

ON
THE CAUSES OF DISTRESS
AT
SKULL AND SKIBBEREEN,
DURING
THE FAMINE IN IRELAND,

A PAPER READ BEFORE THE
STATISTICAL SECTION OF THE BRITISH ASSOCIATION,

AT
EDINBURGH, AUGUST 2ND, 1850.

BY
W. NEILSON HANCOCK, LL.D.

DUBLIN :
PUBLISHED FOR THE DUBLIN STATISTICAL SOCIETY,
BY HODGES AND SMITH, GRAFTON STREET,
BOOKSELLERS TO THE UNIVERSITY.

1850.

Statistical Section of the British Association for the
Advancement of Science.

TWENTIETH MEETING.—EDINBURGH, 1850.

~~~~~  
**PRESIDENT.**

VERY REV. JOHN LEE, D.D., Principal of the University of Edinburgh.

**VICE-PRESIDENTS.**

REV. R. GORDON, D.D., F.R.S.E.  
HENRY MARSHALL, M.D., F.R.S.E.  
PROFESSOR WILLIAM P. ALISON, M.D., F.R.S.E.  
\*G. R. PORTER, F.R.S.

**MEMBERS OF COMMITTEE.**

|                                     |                          |
|-------------------------------------|--------------------------|
| Thomas Tooke, F.R.S.                | Robert Christie, Esq.    |
| Colonel Sykes, F.R.S.               | *James Gibson, Esq.      |
| Sir John P. Boileau, Bart. F.R.S.   | *J. H. Orpen, M.R.I.A.   |
| Sir Chas. Lemon, Bart. M.P., F.R.S. | *John Ball, M.R.I.A.     |
| F. G. P. Neison, Esq.               | James M'Connell, Esq.    |
| G. L. Finlay, Esq.                  | T. John Pearsall, Esq.   |
| William Thomas Thompson, Esq.       | *John Hancock, Esq.      |
| John Finlaison, Esq.                | *Thomas Hutton, M.R.I.A. |
| Thomas Sopwith, F.R.S.              | John Hill Burton, Esq.   |
| William Jerdan, Esq.                | *Colonel Portlock, R.E.  |
| William Felkin, Esq.                | William Neild, Esq.      |
| John Shuttleworth, Esq.             |                          |

**SECRETARIES.**

\*PROFESSOR HANCOCK, LL.D., M.R.I.A.  
JAMES STARKE, M.D., F.R.S.E.  
JOSEPH FLETCHER, Esq. Secretary of the Statistical Society of London.

\* Those thus marked are members of the Dublin Statistical Society.

---

**Dublin Statistical Society.**

~~~~~  
PRESIDENT.

HIS GRACE THE ARCHBISHOP OF DUBLIN.

VICE-PRESIDENTS.

THE EARL OF ROSSE.	CAPTAIN THOMAS A. LARCOM, R.E.
THE BISHOP OF CORK.	REV. R. MAC DONNELL, D.D. S.F.T.C.D.
MOUNTIFORD LONGFIELD, Q.C. LL.D.	SIR ROBERT KANE.

MEMBERS OF COUNCIL.

JAMES HAUGHTON, Esq.	JONATHAN PIM, Esq.
JOHN K. INGRAM, F.T.C.D.	JAMES W. MURLAND, Esq.
ROBERT BALL, LL.D.	EDWARD BARRINGTON, Esq.
REV. GEO. LONGFIELD, F.T.C.D.	STEWART BLACKER, Esq.
CONWAY E. DOBBS, JUN. Esq.	CHARLES S. CRAWFORD, Esq.
PROFESSOR ALLMAN, M.D.	PROFESSOR SULLIVAN, LL.D.

TREASURER.

GEORGE JOHNSTON ALLMAN, ESQ., 5, Trinity College.

SECRETARIES.

JAMES A. LAWSON, LL.D., 41, Lower Baggot-street.
PROFESSOR HANCOCK, LL.D., 40, Trinity College.

LIBRARIAN.

RICHARD D. WEBB, ESQ., 176, Great Brunswick-street.

BARRINGTON LECTURERS.

