the Crown, like the Clerks of the Peace, have now the like privilege of discharging their duties by deputy. This reform, too, has got the length of being embodied in a government bill.

*Want of local jurisdiction in bankruptcy.*

Another difficulty in the way of lending of money to farmers and small owners of land, is the centralized jurisdiction in bankruptcy—the power of referring causes to the Chairman's court being practically of little value, so long as the office of Clerk of the Peace is not reformed.

In Scotland the county courts have local jurisdiction in bank-

ruptcy; and in England the tendency has been to localize the bankruptcy jurisdiction. There, cases are not commenced at the central courts and referred to the local courts; but are, where locally dealt with, commenced at the local courts, and come up to the central courts by way of appeal; and such is, if the officers of the local courts are placed on an efficient basis, the true method to secure a cheap and effectual administration of bankruptcy of small cases.

*What would be the cost of the reform of the local offices of Clerk of the Peace, Clerk of the Crown, Sub-sheriff, Sheriff's Bailiff, &c.*

It is sometimes supposed that the reform of the local offices would cost a large amount of money. The officers of the local courts in Ireland are paid either entirely by fees, or partly by salary out of local rates or imperial taxes, and partly by fees; or, as in the case of the Petty Sessions' Clerks, and the Registrar of Petty Sessions Clerks, by salaries charged upon an uncertain fund arising from fines and fees converted into stamps.

Now the modern official reform that has been applied to higher offices connected with the administration of justice, is to convert all fees into stamps, to pay the officers entirely out of taxation, either local or general, and to carry the produce of the stamps in ease of the taxation. This change creates no burden, and it terminates all vested interest in fees, and so allows offices to be consolidated and reformed.

The emoluments from fees on wills at the district registry in Belfast produce £2,748 a-year; at the district registry office in Armagh they produce £1,158. Here is an ample fund for providing a most efficient local office for all business. Why should the District Registrars of the Court of Probate, who are so amply provided for out of these fees, confine their attention to wills alone? In Scotland, the corresponding office of Commissary is being gradually united with the Sheriff's office there.

In the consolidation of the office of Clerk of the Crown with that of the Clerk of the Peace, there would be an ultimate saving. The immediate pensioning off of aged and unqualified officers would, no doubt, create a burden. This might be met, however, by defraying the small cost of this disestablishment of officers of local courts that would not be required in the new system, out of the surplus funds from the disestablishment of the officers of the Irish Church.

In this way, without any injury to existing vested interests, or even the interests of the deputies, who without tenure and small pay have done so much of the work, a complete reform of the whole staff of the local courts might be at once introduced. Let the salaries, raised to an amount equivalent to the fees, be paid, as at present, out of local rates, and all fees be converted into stamps, to be collected and paid over to local rates like the dog-tax.

Let all qualified and efficient officers, whether principal or deputies, be incorporated in the new system, and all unqualified or inefficient be pensioned off out of the Church surplus.

*Importance of terminating the uncertain position as to salary of Petty Sessions' Clerks.*

The uncertain position as to salary of clerks of petty sessions,

might be remedied by a similar plan of transferring the funds on which their salaries are now charged to local rates, and giving a charge on local rates in exchange.

If this was done, the Petty Sessions' Clerks would be placed on permanent and secure salaries, and they would not be (as they are at present) with their salaries fixed for three years only, on a fixed basis of a three year's average of fees or productive petty sessions' stamps, with a poundage out of the fund arising from the fines added.

From this plan of fixing salaries, it follows that in the event of the diminution of fees and fines in any district, the future salary will be reduced, while on the other hand an increase of salary will depend on the increase of fees and fines. This mode of fixing salaries is equivalent to saying to the clerks—your future salary will largely depend upon your own effort to increase the fund arising from fees and fines.

This system of giving the officers of the court a direct pecuniary interest in the amount of fines imposed in each case, an interest in the allocation of the fines, and an interest in the number of summonses issued, where the granting of summonses is, in some cases, a matter of discretion, is an arrangement contrary to all the policy of modern reforms of legal establishments—which have all proceeded on the plan of depriving the officer of all pecuniary interest in the result of proceedings, or in the number or nature of the steps taken in a suit.

