



COMMERCIAL CRISES.

THE explanations hitherto offered by Political Economists of the recurrence of commercial crises cannot be regarded as altogether satisfactory, though they are certainly more so than that of Mr. Henry George, who ascribes these phenomena to speculations in land. This, perhaps, may be a cause in the United States, but in the British Empire it certainly is not so. Nor is any real explanation afforded by the scarcity of the circulating medium, owing to our gold and silver having been drained away to foreign countries. Wherever there are abundance of men willing to give one valuable commodity for another valuable commodity—the owners of which latter are also willing to exchange—means of exchange will be found, whether the circulating medium is plentiful or scanty.* There is, moreover, a quantity of gold and silver constantly in the kingdom, or

* A great many exchanges are in fact carried on by means of bills of exchange and promissory notes, with the occasional aid of such media as brokers and clearing-houses. If coin ran short, it would be easy to render these means more effective. But in commercial crises there is a general distrust which renders sellers unwilling to accept bills or promissory notes except in a few special cases. This distrust—this failure of credit—is much more potent than the scarcity of coin.

within easy distance of it, which an increased demand for gold or silver coin would soon bring into the market. And it is evident that the same amount of coin will act as the medium in a larger or smaller number of exchanges, according as trade is brisk or dull. If the man who receives payment for his goods in cash immediately afterwards proceeds to lay out the price in other goods; and if the vendor of these goods adopts the same course, and so on in succession, a small amount of coin will suffice for a large number of transactions. On the other hand, if the man who receives a cash payment keeps the money intact as long as he can, and only lays it out when he can no longer avoid doing so, a much larger amount of coin will be required to transact the same amount of business. Yet there may be as much or even more coin in circulation in the latter case than in the former. The real distinction is, that the rate of circulation has become slower; but this is not the cause but the consequence, or rather perhaps the necessary concomitant, of dullness in trade.*

Moreover, the quantity of coin held by banks is no certain test of the amount in circulation. There are times when holders of coin are more ready to deposit it with banks than at others. Unwillingness to deposit money in banks, for instance, may be the result of a

* The theory that prices must rise and fall according as there is much or little money in circulation is very similar to the theory that wages must rise or fall according as capital is plentiful or scanty. The former theory, however, is the more objectionable of the two, because there are many other things, such as approved bills of exchange, will answer the same purposes as money.

panic owing to which the stability of the bank is doubted. Moreover, the Charter of the Bank of England has been so frequently suspended in severe panics, that the public is probably by this time aware that any real failure of the circulating medium will in this way be averted, so that its shortness need not create any great alarm. No country will ever be ruined for want of gold, when it is abundantly supplied with other valuable commodities. In ordinary times the notes issued by the several Irish banks are accepted as readily as gold, though these banks are not subject to any such restriction as the Bank of England, and their notes are not a legal tender. And in the same way approved bills of exchange are often received as money. If it is otherwise in commercial crises the reason is, not that customers are apprehensive of not getting gold for their notes and bills, but that they are apprehensive of not getting the full value of them in any shape. It is but a small part of our dealings, either at home or with foreigners, that is settled by payments in gold. Gold being easily portable, and there being a ready demand for it in almost every country, its advantages as a medium of exchange with foreign countries are obvious—especially as it admits of a minute subdivision of values. But it is idle to suppose that trade could not be carried on without it, or that such a trade might not, if other circumstances were favourable, prove a brisk and remunerative one.

The explanation offered by over-production has been ridiculed by some Political Economists; yet that

in a certain sense there may be over-production seems pretty obvious. A man placed alone on a newly-discovered island might, under favourable circumstances, produce more of everything which the island was capable of producing than he could consume; and what is true of a single man is evidently applicable also to a number of men. Such a community, if cut off from the rest of the world, might find it best to limit the amount of work done, and to give up more time to recreation and mental improvement. If the inhabitants of this island were placed in communication with the rest of the world, they would probably discover that they could enlarge their production with advantage, exchanging the additional quantity for the productions of other countries to the growth of which their own island was unsuitable. But does it follow that, supposing every person capable of labour to be kept constantly at work, the entire surplus produce of the island could still be exchanged with advantage to the islanders for the products of other countries? This I do not see: and until it is shown to be the case, I deny that over-production is an impossibility. But there is a narrower sense of the term in which I think over-production is not only possible, but not unfrequently occurs. We may produce more than can be produced with profit or advantage. Nothing can be produced with advantage which does not realize enough, after paying for the labour, to replace the capital with a reasonable profit (together with the rent, if there is any rent to be paid). Now suppose that when there is no real increase in the value of a given

quantity of our home productions, there is an increased demand for labour with a view of increasing their amount, it is clear that there may be a general over-production of all home-grown commodities. The increased demand for labour will raise wages, and probably lead to the employment of more inefficient labourers; while in some cases the increased production will not be proportional to the increased amount of labour. Under these circumstances, it is evident that even if all our home-productions continued to exchange for each other in the same proportions as before, and if these exchanges took place with equal rapidity (which is not likely), still the labourers' wages estimated in kind would be larger than before, and a smaller proportion of the total produce would be left for the employer. Nor would this be all. Employers could not extend the scope of their operations generally without increased capital, which they would require to borrow, and the increased demand for loans would doubtless raise the rate of interest.* Even independently of any foreign trade, therefore, a commercial crisis resulting from over-production is no impossibility. If there was a general belief that the price (or rather the value) of everything produced at home was likely to rise,† there might be such a demand

* In order to increase the total amount of capital, the rate of interest must be such as to induce foreign capitalists to lend, or to induce men to lend a portion of the wealth which would not otherwise be employed as capital. Loans by one capitalist (at home) to another cannot increase the total amount of capital employed.