PROFESSOR MOFFETT, LL.B.	JOHN JENKINS, A.M.
PROFESSOR W. E. HEARNE, LL.B.	RICHD. HUSSEY WALSH, A.B.

On the Causes of the Distress at Skull and Skibbereen, during the Famine in Ireland. By W. Neilson Hancock, LL.D., M.R.I.A. Archbishop Whately's Professor of Political Economy in the University of Dublin, and Professor of Jurisprudence and Political Economy in Queen's College, Belfast.

IN this paper I propose to direct your attention to some statistical information which throws considerable light on the real causes of distress in Ireland.

The information relates to a tract of land situate in the south-west of Cork, and lying between the village of Skull and the town of Skibbereen. There is scarcely any part of Ireland which suffered so much during the famine of 1846 and 1847 as the district around Skibbereen. Indeed, the name of that town has become in Ireland almost synonymous with distress.

I shall then proceed to investigate the causes to which this extreme distress may be ascribed.

In proceeding with this investigation, the first consideration which naturally presents itself is, Was this distress entirely caused by the potato failure?

To answer this question, it will be necessary to inquire what was the state of the Skibbereen district before 1846.

On this point we have fortunately the most complete information. In the autumn of 1845, Mr. Campbell Foster made a tour in Ireland, as a commissioner for the *Times* newspaper, and published a series of very remarkable and very able letters on the state of Ireland. In one of these he makes especial mention of the district to which I have referred.

In his twenty-ninth letter, dated November, 1845, he writes:—

“I have had an opportunity, since my last letter to you, of visiting the mining districts in the neighbourhood of Skull, and of wandering amongst the hamlets on the rough hills of West Carberry. The bay of Skull is exactly opposite to the island of Cape Clear, the extreme south-western portion of Cork.

“Before the establishment of this (the Cosheen) mine, there were no roads—there was no market nearer than Skibbereen—there was no employment for the people—and their condition, living in hovels amongst the rocks, cultivating little patches of land, was indescribably wretched. The limited extent of the mining operations has but partially relieved that distress. It has, however, lessened the competition for land, created a market for

produce, and led to the formation of roads. By these means the condition of the whole population has been considerably ameliorated. There exist, however, still, amongst many of these cottagers on the hills, the most dreadful privations. I entered several of the cottages, and in some of them it was shocking to see the destitution and mode of living of the inmates."

When such was the state of the population in 1845, and when we learn that their system of agriculture consisted of a rotation of corn and potatoes alternately every year, we need not be surprised at the effect of the potato failure of 1846, in producing the famine, starvation, and pestilence which desolated Skibbereen.

The real sources of these calamities were the distress and wretched system of agriculture which prevailed before the famine, or before the year 1846. Had the people not been reduced to the verge of starvation—had their wages not been at the lowest point consistent with human existence before that time—the failure of the potato would, as in other districts, have caused privation only, and not death.

As the potato failure was not the chief cause of distress, we have next to inquire, To what causes are the wretched agriculture and consequent distress before 1845 to be ascribed?

I shall notice two of the numerous theories which have been put forward to solve this question; and the statistical information which I am about to bring forward will serve as a test, or *experimentum crucis*, between these theories.

The first theory represents the fixing of rents by competition as the foundation of Irish distress. This is the conclusion which Mr. Mill has stated in his recent very able treatise on the principles of political economy. "I presume," he says, "it will be needless to expend any argument in proving that the very foundation of the economical evils of Ireland is the cottier system—that, while peasant rents fixed by competition are the practice of the country, to expect industry, useful activity, any restraint on population but by death, or any (the smallest) diminution of poverty, is to look for figs on thistles, and grapes on thorns."*

The second theory is the one to which I have been led by all my investigations on this important subject, "That the chief impediments to the improvement of agriculture, and consequently to the prosperity of Ireland, arise neither from the ignorance nor from the perverse disposition of the people, but from the state of the law."† The main causes to which I ascribe the state of agriculture in Ireland are the legal impediments to the free transfer and sale of land, whether waste or improved; and the legal impediments to the application of capital to agricultural operations.

So that the question to be tested is,—Did the distress at Skib-

* *Principles of Political Economy, with some of their applications to Social Philosophy*, by John Stuart Mill, vol. 1. p. 381.

