THE

LAND QUESTION, IRELAND.

No. 1.

NOTES

UPON THE

GOVERNMENT VALUATION OF LAND

IN IRELAND,

COMMONLY KNOWN AS "GRIFFITH'S VALUATION."

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NOTES

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ONE result of the Land Agitation carried on in Ireland during the past year has been to bring prominently under public notice the question of the valuation of the country. Both on the platform at land meetings, and in that portion of the Irish press which professes to sympathise with the aims of the agitators, the Government Valuation—"Griffith's Valuation," as it is commonly called—has been represented as the legitimate measure and standard of rent, any demand above which must of necessity be arbitrary and excessive.

There is, no doubt, a good deal of plausibility in this representation. Most persons unacquainted with the facts would, not unnaturally, conclude that the valuation of an agricultural country must mean an estimate of the letting value of its soil for agricultural purposes, and that, if carefully and impartially made, such a valuation would coincide with the rent which, one year with another, an industrious tenant could afford to pay. Whether a valuation thus theoretically perfect is attainable in practice, or whether, if attainable, it would be desirable, does not fall within our present purpose to inquire. The question which we propose to consider is, whether the Government Valuation of Ireland now in force

affords a fair and uniform standard of the letting value of Irish land under the ordinary circumstances of the country. To enable us to answer this question, we must examine the history of the valuation, the principles upon which it was based, and the manner in which it was carried into effect. Fortunately the materials for such examination are abundant, and readily accessible.

Passing by earlier surveys and valuations, which are now interesting merely as matters of Irish history, the first undertaken in recent times by the authority of Parliament was the Townland Valuation of Ireland, which was authorised in 1826 by the 7th Geo. 4, cap. 62, but was not commenced until 1830. The object of this valuation was to afford a uniform basis for the assessment of county cess and other local charges levied by the grand juries. The Commissioner appointed to carry it out was the late Sir R. Griffith, Bart., who also carried out the subsequent valuations, and who continued at the head of the Valuation Department until the end of 1868.

The Townland Valuation Act contained, like all the subsequent Acts on the same subject, a schedule or scale of prices of agricultural produce, according to which the valuation should be made, but gave no clear directions as to how this scale should be applied; and Sir R. Griffith adopted the system of having a valuation made of the land at the current prices of the day, with reference to the intrinsic capabilities of the soil,

estimated by an examination of the soil and subsoil, which primary valuation was afterwards modified according to peculiar local circumstances, and ultimately adjusted to the scale of prices laid down in the Act. This scale had been ascertained in 1816 or 1817, soon after the conclusion of the French war, at a time when the prices of agricultural produce were brought to a very low ebb by the reaction consequent on the fall of Buonaparte, and was in fact two and sixpence in the pound—12½ per cent.—below the prices ascertained by Sir R. Griffith to have prevailed in the five years preceding 1830, when the townland valuation was begun.

Under the Poor-law Act (1 & 2 Vic., cap. 56), a new valuation of each separate tenement was authorised to meet the requirements of the assessment of poor-rates. This valuation was made by the guardians of each poor-law union independently, and was carried out by local valuators appointed by them. As may well be supposed, the townland valuation made by Sir R. Griffith, and the poor-law valuation made by local valuators, did not always coincide; and the inconvenience, or rather in many cases the injustice, of having two systems of valuation in force, soon began to be felt. Besides, the local valuation by the poor-law guardians was frequently entrusted to incompetent, and occasionally to dishonest, valuators, so that in many unions it was utterly worthless as a basis for taxation.

To remedy this state of things the first Tenement Valuation Act (9 & 10 Vic., cap. 110) was passed in 1846, the first year of the Irish Famine; and this Act subsequently merged in the Act now in force—15 & 16 Vic., cap. 63—passed in 1852, when the Famine was over. There have been Acts passed since affecting some details of the Act 15 & 16 Vic., cap. 63, but none altering the principle of that Statute, which still remains in full force. Such were the 17 Vic., cap. 8, amending certain details connected with the annual revision of the valuation, and the exemption of buildings used for public or charitable purposes; the 19 & 20 Vic., cap. 63, providing for the adoption of the tenement valuation for grand jury taxation; the 23 Vic., cap. 4, authorising the Treasury to pay a moiety of the cost of the annual revision, and dealing with other minor matters; the 27 & 28 Vic., cap. 52, giving to the Boards of Guardians, with the sanction of the Poor-law Commissioners, the same right of appeal against the annual revision as was absolutely provided in the case of owners and occupiers; and 37 & 38 Vic., cap. 70, dealing further with the payments by the Treasury, and fixing the amounts to be repaid by each county in respect of the annual revision of the valuation.

The Act of 1846 differs from all the other Valuation Acts in one remarkable respect, namely, that it contains a clause defining the net annual value of a tenement, which is a rateable heredita-

ment, to be the "rent for which, one year with another, the same might in its actual state be reasonably expected to let from year to year, the probable average cost of repairs, insurance and other expenses, if any, necessary to maintain the hereditament in its actual state, and all rates, taxes and public charges, if any, except tithe rent-charge being paid by the tenant." Whether this definition was intended to apply to land may, perhaps, be open to argument; but whether it was or not, it is found in the Act of 1846 only. In the other Valuation Acts, the same form of words is expressly confined to houses and buildings, and a different principle is laid down as the basis of the valuation of land.

The General Valuation Act (15 & 16 Vic. c. 63) was passed in 1852, and arrangements were at once made for proceeding with the work of valuation under that Act. The Commissioner appointed by the Lord Lieutenant to carry out this Valuation also was the late Sir Richard Griffith, who had, as already stated, been Commissioner under the previous Acts, a man eminently fitted for the office.

In early life he had abundant opportunity, of which he fully availed himself, of learning practical agriculture on the large tract of land, over 500 acres, farmed by his father in Kildare. He subsequently studied chemistry, geology and mineralogy in London and Edinburgh; and afterwards lived as pupil for two seasons with a gentleman in the Lothians, who was not only an

agriculturist on a large scale, but a professional valuator, employed as such to value farms for letting on the 19 years' lease common in that part of Scotland. From this gentleman he learned the particular system of valuing land, based on the composition of the subjacent rock, which he inaugurated and carried out in Ireland. Sir R. Griffith was a man of great administrative ability, and when he was appointed Commissioner under the Act of 1852, he had already had twenty-six years' experience of the duties of the office.

His first step was to prepare, for the surveyors and valuators to be employed under his direction, a new code of instructions, based upon those previously issued by him in 1839, in which the nature of their duties and the mode of performing them are set out with the most careful forethought and elaborate minuteness of detail. These instructions were approved by the Lord Lieutenant on the 4th of August, 1853, and thenceforth acquired, under the 8th section of the Valuation Act, an authority equivalent to that of the Act itself.

In the opening paragraphs of these instructions the principle of the Act is thus set forth :—

"1. The intention of the Legislature in passing the General Valuation Act was, that a valuation of the lands of Ireland should be made on a uniform principle and scale of prices for agricultural produce, so as to insure that the relative value of the lands within any county, though

ascertained at different periods, and also that the relative value of the lands of different and distant counties, though ascertained at different and distant periods, should be the same.

"2. To effect this object, the scale of prices of agricultural produce contained in the 11th Section of the Act, quoted below, is given as the standard according to which the uniform Tenement Valuation of the lands of Ireland shall be made, and all valuations must be made as if the standard prices were the prices of the several kinds of produce at the time the valuation is undertaken.

EXTRACTS FROM ACT 15 & 16 VICTORIA, CAP. 63, SECTION XI.

"3. That in every valuation hereafter to be made, or to be carried on or completed, under the Provisions of this Act, the Commissioners of Valuation shall cause every tenement or rateable hereditament hereinafter specified to be separately valued, and such valuation, in regard to the land, shall be made upon an estimate of the net annual value thereof, with reference to the average prices of the several articles of agricultural produce hereinafter specified; all peculiar local circumstances, in each case, being taken into consideration, and all rates, taxes, and public charges, if any, (except tithe rent-charge) being paid by the tenant (that is to say),

WHEAT, at the general average price of *seven shillings and sixpence* per hundred weight of 112 pounds.

OATS, at the general average price of *four shillings and tenpence* per cwt., &c.

BARLEY, at the general average price of *five shillings and sixpence* per cwt., &c.

FLAX, at the general average price of *forty-nine shillings* per cwt., &c.

BUTTER, at the general average price of *sixty-five shillings and fourpence* per cwt., &c.

BEEF, at the general average price of *thirty-five shillings and sixpence* per cwt., &c.

MUTTON, at the general average price of *forty-one shillings* per cwt., &c.

PORK, at the general average price of *thirty-two shillings* per cwt., &c.

And such valuation, in regard to houses and buildings, shall be made upon an estimate of the net annual value thereof; that is to say, the rent for which, one year with another, the same might, in its actual state, be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance, and other expenses (if any) necessary to maintain the hereditament in its actual state, and all rates, taxes, and public charges, if any, (except tithe rent-charge) being paid by the tenant."

We have quoted these paragraphs from the official instructions at length, because, speaking with the authority of the Lord Lieutenant and of the Commissioner of Valuation, and having, in every respect, the force of an Act of Parliament, they define the principle and object of the General Valuation Act. The object was to secure uniformity of valuation all over Ireland for purposes of taxation; and the principle was, that a fixed scale of prices should form the basis of the valuation "in regard to the land." There is no reference in the Act of 1852 to the rent of land, nor any suggestion that the rent should form the basis or measure of the valuation of land; or that the rent should or ought to be in any way adjusted to the valuation. And this is the more remarkable, because, in the case of houses and buildings, the rent for which they might be expected to let, the tenant paying all

costs of repair and all taxes, is distinctly laid down in the Act as the measure of their net annual value. Surely, if the Legislature had the intention of correlating the valuation and the rent of land, they would have stated so in the Act as explicitly as they have done in the case of buildings.

In the instructions issued to the valuators only two references are made to rent in connection with valuation. In the first the valuators are cautioned that the "total valuation of land and buildings, exclusive of taxes, should not exceed the fair letting value to a solvent tenant." This caution was necessary because, in conformity with the Act, the value of the land had to be ascertained and entered separately from that of the buildings, and cases might arise in which extravagant and unnecessary buildings would raise the gross valuation out of proportion to the intrinsic value of the land, or the fair letting value of the tenement, and therefore subject the tenant to excessive local taxation.

The second reference is of the same character, though differently expressed. The exact words are—"*In fine*, it should be borne in mind that for each separate tenement a similar conclusion is ultimately to be arrived at, viz., that the value of land, buildings, &c., as the case may be, when set forth in the column for totals, is the rent which a liberal landlord would obtain from a solvent tenant for a term of years (*rates, taxes, &c., being*

paid by the tenant), and that this rent (*sic*) has been so adjusted with reference to those of surrounding tenements that the assessment of rates may be borne equably and relatively by all."

This direction obviously has reference in the first instance to that previously given, that "the total valuation of land and buildings, exclusive of taxes, should not exceed the fair letting value"—but it further impresses on the valuators the necessity of preserving uniformity in their estimates, so that no person should be relieved of taxation at the expense of his neighbour; and so far as it deals with the relation of valuation and rent to each other, it rather lays down the principle that the valuation should be adjusted to the rent, and not the rent to the valuation. The concluding paragraph is not very clear. The valuators had no power to adjust the "rent"—*rent*, observe, not *valuation*—to the rents of surrounding tenements; but it would be only right that before taking rent into account at all as an element in estimating the value of a tenement, they should see how far rents were uniform in the immediate neighbourhood.

It will be observed that it is only in the case of land and buldings taken together that this reference to rent or letting value is made—in no instance does Sir R. Griffith direct that the land, as such is to be valued with reference to rent. The land was to be valued, and was valued, on a special principle, and as attempts have recently

been made to confuse the public mind on this point, it may be well to set it at rest by evidence which cannot be controverted.

Sir R. Griffith was examined in May, 1869, four years after the completion of the Tenement Valuation now in force, before a Select Committee of the House of Commons, "appointed to inquire into the Constitution and Management of the Department of the General Valuation of Ireland," when we find him giving evidence as follows, in answer to questions by The O'Conor Don:—

"1498. You stated that the principle followed before 1844 was the same principle of Valuation that was followed under the first Tenement Valuation Act?—The principle of the Acts throughout was the same, and it continues up to the present time."

"1499. Are you aware that the principle was condemned by the Committee of 1844?—I do not recollect the circumstances."

"1500. I will read you two or three extracts from the Report of the Committee: they say, on page 8, 'The principle of Valuation employed by Mr. Griffith is not founded upon an estimate of the probable letting value, and therefore it appears to be open to the objections just alleged:' then they say, 'The extension to these counties,' that is the counties that were not at that time valued, 'of Mr. Griffith's Valuation will create a second valuation for the imposition of another local tax framed uniformly, but upon an unsound

principle'?—The Act was not altered, and I was bound to follow the Act, not their recommendations."

"1501. On page 10 they recommend, 'That Mr. Griffith be instructed not to continue his valuation upon the principle which he has hitherto followed'?—That principle was to value according to a scale of agricultural prices, not according to rents; but the Act was never altered."

The Committee of 1844 reported, after hearing evidence of facts then of recent, almost contemporaneous occurrence, that "Mr. Griffith's Valuation was not founded upon an estimate of the probable letting value." Sir R. Griffith himself, before the Committee of 1869, states that his valuation was made "according to a scale of agricultural prices, not according to rents"—how then can any one assert, or pretend to believe, that the Tenement Valuation was intended to be, or ought to be, a basis for rent?

And this must have been so from the very nature of the case. Neither 'kings nor laws' can control the course of nature; and no legislature could assume to stereotype the prices of agricultural produce. Whether the scale of prices fixed by the Act were arbitrary, or whether it were based on the prices which prevailed when the Act was passed, it would be equally suitable, considered only as the basis of a uniform valuation; but, as the scale was fixed after full discussion in Parliament, we may assume that

it represents fairly the current average market prices of the day. This was in the years immediately preceding 1852, when the country was still prostrate after the Famine, and before the re-action had set in. Prices of all kinds of agricultural produce were then exceptionally low—lower than they have ever been since—much lower than they are now. Besides, while all articles of agricultural produce have increased in value, some have increased in greater ratio than others; butter and meat, for example, have increased relatively more than wheat or oats. Hence, even if Griffith's valuation had been made with special reference to the adjustment of rent, and if it had been carried out in strict conformity with his instructions, and in such a manner as to represent the fair letting value of the land of Ireland with reference to the scale of prices laid down in the Valuation Act, assuming them to be the prices current in 1852, or immediately before, it is perfectly plain that it would be a wholly unsafe guide to the letting value of the same lands in 1880. We shall see this more plainly when we come to compare the scale of prices, already quoted from the Valuation Act, with those which have prevailed since.

However, before entering on this comparison, it may be well to consider how far the valuation actually made, and now in force, can be regarded as corresponding to the instructions issued by Sir Richard Griffith, to the valuators. We have

spoken of these instructions as exhibiting careful forethought and minuteness of detail. No small portion of them is devoted to an able summary of the geological formation of Ireland, and classification of its soils. Elaborate tables are given for both tillage and pasture, showing the expense of cultivation and the probable yield of each class of land. Nothing that skill, experience, and foresight could suggest seems to have been omitted, the one great object in view being to make the valuation uniform over the whole country. It could scarcely be expected, however, that a work entrusted to so many different hands as were necessarily employed upon it, should be carried out by all with equal care and accuracy. Errors of judgment, and inattention to instructions must be reckoned with in all human work, especially if on a large scale; and we have certainly no guarantee that, on a new valuation, we should have abler or more careful valuators than were employed on the last. It may be that the inequalities, which all now acknowledge to exist, were not so glaring when the valuation was first made, at any rate they were not so much observed; but there was an element of error which might have been eliminated during the progress of the valuation had it attracted sufficient attention at the time. This is well pointed out in *Thom's Irish Almanac*, a work of deservedly high authority on statistical subjects. We should mention that the Valuation Act of 1852 provided for the adoption, subject to revision, of all valuations completed

under the Act of 1846, and the completion of such as had been begun under that statute, which referred primarily to the County Dublin, all the Counties in Munster except Clare, and the Counties of the Cities of Waterford, Limerick, Cork, and Kilkenny.

The following is the passage from *Thom's Almanac*:—

"The valuation of some of the Southern and Western Counties was made during and immediately subsequent to the famine of 1847-8, when agriculture was greatly neglected, the prices of agricultural produce very low, and poor's-rate in many Unions very much higher than at present; the result being that in those Counties the valuation is considerably too low, unequal, and less than that of lands of similar quality in the Province of Ulster, which were more recently valued. The present Valuation being, therefore, so much under the fair rent value, depreciates land sales, and has an injurious effect on dealings between landlord and tenant in respect of rents; and it also misleads as to local taxation, the present average of the grand jury cess being 1s. 9d., and poor's-rate 1s. 5¼d. in the pound; whereas, under a new valuation, 1s. 3d. and 10d. in the pound respectively would produce the sums now required for these purposes."

Not only was the country, as pointed out in the foregoing extract, in an exceptionally low condition when some of the Southern Counties were originally valued, but it had advanced far on the path to prosperity when the revaluation of the Northern Counties was made under the Act of 1852, thus further augmenting the divergence in the values assigned to the two portions of the island. Sir R. Griffith, in his evidence before the Committee of 1869, frequently refers to this fact,

which he calls "the improvement in agriculture." Hence it is that the difference between the valuation and the rent is usually so much greater in the South and West than in the North.

We give in an Appendix Tables showing the dates at which the valuation of each county was issued, and the amount per pound sterling that should be added to the valuation of the Counties of the other Provinces to bring them to a uniform scale with those in the Province of Ulster. These Tables were given in evidence before the Committee of 1869, already referred to. During the first three years—from 1853 to 1855 inclusive—the valuations of seventeen counties were issued, all in Leinster and Munster, while the valuations of the Ulster Counties were issued, at the rate of one in each year, beginning with Cavan in 1857, and ending with Armagh in 1866. (*See Appendix*, A.)

Those who are familiar with dealings in land in Ireland know very well that when a farm is to be let, neither landlord nor tenant regards the valuation as a measure of the rent, or even as a guide to its amount; it is referred to solely for the pnrpose of ascertaining the probable amount of poor-rate, or other local taxation, to which the farm is liable, an element which both landlord aud tenant are bound to take into account; but the rent of the farm is settled on entirely different principles. Exactly the same thing has taken place with respect to house property. The valuation of houses in Dublin and its suburbs is

notoriously too low, and consequently no one ever dreams of regarding it as a measure of the letting value—it simply enables the parties concerned to calculate the probable amount of local taxation—nothing more.

How little the Government Valuation is regarded in actual practice, as a standard of letting value, will be seen from the following typical cases of recent occurrence:—

1. In 1874 five farms in County Limerick, containing in the aggregate 915a. 2r. 23p., were let on leases varying from 35 to 50 years. The Government Valuation of the whole was £270 15s.; the reserved rent was £437 13s. 1d.—nearly 62 per cent., be it observed, over the valuation—and for these leases fines amounting to £3610 were paid by the tenants. If we convert these fines into rent at six per cent. we get for their equivalent £216, which, added to the reserved rent, makes up £653 13s. 1d., or 142 per cent. over Griffith's Valuation.

2. In 1876 a farm containing 57a. 1r. 7p. was let, in County Cork, on lease for 31 years, without fine; the Government Valuation was £50, and the rent reserved in the lease was £97, being an advance of 94 per cent. on the valuation.

3. In 1877 an estate in County Clare, containing 1447 acres, was sold in eight lots. The Government Valuation of the whole was £433; the gross rental paid by the tenants was £928, or 114 per cent. above the valuation, in fact more

than double—the net rental was £667, and the purchase-money amounted to £21,585, being 32½ years' purchase on the net rental. This estate was sold subject to a jointure of £200 a year—valued at £2,400. If we add the jointure to the net rental, and its capitalized value to the purchase-money, we shall still have this estate, though let at more than double the Government valuation, bringing in the open market, 27⅔ years' purchase on the rental. And if we take the purchase-money as last stated, that is, including the capitalized valued of the jointure, we find it amounting to no less than 55½ years' purchase on the Government valuation.

In the face of such facts—and they are but specimens—it cannot be seriously contended that the Government valuation is any guide to the letting value of land; or that it affords any sufficient data on which rent could be estimated.

But even though Griffith's valuation had been accurate and uniform, and even though the relative values of the articles of agricultural produce specified in the valuation Act had not changed—even though the country had not advanced in material prosperity since the valuation was made, still that valuation could not be regarded as affording a standard of rent, as the land agitators allege it to be. On this point, if on any, Sir Richard Griffith himself may safely be accepted as speaking with authority, and he has left on record his deliberate opinion respecting the "ad-

dition that should be made to the amount contained in the printed schedules of the general valuation to bring it to a rent value:" and that opinion is, that "if one-third be added, the result will give very nearly the full rent value of the land under ordinary proprietors."*

This was the opinion expressed by Sir R. Griffith in 1844, and it was given with reference to the Townland Valuation then in progress under the Acts of 1826 and 1836. The scale of prices laid down in each of these Acts was the same in every particular; it was the scale already referred to as having been ascertained in 1816, and was lower by two and sixpence in the pound than the prices which prevailed during the five years previous to 1830. Sir R. Griffith's instructions to the valuators employed in making the primary Townland Valuation were to neglect the scale laid down in the Act of 1826, and to estimate the value of the land on what he calls the "live and let live" principle, according to the average prices of the preceding five years; and the valuation thus made, which he says closely approximated to the rents on the great estates under liberal landlords, was subsequently *reduced* by two and sixpence in the pound, or twelve and a-half per cent., to bring it into harmony with the scale laid down in the Act of Parliament to which he was bound to conform.

It would appear from this that, even on the great estates referred to by Sir R. Griffith, the Town-

* See Griffith's "Outline of System of General Valuation of Ireland," page 7.

land Valuation, when completed, must have been twelve and a-half per cent. under the most moderate rents, estimated at the current prices of the day.

Comparing the scales of prices in the Acts of 1826, 1836, and 1846, which are all identical, with the scale laid down in the Act of 1852, under which the valuation now in force was made, we find that the prices of cereals and butter were higher in the earlier Acts, and the price of meat higher in the Act of 1852. This will be clearly seen from the following Table :—

TABLE showing the scale of prices of ayricultural produce laid down in the Acts of 1826, 1836, *and* 1846, *as compared with the scale laid down in the Act of* 1852.

SPECIES OF PRODUCE	Prices		Per-centage of Differences	
	Acts of 1826, 1836, and 1846	Act of 1852	Earlier Acts higher than Act of 1852	Act of 1852 higher than earlier Acts
	s. d.	s. d.		
Wheat	10 0	7 6	33·3	—
Oats	6 0	4 10	24·1	—
Barley	7 6	5 6	27·3	—
Butter	69 0	65 4	7·1	—
Beef	33 0	35 6	—	7·6
Mutton	34 6	41 0	—	18·8
Pork	25 6	32 0	—	25·5

The Townland Valuation, which was present to Sir R. Griffith's mind when he wrote that 33 per cent. should be added to the valuation to bring it up to the rent of the land, ultimately merged in the valuation made under the Act of 1852—that now in force; and the general effect of adjusting

the Townland Valuation to the scale laid down in the Act of 1852, would necessarily be to reduce the valuation of tillage lands; and to increase, though not to the same extent. the valuation of sheep pastures; while dairy land, and the richer pastures suited for the production of beef, would not be materially affected.

It is plain, however, that this adjustment, if carefully made, as we must believe it to have been, would not alter the proportion between valuation and rent, both being regulated by the prices of agricultural produce; and so long as the prices of the Act of 1852 continued, Sir R. Griffith's dictum would apply to the tenement valuation made under that Act and now in force, as fully as to the Townland Valuation respecting which it was originally uttered. But the prices of 1852 did not long contiuue. In the very next year they began to rise, and ever since the prices of cereals have been higher than the scale of the Act of 1846, and the prices of meat higher than those laid down in the Act of 1852, in some cases enormously higher. The valuation, meanwhile, has remained unchanged; so that the excess of rent over valuation, which Sir R. Griffith estimated at 33 per cent., might now safely be set down at a very much higher rate.

Two other points are worthy of attention in connection with this branch of the subject:—

When settling the Valuation, Sir R. Griffith was bound, by the Act which regulated his proceed-

ings, to deduct all rates, taxes and public charges, except tithe rentcharge. He, accordingly, deducted in every instance the full amount of the poor-rate, although the landlord is bound to pay the whole rate where the valuation does not exceed £4, and to allow half the rate in all other cases. Sir R. Griffith admits that this was a mistake in the Valuation Acts, and that the deduction should have been limited to the amount of taxes actually payable by the tenant; but, nevertheless, he was bound, when making the valuation, to deduct the full poor-rate, and, as a matter of fact, he did deduct it in every case before fixing the net annual value. It is easy to see how unjustly and how unequally this deduction must have operated to reduce the net annual value, especially in districts—and they were very many—where the poor-rates were heavy at the time the valuation was made.

It is, of course, impossible to ascertain with accuracy how much was thus deducted, but we may get a fairly close approximation to the amount. It is not too much to assume that the poor-rate deducted in the course of the valuation averaged 1/8 in the pound. Of this amount only 10d. in the pound, the proportion payable by the tenant, should have been deducted; and the total valuation of Ireland is, in consequence of the deduction of the landlord's portion of the poor-rate, some four per cent. below what it ought to be.

It should be mentioned that, although the Act of 1852 provides for a general revision of the valuation, such has never been made; nor is it likely to be until a new Valuation Act is passed. The annual revision, so far as land is concerned, consists merely in ascertaining and noting changes of occupancy, but not a shilling can be added to or taken from the value of any field, and the gross valuation of the land is now just the same as it was when the valuation was made.

Further, the Act contained a provision that improvements effected within the seven years preceding the valuation should not be taken into account. This carries us back to 1845—the eve of the famine—for the earlier valuations; and, in every case, to a period of seven years antecedent to the making of the valuation—and thus the great bulk of the money expended by the landlords during the past thirty-five years in improving their estates is excluded absolutely from consideration in estimating the value of the land. We know that from 1847 to 1879 three millions of money were borrowed under the Land Improvement Acts, of which two and a-half millions were for the improvement of land, as distinguished from the erection of farm buildings; and large sums have, during the same period, been expended on arterial drainage. We cannot estimate, even approximately, the amount of private funds laid out by landlords on their estates, or allowed to their tenants for improvements carried out by them, but

it must have been very large. All this expenditure has gone to increase the letting value of the land, while but a small portion of it—how small we cannot say—has been taken into account in the valuation, thus further augmenting the difference between rent and valuation to a very considerable extent.

But perhaps the most remarkable, as it is certainly the most independent, testimony to the fact that there is no mutual interdependence between valuation and rent, is that borne by the tenants themselves. We do not now allude to the fact that they are willing to give rents far in excess of the valuation, and to purchase at a high rate, the interest of any out-going tenant, though that of itself should be conclusive on the point. We refer particularly to the case of tenants purchasing under the Bright Clauses of the Land Act of 1870.

In estimating the proportion of the purchase-money which might be safely advanced to assist the tenants to purchase their holdings, the Treasury, at the suggestion of the Irish Board of Works, fixed twenty-four years' purchase of the Tenement Valuation as the standard price of land, and sanctioned the advance to the tenant of a sum not exceeding two-thirds of that amount, or sixteen years' purchase on the Tenement Valuation, provided this sum did not exceed two-thirds of the purchase money, As a matter of fact it had never reached two-thirds of the purchase money; and the tenants who desired to purchase their holdings "complained to the Board of Works that their rule

offered so much below the fair price of the holding that the number of years should be increased as a compensation for the lowness of the valuation." These are not our words—they are taken *verbatim* from the evidence of Mr. Stack, "the chief clerk of that division of the Board of Works in Ireland in which the business of the Bright Clauses is transacted," given before Mr. Shaw-Lefevre's Select Committee on the Irish Land Act, which sat so recently as 1878. Mr. Stack further states that the tenants were "very dissatisfied" when they were told that they would get an advance to the amount of only sixteen times the Tenement Valuation, which, according to the Treasury rule, must be less than two-thirds of the total purchase-money to be paid for the holding. The Board of Works then applied to the Treasury to allow them to increase the standard price, and the Treasury agreed to raise it from twenty-four to twenty-seven year's purchase on the Tenement Valuation. This change of rule was made in 1871, and in the following year the Board of Works, acting on a discretion which they believed themselves to possess, raised the standard price to thirty years' purchase on the Tenement Valuation, and their action in this matter has not since been repudiated by the Treasury. The following extract from Mr. Stack's evidence puts the facts clearly and forcibly. The Chairman, Mr. Shaw-Lefevre, asks him—

"1732. The result of all that has taken place between you and the Treasury, and what your

office has done of its own accord is, that now the basis of calculation is thirty times the Tenement Valuation? Yes."

"1733. And you advance two-thirds of that? Yes, we can advance as much as two-thirds of it to a tenant."

"1734. I believe even that has not given satisfaction, and has not come up to the full value of the holding in many cases? In many cases it has not."

In other words, tenants purchasing their holdings under the Bright Clauses of the Land Act are of opinion that the purchase money, of which they must themselves provide one-third, and the other two-thirds of which they are bound to repay with interest, is not adequately represented by thirty years' purchase on the Tenement Valuation. Now, since the year 1865 the average price obtained for estates sold in the Landed Estates Court has been twenty-one years' purchase on the rental, hence, if the opinion of the tenants referred to is correct, the rent should exceed the Tenement Valuation in the ratio of 30 to 21; in other words, the rent might be 43 per cent. above the valuation, and yet be below the full value.

Hitherto we have assumed that the prices of agricultural produce have increased to an enormous extent since the Act of 1852 was passed. It seems almost like attemping to prove an axiom to offer evidence in support of a fact so notorious, but we must put the matter beyond doubt or cavil, on authority that cannot be disputed.

Mr. J. Ball Greene, C.B., the able successor of Sir R. Griffith in the direction of the Valuation Office, adds an official note to the Irish "Doomsday Book," published in 1876, in which he says—

"NOTE.—In this return, instead of the 'gross estimated rental' being given, as in the return for England and Wales, the rateable valuation is set forth. This valuation was made many years ago, and is based upon the scale of prices of agricultural produce contained in Act 15 & 16 Vic., cap. 63, which scale is much below the present average prices of such produce. Consequently, the valuation cannot be compared in any way with the gross estimated rental given in the return for England and Wales. (Signed) J. BALL GREENE,
Commissioner of Valuation."

The following Table not only proves the fact of the increase, but enables us to judge of its amount in the year 1873 :—

TABLE showing the Prices of AGRICULTURAL PRODUCE *as fixed by the Valuation (Ireland) Act,* 1852 *(and on which rates the present value of Land is still estimated), and the prices for the year* 1873, *in Thirteen of the principal Market Towns in Ireland, with the increase of Prices per cent. between* 1852 *and* 1873 :—

	Year 1852	Year 1873	Increase per cent. between 1852 & 1873
	Prices fixed by Tenement Valuation	Prices in Thirteen Principal Towns	
	s. d.	s. d.	per cent.
WHEAT, per cwt. of 112 lbs.	7 6	12 0	60·0
OATS, ,, ,,	4 10	6 10	41·4
BARLEY, ,, ,,	5 6	8 6	54·5
FLAX, ,, ,,	49 0	66 7	35·9
BUTTER, ,, ,,	65 4	110 0	68·4
BEEF, ,, ,,	35 6	70 0	97·2
MUTTON, ,, ,,	41 0	74 0	80·5
PORK, ,, ,,	32 0	50 0	56·2

In 1877 the late Government brought in a Bill to authorise a new Tenement Valuation of Ireland. This Bill contained a scale of prices intended to form the basis of the valuation, such as was contained in former Acts.

The following Table shows the enormous increase in the value of every kind of agricultural produce that had taken place in the twenty-five years subsequent to 1852:—

TABLE, showing the scale of prices of agricultural produce laid down in the Act of 1852 *and the Bill of* 1877 *respectively, and the increase per cent. in the value of each species of produce.*

PRODUCE	Act of 1852	Bill of 1877	Increase per cent. in scale of prices
	Price per cwt.	Price per cwt.	
	s. d.	s. d.	
WHEAT	7 6	10 0	33·3
OATS	4 10	7 8	58·6
BARLEY	5 6	8 4	51·5
FLAX	49 0	60 0	22·4
BUTTER	65 4	121 4	85·7
BEEF	35 6	70 0	97·2
MUTTON	41 0	74 8	82·1
PORK	32 0	51 4	60·4

The Bill of 1877 was brought in as a Government measure, and we may assume pretty confidently that the Government had abundant evidence to support the scale of prices laid down in the schedule which, as we see, ranged from 33 to 97 per cent. above the scale prices in the Act of 1852. Now let us suppose that Sir R. Griffith had had this scale of prices laid down

for his guidance, instead of the scale of 1852, what would be the result? Roughly speaking, the tenement valuation of Ireland would be from 30 to 50 per cent. higher than it is at present.

There have been some serious fluctuations in prices since 1877, especially in those of butter, cattle, and sheep, but they were due to exceptional causes of a temporary character, which are fast disappearing; while all other species of agricultural produce are fairly holding their own. Not even the most reckless agitator will venture to assert that there is any similarity between the prices of 1852 and those of 1880; and, until prices fall to the level of the scale laid down in the Act of 1852, there is not a shadow of pretence for the claim that rents should be assimilated to the valuation made under that Act. Even then, the claim would be untenable; until then, it is simply absurd.

But it has been asserted that the increase in the cost of production, consequent on the rise in wages, counterbalances the increased value of agricultural produce; and that the net annual value of land in Ireland is no greater now than it was in 1852. It is difficult to believe that this statament is seriously made, at least by any one familiar with the facts. We are not now considering whether the valuation made under the Act of 1852 should or should not be raised to bring it into harmony with the altered circumstances of the country. Our present object

is simply to show that it is not a legitimate standard or measure of rent; and it would lead us too far from that object were we to enter on a minute examination of the details of the cost of production as affecting the ultimate value of agricultural produce. We may, however, indicate some points bearing on the case which are worthy of attention from those who seek to represent that the increased cost of labour since 1852 swallows up the increased value of the crops at present prices.

In the first place, the rise in wages had begun before 1852, and was well established at that time, though not to the same extent as subsequently.

Again, it is not the case that a rise of say 50 per cent. in wages counterbalances a rise of 50 per cent. in the value of agricultural produce. Per-centages are relative, and any per-centage on a small amount is not equal or equivalent to a corresponding per-centage on a larger amount—for instance, 50 per cent. of a shilling is a very different thing from 50 per cent. of a pound. Labour is an element, an important element, in the cost of tillage, but it is not the only one; and while we are quite ready to admit that the rise in wages since the famine has been relatively as great as the rise in agricultural produce, we emphatically deny that the absolute increase in money and money's worth has been the same in both cases; yet this is what is asserted by persons who believe, or pretend to believe, that the increased cost of production since 1852

counterbalances the increase in the value of agricultural produce.

Further, since 1852, a large quantity of land, formerly in tillage, has been thrown into pasture, partly consequent on the rise in wages, but chiefly in consequence of the change of the relative value of corn on the one hand, and butter and meat on the other. The cost of labour in connexion with pasture bears a very low ratio to the value of the produce raised, and the quantity of labour required per acre is far less than in the case of tillage. Hence, every acre converted from tillage to pasture not only reduced the cost of production relatively to produce on that acre, but set free a certain amount of labour for employment elsewhere, thus tending to keep down the cost of tillage also.

The introduction of machinery, too, for agricultural purposes has tended not only to redress the balance between outlay and return, but has in some cases actually inclined it the other way. Mowing and reaping machines, threshing machines, hay-making machines, improved churns, and other labour-saving implements, are now to be met with everywhere throughout Ireland. Such were practically unknown in 1852. Steam engines also are finding their way to many places throughout the country, and, no doubt, in another generation they will be commonly applied to all descriptions of farm work.

These are considerations which cannot be left

out when estimating the effect of the rise in wages, which has undoubtedly taken place since 1852, on the increased value of agricultural produce, but which we cannot pursue further at present.

If we do not deceive ourselves we have shown, as we proposed to do, from the history of the General Valuation of Ireland, that it was solely as a basis for taxation that it was undertaken; from the instructions and the manner in which it was carried out, that the great object in view, however imperfectly that object was attained, was to make it uniform; and that, neither in its inception nor in its progress, was there the slightest idea of making it a standard or measure of rent. And we believe, further, we have established that, if by any fatality it should be set up as a standard of rent, it would be wholly insufficient and unjust.

