stock in the above manner, the market price of the stock should be placed to the credit of the deposit account, and follow the same rule as other deposits.

By adopting the above plan, people of small means all over the country could become stock-holders, without the great inconvenience and expense of either going to one of the only two places where Government Stock is transferred and dividends paid, or transacting that business by power of attorney, and if necessary a small charge much less than 2s. 6d. per cent. brokerage, might be made to cover expenses; such a charge would be more than compensated for by the convenience of being able to become possessed of Government Stock through any Post Office Savings Bank.

V.—*The Law of Judgments and the Jurisdiction of the Sheriff in selling Land, considered with reference to the complaints of the County Down people on the subject:*

1*st. That the Law of Judgments operates unequally and harshly on leasehold interests and upon yearly tenancies*

2*nd. That the jurisdiction of the Sheriff in selling leasehold and yearly tenancies under the writ of "fieri facias" is burdensome and oppressive.*

3*rd. That the creditor who involves the tenant in the heaviest law costs can get an unjust priority over other creditors.*

4*th. That the judgment creditor can in many cases confiscate the rights of the widowed mother and the younger brothers and sisters of the tenant.*

5*th. That sales by "fieri facias" is a new procedure that has sprung out of the Land Act.*

By W. Neilson Hancock, LL.D.

[Read, 22nd June, 1875.]

1*st. That the Law of Judgments of the superior courts operates harshly upon leasehold interests and upon yearly tenancies.*

At a recent meeting of the County of Down Constitutional Association, Mr. Howe complained of the state of the law in these terms:

"No matter how small the debt, 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 before the legal whirlwind*"

The law of Judgments that is thus complained of, came under the notice of the English and Irish Law and Chancery Commissioners in their enquiries between 1863 and 1866. They had a special report on the subject prepared by Mr. Monahan, Q.C. Of his very comprehensive and able report, I will only refer to one—point, that in which he notices the Judgment Mortgage Act as affecting the

debtor; and I notice it specially because it has been adopted in Mr. Madden's *Treatise on the Registration of Deeds and Judgment Mortgages*, as the best statement of the hardships and inconveniences inflicted by that act upon debtors.

"The creditor, no matter how small the amount due to him on foot of his judgment, can, without any notice to the debtor, and by a purely *ex parte* proceeding, divest the whole of the debtor's estate in lands of any value, and vest them in himself. If the debtor's estate is legal and vested in possession, the creditor, without any demand of possession, can, immediately after registering his affidavit, bring an action of ejectment on the title"

The Law and Chancery Commissioners, upon the receipt of Mr. Monahan's detailed report of the whole operation of the law of Judgments in Ireland, reported to the Crown in 1866, that

"They found the law of Judgments of the superior courts of common law in Ireland, and the practice, process, and procedure thereon, to be in a very complicated and unsatisfactary state, and to differ in some material respects from the law of England on that subject."

Now the commission that condemned in these terms the Law of Judgments in Ireland, included Lord Cairns, Lord Selborne, Lord Hatherly, Lord O'Hagan, Sir Joseph Napier, and Mr. Justice Lawson; it also included the late Lord Chancellor Blackburne, the late Lord Chancellor Brewster, and the late Mr. Justice Wilies.

When this important branch of law has been so recently condemned on such high authority, we need not be surprised that the County of Down tenants (many of whom have, by their properties being made valuable by the Land Act, only now come practically under its operation) should find its operation so oppressive and unsatisfactory to them.

Those who are in favour of assimilation of Irish and English law, as far as practicable, will be surprised to learn the amount of diversity in the laws of the two countries as to judgments, as described by the commissioners. They say:—

"The difference between the laws of the two countries, as regards judgments, is not one of mere practice and procedure, but extends to the law of Bankruptcy, the jurisdiction of the Landed Estates' Court, the Registry of Deeds, the law of Debtor and Creditor, and generally to the law of Property in Land"

Upon this state of facts, they rest the reason why, acting under a commission confined to practice and procedure alone, they could not dispose of the matter; and they add:—

"The question of the simplification and the amendment of the law of Judgments in Ireland could only be satisfactorily disposed of by a parliamentary committee, or a commission specially constituted for the purpose, with full power to enter upon all the inquiries necessary for its solution"

Of this mass of unsatisfactory and condemned law, it is not hard to find the points that affect the tenants most. It is that indicated by Mr. Howe's complaint, "That the unpaid creditor can load his debtor with costs."