† It may be said that such a belief is economically absurd; but merchants have ere now fallen into economical absurdities on more than one memorable

for labour on the one hand, and for loans on the other, that the employer would find himself a loser instead of a gainer when he had paid his labourers, and returned the loan with interest. He might find himself unable to meet the loan when called in, and a few failures would produce a general feeling of insecurity on the part of the lenders, which in a country where loans are largely resorted to might produce a crisis. But the case is much clearer when we turn to our export trade. Though all our home products should continue to exchange for each other in the same proportions as before, the increased supply of them thrown on the foreign market would reduce their value in foreign exchanges. We could no longer obtain the same amount of French wheat in exchange for a given quantity of iron, if we attempted to force a larger quantity of iron on the French market. There would thus be a reduction in the value of any given quantity of our home products: for the value of anything must be regarded as reduced if its exchange-value is reduced in relation to some commodities, and is not raised in respect of the remainder. A shilling would be of less value to me than formerly if it still purchased the same quantity of meat, but only purchased half the quantity of bread.* The significance of

occasion. And perhaps on closer analysis the absurdity of this belief will disappear.

* There is no standard of absolute values. Anything is increased in value if it will exchange for more of some useful commodities, and will not exchange for less of any. It is diminished in value if it will exchange for less of some useful commodities, and will not exchange for more of any. But in general when values alter, the same thing will be found to exchange for more of some commodities, for the same quantity of others, and for less of the remainder.

over-production thus becomes clearer. The home-producer who sends his goods to the foreign market has to wait longer for a return than he expected, and then he receives it on a reduced scale. After paying his labourers, he has no longer enough left to repay with interest the loans which he has effected: and consequently, if he has been trading on credit, he fails. If wages estimated in kind had been cheaper, and if interest had been lower, there might indeed have been no over-production: but more has been produced than can be produced with advantage, or even without loss, under existing circumstances. And though it is possible for over-production in this sense to be universal, it is not necessary that it should be so in order that a commercial crisis should result. It is sufficient if the over-production is so general as to involve a greater demand for labour and for loans than the circumstances will justify. It is by no means necessary, as some Political Economists contend, that the wrong thing should have been produced. The labour and the borrowed money may have been applied in the very best way in which that amount of labour and that amount of money could have been applied. The real difficulty was, that it was impossible to obtain so

In such cases it may have increased in value to some persons, and have diminished in value to others. The value of wheat is increased to a man, if, reducing his whole annual consumption to wheat at the present rates of exchange, he would require less wheat to meet his expenditure than before; while its value is reduced to the man who would require more wheat for the same purpose. But both of these things might occur simultaneously to different men. And moreover, a man often varies the particular items of his expenditure when values rise or fall. When the value of meat rises, for instance, he consumes less meat; and if wine falls at the same time, he consumes more wine.

much labour and so much money on terms which left any profit for the borrower and employer. But of course when he borrowed the money and employed the labour, he expected to realize a profit. He did so doubtless because he expected a rise in the price of the commodity which he set about producing; in other words, he speculated on a rise which did not take place. Over-production is thus the result of mistaken speculation.

The speculator, indeed, is very frequently not the producer, but a merchant who purchases from the producer. Thus, suppose a general impression arises among merchants that manufactured cotton is likely to rise. There is immediately a rush to buy manufactured cotton in order to take advantage of the rise when it comes, and this rush increases the price at once. The speculative purchaser buys on credit from the cotton manufacturer, or else borrows the requisite funds—probably from a bank. The rise in the price of manufactured cotton induces the manufacturer to purchase more of the raw material, and to employ more hands if he can find a place for them, and in short to strain every nerve to increase his production of manufactured cotton. It may even induce persons possessed of the requisite capital to build new factories. The quantity of cotton in the market at first is below the average; for the speculative purchaser tries to hold over as long as he can in order to take advantage of the greater rise in price which he anticipates. But suppose this anticipation proves groundless, what is the result? Sooner or later the cotton thus held over must be thrown upon

the market; and when it is, the greatly increased quantity of it must lead to a heavy fall in the price. This fall is augmented by another circumstance. The speculator's credit has expired. He must realise almost at once in order to meet the demands upon him, or failure is the inevitable consequence; so that, notwithstanding the great quantity of cotton in the market, he must sell. Hence the price falls much farther below what I may call its natural level than it had been forced above it by speculation; and a considerable proportion of the cotton speculators are ruined in consequence, while the manufacturers also may experience severe losses. Political Economists may say that this was not over-production, but production of the wrong thing. But can they show that there was any right thing or any number of right things—anything or any number of things which might have been speculated in to the same extent with greater advantage to the operators? To produce what is called a crisis, however, speculation in any one commodity is rarely sufficient. It is rather simultaneous speculation in a number of important commodities that leads to the result in question.