The laws that regulate rent are ultimately the same that regulate all mercantile transactions, the irrefragable laws of demand and supply. It seems strange that so simple an elementary truth should require to be explicitly stated as that the rent of land will rise or fall according to the quantity in the market and the number of persons looking for it. All speculations as to why they look for it are wholly beside the question. Men, as a rule, are not fools where their personal interests are concerned; they know pretty well what they want; and having made up their minds on that point, they will be ready to give for the commodity,

whatever it may be, exactly what they consider it worth. If the prices of agricultural produce be high, the value of land will rise in proportion; and, if prices fall, so will rents. We are almost ashamed to repeat these economic truisms; but, amid the din of interested and selfish agitation, some may be in danger of forgetting them. Any attempt to regulate rent by Act of Parliament would be as futile as the efforts of our forefathers to control dress by sumptuary laws. It is not likely that in a nation which glories in Free Trade any such attempt will be made; but much present dissatisfaction and much future disappointment would be avoided if men would at once recognize and act upon the eternal truth, that perfect freedom of contract and absolute security of property are indispensable conditions of the prosperity of a country.

APPENDIX A.

GIVEN IN EVIDENCE BEFORE THE SELECT COMMITTEE OF 1869.

LIST *of* COUNTIES *and* CITIES, *showing the Dates at which the* VALUATION *of each was completed.*

Counties.	Date of Issue of Valuation.	Counties.	Date of Issue of Valuation.
Carlow	28 June 1853	Clare	3 July 1856
Cork	20 July 1853	Galway Town ...	14 July 1856
Cork City ...	9 July 1853		
Dublin	5 May 1853	Cavan	25 June 1857
Kerry	19 July 1853	Galway	29 June 1857
Kilkenny... ...	8 July 1853	Leitrim ...	6 July 1857
Kilkenny City ...	8 July 1853	Mayo	13 July 1857
Limerick... ...	29 June 1853		
Limerick City ...	29 June 1853	Donegal	6 July 1858
Queen's	28 June 1853	Roscommon ...	1 July 1858
Tipperary ...	29 June 1853	Sligo	7 July 1858
Waterford ...	5 July 1853		
Waterford Borough	5 July 1853	Londonderry ...	16 July 1859
		Tyrone	13 July 1860
Dublin City ...	31 Oct. 1854		
Kildare	18 July 1854	Monaghan ...	1 July 1861
Wexford	7 July 1854		
Wicklow ...	4 July 1854	Antrim	10 July 1862
		Carrickfergus ...	10 July 1862
King's	2 July 1855		
Longford... ...	6 July 1855	Fermanagh ...	4 July 1863
Louth	5 July 1855		
Borough of Drogheda	6 July 1855	Down	12 July 1864
Meath	10 July 1855		
Westmeath ...	5 July 1855	Armagh	1 June 1865

From the foregoing dates it will be seen that the valuation of the southern and western counties was made before the country had recovered the effect of the famine when agriculture was greatly neglected, and when the poor's rate was, in many unions, very much higher than at present, the result being that the valuation of those counties is considerably less than the valuation of lands of a similar quality in the province of Ulster which was

valued at more recent dates; and the following statement will show the increase per pound on the valuation which would be required to make the valuation of the southern and western counties relative with the valuation of those in Ulster.

STATEMENT *showing the Amount of the present* TENEMENT VALUATION *of the several* COUNTIES *and* CITIES *in Ireland, and the Addition necessary to be made to the Valuation of the Southern and Western Counties to bring them to a uniform Scale with those in the Province of Ulster.*

Counties.	Present Tenement Valuation.	Proposed Increase per £.	Counties.	Present Tenement Valuation.	Proposed Increase per £.
LEINSTER.	£.	s. d.	*Munster—con.*	£	s. d.
Carlow ...	163,911	5 0	Tipperary ...	672,734	4 0
Dublin	567,015	5 0	Waterford ...	275,194	4 0
„ City	554,292	2 0	„ City...	36,401	2 0
Kildare ...	333,927	5 0			
Kilkenny ...	341,229	5 0	CONNAUGHT.		
„ City...	17,339	2 0	Galway ...	468,788	4 0
King's ...	242,212	3 4	Leitrim ...	134,637	2 6
Longford ...	152,094	3 4	Mayo ...	307,806	3 4
Louth ...	224,088	5 0	Roscommon ...	292,403	5 0
Meath ...	547,703	5 0	Sligo ...	207,636	2 6
Queen's ...	257,385	3 4			
Westmeath ...	314,550	5 0	ULSTER.		
Wexford ...	372,075	4 0	Antrim ...	858,943	—
Wicklow ...	252,055	4 0	Cavan ...	268,044	—
			Donegal ...	289,302	—
			Londonderry...	341.342	—
MUNSTER.			Monaghan ...	260,400	—
Clare ...	312,089	4 0	Tyrone ...	418,234	—
Cork ...	1,028,862	4 0	Armagh ...	403,180	—
„ City ...	122,114	3 4	Down ...	757,495	—
Kerry ...	274,020	4 0	Fermanagh ...	227,567	—
Limerick ...	452,412	5 0			
„ City...	63,876	2 0	Total £	12,814,014	—

Dr Webb.

THE

LAND QUESTION,

IRELAND.

CONFISCATION

OR

CONTRACT?

NOVEMBER, 1880.

THIRTEENTH THOUSAND.

ISSUED BY

THE IRISH LAND COMMITTEE,

31, SOUTH FREDERICK-STREET, DUBLIN.

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CONFISCATION OR CONTRACT?

THE objects of the Agitation which is at present desolating Ireland have been repeatedly proclaimed by Mr. Parnell. "The feudal tenure," said that gentleman at Cincinnati, "and the rule of the minority have been the corner-stone of English Misrule. Pull out the corner-stone, break it up, destroy it, and you undermine English Misgovernment. When we have undermined English Misgovernment we have paved the way for Ireland to take her place among the nations of the earth. And let us not forget that that is the ultimate goal at which all we Irishmen aim. None of us—whether in America or in Ireland, or wherever we may be—will be satisfied until we have destroyed the last link which keeps Ireland bound to England." And the language of Mr. Parnell has been the same in Ireland as it was in America. "I would not have taken off my coat and gone to this work," he said at Galway when speaking of the objects of the Land League, "if I had not known that we were laying the foundation in this

movement for the regeneration of our legislative independence." "We ask you," he said when speaking of the present Administration to the men of Roscommon and Westmeath, "while this weak, vacillating, and cowardly Government are inquiring into this question and making up their mind, to show that you have inherited some of the determination of your fathers, and that you are determined to hold by your homesteads until you have undone the conquest of seven hundred years ago."

While the Agitation thus proclaims that the demand for the Confiscation of the land is only a preliminary to the demand for Dissolution of the Union, and while the Administration is making up its mind to what extent the demands thus made should be conceded, it may be well to clear the question of all verbal ambiguities, and for that purpose to ask, What the Irish People is, and who the Irish Landlords are, and in what English Misgovernment consists ?

For eighty years Ireland has been united to England. The Union was effected by English Statesmen to promote English interests. It was effected against the wishes of the Irish gentry, and against the wishes of the great mass of the Irish People. It was essentially an English measure. True, it was represented to the Irish Parliament of the day that the Protestant Establishment could not be maintained, and that Proprietary Rights could not be effectually secured, unless the Irish

People were merged in a larger nationality and subjected to a more comprehensive law. This was the argument of the Earl of Clare. How far the promises of that great Statesman have been realised it is superfluous to inquire. But whoever may have reason to complain of the legislation of the Imperial Parliament, it is not the masses of the Irish People. It is true that Parliament has ruled from England; but it has done what no Parliament sitting in Dublin would have had the power to do. It has reversed the relative position of Irish parties. It has obliterated every vestige of the Penal Laws. It has granted the fullest measure of Catholic Emancipation. It has remodelled the Municipal Corporations in the interest of the numerical majority of the Irish People. It has lowered and extended the parliamentary franchise till the parliamentary representation of the country is in the hands of the masses of the population. For the Irish peasant farmer and the Irish peasant the Parliament in England has manifested even a paternal care. The Irishman of the lower order is educated by the State; he is provided with medical attendance at the public charge; he is maintained at the expense of the wealthier classes, in destitution, decrepitude and age. To conciliate popular favour the Imperial Parliament has yielded every popular demand but one—the demand for the political suicide of that Parliament itself. It has destroyed the great Protestant

Establishment which it was created to protect; it has confiscated a portion of the Property which it was created to secure. It has gone still further. With respect to Irish land it has paused in the career of legislation which professed to emancipate industry by repealing the Corn Laws and the Navigation Laws, and the other laws which were alleged to fetter Free Contract and Free Trade. It has placed a fetter upon Contract. It has placed the Irish peasant farmer in the same position of disability and protection as the married woman, the idiot, and the infant. Such for three generations has been the English Misgovernment in Ireland.

But while the English Government has done all this for Ireland, there is one thing which it has never done—it has never *governed*. In Ireland, as in every country in Europe, as in England itself, there is an anti-social, a disaffected class. That class in Ireland is not merely composed of the Ribbonman, the Whiteboy, and the Croppy; it is largely reinforced by a party which usurps the name of Nationalist and declares itself the undying enemy of the English name and race. It is this class which has supplied the force and motive power of every agitation, which has disturbed and desolated Ireland since the Union. An Irish agitation is the one thing with which the Government in England has shown itself incompetent to deal. Even when the demands of the agitation bore the guise of

justice, the Government has shown itself less solicitous for justice than for peace. In the face of an unreasonable agitation the attitude of authority has been more ignominious still. It has connived at it; it has colluded with it; it has quailed before it. It has coerced its friends, in the vain attempt to conciliate its foes. It has never put forth its strength to vindicate the law except under the influence of panic. It is here that the English Government in Ireland has failed. The English Government of Ireland, in fact, is in the position of the countryman in the classic adage. It has taken hold of the Irish Wolf by the ears—and it can neither securely hold him, nor safely let him go.

The fundamental error of those who adopt the views of the Agitator as to English Misrule is betrayed in their use of the corresponding phrase, the "Irish People." The true Irish People is the population of 5,315,224 human beings who now exist upon the Irish soil. That population is Irish, but it is not Celtic. For upwards of a thousand years the most energetic men of the most energetic races in Europe have fought for the soil of Ireland with the Celt. Danes, Normans, and Saxons have invaded it; Huguenots and Palatines and Dutch have settled on it. In the fierce struggle for existence none but the strongest have survived; and the survivors have intermarried and intermixed and fused. The Irish People, like the English People, is a mixed

race. If we may believe Professor Huxley, there is more English blood in Ireland than there is in many an English county. But in Ireland the English blood has been improved. The Celtic fire has given a splendid animation to the Saxon mass. *Mens agitat molem.* It is this Irish People which for generations has supplied Statesmen to the British Senate, commanders to the British Armies, administrators to every dependency of Britain. The Irish People is not, as Mr. Forster would seem to fancy, a multitude of Celtic farmers confronted by a knot of alien landlords. It comprehends 444,729 agricultural labourers with their families who are at the mercy of the farmers. It comprehends upwards of three millions of human beings represented by men devoted to professional and industrial pursuits. Of this diversified population the great mass stands aloof from political agitation, and its existence is ignored by politicians, because it is devoted to the cause of law and order.

This population, like every other population, includes its disaffected and its desperado classes; and it is these who keep Ireland disturbed by a smouldering civil war. It is these who at the present moment are mutilating cattle, and assassinating men, and wreaking their vengeance upon women and young children. An Englishman would smile contemptuously if anyone were to describe the ratteners of Sheffield or the roughs of London as the English People. But that is

the very mistake which he himself makes when ever he begins to talk of Ireland. No—the outrages which excite the horror and arouse the indignation of the world are not perpetrated by "the high-souled Irish People"—they are perpetrated by the ratteners and roughs of Ireland.

It has been boldly proclaimed from a thousand platforms that "Landlordism" in Ireland is the creation of the English Law. A more flagrant misstatement of the historical fact can scarcely be imagined. If any Englishman has a doubt upon the subject let him dip into the *Primitive Property* of Laveleye. It will show him that even in the old Celtic times the property of the Celtic Sept, as population increased, became appropriated by the Celtic Chief (p. 124). It will tell him the position of the *saer tenants* and the *daer tenants* of the Brehon Laws (p. 235). It will show him that even at that early period there were ruined men—vagabonds with no land to cultivate in a country where the cultivation of land was the only regular means of existence (p. 237). There he will learn the position of the Celtic tenants of the Celtic Chief. Their position is described by Spenser. Their rent consisted of exactions which were not rent, but "cuttings." The right of refection—the *droit de gîte et d'alberge* of feudal France—enabled the Chief to quarter himself and his retainers upon their scanty means. In addition to this, the Celtic tenant was compelled to give his labour gratui-

tously to his Celtic master (p. 236). In the old Celtic times the Celtic tenant was in reality a serf. But, as early as the time of James I., the English Misrule in Ireland effected what the boasted legislation of Stein and Hardenberg effected in Prussia two centuries later. It commuted these corvees, and cosherings, and cuttings into rent. It emancipated the Celtic villein. The Chief Secretary for Ireland is wrong. It was not the English Misrule, but the Celtic Customs, to which we are indebted for our legacy of evil; and Laveleye, adopting the opinion of Sir Henry Maine, does not hesitate to say "that we must look back to the *fuidhirs*" of the Brehon Laws "for the origin of the deplorable relations between landlord and tenant, which Mr. Gladstone endeavoured to remedy by special legislation" (p. 238).

Before we examine that special legislation, however, let us inquire who the "Irish Landlords" are. Mr. A. M. Sullivan proclaims to the world in the columns of the *Times* that their rights are based on Confiscation; and following in his wake Mr. Parnell openly proclaimed at Cork that "the people of Ireland are engaged to-day in a great struggle—a struggle for the land of their country, which was wrested from them centuries ago."* But the aboriginal Irish were never wholly dispossessed. The Norman Conquest left the Celtic

* The *Daily Express* of October 4, 1880.

Chieftains and the Celtic Septs in possession of their lands in twenty-one counties out of the thirty-two into which Ireland is now divided. Of the 20,159,678 acres which constitute the acreage of Ireland, only 511,465 were confiscated after the Rebellion of Tyrone. Of the domains which were forfeited in the course of the Great Rebellion, one-third was re-granted to the ancient proprietors at the Restoration. Of the million of Irish acres which were forfeited at the time of the Revolution, one-fourth was restored to the old proprietors under the civil articles of the Treaty of Limerick, and one-seventh of the remaining three-fourths was restored to those who could not plead the letter of the treaty, but were considered objects of clemency and grace. Since the final confiscation two centuries have now elapsed—more than double the period of prescription which the peasant proprietors of France can claim for the confiscation which forms their only root of title. The heirs of the proprietors who were dispossessed are scattered over the four quarters of the globe. The grants have passed from the grantees into other hands by purchase. Millions of money have been expended by the present race of proprietors and their predecessors in title in the reclamation and improvement of the confiscated lands. Nor is this all. Lands to the value of £52,404,494 have gone through the Courts established for the Sale of Landed Estates in Ireland, and have passed into the hands of purchasers who

have advanced their money on a title created by the Imperial Parliament, and guaranteed by the honour of the English People.

It is the fashion to describe the landed proprietors of Ireland as the "English Garrison." It is true that as a class they are prepared to risk their lives and fortunes to maintain the English connexion, though it neither protects them nor allows them to protect themselves. But this so-called English Garrison is no longer merely English. It comprehends the inheritors of old Celtic names, and the representatives of old Celtic houses. It comprises a numerous and influential body of Catholic gentlemen and nobles. It is no longer Orange, or Conservative, or Tory; for it is largely reinforced by the Radical, the Liberal, and the Whig. It is no longer even a body exclusively composed of large proprietors; for the facilities of transfer created by the Registration Acts, the opportunities of bringing land into the market supplied by the Landed Estates Court, and the encouragement to tenant-farmers given by the Church Act of 1869 and the Land Act of 1870, have increased the number of small proprietors, and diminished the number of mere tenants. Nor are these the only persons who are interested in the soil as owners or quasi-owners. The proprietary includes women dependent on the land for their jointure and their dower; younger children whose only provision is their portion; mortgagees who have advanced their money on the title;

creditors who look to the land as the fund which will be available for the payment of their debts.

The character of the tenants who hold under this proprietary is as diversified as that of the proprietors themselves. It includes the family connexions of the landlord class who devote themselves to agriculture as a profession. It includes the wealthy salesmasters and extensive graziers who emulate in wealth the proprietors under whom they hold, and who are in the Commission of the Peace, if they are not Deputies to the Lieutenants of their Counties. It includes not only the great graziers of Meath, but the great dairy-farmers of Limerick and Cork, and the great agriculturists of Leinster and of Ulster. These classes are well able to protect themselves, and they utter no complaints. Of the classes dependent upon agriculture, the Census of 1871 gives the number of tenant-farmers of all classes as 423,829; but if none were called farmers but those who hold land enough to live by without working as labourers for others, the number would probably be found not to exceed from 120,000 to 140,000: and it is by the lower portion of this class alone that exceptional legislation is demanded.

Before yielding to that demand, it would be wise to inquire into the character and provisions of the existing law. The basis of the existing law is "An Act to Consolidate and Amend the Law of Landlord and Tenant in Ireland"—the statute 23 & 24

Vict. c. 154. That Act was introduced by a Liberal Government, and was fondly supposed to have settled the Irish Land Question in a liberal sense. It was proposed and carried through the House of Commons by the Liberal Attorney-General of the day. That gentleman was not only a Liberal; he was an Irishman; he was a Catholic; he was the inheritor of an old Celtic name. His prejudices, so far as a man so eminently fair could have prejudices, were in favour of the tenant. His eminence as a lawyer was such that amid universal acclamation he was raised by a Tory Government to the Bench of Her Majesty's Court of Appeal in Ireland. Few living Irishmen are regarded with more affectionate respect than the Lord Justice Deasy. His great legislative measure is familiarly known as Deasy's Act.

By the primary provision of that statute it is enacted that "the relation of landlord and tenant shall be deemed to be founded on the express or implied *contract* of the parties and not upon tenure or service" (sect. 3); the relation "shall be deemed to subsist in all cases in which there shall be an *agreement* by one party to hold land from or under another in consideration of any rent" (*ibid.*). Here the Liberal Government boldly applied the great principle of which it had made such triumphant use in the agitation which resulted in Free Trade. It declared that the relation between landlord and tenant should be founded exclusively on contract. But while the Legislature thus

enacted that the relation of landlord and tenant should be founded not on tenure but on contract, it imported into the contract a number of conditions of a character favourable to the tenant. It authorised the tenant or his personal representative to remove all agricultural fixtures affixed to the freehold by the tenant at his sole expense (sect. 17). It enabled the tenant, in the absence of express agreement to the contrary, to cut turf, where the demised premises contained turf-bog unreclaimed, for the use of himself and his undertenants (sect. 29). It made it unlawful for the landlord to distrain for rent which became due more than one year before the making of the distress (sect. 51). Under its provisions the landlord cannot bring an ejectment for non-payment of rent till a year's rent, in respect of the lands held under the contract of tenancy, should be in arrear (sect. 52). It enabled the tenant, if an action for non-payment of rent is brought against him, to defeat the action, at any time before judgment or service of a notice of trial, by paying into Court a sum of money for the rent, with an undertaking to pay for costs a sum far less than that incurred by the landlord by reason of his default (sect. 62). It enabled the tenant, even after judgment has gone against him, to defeat the action by the payment of rent and costs at any time before the writ of *habere* should be executed (sect. 64). It conferred upon the tenant, even after the *habere* had been executed, and after

the landlord has been put into possession, the right to oust the possession of the landlord, and to redeem his interest by payment of rent and costs within six months after the execution of the *habere* (sect. 70); and it has been held that the landlord may be compellable to account to his own tenant for the profits that he *might* have made during the temporary and uncertain period of his possession.

Such are the benefits conferred upon the tenant by the Landlord and Tenant Act of 1860. The Landlord and Tenant Act of 1870 went still further. It legalised the Ulster Customs (sect. 1). It gave the tenant "compensation for the loss sustained by him by reason of quitting his holding" when "disturbed in his holding by the act of the landlord" (sect. 3). It gave him a "compensation to be paid by the landlord in respect of all improvements on his holding made by him or his predecessors in title," even when he is ejected for non-payment of his rent (sect. 4); and it enacted that "all improvements on such holding should, until the contrary is proved, be deemed to have been made by the tenant or his predecessors" (sect. 5). Where the tenant does not claim or has not obtained compensation under the preceding sections, it awards him "such compensation as the Court thinks just," in cases where it is proved that the "tenant or his predecessors in title on coming into his holding paid money or gave money's worth with the express or implied consent of the landlord" (sect. 7). He is declared

entitled to compensation for his crops (sect. 8), as well as for his tillages and manures (sect. 4). Even this was not all that the Legislature did. It declared in the case of tenancies under £50 a-year, according to the Government valuation, which is far under the actual rent, that "any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under the disturbance section should, so far as relates to such claim, be void both at law and in equity" (sect. 3). It declared that "any contract between a landlord and tenant whereby the tenant is prohibited from making such improvements as may be required for the suitable occupation of his holding and its due cultivation should be similarly void" (sect. 4). It avoided every contract made by a tenant of holdings under the specified valuation "by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make" under the section relating to improvements (sect. 4). Not only did it impose a penalty upon the landlord in case of eviction, where the letter of his original contract allowed him to evict, but in the case of holdings held at a rent of £15 or under it declared eviction even for non-payment of rent to be disturbance, "if the Court should certify that the non-payment of rent causing the eviction has arisen from the rent being an exorbitant rent" (sect. 9). In estimating these claims

the Court is authorised by the Act to take into consideration the whole *conduct* of the landlord in his dealings with the tenant (sect. 18); a power more indefinite and more arbitrary than was ever claimed by the Star Chamber or the High Commission. Finally, the Act authorised the Commissioners of Public Works in Ireland to advance to any tenant for the purpose of purchasing his holding, whether by contract with his landlord, or by bidding at the sales of the Landed Estates Court, a sum not exceeding two-thirds of the purchase-money, to be repayable in thirty-five years by an annuity of 5 per cent. on the advance (sects. 44, 45).

By a subsequent Act, 39 & 40 Vict. c. 63, a year's notice to quit is declared necessary to determine a tenancy from year to year (sect. 1). By a previous Act, 1 & 2 Vict. c. 56, the occupier is entitled to deduct one moiety of the poor's rate from the rent payable to his landlord (sect. 74); and in cases where the holding is valued at or under £4, and the occupier has no greater estate than a tenancy from year to year, the landlord is bound to pay the whole (6 & 7 Vict. c. 92, s. 1).

It may be safely said there is no code in the world which has so carefully provided for the protection of the tenant as the Irish Code. Under no code is the eviction of a tenant surrounded with such difficulties and delays, or attended with such ruinous expense. Under the French Code no right of compensation exists for improve-

ments in the nature of drainage or of irrigation. In Belgium there is no such thing as compensation for disturbance. There is no such thing as compensation for disturbance in any country in the world but Ireland. The Agricultural Holdings Act, passed by the Conservative Government in 1875, has extended a portion of the provisions of the Irish Code to England. But in England, with the exception of the Ground Game Act of 1880, passed by the Government of Mr. Gladstone, there is no legislative declaration that an agreement between a landlord and a tenant shall be void. In the English legislation, with the one exception, the sanctity of contract is preserved. With the one exception no English tenant has the benefit of a law limiting his freedom to contract, or declaring his deliberate contracts to be null and void. Pretermitting the great political question of Primogeniture and Entail—a question which involves far wider and more important issues than that of Irish land—there is no reform demanded by the English Law Reformer that has not been already made in Ireland. Take, for instance, the demands made by the author of the Essay on the Land Laws of England, published by the Cobden Club, for the "emancipation of land" in England (p. 124). For 173 years Ireland has possessed an effectual Registry of Title. By the Land Act, the law of Agricultural Fixtures has been assimilated to that of Trade Fixtures. Legal and Equitable estates have been fused by the Judicature

Act. In addition to all this, the Irish tenant has been awarded the fullest compensation for his improvements : he has been awarded compensation even for disturbance whenever he is arbitrarily disturbed. In a word, a ruinous penalty has been imposed upon the landlord when he exercises the right which his contract gives him to evict.

Nor has the right of eviction been unfairly or capriciously exercised in Ireland. The statistics laid before the House of Commonsin the debate upon the Disturbance Bill demonsrated that, in this respect, the Irish landlords have been cruelly maligned. They proved that the right of eviction had been exercised with the greatest consideration and regard for those evicted. To prove the contrary, the Agitation has been compelled to repeat the exaggerations which were made upwards of thirty years ago. They go behind the Act of 1870—they go behind the Act of 1860—they go back to the years of the great famine—a famine occasioned by the preposterous redundancy of the population and the infinitesimal sub-divisions of the soil. Even Mr. Dillon, M.P., when addressing a Land League gathering at Clonmel, "was compelled to ask the meeting to consider Landlordism, not by what it was now doing, but by what it did to the Irish People in times gone by." But it is not with times gone by that we are dealing—we are dealing with the present. It is only demoniacs who live among the

tombs; it is only ghouls that feed upon the dead.

Under the existing land law Ireland has prospered. How greatly it prospered is shown by the statistics furnished to successive Lords Lieutenant. The country has made a century's advance within the last five-and-twenty years. It is true that Ireland is subject to the vicissitudes of inauspicious seasons. But even the Englishman periodically prays to be delivered from plague, pestilence, and famine. It is true that Ireland has sat as a mendicant by the wayside of the nations. But even the cotton spinners of Manchester and the cutlers of Sheffield are periodically dependent on the world for alms. The evil to which Ireland is peculiarly subjected is the rise of agitation whenever the country is depressed, and the pusillanimous alarm of England whenever an Irish agitation rises. Instead of enforcing law, it begins to think of legislation. It forgets that there are things which no legislation can effect in Ireland. No legislation can remove its western coasts from their proximity to the "melancholy ocean." No legislation can staunch the constant rainfall of its "weeping skies." No legislation can convert its wide tracts of bare and barren rock into productive soil. No legislation can obliterate Canada or the Western States, or prevent the one from producing corn, and the other from producing cattle. No legislation can increase the

area of Ireland or set a limit to the never-ceasing increase of its superabounding and portentously prolific population.

It is in this last phenomenon that the real pinch of the difficulty lies. Here, at all events, Ireland resembles Belgium, with which it is so often and so invidiously contrasted. Again, let us listen to De Laveleye when writing under the sanction of the Cobden Club. "The situation of the small Flemish tenant-farmers," he says, "is, it must be owned, rather a sad one" (p. 228); for "owing to the shortness of their leases they are incessantly exposed to having their rents raised, or their farms taken from them" (p. 228). And we are told the reason why. "The reason why these small farmers are ground down by rack-rents is that *there are too many of them*" (p. 229)—"*the peasants of Flanders unfortunately will not leave their own province, and their intense competition for farms raises the rents in a manner ruinous to themselves*" (p. 229).

The Duke of Argyll has protested in the House of Lords against the idea that the advent of a Liberal Administration was to be regarded as the signal for a fresh alteration in the laws respecting land. What is the pretence for legislation now? It is this very competition which in a redundant agricultural population exists for land, and which exists in Belgium with as much intensity as it exists in Ireland. In Belgium the hardship is endured; in Ireland it is proposed to be remedied by measures subversive of everything we know of

civilisation and of law. Sir Henry Maine, in his *Ancient Law*, has remarked that the movement of all progressive societies has hitherto been a movement from Status to Contract (p. 170). The demand of the Agitation is that Ireland should be legislatively declared a retrograde society, and that the social movement should be from Contract back again to Status. Mr. Parnell would avowedly take the dealing with land out of the domain of Contract. But the remarkable thing is, that in every remedy which has been suggested for this alleged inability to contract, the element of Contract is necessarily presupposed. The tenant-farmer who declares himself incompetent to contract with his landlord declares himself competent to enter into a contract with the State. The man who protests against freedom in the Contract of Letting is clamorous for freedom in the Contract of Sale. The man who, on account of the severe competition for land, requires to be emancipated from his contract, is the very man who wants to avail himself of that competition in order to exact the last farthing he can wrench out of a purchaser when he sells his farm. In the Contract of Sale he requires for himself what in the Contract of Letting he refuses to his landlord. The man who declares himself incompetent to contract with his landlord protests that he is competent to contract with the Purchaser, with the Banker, with the State. He declares himself capable of entering into a binding contract with everyone

in the wide world except his landlord. The fact of the case is, that the demand of the Agitation ignores the very constitution of the world. The principle of Contract is founded in nature itself; and like nature it can never be expelled. *Expellas furcâ tamen usque recurret.* It exists in the Hindoo Village Community as it existed in the Irish Sept; and it would exist in Ireland in all its force the moment the legislation which attempts to ignore it or control it was effected.

The grievances of which the Irish tenant-farmer complains are insecurity of tenure and exorbitancy of rent. But in spite of the alleged insecurity of tenure, the Irish tenant refuses the offer of a lease; in spite of the alleged exorbitancy of his rent, he claims the privilege of sale. The explanation is obvious enough. He prefers his tenancy from year to year on account of the compensations of the Land Act; and he claims the privilege of sale because his rent is fair. Paradoxical as it may appear, the present crisis has risen, not from the severity, but from the leniency, of members of the landlord class. The great Absentee Proprietors, in consequence of their absence, have let their lands on terms so far below the letting value that their tenants are afraid of losing the advantages which they enjoy, and clamour for Fixity of Tenure. The Western Proprietors, on the other hand, with a similar easy good nature, have permitted sub-letting and subdivision to such an injurious extent that families

are settled upon plots of ground which are utterly insufficient for the maintenance of human life, and these families demand that their misery should be rooted in the soil. The great bulk of Irish proprietors are exempt from responsibility for this. Residing on their own estates, they manage their own affairs; and being thrown into personal contact with the people, they understand their ways. It is not proprietors such as these that over-let or under-let their lands. They ask for moderate rents, and their tenantry are satisfied, and their rents are punctually paid.

But taking the Agitator on his own ground—insecure tenure and exorbitant rents—even supposing rents to be exorbitant and tenure insecure—let us examine the various remedies which he proposes. They all imply the repudiated principle of Contract; but they all of them involve the element of Confiscation. Let us analyse them one by one.

The *Periodic Revaluation of Rent* is the panacea which some of the radical reformers would suggest. But even Mr. Bright, in his speech delivered to a Birmingham audience in January, 1879, repudiated such a nostrum. The free trader, the animating spirit of the anti-Corn Law League, the friend and confidant of Cobden, could not tolerate, even in the case of Ireland, such an inroad on the principles of Free Contract and Free Trade, or refuse to apply those principles to dealings with the soil. But the panacea proposed is not a panacea but a poison. As Judge Longfield remarks:

"the value of a farm is that rent which a solvent tenant will be ready to offer for the farm on a lease of moderate duration" (*Cobden Club*, p. 48). "The cursory inspection that is made by a professional valuator," according to that experienced authority, "is utterly inadequate to the occasion" (p. 49). But this is not the worst. "It is highly probable," he says, "that in the excited state of feeling that would be raised by an alteration of the law, no valuator would venture to express an opinion of the value of the land that was not in accordance with the tenant's wishes" (p. 51). His conclusion is, that "the value as fixed by any tenant-right measure would be less than half the rent which a solvent tenant would be willing to pay" (p. 51). In other words, a measure securing a compulsory Valuation would be a measure not of justice, but of Confiscation.

The *Ulster Customs* are the glory of the North. But we may say of Customs what Mackintosh said of Constitutions—they cannot be created; they must grow. Be that as it may, the Ulsterman at the determination of his tenancy only sells what he or his predecessors bought. This fact is recognized in the system of Parliamentary Tenant-right which Judge Longfield proposes to create. The merit of that system is, that it does not ignore this element of justice. But the system, if not impracticable, is involved in elements of litigation, and is derided by the Land League. It is just that when a tenant or his

predecessors, on coming into the holding, has paid money, with the express or implied consent of his landlord, that the tenant on quitting the holding should be entitled to a compensation; and, so far, the privilege of the Ulster Customs is extended to the rest of Ireland by the Land Act (sect. 7). But even the Land Act admits that it would be contrary to justice to extend it further. To extend it further, and to enable a tenant who paid nothing when coming in to exact a sum of money when going out, is to benefit him at the expense of the landlord. It is Confiscation pure and simple.

The same may be said of *Fixity of Tenure.* "It is not difficult to prove," says the Right Hon. Mountifort Longfield, writing under the sanction of the Cobden Club, "that a law establishing Fixity of Tenure would be as impolitic as it would be unjust. It would utterly fail in its professed object. It would be a mere violent and wrongful transfer of property from a certain number of individuals who are now called landlords, to another set of individuals who are now called tenants, and who would then become landlords in their turn" (pp. 45, 46). Nor is this all. Take the example selected by Judge Longfield, who as Judge of the Landed Estates Court has had more experience in matters relating to Irish land than any other living man (p. 46). A tenant's rent is fixed by an arbitrator at say £100 a-year as a fair rent. Availing himself of his privilege of

free sale, he sets up his holding for sale by auction, and sells it for £2000. The incoming tenant becomes subject to the interest on £2000 in addition to the fair rent of £100 a-year. In other words, the landlord is robbed of £2000 in order that the rent payable by the occupier may be doubled. To crown the absurdity of the injustice, the man who protests that he cannot be trusted to deal with his landlord for a lease, on account of the severity of the competition, is the very man who avails himself of the severity of that competition to double the rent upon his neighbour. The whole proposal is absurd. Fair Rent is strangled by Free Sale, and Fixity of Tenure is only Confiscation in disguise.

The Roman Catholic Archbishop of Dublin, while reprobating the chimerical schemes advanced by the leaders of the Agitation, expressed, or intimated his approval of this chimera of Fixity of Tenure. But the Arch-agitator is more perspicacious than the Archbishop who puts him under ban. Mr. Parnell, in his speech at Longford, openly derided the "advocates of Rents valued periodically, of the Longfield system of Parliamentary Tenant-right, of the extension of the Ulster Custom to the rest of Ireland, and all the other nostrums which are put forward from time to time in a vain attempt to retain and perpetuate Landlordism in Ireland."* A *Peasant Proprie-*

* The *Daily Express* for 18th October, 1880.

tary is Mr. Parnell's nostrum. Of a Peasant Proprietary, where it coexists with justice, the historian and the economist must speak with all respect. It was the English yeomanry which conquered the chivalry of France and made the power of England. It is the Peasant Proprietary of France which forms its great conservative force, and maintains its social equilibrium. But whether it would be possible to create a Peasant Proprietary in Ireland is doubtful. Mr. Gladstone, in his Third Midlothian Speech, expresses his doubts upon the subject, and proclaims his belief that the distribution of land in these countries must be determined by the operation of economic laws. But even if a Peasant Proprietary were actually created, it would be so far from removing, that it would aggravate, the Irish evil. It is notorious that under a system of small proprietors the price of land is constantly rising. M. de Lavergne, cited in *Free Trade in Land*, avers that in France the market price of land has quadrupled in ten years (p. 114). It is equally notorious that of all rack-renters the small proprietor is the hardest. Mr. Cliffe Leslie, in the publication of the Cobden Club, admits that among the peasant proprietors of France, "with greatly rising prices of agricultural produce, there is a steady and general augmentation of rents" (p. 305). De Laveleye, writing of Belgium in the same publication, admits, "where Peasant Proprietorship exists side by side with leasehold farming in an

over-populated country, the tenant-farmer is placed in a worse condition than if the estates were large" (p. 229). And this is confirmed by the experience of Ireland itself. If there is any living authority upon land, it is Mr. De Moleyns, one of Her Majesty's Counsel in Ireland, who for twenty years has sat as Chairman of Kilkenny. In his admirable handbook of the Irish Land Law, that gentleman remarks, that it is "the smaller investors in land, purchasers usually in the Landed Estates Court," who most rigorously enforce the "covenant for payment of a scrupulously adjusted rent" (p. 263). His remark is confirmed by the Chief Justice of the Common Pleas Division of the High Court of Justice in Ireland. In the case of *Berkery* v. *Molony*, Chief Justice Morris observed, that "the class of landlords to which the Respondent belonged invariably pursued matters to extremities, and extracted the last farthing from those who had the misfortune to be their tenants." And the Respondent was a tenant-farmer and a Celt. The reason is obvious enough. It is only great proprietors, as Judge Longfield shows, when speaking of the Ulster Custom, who can afford to be indulgent (p. 39). But not even a Peasant Proprietary would remedy the evils, or remove the great reproach of Ireland. "If all the land in Ireland," says Judge Longfield, "was divided in fee-simple among the peasantry, the number of murders would not be diminished"

(p. 7). "When the Celt becomes the absolute owner of land," he says, "he is just as willing as the Saxon to become a landlord, and to insist upon all a landlord's rights, which he then seems to think very reasonable" (p. 55). And with the usual result. "The latest agrarian crime I saw mentioned in the newspapers," says the same high authority, "was the murder of a man with a Celtic name. He was stated to have been the owner in fee of forty acres of land, which he set to four or five tenants, and went away to earn his bread elsewhere. He returned, having become entitled on his discharge from some public employment to a pension of about £14 a-year. He took back some of the land from the tenants to reside on it himself, forgiving them a year and a-half's rent in exchange. He was brutally murdered" (p. 29). For the reasons which he assigns, Judge Longfield thinks that in a system of peasant proprietors murder would become more unnatural, more brutal (p. 7). His opinion is hostile to the system. "I shall not enter into much discussion respecting the utility of such proprietors," he says, "because I feel it would be very difficult to create them, and impossible to keep them up in such a country as Ireland" (p. 28). He regards the system not only as "inconsistent with the mental activity of Irishmen," but as inconsistent with the circumstances of the country (*ibid.*).