The local courts were established to enable creditors with claims of less than £40 to recover them at a small expense. Now suppose

a creditor of a tenant to adopt this natural course of proceeding for the recovery of a debt, the amount of which was under £20.

Should he proceed to realize his decree by getting a charge upon the land, he is met by the 30th section of the Judgment Mortgage Act, which provides that the act shall not extend to any decree or dismiss of a chairman of a county, or any order of a judge of a superior court upon a dismiss or decree. He might rest satisfied with this, if the exception was based on any general principle of not allowing small charges to be created by judgments. But he has Mr. Monahan's report, that if he had sued in the superior courts, however small his debt, and had obtained a judgment, he might register it as a judgment mortgage; and he finds, further, that out of 19,920 writs of summons and plaint issued by those courts, no less than 6,424 are for sums not exceeding £20.

So that he finds that this exception in the Judgment Mortgage Act, from which he suffers, is simply a bounty on loading a small debt with excessive costs.

He may resolve the next time to adopt the more expensive course; but then he finds his success in doing so depends on the will of his debtor, as the debtor can apply to have a suit for that amount remitted to the chairman's court, and so prevent his ever having a judgment or judgment mortgage for his debt.

He might again be reconciled to the slight thrown on his decree, if all decrees of chairmen were treated alike He finds, however, that this is not the case; for a chairman's decree for poor-rates may be registered in the office for the registry of judgments; and further, if any decree be for above £20 exclusive of costs, and if the plaintiff satisfies a judge of a superior court, that the debtor has no goods or chattels that can be conveniently taken to satisfy the judgment, he may, if the judge thinks fit, have the decree removed by *certiorari*, and then it has all the effect of a judgment.

He finds, further, that while he has been adopting the less expensive process of suing for his debt of above £20 up to £40, no less than 5,374 creditors in similar cases have been suing in the superior courts for sums of this amount; and if their debtors do not try and get the cases remitted—and there are only 151 cases remitted in the year—all these creditors get judgments at once without any question of sufficiency of goods and chattels of their debtor, and can register the judgment as a judgment mortgage.

Here again he finds that the restriction which he suffers from rests on no fixed principle, except that of which he complains—that privileges and priorities are held out to the creditor, who adopts the more expensive, instead of the less expensive, mode of proving his debt.

2nd. *Oppressive and burdensome nature of the jurisdiction of the sheriff, in selling leasehold and yearly tenancies under the writ of "fieri facias."*

(*a*) *The encouragement given to expensive proceedings.*

The preference shown in favour of expensive, as compared with

cheap litigation, already pointed out in the case of judgment mortgages, applies to the right of selling under the writ of *fieri facias*.

A judgment in the superior courts of common law alone confers that right.

While there are as many as 11,798 writs for £40 and under, sued out in the superior courts, any one of which, ending in judgment, may lead to the issue of a writ of *fieri facias*, as of right, the creditor who adopts the less burdensome process of suing in the local court is, if his decree be for £20 and under, entirely debarred from the writ; and if his decree be for a sum between £20 and £40, he is delayed in acquiring the right to sell the leasehold or yearly tenants' interest.

A total bar in the way of the civil bill decree for £20 and under, is created by the 29th section of the Civil Bill Courts' (Ireland) Act, 1864; which provides:—

> "It shall not be lawful to seize or sell under any civil bill execution any term of years or any estate or interest in lands"

A delay is interposed in the way of civil bill decree for above £20 and under £40, affecting the land, by the 9th section of the act of 1864, because a judge of the superior court must be satisfied that there are no goods or chattels which can be conveniently taken to satisfy the decree, before he will allow such a decree to be removed so as to have the effect of a judgment of the superior court.

Here we have the same defective principle, already noticed in the case of judgment mortgages. Bounties and privileges are held out to the creditor who adopts the most expensive and burdensome course of proceeding against small debtors.

(*b.*) *Defective nature of the proceedings for 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 execute, a conveyance to the purchaser. The purchaser brings an ejectments 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.

