That the legal offence of usury is the moral offence which makes the Jews hateful in Russia, seems probable from what can be known of the nature of the popular clamour against them, and from similar persecutions in England and elsewhere long ago. It seems even that the rulers of Russia recognise to some extent the justice of this clamour, or at least it is quite possible that in their utterances as to the necessity of protecting the peasantry from the unlawful activity of the Jews, they mean to express their intention of enforcing more strictly the existing restraint on usury.

The explanation of why the fury of the Russian peasantry has broken bounds just at this time, is to be found not merely in the commercial and agricultural depression, due to recent causes, which must have increased immensely the need of accommodation as well as intensified the impatience of the obligations thereby incurred, but also in the altered position of the peasantry. Mr. Wallace, discussing, in his work on Russia, the effects of the emancipation of the serfs, points out that, amid the advantages which it brought to the peasant, it placed him under the necessity of seeking the accommodation he was sure to need from time to time, not as formerly from his lord, but from the village usurer, who would probably think 30 or 40 per cent. moderate interest. It seems very probable that this consequence of emancipation has had largely this effect, and that the Russian peasantry have got over head and ears in debt to the money lenders, and that the money lenders are chiefly Jews. Most probably, and indeed with usury laws in operation it could hardly be otherwise, the terms upon which the peasants obtain their loans would appear to us exorbitant. If these are the facts of the case, it is not very much to be wondered at, if we find a people like the Russian peasantry executing summary vengeance on their creditors, whom the law has taught them to regard as also their oppressors.

VII.—*Suggestions for the Amendment of the Law relating to Civil Bill Appeals.* By Thomas L. O'Shaughnessy, B.L.

[Read Tuesday, 23rd May, 1882.]

THERE can be little doubt, whatever may have been the object of those who devised the trial of small causes by assistant barristers at quarter sessions, the idea was suggested by the ancient and popular practice, which prevailed in the last century, of judges of assize hearing small cases by civil bill. The best part of a century has passed over since the establishment of the quarter sessions court, and during that period their jurisdiction has grown by legislative shreds and patches, until, with few exceptions, they now possess a limited jurisdiction in almost every class of litigation. The procedure as originally devised was and has remained simple, the expense small; and these elements, with the natural desire of the inhabitants of this part of the United Kingdom for cheap litigation, bid fair to give the courts a practical monopoly of what constitutes the great

bulk of litigation—small causes. The office machinery was quite adequate for the class of cases determined on in these courts before 1870: they were ordinary landlord and tenant ejectments, the most usual classes of torts and contracts, appeals from petty sessions, and business of a kindred class. The chairman was almost always a practising barrister of position, the sessions never lasted longer than the fixed period in each term, a week or less, and from 500 to 600 cases were got through in the week, and for the most part fairly and well decided. Since 1870 the legislature, having regard to the popularity of the courts, arising in a great measure from the reasons before mentioned, has by a series of enactments conferred a more important and extensive jurisdiction on them—remitted causes, title to corporeal or incorporeal property and rights where the annual rating of the lands in dispute, or out of which the right is claimed, does not exceed £30; an equity jurisdiction as large as the English county courts; claims under the Employers' Liability Act; land claims; and lastly, the fixing of fair rents between landlord and tenant. Whilst so largely increasing the jurisdiction, the efficiency of the courts has been materially diminished, not only by reason of the increase, but in addition, by the attempt to apply the old procedure devised for the simplest of cases, to the determination of rights often of an exceedingly complex and difficult character. These difficulties have been enhanced by depriving the court of the benefit of chairmen who are practising barristers, thereby getting inferior men, by attempting, without any substantial increase of staff, to work the increased business arising from the new jurisdiction, and lastly by substantially applying to judgments on new and important rights the same cumbrous mode of appealing as theretofore existed in common law cases, and by the invention of a mode of appealing in equity cases, consisting of an imperfect copy of all the vices of the very unsatisfactory system prevailing in England.

I propose to discuss a remedy for the latter, and to suggest one or two heads of equity jurisdiction ancillary to that now possessed, which ought to be conferred on the court.