In Ireland no Peasant Proprietary exists at present, and there are only two ways in which it can be called into existence—by Confiscation

or by Contract—the two agencies, which, like the two principles of the Manichees, are now contending for mastery in Ireland. A Peasant Proprietary, arising by Free Contract, might be an element of good. If the tenant wishes to buy and the landlord is willing to sell, the State might well consent to facilitate and aid the contract. Even if the State, overlooking all political considerations, should deem it wise to do away with the Law of Primogeniture and the Privilege of Entail, great estates would eventually be comminuted, and a class of small proprietors would be created by the natural operation of economic laws. It is by such means that Mr. Arnold and Mr. Kay, the authors of *Free Land* and *Free Trade in Land*, propose that such a class should be created. But this would be the work of time; and the Irish Agitator does not care to wait. He is impatient. He demands the creation of a Peasant Proprietary on the instant, and that can only be effected by a general Confiscation. It may be effected by open and avowed Confiscation, such as that by which the French Revolution effected the robbery of the French *noblesse;* or it may be effected by Expropriation, which is only Confiscation in disguise.

The Expropriation of the existing race of Irish landlords is no mere amusement for a summer's day. The value of the fee-simple of the Irish soil amounts to some £305,413,020 sterling. The displacement of the Irish Proprietary would

be like the displacement of one of the great natural objects which are the landmarks of the land. The faith in Mr. Gladstone must be that of a fanatic, if anyone believes that by his mere fiat this mountain can be removed into the sea. Mr. Gladstone, to do him justice, makes no such preposterous pretence. The demand of the Agitation is that what it calls Landlordism should be destroyed. Mr. Gladstone sees the impossibility of this. "I do not believe," said that Statesman in his Third Midlothian Speech, "that the large properties of this country, generally or universally, can or will be broken up into small ones. I do not believe that the land of this country will be owned, as a general rule, by those who cultivate it. I believe we shall continue to have, as we have had, a class of landlords and a class of cultivators; but I most earnestly desire to see the relations of those classes to one another harmonious and sound." There is nothing which the Irish Proprietary more desires. But how is this to be effected? The utmost that Mr. Gladstone could himself suggest when he addressed the electors at West Calder was but little. He warned them against "quack remedies." He warned them against Reciprocity and Protection; he declared a Peasant Proprietary to be incompatible with the economic laws which rule the country. He told his agricultural auditory that they must make up their minds to the competition of Canada and the Western States. He warned them that their "fair claims

were in the main but two"—one to be allowed to purchase every article that they required in the cheapest market, and the other to be relieved from every unnecessary legislative restraint.

That Landlordism in some form will continue to exist in Ireland is certain. Even an Irish Agitation must break itself into empty foam when it beats against the possibilities of things. The question is not whether Landlordism is to continue to exist in Ireland, but who henceforward are to be the landlords. The Cobden Club has shown, in regard to Ireland, "that the dispossession of the present proprietors, and the substitution of the actual tenants, as the sole proprietary class, would mean economically the withdrawal from the soil of the class having the largest capital and enjoying the largest credit; and the reproduction in another shape of the present evil of a class monopoly in the ownership of land" (p. 283). This, as the writer shows, would be to defeat the very object of the Prussian legislation (*ibid.*). But in Ireland such a dispossession would do far more. It would expropriate a class of proprietors which is unpopular because it favours and supports the English connexion; and it would create a class of proprietors animated with a hatred of the name of England. This is the admitted aim of Mr. Parnell. This is the menace which the English People has to face.

"The State is perfectly entitled, if it please," said Mr. Gladstone at West Calder, "to buy out

the Landed Proprietary as it may think fit, for the purpose of dividing the property into small lots." This is a perilous axiom for a Statesman to utter to an ignorant auditory on a slight occasion. In Ireland it has already produced an impression among the lower orders that the rights of the Landed Proprietors are not rights, but usurpations. Among the English people, it is true, the veneration for the rights of property is so great that they are safe from this illusion. But they in their turn are subject to an illusion which it is important to dispel. The State cannot afford to buy out the Landed Proprietors of Ireland. The English people would never submit to the addition of £300,000,000 to the National Debt, and rely for repayment of the money on the honour of the Irish peasant. So clearly is this perceived that no one dreams of the idea. The utmost that the most advanced organs of public opinion suggest is a partial Confiscation of the landlord's rights with Compensation for the confiscated part. But this is not compatible with English justice. If the State is entitled to buy out the Landed Proprietor, the Landed Proprietor is entitled to call upon the State to buy him *out*. The State has no right to leave him with a mutilated property upon his hands. The State, if the landlord so requires, should purchase the whole of his property or none. It should buy it out and out. Suppose that by some legislative measure of a Liberal Government the landlord

should be reduced to a mere rent-chargeant on his own estate—what security could the State offer him for the punctual payment of his rent-charge? No security but that which the State itself rejects—the honour of the Irish peasant. Reduced to a mere rent-chargeant, the landlord would come to be regarded as a mere burden on the land, and the peasantry would strive to shake the burden off. So it happened in the French Revolution; such was the result, as stated by De Tocqueville in his *Ancien Régime*. On the occurrence of a famine, on the failure of a crop, in any period of transient distress, the Lawlessness of Ireland would refuse the payment of the rent-charge, as it now refuses the payment of rent. There would be the same clamour against eviction. There would be the same resistance to the law. There would be the same paralysis of authority, which at the present moment is the opprobrium of the English Government in Ireland. The Irish Landlord has a right to ask for liberty to elect before he is condemned to such a situation. If he is paid the full value of his property by the State he can retire from Ireland, and enjoy elsewhere a higher type of life under the protection of a more authoritative law. It is true that old associations bind the landlords to the old land; but, apart from the old associations, there is little to induce them to reside in Ireland. The Union deprived them of a force which even a minority of high-spirited, and wealthy, and edu-

cated men possesses—the force which restrains the dominant majority by the fear of Civil War. For there is danger even in a small minority when it is driven to desperation and is at bay. Of that force the Union has deprived the English interest in Ireland—and what has it given to replace it? Nothing. The lives and the properties of the friends of England are not protected by the English rule. The Queen's writ does not run in Ireland for them. As far as they are concerned the Government in England is the laughing-stock of the Irish Agitator. He openly derides it.

The true character of the Agitation which is now carrying alarm is everywhere understood except in England. French Statesmen have visited Ireland for the sake of ascertaining what the Agitation really is, and on their return to France they have openly denounced it as unreasonable and unjust. German Publicists have considered its appeal to the analogy of the Prussian legislation, and they have pronounced that the nature and objects of the Prussian legislation have been misrepresented and misunderstood by the leaders of the new revolt. Even the great American Journals—the *New York Herald*, the *New York Evening Post*, and the *New York World*—denounce the objects of the Land League as communistic and subversive. They proclaim the Agitation to be "a moral revolt, not only against the payment of rent, but against obedience to all laws, and to all constituted authority." They tell "the Irish

People," that "their leaders are deceiving them in a flagrant and shameless manner," and they warn them against "the unhappy error that the rights of property in America are not considered or respected, and that Republicanism means license, and that the legal restraints and amercements under which they now chafe would be got rid of by a change of government." They give expression to the deliberate opinion that "the issues which are convulsing Ireland to-day will not be finally settled on Irish soil, nor will they be exhausted of their vitality, without shaking the whole fabric of British society to its foundations." Everywhere is the true nature of the Irish crisis understood except in England; and in England the Government is cowering and fluttering before the Agitator like a bird that is fascinated by a serpent.

It is idle for the people of England to regard this as a mere Irish question. The English People may be willing that political experiments should be made on Ireland. In English estimation it is the *corpus vile* on which experiments may be safely made. But let the Englishman take warning. Everything that is done in Ireland will eventually be done in England. It is a consequence of the English Union. It is in vain that Statesmen may declare that what they do is not to be converted into a precedent; it becomes a precedent the moment it is done. And let no friend of the existing Constitution blink the

truth. Ireland is the stepping-stone between America and England. Initiate a democratic movement here and it will spread. Revolution will bound across the Channel. It is with a social revolution that we in Ireland are menaced now. When Statesmen and Publicists begin to talk of Confiscation, we are no longer in the region of Reform—we are in the very crisis of a Revolution.

THE

LAND QUESTION,

IRELAND.

No. II.

THE

ANARCHY IN IRELAND.

DECEMBER, 1880.

FIFTH THOUSAND.

ISSUED BY

THE IRISH LAND COMMITTEE,

31, SOUTH FREDERICK-STREET, DUBLIN.

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PREFACE.

'THE present state of Ireland,' writes the *Daily Telegraph* of the 8th of December, 1880, 'is so monstrous, so disgraceful, and so anarchical, that it has become absolutely idle to canvas new statutes until the old laws are enforced. At this hour the one paramount question absorbing the minds of Ministers ought to be the restoration of order and obedience in Ireland. The aspect of things there would shock and scandalise the most Radical member of the Government, if we had not glided into a strange lethargic sufferance of such enormities. Day after day the responsible rulers of the kingdom have allowed the control of affairs to slip out of their grasp, until nothing in Bulgaria, nothing in Armenia, nothing outside Barbarism, is comparable with the shameful abdication of autho-

rity, the infamous license of lawlessness, which our columns daily record.'

The *Pall Mall Gazette* of the same date demurs to the truth of this representation, and replies as follows:—'If all this were an exact account of things, that would be all the stronger reason why writers in so widely read a Journal as the *Daily Telegraph* should curb their native exuberance, and set an example of gravity and self-control. The more serious the crisis—and we, at least, have never denied how serious it has been, and is—the greater the responsibility of those who affect Public Opinion in England, and the more urgent the necessity for measured statements and coherent propositions. A Journalist who tells us that nothing in Bulgaria, nothing in Armenia, nothing outside Barbarism, is comparable with the infamous license of lawlessness in Ireland, has lost his head, and is doing his best to make other people lose their heads.'

It is important that every intelligent Englishman should form his own opinion on the question thus raised between the rival Journals. As a contribution to the materials for the formation of such an opinion, the following Charges delivered by two of the most eminent Judges on the Irish Bench, deserve, and will command, an attentive perusal. Each of them

has filled the office of Attorney-General to a Liberal Government. Each of them is a member of the Irish Privy Council. Each of them has given utterance to his sense of the crisis in measured statements and coherent propositions. Neither of them, presumably, has lost his head.

These Charges, delivered as they were by great public functionaries, are public property, and as they relate to a matter of all-absorbing interest to the public, they are now reprinted just as they appeared in the newspapers of the day, which have been carefully collated. The eminent persons who delivered these Charges have not had the opportunity of revising their compositions; and therefore they are not responsible for any inaccuracies or inelegancies of diction, if such there be, which may have crept into the reports. But their statements of fact are deliberate statements, made with judicial gravity and self-control. They are based upon official documents. They are made in the discharge of judicial duty. They are expressed 'in the calm and measured language that best becomes those to whom the administration of justice is committed'; and as such they will be regarded as invested with peculiar authority by the impartial, independent, and enlightened English Public.

For a parallel to the outrages which are the opprobrium of Administration in Ireland, writers in the Press have referred to the *Bulgarian Atrocities* and *Lessons in Massacre* of Mr. Gladstone. As a parallel for the paralysis of Authority in Ireland, other writers have referred to the paralysis of authority in Turkey as described in the Despatches of Lord Granville to Mr. Goschen. But what the English public desires is not a historical parallel but a history; and the history of the Irish Anarchy may be briefly told.

On the 31st of March, 1880, Mr. Gladstone, in his speech to the Constituency of Midlothian, described the condition of Ireland as one of peculiar prosperity. 'There was an absence of crime and outrage,' he said, 'and a general sense of comfort and satisfaction, such as had been unknown in the previous history of the country.' This happy state of things, if we may believe the judicial utterances of Her Majesty's Judges at the Summer Assizes, continued till July. In the month of July the Acts for the Preservation of the Peace in Ireland were allowed to drop. In spite of the warning voice of the late Lord Lieutenant, Mr. Forster, as the organ of the Government in England, proclaimed that he could govern Ireland by

the appliances of the ordinary law. No sooner was the ordinary law declared to be sufficient for the maintenance of order than the license of lawlessness commenced. No sooner had Authority disarmed itself than Agitation armed. The lower classes of the population were aroused by the prospect of impunity. The Anarchy began. In September it already occasioned great alarm. In October the Chief Secretary felt himself coerced to send for a detachment of Marines. In November he instituted the prosecution which is still slowly making its lumbering and lethargic progress towards a trial. In December the Anarchy had assumed the form of a Reign of Terror. Mr. Forster issued a Memorandum. The Winter Assizes have been just held, and the state of the country is described in the following words of Mr. Justice Fitzgerald when addressing the Grand Inquest of Munster—a Province which embraces more than a fourth of Ireland:—'I do not wish to be guilty of exaggeration, or to create excitement or alarm. I desire to express myself in the calm and measured language which best becomes one to whom the administration of justice is committed; and I should fall short of my duty if I did not point out that in a large portion

of Munster true liberty has ceased to exist, and intolerable tyranny prevails. Life is not secure, right is disregarded, the process of the law cannot be enforced, and dishonesty and lawlessness disgrace the land.'

CHARGE

OF

THE RIGHT HON. MR. JUSTICE FITZGERALD

TO THE

GRAND JURY AT THE MUNSTER WINTER ASSIZES,

1880.

THE Winter Assizes for the Province of Munster were opened on Tuesday, the 7th of December, at noon, by MR. JUSTICE FITZGERALD.

Mr. Justice Fitzgerald, addressing the Grand Jury, said:—You are assembled here to-day, not as the Grand Jury of the City of Cork, but as the Grand Jury for the Munster Winter Assize County, embracing the Counties of Clare, Limerick, Kerry, and the two Ridings of Cork, as well as the Cities of Limerick and Cork—a very wide and important district, and possibly representing somewhat more than one-fourth of the whole country.

Your duty will be onerous, and require considerable care upon your part, because you have to inquire

into offences alleged to have been committed within that large district which I have just described. In the observations I intend to make I shall confine myself entirely to events occurring within that district, and to matters of fact which appear before me upon reliable Official Documents, and I shall not exceed these bounds. In addition to that, in point of time, I wish to confine myself to the period of four months which has elapsed since the last Assizes. I shall also exclude from immediate consideration ordinary offences, such as sheep stealing, cattle stealing, robberies, aggravated assaults, larcenies, and ordinary offences of that character, which are to be found more or less in every community; and I shall confine my observations to offences of that character which strikes entirely at the peace and welfare of society at large, and if allowed to go on would work the total disorganization of the social system. Do not be alarmed by what I have said into the fear that your duties will be heavy. They will not be so, because one of the characteristics that I shall comment upon is that in nine-tenths at least of the cases of reported criminality there is nobody made amenable. That is one of the great blots upon the Administration of Criminal Justice in the country.

Now, the matters to which I shall have immediately to advert will be found to have arisen within a very short period previous to the present time; and you will recollect here, and I recollect, that throughout the whole country, save the Province of Connaught, at the last Assizes—that is the Summer

Assizes, which we may say terminated about the first week of August last—the general tone of the observations of the Judges—they did not pretend to see beneath the surface—was that in the other three Provinces in the country there was a very small amount of crime indeed to be dealt with. Of course, a Judge has no greater opportunity than you have of knowing what is passing, save that he is armed with reliable Official Reports of all crimes reported to have been committed during a certain period. I must say that at the last Summer Assizes, at the close of it, it was my duty to address the Jurors of a neighbouring district, and in all cases to point out the great absence of crime. I told them that I did not profess to know anything of what might be going on beneath the surface, and could only deal with the facts which came officially before me. But at the return from the Summer Vacation at the end of October last we found all that changed. In place of the description that I have given you, we found that some Organization—I do not profess to say or to know what it was—but some Organization, acting on the cupidity, the passions, and the fears of the people, had reduced some districts in the country into anarchy and confusion—little, if at all, differing from Civil War. In addition to that, it was obvious to every one that you had to deal with an armed population. The offences, or possible offences, which I shall have to describe to you were all committed by armed people. As far as I can judge from the Official Reports, in certain districts in the

Province of Munster, which we are now dealing with, every farmer's boy, every farmer's son, and persons of that class, seems to be armed with a rifle and revolver, and they certainly have been used freely in the commission of the outrages which I shall have to advert to.

With these observations, I have now to ask your attention to a few cases I have extracted from the Reports supplied me. I will take, in the first instance, the County Clare, and I may repeat that I exclude all the ordinary offences, save in one instance, in which I shall give a direction, and which occurred in one of the Ridings of this County. With that exception, however, I do not take into consideration any of the ordinary offences, which are of the usual character, and regarding which you require no assistance from me. I find in the County Clare a *resumè* of extraordinary offences. There are forty-three cases of letters threatening to kill or murder; three of firing into dwelling-houses at night, by parties disguised and armed; two of maiming cattle; eight of arson and malicious burning; three of taking and keeping forcible possession. These are the offences which I call extraordinary, and which strike at the whole foundation of society. The general nature of the threat in a threatening letter is to murder. If a threatening letter is sent to a gentleman calling upon him to reduce his rents or abide by the consequences, it is manifest that, though the word *kill* or *murder* does not occur in it, it is meant that if he does not obey that mandate he

will be subjected to violence. The general course of these letters seems to me to have been—and it is applicable to all the Counties—first, that the gentry of the country are threatened if they do not reduce their rents below a certain standard, or if they do not give up some ejectment process for obtaining rent. They are all in some way connected with the land, and the gentry are to do something, or not to do it, otherwise they are to be subjected to violence. Again, tenants are threatened sometimes that they should not pay more than Griffith's Valuation. But even that position seems now to have been abandoned; they have gone beyond that, and sometimes they are now threatened if they pay rent at all. Again, the tenant farmers, or persons in their position, and the public at large, are threatened if they deal in any shape with farms from which a tenant has been dispossessed. Whether it be a case of a most notorious character, whether the man for years past paid no rent, whether it is one of recent occurrence or one of some years back, it seemed not to matter. The mandate has gone forth from some Secret Organization that you are not to deal with the farm from which the tenant has been dispossessed. In other cases Magistrates are threatened because of the part they took at Petty Sessions. In the County Clare the movement seems to have extended to house property in cities and towns, and I saw recently in the newspapers that a House League is to be or has been formed. In the County Clare, a person took a mortgage on a house, no matter when, and

not being able to get his mortgage money, he instituted a suit in the Chairman's Court, and was consequently put in possession by a Decree of the Court. Afterwards, however, an armed and disguised party forced the caretaker out of possession, and put the mortgagor in again. But that case had nothing whatever to do with the relations between landlord and tenant.

I have here before me a full and complete report of the County Clare, and I will take at random one or two cases to illustrate what I mean. I find in No. 27, firing into a dwelling-house. Three shots were fired into a dwelling-house because the occupier had agreed to pay a rent beyond Griffith's Valuation. I come again to another case in reference to two gentlemen, owners of property, who had committed some offence against the laws of the Organization. A threatening letter was served upon their herd, threatening him with death—that, in fact, he would be murdered—if he remained in the employment of the gentlemen to whom I have referred. I do not mention names for obvious reasons. The mentioning of names in such cases and under such circumstances is sometimes attended with additional danger to the individuals. The two gentlemen themselves also received letters threatening to murder them.

I come now to another class of cases I have before me—in an instance where a letter was sent to a tenant threatening to murder him if he paid rent at all; not that he should pay no more than Griffith's

Valuation, but that he should not pay rent at all; or, if he did, he should be murdered. Then in another case, numbered 59—I will not give you the name of this case either—a notice was found posted threatening the life of this gentlemen, and warning every person not to speak to him. Well, for what? For his having taken a farm from which another person had been evicted, because the other person was not able to pay his rent. There was nothing about the amount of the rent; but simply because another person had been evicted from the farm which he has taken, the public at large in the neighbourhood are warned not to associate with him. Then, in another case, the agent of an estate was attending to receive his rents. He gave notice that he would attend in a particular place and on a particular day to collect the rent, and a notice is found posted in a conspicuous position in the vicinity of the place threatening any person who should attend to pay rent to the agent. It is not addressed to any individual, but to the public at large of the particular neighbourhood. In another case, of a Magistrate whom I happen to know, of great respectability—one who, I am sure, would administer the law with strict impartiality—his life is threatened because of a decision of his at Petty Sessions. Another class of offence is represented by a case in which two armed persons entered the house of a process-server, and one of them threatened him for having served a process on his (the threatener's) mother. The process-server was guilty of the offence of

serving the process of law, and for this he was threatened by an armed party.

And now, Gentlemen, in concluding my reference to this County, I may mention that fifteen or sixteen are charged with having taken forcible possession, but I find that nobody has been made amenable. It appears that a person named Doherty had been a tenant, and so far back as 1878 he surrendered the farm. Not having been able to pay the rent so far back as two years and a-half ago, he surrendered his farm. Upon the night in question, on the 4th of November last, he was put forcibly into possession of his house and farm again—a farm which he had surrendered, owing at the time a year and a-half's rent. He states he did not know any of the party; and, Gentlemen, a part of the system that is acted upon (and it is plain from the information before me) is this—that strangers, armed strangers from districts in the neighbourhood, unknown at least, very likely, to the individual—that armed parties are brought from some distance to reinstate the tenants in possession, and those parties are the carriers of terror into the district in which they so act.

Now let me turn from Clare to Limerick. Limerick is a county with which I happen to have a good deal of acquaintance, and I must certainly say that when I left on my Autumn Vacation, I thought Limerick was in as peaceable and orderly a condition as any County I am acquainted with. There were sent in the County Limerick fifty-eight threat-

ening letters—all expressly or impliedly threatening to kill, if particular things were not done; there were sixteen cases of arson; nine of maiming cattle —that is, maiming them in some savage and brutal way with a view to terrify the owners;—nine for malicious injury to property; seven cases of taking forcible possession of farms or dwelling-houses at night with firearms; and there is, in addition, the murder of young Mr. Wheeler, of which we all heard—that atrocious murder. That is one of the cases for which at present there is no person to be brought before you, and I judge that it is probable that no one will be, because I find in the newspapers—for it was published in the *Gazette*—a proclamation offering a large reward for such information as will lead to the conviction of the guilty party. All this has occurred in Limerick within a period of some six weeks from the time when we were sitting here.

Referring to the threats, I shall just read in the case of Limerick and in Clare one or two instances. There is one threat of a very peculiar character—threatening a man, his wife, and his child, for something he had not done. Again, I come to another case. The person in question received the letter, stating that his life would be taken if he sold crops for a man who had evicted a tenant. Now, he had nothing to do with the eviction, but if he sold crops for a man who had evicted a tenant, his life was threatened. Then there follows a whole heap of threatening letters of a character similar to that

which I have already called your attention to. I now come to a case of reinstating an evicted tenant. In this case the tenant gave up his farm some time ago, not being able to pay his rent. It was not a case of eviction; he voluntarily surrendered, not being able to pay his rent, about two years ago. It was a very small holding, and he got from his landlady £20 compensation to move elsewhere. He alleged that a party of armed men, disguised—and, remember, this at the end of two years—came and reinstated him in possession, and there he is in possession of the farm, now reinstated by this irresponsible Organization. Again, in another case, a person was evicted in October, 1878, and she states that at night a party of armed men came to her house, and took her and her children and servant with them, and put them in possession of a former farm in which they had lived, and brought beds and other furniture, lighted fires, and told them on no account to leave the place again.

Now I will just call your attention to a crime of a different class—the killing and maiming of cattle. Really, when one reads this, one blushes for the country in which such offences, so brutal and so savage, could be committed. The broken prong of a fork was driven into portion of the body of a horse, which caused extreme torture, from the effects of which the poor brute died. The savagery of that is beyond description. Then, again, under the same head a bull was mutilated—you understand what that means. The animal died, and

there is no clue to the offender. Then, again, a valuable horse was shot dead in a field, and there is no clue to the offender.

Then we come to a different class—I have just marked one of each—that of firing into dwelling-houses at night. Two shots were fired into one man's house at night. The name is given, and a notice was posted on the door, threatening him with murder for having paid his rent. The man's offence was that, having the ability to do so at the time, having a productive crop, he was guilty of the offence of paying his rent, and for that he is to be murdered. Then I come to another case in which the landlords are not likely to be killed or murdered. That is the case of the Governors of Erasmus Smith's Schools. You cannot get at them because they are a corporation. I find that notices are posted threatening any person who should pay rent on the school property. All question of a fair rent is gone by—it is all past; this was threatening the people who would pay rent at all on the school estate, and, unfortunately, it occurs that on the school estate some of the most serious outrages have been perpetrated.

There is a case of a person keeping a public-house or hotel in the County Limerick, who was threatened if she should receive a land agent into her hotel. The land agent had given notice that he would attend at the hotel on a certain day to receive rents, settle accounts, &c.; but the landlady is threatened if she lets him into her house. There is one case, Gentlemen, that one can scarcely think

is real or serious. A notice was posted on a particular chapel gate threatening a man with death if he did not pay 1*s.* 6*d.* as a contribution towards paying for the sashes worn at a Land League meeting. The next case goes still further. From this report it appears that a man purchased the occupation of a farm from a tenant. It was a case between occupiers only. There was no landlord in the case. But the person purchasing received a letter threatening him if he took possession of a farm which he had paid for, and paid for to the former tenant.

You may think, Gentlemen, that nothing could be worse than the state of affairs that has culminated in some parts of Limerick, as indicated by these facts, in that short time. But when we come to Kerry, it is worse again. In Kerry there were one hundred-and-one threatening letters—six threatening persons with death in terms, and ninety-five the interpretation of which is, to any reasonable mind—'If you don't comply with what is mentioned in the notice, death will be the consequence.' There are also twenty-three cases of arson; four of maiming cattle; malicious injuries without number; and six of attacking dwelling-houses. Such is the category of the extraordinary offences in the County Kerry. I shall refer to one or two of them generally. They are of the same character as those which I have already referred to. There is one of taking arms at night. A gang of night marauders went to the houses of the farmers

of the neighbourhood, and demanded that arms should be given to them. They were themselves armed, and they fired shots into the houses, and in several instances warned the tenants on no account to pay over Griffith's Valuation, and in some cases not to pay any rent at all. Subsequently, by the report which I have before me, the armed party broke into the house of a man named Donoghue, dragged him out of bed, assaulted him, kicked him, and, before they left, split his ear with a knife. I mention his name because the case will come before you, one person having been arrested, who is alleged to be identified as having taken part in the occurrence.

I now turn to another case, showing that the system of terrorism is not confined to land alone. In the particular case before me, a party was threatened if he did not raise his workmen's wages. It thus runs through every relation of life. Again, in another instance, a man received a letter threatening his life if he did not give up his school, of which he had become the teacher against the wish of the parishioners. I should mention to you that the manager of a school nominates the teacher, and if he is properly certificated the Board of National Education approves of it. But in this case the parishioners wished for some one else, and the teacher receives a threatening notice to quit. Again, I come to a notice received by a gentleman of considerable estate, and one who bears the reputation of a good landlord, threatening his life if he

did not reduce his rents 25 per cent. In Kerry the cases are so numerous that I could not detain you by going into them in anything like detail. I will, however, mention one case that goes beyond any of the others—one in which a Resident Magistrate and a Sub-Inspector of Police were threatened on account of steps they had taken to bring rioters to justice—persons who had been guilty of riot at some land meeting. The Magistrate is threatened as well as the Officer of Police. Then, again, a man was met who was going to pay his rent. He had it with him, and was going to pay his rent, and his life was threatened if he did so. I need not tell you he did not. In the case of a gentleman who had given notice to his tenants to come in and pay their rent, his life is threatened if he does not withdraw his notice. This is the category of offences in Kerry; but the number of cases is so large and the character so varied, unfortunately—just as in the case of Limerick—that I cannot refer to them in more detail.

I will now come to something nearer home, and, I am sorry to say, the cases do not improve. I come to the West Riding of Cork, and in reference to it I have to call your attention to one case which, I believe, will come before you. I allude to the case of two persons named Healy and Walsh, who are alleged to have intimidated a man —or endeavoured to intimidate a man—to give up possession of a farm. I will presently refer to the circumstances of the case. We find that in the

West Riding there is one bad case of murder. A man named Dowling was murdered on the 16th of September last. It was about as bad a case as ever I heard, because the intent was to murder a gentleman named Hutchins. The intention was to murder another. The intention of the Assassin was to assassinate Mr. Hutchins, but he assassinated the driver—a person young in years, and of very good character. The circumstances are very shocking indeed. For five or six hours, on the day of the murder, the Assassin (may be a person brought from a distance) was known to be on the roadside, was seen disguised as a woman carrying something under a cloak he wore, with a hood drawn over his head. He was known to be waiting there, and I dare say few of those living in the neighbourhood did not suspect his purpose. But no warning note of any kind was given. The Assassin was waiting for five or six hours, and at last Mr. Hutchins' car drove up, and the Assassin's blunderbuss was discharged, and killed the driver.

In addition to the case of murder, there are twenty-five cases in the West Riding of threatening letters. I may state that, with two exceptions, none of the writers have been made amenable to justice. There have been twenty other cases—fifteen of maiming cattle and other malicious injuries, and five of compelling parties to quit by violence. There is a case of forcibly resisting the Sheriff and his officers, and assaulting and beating the Sheriff. There are two specially bad cases of

maiming cattle; but there are in all fifteen cases of the kind, and the observation generally made by the County Authorities as to the motive for these numerous offences is that they put them down—and I have no doubt correctly—as due to the present Rent Agitation.

The cases in the West Riding are of a similar character to those I have adverted to; and I fear if I were to go through them in detail, I should be taking up your time most unnecessarily. They do not vary in their general character from those I have already called your attention to, and I will pass them, excepting in the one case I have mentioned; and as I have to give you a direction in point of law upon that, this is the proper time to call your attention to it. The charge in that particular case is against two persons named Healy and Walsh; the Christian names are not given. The murder of Mr. Hutchins' driver took place on the 16th of October. On the 17th there was a Land League Meeting in the immediate vicinity of where the murder took place. It had been previously convened for the purpose of establishing the Land League there. I have to call your attention to two speeches delivered upon that occasion by the two persons who are charged with this offence, and to their action subsequently in reference to the party alleged to have been intimidated. The indictment in these cases will probably be presented to you under the Act of William IV. The second section of that Act says: "If any person or persons shall unlawfully compel, or by force,

threats, or menaces attempt to compel anyone to quit his, her, or their dwelling-house, habitation, farm, possession, place of paid service, or lawful employment,' then such person shall be guilty of an offence against the Act of Parliament, and be liable to very serious punishment. I have given you the 16th as the day the murder was perpetrated. I adverted to that because in the speech attributed to Mr. Healy on the following day it is adverted to. [His lordship then read from a shorthand-writer's notes a portion of Mr. Healy's speech. Alluding to Mr. Healy's allegation that on the property of Mr. Hutchins there were instances of greater injustice and rackrenting than upon the estate of the greatest tyrant in Ireland, his Lordship said—] That is very strange language to use in reference to a man who was then under the necessity of having a strong guard of police to protect his life. He is held up there as one of the greatest tyrants that existed in the country. [His Lordship then read further from Mr. Healy's speech, in which he intimated that he would pay a visit to Manning if he did not give up M'Grath's farm. His Lordship then proceeded to read the information of Cornelius Manning with regard to the visit paid him the day after the meeting of Messrs. Healy and Walsh, and went on to say—] If the evidence turns out to be of the character represented, the two speeches at the meeting are directly connected with the visit of the following day; and if any language such as described by the

witness was used to Cornelius Manning, such as he represents it, I should say that there is sufficient evidence before you to warrant you in finding a bill against Healy and Walsh under the Statute. Any person making use of threat or warning, menace to compel or induce another, commits an offence. It is not necessary at all, though it may be an element of consideration—and there is an erroneous impression prevailing upon the subject—it does not matter whether or not the party has been actually intimidated or induced to give up his farm. The offence is completed the moment the attempt is made by intimidation to induce Manning to leave his farm; and if Healy and Walsh made speeches threatening to pay a visit to him, and did pay that visit, and paid a second visit to see why he did not give it up, and used the language represented, there will be evidence proper for you to deal with, and upon which, if in your wisdom you think fit, you can find true bills, and send the case to be investigated before the proper tribunal.

I now turn to the East Riding of the County Cork, and I expected to find it somewhat better. There are, however, fifty-one threatening letters; twenty-two cases of arson, all with a view of intimidating; three cases of maiming cattle; seven cases of forcible possession; a number of assaults on bailiffs, and several other charges, one or two of which I should like to advert to. I shall not pause to go in detail through them; they are pretty generally of the same character. I just

wish to refer to one of them, a threatening letter addressed to the steward of Lord Shannon. A notice was published and sent to him warning any person not to deal with him in any way, or have any communication with him, because he was a spy on the Land League. Gentlemen, I do not mean to say at all for one moment that those parties who commit such offences are put in motion by the Land League. It is not for me to express any opinion whatever upon that subject; but the misfortune of the case is, or one of the incidents of all those cases is, that the emissaries or people who commit these offences represent that they come on behalf of the Land League, just as is the case with this notice that I last referred to. The mandate is that nobody is to look at Lord Shandon's steward, because they regarded him as a spy on the Land League.

Now, Gentlemen, I turn to the City of Cork. The City of Limerick appears to be in a peaceable and orderly state, and Cork City usually is; but unfortunately there is one case on account of which I cannot compliment you, Gentlemen, upon the state of the City of Cork. There is a very serious case to come before you, in which a number of processionists, meeting a body of four policemen who did not interfere with them, managed to assail the policemen. Several shots were fired from revolvers at the policemen. I think the police showed great forbearance on the occasion. They simply took the names of the parties, and did not use their weapons,

as they might be justified in doing upon such an occasion. A number of young men were at the time in a procession known as —— What is that they call it?

MR. GREGG—The Manchester Martyrs.

HIS LORDSHIP—The Manchester Martyrs' procession, and the policemen will tell you that several shots from revolvers were fired at them. Gentlemen, this only justifies the observation that I have made—that everybody appears at present to be armed with a rifle, or, that still more objectionable weapon, a revolver.

Now, Gentlemen, in going through these details, I fear I have occupied too much of your time, and that I have been too minute in giving you a description of these painful details, which almost deprive us of hope for our country. I have confined my observations to the matters which have been brought officially before me. I do not wish to be guilty of exaggeration, or to create excitement or alarm. I desire now to express myself in the calm and measured language that best becomes one to whom the administration of justice is committed; and I should fall short of my duty if I did not point out to you how in several districts, embracing a large portion of Munster, true liberty has ceased to exist, and intolerable tyranny prevails. Life is not secure, right is disregarded, the process of the law cannot be enforced, and dishonesty and lawlessness disgrace the land. It is said in excuse or palliation that this flood of anarchy or crime has been pro-

duced by bad existing laws. It is not for us here to consider whether our laws require amendment, or whether our institutions are open to improvement. These are matters for the Legislature; but no candid mind can doubt the disposition of the Imperial Parliament or its anxiety to consider and redress all real grievances. And I add for myself, and for you, and for all well-thinking people, that we are prepared to make all sacrifices, if doing so can procure the restoration of peace and prosperity to this distracted country. The primary functions of the Government are to protect life and property, and to repress crime; and it is to aid in accomplishing these objects that we are assembled here. Our duty is to administer the law as it exists, and, if we can, to eliminate crime from the land. With these objects in view, I offer you my best aid, and I expect from you firm and courageous assistance.

Gentlemen, I consider it fortunate that at the present crisis you should have been selected as the Grand Inquest of Munster, and that the Panel of Jurors should be taken from the Jurors' Book of the City; because I know well, from long experience, your intelligent and resolute independence. I know that you will dispose of all the cases to come before you with the utmost fairness and impartiality; and I have no doubt that if any feeling can divert your minds from the strict line of duty, it will be a noble leaning towards the accused.

JUDGE FITZGERALD THREATENED.