I have hitherto spoken of home products only; but speculative purchases of foreign commodities are usually as efficacious in producing a crisis, if not more so. Suppose, for instance, that for some reason—or without any reason—an increase in the price of tea is expected. A number of speculators immediately compete with each other in purchasing as much tea as possible; for which, as a consequence of the increased demand, they have to pay

a higher price than was previously current. The price of tea increases, and the consumption consequently declines, while the speculators at first keep back as much of their tea from the market as they can, in order to obtain the utmost advantage from the expected rise. Ultimately the tea has to be forced on the market in order to meet their liabilities, and then comes a crash. The holders of tea are even more powerless than the holders of manufactured cotton, because resource of exportation is much less available. Speculations of this kind often occur simultaneously in a large number of foreign products, in which case there will probably be a general collapse followed by a crisis;* and of course the crisis will be more intense if a similar course of speculation in home products has been going on at the same time.

The contest in such cases is often between the speculative merchants on the one side and the men of fixed incomes, or at least whose incomes are but slightly affected by commercial prosperity, on the other. To men of this latter class a general rise of prices is ruinous, and they naturally struggle against it as long as they can. When prices go up they diminish their consumption. They use up their stocks on hand instead of keeping a constant supply by them. They only purchase when they cannot help it, and then buy as little as they can. This occurs, not only because in many cases

* Extensive speculative purchases of foreign commodities naturally lead to the exportation of gold, the abnormal increase of imports not being sufficiently met by the ordinary modes of exportation. A drain of gold, as it is called, is thus often a symptom of an approaching crisis; but it does not appear to me to be the cause of it.

they cannot afford to increase their expenditure, but also because there is generally among them a well-grounded conviction that prices must fall. In the contest the advantage is entirely on their side. Loans ready to be called in are not hanging over their heads; and if they were they would afford a reason for not purchasing rather than for purchasing. They are in no such difficulty as the speculator who finds that in order to realise a profit he must not only obtain a higher price than usual, but dispose of more than the usual quantity of goods at that price. And not only is an anticipated rise of prices ruinous to the merchant when his expectation is disappointed, but even when a rise does take place, it may fall so far short of his anticipations as to leave him a loser instead of a gainer.*

An excess of imported goods in the market can hardly be described as over-production. A more correct term would be over-supply; and as this latter term is applicable to home products also, it will be better to speak of over-supply than of over-production. There is an over-supply when the supply exceeds what Political Economists call 'the effectual demand'; but as this phrase is misleading, and we might with equal propriety or impropriety speak of 'the effectual supply', I venture to offer a few remarks on the subject of de-

* Sometimes the men of fixed incomes participate in the general expectation of increased prices, and buy as much as they can before what they regard as the highest point is reached. But if their purchases fall considerably short of the stock that has been laid in on speculation, this may produce the worst crisis of all. For just when the goods which have been held over are forced on the market the demand for them has ceased. Every one is already supplied.

mand and supply. Demand, in one sense of the term, is willingness to purchase by a person who has the means of purchasing, or who can obtain credit from the seller; but the word is more usually employed to mean the quantity of any kind of goods which persons possessed of the requisite money or credit are willing to purchase. Supply, on the other hand, is the quantity of goods offered for sale. But a little consideration shows us that neither of these quantities can be fixed, even in relation to a particular time and place and a particular class of goods, without introducing a third element, viz. the price. Persons having sufficient money or credit may be willing to buy a certain quantity of first class beef at 85s. per cwt. if they cannot get it cheaper, but they (or others) will be willing to buy a larger quantity at 80s., and a still larger at 75s., and so on. The demand for first class beef, therefore, depends on the price, not merely in the sense that the quantity purchased will diminish when the price rises and will increase when it falls, but that there is actually in any given market a greater demand—a willingness to purchase a larger quantity—at a lower price than at a higher one. And a converse remark holds good of the supply. In one sense all the cattle in the market are offered for sale; but there are a certain number of vendors who are willing to sell first class beef at 75s. if they cannot get more, while others will not sell under 80s., and others again will not sell under 85s. There is thus a larger supply at 85s. than at 80s., and a larger supply at 80s. than at 75s. The market price is

that at which the demand and supply are equal.* If the demand at this rate exceeded the supply, some of the buyers would be induced to advance a little in order to obtain what they wanted, and if the supply at this rate exceeded the demand, some of the sellers would lower the price a little in order to effect a sale. And this in fact often occurs at a fair or market where the price rises or falls in the course of the day. What, then, is meant by an over-supply? It has two meanings: first, there may be such a supply that some of the vendors cannot sell unless willing to submit to a sudden and enormous reduction. To revert to the case of a cattle-