The office machinery as it at present exists in equity cases is incapable of improvement, and save in the counties of Armagh and Antrim, where the clerk of the crown in the former, and the registrar in the latter, are gentlemen of exceptional ability and industry, the most monstrous delay, expense, and injustice is the result. The judges are in no fault—they cannot take accounts, settle conditions of sale, and perform all the mass of office work of an administration suit; if they did so the ordinary business could not be got through. Those alone are to blame who in extending a useful measure, stopped short at a most vital point of the English Act, namely, its well-regulated equity office machinery, with a result that their reform is impaired, that suits drag on for years, and usually only terminate in an enforced compromise.

Appeals.

That a cheap and simple mode of appealing should exist from a court so constituted as the civil bill courts are, no one would have

the temerity to deny. The present mode consists of the ordinary common law appeal and the equity appeal. The former to the judge of assize, the latter to the Lord Chancellor. An appeal lies in the former from a decree, whether in favour or adverse to a party, from a dismiss on merits; but no appeal lies from a dismiss without prejudice, from an order striking out the case with costs, from an adjudication in an interpleader, under the 150th section of the Civil Bill Act—the procedure is during the hearing of civil bills at the sessions in which the judgment has been pronounced and after it has been written out by the opposite parties' solicitor, and signed by the judge, any of the parties in the cases before mentioned may—by lodging double the costs according to a scale provided, and entering into a recognizance in double the amount decreed and costs, or without costs as the case may be, with two sureties—appeal to the judges. On the mere statement it would naturally occur to an intelligent person such a system is unfit for the present day. I will now proceed to point out a few glaring anomalies that I have known to result from it—the appeal can only be taken when the decree or dismiss is signed, persons have been kept for a whole sessions, day after day waiting for the opposite solicitor to hand in decree, and I have made applications for the purpose of compelling it to be handed in, the double costs must be lodged and were formally a forfeit, and even now in many counties are still so, the party appealing must get sureties, even the lodgment of the money is not sufficient; if the case be amongst the last heard an adjournment of the sessions has to be applied for to the following day in order to take appeal, in fact, in reference to cases heard on the last day, if the party does not come prepared with sureties, even though he is prepared to lodge the money, he loses his right of appeal, and, with few exceptions, slight facilities are given by chairmen for taking appeals. Only one who has attended a sessions in a small town can realize the difficulty of getting sureties, or a stamped appeal bond; I remember an appeal for this reason on one occasion being taken on two civil bill processes, and I know that the decree was reversed. In remitted cases any amount may now be given, the plaintiff is necessarily a pauper, and if a decree for £500 is given, no surety can be got, and a man may be ruined at the suit of a pauper. The £50 decree is a mode of stopping an appeal, to get two sureties for £100, and lodge £10 or £11 costs is a very serious matter, and in many instances large decrees are given for that very purpose; in this respect a course similar to that in existence before the Act of 1877 now prevails. Until the recent alteration in the law, the favourite mode of stopping an appeal by a plaintiff was to give a decree for a farthing—he could not appeal and the suit was thereby determined. I remember this course being adopted in a case I was counsel in. An action for assault was brought against a policeman of a very gross and aggravated character, the chairman gave a decree for a halfpenny, and although urgently pressed to give a dismiss in order to enable an appeal to be brought he declined to do so. The same result is now produced by the large decrees, or by pronouncing a dismiss without prejudice, or an order striking out the case with costs from the first mentioned; an appeal is so clogged

with conditions that practically it is useless, and from the last it does not exist.

The instances of hardship and inconvenience might be multiplied, but I have confined myself to those within my own knowledge. The present procedure encourages useless appeals in small cases, it is easy to appeal in a £1 or up to a £5 decree, the parties are hot in the controversy, for it is during the sessions, and enter recklessly into further litigation; nothing else can account for the number of small appeals which are withdrawn, and the number which are heard.