The account of the Anarchy in Ireland would scarcely be complete unless it included the incident which is narrated in the following extract from the *Freeman's Journal* of Saturday, the 11th of December, 1880. The atrocious words which are set forth at the conclusion of the extract are an illustration of the truth which the English Public, distracted as it is by party considerations, has failed to see. The words 'Ireland a Nation,' and the insults heaped upon the Queen, should convince any Englishman of the truth which is familiar to everyone in Ireland —that the demand for a Reform of the Land Laws is a mere pretext, and that the present Agitation is *Revolutionary* rather than *Agrarian:*—

At the Cork Assizes to-day (Friday) a man named Coffey was placed on his trial upon a charge of having fired at a bailiff named Hanlon, who, with a number of other bailiffs, was engaged in care of a farm-house near new Pallas, from which a tenant named Burke had been evicted. The shot was fired at night from inside a wall on the road leading from New Pallas to the

guarded house, and Hanlon was struck in the face, several of the pellets entering the flesh. Hanlon identified the prisoner as the assailant, but for the defence Hanlon's ability to identify a man inside a high wall and at night was questioned. The Jury acquitted the prisoner.

Mr. Justice Fitzgerald said, before the Jury separated and the Court adjourned, he wished to advert to an occurrence that had taken place that morning, and which he had treated with the contempt it deserved. He received that morning a letter bearing the Limerick postmark, but for the ends of justice, and lest it should militate against the prisoner on his trial, he did not wish to draw attention to the letter until the case had concluded. The letter was as follows :—

Irishtown, Limerick.

To Judge Fitzgerald, Cork.

Look here my boy, by J—— C——, if you do not charge the Jury in a certain Limerick case fairly and impartially, your life is not worth a thraneen, for you may be shot dead in Court.

A Pallas Boy.

There were some other expressions which he would not pollute his lips by uttering. He had treated the letter with the contempt it deserved. Such threats would not have the slightest effect with him, but more timid people might be deterred from performing their duty. It was a gross crime, punishable by the law, and it was also a gross contempt of Court. He did not mean to suggest that anyone connected with the prisoner had been implicated in this matter, but he regretted that, having been now twenty-one years on the Bench, it should be thought necessary to remind him to charge

fairly and impartially. His Lordship was much affected.

His Lordship handed the letter to the reporters. It was evidently written by an educated person, but in a disguised hand. There were some words in French written at the top, but they were partially obliterated. In the second page were the words, 'Ireland a nation; to h—— with Miss Victoria; La Reine, Parnell for ever, notre Roi.' The letter also contained a rude sketch of a man with a pistol, and the words, 'Shot by ——.'

CHARGE

OF

THE RIGHT HON. BARON DOWSE

TO THE

GRAND JURY AT THE CONNAUGHT WINTER ASSIZES,

1880.

CHARGE

OF

THE RIGHT HONOURABLE BARON DOWSE

TO THE

GRAND JURY AT THE CONNAUGHT WINTER ASSIZES,

1880.

THE Winter Assizes for the Province of Connaught were opened at Galway on Friday, the 10th December, at noon, by MR. BARON DOWSE.

Mr. Baron Dowse, addressing the Grand Jury, said:—You are aware you are impannelled not only as the Grand Jury of the County of Galway, but as the Grand Jury of the Connaught Winter Assize County; that is, you are now called upon to act not only as the Grand Jury of your own County, but for the whole of the Province of Connaught. You will have before you bills sent from each of the Counties in the Province; you will be called upon to act as a Grand Jury of Leitrim, Roscommon, Mayo, Sligo, and Galway; and I am

certain, Gentlemen, that you will, in every way, endeavour to discharge your duty faithfully between the Crown and the accused. It will be my duty to ask your attention to the various bills laid before you by the various Crown Solicitors, and shortly to call your attention to the law relating to at least one or two of the cases that will be presented to your consideration.

[His Lordship here referred to the ordinary crime of the Province, and then continued as follows:—]

But unfortunately, Gentlemen, that is no index at all to the state of crime in the Province. Anyone reading these lists who thought that they represented the crime in the Province of Connaught would be utterly mistaken. I have documents before me of a very different description—namely, the list which has been furnished by the County Inspectors, showing the offences committed since the Judge sitting here discharged the gaol at the last Summer Assizes—and it will be my painful duty to state to you what these lists prove.

I will first refer to the County of Leitrim. Recollect we are dealing here, not with the record of a year's crime—we are dealing here not with the record of crime for the series of months extending from the Summer to the Spring Assizes, a period of eight months—we are dealing with what is practically the four months of crime since the gaols were last discharged at the Summer Assizes by my learned brethren who sat in the different Counties of

this Province. They had lists laid before them by the same County Inspectors as to the state of crime in the Counties. The lists now before me set forth the number of crimes that are alleged to have been committed, and that in many, if not the majority of instances, have been committed in these Counties since the month of July last. Leitrim used to be in former days rather a peaceable County. I am informed by the proper authorities—I have it from gentlemen who are in a position to give me information, and I received that information—that up to very recently this County of Leitrim was a peaceable County, and that it is only of late that it has been infected by the disease that seems to be, I may say, permanently located in the County of Mayo. I find in this summary—I may weary you with going through the details, but the details of these offences I think of the greatest importance—I find that in the county Leitrim since the last Summer Assizes there were seventy-five Indictable Offences, twenty-five of which are of sending threatening letters. Now, mark that when I say Indictable Offences, I wish to be clearly understood. I do not refer to summary cases of assault; I do not refer to larcenies, or cases of intoxication; these are not cases specially reported. I am alluding to such cases as might have been sent by a Bench of Magistrates either to the Quarter Sessions Courts or to the Assizes for disposal—offences that are termed in the language of law Indictable Offences. Of these seventy-five offences committed

since the last Assizes how many are there for trial now? From the list before you five have been sent to the Spring Assizes, and that would make nine altogether out of the seventy-five that are *primâ facie* amenable to the law. What are these offences? There are two cases of administering poison: there is one case of endangering life upon a railway line; four assaults, inflicting actual bodily harm; one burglary; four robberies; one cattle stealing; arson, killing and maiming cattle, two; other injuries to property four; five unlawful assemblies; assembling armed and disguised one; five cases of administering unlawful oaths; seven for attempting to compel people to quit their homes or property or farms; two for assaults on dwelling-houses; two for attack and holding forcible possession; three for intimidation; twenty-five for sending threatening letters or notices; many of which—for I have read the details—are letters threatening to murder the recipient. Murder, for what? For exercising the ordinary rights of every citizen; for instance, for taking possession of a farm, for ejectment for non-payment of rent, or even for asking for rent. Two strange cases have occurred with respect to the County Leitrim which I wish to bring before you. A letter was sent to a highly-respectable Roman Catholic clergyman, a gentleman of position—not sent to him actually, but posted in his neighbourhood, so that he would get it—threatening to injure the people who would pay him his lawful dues as a Priest because he paid his rent. Another was sent to a Doc-

tor, or posted in the neighbourhood of the Doctor's residence, threatening anybody who consulted him as Doctor, or ordered physic from him, because he paid his rent. I take these as two typical cases of the class of offence in the Co. Leitrim. I merely state facts as I find them, and I leave the public to form their own opinion about them. I cannot pass from the Co. Leitrim without referring to another remarkable circumstance. I find from the list before me that, in these seventy-five cases, sixty-one people who were injured have declined to give any information to the authorities, or to assist the police in discovering the perpetrators of the crime.

I now come to the county Sligo. The county Sligo was until recently a very peaceable county. I attribute that to the fact that Sligo is a very important town, and has a good deal of trade going on, and was brought under the civilizing influence that perhaps prevented it drifting away from the safeguards that kept society together. What do I find now? I find that fifty Indictable Offences have been committed in Sligo since last Assizes, leaving out common assaults, of which there were two hundred; and I find that out of this number only three cases are for trial here, and also that there are three cases in which the parties decline to prosecute, the difficulty being in this case to discover the perpetrators of the crime. What is the list for the county Sligo? One murder—that is the case I have mentioned to you, and I think it only right to state that that murder has nothing to say to the

state of the county, and is not an agrarian murder. That is the case of *The Queen* v. *Moffett*, and it is a case which might occur in any county, and therefore is not to be considered a crime that is out of the ordinary course. It does not in any way show that the disease has affected Sligo. The list includes—firing at the person, one; stabbing, two; assaults inflicting actual bodily harm, six; burglary and robbery, three; horse and cattle stealing, three; arson, three; injuring and maiming cattle and other malicious injury to property, four; and twenty-six threatening letters, making up a total of fifty. The threatening letters are of the same description as those I have already referred to. So much for the county Sligo, which is certainly a great deal worse than it used to be, but is not in as bad a condition as some of the adjoining counties.

I now come to the County Roscommon. There have been committed since last Assizes forty-six Indictable Offences, and three of these are for trial here, and twenty-three people have declined to give any information as to the offenders; attempted murder, one; firing at the person, one: assault with intent to ravish, one; other assaults, four; arson and other wilful burning, two; malicious injury to property and maiming cattle, seven; unlawful assembly, three; attempts to compel persons to quit houses and farms, two; threatening letters, fourteen: in the whole making forty-six—far beyond the average of former years.

I come now to a County which, as presented

before me on this one sheet, displays an appalling state of crime—the County of Mayo—although, indeed, when I come to your own County you will not think there is much to choose between them. The number of offences committed in the County Mayo since the last return was laid before the Judge—four months ago—is two hundred and thirty-six. These are all Indictable Offences, and leave out of consideration eight hundred and eighty-eight Summary Offences. Of these Indictable Offences there are twelve for trial at the present Assizes out of the two hundred and thirty-six committed. I think I shall be justified in calling your attention as Grand Jurors to the fact—and I shall not attempt to draw anything from it—that two hundred and fifteen people have declined to give any information. That may arise from either a desire to shield the guilty or from terror. I state the facts, and I draw no conclusion from them. There are fifteen letters threatening to murder; two cases of firing at the person; assaults, twelve or thirteen; cattle-stealing, four; arson and other wilful burning, twenty-nine; burning hayricks, stores and houses, killing and maiming cattle, twenty-four. I have passed over in the counties I have been reviewing these acts of killing and maiming cattle without remark; but this I must say, that a more dastardly and cowardly offence was never committed by human hand than to maim innocent beasts, unable to defend themselves, placed in a position where they have done injury to no

person, and objects of sympathy to every right-minded man. Maiming cattle, cutting off horses' tails, cutting their legs, killing cows—and for what earthly purpose is all this done, except to wreak vengeance on the unfortunate owner of the animals? Crimes more atrocious, more savage—I don't say unchristian, for I think that is no word to apply to these offences—could hardly be conceived. Heathens who have never heard the joyful tidings of Christianity would not have committed the offences that have been committed in this country. Of this dreadful savage offence, they had twenty-four cases in the county Mayo—I mean that have been reported to the police; other wilful injury to property, thirty cases; nine riots, and two unlawful assemblies; two Whiteboy offences; five attempts to compel people to quit their farms; ten assaults on dwelling-houses; printing, writing, posting, and sending threatening letters, seventy-three; three attempts to take forcible possession making altogether the dreadful outcome of two hundred and thirty-six offences committed in the County—I mean Indictable Offences—since last Summer Assizes, and in which two hundred and fifteen persons who were injured would give no assistance to bring the guilty persons to justice.

I pass from the County Mayo, and I come to the County Galway. At first I thought that Galway was better than Mayo, but I left out of sight that there are three lists for Galway—one for the West Riding, one for the East Riding, and one for the

Town, and that added together they make two hundred and ninety-one Indictable Offences committed since last Assizes, which is overtopping Mayo by sixty cases. I think it right to show you that in the West Riding we have two hundred and eight offences in which one hundred and twenty-seven persons who were injured have refused to give any information so as to enable a prosecution to be instituted. In the East Riding we have sixty-one offences, in which forty-three persons decline to give information. Of the whole of these there are only nine cases for trial at the present Assizes. Coming to the Town of Galway, which, as you know, contains a large country population, there have been twenty-two offences, and three are for trial, while eight persons decline to prosecute. On the whole County Galway we have twelve cases for trial at the present Assizes, and two hundred and ninety-one Indictable Offences, leaving out the Summary Offences, which I have already referred to, and two hundred and seventy-eight people have declined to prosecute. In the West Riding of the County Galway there have been thirty-one cases of sending letters threatening to murder, twenty-two cases of arson, twenty-two cases of injury and maiming cattle. In the East Riding you have, on the Supplemental List, twenty-nine offences which I need not further refer to; and on the East Riding list you have sixty-one offences, of which nine are threatening letters, nine injury to property; resistance to legal process, and assaults on process-

servers, one; attempted robbery and robberies, three; four assaults, and thirty-five letters threatening to murder. This is in the East Riding alone. The East Riding of your County, as you know better than I do, is the lowland district, extending to the Shannon and along that direction, and in that space thirty-five threatening letters to murder have been sent since last Assizes.

I have already referred to the Town District, where twenty-two offences have been committed, and I need not refer to them in detail. But these papers do not show all the crime that has been committed, nor do they show you the condition of the county to its full extent. You all recollect being startled, on a morning in September last, by the intelligence flashed over the country that Lord Mountmorres had been murdered when going home in the evening from the village of Clonbur to his residence, Ebor Hall, on the northern shore of Lough Corrib. To me it was most shocking intelligence; for in the early part of the year I had the unfortunate nobleman before me as defendant in a case in the Court of Exchequer, and he certainly seemed to be an exceedingly inoffensive gentleman. It was a terrible crime, and the perpetrator of it will probably never be brought before the bar of justice. He must be left to his God and the miserable torture of his own conscience, if he possesses a conscience—a fact which I am somewhat inclined to doubt, when I look at the condition of several parts of this County.

There is another thing that has not been brought under your attention as Grand Jurors—and that is an occurrence which took place in the Co. Mayo that excited the wonder and amazement of a great part of the United Kingdom, and the sorrow of a considerable portion of Ireland—that transaction in connexion with Captain Boycott. That gentlemen was agent for a small property, the interest of which did not produce more to him than £150 a-year. He was also a large farmer. For some reason or other into which I need not go—nor am I in a position to do so—he became what is called unpopular; and we all know what that means. He was placed in what we used to know as Coventry—no one to speak to him or have any dealings with him—and he could not get his crops saved. We then see a number of men coming down from the North of Ireland to help him to save his crops; and we recognise the fact that it was deemed necessary to send an army positively to protect these men who were engaged in assisting that unfortunate gentleman to save his crops. He has left the country since for the protection of his life, and no more.

I need only mention these facts. Ireland was a country once famed for its hospitality—it was a country where—

> 'Though they loved woman and golden store,
> Sir Knight, they loved honour and virtue more.'

Ireland is rapidly in danger of losing that character

if transactions like that of Captain Boycott's are to be the rule and not the exception.

I have laid before you a state of facts without extenuating anything or setting down aught in malice—the facts of the criminal condition of the province. I might be asked, What is the result of all this? All I can say is, that this is neither the time nor the place for me or for you to discuss the causes of that condition of affairs. These causes may lie far behind in the history of our country. They may be alarmingly near at hand. It is not for me to discuss them here. This is neither the time nor the place to discuss the remedies for this state of affairs, except so far as the remedies are bound up with the law, the wise and firm administration of which I hope all will take part in during the present Assizes. This, however, I will take the liberty of saying, for I think it is the time and the place to do so, that if this state of affairs is allowed to continue much longer, immediate danger to Ireland will be the consequence, and ultimate disgrace to the empire of which she forms a part. No true friend of Ireland, no real lover of liberty, as contradistinguished from licentiousness, can dare approve of the state of facts I lay before you. I speak not alone in the interest of the victims of this Reign of Terror, as it is properly called, but also in the interests of the poor people themselves, who are too often the tools of men who are more crafty and designing than themselves. I speak in the interests of the whole country, which in every part, from

North to South, from East to West, in the study of the professional man, in the wareroom of the trader, in the home of the country gentleman, and in the cottage of the farmer, feels the terrible influence of this dreadful disease, some of the more dangerous symptoms of which I have laid before you. I hope it is not out of character for me to say that I fervently pray to God that this cloud of disconten and crime which is brooding over this Province may be speedily removed, and that peace and happiness, truth and justice, may be once more established within its borders.

BARON DOWSE THREATENED.

The following extract from the *Evening Telegraph* of Tuesday, the 14th of December, 1880, supplies a final proof of the pitch of insolence which the Revolutionary Spirit in Ireland has been allowed to reach :—

Mr. Baron Dowse resumed this morning the hearing of the business of the Connaught Winter Assizes. After taking his seat his Lordship said—Before the business of the Court commences I wish to mention a matter of public mportance. On coming down stairs to my sitting-

room this morning I saw a letter, which was lying amongst other letters on the table, directed to "Baron Dowse, Connaught Assizes, Galway," in a very good hand. It had the Limerick postmark of December 13th, 1880, and the Galway postmark of December the 14th, 1880; andas the time of delicacy has altogether passed, I think it is better to read the letter in full. It is written in a disguised hand—evidently with the left-hand—and is the work of a person of more than ordinary education. It is couched in the following terms:—

Irishtown, Limerick.

Dowse, you b——, you infernal Protestant, take warning of Lord Montmorres, for you will surely meet his fate, even on the Bench, if you convict any Land Leger. At last now our power, as you now see we frightened that other b—— in Cork as we will you, or any other tirant like you.

A County Limerick Man.

To h— with Victoria la Reine—Vive Parnell Notre Roi.

9

THE

LAND QUESTION.

IRELAND.

No. III.

FACTS AND FIGURES.

DECEMBER, 1880.

ISSUED BY

THE IRISH LAND COMMITTEE,

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FACTS AND FIGURES.

BEFORE entering on an examination of the statistical evidence submitted by the Irish Land Committee to the Royal Commission on Agricultural Distress, and more recently to the Royal Commission on the Land Act of 1870, it may be well to explain briefly the manner in which this evidence was obtained.

The Irish Land Committee was formed in the autumn of 1879, soon after the appointment of the Commission on Agricultural Distress, for the purpose of collecting evidence to be laid before that Commission. It was established on a strictly non-political basis, and numbered amongst its earliest members men of all parties without distinction.

As it was abundantly evident for some time before the formation of the Committee that the

relations between landlord and tenant in Ireland would form a prominent topic of inquiry, it was determined to seek information on the subject from the only available and trustworthy source—namely, from the landlords themselves; and for this purpose Query Forms were issued to all proprietors of land in Ireland whose estates were valued under the Tenement Valuation Acts at not less than £500 per annum.

The queries submitted for reply to these proprietors were of a precise and definite character, strictly confined to questions of fact. The sole object of the Land Committee was to procure a body of entirely trustworthy evidence bearing on matters of fact hitherto but imperfectly known, and in respect of which the wildest and most calumnious misrepresentations were being daily dinned into the public ear by unscrupulous Agitators and their organs in the Press.

The Query Forms, as they were returned to the Committee, were carefully tabulated; and the final results arrived at up to that time were given in evidence before the Royal Commission on Agricultural Distress on the 5th of August last.

Since that date, the Land Committee have not relaxed their efforts to obtain additional information; and several Query Forms have been since returned by proprietors who had not previously replied. These were also tabulated, and have been laid before the above Commission, as well as that

appointed by the present Government to inquire into the working of the Land Act of 1870..

It is much to be regretted that very many proprietors of land, to whom Query Sheets were sent, have not thought proper to reply. This is not the place to enter on a discussion of their motives and objects in thus withholding information at such an important crisis; but when we find among those who have not replied such names as—Lord Monteagle; Marquis of Bath; Viscount Monck; Sir V. A. Brooke, Bart.; Sir C. H. Coote, Bart.; Earl of Portsmouth; Lord Emly; Earl of Dufferin; Earl Fitz William; Earl of Kenmare; Viscount Lismore; Earl of Portarlington, and many others equally well known as considerate Landlords—we may safely assume that it was not from any consciousness of harsh or unfair dealing with their tenants, or from any dread of hostile criticism.

The Irish Land Committee pledge themselves to three things:—

I. That they issued Query Forms to every proprietor in Ireland, whose estates are valued at not less than £500 per annum, as given in De Burgh's "Land Owners of Ireland."

II. That they used every means in their power to obtain answers.

III. That they fully and faithfully tabulated every sheet returned to them properly filled, as far as the nature of the replies admitted; and that the Tables given in evidence before both the Royal Commissions, and now submitted to the public, form an accurate digest of the information they obtained.

The Landlords of Ireland have as deep an interest as their Tenants in the welfare of the country, and are fully as anxious to see the Irish Land Question fairly settled. In this spirit they offer the results of their inquiries, as an honest attempt on their part to contribute to the solution of a very intricate and difficult problem, in which the interests, not only of Landlords and Tenants, but of every class in the community, are deeply involved.

When the tabulated results of the inquiries set on foot by the Irish Land Committee were laid before the Royal Commission on Agricultural Distress, in August last, replies had been received from the Proprietors of 1536 estates. Since that time, Query Forms relating to 290 additional estates have been received and tabulated; and Tables, showing the results of the Land Committee's inquiries in respect of the whole 1826 estates have recently been given in evidence before the Royal Commission on the Land Act of 1870.

In anticipating the publication of these Tables by the Royal Commissions to which they have been submitted, the Land Committee are actuated by a desire to place before the public, at the earliest possible date, the facts regarding the relations of Landlord and Tenant in Ireland which they have, up to the present, been able to ascertain, and which they believe to be of the utmost importance in instructing public opinion on the subject. If these facts are not in accordance with preconceived popular notions, the greater is the necessity for giving them every publicity, and for affording every opportunity of examining and criticizing them:—

TABLE I.,

SHOWING *the Number and Area of Estates respecting which particulars have been ascertained, with the Poor Law Valuation, and the number of Tenants thereon.*

PROVINCE.	Number of Estates.	Area in Statute Acres.	Poor Law Valuation.	Total Number of Tenants.	Number of Tenants whose Valuation is under £10.
			£		
LEINSTER, .	696	1,730,207	1,126,744	42,424	15,928
MUNSTER, .	397	1,616,511	722,047	30,773	11,750
ULSTER, .	458	2,346,486	1,249,453	85,909	40,376
CONNAUGHT,	275	1,293,471	476,522	42,525	26,495
TOTALS, .	1826	6,986,675	3,574,766	201,631	94,549

We have already stated that Query Forms were issued to all proprietors, the Poor Law Valuation of whose estates amounted to not less than £500 per annum; and we may add that the estates of such proprietors occupy nearly four-fifths of the area of Ireland.

In the instructions for filling the Query Forms, the owners were directed to exclude from their replies—

(*a*). All lands let to tenants in perpetuity, or of which the tenant had an unexpired term of 100 years;

(*b*). All lands in their own possession;

(*c*). All town holdings, and town parks; and

(*d*). All land let for grazing purposes for one year or less.

We have no data for estimating with exactness the quantity of land excluded from the returns under one or other of the foregoing heads; but it must have been very large. The area actually tabulated amounts, in round numbers, to seven millions of acres, or rather more than one-third of the whole area of Ireland; but, making allowance for the exclusions above enumerated, it is obvious that the estates belonging to the same proprietors cover a much larger area; and we shall probably not be far wrong if we set down the total area of the estates of those proprietors who have furnished information to the Land Committee as approaching more nearly to one-half

than to one-third of the whole country. It is essential to bear this in mind, in dealing with this and the subsequent Tables, if we would appreciate their full significance. Further, it is important to remember that the seven millions of acres tabulated represent land in the *bonâ fide* occupation of agricultural tenants.

Even though we had not the assurance of the Land Committee that Query Forms were sent to all proprietors of Estates valued at not less than £500 per annum, and that every Estate in respect of which replies were received was included in the Tables; the largeness of the area tabulated would preclude the possibility of anything like the selection of exceptionally well circumstanced estates for tabulation; and the Table before us affords abundant evidence that the estates comprised in it are fairly representative, if not indeed typical, of the whole of Ireland. We may test this in several ways.

First, the estates are distributed over the four Provinces of Ireland, in fair proportion to their relative size. The land of Ireland is divided among the four Provinces as follows :—

Leinster contains	23.9	per cent.
Munster ,,	29.3	,,
Ulster ,,	26.1	,,
Connaught ,,	20.7	,,
Total, . .	100.0	

The acreage shown in the Table gives the following proportions :—

Leinster, . .	24.9 per cent.
Munster, . .	23.1 ,,
Ulster, . .	33.5 ,,
Connaught, .	18.5 ,,
Total, . .	100.0

The agreement, in the case of Leinster and Connaught, between the area of these Provinces and the acreage tabulated is remarkably close; while the acreage tabulated from Munster is only six per cent. below, and that from Ulster seven per cent. above, the proportionate areas of these Provinces respectively.

Again, if we compare the percentage of *occupiers* of land exceeding one statute acre in each Province with the percentage of *tenants* tabulated by the Land Committee, we find even a closer agreement in the case of Leinster and Connaught, and somewhat less divergence in the case of Munster and Ulster. We exclude those holding land "not exceeding one acre," who, in the words of the Registrar-General, "are to a great extent merely occupiers of small gardens."

Taking the Registrar-General's Returns for 1879 as our basis of calculation, we find the occupiers of land, exceeding one acre, thus distributed :—

Leinster	=	19.5	per cent.
Munster	=	20.7	,,
Ulster	=	36.6	,,
Connaught	=	23.2	,,
Total, .		100.0	

Coming now to the Table of the Land Committee under consideration, we find the tenants distributed thus :

Leinster	=	21.0	per cent.
Munster	=	15.3	,,
Ulster	=	42.6	,,
Connaught	=	21.1	,,
Total, .		100.0	

We may therefore conclude that, in respect both of area and number of tenants, the estates tabulated by the Land Committee are fairly representative of each of the four Provinces of Ireland.

Let us now compare the Poor Law Valuation of the tabulated estates with that of the whole of Ireland, and we shall find a similar agreement.

The valuation of the land of Ireland, including mountain, bog, &c., but omitting the towns, averages as nearly as possible 10*s.* 1¾*d.* per statute acre. It is with this average that we must compare the estates included in the Table, although it is certain that a large area of mountain, bog, &c., in the owners' hands is excluded according to the instructions already quoted; and here the coincidence

is most remarkable. The average valuation of the estates tabulated is 10*s.* 2¾*d.* per statute acre; or within one penny per acre of the average valuation of the whole country.

We have no accurate data for comparing the number of tenants, on the estates tabulated with the total number of tenants in Ireland; but if we take, as before, the number of occupiers of more than one acre, in 1879, to represent the total number of tenant farmers in Ireland, we find the tenants on these estates to amount to 42.1 per cent. of the whole agricultural tenants of Ireland; while of the 201,631 tenants included in the Table, no fewer than 94,549—or nearly half—occupy farms valued at less than £10 per annum.

Thus, whether we regard the distribution of the tabulated estates over the several provinces in proportion to their area; or the distribution of the tenants on them in proportion to the number of occupiers in each province; or the Poor Law Valuation of these estates relatively to the whole country; or the number of tenants, especially those valued at less than £10 per annum; or whether, on the other hand, we regard the number of large and notoriously liberally-managed estates, not included in these returns; we cannot avoid coming to the conclusion that we are dealing with estates fairly typical of similar estates all over Ireland; and that any legitimate deduction from the facts ascertained in respect of them will be equally applicable and true in respect of the rest of Ireland also.

TABLE II.,

SHOWING *the Percentage under or over the Poor Law Valuation at which the Lands included in* TABLE I. *are let, so far as same could be ascertained.*

Percentage under or over Poor Law Valuation.	Leinster.	Munster.	Ulster.	Connaught.	IRELAND.	Percentage of Area.
	Acres.	Acres.	Acres.	Acres.	Acres.	
More than 10 per cent. *under*	33,723	7,307	427,947	7,369	476,346	7.45
From 0 p. cent. to 10 p. cent. ,,	151,909	15,528	294,394	118,812	580,643	9.09
At Poor Law Valuation, . .	97,344	56,397	179,134	91,113	423,988	6.63
From 0 p. cent. to 10 p. cent. *over*	479,447	179,083	756,370	303,749	1,718,649	26.89
,, 10 p. cent. to 20 p. cent. ,,	386,229	320,686	340,843	240,812	1,288,570	20.16
,, 20 p. cent. to 30 p. cent. ,,	304,548	350,147	185,865	148,727	989,287	15.48
,, 30 p. cent. to 40 p. cent. ,,	133,426	271,710	31,117	40,592	476,845	7.46
,, 40 p. cent. to 50 p. cent. ,,	26,573	146,844	45,504	11,016	229,937	3.60
Above 50 per cent. ,,	19,321	132,216	2,535	53,000	207,072	3.24
Totals, ...	1,632,520	1,479,918	2,263,709	1,015,190	6,391,337	100.00

NOTE.—*From this Table are excluded* 595,318 *acres, or* 8.52 *per cent. of the area included in* TABLE I., *respecting which the information furnished was not sufficiently definite to admit of tabulation.*

In a previous publication (*Notes on the Government Valuation of Ireland, commonly called "Griffith's Valuation"*) the Land Committee have shown that the Poor Law Valuation is not—and was not intended to be—a standard of rent; but that, on the contrary, at least one-third, or 33 per cent., should be added to it, to bring it up to the fair letting value of the land under ordinary circumstances. This was the rule laid down by Sir R. Griffith himself; and it is the rule applied by the Government when advancing money to tenants to purchase their holdings under the Bright clauses of the Land Act of 1870, and when assessing succession duty on lands in the occupation of the owners. Applying this rule to the foregoing Table, we find that no less than 85.7 per cent. of the lands tabulated is let at rents below the standard fixed by Sir R. Griffith; in other words, that 86 out of every 100 acres are let at distinctly moderate rents; while only 14 acres out of every 100 are let at rents apparently high. We use the word "apparently" because it is a well-known fact that the letting value of certain classes of land is much more than 33 per cent. above the Government valuation. In the publication above referred to instances are given of lands let at over 100 per cent. above that valuation, and yet fetching prices considerably above the average in the open market; and in Ulster, where the valuation is more in harmony with the rent than in other parts of Ireland, the tenant-right of a farm commonly brings more than the fee-

simple, and this often quite irrespective of tenant's improvements; proving to demonstration that the purchasers do not regard the rent—and, therefore, the valuation, which differs but little from the rent —as being even half the true letting value of the land. If purchasers are willing to give twenty years' purchase for the tenant-right, or good will, of land let at £1 an acre, it is perfectly plain that they are adding another £1 per acre to the rent, reckoning the interest of money at 5 per cent.; and that consequently, in their opinion, the land is let at only half its true letting value. Yet such cases are by no means uncommon, and even higher prices are frequently obtained. Every man in Ireland who is acquainted with the value of land knows, and every candid man admits, that Griffith's Valuation is no guide to the true letting value of a farm, and it might be fairly argued, that it is unjust to the landlords to take it as a standard, even for purposes of comparison. But so much has been said and written upon the subject of late, that if the Land Committee had been silent regarding it, their silence would certainly be attributed to a desire to evade the comparison of rent with valuation, from a consciousness that such comparison must necessarily be damaging to their cause. How baseless such an allegation would be is conclusively shown by the Table we are now considering. This Table deals with nearly six and a-half millions of acres, respecting which the Land Committee are in a position to speak with perfect confidence, and omits little more

than half a million of acres, respecting which the information supplied was not sufficiently precise and definite to admit of tabulation. The area actually tabulated forms one-third of all Ireland, and represents, as already shown, probably nearer one-half: it is all let to agricultural tenants, of whom very nearly half hold farms valued at less than £10 a-year; it is fairly distributed over the whole country, and, no doubt, contains every variety of soil; and yet, of the six and a-half millions of acres included in the tabulation, five and a-half millions are let at less than 30 per cent. above Griffith's Valuation—30 per cent., be it observed, not 33 per cent.—which latter is the amount of addition recognised by Sir R. Griffith himself as reasonable, and adopted by the Government in calculating the amount that may be safely advanced to tenants about to purchase their holdings, and in estimating the probable rental of unlet lands.

Now, assuming for a moment—what we by no means admit—that the estates tabulated are not fairly typical of the whole country; granting, for argument's sake, what has never been proved, that over any considerable extent of Ireland rents are unduly high, this fact remains beyond dispute, that at least five and a half millions of acres are let to tenants—half of them small tenants—at rents well within the limits hitherto always recognised as moderate, and as such adopted by the Government. Thus, on the basis of Griffith's Valuation alone, considerably more than a fourth of Ire-

land is let, at this moment, at moderate rents; and yet Irish landlords without exception are held up to public execration as rapacious tyrants, appropriating their tenants' improvements, and feeding on the very vitals of the country. A grosser calumny was never uttered. Land is let more moderately, as a rule, in Ireland than in either England or Scotland; and for the last thirty years, nntil the recent unfavourable seasons, Irish tenant farmers have enjoyed a degree of prosperity such as has rarely been paralleled in any part of the world. No doubt, they suffered during the past two or three years—in common with English and Scotch tenants—from the agricultural depression now happily passing away in Ireland, at least; but the prime cause of their suffering was not the rapacity of the landlords, but their own wasteful extravagance and want of thrift; and they have been met all over the country by liberal abatements from the very landlords against whom they are now hounded on by professional agitators, the majority of whom do not hold, and never held, an acre of land either as Landlord or Tenant. By dint of confident assertion, unsupported by a particle of proof, but again and again reiterated, echoed and re-echoed from platform to platform by these men, it is much to be feared that a large section of the English people have been led to look upon Irish landlords as a heartless "rack-renting" class, intent only on screwing the last penny out of their unfortunate tenants, and regardless even of their own interests

in their selfish greed for gain. The Table before us proves that such a picture is utterly false and misleading; and that, taking even the low standard of letting value indicated by Griffith's Valuation, as laid down by Sir Richard Griffith himself, probably not less than six-sevenths of the land of Ireland is let at rents universally recognised as moderate, and fully half of that at low rents. Further, it should be remembered that Griffith's Valuation was made many years ago, and with reference to a scale of prices of agricultural produce fixed by Act of Parliament — a scale below current prices even at the time, and at least fifty per cent., on an average, below the prices that have prevailed ever since, except for a short period in 1879–80. Were a valuation to be made on the same principle, at present prices, the result would be to raise the total amount by from thirty to forty per cent. — even more in some cases; and were this done, the valuation would probably exceed the present rental in fully six-sevenths of the country. These may appear startling truths to those who are accustomed to found their opinions on the vague and reckless assertions of the professional agitators; but they are none the less truths for all that, and as such they form an important element in the Irish Land Question.

Another charge brought by the agitators against Irish Landlords is that they are constantly raising their rents. Let us now see how this charge is supported by the statistics collected by the Land Committee.

TABLE III.,

SHOWING *the Dates at which present Rents were fixed (where such were definitely stated), and the Area in Statute Acres of the Estates referred to.*

PROVINCE.	Number of Estates.	Prior to 1830.	PRESENT RENTS FIXED BETWEEN THE YEARS					TOTAL.
			1830 and 1840.	1840 and 1850.	1850 and 1860.	1860 and 1870.	1870 and 1880.	
		Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.
LEINSTER, .	472	157,713	102,844	286,203	308,423	154,273	88,078	1,097,534
MUNSTER, .	258	55,222	95,843	204,333	280,546	242,417	82,748	961,109
ULSTER, . .	357	121,671	340,036	243,205	447,211	361,406	171,863	1,685,392
CONNAUGHT,	200	64,822	109,391	176,350	479,085	110,391	19,498	959,537
TOTALS,	1287	399,428	648,114	910,091	1,515,265	868,487	362,187	4,703,572
PERCENTAGES,		8.44	13.80	19.39	32.21	18.46	7.70	100.00

In this Table it has been found possible to tabulate only about four and three-quarter millions of acres out of the seven millions respecting which returns were received. The information supplied regarding the remaining two and a-quarter millions of acres was not supplied in a form sufficiently definite to admit of classification under any of the foregoing heads; and the Land Committee rigidly excluded every case in which vagueness or ambiguity appeared. This incompleteness is to be regretted, because, *pro tanto*, it weakens the argument deducible from the Table; but the Committee were determined that no statistics should be issued under their authority which could not be verified to the letter.