Now a-quarter of a century ago we had a similar unsatisfactory state of the law as to legal sales of large estates. The creditor proceeded first by *elegit*, then by receiver, then by suit in Chancery for sale. There used to be rival suits to sell the same estate—everybody represented in court at endless costs. When a sale occurred, the court did not guarantee title. The whole of the proceedings formed part of the title of the purchaser, and if he sold again he had to show that all the Chancery proceedings were perfect.

The result was ruinous costs and bad price for land. To remedy all this the Incumbered and Landed Estates' Courts were devised. These courts sold with absolute title, and the result was, that as soon as the panic of high Poor Rates after the famine subsided, high prices were realized. The result has been a perfect success.

Now there cannot be a greater contrast than the sales in the Landed Estates' Court and these sales by the sheriff.

In the Landed Estates' Court there is long notice to everybody that can be affected; everybody is heard. The sale is conducted under judicial responsibility of a permanent judge, paid by salary, having no pecuniary interest in the result, having full power to accept a private offer, or to adjourn the sale if biddings are inadequate.

In a sheriff's sale, there is short notice. He is not bound to hear anybody. There is no investigation of title or of claims. The sub-sheriff, who actually sells, is in the eye of the law the deputy of an annual officer, his emoluments are derived chiefly from fees and partly from fees on sales.

If the sheriff delays for want of buyers, the judgment creditor can, under a fresh writ of *venditioni exponas*, compel him to sell.

The sheriff's jurisdiction is subjected to the further objection, that it can with the greatest facility be defeated. Any judgment creditor of the debtor can stop the sale, by simply registering his judgment as a judgment mortgage, as the tenant's interest in the holding thus becomes an equity of redemption, and the sheriff has no power to sell an equity of redemption. The debtor may defeat the writ in the same way, by executing a mortgage, at any time before the writ is actually lodged with the sheriff, to any *bona fide* creditor for a debt however small.

(c) *Proposed re-constitution of the office of Sub-Sheriff on the Scotch model.*

If we look for a remedy for this state of affairs, we will find a precedent in the law of Scotland. Under Scotch law, the execution against goods was never extended to include a leasehold interest. In 1857, a very simple and complete plan was devised for dealing with a certain class of leasehold interests, under stat. 21 and 22, Vict. 26.

Leases, when registered as therein provided, may be assigned in a form given in the act, and the registration vests in the assignee the right of the grantor of the assignation in the lease, to the extent assigned. Any person whose interest under a lease is thus recorded,

"May assign the lease, in whole or in part, in security for the payment of borrowed money, or of annuities, or of provisions to wives and children, or in security for cash credits, or other legal obligation in the form given in Schedule B.

"A recorded assignment in security is transferable, in whole or in part, by translation in the form given in Schedule D"

The remedy for creditors, and for the wives and children of the lessees under these registered interests, is in the Scotch local or sheriff's court, and is of the simplest character.

"The party, in right of such recorded assignation in security, is entitled, in default of payment of the capital sum for which the assignation in security was granted, or of a term's interest thereof, or of a term's annuity for six months after the capital sum or the terms interest or annuity shall have fallen due, *may apply to the sheriff for a warrant to enter into possession of the lands leased, and the sheriff, after intimation to the lessee for the time being, and to the landlord, shall, if he see cause, grant such warrant.*"

Here we have the jurisdiction of granting possession placed, not at the will of the creditor, but at the discretion of the Scotch local judge. Then, before the decree is granted, the creditor, the lessee, and the landlord, are all before the court, and all heard, and the court may require any other person to be brought before it, and see that every interest is protected according to its priority before the warrant is issued.

The warrant, so granted, ends litigation instead of commencing it, as the judgment does with us.

"The warrant, so granted, is a sufficient title to the party so obtaining it to enter into possession of the lands, and to uplift the rents from the sub-tenants, as freely as the lessee might have done."

To this Scotch solution of the question we have only to add our own Landed Estates' jurisdiction, in all cases where the local court decides on a sale, instead of, or in addition to, giving possession of a leasehold or yearly tenancy.

The Scotch system of notice to the landlord, before a warrant against the possession of tenant is made by the court, is more satisfactory than the present state of the law with us, under which a landlord who objects to receive the purchaser at a sheriff's sale of a yearly interest, as tenant, has to serve notice to quit and bring an ejectment, and incur a claim for compensation for disturbance.