This mode of payment of Petty Sessions' Clerks admits of the simplest possible reform. They are already employed to collect the dogs' licence stamps, and the fund so collected is paid over to local rates. All that is required is to charge their salaries and superannuations upon the local taxes, to which this tax collected by them is now paid over, and to carry over all the taxes they collect in the shape of petty sessions' stamps to the same local rates. In this way no burden will be created, as the funds transferred would be equal to the average charges only—the local rates, instead of the clerks, would bear the fluctuations of the business.

*Importance of the reform of the local offices of Clerk of the Peace, Sub-sheriff, Petty Sessions' Clerk, and Sheriff's Bailiff.*

In estimating the importance of the reforms above suggested, we should bear in mind that these officers—the Sheriff's Bailiffs, the Petty Sessions' Clerks, the Sub-sheriffs, and the Clerks of the Peace, are those that come most in contact with the mass of the people, and poor people will judge of the whole machinery of the law by the part that is brought in contact with them; and it is a grave matter to find that in all these offices the arrangements fall short of securing stability of emolument and consequently an absence of pecuniary interest. That in the case of three of these officers—the Bailiffs, the Sub-sheriffs, and the deputy Clerks of the Peace, who actually do the work, there is added to instability of emolument, insecurity of tenure.

What a contrast does this present to the course which has so long and so successfully been pursued in the police in Ireland. There

the tenure and pay of the sub-constable, and the security of rising to a pension by long service, is as certain as that of the highest officer in the public service. Again, in the selection of sub-constables, as much care is bestowed in securing the necessary intelligence and good character, as in the case of the higher officers, and any misconduct is as rigidly and severely punished. The result has been, as we all see, to secure most efficient, trustworthy, and creditable representatives of the power of the state in suppressing crime.

All the suggestions I have made, as to official reforms of our local courts, amount to no more than asking to have applied to Sheriff's Bailiffs, to Petty Sessions' Clerks, to Sub-sheriffs, and Clerks of the Peace and Clerks of the Crown, the principles of civil service organization that has been so long applied to the officers and constables of the Royal Irish Constabulary and Dublin Metropolitan Police.

*Another impediment to the lending of money to farmers, the insecurity of mortgages of leasehold interests under the Act of* 1860.

In "The Landlord and Tenant Act of 1860," it was thought desirable to diminish the costs of ejectments for non-payment of rent, by diminishing the expensive searches as to who should be served; and it was provided that it should be sufficient to serve the tenant in actual possession of the lands only.

Before 1860 mortgagees of leasehold interests had very good security against ejectment without notice. This arose from very careful statutable provisions, made by the Irish Parliament, and dating so far back as 1746, giving a mortgagee, whose mortgage was registered promptly after execution, nine months to redeem—that is, three months longer than the actual tenant. Then the rules of court required that an ejectment should be served, amongst others, "on any mortgagee of such premises where the mortgage shall have been registered, etc., and also to assignee of any such mortgagee whose assignment shall have been in like manner registered."

The Act of 1860 swept away the security of the mortgagee. He had neither his nine months to redeem, when he would in six months be put on inquiry, on account of his gale of interest being in arrear if the tenant was ejected, neither had he the rule that he was to be served.

The reluctance of tenants to take leases since 1860, has been much observed on by some proprietors and agents; this destruction of the security of leases for a loan of money, by which mortgagee may be deprived of his security under a registered charge, though pointed out shortly after the Act was passed, has never been remedied.

This singular destruction of the value of leases as a security for money, would never have taken place if our system of registering such charges were not in a complicated and defective state.

The mortgages on any land ought to be so simply recorded that they would be seen, on opening a page of a ledger, like an account in a bank, and if so, there then would be no delay, or burden, or injustice, in requiring the parties appearing to be interested on the register, to be served with copy of ejectment.

*Impediment to the lending of money to farmers and small owners of land, from the defective system of registration of charges affecting land.*

The subject of improving the registration of charges on land has occupied a great deal of attention in recent years. Mr. Mark Perrin, the Registrar of Judgments, has brought the indexing in his office to the greatest perfection that the system admits of.