Still the Table now before us deals with nearly four and three-quarter millions of acres, or considerably more than a fifth of the whole of Ireland; and representing, as we have before shown, a much larger area. Taking, however, only the area actually tabulated—4,703,572 acres—we find that on 73.84 per cent. of that large area the rents have not been disturbed for over twenty years. In other words, that on 74 acres out of every 100 the tenants pay now the same rents as they paid between 1850 and 1860. This is an ascertained and incontrovertible fact; and of itself affords a complete refutation of the charge that Irish landlords are constantly raising their rents; but its full force and significance do not appear at first sight. The decade between 1850 and 1860

was that in which the Irish Famine came to a close; the year 1852 was the first in which the reaction towards prosperity set in; but it was not for some years afterwards that the prices of agricultural produce reached the high standard which, with occasional fluctuations, they have since maintained. Rents fixed during the years between 1850 and 1860 were fixed either while the Famine was not yet over, or immediately after it had ended; while the country was still in a prostrate condition; when the future was still dark and uncertain; and when the Corn Laws had been but recently repealed, and when the effect of their repeal upon prices was regarded with apprehension by everyone connected with land. Rents fixed at such a time, and under such circumstances, must necessarily have been much lower than would have been reasonable to expect a few years later, when agricultural prosperity reached a height never before known in Ireland; and the temptation to landlords to demand a share in that prosperity—which was due altogether to circumstances over which the tenants had no control, and which they did little or nothing to promote—must have been correspondingly great; yet we find that on 74 per cent., or very nearly three-fourths of the area about which definite information could be obtained by the Land Committee, the rents fixed prior to 1860 have remained unaltered. Nor is this all. Of the 74 per cent. of the tabulated area on which the rents have remained unchanged for over twenty years,

no less than 41.63 per cent. of the whole area included in the tabulation (not of the area in which the rents were fixed prior to 1860) had the rents fixed prior to 1850; and on 22.24 per cent. of the whole area the rents were fixed so far back as prior to 1840. These facts are so important that we may be excused for presenting them in another and more popular form. The area tabulated includes four and three-quarter millions of acres very nearly —or considerably over a fifth part of all Ireland. Only those estates respecting which precise and definite information was furnished are included in the tabulation, all vague or ambiguous returns being rigidly excluded. Let us now see the result. Of every 100 acres thus tabulated there are $22\frac{1}{4}$ acres on which the rents have not been disturbed for over *forty* years; there are $41\frac{1}{2}$ acres, including the former, on which the rents have not been altered for over *thirty* years; and there are 74 acres out of every 100 in which the rents are the same as they were *twenty* years ago. On the other hand, there are only 26 acres out of every 100 on which the rents have been changed within the last *twenty* years; and of these only $7\frac{3}{4}$ acres on which the rents have been altered within the last *ten* years. These are *facts*—not mere random statements; and surely they dispose effectually of the charge that Irish landlords are continually raising their rents.

It may be well to remark that the circumstance that the rents were fixed over so large an area in

the decade between 1850 and 1860 is due to the fact that large tracts of country were left tenantless after the Famine; and it is likely that the rents then fixed did not exceed—possibly did not reach—the amount paid for the same lands before the Famine.

The next charge brought against Irish landlords is that they are exterminators, continually evicting their tenants for the most trivial causes, often for no cause at all, but through mere caprice, whence the term "capricious eviction," with which the agitators have made us familiar. This charge derives especial importance from the fact that it was adopted by the Government as the reason for bringing in the "Compensation for Disturbance" Bill. There is no necessity now to do more than refer to that unfortunate measure, and to recall the fact that the statistics upon which the Government were induced to take it up were proved at the time to be inaccurate and misleading. The following Table will show how utterly baseless is the charge of extermination brought against Irish Landlords as a body:—

TABLE IV.,

SHOWING *the number of Evictions which have taken place during the last Ten Years upon Estates in Ireland with regard to which information has been obtained.*

	Leinster.	Munster.	Ulster.	Connaught.	IRELAND.
Total acreage of Estates with regard to which accurate information has been received as to the number of actual Evictions which have taken place during the last ten years, ...	1,658,417	1,560,097	2,237,416	1,258,474	6,714,404
Number of Tenants thereon, . .	40,660	29,818	80,727	41,157	192,362
Number of Evictions for non-payment of rent,	266	277	320	168	1031
Number of Evictions for other causes,	70	79	136	72	357
Total, ...	336	356	456	240	1388
Average number of Evictions per annum for non-payment of rent	26.6	27.7	32.0	16.8	103.1

causes other than non-payment of rent during the last ten years,	7.0	7.9	13.6	7.2	35.7
Average number of Evictions for all causes, per annum, during the last ten years,	33.6	35.6	45.6	24.0	138.8
Percentage of average number of Evictions for non-payment of rent, per annum, to total number of Tenants, during the last ten years,	.065	.093	.039	.041	.054
Percentage of average number of Evictions for causes other than non-payment of rent, per annum, to total number of tenants, during the last ten years,	.017	.027	.017	.017	.018
Percentage of average number of Evictions for all causes, per annum, to total number of tenants, during the last ten years,	.082	.120	.056	.058	.072

In this Table we have the results of the inquiries of the Land Committee respecting estates extending over six and three-quarter millions of acres of land, occupied by over one hundred and ninety thousand tenants. Little over a quarter of a million of acres, and only nine thousand tenants, have been excluded from tabulation for vagueness or incompleteness of detail. The area actually tabulated is, as nearly as possible, one-third of the whole country, representing a much larger area owned by the same landlords; and, as we have shown, fairly typical of the whole country. The Table extends over a period of ten years, including the recent unfavourable seasons. If the landlords of Ireland are the exterminators that the agitators represent them to be, surely we shall find evidence of the fact in their dealings, on so many estates, with so many tenants. The facts, as ascertained by the Land Committee, are certainly surprising—so surprising that if they were not vouched by authority altogether unimpeachable, we might well hesitate to accept them. Of the 192,362 tenants occupying these six and three-quarter millions of acres—a full third, be it remembered, of all Ireland—only 357 (three hundred and fifty-seven) have been evicted during the past ten years for causes other than non-payment of rent. Three hundred and fifty-seven evicted in ten years out of nearly two hundred thousand tenants, or less than thirty-six per annum, on an average—less than one in five thousand! Were it necessary to justify these

evictions, it could be shown that in almost every instance they were for serious breaches of covenant, for subletting, for overholding at expiration of leases, or with a view to the settlement of family disputes; but we think the landlords of Ireland may well take their stand upon the simple fact that a strict inquiry, extending over a third of the whole country, proves that less than one in five thousand tenants have been evicted annually for the last ten years for causes other than non-payment of rent.

Coming to the Evictions for non-payment of rent, we find a similar state of things. During the last ten years, only 1031 (a thousand and thirty-one) of these 192,362 tenants have been evicted for non-payment of rent—or on an average only 103 (one hundred and three) per annum, being at the rate of one eviction for every eighteen hundred and sixty tenants. From this fact we necessarily infer, either that the tenants on these estates hold their lands at moderate rents, which they pay punctually, or that their landlords are the most forbearing and indulgent of men. There is no getting out of this dilemma; and it is scarcely necessary to add, that either hypothesis is totally irreconcilable with the character in which the agitators are wont to represent Irish landlords.

Putting together both classes of Evictions, we find that the total number arising from all causes during the past ten years on the estates tabulated was only 1388, or less than 139 (one hundred and thirty-nine) per annum on an average. Thus we

see that, over the large area tabulated only one tenant out of fourteen hundred and twenty-eight has been evicted on an average, per annum, during the last ten years for all causes whatsoever. This is certainly a strange species of "*extermination.*" We may pass from this branch of the case with the single further remark, that if these two hundred thousand tenants had been peasant proprietors, a far larger proportion of them would have been obliged to part with their estates during the same period.

TABLE V.,

SHOWING *the amount of Money expended on Improvements by Landlords since* 1840, *on Lands in the occupation of Tenants, so far as same could be ascertained.*

PROVINCE.	Acreage.	BETWEEN THE YEARS				TOTAL.
		1840 and 1880	1850 and 1880	1860 and 1880	1870 and 1880	
		£	£	£	£	£
LEINSTER, . .	1,045,361	802,879	240,840	103,694	10,183	1,157,596
MUNSTER, . .	1,067,996	492,009	202,893	155,593	22,071	872,566
ULSTER, . .	1,138,906	456,919	126,431	25,800	28,077	637,227
CONNAUGHT, .	964,356	709,043	107,151	35,753	25,211	877,158
IRELAND, . .	4,216,619	2,460,850	677,315	320,840	85,542	3,544,547

This Table refers exclusively to money actually expended by landlords on improvements of lands in the hands of tenants, and it by no means represents the total expenditure by the landlords on the tabulated area, during the same period, nor does it include, in many cases, assistance given to tenants in the shape of building materials, or allowances for improvements executed by themselves, such as draining, fencing, removing stones, &c. The data from which the Table was compiled were, in many instances, exceedingly vague; and, even in cases where the amount was definitely stated, the period within which the money was expended could not be accurately given—hence the expenditure on many estates could not be tabulated at all. Thus only four and a-quarter millions of acres, out of a total of seven millions from which returns were received, are included in the tabulation—and, further, the period at which the outlay was incurred could not be given in decades, as in the preceding Tables. Thus, of the money tabulated as having been expended between 1840 and 1880, a portion—how large or how small we cannot say—may have been expended between 1850 and 1880; a further portion between 1860 and 1880, and so on. Similarly of the money set down as having been expended between 1850 and 1880, portion may have been laid out between 1870 and 1880; but the amounts tabulated for each period are exclusive one of the other; the amount expended between 1870 and 1880, for instance, not being included in

the amount expended between 1860 and 1880; and so on with the other columns.

This subject of improvements by landlords in Ireland is one on which much misapprehension exists; and it has been gravely argued that because landlords in England commonly provide suitable residences and farm buildings, and keep up fences, gates, &c., Irish landlords should do the same; and that, if they fail to do so, they forfeit, to a great extent, the title to their estates. Those who propound this doctrine are either grossly ignorant of the true circumstances of the case, or they wilfully misrepresent them. There is really no analogy, in this respect, between the two countries; in England the farm, as a rule, is large; in Ireland it is small; in England, farms of ten, twenty, or even thirty acres are practically unknown; in Ireland there are, in round numbers, 370,000 tenants whose holdings do not exceed thirty acres, not reckoning those whose holdings do not exceed one acre.

The comparison between the English and Irish systems fails exactly at the point where alone it could be made with practical advantage, and the English landlord is spared the obloquy which is sought to be fastened upon the landlord in Ireland. Not to go beyond the estates included in the tabulations of the Land Committee, we find that there are upon them some ninety-five thousand tenants whose holdings are valued at less than £10 a-year. Assuming that the letting value of these holdings may be from £5 to £14 a-year, according to

circumstances, it would cost the landlord a large proportion of the value of the fee-simple to erect really good substantial houses and offices, and to make and maintain the necessary or unnecessary fences. Landlords might incur this outlay, and many do, from purely philanthropic motives; but, as a matter of business, it would be simply suicidal. No tenant would be found willing to pay such a sum yearly as would indemnify the landlord for his expenditure and yield him a fair rent for his land. Hence, as a rule, the landlord cannot undertake to provide suitable buildings on the small farms. The work, if done at all, must be done by the tenant, who can do it more cheaply and more to his own taste than anybody else. But it must not be supposed that the landlord does not contribute to the erection or improvement of the house and offices on such holdings. On most of the larger estates the custom has been to give the timber and slates for the new buildings, leaving the tenant to provide only the stones, lime, and sand, all of which are plentiful in most parts of Ireland. On some estates a sum of money, or an equivalent allowance in the rent, is given towards the building; and on all estates the rent is adjusted to the circumstances of the farm. This rent, in the case of the small farms, is the agricultural value of the land, irrespective of the buildings and "improvements." The following Table shows the systems which prevail on the estates tabulated by the Land Committee.

TABLE VI.,

SHOWING *by whom the Agricultural Improvements have been executed on the Estates referred to.*

PROVINCE.	Number of Estates on which existing Agricultural Improvements have been executed by			Total Number of Estates.	Acreage on which existing Agricultural Improvements have been executed by			Total Acreage.
	Landlord.	Tenant.	Contributions from both Landlord and Tenant.		Landlord.	Tenant.	Contributions from both Landlord and Tenant.	
LEINSTER, . .	94	202	312	608	225,899	300,798	1,096,321	1,623,018
MUNSTER, . .	54	76	224	354	262,485	181,406	1,110,369	1,554,260
ULSTER, . .	14	239	172	425	31,385	1,019,385	1,186,573	2,237,343
CONNAUGHT, .	38	73	131	242	209,954	262,234	738,895	1,211,083
IRELAND, . .	200	590	839	1,629	729,723	1,763,823	4,132,158	6,625,704
PERCENTAGES,	12.28	36.22	51.50	100.0	11.01	26.62	62.37	100.0

This Table, which applies to nearly six and three-quarter millions of acres, proves that, although the existing agricultural improvements have been made by the tenants on 590 estates, they have been executed exclusively by the landlords on 200 estates, and that the landlords have contributed to the improvements on no less than 839 estates—or rather more than half the whole number tabulated. It is further to be observed that, in respect of area, the estates on which the improvements have been made by the tenants only are relatively the smallest. The tenants are returned as having made the improvements in 36.22 per cent. of the estates tabulated; but these estates comprise only 26.62 per cent. of the whole area included in the return; while the estates on which the landlords have either made the improvements, or contributed towards them, form 63.78 per cent. of the estates, and 73.38 per cent. of the area. A similar disparity appears in the average area of the estates; those on which the tenants have made the improvements averaging barely 3000 acres each, while those on which the landlords contribute average about 4700 acres—the total acreage of the former class being only one and three-quarter millions, while the latter class comprises close on five millions of acres.

Two things must be remembered in connexion with this branch of the question—first, that the law, until quite recently, expressly recognised the ownership of the landlord in all improvements

made on his estate, no matter by whom, unless there was a written agreement to the contrary; and secondly, that tenants took their farms subject to this condition. Whether the law were a wise one or not, we need not stop to discuss; for since 1870, the presumption of ownership in improvements lies with the tenant—and the Land Act, which effected this change, is retrospective in its operation. No tenant can now be removed from his holding, even for non-payment of rent, without full compensation for any improvements he or his predecessors in title may have made thereon—and this, although when he took the holding, the presumption of law was the other way; and he got it at a reduced rent in consequence of that very presumption.

We have confined ourselves hitherto to considering the case of the small tenants; and we have assumed that they really effected the improvements which they claim to have done. What the nature of those "improvements" is, in the majority of cases, we need not pause to inquire; all we assert is that the tenants, in such cases, are reimbursed for any outlay of capital or labour which they incurred, by the usufruct of the land, so long as they continue to hold it; and that if, from any cause, they are deprived of possession, they have the right, under the Land Act of 1870, to full compensation for any improvements they may have made. With the large farms the case is different. On such, the tenants do not, as a rule, make the

necessary improvements, which in most cases are effected by the landlord, or at his cost, pretty much as they are in England. We have, perhaps, bestowed more space on this matter than its importance deserves, but it is one much misunderstood and misrepresented; and as efforts have been made, with the avowed object of inducing English landlords to withdraw from their persecuted brethren in Ireland the sympathy which has hitherto been so loyally extended, on the grounds of the difference of practice in the two countries, we have thought it necessary to put the facts in their true light.

We have now gone through the statistics collected by the Irish Land Committee, and given in evidence by them before both the Royal Commissions now engaged in investigating, more or less directly, the Irish Land Question. We have endeavoured to point out what appears to us to be the significance of those statistics in plain—and we trust moderate—language. We claim to have shown that, on an actual area exceeding one-third of all Ireland, and probably representing more nearly one-half of the whole country owned by the same proprietors, the landlords, instead of being harsh, rapacious, and arbitrary, are kindly, considerate, and indulgent. They are accused of taking advantage of the monopoly they enjoy to exact exorbitant rents; the statistics prove that, as a rule, they let their lands at rents well within the very moderate standard laid down by Sir R. Griffith, whose valuation was based upon a scale of prices of

agricultural produce fully 50 per cent., all round, below those which have prevailed with but little fluctuation since that valuation was made. They are charged with continually raising their already exorbitant rents; the Tables show that, on three-fourths of the area tabulated, the rents have not been disturbed for over twenty years, and, upon a considerable proportion of it, for over forty years. They are held up to public odium as "Exterminators," whereas they have not evicted one tenant in every five thousand, on an average, for the last ten years, for other causes than non-payment of rent. These are not mere assertions, they are facts which can be verified to the letter, and which have been given in evidence before two Royal Commissions. We do not seek to deny that individual owners of land in Ireland have exacted rents higher than they should have demanded, or that they have raised their rents from time to time. It would be strange indeed if, among so many proprietors of land as exist in Ireland, some grasping, avaricious men should not be found. But we do deny, and that most emphatically, that such men form any appreciable percentage of the whole body of Irish landlords; and we assert that they are chiefly, if not entirely, to be found among the small purchasers of lands sold in the Incumbered Estates Court. Some no doubt of the purchasers in that Court were men who had made money in petty trade, or by money-lending, and who bought land as a specu-

lation rather than as an investment. The practice of dividing estates for sale into small lots facilitated the operations of such men, who, having no bonds of sympathy with the tenants on their newly-acquired properties, and no family traditions to maintain, sought only to realize the largest possible percentage on their outlay. If these men treat their tenants harshly, let it not be forgotten that they are the creation of an Act of Parliament not yet thirty years old; but let not their sins be visited on the heads of the landlords of Ireland, whose mode of dealing with their tenants we have proved to be so entirely different. Of course we do not mean to convey that all purchasers under the Incumbered Estates Court are mere land speculators, whose only object is to realize a large interest on their outlay, or to re-sell their purchases at a profit. On the contrary, we believe that such speculators form the exception in respect of area purchased and amount of purchase-money; but they are unfortunately numerous enough to introduce an additional element of difficulty into a question already sufficiently complicated—and, not the less so, because they hold their "estates" by a recent Parliamentary Title.

With the immediate prospect before us of fresh legislation on the tenure of land in Ireland, we earnestly request the attention of those who direct and influence public opinion to the facts now laid before them for the first time. We do not expect or hope for favour; we ask simply for fair play. If the pic-

ture which we have drawn of the dealings of Irish landlords with their tenants, on the seven millions of acres of which the Land Committee have been enabled to speak with absolute confidence, be different from that with which the public have hitherto been made familiar from Land League platforms, and in the columns of the Irish "National" Journals, we only ask that the evidence in support of each be carefully examined. On the one side, we find a body of statistics drawn impartially from every province of Ireland; on the other, the vague assertions of irresponsible agitators. Up to this hour, the Land League has not made a single attempt to prove, by evidence that could be grappled with, the truth of the charges they so persistently make against the landlords of Ireland. Of vague denunciations of "Landlordism," astounding in their recklessness and audacity—of passionate appeals to the ignorance, the prejudices, and, above all, to the cupidity of their hearers, we have had abundance; but of evidence, worthy of the name, absolutely none. Even if we had nothing to rely on but the counter-statements of the landlords and their friends, we should have testimony at least as worthy of credit as that produced against them; but, when we are enabled to appeal to such a body of evidence as the Tables of the Land Committee afford, we are entitled to ask—and we believe that we shall not ask in vain—that, in dealing with the Irish Land Question, the facts which those Tables establish shall receive the thoughtful attention which

their guaranteed authenticity and their importance demand. And we would remind those whose solemn duty it will be, within the next few months, to deal with the laws of land tenure in Ireland, that recent attempts at legislation on the subject have not been uniformly successful, and have not produced the results expected from them. We do not deprecate reform, if it be proved to be necessary, and if fair grounds can be shown for the hope that it will remove admitted grievances; but we do venture to expect that the fabric of Irish society will not be pulled to pieces in order to remove imaginary grievances; or in the vain hope of appeasing a class of men who have declared themselves irreconcilable, and whose ulterior aims extend far beyond any possible settlement of the Irish Land Question.

THE

LAND QUESTION, IRELAND.

No. IV.

FRENCH OPINION

ON THE

IRISH CRISIS.

ISSUED BY

THE IRISH LAND COMMITTEE,

31 SOUTH FREDERICK STREET, DUBLIN.

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PREFACE.

At a time when the example of France is constantly obtruded on the English Public, as suggesting an expedient for the regeneration of Ireland, it is satisfactory to be able to refer to the opinion of a distinguished Frenchman on the subject.

M. de Molinari is a scientific Economist, who has devoted special attention to industrial and agricultural questions; and being a Belgian by birth, he is specially familiar with that system of small holdings which has so often been recommended as a remedy for Irish discontents.

The letters from which the following extracts have been translated originally appeared in the

Journal des Débats during the months of August and September, 1880; and the extracts contain the deliberate conclusions of M. de Molinari on the subject of the Irish Crisis.

M. de Molinari, it will be seen, is of opinion that in Ireland "Tenants have ceased to be under the absolute dominion of Landlords;" and that "the law guarantees to them all those rights which it is just and reasonable that they should possess—perhaps even something more" (p. 15).

He declares that in Ireland "the general rate of the rents is moderate;" and that "for the same quality of land it is one-half lower than the rate of the rents in Flanders (pp. 16, 17).

He recognizes the truth that in Ireland "most of the improvements have been made at the expense of the Landowners" (p. 18); and that "the efforts of the Tenants, so far from leading to the improvement of the soil, have rather tended to exhaust it" (p. 17).

With respect to the Ulster Tenant-Right, he says that "instead of paying one rent, the Tenants pay two—that due to the Landlord

and that represented by the interest of the sum paid for the transfer," (p. 19); and, "that in spite of the Ulster Custom, Donegal, in which it prevails, is one of the most miserable districts in Ireland" (p. 20).

Of the proposal which would replace the Landlord by the Government, he expresses the deliberate opinion that "the worst result of this artificial combination would be to reduce Agrarian Pauperism in Ireland to a system" (p. 21).

He holds that the and League has accepted the heritage of the Whiteboys, the Ribbonmen and the Molly Maguires (p. 15).

He holds that "the Eviction of Landlords would deprive Ireland not only of the greater portion of her capital, but also of the best part of her civilization" (p. 18).

He holds that "all that is required for the evolution of the result, which the force circumstances is working out, is that Nature should be allowed to take her course;" and that all that Government should aspire to do is to assist

Nature by well devised schemes of Emigration (p. 24).

He holds, in fine, that Ireland has as much to fear from Political Quacks as it has to fear from its Political Disorders (p. 25).

FRENCH OPINION

ON THE

IRISH CRISIS.

Introduction to Letter 1.

Aug. 4th. 1880

Let us suppose that the Municipal Council of Paris thought fit to issue a Decree in some such words and with some such preamble as follows :—

WHEREAS the hardness of the times causes the occupiers of lodgings in certain quarters, such as Belleville, Menilmontant, the Faubourg St. Antoine, and others, to experience extreme difficulty in paying their rents; and WHEREAS a great number of them are several terms in arrear, and are threatened with ejectment by rapacious or at least ungenerous landlords; THE MUNICIPAL COUNCIL DECREES, *First*, that if any landlord shall before the 31st of December, 1881, take on himself to eject any lodger occupying lodgings in the aforesaid quarters under the vain pretext that the said lodger has omitted to pay the rent then due, such landlord shall be deemed to have disturbed such tenant; *Secondly*, that if it be proved to the satisfaction of a competent Court that the default in payment of rent

due is caused by its being impossible for the lodger to pay, and that he does not, nevertheless, refuse to come to an understanding with the landlord to continue in occupation of the holding at a reasonable rate of rent, as also to settle amicably the question of arrears; in short, if it be proved that the landlord has obstinately refused to accept these offers and has not made on his own side any reasonable offer of accommodation; in such case the landlord found guilty of disturbing the tenant shall be bound to pay to the ejected lodger a compensation for the damage he shall have unduly caused, which compensation may amount to one-third of the capitalized value of the rent.

If our Municipal Council thought fit to issue a Decree of this sort, people would be sure to accuse it of making an attack on property, and placing Society at the mercy of Collectivism and Communism. Nor would they be wrong. And yet the Decree, the terms of which I have given is the exact counterpart of the *Compensation for Disturbance Bill* which has been passed by the House of Commons, and is now under consideration by the House of Lords, with a view to relieve the tenants in those parts of Ireland which are suffering most severely from distress. It appeared to me that a situation which called for such extraordinary remedies deserved a close examination, and this is my reason for determining to spend three or four weeks in Ireland.

* * *

Letter X and last.
—
Sept. 8th, 1880.

I now proceed to give a *resumé* of the impressions which a stay of a month in the most impoverished and most disturbed parts of Ireland has made upon my mind. In spite of everything, the economic situation there has begun to improve ; and I would add that the improvements would be still more marked if only Nature were left to herself.

Ireland undoubtedly suffers. She labours under one of the worst forms of Pauperism—*Agrarian Pauperism.* Of the 580,000 occupiers* who till her soil there are about 230,000, representing a million individuals, a fifth of her population—who have scarcely the means of living in good years, and whose miserable balance-sheet is closed with a deficit. When a bad year comes upon them this million of poor people find themselves on the verge of starvation. The Poor-rate and the Public Works Loans are insufficient to support them. As Mr. Davitt, the apostle of the Land League, said at the meeting at Chicago, Ireland is then obliged to hold out the wooden bowl to the charitable throughout the world.

But the social malady of which I speak is not peculiar to Ireland, though it is there exceptionally violent, and has, at least of late years, been aggravated by the doctors. I allude to the *Social Doctors*—a race of men who were unhappily unknown

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* There are really only about 450,000 tenant farmers. The 580,000 include all holders of land for agricultural purposes or otherwise. M. de Mdinari's 230,000 is also considerably over the mark.—[*Editor.*]

to Moliére, and whose special vocation it is, as every one knows, to cure all the evils of society. If they do not wear the long robe and the sugar-loaf hat of the Doctors of Moliére, they resemble them at least in the essential particular of believing religiously in the infallibility of their systems and the virtue of their elixirs. Poor Ireland, with her open wounds, which she is falsely accused of parading in order to excite pity, but which the inveterate use of whisky may have contributed to inflame, has attracted Doctors just in the same way as the commodities in the stalls of the Dublin butchers near St. Patrick's Cathedral attract flies. From all quarters have gathered together Doctors—political, socialistic, philanthropic, revolutionary, and parliamentary—wildly disputing and seeking to try upon the country the virtue of their several panaceas. I look in vain for a real remedy for her disease amongst their heterogeneous prescriptions. Those which are most vaunted are not only inefficacious but positively mischievous.

In this category I would at the outset place *Home Rule*—whether it be taken to mean the complete separation of Ireland from England, or the re-establishment of an Irish Parliament, with a simple federal bond between the two nations. England will never consent to repeal the Act of Union, and upon that point the most advanced Radicals are perfectly in accord with the stanchest Tories. Would it be possible to compel England to do so? Many Irishmen, and those by no means the least intelli-

gent, indulge in this hope. 'England,' said one of them to me, 'has begun to decline; she occupies no longer the second or even the third place among the Military Powers, and that at a time when prestige is more than ever dependant on large battalions. She could not maintain a struggle with Germany or even with Russia. Where would she find soldiers? Ireland supplied her formerly with the flower of her army, but since our young men have commenced to emigrate to America, rather than enrol themselves under her flag, she recruits her regiments only from the dregs of the population, and even then it is with difficulty that she succeeds in obtaining the number which she requires. Her hold on India is precarious, and Canada and Australia will before long sever their connexion with her. What portion of her power will then remain? A century ago the liberation of Greece and of Bulgaria would have been regarded as a dream, but that dream is to-day a reality. Why should it not be so with Home Rule? Why should not we, as well as the Greeks and the Bulgarians, succeed in shaking off our Turkey, and in re-establishing Irish nationality?'

I could have raised objections to this line of argument and could have replied to the Home Ruler, who appeared so convinced of the force of his remarks, that the credit of England was not yet reduced to the level of that of Turkey; but to what purpose? Passion is not only blind but it is deaf; and the agitation for Home Rule, is eminently an affair of passion.

Suppose that Ireland by means of some political cataclysm should succeed in recovering her independence, would her situation in consequence be ameliorated? She now contributes the modest sum of only £6,781,000 to Imperial Taxation, while England and Scotland contribute £62,803,000; in other words, she is a source of expense to her two partners. If she were to become independent, she would be obliged to bear all the cost of her Government, both internal and external; her expenditure would be at least doubled, and consequently so would the amount be, which it would be necessary to raise by means of taxation. Then comes the question, Would Ireland if she were independent be better governed? It is evident that her Local Administration leaves much to be desired. I was struck by the wretched appearance of the workhouse in Galway; and the newspapers contained numerous revelations by no means edifying as to the administration of the workhouse at Belfast. The Towns in Ireland are ill paved and dirty, although the municipal budgets rapidly increase, while the Prisons and the Constabulary, which are under the control of the Central Government, are models of organization and good order. The same may be said of the Post-office Department, except perhaps in the case of Dublin, where the Post-office, although a magnificent building with colonnades, situated in Sackville-street, contains no accommodation for the public, who are relegated in the Continental fashion to a long passage with a door

opening on a side street; worse still, the business arrangements are defective. On the other hand, in the smaller localities, and particularly in those in which females are employed, the management of the department is worthy of all praise. Those, therefore, who derive benefit from the public services, and who constitute the great mass of the population, have nothing to gain from the establishment of a national government. I would say the same for that intellectual *élite* which now shares in the vast outlets which the British Empire affords to every description of talent. Assuming, then, that the politicians, journalists, and others of whom I have been speaking, clever but terribly restless people, were to be thrown back upon the limited resources of a nationalized Ireland, I would ask, could they there find, with the facility they would wish, positions corresponding to their merits, and would their rivalries tend to consolidate the public peace? 'An Independent Ireland,' said an Irishman to me who was not a Home Ruler, 'would be soon torn asunder by the contentions of parties. Before ten years had elapsed we should have a Civil War. The North, in which industry and capital are concentrated, would eventually rule over the South, as has happened in the United States; the Catholic would again fall under the yoke of the Protestants, and it might come to pass that they would implore the aid of England and the re-establishment of the Union to deliver them from so detested a bondage.' Is it necessary to add that an agitation set on foot

for the purpose of realizing the most chimerical of political Utopias turns the mind of the people from the path of possible progress, frightens away capital, and obliges England to reinforce her garrisons? Behold, then, without speaking of Coercion Bills, or Peace Preservation Bills, the benefits of Home Rule!

Is the Agitation of the *Land League* more sane, or less chimerical? What do those who are the promoters of that agitation seek to effect? They wish to remove the Landlords, and to replace them by Peasant Proprietors. They desire also to make general the Ulster Custom, which empowers a tenant to choose his successor, and to sell to him his Tenant-Right for a money payment. But above all things it is their object to prevent the Landlord enforcing his right to eject those tenants who have not paid their rent; and they seek in a general way, to pledge all those tenants who happen to be in arrear to 'hold the harvest'—that is to say, not to pay a penny to those terrible Landlords (who are designated as 'land robbers') under pain of being considered traitors to the cause of the people, and of exposing themselves to the decrees of Popular Justice. But Popular Justice is not remarkable for its mildness, nor has it moreover the choice of punishments: for the Government has not as yet thought fit to recognize the validity of its decrees, and goes so far as even absolutely to prohibit the proposed rivalry with its own administration of justice, instead of sharing in a fraternal way its prisons and its gallows with the Land League.

Disobedience to the Agrarian Law which the people in their sovereign wisdom have established is, therefore, generally punished with death. Sometimes they are satisfied with mutilating the cattle belonging to the person who happens to have come under their ban, or with doing some injury to himself. Quite recently, for example, a collector of rents escaped with only the loss of an ear. It would not, however, be just to attribute to the Land League the establishment of this *Sainte-vehme*. It has existed for centuries, and perhaps, at the time when the agricultural classes were entirely at the mercy of Landlords, served to moderate the exercise of their powers, just as the absolutism of the Eastern Monarchies, as has been said, is tempered by poison and the bowstring. But Tenants have ceased to be under the absolute dominion of Landlords; and the law guarantees to them all those rights which it is just and reasonable that they should possess—perhaps even something more. Agrarian Justice, therefore, as it is still practised in Ireland, is simply a barbarous anachronism; and the Land League has committed a fault which is inexcusable, in accepting for the sake of popularity, its heritage of Whiteboys, Ribbonmen and Molly Maguires. Indeed, the moderate members of the League repudiate agrarian outrages, and even the enthusiasts themselves abstain from openly advocating them. Mr. Dillon, for example, has declared that he had no intention of preaching up the mutilation of cattle at the meeting at which he was present in Kildare. But is it not

clear that in advising tenants not to pay rent, and in denouncing as traitors to the cause of the people those who pay it, or, still more, those who take the place of an ejected tenant, the men who so act do half the work of the *Justice Vehmique?* They condemn the traitors, while they leave it to the people to execute the sentence according to the accustomed method. When the blood of the traitors has been shed, have the men of whom I speak the right to wash their hands of it? If these agrarian outrages continue to increase will not the Government inevitably be compelled to introduce some Coercion Bill, which will put an end to the agitation of the Land League?

But, supposing that the Agitation should go on without any hindrance, and that it should even succeed in preventing evictions and the payment of rent, whether arrears or not, would the *Situation of the Tenants* be improved? There are two kinds of tenants—those who possess a tenure of sufficient length in point of time, and who avail themselves of it with intelligence and economy; and those who cultivate, in accordance with the agricultural processes of the days of the Pharaohs, wretched little strips of land the meagre harvest of which even in good years hardly enables them to make both ends meet. The first pay their rents without difficulty, and in bad years, should they require it, the landlords rarely refuse to grant them time for the payment; good tenants do not abound in the market, and a landlord when he possesses such is anxious to retain them. I may add that the general rate of rents

is moderate, as far as I have been able to judge, for the same quality of land it is one half lower than the rate of rents in Flanders. The small tenants, however, would be in a state of misery even though they were to get the land gratis; and the rent is by no means the heaviest of the charges which they bear—leaving altogether out of account the consumption of whisky. They are for the most part burdened with debts which their wretchedness and improvidence have led them to accumulate; and though the landlord were not to insist upon his rights, so magnanimous an act would apparently have no other result than to give the tenant the opportunity of replacing him by his other creditors, inasmuch as his credit would be for the time increased. 'I ejected one tenant last month,' writes an Irish Agriculturalist in *Macmillan's Magazine*, 'and between the time I got the decree and its execution a fortnight afterwards, no less than five or six decrees for debts were executed upon the stock he had, and it is known there are still more to come. The occupation of a farm by a ruined tenant is a loss to all, especially to himself.' Indeed, how can capital be expected to flow in an agricultural direction if a landlord can only recover rent on pain of being stigmatized as a robber and being treated as such by popular justice?

Will it be said that the Tenants see to the *Improvement of the Soil?* Hitherto their efforts have tended rather to exhaust it. 'The advocates of Tenant Right,' says the writer in *Macmillan's Magazine*, maintain that tenants have a right to compensation

for having reclaimed the land from a state of nature. The truth is, they took every good thing out of the land that nature at first put in it, and left it as near a state of *caput mortuum* as possible. Most of the Improvements have been made at the expense of the Landlords. I have often asserted that I have drained more land than all the tenants together for 20 miles round on every side. If I said I had drained twice as much I believe I should still be far within the truth. I have said that my tenants are much before most of those on adjoining estates in wealth and good farming. When the Land Act passed I made inquiry on the subject, and satisfied myself that all the improvements done by the tenants from father to son, and at the value the tenants themselves put on them, did not amount to a year and a half's rental of the estate. Assuming that the landlords (who have more capital and better credit than the tenants), were thrown overboard, would agriculture be any the better for it? One must be ignorant of the character of the Irish tenant to believe such a thing. The fact is the soil requires all the available capital of both landlords and tenants for two or three generations to come, to be put into a proper state.'

In short, the *Eviction of the Landlords* would deprive Ireland not only of the greater portion of her capital, but also of the best part of her civilization. Of course, such an eviction need not be feared so long as the Act of Union subsists. With the exception of a few hot-heads the promoters of the land agitation are under no delusion on this point. Meanwhile,

capital flees from a country where the celebrated aphorism *La propriété c'est le vol*, has become a commonplace in the mouths of agitators; and the less capital there is in a country the more important is the part it plays in production, and the less important become the functions of labour. Ah! if the Irish people only knew a little Political Economy! But Political Economy is nowhere as yet a popular science, for it is well known Political Economists are everywhere 'bound hand and foot to capital.' Hence the fervency of the popular belief in Ireland in political panaceas, socialistic or philanthropic, for the cure of all the evils of society. The people believe in these as they would in the efficacy of a sacred pool for the cure of bodily ailments.

Let us consider the second of these panaceas—namely, *Ulster Tenant Right*. This is a custom which sprang up in the North of Ireland at a period when payment of rent was very unpunctual. The landowners authorized their tenants to transfer their farms on condition of paying the arrears out of the price of the transfer. But has the position of the new tenants thereby been improved? Instead of paying one rent they pay two—that due to the landlord and that represented by the interest of the sum paid for the transfer. Besides, the obligation of providing this sum, often considerable and always heavy in proportion as the rent is moderate, deprives the incoming tenant of the capital necessary for the proper working of his farm. On the principle of *post hoc ergo propter hoc*, the prosperity of the

North of Ireland has, of course, been attributed to the Ulster Custom without regard to the question whether the capital and industry of England and of Scotland, which have made Belfast a second Glasgow, have not also something to do with it. The Ulster Custom prevails in Donegal, and that picturesque portion of the North-West is, nevertheless, one of the most miserable districts in Ireland.