* Even in works like the late Mr. Fawcett's *Manual of Political Economy*, in which a view approximating to the above is advocated, it is by no means clearly expressed. Mr. Fawcett speaks as if the supply was something fixed, the demand being the only variable element, and the price being adjusted when the demand becomes equal to the supply. Thus he puts the case of a picture of Turner's for which two persons are willing to give 1900 guineas, one of whom will advance to 2000 guineas, but not beyond, while the other will not advance beyond 1900. Here the supply being one, the demand also becomes one at 1900 guineas, and continues equal to the supply until 2000 guineas is reached, after which there is no demand; hence, according to Mr. Fawcett, the price is between 1900 and 2000 guineas, the precise sum depending on 'the higgling of the market'. But this is evidently not true if the owner of the picture will not sell it for less than 2500 guineas. In that case there is no price; for there is no point at which supply and demand are equal. There is no demand at any price above 2000 guineas; there is no supply at any price below 2500; and in the proper sense of the term there is no price, viz. there is no sum of money combining the two properties that it can be obtained for the picture, and that the picture can be obtained for it. There are other cases in which it is more obvious that the supply is not fixed. Take the Stock Exchange, for example. What is the supply of Three per cent. Government Stock on the Stock Exchange on any given day? No one can say. Intending purchasers have as often to seek out intending sellers as the contrary, and a sudden rise in the price will largely increase the supply before the market closes. Nothing is more common than to give directions to the broker to sell out when any given Stock reaches a certain price. The Stocks with respect to which this direction has been given form no portion of the supply

market, it is probable that there never was a market in which all the cattle could not have been sold if put up by auction and knocked down without reserve to the highest bidder; but in a very dull market it might be necessary, in order to effect a clearance, to sell some of the animals for half or one-third of their estimated value. There might be no one who was anxious to invest in that class of stock, and the ultimate purchaser might be a person who knew that it would be inconvenient to pay for them and inconvenient to keep them, but thought them so very cheap that it was worth his until the price in question has been reached, but become part of the supply as soon as that figure is attained. Political Economists, moreover, have seldom taken much note of the demand except in the sense of the demand for consumption. But there is another kind of demand which in commercial countries is more immediately potent. This I may term the speculative demand. The producer hardly ever sells to the consumer either directly or by means of an agent. He sells to a jobber, a merchant, or a shopkeeper, who in turn sells to the consumers; and there are often three or four of these intermediaries instead of one. This speculative demand is frequently considerably in excess of the consumptive demand. When a grocer buys a ton of sugar from a wholesale dealer he has no demand for that amount—perhaps he has not received orders for a stone. But he expects that in the ordinary course of business he will dispose of his ton of sugar in perhaps three or six months at a remunerative price to consumers; and if the consumers' demand equals his supply within that period he is satisfied. When goods are forced on the market at a slack time, the demand is almost exclusively of this speculative character. The man who buys does not intend to consume the goods, but thinks that by holding them over for a time they must rise. [Speculative purchases of this kind do not remove the over-supply. They merely transfer it to new hands. The same quantity of goods is still on sale, but the holder expects to get a little more than he paid, and holds over until there is a slight rise in prices. If his expectation proves correct the price is a remunerative one to him, but it would probably still be unremunerative to the original producer. Demand, I apprehend, is the quantity of goods which will be bought at a given price, provided that it cannot be bought cheaper. Supply is the quantity that will be sold at a given price, provided that a higher one cannot be procured. Supply, it is sometimes stated, is regulated by the cost of production, or rather the cost of production together with the current rate of profit thereon.

while to make a temporary sacrifice of his convenience with a view to an enormous future profit. Something like this often occurs in a very dull market. It is not so much that sales are very low as that they are very slow, and that an attempt to force a sale of any large quantity of the goods would lead to an enormous reduction in prices. Taking the supply as the whole amount of the goods offered for sale, the price at which the demand would become equal to *that* supply would be an exceedingly low one—far lower than the vendors, by holding on and selling in small quantities

This remark, however, requires large qualification. Men of course will not produce that which they do not expect to pay the cost of production together with a reasonable profit, and though their expectations are sometimes disappointed, they are probably about fulfilled in the long run. But the cost of production is itself different under different circumstances. If I have a flax-mill already built, the cost of production of linen for the future is much less than before I built it; and the fact that the mill is no longer worth anything like what I expended on it, will not prevent me from making linen as long as it is more profitable for me to do so than to close the mill altogether, or to convert it into some other kind of building. Nor is it certain that the mill would be suffered to go to ruin in a short time. The profit might be sufficient to induce me to keep the mill in repair, though not sufficient to justify the building of a new mill. With a great many things, too, the cost of production of a given quantity varies with the total amount produced. Sometimes we can produce a double quantity at less than double the cost, while in other cases more than double the cost is required. But the cost of production cannot regulate the price unless it is always proportional to the quantity produced. In that case, no doubt, the cost of production would, in the long run, regulate the price, while the demand would regulate the quantity produced. But in all ordinary cases there are two elements to be considered—the demand at a given price, and the cost of production of the quantity for which there is a demand at that price. Nay, there is a third element, namely, profits. The commodity will not continue to be produced unless it yields a reasonable profit over and above the cost of production. But the rate of profit varies from time to time, and a smaller profit will be accepted when the thing can be sold as fast as it is produced, than when it must be kept for an uncertain and perhaps considerable time on hands before finding a purchaser

at a time, might reasonably expect to realise. This is the most usual kind of over-supply. But I think it is no misnomer to apply that term also to all cases in which the market price is too low to afford to the vendor a profit on the sale of his goods. For, whenever this is the case, the supply is in excess of the demand at all prices which would yield a profit on the sale. The supply, as we have seen, is in excess of the demand at all prices above the market rate; and when that rate is too low to yield a profit, the supply exceeds the demand at all remunerative rates. A supply which is too large to be disposed of with advantage may fairly be regarded as an over-supply.