The improvement of registration in the Registry of Deeds Office, according to the ingenious invention of our fellow-member, Mr. Dillon, is occupying the attention of the highest officials.

These improvements, however, will be practically beneficial to persons interested in large properties only. For small properties the registration must be local, and based on a map. The importance of having registration based on a map, and using the ordnance survey as the basis of registration, was pointed out so far back as 1849, by Judge Longfield, in his celebrated evidence before the Select Committee of the House of Commons on Poor-laws in Ireland, in 1849. (*Tenth Report, Parliamentary Paper*, 1849, No. 366; Q. 9273, etc.)

The importance of this system was further urged by Mr. Justice Lawson, in his evidence before the same committee. In consequence of this and other evidence upon the subject, Lord Romilly, then Solicitor-General to Earl Russell's administration, introduced in 1850 the Registration of Deeds' (Ireland) Act.

That Act, after reciting the several provisions under which the Lords Commissioners of the Treasury had power to regulate the Registry of Deeds Office from 1832, recited that it was expedient that indexes should be formed with reference to the ordnance survey. It directed that the ordnance survey should be adapted and used for the purposes of the Act, and that land indexes should be made with references to the maps.

The Act then provided that "when the maps and land indexes to be used for the purposes of the Act, had been completed, it shall be lawful for the Commissioners of Her Majesty's Treasury to cause to be published in *The Dublin Gazette*, a notice of the time, not earlier than three calendar months from the time of the publication of the notice, when registration under the provisions of the Act should commence, and the time mentioned in such notice should be the commencement of registration under the Act."

For a quarter of a century this important statute has been allowed to remain a dead letter, and the question of map registration has been rather delayed than accelerated by its passing.

The greatest calamity that could happen to a useful reform, is what was the fate of map registration. It was sanctioned before the details were settled, and the working of the details was delegated by Parliament.

This placed the progress of the question for years beyond all ordinary criticism, with the result, as might be expected, where the subject was a difficult new reform, not generally understood, and exciting no powerful public feeling or large interested party—of the delay of a-quarter of a century that has occurred.

Under an Act of last session, to amend the laws relating to the

Registry of Deeds Office, Ireland, the Lords Commissioners of the Treasury have secured an earlier period for their orders, under the Act of 2 and 3 Wm. IV. c. 87, coming into operation; and in connection with Mr. Dillon's reform, the whole subject of the registration of deeds and judgments is under consideration.

The principle of perfect registration, according to title and not according to names, received a further sanction of Parliament in 1865, by the passing of the Irish Record of Title Act. The efficacy of that Act has, however, been marred by having its provisions confined to cases of absolute title.

The English Act of 1875 as to land titles and transfer, allows of registration with either absolute or possessory title.

The principle of local registers for small interests, so strongly advocated in a very able report made by Professor Donnell to the Council of this society in 1873, has so far received the sanction of Parliament for England, that the Lord Chancellor, with the concurrence of the Commissioners of the Treasury, is empowered by the Act of last session to establish district registries in England and Wales.

With reference to the special subject of this paper, the importance of the reform in our laws as to the registry of deeds, to facilitate the lending of money on the security of land, it is a matter of interest to notice that in the English Act of 1875, as to land titles and transfer, under the head of "Registered dealings with Registered Lands," the first heading is "Mortgage of Registered Land." The section then provides: "Every registered proprietor of any freehold or *leasehold* land may in the prescribed manner charge said land with the payment, at the appointed time, of any principal sum, either with or without interest, and with or without power of sale to be exercised at or after a time appointed." Thus the facilitating the mortgaging of land, whether freehold or leasehold, is in England, by the Act of last session, recognized as a primary object of state policy.

*Impediments to the lending money to farmers from the clauses that professional men advise their clients to insert in modern leases.*

The defects in local offices and local jurisdiction have a very important effect, which is very little noticed. The bankruptcy of a tenant with the present centralized jurisdiction, or a receiver being appointed over a tenant's interest, is not only calamitous to the tenant, but involves some risk of loss of rent to the landlord.