Would it not be much more satisfactory to all parties to have the question of the nature and extent of the landlord's right to object to a new tenant under contract or usage, determined at the first stage of the proceeding taken by the creditor, to disturb the possession of the tenant, instead of, as now, on a claim for disturbance after two ejectments?

As to the suggestion—the reform of the sheriff's office on the model of the jurisdiction of the sheriff in Scotland—which I made in a paper read before this society in April last, I was much struck in meeting, since then, the following recommendations, made some fifty years ago, by the Royal Commission which inquired into all the courts of justice in Ireland.

In their fifteenth report on the office of sheriff, made in April, 1826, they say:—

"The trust of the execution of legal process is one most important to the

administration of justice, requiring for the correct discharge of it such technical exactness and attentive qualities not much to be expected in the description of persons usually appointed to the office of High Sheriff Practically, therefore, the discharge of the duties of this office is of necessity delegated by the High Sheriffs to the sub-sheriffs. . . . It has appeared to us desirable, as well for the public interest, etc . . to divest it [the office of sheriff] of the greater part of the executive and judicial duties at present connected with it, and to transfer them to an officer to be specially appointed, with due qualifications for the discharge of them An arrangement somewhat analogous has been adopted in Scotland, by the establishment of the office of sheriff deputy and substitute."

"We would not, however, suggest innovations to the same extent as have been there admitted We would not propose, as in Scotland, that the office of High Sheriff should be allowed to fall into disuse; on the contrary, we would still have it the subject of annual appointments, leaving to it the exercise of all these honorary and confidential functions suited to the state of the persons who should fill it."

For the regulation of the new office, the most important recommendation of the commissioners is :—

"That a suitable salary should be provided for these officers, to the payment of which the fees arising from the several services to be performed by them, may be made applicable"

Here we have the principle since carried out in the superior courts, of having officers paid by salary, instead of by fees, recommended for the local office of sheriff fifty years ago—a principle which could be applied with great advantage to all the officers of local courts in Ireland. Again, we find that the members of this important commission who conducted the most complete inquiry ever made into the office of sheriff, found in the law and administration of Scotland the best solution of the defects in the jurisdiction of sheriff in Ireland, which were then and, as appears in the County Down case, are still complained of.

(*d*) *Injurious results of postponing the reform of the office of sub-sheriff.*

In the county court in England, all warrants are handed by the registrar to the bailiff of the court to execute, and the proceeds are not retained by the bailiff, but paid into court.

In Ireland an effort was made in 1864, by the Civil Bill Courts' Procedure Amendment Act, 27 and 28 Vic, c 99, to stop the abuses and evils that arose from private parties being entrusted with the execution of decrees made in their favour, by requiring all civil bill decrees to be executed by bailiffs appointed by the sheriff.

After seven years experience of the new system, this statutable provision was repealed in 1871, and a return made to the condemned system of private bailiffs, for which it was thought a remedy had been applied in 1864.

Thus the enlightened reform of having public instead of private bailiffs, which works so satisfactorily under the county court in England, has been defeated in Ireland for want of the reform of the office of sub-sheriff, and the office of sheriff's bailiffs which was recommended so far back as 1826 by a Royal Commission, and the

recommendation supported by the unanimous recommendation of a select committee of the House of Commons in 1830.

(*e*) *Discredit of civil bill decrees in Ireland for want of garnishee forms and interpleader forms in the Irish County Courts.*

In England, immediately after judgment, the defendant may be examined concerning the persons who owe debts to him, and the plaintiff may proceed against the defendant's debtors for his demand under process of attachment of debts. In Ireland, there is no power of attachment of debts except by garnishee, and which can only be obtained by a judgment creditor in the superior courts.

Again, whilst there is process of replevin which is in the nature of interpleader in the civil bill courts, there is no interpleader in an execution under a civil bill decree against goods.

The jurisdiction of the civil bill courts, instead of being based on the principle of extending to the demands, claims, and rights of the poor, all the latest improvements in jurisprudence, from the haphazard way the jurisdiction has been created and extended, is a most singular mixture of modern improvements and antiquated defects.

3rd Unjust priority over other creditors obtained by the creditor who involves the tenant in the heaviest law costs

As this point is specially noticed in Mr. Howe's complaint on behalf of the County Down people, I wish to just notice that it arises entirely from the defective principle of giving absolute priority, to the full amount, to the judgment creditor who first lodges his writ of *fieri facias* with the sheriff. This necessarily operates as a large bounty on adopting the most expensive and burdensome proceeding.