The panacea *par excellence*, which Socialist Radicals and Liberal Philanthropists unite in extolling, is the transformation of tenants of every degree into *Peasant Proprietors* by an operation similar to the emancipation of the serfs in Russia. The Government would acquire land at a fair price, and make over the ownership of it to the tenants on the understanding that the latter should pay off principal and interest in 35 years. Thanks to the exceptional credit enjoyed by the English Government, (notwithstanding that its enemies predict for it a speedy decline to the condition of the Government of Turkey) the increase in the annual payments by the tenant would be insignificant, and all his evils would be infallibly cured by a plunge into the sacred pool of property. Examples in support of this view are not wanting. In particular, the case of the Peasant Proprietors of France and Belgium is quoted. The advocates of this system, however, fail to add that the subdivision of property in France and Belgium has been the work of centuries, and that the Peasantry, before becoming Proprietors, acquired those qualities of order and economy which are indis-

pensable to the good administration of property. They worked and saved, sou by sou, the capital which they employed first to acquire and afterwards to extend their little possessions. Nothing of that kind is sought on behalf of the Irish Tenants. It is proposed in their case to do away with this apprenticeship to property—merely substituting during a period of 35 years, more or less, the Government for the Landlord. I am aware that something of this kind has been done in Russia; but it has not been shown that the popularity of the Russian Government has thereby been promoted, still less the welfare of the peasant, who now groans under the burden of taxation augmented by the yearly instalments of the purchase-money. It may be remarked also that while the Czar was regarded and venerated as a father by the Russian peasant, the Irish peasant has no such filial feeling for the Government of the Queen. In some cases he even detests his Landlord, although this sentiment is far from general. What will his feelings be, then, when the Landlord is replaced by Government, which uses Ireland for its own purposes, and massacres 'brave Afghans?' Let us not forget, moreover, that this new Landlord will be obliged to exact regularly the instalments due without any abatement such as Landlords usually make in bad years. Can any one suppose that the position of this new Official Creditor will be a pleasant one?

But the worst result of this artificial combination will be to reduce Agrarian Pauperism in Ireland

to a system. The *Position of Small Tenants* in Ireland could hardly be better compared than to that of the hand spinners and hand-loom weavers on the introduction of machinery into their handicrafts. Now that agriculture has become a business, the little agricultural workshop which was, not without reason, supposed to be the best adapted to the old order of things, is getting out of date, and woe to those who endeavour to hold on to it! They will go down in the struggle as did the hand-loom weavers when they entered into a hopeless contest with machinery, and as the owners of stage coaches would have gone down had they attempted to compete with railways. Well, of what avail would it have been to the hand-loom weavers had the Government proposed to make them proprietors of their old hand-looms? Would it not rather have added to their misfortunes to have encouraged them or forced them to retain, until they had paid off their debt, appliances that were out of date? Small farms, where the soil is cultivated in the old fashion, are to modern agriculture what the hand-loom is to modern weaving; and do not those philanthropists who desire to attach the tenants to small holdings by offering the bait of proprietorship practically bar the path of progress?

So far, it may be remarked, this deferred panacea has in no wise proved seductive to the Irish tenants. Special clauses, known as the *Bright Clauses*, were inserted in the Land Act of 1870, for the purpose of facilitating the acquisition

of Land by the tenants—the Government undertaking to advance them two-thirds of the purchase-money. These extraordinary facilities have been taken advantage of only to a very limited extent. During the first ten years the amount of land acquired by means of the Bright clauses has not exceeded 45,000 acres.

But it will be said, as, indeed, the Landlords themselves have said to me, *Something must be done*. Of what use are Doctors if they do not prescribe remedies? It may be that something must be done, but all remedies are not equally good. It is essential, first of all, to study, in an unprejudiced way, the condition of the patient, to seek out the causes of his malady, and to be careful, above all, not to counteract the *Vis medicatrix Naturæ*. The cause of the Economic Evil from which Ireland is suffering—and this evil is the root of all others—is the existence of from 290,000 to 300,000 tenants, representing a million individuals, who work with old-fashioned tools, and whom the slightest failure in the crops reduces to the verge of famine. A glance at the statistics of Ireland will show that Nature herself is endeavouring to effect a cure, and that if she is but left alone small holdings, before another quarter of a century has elapsed, will have disappeared from Ireland. In 1841 there existed 310,436 farms of from one to five acres, and 252,799 farms of from five to fifteen acres a-piece. In 1878 those numbers had been reduced to 66,359 and 163,062. On the other hand, the number of farms

of from fifteen to thirty acres had increased during the same interval from 79,342 to 137,493, and those above thirty acres from 48,625 to 161,264. Since the Land Act established a special system of protection for small holdings the rate of progress in this direction has naturally tended to fall off. Progress, however, continues nevertheless, and Ireland in due time will be cured of her sore of pauperized holdings, in spite of the Doctors.

But what will become of *the Small Tenants?* Some will emigrate to America; others will become mere agricultural labourers. 'My best hands,' says the author of the article in *Macmillan's Magazine*, 'are old tenants, and their pride has been to go to mass better dressed than the small farmers of the neighbourhood. They are unquestionably better off. For 30 years past the young men and women have had as much work as they wished at good wages. Thousands and tens of thousands have availed themselves of it, and the condition of these simple farm-labourers is in every way preferable to that of the small tenants.'

All that is required, then, for the evolution of the result, which the force of circumstances is working out, is that Nature should be allowed to take her course. The only way, perhaps, in which she may be usefully assisted would be to lighten the labour market in England and America, and to advance money to those whom the gradual suppression of small holdings leaves for the time being without work and penniless, to enable them to move to a distance or

to emigrate. The Canadian Government has shown itself disposed to favour this system under proper guarantees for the recovery of the sums of money advanced. Let the Land League transform itself into a simple Employment and Emigration Agency for the benefit of the small tenants who are evicted by the march of events like the hand-loom weavers, and the change which is indispensable, will be effected with a *minimum* of suffering.

Need it be said, however, that this modest *rôle* of assisting Nature and, as often as not, letting her take her own course, does not suit the Political Doctors, Socialists, and others whom the Irish people have chosen to consult, attracted by their fine promises and their loud pretensions? Ireland—and this is the final conclusion at which I have arrived—suffers not only from her Disorders, but also from her Doctors.

A Bill to make temporary provision with respect to Compensation for Disburbance in certain cases of Ejection for Nonpayment of Rent in parts of Ireland.

WHEREAS, having regard to the distress existing in certain parts of Ireland arising from failure of crops, it is expedient to make temporary provisions with respect to compensation of tenants for disturbance by ejectment for nonpayment of rent in certain cases :

Be it therefore enacted, &c. :

1. An ejectment for nonpayment of rent for the recovery of the possession of a holding situate wholly or partially in any of the poor law unions mentioned in the schedule hereto, and which shall be commenced *after the passing of this Act* and *before the thirty-first day of December one thousand eight hundred and eighty-one*, or which shall have been commenced *before the passing of this Act*, and in which any judgment or decree for possession shall be executed *after the passing of this Act and before the thirty-first day of December one thousand eight hundred and eighty-one*, shall be deemed and declared, by the court having jurisdiction to hear and determine land claims in and for the county in which such holding is situate, to be a disturbance of the tenant by the act of the landlord within the meaning of the third section of the Landlord and Tenant (Ireland) Act, 1870, notwithstanding anything contained in the said Act—

If it shall appear to the Court—

(1.) That such nonpayment of rent by the tenant is owing to his inability to pay, caused by such distress as aforesaid ; and

(2.) That the tenant is willing to continue in the occupation of his holding upon just and reasonable terms as to rent, arrears of rent, and otherwise ; and

(3.) That such terms are unreasonably refused by the landlord.

2. This Act may be cited for all purposes as the Compensation for Disturbance (Ireland) Act, 1880, and shall be read and construed as one with the Landlord and Tenant (Ireland) Act, 1870

THE

LAND QUESTION, IRELAND.

No. V.

ARRESTED PROGRESS.

JANUARY, 1881.

ISSUED BY

THE IRISH LAND COMMITTEE,

31 SOUTH FREDERICK STREET, DUBLIN.

LONDON: WILLIAM RIDGWAY, 169 PICCADILLY.

DUBLIN: HODGES, FIGGIS & CO., 104 GRAFTON STREET.

CHARLES CHAMBERS, Printer, 36 Dame-street, Dublin

ARRESTED PROGRESS.

In the controversies with which we are now so unhappily familiar, we are accustomed to phrases such as "the people of Ireland," "the condition of Ireland," and others of like import—phrases implying that the whole people of Ireland are to be regarded as one body, and that the condition of Ireland is uniform throughout. Neither of these implications is true, or even anything like the truth. Leaving the question as to the homogeneity of the "Irish people" to be dealt with for the present by politicians, it may be well to consider what is the truth about the condition of the country. Here, one very remarkable circumstance presents itself. The implication always is, not only that the condition of Ireland is uniform, but that it is a condition of uniform poverty. Now, nothing can very well be further from the truth than this. Ireland is even now very far from being a poor country. Ireland, four years ago, before this unhappy agitation began, was well on the way to become an actually rich country. Her progress in this career has been arrested for a time; but this arrest, which began from purely

natural causes, threatens to become a disastrous retrograde movement, under the pernicious influence of selfish counsels and false patriotism.

It is by no means unimportant to attain to correctness of view on this subject. The agitator possesses some of the sleight-of-hand of the thimblerigger, and deftly rings the changes from complaints of poverty to tirades of sentiment. It is of the utmost importance, therefore, to follow him wherever he shifts his ground, and to beat him from one post after another. It is *not* true that the majority, or even that an important minority, of the Irish people is abjectly poor. Poverty exists in Ireland as it exists in every other community in the world. But it exists with this difference, that it is for the most part the sufferers' own fault. Emigration from over-populated districts would relieve the stress, and would benefit alike those who departed and those who remained. But emigration would destroy the trade of the agitator, and against emigration, accordingly, the agitator sets his face. The landlord who helps his tenants to leave the country is dubbed an exterminator. The tenants are sedulously taught to believe that they have a right to remain on the soil, whether the soil can maintain them or not. It is industriously instilled into their minds that they would prosper if they were *rooted in the soil*. It would be more true to say that the real way to make them prosper would be to make them independent of the soil as a means of livelihood.

Laying this part of the dispute aside for the present, we propose to bring forward some of the evidence which, in our opinion, goes to prove that Ireland is a country even now by no means poor, and one whose wealth, moreover, has shown a distinct tendency to increase.

It is generally admitted that one very important test of prosperity is the *capacity for accumulating capital*. Of this capacity the Bank deposits afford a very clear index, as has been pointed out by Dr. Neilson Hancock. From his Report on the Statistics of Savings in Ireland we take the following figures :—

1840,	...	£5,568,000	1861,	...	£15,005,000
1841,	...	6,023,000	1862,	...	14,389,000
1842,	...	6,417,000	1863,	...	12,967,000
1843,	...	6,966,000	1864,	...	15,623,000
1844,	...	7,601,000	1865,	...	18,619,000
1845,	...	8,031,000	1866,	...	20,957,000
1846,	...	8,442,000	1867,	...	21,794,000
1847,	...	6,493,000	1868,	...	22,164,000
1848,	...	7,071,000	1869,	...	22,673,000
1849,	...	7,470,000	1870,	...	24,366,000
1850,	...	8,269,000	1871,	...	26,049,000
1851,	...	8,263,000	1872,	...	27,214,000
1852,	...	10,773,000	1873,	...	28,194,000
1853,	...	10,915,000	1874,	...	29,859,000
1854,	...	11,666,000	1875,	...	31,815,000
1855,	...	12,286,000	1876,	...	32,815,000
1856,	...	13,753,000	1877,	...	32,746,000
1857,	...	13,113,000	1878,	...	31,745,000
1858,	...	15,131,000	1879,	...	30,191,000
1859,	...	16,042,000	1880,	...	29,350,000
1860,	...	15,609,000			

It is to be remarked that the years in this Table are to be taken as ending on 30th June; hence 1880 means 1st July, 1879, to 30th June, 1880.

From this it appears that the saving power of the Irish community is now more than fivefold greater than it was forty years ago. The decennial periods establish clearly a steady increase, which is practically unaffected by an occasional slight retrogression. Making every allowance for such brief intervals, the saving power of 1880 remains to that of 1840 as 29 to 5, and to that of 1850 as 29 to 8. It is a well known fact that by far the greater part of these deposits belong to tenant farmers.

According to Dr. Neilson Hancock, the fluctuations of Bank deposits vary with those of the harvests. If so, we are entitled to expect an increase in deposits commencing from the harvest of 1880. Should this not occur, especially if the harvest of 1881 turns out good, we can hardly escape the conclusion that agitation is injuring the saving power of the community.

It may be worth noting in this connexion that there is an increase in the investments in Government and India Stock, dating from 1879. In that year the investments exceeded those of 1879 by £1,228,000; and the investments of 1880 exceed those of 1879 by £76,000. Previous to 1879 there had been a gradual decrease in these investments.

In close connexion with this subject of the ac-

cumulation of capital stand the Railway Investments of the community, a valuable index of its condition as to wealth. The total capital* invested in Irish Railways in 1876 was £30,960,400. Of this fully half was then held by persons resident in Ireland. Irish Railway Securities ranked then in the markets of the United Kingdom next after the best English Securities of the same kind. Estimating the price of £4 per cent.† per annum in English Government Securities at £125, the Debenture Stock of the Great Northern and Western Railways (England) was priced at 104½, in July 1876; the Debenture Stock of the Irish Great Southern and Western at 103, and that of the Great Northern of Ireland at 101½. At present (November, 1880) Great Southern and Western Four per Cent. Debentures stand at 107, and Great Northern 106. These enhanced prices however must not be taken to indicate a public confidence increased in full proportion. They are mainly due to the present plethora of idle capital. Here a very remarkable fact demands to be recorded. It is said on the Dublin Stock Exchange that Railway Capital is just at present very largely passing out of the hands of private parties and into the possession of banking firms. It may be fairly surmised that this indicates a change of public confidence. Private

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* *Thom's Directory.*

† *Thom's Directory,* quoting from Dr. Neilson Hancock's Tables.

holders seem to be intimidated, and to be awaiting with anxiety the results of the Land Agitation.

To conclude this portion of the subject, we find the gross capital of the country estimated by Dr. Neilson Hancock* in 1875 at £258,887,700 against £95,286,000 in 1846–50; or, as he otherwise puts it, the accumulated capital per head of population in 1846–50 was £12, while in 1876 it was £49. When we compare the populations the contrast becomes even stronger. In 1846, eight millions of people had less than ninety-six millions of capital. In 1876 five and a half millions of people had two hundred and fifty nine millions of capital.

Another generally admitted test of the prosperity of a community is *increase of trade*. Of this, in the case of maritime countries, an index is to be found in the shipping of the principal ports. To show what progress Ireland has made in this way, we take the following quotation from a paper read before the British Association, in 1878, by Mr. Bindon Stoney, Engineer of the Dublin Port and Docks Board:—

> The trade of few harbours in the United Kingdom has made greater relative progress within the last twenty years than that of Dublin. This, no doubt, is mainly due to the increased prosperity of the country as a whole, but it may also be attributed in great measure to the convergence of the main lines of internal traffic to Dublin, which has thus naturally become more and more the mart and emporium for a great portion of Ireland. During this period of twenty years the tonnage entering the port has much more than doubled. In 1857 it amounted to 880,844 tons, and last year it rose to

* *Thom's Directory*, 1880.

1,973,781 tons, while during the current year there is a good promise that it will surpass the 2,000,000 limit. For the sake of comparison I have placed in a tabular form the tonnage of Liverpool and Glasgow, as well as those of the three principal ports in Ireland, for the three years preceding 1858 and 1878 respectively, so as to give fair averages of their respective rates of progress within the last twenty years.

From this table it will be observed that while the tonnages of Liverpool and Glasgow have respectively increased fifty per cent. in the last twenty years, those of Belfast and Cork have nearly doubled, and that of Dublin has considerably more than doubled in the same time. Also, the tonnage of Glasgow is only one-fourth more and that of Liverpool is not four times greater than that of Dublin.

	Liverpool (including Birkenhead)	Glasgow.	Dublin.	Belfast.	Cork.*
	Tons	Tons	Tons.	Tons	Tons
1855	4,096,160	1,666,518	882,719	744,364	328,658
1856	4,320,618	1,673,096	904,903	772,127	347,126
1857	4,645,362	1,612,681	880,844	796,968	384,167
Average of preceding 3 years	4,354,047	1,650,765	889,488	771,153	353,317
1875	6,588,731	2,249,857	1,677,543	1,434,754	623,463
1876	6,805,970	2,298,076	1,879,886	1,497,585	740,558
1877	7,000,726	2,428,616	1,973,781	1,566,752	740,201
Average of preceding 3 years	6,798,476	2,325,516	1,843,737	1,499,697	701,407

The increase in the tonnage of the Port of Dublin is not confined to one class of vessel alone; for we find that while the coasting trade increased from 821,640 tons to 1,543,861 tons, or nearly doubled in the last twenty years, the oversea trade increased from 67,848 tons to 299,876 tons, or more than quadrupled in the same period.

These facts and figures speak for themselves. Along with them may be mentioned the well-

* The tonnage of Cork Harbour is exclusively of vessels calling for orders, mails, or passengers, and not loading or unloading cargo.

known fact that the principal English railways find it worth while to keep up depôts in Dublin. The London and North-Western, in particular, has spent immense sums in connecting its North Wall depôt with the three leading lines of railway, and has built a magnificent fleet of steamers for the cross-channel trade.

As a concurrent cause in the general improvement of the condition of the people we have to note the considerable *rise of prices* which has taken place. This subject has been amply discussed, as far as agricultural prices are concerned, in connexion with Griffith's Valuation. We make no apology for extracting from our pamphlet dealing with that question the tables showing how this matter has stood in the period that has elapsed since the valuation was made.

TABLE showing the Prices of AGRICULTURAL PRODUCE *as fixed by the Valuation (Ireland) Act,* 1852, *and the prices for the year* 1873, *in Thirteen of the principal Market Towns in Ireland, with the increase of Prices per cent. between* 1852 *and* 1873 :—

	Year 1852	Year 1873	Increase per cent. between 1852 & 1873
	Prices fixed by Tenement Valuation	Prices in Thirteen Principal Towns	
	s. d.	s. d.	per cent.
WHEAT, per cwt. of 112 lbs.	7 6	12 0	60·0
OATS, ,, ,,	4 10	6 10	41·4
BARLEY, ,, ,,	5 6	8 6	54·5
FLAX, ,, ,,	49 0	66 7	35·9
BUTTER, ,, ,,	65 4	110 0	68·4
BEEF, ,, ,,	35 6	70 0	97·2
MUTTON, ,, ,,	41 0	74 0	80·5
PORK, ,, ,,	32 0	50 0	56·2

TABLE, showing the scale of prices of agricultural produce laid down in the Act of 1852 *and the Bill of* 1877 *respectively, and the increase per cent. in the value of each species of produce.*

PRODUCE	Act of 1852	Bill of 1877	Increase per cent. in scale of prices
	Price per cwt.	Price per cwt.	
	s. d.	s. d.	
WHEAT	7 6	10 0	33·3
OATS	4 10	7 8	58·6
BARLEY	5 6	8 4	51·5
FLAX	49 0	60 0	22·4
BUTTER	65 4	121 4	85·7
BEEF	35 6	70 0	97·2
MUTTON	41 0	74 8	82·1
PORK	32 0	51 4	60·4

The remarkable part of this change in prices is, that it has so largely affected those kinds of produce which are connected with pasture. One of the leading causes of the increased wealth of Ireland has been the abandonment of comparatively unprofitable tillage, and the adoption in its stead of the very profitable trade of rearing and dealing in live stock.

The Census Commissioners in 1841 ascertained the quantity of land in every farm in Ireland, and the number of horses and mules, asses, cattle, sheep, pigs and poultry on each holding in that year, and the returns published in their report afford a valuable basis for comparison. The Commissioners assumed an average rate per head for each description of live stock, the principal

figures of which are given in the annexed tabular form No. 1. The improvement in the quality of the stock, and the higher prices obtained by facility of access to a larger range of markets, have materially increased the actual value of the different descriptions of live stock since 1841.

The following tables will clearly show this increase in value. The figures are taken from *Thom's Directory* for 1880, page 688. For the purpose of comparison with the independent estimate of the Royal Dublin Society and Royal Agricultural Society,* we have eliminated the Census valuation of asses, goats and poultry, which we show in a separate column.

Table No. 1 gives the Census prices, according to which the estimates were made until 1871, and the prices of 1876 from the report of the joint Societies.

TABLE No. 1.

Description of Stock.	Prices 1841 to 1871, Census estimate	Prices given by Royal Dublin Society and Royal Agricultural Society of Ireland, for 1876.
Horses, ...	£8 0 0	£22
Horned Cattle, ...	6 10 0	£5 to £18
Sheep, ...	1 2 0	£1 10s. to £2 10s.
Pigs, ...	1 5 0	£2 10s. to £5

Table No. 2 shows the estimated value at Census prices, beginning from 1841.

* Letter in reply to the Vice-President of the Agricultural Society of France, 1878.

TABLE No. 2.

YEAR.	Total value of Horses, Cattle, Sheep and Pigs.	Total value of Asses, Goats and Poultry.
1841	£20,801,988	£303,820
1851	20,325,405	411,990
1861	32,930,204	504,181
1871	36,956,276	558,935

It is important to bear in mind that the Census Commissioners adhered in their estimate to the prices of 1841. Although we are unable to ascertain the actual prices of 1871, it is certain that a considerable advance had taken place.

Table No. 3 shows the actual number of Horses, Cattle, Sheep and Pigs in 1876, and their value estimated at the prices assumed by the Census Commissioners in 1841.

TABLE No. 3.

STOCK.	Number.	Total Value at Census estimate.
Horses	526,160	£4,209,280
Horned Cattle . . .	4,113,693	26,739,004
Sheep	4,007,518	4,408,269
Pigs	1,424,143	1,780,178
Total	10,071,514	£37,136,731

Table No 4 shows the actual value of the same quantity of stock, existing in 1876, according to

the prices estimated by the Royal Dublin Society and Royal Agricultural Society of Ireland, given in their letter in reply to the Agricultural Society of France, published in 1878.

TABLE No. 4.

STOCK.	Number.	Value.
Horned Cattle, . . .	4,113,693	£52,880,277
Sheep, ...	4,007,518	8,590,101
Pigs, ...	1,424,143	4,050,062
Horses, ...	526,160	11,575,520
Total, . . .	10,071,514	£77,095,960

The increase in the value of live stock has another important aspect. We shall presently have to comment upon a considerable improvement in the wages of farm labour. This improvement, admitted by the farmers to exist, is sometimes complained of by them as neutralizing the rise of price and even making it harder to farm profitably than it used to be. But here it is to be noticed that in proportion as pasture increases relatively to tillage, the necessity for the employment of labour diminishes. A large grazing farm can be worked with fewer hands than a small tillage farm. So that not only is tillage ultimately unprofitable as compared to grazing, but the first cost of production is relatively greater for tillage than for grazing. These facts answer the complaint noted above, and explain the tendency of Irish tillage to diminish; a tendency which

agitators have no scruple in attributing to "extermination" on the part of landlords.

We may now proceed to examine the *condition of the ordinary farm labourers*, of whom there are 444,729 men with their families. The Royal Dublin Society and Royal Agricultural Society of Ireland, replying in 1878 to the Agricultural Society of France, assert that "prior to 1851 farm labourers could be hired for eightpence per day in summer and sixpence in winter." Occasionally the labourer of that day worked for his food only. The food itself was characteristic of the condition: a breakfast of *stirabout* (oatmeal porridge) and a dinner of potatoes. In 1876, just thirty years after the Famine, wages had risen to 1s. 6d. a day. In harvest 2s. 6d. to 3s. 6d. could be earned. Even since the agricultural depression that commenced in 1878, the fall has only brought down wages to 1s. 2d. or thereabouts.* Instances occurred in the early stages of the Land Agitation, where 1s. 6d. a day was offered and refused, while money from the various Relief Funds was being lavished in the localities. If a rise in the money wages of the lowest class of labour is a test of the condition of a people, the Irish are nearly three times as rich now as they were before the Famine.

A confirmation of these views may be quoted

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* The Agricultural Society of Ireland, in their reply to the letter of the Vice-President of the Agricultural Society of France in 1878, estimate the wages of a farm labourer at 8s. per week, *i.e.*, 1s. 4d. a day.

here, coming from a somewhat unexpected quarter. The following is an extract from a letter which appeared in the *Irish Times* of November 24th. It purports to be a plea in behalf of the tenant, so it is above the suspicion of bias :—

"Before the potato disease" says the writer, "labour was cheap; men were grateful for employment, and gave value for their wages. Now they may make you submit to their own terms, for which they will return you half a day's work. Forty years ago a farmer paid and supported a servant boy for about £8 a year, a servant girl in like proportion. Now a boy cannot be less to his employer than £24, and a servant girl £19. Their support and pay came all from the land formerly, for which they gave thanks with a fair day's work. Now you must keep a grocery account open for them, that gives them tea twice a day, for which you receive not thanks, but impertinence."

This is the testimony of an almost hostile witness; and it proves that in the letter writer's opinion the condition of the labourers has certainly changed for the better. Oddly enough his figures give undesigned support to ours. "Forty years ago a boy cost £8, now he costs £24." In other words, wages have risen three to one. But the same writer gives evidence that affects farmers as well. Here is the beginning of his letter—

Sir,—If the landlords have not come on the platform they are not slow in making use of the means the Press affords them to exhibit to the world their present disastrous condition. Their cry is now, "The tenants have lived in luxury in the years passed; their wives and daughters threw off the red petticoat, and have taken to themselves finer

garments. It is even said that the greater part of them drink tea, and it's even told that some of them forget their position so far as to eat American pork on Sundays. They squandered the rent that should be laid up for my lord's demands, and have nothing left for the "rainy day."

It is no part of our purpose to carry on a controversy with this writer; but it is open to us to point out that no one is blaming the tenantry, and except the writer himself no one is blaming the labourers for the improvement in the standard of living. It is surely fair to plead, when landlords are accused of keeping the people in poverty, that their style of living proves them not to be poor. The writer whose letter we are quoting does not deny the increased expenditure. We on our part do not deny that the people had a right to spend their money in that way, if they did so without prejudice to other and more important claims.

One more word of caution needs to be said. We do not assert that the condition of the labouring classes is absolutely good. Eight shillings a week is but indifferent pay. What we do assert is that an improvement had taken place, and that an upward tendency had set in. It is now notorious that the upward movement has been arrested; whatever the Agitation may boast of aiming at, in the way of bettering the condition of the small tenant, it is absolutely certain that it has inflicted a severe blow on the day labourer. Not that the Agitation has driven down wages;

but it has certainly rendered wages more difficult to be earned.

THE FACTS AND FIGURES contained in the above sketch speak sufficiently for the merely *material progress* of the past thirty years. It is no mere inference or vain imagination of ours that wages have risen nearly threefold—that prices varying from 22 to 97 per cent. better than those of 1852 can now be obtained for every article of Irish produce, while at the same time the produce has vastly increased in quantity—that the saving power of the community has increased fourfold, and the accumulated capital more than fourfold, and that Irish local securities fetch prices which bear a fair comparison with those of the best English securities of the same class.

Other evidence of improvement in the general condition of the country may be found in all manner of directions. For instance, in 1841 there were nearly half a million of windowless one-roomed cabins—491,278, inhabited by 625,356 families; or, at five persons to a family, there were 3,126,780 persons inhabiting these hovels. By 1871 the number of these huts had fallen to 155,675, and of their inhabitants to 227,379 families, including 1,152,000 souls. Of the next higher class of dwellings (mud cabins, but windowed, and having two to four rooms) there were in 1841 533,297, inhabited by 574,386 families (say, 2,871,930 souls). In 1871 the number of cabins

was reduced to 357,126, inhabited by 432,744 families, or 2,163,720 souls. But the houses classed second in the Census—the better class of farm-houses, and in towns those having five to nine rooms—rose in the same period from 264,184 to 387,660, the families inhabiting them being, in 1841, 241,664, and, in 1871, 357,752. In other words, the number of persons accommodated in the average middle-class dwelling-houses was greater in 1871 than in 1841 by 580,440, the numbers being 1,788,760 against 1,208,320. The increase in the first class of houses was from 40,080, with 31,333 families, to 60,909, with 49,693 families; so that the two better classes of houses exhibit a marked increase. This is important, as proving that the rise in the condition of the poeple was genuine, and not merely due to the clearing away of the poorer inhabitants.

THE EVIDENCE OF IMPROVEMENT is not less (though it is different in kind) when we come to matters less easily estimated by figures. *Educational progress* is not an affair of mere statistics, as are wages, and prices, and the annual amount of bank deposits. Nevertheless a striking increase in the number of schools, the attendance of pupils, and the expenditure on education, is a good collateral proof of an improving social condition. The following Table, taken from *Thom's Directory* for 1880, shews the figures relating to the schools under the

National Board, which constitute the principal portion of the Irish Primary School system :—

Year.	No. of Schools.	No. of Pupils.	Parliamentary Grant.
1841 . .	2,337	281,849	£50,000
1871 . .	6,914	972,906	408,388

In other words, according to the Census returns, the number of primary schools in thirty years had multiplied nearly threefold (2·95 to 1). The number of pupils had increased more than threefold (3·7 to 1), and the expenditure on primary education had increased in the ratio of 8 to 1. In 1871, the population being 5,412,377 and the number of National School children 972,906, they averaged over 17 per cent. of the whole ; but the number of children in primary schools must be considered with reference, not to the whole population but to the farming and labouring classes. Putting the number of labourers' families (as we are justified in doing) at about 400,000, and the number of farmers likely to send children to primary schools at about the same, we have about 800,000 families, or four millions of persons from whom the school population would be drawn ; so that, roughly speaking, one-fourth of the whole labouring and small farming population consisted of children in primary schools. We may here say, that for obvious reasons we chose the Census years 1841 and 1871 for our comparative table ; but

the progress subsequent to 1871 was not less marked. The figures for 1878 (the latest return available) are as follow :—

Schools, 7,443; Pupils, 1,036,742; Parliamentary Grant, £659,837.

These figures prove that the spread of primary instruction was progressive up to a recent period.

The immense stimulus to Educational effort brought about by the *Intermediate Act* of 1878 is a social factor whose importance is universally felt. The Act having been only two years in operation, there are not the same sort of data for estimating progress which are afforded by institutions of longer standing. Nevertheless, the results are striking, so far as they have gone. The following Table shows the numbers of boys and girls who passed the Intermediate Examinations in the two years during which the system has been at work :—

Year.	Boys.	Girls.	Total of Pupils.
1879 . .	1,850	482	2,332
1880 . .	2,639	994	3,633

The increase in the number of boys who passed this very searching examination was nearly 43 per cent. ; and the corresponding increase in the number of girls was very remarkable, being actually 106 per cent.

Thus, whether we look at Primary or Intermediate Instruction we find evidence of progress,

in the one case dating from a long way back, in the other recent, indeed, but of most encouraging promise. Whether the progress is to continue, and the promise to be kept, is one of the chief problems of our day. Insecurity of life and property seems hardly the way to ensure it; but our task is to record the past and not to forecast the future. We pass on to other considerations.

Among them we have to note a serious change in the position of the Schoolmaster, which is, in a great measure, the result of the Intermediate Act. The energy of teachers has developed itself to an almost incredible degree. The mere money value of teaching power has risen considerably. It may be said that in this respect Ireland is only following in the wake of England, where the position of Schoolmaster means affluence and dignity, and even that of usher is at least no longer synonymous with poverty and contempt. Granted; but all we here contend for is, that Ireland *is* in the way of progress; her intellectual as well as her material prosperity is advancing day by day, and is advancing under the same conditions as that of the rest of the Empire. If the existing laws of landed property have not hindered the accumulation of Irish capital, neither have they hindered the expansion of Irish intellect.

It may be thought that these latter considerations are irrelevant to the question of wealth or poverty. It is true that poor communities have

occasionally produced men of genius; but it requires not only a certain amount but a certain diffusion of wealth to create an educated community. If, therefore, we find an intellectual stimulus pervading a great mass of the people, and at the same time we find an increase in the aggregate wealth of the country, we may safely accept the one as a collateral proof of the healthy distribution of the other.

THE CONCLUSION from all the facts we have set forth, seems to be that *Ireland is a country in which the career of improvement has made considerable advance.* Wealth is developing, not too slowly; and the distribution of wealth is going on, not perhaps to perfection, but on the whole in a fairly healthy fashion. All this progress we are called upon to interrupt and to revolutionize, and we want to know the reason why? To this question there are just three answers possible. One is, to assert that all the progress is fictitious, and, unless the land laws be revolutionized, is of no value. This answer we leave confidently to the judgment of those who have been sufficiently interested to read thus far. Another is that which might be given, for example, by the editor of the *Spectator;* who a year ago pronounced that he was weary of hearing that Ireland was growing rich, and wanted to hear that Ireland was growing contented. To those who reply in this way we rejoin, that if discontent is in itself a reason for revolution, no government is possible,

since under none is there no discontent. If discontent, when unreasonable, is a proper subject for disregard or repression, the fact that Ireland is growing rich is a proof that her discontent is unreasonable, and therefore is criminal when it ceases to be contemptible. Besides, the agitator always alleges that, as a matter of fact, the Irish people are poor, and that their poverty is the cause of their discontent. It is only when the poverty is disproved that he falls back on the argument founded on the existence of discontent of another kind. The third answer is, that the discontent is real and reasonable as regards a certain class—a class which is not reached by the increase and diffusion of wealth which has been recorded. To this the rejoinder is, that the class in question is a small one, that it was daily diminishing, and there was reason to hope that it would soon rise out of its low condition. It is hardly necessary to explain that we mean by the class in question the 117,580 so-called tenant-farmers whose holdings do not exceed five acres. Even of this class hardly more than half are anything more than day-labourers with a small allotment; but they constitute the class which affords whatever justification exists for the cry of poverty. It is not too much to say that an improvement in the condition of 100,000 families, or less than 500,000 persons, in whatever way it might be brought about, would go far to solve the Irish economic problem. At this point it is that the political economist is

compelled to ask why emigration cannot be brought to bear as a remedy for the alleged evils. In replying to this question the agitator has recourse to the device of shifting his ground from political economy to sentiment; and here, for the present, we must decline to follow him. This much, however, may be said. If it be contended that every man, woman and child born on Irish soil has a right to remain there, the proposition is one which we are not concerned to dispute. What we do deny and protest against is the proposition, that those who, in despite of natural and economic laws, persist in remaining where they affirm that they cannot live, have a right to set up a claim antagonistic to the interest of the rest of the community. But the full expansion of this line of thought belongs to the department of politics, and not to that of political arithmetic.

THE

LAND QUESTION, IRELAND.

No. VI.

LORD DUFFERIN

ON

THE THREE F'S.

JANUARY, 1881.

ISSUED BY

THE IRISH LAND COMMITTEE,

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PREFACE.

THE IRISH LAND COMMITTEE considers it expedient to publish, in a Pamphlet form, the following Paper by the EARL OF DUFFERIN. His Lordship is not a member of the Committee, nor has the Committee obtained his permission for such a republication of his views. But the Paper has been laid by his Lordship before the Irish Land Commission; it has appeared in the columns of the *Times;* and it may be regarded, in a sense, as public property.

The opinions of a Nobleman so distinguished as a Diplomatist, an Administrator, and a Statesman cannot but carry weight with the English Public; and that weight will not be diminished by the fact that he is an Irish Landowner, who proclaims his sympathies with Free Government and with Free Trade (p. 24).

Lord Dufferin shows that "in every country there will be a necessity for people to let and hire

lands;" and that, "consequently, a law of Landlord and Tenant, framed upon those ordinary principles which are recognised by all civilised nations, must exist" (p. 11).

He demonstrates that what is vulgarly known as the Three F's, even in a modified shape, would imply Confiscation—a principle which he truly says is "contrary to the genius and spirit of British Legislation" (p. 15).

With the arguments so confidently and persistently adduced in favour of this particular form of Confiscation Lord Dufferin deals in a conclusive and convincing manner.

He shows that "the rights which the Ulster Custom protects are rights which have been purchased, and frequently very dearly purchased, by the Tenantry who enjoy them" (p. 3); and, consequently, that the Ulster Custom supplies no parallel or precedent for the device which proposes to confer similar rights on the whole Tenantry of Ireland, independently of purchase.

He establishes the fact that in Ireland the Improvements of the Soil have not been exclusively, or even generally, effected by the Tenants (p. 12).

Finally, Lord Dufferin effectually disposes of a popular error which at the present moment

is exercising a most injurious and demoralizing influence upon opinion. A portion of the public press is unwearied in pointing to the Condition of the Country as an argument for the necessity of Confiscation. "The country, we are told, is in such a condition that some concessions must be made, even if the landlords have to sacrifice their admitted rights" (p. 11). This argument Lord Dufferin brands and stigmatises in one vigorous sentence. "It is a contention," he says, "that the Highwayman on Bagshot Heath, instead of being dealt with by the strong arm of the Law, is to be invested with a Royal Commission to rob the Queen's subjects, in order that legality may square with facts" (p. 11).

W.

LORD DUFFERIN

ON

THE LAND QUESTION.