Having pointed out many of the defects in the common law appeals, permit me to adopt a similar course (based in like manner on personal knowledge) in equity appeals: the procedure is within one month, £10 is lodged with the clerk of the peace, the judge's note and registrar's note, which is usually the name of the case are obtained, and a notice of appeal served on the opposite party, this with the notes is lodged within the like period with the chancellor's secretary, and the appeal on the notes comes on to be heard, perhaps at end of three, more likely six months.

The first objection to this system is the hearing the case on notes, which is equivalent to the old plan of affidavit in chancery that has been condemned on every side. The case often depends on complicated facts, the attempt to unravel the truth from affidavits has always been a failure, and how it is supposed it could succeed in this I am at a loss to conceive. In addition, it is with great difficulty many county court judges are got to take anything like a full note, and it is often with greater difficulty they are obtained from them. I remember being present at the hearing of an equity case and advising that the decree was wrong when the notes were afterwards procured, the entire evidence on which I based my opinion was absent, I do not say nor believe wilfully, but because of the hurry that must exist in hearing of these cases at sessions. A case came before Lord Chancellor Ball on appeal, and it was a matter of notoriety at the time that the county court judge's notes were impugned, and affidavits were filed by the solicitor, stating that a material portion of them was false; the Lord Chancellor acted on the affidavits. I refrain from stating the name of the case or chairman, because I have not personal knowledge of the facts, but I was put in possession of them by a professional gentleman of unimpeachable veracity. Such a case demonstrates that the present system is open to gross abuse. One more illustration: an equity suit, the commonest of all, by one of several next of kin to administer assets was dismissed on a wholly unsustainable objection, an appeal taken, it was six months before the dismiss was reversed, and then the judge who heard the appeal could make no order except remit it back to the chairman, in the meantime the administrator had sold a considerable quantity of the assets, thereby reducing the security of the share of the next of kin. The system is radically bad, it is open to every possible objection, it is most expensive, it is very tardy, the same security must be given in the smallest legacy case as in one involving £500, showing of course that in the small case it is too large, in the large too small.

The Remedy.

No more complete remedy could be devised than the Bill brought in by Mr. Findlater, and now before the House of Commons. It proposes to repeal all the appeal sections of the County Court Acts, and to give an appeal from every adjudication, whether legal or equitable, to the judge of assize, provided notice of appeal be given within four days after the close of the sessions; and it further gives a stay of execution only in case the amount decreed be lodged, or costs, as case may be, or sufficient security entered into within a like period, thus simplifying the procedure, allowing time for consideration before bringing an appeal, and enabling in equity cases the judge to hear the witnesses and judge of the facts from them—at once putting an end to every difficulty in the way of testing the validity of a decision, and as far as possible preserving a similitude to the mode of appeal in use in the superior courts since the Judicature Acts.

Extension of Jurisdiction.

Under the present system the court has no power to administer assets at the suit of an executor or administrator, nor has it power to set aside fraudulent deeds or bills of sale at the suit of creditors, to attach debts, or to make its judgments available against the lands of debtors; provisions giving such a jurisdiction would be useful, and attendant with considerable benefit.

VIII.—*Tramway Legislation, with Suggestions for Promoting Steam Tramways in Ireland.* By John A. Walker, Esq.

[Read Tuesday, 23rd May, 1882.]

I PROPOSE in the present paper to point out the legislation which has taken place for the promotion of tramways on country roads in Ireland. I do not propose to touch upon those Acts that have been passed by private companies for town lines. They form an interesting group, but are outside the scope of my present purpose.

In an agricultural country such as this is, with a comparatively scant population, having but few towns of any importance, and, with the exception of the province of Ulster, no manufacturing industries that gather around them an artizan population of any considerable extent, it is clear that the ordinary railway, constructed on plans even the least expensive, that experience has been able to suggest, would not prove to be lucrative investments. We need but refer to the reports of our railways—to the most favoured of them—to establish this. Consequently it was the opinion of the friends of Ireland in the Imperial Parliament, that if the country districts were to be opened up at all, and their latent wealth developed, a cheaper class of railways must be promoted, which would serve not only as an efficient means of intercommunication, but as feeders to