In Scotland they have the germ of a perfect solution of the question, by which, by a writ of inhibition at the commencement of a suit, a creditor secures that his just priority shall not be affected while he is carrying on his suit to judgment. The true solution appears to be, that any priority given to diligence in procedure should depend up on the first step in the process, if followed up within a reasonable time, and not upon the last step. This would allow legitimate priority to be secured at a small instead of an excessive cost as at present.

4th. That sacrifice of the rights of the widowed mother, and younger brothers and sisters of leasehold and yearly tenants, to the subsequent claims of the judgment creditor.

The sacrifice thus referred to does not arise from the theory or express provision of the law, but from the limited and imperfect jurisdiction of the local courts. The complaint, in this case, is expressed in these terms by Mr. Howe, at the meeting in the County of Down.

"*Legatees* and creditors left *without legal security*—every interest other than the judgment raider, swept down before the legal whirlwind."

Where a pecuniary legacy not exceeding £20 is charged upon,

or payable out of any real estate, or chattel real, or when arrears of rent-charge, or annuity so charged, not exceeding £20, are due, jurisdiction is given to the local court to enforce payment against the owner, to the extent of benefit he has derived out of the land, unless he can show that there is personal property liable and available for the purpose.

While the principle of a local court having equitable jurisdiction in the matter of some legacies and annuities is thus conceded, the jurisdiction meets only the plainest cases of the small amount limited; if the rights of a legatee or annuitant should require an administration suit to establish them, then the parties have to resort to the court of Chancery for a remedy.

In the common case of intestacy or of informal wills, where one member of the family enters into possession of the holding, whilst entitled to a share only, and is as to the other shares trustee for the other members of the family, the local court has no jurisdiction, and the shares of the family could only be enforced by a Chancery suit.

Amongst the wealthier classes, the protection of women and children is by settlement; but for the charges and annuities, however small in amount, arising under settlements, the local court has no jurisdiction.

As in the case of judgments and sheriff's sales, the limitation of jurisdiction rests on no principle. Why should an annuity of £20, under a will, be enforced, and a jointure of the same amount be not enforced in a local court?

The want of local jurisdiction in administration suits of tenant's property is a very old grievance. The select committee of the House of Commons, which inquired into the state of the poor in Ireland in 1830, reported:—

"It has been stated in evidence before your committee that in cases of disputed wills and intestacies, the peasantry have no cheap, effectual, and expeditious mode of obtaining redress, and that there is no subject which produces more disputes and breaches of the peace Remedies can at present only be sought in the court of Chancery."

Experienced chairmen of counties have assured me that, notwithstanding the limited jurisdiction to which I have referred, the same fact is true at the present day—that disputed wills and intestacies are one of the most prolific sources of disputes and breaches of the peace; yet how often since 1830 have these breaches of the peace been dwelt upon as an argument against the character of the people; how seldom has their cause, ascertained and admitted by such high and impartial authority, been referred to? What expenditure has been incurred in police and legal proceedings to suppress the breaches of the peace after they have occurred, and how slow is the progress of legal reforms in removing the causes of these breaches of the peace, by the simple expedient of extending to the local courts of Ireland the equitable jurisdiction which the corresponding courts have in England and Scotland.

The pressing urgency of this reform is fortunately raised above all question of party politics. Lord O'Hagan, the Irish Lord Chancellor of the late government, in moving the second reading in the House

of Lords, of Sir Colman O'Loghlen's Civil Bill Extension Act of 1874, said:—

"It was to enable the chairmen of counties in Ireland to take small partnership accounts, and also to enable them to deal with cases where questions of title might arise during the hearing of them At present they had no jurisdiction in such matters, and the result was that from persons who could not bear the expense of an appeal to a superior court of law or equity, suffered a denial of justice, and sometimes took the law in their own hands, and arrayed themselves by violence against these, for whose wrong-doing they could obtain no legitimate redress. *The bill was only a small instalment of a larger measure which must soon enlarge the powers of county courts in Ireland, and give them the equitable jurisdiction which those of England have long been allowed to exercise, with great advantage to the public.*"