An over-supply may be general without being universal; but as an over-supply of many commodities often follows a bad harvest, it would seem that it may co-exist with an under-supply of other important commodities. The possibility of this co-existence I do not deny; I only deny its necessity. The result of a bad harvest would indeed be better termed an under-demand than an over-supply. The large portion of the population which depends for its support wholly or partly on agricultural pursuits must retrench its expenditure when there is a bad harvest (under which head I include an unprofitable year for the graziers); and besides retrenching their expenditure, the farmers—indeed the whole population—will probably have to lay out a larger sum in the purchase of agricultural produce. The demand for other commodities will therefore fall off; and if merchants have laid in their usual stocks of these (apart from any

operation which could be properly called speculative) there will be an over-supply. A bad harvest, however, or even two or three successive bad harvests, seldom produces what is known as a commercial crisis. Nor is it true that in such years there is always an under-supply of agricultural produce. There may even be an over-supply. The bad harvest may have been anticipated, and extensive speculative purchases of foreign corn and other produce made in consequence; in which case, if the harvest turns out to be not so bad as was expected, or if the speculation has been carried too far, the natural under-supply may be converted into an over-supply.

Violent crises more usually follow seasons of great prosperity, or at least of great supposed prosperity; and they appear to be largely produced by our credit system and the extensive prevalence of banking. The influence of this last cause has been pointed out by more than one writer. Banks can only derive a profit from the moneys deposited with them by their customers by lending the sums thus lodged. They must, of course, keep a balance in cash to meet contingencies; but, so long as this balance is not intrenched upon, the more they can lend the better. In prosperous times lodgments increase rapidly, and the sums drawn out are not very large. Banks have, therefore, large sums on hands which they seek to lend; and, in order to place as much of it as possible out at interest, they accept borrowers of an inferior class to those with whom they had hitherto dealt. Even these borrowers are considered safe enough

in good times; and as bank loans are always of short duration, the manager expects, even if the borrower ultimately fails, to get back the greater part if not the whole of the debt before the catastrophe. He looks about him, too, for other means of securing the bank. He gets a mortgage on the debtor's property, or an equitable deposit of the title-deeds. He gets bills of exchange bearing other names than that of the debtor; or he requires the debtor to get some friend to guarantee the amount of his overdraft. The borrower is often a man of small capital and adventurous spirit; or is, perhaps, already in insolvent circumstances, and sees no chance of keeping his head above water save that afforded by successful speculation. Finding, therefore, that he has more money at his disposal than he ever had before, he speculates largely; and the man who speculates largely, and meets his engagements for some time, is certain to obtain credit to a considerable extent. At last he speculates unsuccessfully and fails; or, even without unsuccessful speculation on his part, the banks and persons who have sold on credit call in their money at a dull time, when he cannot meet his engagements, and failure is the consequence. This failure involves loss to others—to those who have signed bills for him, who have guaranteed his account, who have lent him money, or who have sold him goods on credit—some of whom were trading in the very same way themselves. One or more of these fails also, involving others in loss and consequent failure; and when this process has gone on for some time a general panic takes place.

All creditors call in their money from their trade debtors. Few of the latter can meet their obligations at once, without raising a part at least of the required sum in fresh loans; and such loans it is now almost impossible to procure. Banks not only hesitate to lend, but do not possess the means of lending, for many of their lodgments have been withdrawn; and as, in the general panic, a run on the bank may take place at any time, it is necessary to keep a larger proportional sum on hands, in order to meet the claims of the depositors who have not as yet called for their money. In fact, during such crises, perfectly solvent banks have sometimes been compelled, not only to give up lending but to stop payment, because they could not call in their loans fast enough to meet the demands of the customers who wished to withdraw their lodgments. The means by which such crises have been alleviated will be noticed hereafter. I will only say here that the inability to lend or to pay does not arise solely, or even chiefly, from the scantiness of the circulating medium; nor is the mere augmentation of that medium sufficient to remove it. If commodities were in good demand, and traders generally had enough of them to meet their obligations, creditors would accept payment, at least temporarily, in commodities; while, on the other hand, it would be no alleviation of the calamity if banks had millions of gold coin in their reserves, provided that in the general panic they were afraid to lend it. These reserves would save the banks from stopping payment, and perhaps a few of the

depositors would lend their money after withdrawing it; but that would be all.

But commercial crises can, I believe, be guarded against to a considerable extent by legislation; not by keeping a sufficient amount of coin in the country, but by discouraging the system of extensive speculative purchases on credit. Until the year 1883, at all events, our law of bankruptcy made it too easy for such speculators to get rid of their obligations. They had in general only to give up their present properties—out of which, on one pretext or other, they usually managed to save something—in order to get clear of their debts for the rest of their lives; and though they should afterwards realise large fortunes, or succeed to large properties (provided that they had no interest in them at the date of the bankruptcy), they were not bound to pay their creditors a shilling. In hardly any instance were they subject to any penalty, except that of giving up a property which was usually not nearly sufficient to pay their debts, and almost all of which would have been taken from them under executions if the Court of Bankruptcy had not intervened. How far this state of things has been remedied by the English Bankruptcy Act of 1883 it is too soon to judge; but I think even that Act will be found to allow an insolvent debtor to carry on business too long, though well knowing that his affairs were getting worse, and that the probable dividend which his creditors would receive was getting smaller every day. It should, in my opinion, be the duty of a

debtor who is unable to pay his debts in full, and who has no reasonable prospect of bettering his condition, to have recourse to the Court of Bankruptcy at once;* and this duty should be enforced by legal penalties. The speculator who, when already insolvent, plays a reckless game of double-or-quits, living expensively during the time at the cost of his creditors, should be treated as a criminal.