† *Impediments to the Prosperity of Ireland*, by W. Neilson Hancock, p. 186. Published by Simms and McIntyre, Belfast, 1850.

been before 1846 arise from the rents being fixed by competition, or from the state of the law with regard to land?

The facts to which I am about to refer are all disclosed in a petition filed in the Incumbered Estates Court for the sale of the Audley estate. It is a public document, of which any one can obtain a copy on paying a trifling fee.

The size of the Audley estate is not stated in the petition; but on examining the ordnance maps I find that it includes a large tract of land, lying entirely between Skull and Skibbereen.

It appears that the entire of this estate was leased to a middleman, in May, 1755, on a lease for 99 years, which will consequently expire in less than four years from the present time. So that in 1845, when the *Times* commissioner saw this district, the middleman had only an interest of nine years in the land, and, of course, none of the occupying tenants could have a greater interest.

It follows, therefore, that for some years preceding 1845, and still more, during the period of the famine, no single occupier in the entire of the estate had an interest in the land which would warrant him in expending capital in the improvement of agriculture, in the employment of the people, or even in raising additional supplies of food during the famine.

Whilst the middleman was unable to give such security as would induce tenants of capital to compete for the farms, he was, as a landlord, provided with power of distress and priority over other creditors, to enable him to recover his rent; so that, so far from their being excessive competition for the land, the competition was limited to one class of the community—those destitute of capital; who, having nothing to lose, were willing to cultivate the land without security, and to have all their little property subject to the summary proceedings of the middleman for the recovery of his rent. The middleman, again, was not only unable to give proper security to the occupiers, but he had no tenure himself which would make it safe for him to put up farm buildings, or make other permanent improvements, such as landlords usually make in England and Scotland.

But, it may be said, the middleman, no doubt, was in a false position; but why did he not sell his interest to the head landlord, or else buy up the reversion of the head landlord, and so one or other would have full power to deal with the property, as it was manifestly for the interest of both parties that one or other of these plans should be adopted—why was nothing of the kind done?

This brings me to notice the circumstances in which the interest of the head landlord was placed:—

In the year 1818, the late Lord Audley succeeded to the family estate, which had been, as already mentioned, leased to a middleman, and the entire income which he was then entitled to receive out of it was £527. By leasing the mines on the estate, he subsequently increased this income to £577 a year. Such being the income, the petition in the Incumbered Estates Court discloses

the progress of the incumbrances on the estate, which is concisely set out in the following table:—

Amount of Incumbrances created on Audley Estate at following periods.		Interest found to be due in 1846 on such Incumbrances.	Law Costs found to be due in 1846 on such Incumbrances.	Total found to be due in 1846 on account of such Incumbrances.
Period.	Amount.			
Up to 1819	£3,400	£4,000	£1 000	£8,400
Up to 1824	16,200	9,000	1,700	26,900
Up to 1829	25,100	14,600	3,900	43,600
Up to 1834	43,900	27,900	4,000	75,800
Up to 1837	89,400	61,700	16,200	167,300

In 1837, the late Lord Audley died.

In 1839, a bill was filed in Chancery for sale of the estate.

In 1846, a report of the Master in Chancery was made, finding the charges to be £167,300.

In 1849, a petition was filed in Incumbered Estates Court.

Thus it appears that, as far back as 1829, the incumbrances on the Audley estate had far exceeded its value, being £25,000, or less than £600 a year. That they increased rapidly, so as to amount to £89,400, exclusive of arrears of interest and law-costs at Lord Audley's death in 1837. That the interest and law-costs increased the charges against the property in 1846 to the enormous amount of £167,300 on a rental of £577 a year.

From this state of facts it follows that, just as the middleman's interest became more precarious, or, in other words, as the necessity became more urgent of its being determined by being sold to the head landlord, or by the purchase of the reversion from the head landlord, at the same time the increase of incumbrances was rendering any dealing with the property impossible.