ONLY two methods worthy of serious consideration have as yet been suggested for dealing anew with the Irish Land Question :

1. To stand firmly by the principles laid down in the Act of 1870, while introducing into that Act improvements in detail wherever experience has proved its operation to have been faulty or ineffectual.

2. To adopt some scheme like that of the 'three F's,' or the extension of the Ulster tenant-right to the rest of Ireland, with the view of converting the landed proprietors of that country into rent-chargers, and of putting the tenants into possession of their estates at a quit-rent, subject, perhaps, to periodical enhancements.

The leading principle of the Act of 1870 was very clearly stated by several members of the present Government. It accorded to the tenant compensation for his improvements, as well as further compensation in certain cases for capricious eviction; but it did not give him any share in the land. The proof of this is to be found in the Act itself. A lease of thirty years is made the equivalent of the disturbance claim, from which it frees the landlord; but no one can pretend that

a terminable lease invests the tenant with more than an evanescent interest in his farm. Any proposal, therefore, for giving a 'share' in his farm to the Irish tenant is inconsistent with the Act of 1870.

To what extent the Act may be susceptible of improvement can scarcely be determined until we get the reports of the two Agricultural Commissions. It is alleged, probably with truth, that the chief complaint of the small tenants of the West is that their rents are perpetually being raised. A rise of rent, unless justified by extraneous circumstances, ought certainly to be regarded as 'disturbance' within the meaning of the Act. If, through any unforeseen causes, the Act, whether in Ulster or elsewhere, has failed in duly protecting the tenant in this particular, it ought to be amended, as nothing can be conceived more irritating and disheartening to a husbandman than the capricious enhancement of his rents.

It might also be advisable to enlarge the scope of the equities clause, and to appoint a special tribunal, with an extensive equitable jurisdiction, to hear appeals from the courts of the assistant barristers, and generally to superintend the operation of the Act. Half the difficulties in the application of the present law have arisen from the diversity of circumstances which prevail in different parts of Ireland. The conditions affecting almost every farm are peculiar to itself, whether as regards the nature of its tenure, the history of its acquisition, or the character and authorship of its improvements. Hence an Act dealing with such Protean interests should be rendered as elastic as possible, and this can only be done by leaving a large discretion to the tribunals appointed to appreciate them. It would be essential that any such Court should go on circuit, and should command the services of experienced agriculturists, who might repair, if necessary, to the spot where any disputed claim had arisen.

How far the application of the 'Bright clauses' of the Act might be rendered more effectual is a question to which I will subsequently refer.

With the foregoing qualifications, I am in favour of maintaining the settlement of 1870. That settlement was declared at the time to be a final settlement. The disposition of enormous sums of money has been regulated by its enactments; it has worked satisfactorily for nine years; it is confessed that any grievances which have arisen under it are exceptional; and although, under the pressure of a bad harvest and the intoxicating influences of recent agitation, the agricultural world of Ireland has been partially disorganized, there seems no reason for discontinuing those sober methods of legislation which have hitherto characterized English statesmanship.

This view will be confirmed if we consider the results which would flow from any attempt to transfer to the tenant, in whole or in part, the property of his landlord, under the device of the 'three F's,' or of a universal tenant-right.

The characteristics of the Ulster custom are so well known that I need not describe them. But there are two essential facts to be remembered in regard to it—first, that the rights which it protects are rights which have been purchased, and frequently very dearly purchased, by the tenantry who enjoy them, and that the Ulster landlords have in their turn received a *quid pro quo;* and, secondly, that the tenant-right intended by those who urge its extension is not the Ulster custom as it prevails on most estates in that province, but an inflated *simulacrum* of the custom, shorn of those safeguards which have rendered it compatible with the exercise of the barest proprietorial functions. It is, in fact, the equivalent of the 'three F's,' the tenant's right of 'free sale'—*i. e.*, of selling the farm at a competition price—being the essence of both. For the sake of brevity, therefore, I shall consider the two as identical propositions.

I imagine there are few persons who will contend that the 'three F's' implies anything less than the conversion of the entire Irish tenantry into copyholders, and the complete severance of the owner from the enjoyment, control, and management of his property. It is true it has become the fashion to assert that, provided the landlord gets his rent, or, rather, is left the right of trying to collect it, the expropriation of the *corpus* of his estate must be a matter of indifference to him, and it is on this plea that the introduction of the 'three F's' is justified by those who do not care to advocate confiscation, and yet are unwilling to pay a fair price to the owner for what they take from him.

But land is purchased for the sake of profit and enjoyment, and both these are dependent on possession. By good management the value of an estate may be greatly enhanced; by a judicious selection of tenants, good husbandry and the punctual payment of rent are rendered secure; by a vigilant control the deterioration of the soil is prevented; yet from the exercise of every one of these would the owner be debarred by the 'three F's.' In fact, he would have as little to say to his property as a London mortgagee who had never seen it, but with this difference—the mortgagee will probably be getting 4 or 4½ per cent. for his money, with a large marginal security for his capital and interest; the owner, with no margin of security for either, would remain subject to all the responsibilities and vicissitudes incidental to the possession of Irish property. If crops are short, or rents remain unpaid, through the incompetence or dishonesty of the tenant who has come upon the land against his will, he is the only sufferer; if, as a consequence of some agricultural disaster—which the landlord's foresight and intelligence might have prevented, as the difference in the condition of well-managed and ill-managed estates universally testifies—it is he that will have to bear the chief burden of a ruinous poor-rate; if waste, subdivision, and subletting are persevered in, upon him must

fall the odium of prosecution and eviction, these being the only 'amenities' left him to enjoy. From a country gentleman he is turned into a process-server and policeman.

I have lately disposed of £370,000 worth of property, two-thirds of which averaged over twenty-seven years' purchase, principally to Belfast merchants. This £370,000 represents the accumulated thrift and industry of two or three generations of men whose industry has created the prosperity of the North. Indeed, almost every estate in the county is owned either by the descendants of the original colonizing 'tenants,' whose economy and skill enabled them to turn their leasehold interests into fee-farm grants, or by such persons as I am now referring to. If the expenses of agency, of estate management, &c., are taken into account, these purchasers will not get more than $2\frac{1}{2}$ or 3 per cent. on their investment. But if the 'three F's' are applied to the property, what will be their position and that of thousands of others similarly situated? By putting their money into the Funds, they would have secured a larger as well as an absolutely secure and certain income. As it is, the indefeasible title to the fee-simple of the lands, issued to them by the Landed Estates Court, will have been converted into a mere claim to a precarious rent-charge. Who can maintain, in the face of the foregoing illustration, that an estate and its rental are convertible terms? Is it not plain that, if the 'three F's' were to become law, those who have bought land in Ireland will be, like beasts, caught in a trap—a trap originally baited by no less a person than Sir Robert Peel when Prime Minister, and into which they have been invited to enter by successive Acts of Parliament, by the highest courts of judicature, and by those eminent statesmen who, in passing the Land Act of 1870, induced them to agree to it on the plea that, if it curtailed some of the privileges of property, it gave an impregnable stability to those which were left?

But what guarantee can any Government, or even Parliament give that the 'income' left to the victims of the 'three F's' will not in its turn be confiscated in whole or in part? It is true the ex-landlords are promised whatever periodical enhancements of rent the circumstances of the markets may justify. But who would be so foolish as to lean on such a reed? Mr. Russell, Q.C., who has written so cleverly on the subject, plainly tells us such a rise of rent would be out of the question. Already in Ulster, where it is boasted that the analogue of the 'three F's' has maintained such tranquillity, the tenantry are beginning to refuse to discharge their admitted obligations, and that upon estates where it is not pretended there has been any tampering with the tenant-right. At this moment the tenantry of Lord Lurgan, who has always favoured tenant-right, are demanding a reduction of 50 per cent. on their rents—those very rents for the privilege of paying which they have probably handed to the outgoing tenant an exorbitant tenant-right price. Is it not evident that whatever change of rent takes place will be in the opposite direction, and that the first doubtful harvest will give birth to a cry for an immediate reduction of the 'fair rent'? Again, it is not to be expected that any of the extruded landlords will spend a farthing on their former estates; still less will they be inclined to reside upon them. A few who are possessed of beautiful residential domains will stay. Others may be retained by the conveniences of sport; but with the greater part the sense of the wrong done them will be so galling, their lives as country gentlemen will have become so devoid of interest and occupation, they will be so hated by the tenantry who have ousted them from their properties, and who will always dread lest some turn of the wheel should reinstate them in their abrogated rights, that everyone who can will quit. Many of the country houses, by that time become little more than meaningless and expensive villas, will be pulled down, the

estate timber will be felled, and the parks ploughed up and sold. 'Rather than see the gradual ruin, through ignorant legislation, of a life's systematic labour, I would prefer to colonize a district in some free land where enterprise is not discouraged, and where life and capital are secure,' writes Mr. Mahony, the Kerry landlord referred to in such eulogistic terms by Mr. Tuke; and thousands would follow his example.

But if the present Irish landlords, reduced to the position of pensioners, betake themselves to more congenial homes, is it not evident that a fresh agitation will be set on foot to denounce the robbers and drones, who would be depicted as wasting the millions earned by the toil of the people in debauchery and idleness abroad; and that the same condition of affairs which is now so weakly pleaded as a justification for one act of confiscation will be renewed to enforce another?

I now proceed to give a few illustrations in detail of the wrong which would be wrought by the application of the 'three F's,' or by the extension of tenant-right to areas where it does not exist.

It will, of course, be understood that what is intended by 'tenant-right' in this discussion is not the sale to the incoming tenant of the outgoing tenant's improvements, which was the 'germ' of the custom, but the sale of the beneficial interest in the land, as represented by the difference between an accidentally low rent, or even a fair rent, and a rack-rent. By a rack-rent I do not allude to a full rent, but to a rent so exorbitant as to eat up the margin of profit required by the tenant to recoup him for his expenditure of labour and capital, and to balance the mischances of fluctuating harvests, while at the same time it forestalls those legitimate enhancements of rent to which the landlord might subsequently become entitled.

Under the Act of 1870, if the landlord buys up the tenant-right of a farm, it is declared to be extinguished for

ever. In numerous instances landlords have extinguished the tenant-right claim in the manner prescribed. Is the tenant who received £500 for his tenant-right yesterday to have the thing he sold returned to him to-morrow, and is the landlord to be left minus both his money and what he bought with it?

But it may be said these are exceptional cases. I will show that such is not the case.

Let us take two estates: one a tenant-right estate in Ulster; the other a non-tenant-right estate adjoining it in Leinster. During the last twenty years £10,000 of arrears have accrued upon each. Under the tenant-right custom the Ulster landlord has put this £10,000 into his pocket, having deducted it from the price of the tenant-right as it passed from the incoming to the outgoing tenant. But rather than allow his estate to be invaded by tenant-right, the Leinster landlord has wiped off the £10,000 as a bad debt. In other words, he has paid £10,000 to keep his estate free from tenant-right. To create a tenant-right in the latter case would be as unjust as to re-create it in the former.

Again, a farm is to be let. Two tenants present themselves; A, trustworthy and capable; B, inexperienced, feather-headed, or shifty. A proposes 20*s*. an acre, which he knows he can pay; B offers 30*s*., having said to himself, 'If I can only get hold of the land I'll chance the rest.' The landlord, knowing his business and the men, selects A. The transaction takes place on Monday morning. On Monday night Parliament creates the right of 'free sale.' A immediately goes to B and says, 'Pay me £500 and you shall step into my shoes.' B begs or borrows the money; and what is the result all round? A, the man in whose welfare neither the State nor the landlord has any further concern, goes off to America with £500 in his pocket, which he has neither earned, bought, nor inherited. He leaves the farm saddled for all time to come with a double rent, and the

landlord converted from an owner into a rent-charger, forced into a one-sided contract with a man who will be both unwilling and unable to keep its terms. If prices rise, the landlord cannot raise his rent without being accused of eating up the 'tenant-right.' If bad harvests supervene, the margin of value originally designed to meet such an emergency will have been already consumed; it is in the pocket of A, the former tenant. If the landlord evicts, the tenant-right price having perhaps fallen to a sum below what the tenant owes, the bankrupt and his family become charges on his charity.

If the foregoing process were to be applied to the whole of Ireland, that which I have described as happening to an individual farm would be true of the whole country. The actual generation of occupiers would put an enormous sum of money into their pockets to which they have no right. The land would remain for ever after burdened with a gigantic mortgage represented by a universal 'rack-rent,' while a fresh agitation would at once be set on foot (1) to prevent all future enhancement of rent, on the plea that it would eat up the tenant-right: and (2) for the reduction of the existing rent (however low) whenever a questionable harvest sent down the price of farms, on the plea of keeping the tenant-right alive.

And here I would observe that it must not be supposed that the tenant-right payments are made once for all, and that then the mischief wears itself out. The operation is repeated not merely when a farm changes hands, but whenever a tenant dies. The tenant-right farmer regards his farm as a fee-simple estate. Though prevented from cutting up its 'corpus,' he divides its value; and the eldest son on succeeding has to buy up the shares of his brothers and sisters.

Again, take this case. A landlord has expended £10,000 in preparing for the erection of a bathing town on the shores

of Belfast Lough, an enterprise obviously beneficial to the public. He has made roads, planted, built a sea wall, and promoted the construction of a railway. He has had no difficulty in inducing the agricultural tenants of the few farms he has as yet taken up to surrender their holdings on equitable terms. But pass the 'three F's' and what is his position? By his previous expenditure he is forced to continue his operations; but with fixity of tenure against him, his tenants will thenceforth be able to charge him three or four times the fee-simple value of their holdings before surrendering.

Again, I know an Ulster landlord who has spent more than £60,000 in improving the condition of his tenants without raising his rents a penny. The result has been to create a body of substantial yeomen, occupying good-sized farms, for which, in many instances, they have had to pay nothing upon entry. Under his auspices the aspect of the entire country has been altered. A smile has stolen over the landscape; the fields have been squared; the hedgerows planted; the harvest has been advanced a week by thorough drainage; schools and labourers' cottages have been built; and the pulse of this little agricultural world now beats full and healthily. Let the 'three F's" invade the district and the reward of a lifetime's exertions is destroyed; a fortune, as well as an estate, is confiscated; and a drawn sword is put between the landlord and the tenants, who hitherto have lived upon the most affectionate terms. The property has ceased to be his. The tenants can sell lands which they never bought; interests which they have never earned; improvements which they have not created. Rack-rents will take the place of fair rents, the resident becomes an absentee, and even if the material prosperity of the locality does not suffer, it has become the theatre of a great wrong, and will prove the birthplace of its inevitable Nemesis.

I will now turn to an humbler client than the landlord.

The Legislature has recently created some 6000 peasant proprietors on the glebe lands of Ireland. One of these dies leaving an infant son. The mother, married out of the neighbouring county town, and feeling unequal to the management of the farm, returns to her home, where she will find greater facilities for the education of her boy, and lets the land till he is able to manage it himself. But at the end of 10 or 15 years, when our young yeoman tries to resume possession of his patrimony, he finds himself precluded from doing anything of the kind by the 'three F's,' which have become law during the interval. A temporary tenant has become the fixed owner of the little estate into which Parliament had inducted his father, while he is left to share the fate of his brother-landlords.

This illustration shows how impossible it is to make laws in contravention of the principles of justice and of political economy. In every country there will be a necessity for people to let and hire lands; and, consequently, a law of landlord and tenant framed upon those ordinary principles which are recognized by all civilized nations must exist. At present I am holding 1000 acres in my own hands at a great pecuniary loss. But it is better for me to do that than to let it to a tenant to whom Parliament may some fine morning hand it over as a copyhold estate. In what other country in Europe are men afraid to let land on equitable terms, for fear it should be taken from them?

The foregoing are only a few of the instances which might be cited in illustration of the wrong which would be inflicted on the owners under the *régime* of the 'three F's.' I will now say one word in reference to the only two arguments on which I have ever heard the 'three F's' advocated.

The first may be dismissed in a single sentence. The country, we are told, is in such a condition that some concessions must be made, even if the landlords have to sacrifice their admitted rights; in other words, the highwayman on

Bagshot-heath, instead of being dealt with by the strong arm of the law, is to be invested with a Royal Commission to rob the Queen's subjects, in order that legality may square with facts.

The other is more plausible. It is alleged that the land of Ireland has been solely brought into cultivation by the Irish people; that its productive power is their creation; that all within it and upon it belongs to them; and that the equitable claims founded on these assumptions are reinforced by an historical right of occupation.

But are these things true? As far as regards my own neighbourhood and portions of the adjoining counties, the Poor-Law Inspector required to report upon the point replied that, although he would not undertake to apportion the respective shares of the landlord and tenants in the existing improvements, they represented 'a compound' interest; that in some cases the landlord had executed one-half or one-fourth of the buildings; that he frequently contributed the lime, slates, and timber; and that in other cases, though the homestead had been erected by the tenant, it may have really been built at the cost of the landlord, in accordance with the terms of a lease. Here the whole tenement would have, of course, to be credited to the landlord. In the eastern and many of the midland counties a similar verdict might probably be pronounced if only one could get at the truth. On my own estate, by the admission of the tenants themselves, a large proportion of the improvements effected before my time were landlord's improvements, without taking into account those executed in consideration of remissions of rent, which used to be a common way of getting improvements done, but of which no record used to be kept; and the more I have inquired into the matter, the more convinced I am that the general impression in regard to the landlords having done little or nothing is unfounded. I heard the late Lord Derby say he had bought his Irish estates twice over.

The Duke of Leinster, I believe, erects all the buildings himself. Lord Kenmare tells me that in Kerry it is the habit of the landlords to do a great deal of the building. Lord Leconfield appears to execute all the improvements upon his estates; and similar statements have been made to me by other proprietors. Is the tenant to be empowered to sell his landlord's houses as well as his lands? Under any circumstances it would be very hard to argue that, because a tenant had spent £200 in building a house on a 20-acre farm, his interest in that improvement was to overshadow the £700 or £800 representing the owner's fee-simple; and to represent the fertility of the rich pastures of Leinster or the alluvial deposits of the Suir, the Blackwater, and the Shannon, as having been called into existence by the Irish tenant, is absurd. Bad cultivation has, perhaps, destroyed more of the primeval fecundity of Ireland than good husbandry has evoked.

Again, the immemorial claim of the present Irish tenants to the land they occupy would be found on investigation of much more recent date than is supposed. Up to the middle of the last century, the greater portion of Ireland was a pastoral country, not over-populated, and let on lease in large farms at moderate rents. The high prices which subsequently supervened tempted the then occupiers to turn their pasture into tillage, to sub-divide, and to sub-let, frequently in spite of the covenants in their leases, which the dishonest juries of the day persisted in ignoring. The result was the Ireland of the middleman, of the potato, and of 1846. The grandfathers of many of the actual tenants were brought on the land in spite of the owner's protestations. Thousands have been inducted into their holdings during the present generation; and although I would go as far as any one in recognizing equitable improvement claims of every description, and in dealing with the cottier tenants of the west who have reclaimed their little farms from the mountain side, with

exemplary tenderness and indulgence, I cannot admit that legal ownerships, most of which have been acquired by the expenditure of millions, and all of which have been recognized by Parliament and the Courts of Law for generations, are to be invalidated by shadowy generalizations, to which it is admitted there must be innumerable exceptions, and the accuracy of which could only be ascertained by the most minute antiquarian investigation applied to each individual holding. Is a 50-acre farmer in Down who took up the land five years ago to be credited with an historical claim to fixity of tenure because the grandfather of a cottier of Galway turned ten acres of bog into a potato-garden at the beginning of the century?

I have seen it further argued that the sum given for 'tenant-right' being the price paid for 'security,' the landlord is not wronged by its enforced institution. But agricultural security can be insured by a tenure short of perpetuity. Even Mr. Butt was content with a 63 years' lease; and if the law insist on the owner issuing perpetuity leases, the sum which this new interest would, *ex hypothesi*, legitimately fetch should go into the landlord's pocket, in whom the right of creating it exists, and not into that of the person who has only a transient connexion with the soil. If it is thought right that A, the owner, should give a lease in perpetuity to B, and that B should pay a large sum for it, why is the money to go to C, who has done nothing to earn it?

On the unreasonableness of forbidding the proprietor to let his land and his houses at the market price, on the plea that the competition for farms in Ireland is morbidly extravagant, and of then allowing the tenant to profit by this very competition, I will not enlarge.

Finally, it may be urged that the wrongs I have indicated might be obviated by the application of the 'three F's' in a modified form; but fixity of tenure is not susceptible of modification; and were free sale modified, it would cease to be

'free.' However, my objection to the scheme of the 'three F's' is directed to the principle it contains. In its initial shape it converts the tenant into an owner, the landlord into a rent-charger. In any attenuated form it would do the same thing, only to a less extent. If it stopped short of investing the tenant with the entire ownership of the fee, it would give him a share in it, which it is admitted he has not at present. Consequently, as no man can be given a share of a thing without diminishing the whole, the 'three F's,' even in a modified shape, would imply confiscation, which is a principle contrary to the genius and spirit of British legislation. Moreover, in a few years the restrictions suggested would be swept away. A promise to obtain that result would be the first pledge exacted from every Parliamentary candidate.

But though the confiscation of property be a thing incompatible with free government, forced sales may be resorted to, if not without entailing hardship, at all events without inflicting wrong. The question is, does the occasion require the application of so tremendous an engine? No one can observe what is going on in Ireland without being convinced that, even in the estimation of the League, it is not the land laws which are unjust, but that property is unequally distributed.

A minority of landlords find themselves face to face with thousands of tenants suddenly become conscious of their political power. If the landlords nearly equalled the tenants in number, the Act of 1870 would be at once repealed as a vexatious interference with contracts and with the necessities of an agricultural community. Had the Government been supported by a united public opinion in Great Britain, the present surexcitation in Ireland could never have been generated. But, with the democratic tendencies at present rife in England, every Administration, whether Conservative or Liberal, must henceforth be expected to show great reluctance in enforcing the rights of the few against the interests of the

many. Under such circumstances, it might be wise to provide that might and right should inhabit the same instead of opposite camps.

In the estimation of the tenant, Mr. Gladstone's Act put him into the same bed with his landlord. His immediate impulse has been to kick his landlord out of bed. The temptation of the Government will be to quiet the disturbance by giving the tenant a little more of the bed. This will prove a vain expedient. The tenant will only say to himself, 'One kick more, and the villain is on the floor.' If, however, instead of giving the tenant more of the bed, we cut the bed in two, he will then roll himself up in his blanket, and be all in favour of every man having his own bed to himself. In other words, the problem is to render Ireland conservative, to make it the interest of the peasantry to support law and order, to recognize the sanctity of property, and the reasonableness and necessity of rent. This can only be done by making him an owner, and an owner upon a very extensive scale—upon such a scale as to render it the interest of the greater part of the population to insist upon the remainder fulfilling their legal obligations.

How is this to be done? Let a necessary sum, raised on Government securities, be devoted to the purchase, upon fair and proper terms, to be regulated by a trustworthy Commission, of a considerable proportion of the lands of Ireland. At this moment about £3,000,000 a-year is spent by Great Britain on Irish objects. But £3,000,000 a-year represents a capital of £100,000,000, an amount greatly in excess of what would be needed for the purpose I have specified, inasmuch as over the major part of the areas likely to be dealt with the tenants themselves will be able to provide a portion of the requisite purchase fund. The rent would, of course, represent the interest of the capital sum employed. It will be at once said, 'You surely do not propose to make the State the landlord of the Irish people?' Certainly not.

Let us rather take a leaf out of the Russian book, and convert this rent into a fixed charge or land rate, to be collected by local authorities, with jurisdiction over limited areas—townlands, for instance, or similar circumscriptions—*and with power to impose an additional rate-in-aid if the rent-charge for which the area is assessed be not forthcoming, or, at least, to force the sale of the defaulter's farm.* This is what is done by the heads of the Russian 'communes' or 'mirs,' even when the land is not cultivated in common, but is held by individual peasants.

Supposing such a system established, it would work in this way:—A tenant in a particular townland would fail to pay his portion of the rent-charge. All his neighbours, knowing that in his default they would have to make good the deficiency, would immediately require him either to pay or to sell his holding. Thus the public opinion of the whole country would be strongly in favour of the payment of rent.

We now come to the way in which the product of this land rate is to be disposed of. It should be applied to the discharge of all those Irish liabilities now liquidated out of the Consolidated Fund, such as the education grants, &c. In this way the Exchequer would be no loser by the operation, for, though £50,000,000 were to be expended, the drain on the public purse for Irish purposes would be no greater than it is at present. Nay, in a certain sense, there would be a gain; for, supposing the lands to be bought at twenty-five years' purchase, the rent-charge produced by the investment of £100,000,000 (to use round numbers) would be £4,000,000, which would leave £1,000,000 a-year for a sinking fund.

But, it may be asked, would even this system secure us from future combinations against rent? That must be a matter of opinion. For my part—in spite of the arguments to the contrary now being supplied by the refusal of the occupiers of the Ulster tenant-right estates to pay their rents—I think it would. What has restricted the operation

of Mr. Bright's clauses has been the difficulty of applying them to an entire area. Although three-fourths of the tenants on a townland might be both able and willing to buy, there are always intermixed among them a certain number of impecunious men, who could not contribute any portion of the purchase-money for their farms. But no landlord could be required to part with his good farms and have the shaky tenants left upon his hands. Consequently, if a system of peasant proprietors is to be instituted on any appreciable scale in Ireland, the Commissioners charged with the duty of superintending the operation would have to purchase estates or parts of estates in the lump, and to admit these poorer occupiers to the advantages of the scheme without any preliminary payment. It may consequently be urged that these needy men would be always under a temptation to resist the payment of their land-charge. But supposing, as could easily be done, it were made the interest of the wealthier tenants to fine down their land-charge by a ready-money payment, at least three-fourths of the inhabitants of the townland would be interested in maintaining the stability of the settlement, while every year would increase their proprietorial rights, and diminish their outstanding liabilities. When it is further remembered that every defaulter would still have the fee-simple of his farm to sell, he would be all the readier, as is justly boasted by the advocates of tenant-right, to submit to the operation of the law. At all events, it is evident that under the foregoing conditions the chances of a reduced and constantly diminishing land-charge being honestly paid are much greater than would be the case if the entire quit-rents of Ireland were left to be collected by the bailiffs of an ex-proprietary disassociated from their estates, and probably from their country.

Many other formidable objections of course might be raised to the constitution of a peasant proprietary in the manner indicated; but it will be found on examination that

almost every one of these would equally apply to the 'three F's' or to any system of copyhold tenancies, while the plan I have sketched would, at all events, be a just and permanent solution of the political side of the Irish difficulty—on the one hand inflicting as little injury on the owners as any change of a radical nature could well do, and, on the other, fulfilling once and for ever the fondest aspirations of the Irish peasant.

With the foregoing scheme it might be desirable to incorporate a subsidiary arrangement, with a view to the retention in the country of the resident gentry. When the serfs of Russia were emancipated, and when the feudal services of the Prussian 'villeins' were commuted into money payments, under Stein and Hardenberg, the peasant lands of both countries were extricated from the midst of the seignorial estates by a process of transposition, the 'lord' being left with full control over his own property. In the same way it might be possible, by a very slight re-arrangement of the tenancies in any district, to contrive that in the neighbourhood of each proprietor's demesne there should be left a few thousand or hundred acres, as the case might be, occupied by tenants of over £50 a-year, whose relations with their landlord would be regulated by the existing Act. I do not imagine it is the object of anyone to drive all the educated classes out of Ireland, especially those who are the most likely to initiate agricultural improvement. There is no country in Europe where a landlord class is not to be found, however numerous the peasant proprietors by whom it is surrounded.

Of course, it is evident that this and the larger scheme of which it is the appendage befit rather the region of fanciful than of practical politics. I advocate neither; I only suggest them as an alternative to proposals of a far more desperate character. Formidable as the operation of buying out a large proportion of the Irish landlords may appear, it

will perhaps be found a less impracticable task than the confiscation of their properties. At all events it will be a juster one; and it will not only be just in itself, it will render just every other plan which may be adopted. Give the alternative of purchase, and you can construct any agricultural system that you choose. The 'three F's' would cease to be a wrong if those who rejected them could receive back the money Parliament and the Land Courts invited them to invest, on the assurance that they were purchasing property and not income. But let not those who most deplore past confiscations in Ireland inaugurate a new era by a more gigantic example of confiscation than any that has preceded, nor, in reconstructing the Irish social fabric, lay anew its foundations in injustice.

Hitherto I have treated the 'three F's' as an inseparable and ill-omened triumvirate. But they are not inseparable, nor are they all ill-omened. 'Fair rent,' on the contrary, stands out from among them as a principle to be welcomed by landlord and by tenant alike as the only possible foundation of their relationship, and the essential feature of a healthy agriculture. The difficulty is to discover a machinery for determining what is a 'fair' rent. Judge Longfield has so fully exemplified the necessary fallibility of a Government valuation that I will not enlarge upon the point. I will simply observe that there are three rents in Ireland:—

1. There is the competition rent, or the rent the tenant is willing to pay.
2. The rent the tenant ought to pay.
3. The rent the tenant is able to pay.

It is evident the latter rent must vary in the case of every individual tenant, and be dependent on his skill, the amount of his capital, the size of his farm, and the number of his children, and that, on this principle, no uniformity of valuation would be possible.

If, on the other hand, we adopt as our initial standard a

rate of rent which will secure a decent living to the least skilful and most prolific tenant on a farm of ten or fifteen acres, and regulate the rest of the valuation accordingly, we shall reduce the rental of Ireland to something like zero.

Again, if such a rent is fixed as the land, if properly cultivated, ought to pay, the result would probably be to raise the actual rent over a great part of Ireland. But by fair rents the authors of the 'three F's' do not really mean rents which are fair—*i.e.*, 'full' rents, but rents which are low. The other day a 40-acre farm of mine was surrendered by the tenant. Another tenant of my own, an excellent agriculturist, offered to take it at a rise of 11 per cent. As this offer came from a person who knows every inch of the ground, and whose only motive is to farm for profit, I have no doubt the valuation he has put on the land is as near to absolute correctness as is possible. Would a Government valuator raise the adjoining lands of similar quality to the same figure, or would he annul my recent contract?

Again, my rents are higher, I believe, than those on an adjoining estate, where an unrestricted tenant-right prevails, and where the tenants are really sitting under a double rent. Will the rent on one of my farms, where the tenant has paid nothing for 'good-will,' be pulled down to the level which prevails where the tenants have paid £40 an acre for that commodity?

Be that as it may, I hold the question of fair rents as standing on quite a different footing from the other two 'F's'; and I should hail with satisfaction any reasonable solution of it.

Hitherto I have dealt with Ireland as a unit. But the truth is, Ireland is not a unit. There are many different Irelands; and it is on that account we have such various estimates of its condition. Speaking broadly, however, there are three Irelands:—

1. There is the Ireland of the east and of the river

basins; with their rich soils, large farms, and succulent pastures.

2. There is the Ireland of the north, centre, and south; with its holdings, varying from fifteen to forty or fifty acres.

3. And there is the Ireland of the west, with its cottier tenements and potato cultivation.

The lands comprised in the first category would, I imagine, under any circumstances, be omitted from all heroic legislation, whether confiscatory or otherwise.

To the second alone would even its advocates propose to apply the scheme of the 'three F's'; and over it alone, in that case, would it be necessary to extend the ægis of an estate-purchase system.

But for the extreme west of Ireland, what hope is there from any of the foregoing devices? Along that region there extends a broad riband of hopeless misery which no change in the present relations of landlord and tenant is likely to alleviate. Perennial destitution, accentuated by periodical seasons of famine, has been the sole experience of its inhabitants during the present century. To convert these poor people into peasant proprietors would be impracticable. To make them copyholders under a quit-rent would be scarcely more to the purpose. Even to give them the land for nothing would not prove a permanent alleviation. Many of them, indeed, have no land at all. What, then, is to be done? Manifestly, the only remedy is emigration. At this moment emigration is being much discredited; but to anyone who, like myself, has seen its effects, such an outcry has no meaning. In my opinion, it is simply inhuman to perpetuate from generation to generation a state of things which has been deplored by every traveller who has visited those parts during the last eighty years. Within the compass of little more than a week, after a pleasant voyage, a proportion of these unhappy multitudes might be landed on the quays of Quebec, the women healthier, the children rosier, and the

men in better heart and spirits than ever they have been since the day they were born. Four or five days more would plant them without fatigue or inconvenience on a soil so rich, that it has only to be scratched to grow the best wheat and barley that can be raised on the continent of America. I myself have seen an immeasurable sea of corn clothing with its golden expanse what two years before had been a desolate prairie, the home of the lynx and the jackal, simply through the exertions of a small Russian colony that had run up their shanties in that favoured land. In the neighbourhood was an Irish settlement containing many descendants of the cottier peasantry who had fled from the famine of 1846, now converted into happy, loyal, and contented yeomen. Instinctively my mind reverted to the sights I had seen in Mayo, Connemara, and Galway in 1848. Strange to say, the appearance of the horizon in each case was identical. Its verge stood out against the setting sun like the teeth of a saw; but in Ireland this impression was produced by the gable ends of deserted cottages; in Manitoba, by the long line of corn-stacks which sheltered every homestead.

If it is objected that the pauperized population of the west would make but poor emigrants, I would reply that their previous life will have fitted them infinitely better for their new destinies than the Icelanders who have been driven forth from their Arctic abodes by an analogous necessity, since these last had never seen a plough, a road, a tree, or a field of corn; yet so delighted are they with their new possession that they have called it 'Paradise.'

Of course, very careful consideration would be required to mature a proper scheme of emigration. It ought to be conducted in conjunction with the Canadian Government, and in some sort under the auspices of the Canadian priesthood. In Manitoba the Catholic Church enjoys an authority and prestige as great as in Ireland. The objections now urged by the Irish clergy to emigration to New York and the other

great cities of America in this case would disappear, for their parishioners would merely pass from beneath their own jurisdiction to the fatherly tutelage of the Catholic priesthood on the other side. And, be it remembered that, once a few families have gone, the principle of capillary attraction will be set up, and others will only be too ready to follow their example.

The Dominion Government, moreover, is upon the point of prolonging the Canadian Pacific Railway, which will open up for settlement thousands of acres of fertile lands. Labourers on this work will be paid 5*s*. a-day; and I have been told by a gentleman connected with the enterprise, that it might be by no means impossible to arrange for houses to be built, and even lands ploughed and sown, against the arrival of the new comers; so that, within a fortnight from the day they quitted their hovels in Ireland, each family might find itself in possession of a homestead and a fee-simple farm of 50 acres in their new country—and all this without any extraordinary expense to the British Government in aiding their passage.

The result of thus promoting the emigration of a considerable proportion of the western population, now vegetating in misery upon their four-acre holdings, would be to allow farms to be constituted in that part of Ireland of a size on which a peasant proprietary could be safely established. Without this preliminary operation it would be madness to try the experiment.

I have now concluded my hasty exposition. Sympathising, as I have always done, with that political party which has ever been the champion of free government, I cannot conceive it identifying itself with a policy of spoliation. An advocate of free trade, I deprecate legislation having for its object and effect the artificial protection of a system of cultivation based on a crop so liable as the potato to periodical failure. Believing that the defence of property is as sacred a duty as that of liberty, I protest against the doctrine that

any government is justified, even in the presence of far greater difficulties than those which confront us in Ireland, in violating the elementary principles of law and justice.

Yielding to no one in my desire to see the agricultural population of Ireland prosperous and contented, I have endeavoured to show how this end can best be attained, without sowing the seeds of fresh enmity between classes among whom circumstances have already engendered such deplorable discord.

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THE

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No. VII.

MR. GLADSTONE

AND

THE THREE F'S.

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MR. GLADSTONE

AND

THE THREE F'S.

THE year 1870 was an important epoch in the history of the Land Question. In that year a series of Essays on the Systems of Land Tenure which prevailed in various Countries was published under the sanction of the Cobden Club. In the same year the Act to amend the Law relating to the Occupation and Ownership of Land in Ireland was passed by Mr. Gladstone. The Essays reflected the conclusions on the Land Question at which speculative thinkers had arrived, in accordance with the principles of Cobden. The Act embodied the changes which the Practical Statesman considered essential to the development of Liberal Principles in the Government of Ireland. As was natural, there were divergences of opinion according as people regarded the practical or the speculative aspects of the question. But, in spite of such divergences, there was one point on which the Practical Statesman and the

Scientific Economist were entirely at one—and that was the deliberate and decisive repudiation of the scheme of Land Tenure, which, judging from the signs of the times, is likely to be obtruded on Parliament in the year 1881.