But punishing the speculator will hardly suffice to check reckless speculation so long as funds are available for the purpose. When a man of little or no means sees a chance of realising a fortune, and a probability of being able to abscond with something in hand if his operations should prove unsuccessful, he will hardly be deterred by the fear of punishment. The only effectual course is to shorten the supplies; and this, I believe, can to a great extent be effected by the simple process of putting banks and other money-lenders on a real equality with the remaining creditors when the estate comes to be administered in bankruptcy. The present state of the law (or practice) of bankruptcy is specially favourable to banks, who almost always succeed in getting a larger proportion of their debt than any other creditor. Thus, supposing that a bank has advanced £10,000 to the firm of Brown and Thompson, who become bankrupts, we generally meet some such state of

* It is unfair to put a creditor or several creditors to the trouble and expense of obtaining a judgment only in time to find that no execution can be levied under it. If a debtor has no other defence than inability to pay, he should be bound to plead insolvency, and should thereupon be adjudicated bankrupt.

affairs as the following:—The bank holds a mortgage or lien on the joint estate worth £2000—one on the separate estate of Brown worth £1000, and one on the separate estate of Thompson worth £1000 more—while it holds bills of exchange, bearing the names of the firm and of both the partners separately, for the whole £10,000. In bankruptcy the three estates of the firm, of Brown, and of Thompson are treated separately, and a secured creditor is allowed to value his security and to prove for the balance of his debt after deducting this value, as an unsecured debt entitled to a dividend out of the estate. In the case which I have been considering, the unsecured debt is evidently £6000, for the bank is secured between the three estates to the amount of £4000. But one of the bankruptcy rules on the subject is, that in proving against any estate a creditor need only deduct and value the security which he holds on *that* estate. The bank can thus prove against the estate of the firm for £8000 instead of £6000, and receive dividends on the former sum. Nor is this all. Since each of the partners has signed the bills in his own name as well as in the name of the firm, the bank is entitled to prove also against the separate estate of each partner; and in each case it can prove for £9000, and obtain dividends on that sum. Suppose, now, that the estate of the firm pays 5s. in the £1, and that each of the separate estates pays 2s. 6d., the bank will receive in all £4000 from its securities, £2000 from the joint estate, and £1125 from each of the separate estates, or £8250 altogether; so that, while the ordinary creditors of the firm

receive no more than 25 per cent. of their debts, the bank receives $82\frac{1}{2}$ per cent.

Other rules, however, operate still more favourably for the bank. Thus Jones owes Brown £1000, for which he gives him a bill of exchange, or promissory note. Brown discounts the bill at a bank, and becomes bankrupt. This bill of exchange is not regarded by the Court of Bankruptcy as a security on Brown's estate; and the bank can prove for the entire amount and draw a dividend on it, provided that it has received nothing from Jones before proving its debt against Brown. And though Jones should afterwards pay half or three-fourths of the amount, the debt proved against Brown's estate will not be reduced, but a dividend will be paid on the full £1000, when there is only £500 or £250 due to the bank. The only qualification of this rule is, that the bank is not to receive more than 20s. in the £1 between the estates of Brown and Jones; but this restriction is very difficult to enforce in practice, and the English trustee system is not at all suited for its enforcement.* Of course, if Brown carried a composition with his creditors, the bank would receive the full amount of the composition, without any deduction for what it might thereafter

* In Ireland the bill or note must be produced to the official assignee before payment of the dividend, and the amount of the dividend is then stamped on it. But the bank is not bound to mark on the bill payments on account made by other parties, nor to make any affidavit of such payments after the debt has once been admitted. For this and other reasons, the twenty-shillings-in-the-pound principle, which sounds so well in theory, can hardly be enforced even under the Irish system, which seems to me to be far superior to the English in everything that relates to the ascertainment of debts and the proper distribution of assets.

receive, or had received since the debt was proved, from Jones. In effect it thus receives its full composition, and retains an assignment of Jones's debt to Brown in addition. Another plan sometimes adopted is this:—The Bank obtains a judgment against Brown on foot of the bill before his bankruptcy, and then proves on the judgment making no mention of the bill, thus suppressing the fact that Jones is liable to pay anything in respect of the same debt.* Of course, if Jones gives the bank any security for the debt, the value of this security is not deducted when the bank is establishing a debt against the estate of Brown.† It may, in fact, obtain a dividend on £1000 from Brown's estate when there is only £100 due to it, and that £100 is more than covered by security—provided only that the security is not on Brown's property, but on Jones's.‡ The advan-

* In bringing an action in the High Court of Justice, or I believe in any other Court, the holder of a bill is not bound to sue on it. He may sue for goods sold, for money due on a settled account, for cash lent, &c., according to the consideration for the bill. In this way the existence of the bill need not be referred to in the legal proceedings at all, although there is, in fact, one or more other persons liable on it. In Ireland, moreover, I am informed that, even when the action is on a bill or promissory note, it is not the practice to require production of the bill or note before making judgment in case the action is undefended. A man may thus obtain judgment on foot of a bill which is actually held by some one else at the time. I do not know whether the English practice on this subject agrees with the Irish.