From the time of Lord Audley's death in 1837 to the present hour, instead of there being one landlord to deal with the property, to discharge the duties of a proprietor, to administer the local institutions, to make a commercial contract with the middleman, securing his improvements, or to buy out the middleman and make commercial contracts with the occupiers, or to do, in fact, any one act that would be beneficial to the community, there have been upwards of 80 incumbrancers, without whose unanimous consent no valid contract could be made with respect to this large tract of country; and of these eighty persons, whose consent had thus become necessary to any dealing with the property, not more than five or six had any real interest in it, as the property could not possibly realise more than sufficient to pay that number of incumbrancers.

When such are the facts disclosed with respect to this district, is it not idle to speak of rents fixed by competition being the foundation of the economical evils of Ireland; when we see here that for the last twenty years all real competition was prohibited in this district? The competition which economists speak of is a competition of capitalists—a competition of people who pay—not a competition of paupers who only promise.

Had Lord Audley's estate been sold in 1829, with a parliamentary title—had the purchaser bought out the middleman, and offered commercial contracts to the tenants, securing them in the adoption of improved cultivation—the purchaser would have received far higher rents than have ever been received by the middleman. It may be said that all these evils arose from the folly of one man. No doubt, it was one man who created the incumbrances; but what shall we say for the state of the law which allows the existence of incumbrances to prevent a large tract of land from being a marketable commodity for 13 years after the death of the person who created the difficulty.

The history of the Audley estate naturally suggests several conclusions of no small importance. In the first place, we see the injurious effects of terminable leases as substitutes for sales in fee. The middleman's lease was originally for 99 years; but just at the most critical moment for the interest of the occupiers, and of the community at large, the termination of the lease approached, and the tenure became precarious. The existence of a lease at all times doubles the number of parties connected with the land, doubles the expense of investigation of title in case of a sale, and doubles the chance of individual mismanagement producing disastrous results. The policy of the law should therefore be to encourage the sale of land as much as possible, and for this purpose no settlement of land should be allowed which did not contain a power of sale.

In the second place, we see the folly of the present state of the law respecting tenants' improvements, by which, in the absence of a contract, all improvements, although effected by the tenant, become the property of the landlord instead of being the property of the improver. The effect of this state of the law is to make all complications of title, and all excessive incumbrances, a complete barrier to improvement. Had the poor occupiers at Skull and Skibbereen been allowed to claim against Lord Audley's creditors the value of any improvements that they made, they could during the famine have borrowed money and supported themselves, their families, and their neighbours, by the better cultivation of the land, and by increasing the amount of human food. Why should every penny that the middleman or the occupiers attempted to lay out in improvements be confiscated for the benefit of the creditors of Lord Audley? To say that they should protect themselves by proper contracts is a mere mockery, when it is manifest that for 20 years the property, has been so circumstanced, that it was impossible to make a proper binding contract respecting the land.

It is a wise principle of law, that there should be no interference with contracts, and that parties should be left perfectly free in making contracts. But every system of laws must make provision for the cases where contracts are defective, impossible, or neglected, just as we have statutes of distribution in cases of intestacy, to supply the want of wills. Where there is no con-

tract with regard to tenants' improvements, the law must interfere, and does interfere: it must determine whether the value of the improvements shall belong to the improver or not, and according to the determination will be the effect of the law on the prosperity of the community. In Ireland the law in this case is, that improvements shall not belong to the improver; and the effect of this state of the law on the Audley estate was to make the consequences of Lord Audley's incumbrances in producing distress for a long period entirely irremediable.

The next conclusion to which we are led by a consideration of Lord Audley's case, is the great utility of a simple and complete registry of debts and incumbrances affecting either land or the person. Had such a register been in existence in Ireland from 1821, it would have been impossible for Lord Audley to raise upwards of £50,000 on a security that could not be worth more than £20,000. But the delay and difficulty of searching for incumbrances in the separate registers of the several courts, and in the Registry Office of Deeds, was made an excuse to induce industrious people to lend sums varying from £150 to £1,500 on debentures, at a time when the estate was already incumbered beyond its value. In this way about £15,000 was raised, for which one penny has never been paid of principal or interest. Such a creation of incumbrances could not possibly have taken place under a perfect system of registration of debts.