Again, Sheriff's sales, which are also so much complained of by tenants, are injurious to the landlords also. So it is the real interest of the owners of land, above all others, to protect themselves, by throwing their weight into the scale, and having the reforms suggested promptly carried. Besides the small direct injury they receive, the risk to the tenants of sustaining what is so disastrous in the long run affects the owners indirectly. Again, they, of all others, have the deepest interest that the law should be presented to the humbler classes in its best form—free from arbitrariness, defects, or complications; for the contentment that springs from good and simple laws, well administered, is one of the greatest elements of a nation's wealth and prosperity.

Such being the true interests of the owners of land, what are the forms of lease that are sketched out for their adoption, in text-books published in 1875? Take a precedent of a lease of large farm, valued at over £50 a-year, the lease being for thirty-one years. The lease is one, I should observe, where the tenant covenants to build the dwelling-house and to drain specified fields; his compensation is to be regulated, not by the Land Act, but by arbitration under the lease, so that he has only the covenant under the lease to secure payment, and no security of not being put out, till paid, as under the Land Act.

Being expected to make such permanent improvements on a thirty-one years' lease, his power of borrowing money on the security of the lease is swept away by the following covenant.

If the lessee shall become bankrupt or be convicted of murder, treason, or treason felony, or if the demised premises or any part thereof shall be sold or *attempted to be sold under any execution or other legal or equitable process*, or if any order shall be made by any court for the appointment of a receiver over the same premises or any part thereof, or any interest therein, by reason of any act or default of the lessee, or if *any breach shall be committed of any of the covenants hereinbefore* contained, by the lessee, then, and in any of the said cases, the lessor lawfully may at any time thereafter enter upon any part of the demised premises, in the name of the whole, and thereupon this demise shall absolutely determine.

If the law as to Sheriff's sales, the want of local jurisdiction in bankruptcy and in equity, and the law as to enforcement of covenants, were not in the unsatisfactory state I have described, it would never occur to a draftsman that it was a lesser evil to destroy the tenants' power of borrowing money on the security of his dwelling-house, and drains made by himself, than to have ordinary proceedings of courts of equity and law for the enforcement of debts allowed to take their natural course. The effort of individual proprietors to escape from the defective state of the law, when applied to small interests, thus affords the stongest evidence of the widespread and serious nature of these defects. What a comment these efforts afford on the causes why the saved capital of Ireland is not lent to the farmers of Ireland! How can it be lent to the farmers to build farm-buildings and make drains, when the advisers of owners consider it necessary to warn them that the laws to enforce the payment of debts out of land, where the interests are small, whether it be by Sheriffs' or equitable sale, bankruptcy or equitable process, are so injurious, that a covenant must be inserted to guard against their operation.

*Supposed interests of legal practitioners against law reforms.*

The extension of the jurisdiction of the local courts has been opposed by some legal practitioners for fear of its effect on the business of the superior courts; but the real effect of such want of local jurisdiction, as already noticed, is to place the whole business of the smaller owners and lessees, to as great an extent as possible, entirely out of the domain of law. If this mass of business was admitted to local jurisdiction, the natural appeal business arising out of it would, if the limits of jurisdiction were carefully framed, compensate the practitioners of the superior courts for the small amount of the existing business that would be transferred to the new jurisdic-

tion. What would be so transferred is just the class of business that, by its ruinous cost to the parties, creates in the minds of humbler suitors the greatest feeling against law and legal practitioners.

*Summary of conclusions.*

As a result of the preceding paper, it may, I think, be taken as established, that the bankers have been very unfairly blamed for not lending money to farmers and small owners of land to a greater extent than they have done in Ireland. Whilst the retention of land in tillage, as in Scotland, would be promoted by the free use of capital by tenants and small owners, whilst the country would be benefited by the capital being employed at home instead of being invested in foreign loans, the wonder is not at the small amount lent or invested on small interests in Ireland, but that so much is lent or invested at all, having regard to the legal impediments to such loans and investments.