† Another course often attempted in Ireland was as follows:—The bank sold a mortgaged estate in the Court of Bankruptcy, on which occasion an order was made finding the sum due. It then came in to prove against the bankrupt's general estate for the deficiency, relying simply on the order, and suppressing all notice of the fact that the debt thus found due was really made up of a number of bills of exchange, some of which were very probably paid off by other parties before the declaration of the dividend.

‡ So in proving against the estate of a surety or guarantor, the bank can prove for the whole amount due at the time, without making any allowance

tage which it thus obtains over ordinary creditors is enormous.

An attempt is sometimes made to obtain a greater advantage over ordinary creditors by the following trick. The debtor—perhaps at the time in insolvent circumstances—insures his life and assigns the policy of assurance to the bank, with a covenant to pay the premiums on it. He then becomes a bankrupt; and the bank, besides proving for the whole amount of their debt (or rather the whole amount which is unsecured), claims a further sum—perhaps a very large one—as the value of its interest under the covenant in question. Thus, though the policy may be of some value, the assignment of it to the bank does not diminish but largely increases the amount for which the latter proves against the bankrupt's estate; for the 'value of the covenant' may be £1000 when the value of the policy is only £50. In fact, the devices which an astute bank manager or bank solicitor resorts to in order to obtain more out of the estate than anyone else are endless.* Their proofs of debt are

for what it is likely to receive from the principal debtor. Even if the latter has deposited with the bank shares which can be sold any day on the Stock Exchange, the bank can defer the sale until it has proved its debt against the surety, which it can do without making any deduction in respect of these shares.

* Another example may also be mentioned. When a debtor carries a composition with his creditors he must pay those who do not send in claims as well as those who do, at the risk of being sued by the latter for the entire amount of the debt; and if a partly-secured creditor sends in no claim the debtor must estimate for himself the value of the security, and tender the composition on the unsecured part of the debt. Knowing the consequences of tendering an insufficient composition, he is more likely to tender too much than too little; but even when the creditor has received and pocketed the amount he is not held to have accepted the debtor's valuation of the security.

among those which it is peculiarly unsafe to entrust to the scrutiny of a trustee who has no special skill in this department, and who may have a motive for increasing rather than for cutting down the claim of the bank, at which perhaps he keeps his own account.*

A somewhat different plan is taken by another class of money-lenders, who advance money to traders in difficulties. They lend at enormous rates of interest (usually 60 to 120 per cent.) payable at short intervals; and they generally find an excuse for deducting something from the cash which is described as being lent at this rate. If such money-lenders can get two or three quarters' interest paid, their actual losses will be considerably reduced; while, even if the interest is not paid, they will probably be able to prove and obtain dividends in bankruptcy on two or three times the original loan.

Banks are generally partly-secured creditors. They abstain from making any claim, leaving the debtor to find out the value of the security and tender the correct amount of the composition as best he can. The debt we will suppose is £2000, and the composition five shillings in the pound. The debtor estimates the security at £500, and pays composition on £1500. The bank quietly puts this sum into its coffers, sells the security for £1000, and keeps that also; for it is not bound by the debtor's valuation, and having received but £375 out of the debt of £2000, it is held that it has still a charge of £1625 on the mortgaged property, though the debtor's personal liability may be at an end. If the case was reversed, the valuation being £1000 and the proceeds of the sale £500, the bank could probably sue for the entire debt less the £250 composition and £500 proceeds of the sale; but at all events the debtor would have to pay composition on the difference before obtaining his certificate.

* Even as regards a Court having jurisdiction in matters of the kind, whenever its judges bind themselves down by hard-and-fast rules they will find that banks and money-lenders will find means of turning these rules to their own advantage. What is really required is that the principle of equality should be more distinctly asserted by the statutes, and that the judges in interpreting the statutes should make every other rule subservient to this one.

As between lender and borrower I have no wish to re-enact the usury laws; but surely the case is altered when different creditors of the same debtor come into competition. A sells C £100 worth of goods on credit, and B lends C £100 on the same day. A year afterwards C becomes bankrupt. Why should B get a dividend on £200, while A only gets a dividend on £100?