Lord Chancellor Ball, shortly after his promotion by the present government, in giving judgment in the case of Hayes *v.* Daly, said:—

"He could not let the matter pass by without drawing attention to and expressing his opinion of the present state of the law with reference to cases of this character. Here was a man having small assets—a man who had undoubtedly a right to have his feelings satisfied by having a legal investigation into his rights—and yet there was no help at present for what was, unfortunately, the state of things. The amount involved was small, the parties were humble in position, and yet there was an ejectment, an action at law, and an elaborate and, of course, expensive bill filed in Chancery—a bill printed absolutely—and that was not all, for the stamp duty levied in the court of Chancery was extremely heavy, and all this in a case of this kind, where humble people came to have their rights tried. He would be unworthy of the seat which he had the honour to occupy if he did not take this opportunity of saying that reform was indeed needed, by which a case of this character could be decided by the able chairman of the county, who should be empowered to have the parties before him, sitting both as an equity and a law judge, and he (the Lord Chancellor) wished distinctly to state that *he should do everything in his power to enlarge the jurisdiction of county chairmen, in order to enable them to take cases of this character before them, and to adjudicate upon them as legal and equity judges.*"

In the discussions on the church and land questions, which prevailed from 1834 to 1870, a less prominent reform, like this want of equitable jurisdiction in local courts, did not attract the attention it deserved; but now the valuable interests created by the Land Act have given renewed and increased importance to the Report of the Committee of the House of Commons of 1830, pointing to this want of jurisdiction as a frequent cause of dispute and of breaches of the peace in Ireland.

5th. Allegation that sales of tenants' holdings, under writs of "fieri facias," is a new process that has sprung out of the Land Act.

In stating the complaints of the tenants in the County of Down, Mr. Howe refers to the sales by the sheriff, as "this new procedure which has sprung out of the Land Act."

There can be no doubt that the number of writs of *fieri facias* issued has largely increased since 1870; but a large part of the increase has arisen from the abolition of imprisonment for debt, and consequent decrease of writs of *capias ad satisfaciendum.*

The number of these are:—

WRITS OF *CAPIAS* ISSUED.

Year.	No.	Decrease in six years.	Increase in one year.
1863	1,674		
		172	
1869	1,502		
		Decrease in one year.	
1870	1,399	103	
1871	1,483		84
1872	1,370	113	
1873	522	848	

This shows an extraordinary decrease in these writs against the person. The writs against goods, and against leasehold interests and yearly tenancies in land, are as follows:—

WRITS OF *FIERI FACIAS* ISSUED.

Year.	No.	Decrease in six years.	Increase in one year.
1863	3,301		
		757	
1869	2,544		
1870	2,593	—	49
1871	2,827	—	234
1872	3,016	—	189
1873	4,386	—	1,370
	Total increase since 1869, .		1,842

It will be seen at once, in comparing these tables, that the great increase in the number of writs of *fieri facias* (1,370 in 1873) corresponds with the great *decrease* in the writs of *capias* (of 848 in 1873).

There can, however, be no doubt that the abolition of imprisonment for debt and the disuse of writs of *capias*, have a tendency to direct creditors' attention to look after the property of their debtors, and amongst that property the large interests of tenants brought more completely within the domain of law by the Land Act of 1870, naturally attracts attention.

These figures, however, only show the extreme urgency of reforming the antiquated, complicated, and burdensome proceeding of sales under the writ of *fieri facias*; when the abolition of the imprisonment for debt has brought the writ so much into use, that the number has nearly doubled since 1869—the increase being 1,842—from 2,544 in 1869, to 4,386 in 1873.

As to the idea that the confiscation of the equitable rights of members of the tenant's family, and the unsatisfactory nature of the

jurisdiction of the sheriff shown by these sales, has "sprung out of the Land Act," there could not well be a greater misapprehension.

The Report of the Select Committee of the House of Commons, "That there was no subject which produced more disputes and breaches of the peace" than the state of law under which, "in cases of disputed wills and intestacies, the peasantry had no cheap, effectual, and expeditious mode of obtaining redress," was made in 1830, five years before the Irish land question was brought before Parliament by Mr. Sharman Crawford's first Tenant-Right Bill.