That the chief impediment is the defective state of the law as to Sheriffs' sales, and the chief cause of this is that the office of Sub-sheriff is of uncertain tenure and uncertain pay, instead of being placed on the permanent basis so long established in Scotland, and recommended for Ireland by a Royal Commission so far back as 1826.

That the reform of the office of Sub-sheriff would not be complete without the reform, as recommended by the same Royal Commission of 1826, of the office of Sheriff's Bailiff, so as to have the humble representatives of the law, that come most in contact with the people, of the good character that is secured in public officers by payment by salary and permanent tenure.

That, for want of this reform of the office of Sheriff's Bailiff so recommended, the salutary reform of taking the execution of civil bill decrees out of the hands of private bailiffs, carried in 1864, had to be abandoned in 1871, and the serious evils of that source of violence and disputes, notwithstanding its condemnation in 1864, restored.

That the second impediment to lending on the usual banker's security, deposit of title deeds, is, in the case of leaseholders and ownerships of small value, the want of equitable jurisdiction in the local courts.

That the third impediment is the want of complete local jurisdiction in bankruptcies of small amount.

That the main cause of the local jurisdiction being in Ireland in these matters behind the corresponding jurisdiction in Scotland and England, is the unreformed state of the office of Clerk of the Peace, the principal officers being able by an old statute to discharge their duties by deputies, and the deputies having, as holding personal appointments, no tenure.

That, for the reform of the local offices of Clerk of the Peace, Clerk of the Crown, Deputy Clerk of the Peace, and Sub-sheriff and Sheriff's Bailiff, it only requires that all fees should be converted into stamps, and paid over to the local taxes out of which some of these officers are now in part paid, and the officers, in exchange, to be entirely paid out of such local taxes, and to hold for a permanent tenure, and to be subject to the English restriction as to qualification.

That the Petty Sessions' Clerks have permanent tenure, but salaries subject to revision according to the produce of the fees and fines in the court in which each is employed, could likewise have their salaries relieved from this uncertainty, and themselves from having any interest in the fines imposed and proceedings taken in their courts, by having the funds out of which their salaries are now paid accounted for, like the dog tax, to local rates, and those salaries in exchange charged upon such rates.

That the fourth impediment to lending money on leasehold interests, is the insecurity to registered mortgages of such interests, introduced by the Landlord and Tenant Act of 1860, which deprived such mortgagees of their nine months to redeem, or of notice of ejectment by superior landlord—a defect which again arose from the defective state of the registers in Ireland.

That the fifth impediment to the lending of money to farmers and small owners of land, is the want of a local registry, based on a public map for such interests, for which system the maps used by the valuation office in every union in Ireland, for the revision of the valuation each year for changes of holdings and improvements in buildings, afford the greatest facility.

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III.—*Reports of Charity Organisation Committee of the Statistical and Social Inquiry Society of Ireland, appointed 7th December, 1875.*

The committee was appointed at the December meeting of the Council, to consider and make suggestions upon the subject of a charity organisation:—(1°) To collect further information as to the working of charity organisation in London, New York, Elberfeld, and other places; (2°) To collect information as to the working of charities in Dublin, and to suggest the branches of Charity organisation that could be best undertaken by charitable bodies in Dublin; (3°) To collect, through existing charitable organisations, information as to the causes of pauperism, and to suggest means by which such information may be more completely and systematically collected; Professor Ingram, LL.D., F.T.C.D., chairman; The Very Rev. H. H. Dickinson, D.D. (Dean of the Chapel Royal); Major H. Le G. Geary, R.A., (Assistant Adjutant and Quartermaster-General); John Lentaigne, Esq., C.B.; Edward Gibson, Esq., M.P.; Alderman J. Campbell, J.P.; William Findlater, Esq.; Professor O'Shaughnessy; David Ross, Esq.; William J. Hancock, Esq.; John R. Garstin, Esq.; Henry Dix Hutton, Esq.; Henry H. Stewart, Esq., M.D.; John O'Hagan, Esq., Q.C.; Professor Donnell; David Drummond, Esq., J.P.; and Murrough O'Brien, Esq.; Dr. Hancock, Constantine Molloy, Esq., and Joseph T. Pim, Esq, Honorary Secretaries.