The law undoubtedly ought not to take from any creditor a security which he has fairly and honestly obtained; but I think it would not be unreasonable to require him either to rest satisfied with his security, claiming no dividend out of the bankrupt's estate, or else to give up his security and take his dividend on the whole debt equally with the other creditors. And I think the law ought to prevent any creditor from proving both against the joint and the separate estates of partners in respect of what is substantially the same debt: as, for example, a bill of exchange or promissory note bearing the name of the firm and also the names of the individual partners, or a mortgage by the partners containing a joint and several covenant to pay. Where the debtor is not the person primarily liable on a bill of exchange or promissory note, the holder of the bill should be treated as a partly-secured creditor; and every creditor who receives a sum of money in respect of the debt from any other source than the debtor's estate should have his debt forthwith reduced, and receive dividends thenceforward only on the amount which still remained due. Everything should be done to equalize the position of the various creditors, and to give none of them an

advantage over the others; and I think every security on a trader's property should be declared invalid unless registered like a bill of sale.* If banks and money-lenders were really placed on a level with the other creditors in bankruptcies and compositions, a great check would be placed on reckless speculations. The speculator could not get money to borrow unless he was a man of considerable means; whereas it is generally the man who has least of his own to risk—who perhaps even now is unable to meet his liabilities—who speculates most readily and most rashly. It is of real importance to the community that this kind of speculation should be confined within narrow limits; and if that object can be effected by the simple and equitable process of making our bankruptcy law what it professes to be—a law for the equal distribution of the bankrupt's assets among his creditors, giving to none of them a preference over others—it is surely high time that this remedy was adopted.

Lastly, I may notice the mode in which commercial crises have often been checked, if not put an end to—an increased issue of notes by the Bank of England. The fact that this remedy has proved so effectual has led

* And if a payment was made shortly before bankruptcy, leaving something still due, I think the creditor might fairly be required either to retain the payment and make no further claim on the estate, or else to return it and prove for the amount due to him when it was made. Such an enactment would, at all events, be desirable when the payment was obtained by threats or pressure at a time when the debtor was in difficulties. Indeed it would hardly be unjust to require such payments to be refunded without giving the creditor any option in the matter. Pressure, in fact, is usually resorted to because the creditor knows that the debtor is unable to meet his liabilities in full.

some persons to think that the crisis was caused by the scantiness of the circulating medium, since it was removed by merely increasing that medium. This, I apprehend, is a mistake; and the real alleviation arises from a Government loan or Government credit, the distribution of which is entrusted to the Bank authorities. What conceals this fact is the circumstance that the Government is permanently indebted to the Bank in a sum exceeding the issue; and that in addition to notes issued in exchange for gold, the Bank is authorized to issue notes representing the portion of the National Debt of which it is the owner. If notes could only be issued in exchange for gold under the Bank Charter Act, the real nature of the transaction would be evident. Permitting the Bank on a special occasion to issue notes in excess of the gold held by it, accompanied by an offer to take these notes in payment of taxes, would then evidently be an offer on the part of the Government to give the Bank credit to the extent of the issue thus authorized. If these notes were made a legal tender, the State would, in addition to this, command all its subjects to give credit to the Bank also; but the taxes are so large, and so many persons pay them, that anyone who received the notes could ere long find means to shift the credit from his own shoulders to that of the Government, if he desired to do so. A further step would be necessary, namely, to absolve the Bank from the condition of paying gold for these notes when presented for payment—a course which, if the issue was small compared with the amount raised annually in taxation, would hardly lead

to any difference between the value of paper money and gold money. This, again, would clearly be giving credit to the Bank; for, of course, it would not be permanently exempted from the necessity of giving gold for its notes. The Government would merely enact that the Bank should not be required to meet its obligations in cash for a limited time; in other words, that the holders of the notes should for that time give the Bank credit, and refrain from enforcing payment of the debt due from the Bank to the holder. And if the Bank lent these notes recklessly and failed, the Government would have to bear the loss. Having made these notes a legal tender, and thus compelled its subjects to take them, it could not refuse to receive them in payment of taxes after the Bank had failed. There is thus a Government loan or Government credit. The Bank has to select the persons among whom the loan is to be distributed, taking the risk of non-payment, but as a set-off retaining all the interest which the borrowers pay. The Government loan is, of course, made for the benefit of the community, not of the Bank, and the Government therefore ought to see that it is applied in the manner most beneficial to the community; and if the Directors of the Bank of England are not willing to apply it in this manner, the Government should select a different channel for conveying its loan to those who are in need of it.

From the preceding remarks it will be seen that, whatever the defects of the Bank Charter Act may be, the necessity of suspending its provisions in case of a

commercial crisis is not, in my opinion, one of them. The Habeas Corpus Act is one of the most useful and important measures in the Statute Book, yet there are occasions when it becomes necessary to suspend its provisions. The State ought not to make the notes of any bank a legal tender without assuring itself that those whom it compels to receive them will lose nothing by doing so; and in order to obtain this assurance some provisions not very dissimilar to those of the Bank Charter Act seem to be requisite. It is true that there are occasions when, in the interests of the nation, these provisions must be relaxed; but it is far better to entrust the power of relaxing them to a finance minister whose action can be reviewed in Parliament, than to the Governor and Directors of the Bank. The interests of the nation hold the first place in the mind of the former, but the interests of the Bank occupy that position in the minds of the latter. In Ireland we are well accustomed to special temporary measures adopted to meet pressing needs, but they do not shake the faith of the nation in the general administration of justice. The unalterable laws of the Medes and the Persians are entirely unsuited to a state of society like ours. We must be satisfied with adopting the legislation best suited for general use, and entrusting the power of varying or suspending it to some highly qualified person or persons. And this object the Bank Charter Act of 1845 seems to me to effect. The general question of its merits, however, lies beyond the scope of the present article; nor do I possess the qualifications requisite for their full discussion.