The Report of the Royal Commission condemning the constitution of the office of sub-sheriff in Ireland, as a machinery for the execution of writs of *fieri facias* and other writs, was still earlier—having been made in 1826. That commission recommended that the office of sub-sheriff should be reconstituted on the Scotch model of a permanent professional officer, paid entirely by salary, and not interested in fees, acting under the chairman of the county, as the Scotch sheriff-depute acts under the sheriff there; assisted by bailiffs, also permanent officers, regulated on a plan somewhat similar to the process-servers at the chairman's court.

The increase in number of writs of *fieri facias*, to which I have referred, brings the recommendations of the Royal Commission of 1826 into great prominence and urgency. There cannot, however, be a greater misapprehension than to ascribe the consequences of leaving their recommendations so long unattended to, to the operation of the Land Act of 1870. That Act, taken in connexion with the abolition of imprisonment for debt, has brought the antiquated, complicated, unjust, and burdensome state of the law as to sheriffs' sales into prominence.

When such a term as "judgment-raider" is applied by Mr Howe, (a leading speaker at the meeting of a constitutional association of the large, wealthy, and prosperous County of Down) to a creditor, for simply adopting the only effective means the law, in many cases, affords him for recovering his debt, some idea may be formed of the strong opinion entertained in Ulster on the existing state of the law as to sheriffs' sales under the writ of *fieri facias*.

Summary of Conclusions.

It appears, then, that to remedy the complaints of the County of Down people, that under sheriff's sales of land "every interest, other than that of the judgment creditor, is sacrificed," the following law reforms are required :—

1st. That the recommendation of the Select Committee of the House of Commons of 1830 on the State of the Poor in Ireland, should now be carried into effect, and complete equitable jurisdiction in administration suits be conferred on the Irish County Courts up to a reasonable limit of value of assets.

2nd. That the Irish County Court should, in all other matters, have an equitable jurisdiction similar to the English County Court, as recommended by Lord O'Hagan and Lord Chancellor Ball, and to the extent of at least £300.

3rd. That the reform of the office of sheriff on the Scotch model,

recommended by the Courts of Justice Commission in 1826, and by the Select Committee of the House of Commons on the state of the poor in Ireland in 1830, should be carried into effect.

4th. That the office of sub-sheriff should be made permanent, and paid entirely by salary with no interest in fees—the fees being paid in aid of the taxation out of which the salary is defrayed.

5th. That the inquiry into the state of the law of Judgments in Ireland, which was recommended by Lord Cairns, Lord Selbourne, Lord Hatherly, Lord O'Hagan, Sir Joseph Napier, and Mr. Justice Lawson, as urged in 1866, be now undertaken, so as to remedy the evils arising from the complicated, antiquated, and oppressive system of sheriff's sales of land by writ of *fieri facias* at suit of a judgment creditor, which are erroneously ascribed to the operation of Irish Land Act of 1870.

VI.—*Proceedings of the Statistical and Social Inquiry Society of Ireland.*

TWENTY-EIGHTH SESSION.—SIXTH MEETING.

[Tuesday, 18th May, 1875.]

The Society met at the Leinster Lecture Hall, 35, Molesworth-street, the Right Hon. Mountifort Longfield, LL.D., Ex-President, in the chair.

Mr. John O'Hagan, Q.C,, read a paper on "The Exclusion of the Evidence of the Accused in Criminal Cases"

The ballot was then examined, and John McKane, Esq., Barrister-at-Law, was declared duly elected a Member of the Society.

SEVENTH MEETING.

[Tuesday, 22nd June, 1875.]

The Society met at the Leinster Lecture Hall, 35 Molesworth-street, the Right Hon. Mr. Justice Lawson, Ex-President, in the chair.

W. J. Hancock, F.I.A., read a paper on "The Temporary and Permanent Business of Friendly Societies, with some Suggestions for making the latter secure, through the agency of Post Office Insurance and Savings' Bank Departments"

W. Neilson Hancock, Esq , LL.D., read a paper entitled, "Some complaints against the Irish Land Act, traced to want of Local Jurisdiction in Equity, and to defects in the office of Sheriff, and in the Law of Judgments in Ireland."

The ballot for the election of Members of Council was then examined by Daniel Thomas Tracey, Esq , and James Alexander Rynd, Esq., scrutineers, and the following were elected :—Messrs William J. Hancock, William Findlater, John R. Garstin, Professor Donnell,