The last conclusion from Lord Audley's case which I shall notice is, the evidence it affords of the want which existed before the passing of the Incumbered Estates Act, and which in many cases still exists, of cheap and expeditious forms of procedure for the enforcement of debts and contracts affecting land.

In the first place, it appears that the law costs connected with the creation and proof of incumbrances and law proceedings incident to them amounted to £16,200; being more than the entire property will now, in all probability, sell for. In the second place, we see that the bill for the sale of this property was filed in the Court of Chancery in 1839, and that it took seven years in that court to ascertain, at an enormous cost—what, under a perfect register, should be known in five minutes—namely, the amount of the charges on the property. At the end of ten years from the filing of the bill, the estate was still unsold in Chancery, and it would most probably have remained, like some other estates, for 70 years in that court, had the jurisdiction of the Incumbered Estates Court not intervened, and a petition been filed in it for a sale.

Had the Incumbered Estates Act been passed more than twenty years ago, and a petition filed when the estate first became bankrupt, in 1829—had the Act been passed even twelve years ago, and a petition been filed in 1839, when the bill was filed in Chancery—had a sale, with a parliamentary title, taken place in 1830, or even in 1840, how different would the circumstances of the district have been, when the blight fell on the potatoes in 1846.

A number of small capitalist proprietors would have been in possession of land long before the famine. They would have introduced improved systems of agriculture; the people, instead of earning the lowest wages in Ireland, would have had sufficient income to use other kinds of food along with the potatoes, and would not have depended solely on that vegetable. Hence the same quantity of potatoes would not have been grown, the same loss from failure would not have fallen on the district. In the season of difficulty, a resident proprietary in the possession of capital and accustomed to habits of industry, would have been ready to meet the crisis, and to administer the poor-law machinery and other local institutions, and so the distress could have been relieved without the employment of a large staff of paid public officers, strangers to the district, and to the habits and customs of the people.

In whatever way we consider the facts disclosed respecting the Audley estate, we learn to seek for causes of distress deeper than the superficial one pointed out by Mr. Mill. We learn that the economic evils of Ireland do not arise from peasant rents fixed by competition, and that, consequently, these evils cannot be removed by having peasant rents fixed by law.

We learn that of those causes that are within human control, the chief cause of distress in Ireland is the state of the law with regard to land. That the laws respecting property in land are defective in these particulars; 1st, in imposing impediments to the free sale of land, and encouraging, instead, terminable leases; 2nd, in denying security to the capital of tenants, by providing that, in the absence of contracts, improvements shall not belong to the improver; 3rd, in impeding the search for incumbrances, by maintaining a complicated and defective system of registration of debts and charges on land; 4th, and lastly, in the want of simple, cheap, and expeditious forms of procedure for the enforcements of debts and contracts affecting land.

DUBLIN STATISTICAL SOCIETY.

THIS society was established in November, 1847, for the purpose of promoting the study of Statistical and Economical Science. The meetings are held on the third Monday in each month, from November till June inclusive, at 8, P. M. The business is transacted by members reading written communications on subjects of Statistical and Economical Science. No communication is read unless two members of the council certify that they consider it in accordance with the rules and objects of the society. The reading of each paper, unless by express permission of the council previously obtained, is limited to half an hour.

Applications for leave to read papers should be made to the secretaries at least *a week* previously to the meeting.

Proposals of candidate members should be sent to the secretaries at least *a fortnight* previously to the meeting.

The subscription to the society is one pound entrance, and *ten shillings* per annum.

LIBRARY.

RESOLUTIONS OF COUNCIL, 6TH SEPTEMBER, 1850.

That the books that have been presented to the Society, and such books as shall hereafter be presented to or deposited with the Society, be placed under the care of Mr. Richard D. Webb as Librarian, to be by him lent to the members or to such other trust worthy persons as he may approve of.

That the Librarian keep a list of the books presented to or deposited with the Society; and a record of the persons to whom they are lent, with the dates of their being issued and returned.

The Council hope that members who have rare or valuable books or pamphlets on Political Economy or Statistics; will take advantage of the formation of the Library, by depositing such books or pamphlets for a time in the Library, so that the writers of papers may have an opportunity of consulting such books, without being involved in the expense of buying them.