In the year 1870 every writer for the Cobden Club who touched upon the Irish Question rejected the scheme of the Three F's, as it is now popularly called—the scheme by which it is proposed to confer Fixity of Tenure, at a Fair Rent, with the right of Free Sale, upon the Irish Tenant. The writer of the Essay on *The Tenure of Land in Ireland*, the Right Honorable Mountifort Longfield, did not hesitate to describe it as 'a mere violent and wrongful transfer of property' from the Landlord to the Tenant (p. 45, Ed. 1876); he wrote of it as a transfer of property, which, while it would convert the Tenant into a Landlord, would eventually leave the cultivator of the land without the capital necessary for its cultivation (p. 46); he stigmatised it, in fine, as at once 'a confiscation of the Landlord's estate,' an 'obstacle to Agricultural Improvement,' and an 'impediment to Free Trade in Land' (p. 49). The writer of the Essay on *The Agrarian Legislation of Prussia* was not less emphatic in the expression of his views. He insisted on 'the impossibility of directly applying that legislation to the present state of Ireland' (p. 282); he showed that Fixity of Tenure would lead to 'the stereotyping of the system of double ownership,' or to 'the dispossession *en bloc* of the present proprietors' (p. 282); and he warned the

reader that the dispossession of the present proprietors would mean 'the withdrawal from the soil of the class having the largest capital and enjoying the largest credit,' as well as 'the reproduction, in another shape, of the present evil of a class monopoly in the ownership of land' (p. 283).

Nor did Mr. Gladstone himself, in the year 1870, entertain any opinions on the subject of the Three F's which were not in strict accordance with the views which were sanctioned by the Cobden Club. Indeed, the Statesman went beyond the Economists in the vigour of his expressions. 'Perpetuity of Tenure,' he said, in his Speech on the second reading of the Land Act, 'is a phrase that I flatter myself is a little going out of fashion; and if I have contributed anything towards disparaging it I am not sorry.' Still more emphatic was his reprobation of the doctrine which he described as 'sometimes called Fair Rents, and sometimes Valuation.' 'I have not heard,' he said—'I do not know, and I cannot conceive, what is to be said for the prospective power to reduce excessive Rents.' He denounced the device as 'a plan more calculated than anything else for throwing into confusion the whole Economical arrangements of the country.' He denounced it as a plan more calculated than anything else 'for driving out of the field all solvent and honest men, who might desire to carry out the honourable business of Agriculture.' In fine, he denounced it as a plan more calculated than anything else 'for carrying wide-spread demo-

ralization throughout the whole mass of the Irish People.'

By a strange political fatality, and one suggestive of serious reflections, Mr. Gladstone in the year 1881 finds himself asked to reconsider the proposal which in the year 1870 he denounced as one calculated to demoralise the Irish People, to drive all honest men from the pursuits of Agriculture, and to involve the whole Economical arrangements of the country in confusion. Of course no Statesman is bound for the sake of mere consistency to adhere to what he said ten years ago. He may have indulged in heedless rhetoric; he may have been carried away by the impetuosity of irresponsible opposition; he may have over-expressed himself in the hurry of debate. But in the year 1870 Mr. Gladstone was in Office; he was the Prime Minister of England; he was the Messenger of Peace to Ireland; he was pledged to the final settlement of a momentous question. It is true that in the unforeseen developments of human affairs a period of ten years may have modified all the relations of society and revolutionized the world. All the conditions of the problem may have changed; and with the change of circumstances, a Statesman may be coerced to change his mind. Even this is not all that may be reasonably said. A Party Leader may find it necessary to consolidate a great party by a particular party cry. A Practical Politician may conceive that he can solve a practical difficulty by a measure which he cannot in theory defend. So it

may be with Mr. Gladstone. It is possible that in the present posture of affairs he may feel himself compelled to adopt the very measure in favour of which ten years ago, as he himself said, he had not heard, and did not know, and could not conceive, what could possibly be said.

It is plain, then, that the question of the Three F's is reopened, and requires to be carefully reconsidered. We must ask ourselves not what was said against it in 1870, but what can possibly be said in its favour in 1881. If we take this mental attitude, it may possibly be said that the social and economic condition of Ireland is such, that a measure of Land Reform embodying the Three F's would, at all events, remove the more obvious causes of Irish disaffection and distress. But take the forms of misery described by the various Correspondents of the English Press who, during the last four months, have written on the state of Ireland It is evident that no alteration in the Land Laws would directly affect the condition of those who hold no Land. It is evident, for instance, that no alteration in the Land Laws would relieve the abject wretchedness which exists among the small tradesmen in the small country towns, with large families and little trade; or that which exists among 'the fisher folk' of Donegal, whose dependence is the sea; or that which exists among those 'who are merely day labourers,' and who, 'amid the general stagnation, have absolutely no employment.' As to the 444,729 Farm Labourers of Ireland, representing, as they

do, a population of some two million souls, it is evident that the Three F's would confer no perceptible benefit on them. On the contrary, that measure would convert them into the mere serfs of the 423,829 Tenant Farmers whom it would convert into the exclusive owners of the soil. Writers speak of the 'rare good luck' of the peasant who secures employment from 'a proprietor at once sufficiently solvent and public-spirited to undertake any enterprise for the improvement of the country' Writers complain that 'the curse of Absenteeism sits heavily on the West.' But what would be the position of the peasant when all the solvent and public-spirited proprietors had disappeared from Ireland? What would be the burden of the West if all the great proprietors, by reason of the Three F's, were converted into Absentees?

Take, then, the 423,829 Tenant Farmers themselves. It is notorious that the holdings throughout the West of Ireland, as a rule, are so miserably small, and the lands so miserably barren, that in many cases the occupiers could not subsist by farming, even if no rent were payable for their wretched plots of ground. Professor Baldwin makes the statement, and the Report of the Royal Commission authenticates its truth. It is clear that no mere alteration in the Land Laws would afford a remedy for misery such as this. Of what service would Fair Rent be to the cottier who could not support himself rent-free? Of what use would Free Sale be to the squatter who had nothing to sell

which any reasonable man would buy? What benefit, in fine, would Fixity of Tenure confer upon a tenant whose salvation requires him to abandon the patch of barren rock, or unproductive bog, which he paradoxically calls his farm?

Well, then, let us take the 140,000 or 150,000 Tenant Farmers who hold land enough to live by without working as labourers for others. The misery which is paraded to the world is unshared by these. For the most part they are substantial and comfortable men. They live well; they save money; they make provision for their children. They cannot be capriciously evicted without receiving the amplest compensation; and they are entitled to the amplest compensation for every improvement which may have been made by them or theirs. In spite of their alleged grievances and wrongs, they are the principal Depositors with the Banks; and, even in the *annus mirabilis*, 1880, the sums deposited in the various Banks amounted to £29,350,000. In the words of Mr. Gladstone, they are animated by 'a general sense of comfort and satisfaction.' That cases of individual hardship will occur is not to be denied. Unfortunately there are grasping and oppressive Landlords of the lower order. From the necessity of the case there will be occasional assertions of right which will be followed to the verge of wrong. Occasionally there will even be that bitterest of wrongs—the legalized abuse of right. But these are evils which are not peculiar to the land. They are to be met with

in every relation of life. As there are oppressive landlords, so there are harsh masters, brutal husbands, and unnatural fathers. But this is not the rule; and the Lawgiver does not legislate for the exception. No system of law could enforce gratitude, or generosity, or the mutual kindness and mutual forbearance which are the glory of human nature, and without which society itself could not subsist. The operation of these beneficent principles must be left to higher influences than those of law. The attempt to bring them under legal sanctions would produce more evil than it would prevent, and would prevent more good than it would produce. So would it fare with any legislation which proposed to regulate the relations between Landlord and Tenant on a basis of impracticable perfection. Undoubtedly the existing race of Tenant Farmers would escape certain evils, and secure a certain good, by the confiscation of the Proprietor's estate. But even these equivocal advantages would be restricted to the present race of tenants. Converted into the owner of the fee, the triumphant tenant would exercise the right of sale; he would claim the privilege of letting; and, whether he let or sold, he would avail himself to the fullest extent of the principle of competition, in order to exact the last penny that could be exacted for purchase-money or for rent. What, then, would be the position of the tenant farmer of the future? It is plain he would be overwhelmed, in an aggravated form, with the evils complained of by the tenant farmer of the present.

The tenant complains of Insecurity of Tenure; but he systematically declines to take a lease. He complains of the unfairness of his Rent; but he clamorously demands the right to sell his interest. It is demonstrated by *Facts and Figures*, that even if we take the low standard of letting value which is indicated by the Government Valuation, probably some six-sevenths of the land in Ireland is let at rents which must be recognised as moderate, and fully one-half at rents which must be admitted to be low (p. 18). The farmer's tenure, it is said, is insecure. But insecurity is the common lot. It is the lot of the professional man as well as of the peasant. It is the lot of the manufacturer and merchant. It is the lot of the tradesman, the day-labourer, and the artisan. Human life is a struggle for existence, and in that struggle the great mass of mankind must ever exist from hand to mouth, and be subject to the shifts of chance and change. The Irish peasant, it is said, is for ever haunted by the spectre of Eviction. Eviction, it is said, is the sentence of death to the evicted peasant. But if Eviction is a sentence of death, so is bankruptcy and insolvency—so is failure in any profession or pursuit. Let us discuss this matter of Eviction fairly. Suppose the land-owner to be converted by the Three F's into a mere rent-chargeant on his own estate—how is the rent-chargeant to secure the payment of his rent? Distress is a difficult and complicated remedy, one which it is easy to evade and perilous to employ.

The ordinary process of law can only terminate in an Execution which, in the case of the small farmer, produces next to nothing. The only efficacious remedy is Eviction. And why should the tenant be permitted to retain possession of the land for which he cannot pay? Is the landlord to be evicted from existence in order that the tenant may not be evicted from the land? The landlord also has a right to live. But then Eviction is not merely a remedy for the recovery of rent; it is the only safeguard against ruinous subletting and destructive waste; it is the means employed for the settlement of family disputes, and for the creation of new tenancies upon mutually advantageous terms. Nor is Eviction an agency which is exclusively employed by landlords. It is employed by tenant farmers themselves to enforce their rights against their tenants. It is employed by bankers for the purpose of recovering their advances, and by traders for the purpose of recovering their debts. It is employed by one member of a family against another, for the purpose of establishing title to a share of the assets of an intestate farmer. In the great majority of cases the evicted tenant receives ample compensation; in a great number of cases the evicted tenement is redeemed. But what is the number of these Evictions, enforced as they are by so many different classes, and for so great a diversity of objects? All England was startled when the Government Returns showed that 2000 families had been evicted in the year 1880. True, the

returns were not made by the Officers of the Courts by which the writs were issued, nor by the Sheriffs or Sub-sheriffs by whom the writs were executed, but by the Constabulary, who had no official notice of the matter, and acquired their information upon hearsay. But take it that the Government Returns were true. Grant that, among the 423,829 Tenant Farmers of Ireland, there were 2000 evictions, and that none of those evicted were restored to possession as caretakers or as tenants, the percentage of eviction would be only one in 200, or less than one-half per cent. per annum for the whole of Ireland. But take the wider experience which is recorded in *Facts and Figures*. The Tables show that over an area of some seven millions of acres, occupied by some two hundred thousand tenants, only 357 persons have been evicted during the past ten years for causes other than non-payment of rent (p. 26); that only 1031 have been evicted during the same period for non-payment of rent (p. 27); and that for all causes soever—whether for non-payment of rent, or for committing waste, or for subletting, or for overholding, or for the purpose of settling family disputes—there have been on an average per annum less than 139 evictions (p. 27). In other words, on an average of the last ten years, it is only one tenant in one thousand four hundred and twenty-eight that has been evicted in any one year, for any cause whatsoever, in a country which is said to be desolated by Eviction.

It is plain, therefore, that the Three F's would

be no cure for the more obvious evils which are said to be the sources of Irish disaffection and distress. It would not ameliorate the condition of the small Tradesmen and inferior Artisans. It would not raise the position of the Farm Labourers; on the contrary, it would have a tendency to lower it to a depth still lower. It would confer no benefit on the minor Tenant Farmers, who are in reality Farm Labourers, and can only by an abuse of terms be considered Farmers. It would leave the Tenants of the future more heavily oppressed than ever by rack-rents, and more than ever in peril of eviction. The whole Political Economy of the subject is summed up in the recent Report of Mr. Bonamy Price, the Professor of Political Economy at Oxford, and a Member of the Royal Commission on Agriculture:—'The Three F's', says Mr. Price, with all the evidence before him, 'ought to be condemned as false in principle, both socially and economically, as calculated to perpetuate the peculiar evils from which Ireland is suffering, and to arrest that increase of production, from which alone she can hope to advance towards prosperity.'

Nor is the effect which the Three F's would produce upon the Landed Interest of Ireland an element in the problem which is unworthy of the consideration of the sober Statesman. The Landed Interest, according to the calculation of Mr. Parnell himself, when addressing one of the Land League meetings, represents half a million of

the population. In reality it represents far more. Into the political uses of a Landed Aristocracy this is not the moment to inquire. Possibly the Landed Aristocracy, like the Aristocracy of Intellect, and the Aristocracy of Wealth, may be destined to disappear in the Democratic Progress of the future. But if one of the considerable forces in modern Society is to be deliberately destroyed, the Statesman who is to be responsible for the act should at least perform his work with open eyes. Consider, then, the present position of the Irish Gentry. Their old ascendancy has been long ago reversed. Their political influence is gone. The borough franchise is possessed by every Irishman who, by any stretch of the imagination, can be said to be rated for a house; and it will probably be conferred on every Irishman that can be said to occupy a hovel. The whole administration of justice is committed into the hands of the multitude by the Jury Act of Lord O'Hagan. A measure is promised which will transfer all powers of Local Government from the Grand Jury of the county to the class which may be said to monopolise the franchise. Grant the Three F's, and the social Revolution will be consummated and complete. The Ownership of the Land will be conferred on those who already monopolise Parliamentary influence, and in a few months may monopolise the powers of every Local Board. The existing Landowner will be converted into the owner of a rentcharge—a rentcharge the payment

of which the Government will not guarantee, and the payment of which the Law of the Land, in the periods of recurrent Agitation, will be unable to enforce. Deprived of all political influence, and of all social importance—encamped amongst a hostile population—possessed of an invidious and precarious species of wealth—with no public duties to discharge, and with no power or interest in the management of the land—why should the Irish Proprietor continue to reside in Ireland? *Quid Romae faciat?* He would inevitably become an Absentee. He would abandon his country in disgust, and Ireland would be converted into a sordid and sullen community of Priests and Peasants and Police.

These considerations are so obvious that they cannot possibly have escaped the mind of the Statesman who now has the fortunes of the country in his hands. But the Prime Minister is asked to believe that his Legislation of 1870, in spite of his confident predictions, has proved a failure. He is still animated by the ambition to solve the Irish problem, and by the belief that it is his privilege to solve it. But he is told by his followers that Ireland can only be pacified by governing it according to Irish Ideas; and he is warned by the Irish Parliamentary Party that Irish Ideas can only be ascertained by listening to the voice of Irish Agitation.

Let us listen, then, to the voice of the Irish Agitation. If the Irish people unanimously demanded the Three F's, if there was any probability that by

the concession of the Three F's all Ireland would be rendered loyal, in such a case a Statesman might well be justified in making the experiment, and taking chance. But in the present state of Ireland no English Statesman can rely on a justification such as this. The Three F's are not what the Ireland of the Agitation asks; nay, they are the very thing which the Ireland of the Agitation scouts. Mr. Parnell notoriously considers the Three F's to be a mere perpetuation of the system which, in his opinion, is the curse of Ireland. On this subject he has expressed his views on a hundred platforms; and since the meeting of Parliament he has spoken by his henchman, Mr. Healy. The pamphlet entitled *Why there is an Irish Land Question and an Irish Land League* was prepared as a portion of the brief for the Traversers in the recent prosecutions. It professes to present the Irish Land Question from the point of view of the Irish National Land League for the benefit of the Legislature. It is published by the Executive of the Land League, and it may be regarded as the official statement of its views. And what is that official statement? Does the League accept the Three F's as a remedy for the ills of Ireland? No. 'The People of Ireland,' it says, 'who twenty, ten, five, or two years ago would have been content with a far different settlement of the question, have proclaimed from a thousand platforms their determination to rest satisfied with nothing less than the final abolition of that system of Landlordism which for hundreds

of years has done no good thing, and which has worked untold misery, and brought countless evils on the Irish Nation' (p. 98).

Such is the manifesto which the League addresses to the Legislature. The statement, it is true, is not characterised by the precision of language which a manifesto should display. The League professes to desire the abolition of the system of Landlordism; but what it in reality desires is the extermination of the present race of Landlords. At a thousand meetings its orators have expressed the determination 'to bring the Landlords to their knees'—'to banish every blasted Landlord from the country.' Such is the decency and the decorum of their language. But neither Landlordism nor Landlords can be abolished by the *fiat* of the League. Mr. Gladstone has shown in his Midlothian Speeches, that 'we shall continue to have, as we have had, a class of Landlords, and a class of Cultivators of the soil.' Even a Peasant Proprietary would not put an end to the distinction. In Belgium itself, according to M. de Laveleye, only one-third of the occupiers are owners, and the remaining two-thirds occupy their farms by contract or by lease. The Peasant Proprietor claims the right of letting his lands as energetically as the Feudal Baron; and in Ireland he would exercise it with the rigour of a Front-de-Bœuf. What the Land League wants to exterminate is neither Landlordism nor the Landlord; it is the Landlord who is at present in possession.

This suggests an entirely new class of considerations. What is the meaning of this savage animosity against the Landlords? What are the real aims and objects of the Agitation? These are questions which painfully exercise the English mind. But their answer is obvious to every Irishman who knows anything of Ireland. The Agitation which is desolating the country is not Agrarian—it is not Political—it is Revolutionary. Mr. Parnell audaciously avows it. 'If they abolished the Landlords,' he said, to an astonished House of Commons, 'there would remain no class who were interested in the maintenance of English Government in Ireland.' 'I wish to see the Tenant Farmers prosperous,' he said at Galway in words which have become historical; 'but large and important as is the class of Tenant Farmers, I would not have taken off my coat, and gone to this work, if I had not known that we were laying the foundation in this movement for the regeneration of our Legislative Independence.' This is not a matter which admits of doubt. Her Majesty's Attorney-General, at the recent abortive trials, proclaimed the fact. He deliberately asserted that the Farmer is only made 'the cat's paw' of the League, for the purposes of Revolution. To demonstrate the fact, the Attorney cited the public utterances of Mr. Parnell's coadjutors. 'We will first settle the Land Question in our own way,' one of those gentlemen is represented as saying 'and then, please God, we will go on with another

matter that will put the Irish People on the way to settle another and a greater question.' 'Give us your adhesion to the cause,' another is represented as having said—'stand together like men, and when you are able to achieve your social independence, you may, from the rank and file of the 250,000 Land Leaguers, select an Irish National Guard—and, with the weapons of free men slung upon their shoulders, we will complete the work which a hundred years ago gave Ireland a glimpse of Independence.'

But it is not in overt Rebellion, or actual Civil War, that the *immediate* peril of Great Britain lies. It is true that among the revolutionary and rebellious classes the old hatred of the English connexion still survives. It is as strong as in the days of Tyrone, of Tyrconnell, and of Tone. But we need not at present apprehend a repetition of the Rebellion of 1641. We are at present in no danger of a Civil War, such as that which desolated Ireland in 1689. We are not even, so far as appears, in peril of an armed Insurrection, such as that of 1798. Our true peril lies in a very different direction. Mr. Lecky, in his *Leaders of Public Opinion in Ireland*, relates a remarkable anecdote of Mr. Grattan. 'You have swept away *our* Constitution,' the brilliant Irish rhetorician is related to have exclaimed to an English gentleman, 'you have destroyed *our* Parliament; but we shall have our revenge—we will send into the ranks of *your* Parliament, and into the very heart

of *your* Constitution, a hundred of the greatest scoundrels in the kingdom.' The speech of Mr. Parnell at Waterford on the 6th December, 1880, reflects a lurid light on this prophecy of Mr. Grattan. 'We stand to-day in the same position as that in which our ancestors stood,' said the Leader of the League amid tumultuous applause—'we declare that it is the duty of every Irishman to free his country if he can.' Here the Apostolic Succession of Rebellion is openly avowed. But Mr. Parnell deprecates Civil War in the *present* position of affairs. 'I call for no vain, no useless sacrifice,' he said—'I do not wish to be misunderstood for a moment. Our present path is within the lines of the Constitution. England has given us that Constitution for *her* purposes; we will use it for *ours*.' Amid deafening applause Mr. Parnell again referred to the contingency of his having to 'call upon the People of Ireland to go beyond the lines of that Constitution'; but 'for the present,' he said, 'taking our stand within the limits of the Constitution—relying upon organized Parliamentary Action, and relying upon organized National Action at home—I believe we have forces to achieve our ends.'

Mr. Parnell has not left us in the dark as to what, in his hands, an organized *Parliamentary Action* means. Pending the outbreak of the Civil War—pending the Invasion of the Irish from abroad on which he reckons—Mr. Parnell proposes to fulfil the prophecy of Mr. Grattan, and

carry war into the bosom of the Constitution. His policy, it is true, is not original. It was first broached by the editor of the *Tablet*, the late Frederick Lucas, when addressing an audience at Kells, so far back as the year 1852. 'If,' said Mr. Lucas 'they insist on keeping the English and Irish Parliaments united, which in my conscience I believe to be a gross wrong—if they insist upon a Parliamentary Union between the countries, my honest conviction is, that it is the duty of the Irish part of the Representatives to act as a separate party in the Legislature, disordering, disorganizing, and interfering with, every business that may be transacted, as far as it is expedient and feasible to do so, and tormenting this unjust anti-Irish House of Commons until they find it their interest to do us justice.' 'These words,' said Mr. Parnell at the Cork Banquet on the 3rd of October, 1880, 'are words from the grave. Lucas was thirty years before his time. Now we are a party occupying an independent position in the House of Commons, pledged to remain aloof from every English Party who will not concede to Ireland the right of Home Government; pledged, in the words of Mr. Lucas, to be a separate element in the Legislature, and if necessary *disorderly*—disorganizing, interfering with, every business that may be transacted, as far as is feasible, expedient, or possible.'

Nor are we left in uncertainty as to the meaning of organized *National Action* at home. In his declarations on this point no one could be more

frank than Mr. Parnell. In his speech in the Debate on the Address, that gentleman is reported to have expressed himself as follows. 'We have undoubtedly called on the people of Ireland,' he said, 'constitutionally, and without violence, by organization and passive resistance, by refusing to take farms from which others have been evicted or by refusing to deal with, or supply food to those who take those farms, to resist those who attempt to enforce those unjust laws.' What Mr. Parnell styles constitutional lawyers style conspiracy. Be this as it may, for the present he has resolved to proceed by way of Interdict, and not by way of Insurrection. He has pronounced a sentence of Excommunication against every Irishman who presumes to disobey his will. He addresses his victim with the *Vade in pacem* addressed in the dark ages to the religious who had broken their vows. He has not pronounced a sentence of death against the obnoxious Landowners; he has simply bid his emissaries let them die. But the zeal of the emissary has outrun the discretion of the master. He has organised a secret *Vehmegericht.* He has armed himself with the cord and dagger of the Vehme. The result of this National Action has been described by one of those Statesmen who is still old-fashioned enough to reverence the Constitution. 'For the Law of the Land,' said Lord Hartington, 'has been substituted the Law of the Land League; for the Judge and the Magistrate, an irresponsible Committee; for the Police constable and Sheriff's

officer, the Midnight Assassin, and the Ruffian who invades the humble cottages, disguised, by midnight.' The sufferers from this intolerable tyranny, as this popular and liberal Statesman proclaims, are not the Landlord class alone, but hundreds of thousands of honest men, who desire honestly to gain their living, but cannot do so because they are in terror of their lives.

Such is the movement which has brought the Three F's within the range of practical politics. It has struck politicians with a panic. But panic is always wild and incoherent, and its vision is distorted. If we are to legislate on the Land Question, let our legislation be calm and deliberate, and with full perception of the facts. The demands of a Nation, we are told, are not to be ignored. But what claim has this so-called National Action to be regarded as the action of the Nation? It is a movement of which the most considerable portion of the Nation is a victim. It is a movement from which the whole sound portion of the Nation stands aloof. It is a movement which multitudes of those who are compelled to afford it ostensible countenance regard with secret terror and abhorrence. It is, in fact, the movement of the Nationalist, and not the movement of the Nation. Party politicians may affect to believe that the Irish people are represented by the Land League. But the Land League does not even represent the Land. Here again Her Majesty's Attorney-General for Ireland is a

witness for the truth. 'One would naturally suppose,' said the Law Officer of Mr. Gladstone, 'that the Traversers had some deep and personal interest in the land; but with the exception of Mr. Parnell, who is a Landlord, I do not believe that any of the others has anything on earth to say to land, or ever had.' The Attorney gives the style and description of these regenerators of society. Mr. Dillon, it seems, is a doctor; Mr. Biggar and Mr. Egan are dealers in provisions; Mr. Walsh is a commercial traveller; Mr. Harris is a road-contractor; Mr. O'Sullivan is a national schoolmaster; Mr. Sheridan is a publican; Mr. Gordon is a shoemaker; and Mr. Nally, according to the Attorney-General, is nothing. These are the gentlemen who are turning the world upside down. These are the men of light and leading, who are resolved to exterminate the Landlords, and sever the connexion between Ireland and England. These are the Leaders of the new Commune. They openly deride the sanctity of contract, and ignore all the moralities of law. They appeal to the selfish instincts of the peasant. They claim the ownership of the land for the tiller of the soil. They run through the whole gamut of the Jacquerie of Jacques Bonhomme, and the Jacobinism of St. Just. Pay no rack-rent, they exclaim; pay no rent but that which is convenient to yourself; pay no rent whatsoever—re-enact the scenes of the French Revolution, and

treat your Landlords as the French Noblesse were treated by the Terror.

The facility with which a faction composed of a few of the most audacious and reckless of a nation may triumph over the immense majority of the holders of property in a state has been shown in the history of Europe. Take Alison's description of the Jacobins of France. The active part of that tremendous faction never exceeded a few thousand men. Their position in society was low; their talents were by no means of the highest order. Yet they trampled under foot all the influential classes. They kept two hundred thousand of their fellow-citizens in bondage. Day by day they led out hundreds of the best blood in France to execution. Such was the effect of sheer audacity—such was the effect of unity of purpose and secrecy of action. This is the political portent which is now occurring before our very eyes. It is a small but energetic band of desperadoes that has brought Ireland into the condition which Lord Hartington describes.

Such is the condition of the country which supplies the politician with a pretext for abnormal legislation. The country, we are told, is in such a condition that concessions must be made, even if the Landlords have to sacrifice their rights. The political folly of such a contention is obvious. What would the sacrifice avail? To what would the concessions tend? They would merely blood

the Agitation, which is bent on dismembering the Empire. But it is the political immorality of the contention that is most revolting to the honest mind. Lord Dufferin brands it as it merits. It is a contention, as he says, that 'the Highwayman on Bagshot Heath, instead of being dealt with by the strong arm of the law, is to be invested with a Royal Commission to rob the Queen's subjects, in order that legality may square with facts' (p. 11).

It was not thus that Mr. Gladstone proposed to square legality with facts in 1870. In memorable words he compared the face of Justice to the face of Janus. He compared it to the face of the majestic Lions, which keep watch and ward around the Pillar which is the record of our country's greatness. 'She presents one tranquil and majestic countenance,' he said, 'towards every point of the compass, and every quarter of the globe.' 'That rare, that noble, that imperial virtue has this above all other qualities,' he said, 'that she is no respecter of persons, and she will not take advantage of a favourable moment to oppress the wealthy for the sake of flattering the poor, any more than she will condescend to oppress the poor for the sake of pampering the luxuries of the rich.'

The true character of the Agitation is recognised by Mr. Gladstone. He has declared to the House of Commons that the abettors and perpetrators of the atrocities which have converted Ireland into a Bulgaria are not the suffering popu-

lation of Ireland. He has photographed them as 'the Whiteboys, the ex-Whiteboys, the remains of the Fenian Agitation, the members of the dangerous classes,' by which every community in Europe is infested and imperilled. He sees that men like these are not to be converted by any remedial legislation, and that in their case the only safeguard for society is Force.

No Statesman or Philosopher can perceive more clearly than Mr. Gladstone the true function which Force performs in the economy of Nature. It is by Force that the universe is held together. It is by Force that the moral world maintains itself against the powers of evil by which it is eternally affronted. It is under the shadow of the public Force that the public Peace reposes. True, Force is not a remedy; but it affords a remedial restraint. True, Force is not a reason; but we do not reason with the enemies of society—we do not hold parley with the murderer taken in the manner, with the burglar, or the thief. As the last resource of power—the *ultima ratio reipublicæ*—it is fit that it should be the resource adopted last. Like the Grecian Fate, it should ever be left looming in the background. The true ruler of men leaves ordinary life to be regulated by the spontaneous operation of natural causes, by the play of the natural affections, by regard for public opinion, by the sense of right and wrong, which is as much a part of human nature as the appetites of sense. But Law, denuded of its Sanction, ceases to

be Law. Bentham has profoundly said that Law and Morality have the same centre, but not the same circumference, the common centre being the happiness of man. The metaphor may be developed. The domain of Law is the solid globe on which we live; Morality is the invisible atmosphere by which it is surrounded. It is this atmosphere in which we live and breathe; it is this air which gives dignity to Law, and supplies it with the energies of life. But still we are the inhabitants of earth, and not the denizens of air, and on the *terra firma* of the Law, the ultimate protector of all that man holds dear is Force.

These considerations are not truisms to be tacitly assumed; they are truths of which, at the present crisis, we require to be reminded. On this point the history of the last few months has afforded us a lesson. On the 31st of March, 1880, there was not only 'an absence of crime and outrage in Ireland,' but 'a general sense of comfort and satisfaction, such as had been unknown in the previous history of the country.' Such were the words of the Prime Minister of England. On the 7th of December in the same year, throughout two of the four Provinces in Ireland, right was disregarded; life was insecure; the process of the law could not be enforced; true liberty had ceased to exist; and intolerable tyranny prevailed. Such was the testimony of the Judges of the Land. What was it that had caused the general sense of comfort and satisfaction to disappear? What was

it that had substituted for it a sense of universal insecurity and terror? In eight short months there had occurred a Revolution. Why? Because Authority had disarmed itself, and Agitation and Anarchy were immediately in arms. Because during that ill-omened period there was neither Character nor Force in the Government of Ireland.

Mr. Bright, achieving a victory over his prejudices which reflects upon him the highest honour, has recognised the importance of these momentous truths. He demands a Legislation for Ireland which, 'in mercy to the many, will place restrictions on the few.' He admits that these restrictions would involve so little interference with the true liberties of the subject, that if they were imposed, 'not one man in a hundred would be aware of their existence.' Still, he expressed the hope that the disturbing elements in Ireland would be temporary only, and therefore recommended that the measure of coercion should be temporary also. But Mr. Bright might have bethought himself of what he had previously said. For thirty-seven years he has been a member of the House. During those thirty-seven years no less than thirty-two measures of Coercion have been introduced. Against all these Mr. Bright felt himself obliged to vote; and now, before the Commons of England, he reluctantly admits that he was wrong. And why? Because the real disturbing element in Ireland is no temporary evil. Mr. Bright, when addressing his

Constituency, hit upon the truth. He said that the Leaders of the Agitation showed, by the extravagance of their demands, that they were not so much the friends of Ireland as the enemies of England. It is from this enmity to England that every Irish Agitation springs. It is an animosity which no justice can appease, and no concession can allay. It is in vain that all political inequalities have been removed, all practical grievances redressed. It still survives. It has survived the Disestablishment and Disendowment of the Church. It has survived the Land Act. True, the hereditary and inveterate disease is slowly wearing out. The different races in Ireland have been gradually fused; the professors of the different religions have been placed on a footing of equality; a prosperous community is being developed; Ireland is being converted into a great Anglo-Irish nation. Still the Anti-English sentiment survives. It survives, it is true, with diminished force and in a degraded form. It is no longer fostered by the dispossessed Chieftain, by the unemancipated Catholic, by the discontented Serf. It finds its leaders in the small shopkeeper, in the idle artisan, in the hired orator, in the liberated convict. It finds its followers among the mere *residuum* of the population. Once it allied itself with the public enemies of England—with the Spaniard in the time of Philip, with the French in the times of the Grand Monarch and the First Republic. Now it no longer

consorts with Captains and with Kings. It is obliged to invoke the assistance of the American Filibuster, and is dependent for its sordid and mercenary subsistence on the contributions of the Irish of New York. Once it held the balance between English parties, allying itself with the English Whigs in the time of Melbourne, as it allied itself with the English Tories in the time of Ormond. Now it whines for the privileges of the Constitution, when arrested in the very act of attempting its destruction. But with the true instinct of a ruling and imperial race, the English are beginning to perceive that the essential object of all Government is to *govern*. They are beginning to see that Free Government does not require that crime and outrage should be let go free. They are beginning to see that Freedom of Discussion does not require that plans of rapine and spoliation should be freely and openly discussed. In spite of their repugnance to Coercion, they recognise the truth, that the perpetrators of midnight mutilations and midday murders should be effectually coerced. They are not disposed to recognise any Parliamentary Privilege to destroy or to degrade their Parliament. They are not disposed to recognise a constitutional right to undermine and annihilate their Constitution. Above all, they are as determined to maintain the integrity of their United Kingdom as the great Republic was to maintain the integrity of the United States.

In the consideration of the Land Question,

then, we may discard the Agitation and the Anarchy which was its culminating triumph. In that Agitation the honest and industrious Irish People had no interest; so far as they participated in it they were reluctantly coerced. The Irish Land Question must be determined, not on the principles of Agitation, but on the principles of Justice. And what do the interests of Justice require? Here there is no conflict, no contrariety of interest. It is not the interest of the Farm Labourers of Ireland that they should be deprived of their most liberal employers. It is not the interest of the Tenant Farmers that they should be deprived of Landlords able and willing to alleviate their distress in evil times. It is not the interest of the State itself that capital and intelligence should be withdrawn from Irish soil. Neither, on the other hand, is it the interest of the Landlords to perpetrate injustice. It is not their interest to be surrounded by discontented and disaffected tenants. It is not their interest to convert the Peasant to a Pauper; it is not their interest to rack-rent or to ruin. The Landlords, as a class, have no sympathy, no community of interest, with the grinding and the grasping oppressor of the poor. If any remedy against oppression can be devised by the Legislature, such legislation will be gladly welcomed and cordially carried out by the Landed Proprietors of Ireland. Whatever is for the real and lasting benefit of the Tenant is for the real and lasting benefit of the Landlord. But let

Parliament remember and act upon the words of the Prime Minister of England. Let it be animated by the noble and imperial virtue which is no respecter of persons. Let it not take advantage of a favourable moment to oppress the wealthy for the sake of flattering the poor. Let it do justice; and at all costs, and at all hazards, let it be resolved to *govern*.

APPENDIX.

MR. GLADSTONE ON THE THREE F's.

(*Reprinted from his Speeches in* 1870.)

Men little think how immorally they act in rashly meddling with what they do not understand. Their delusive good intention is no sort of excuse for their presumption. They who truly mean well must be fearful of acting ill.—*Appeal from the New to the Old Whigs.*

FIXITY OF TENURE.

I do not think that anything dishonourable, anything that intends an injury to another, has been projected by those who have set up *perpetuity of tenure* for the Irish occupier as their favourite scheme, because we have not a doubt that they have seen that inasmuch as perpetuity of tenure on the part of the occupier is virtually expropriation of the landlord, and as a mere readjustment of rent according to the price of produce can by no means dispose of all contingencies the future may produce in his favour, compensation would have to be paid to the landlord for the rights of which he would be deprived. I have no doubt that they have taken this circumstance into their view; but, at the same time, while this proposition is to be indisputable, I hold that the plan is attended with the greatest *practical difficulty*, even were it on this ground alone. Because the question will be, By whom is that compensation to be paid? It must either be paid by our old familiar friend, the Consolidated Fund—to which it appears to me that the people of England and Scotland would certainly have a word to say—or else it must be paid by an immediate increase of the rents now payable in Ireland, in order to compensate, by a positive augmentation at the moment, the landlords of Ireland for the loss of their chances in the future. Now, I do not know how a measure is to be framed either upon the one basis or on the other. But suppose for a moment that we put the financial difficulty out of view, what would be the *effect of perpetuity of tenure* upon the tenant? As I understand it, the scheme itself amounts to this—that each and every occupier, as long as he pays the rent that he is now paying, or else some rent to be fixed by a public tribunal charged with the duty of valuation, is to be secured, for himself and his heirs, in the occupa-

tion of the land that he holds, without limit of time. He will be subject only to this condition—somewhat in the nature of the Commutation of Tithe Act—that with a variation in the value of produce the rent may vary, but it will be slightly, and at somewhat distant periods. The effect of that provision will be that the landlord will become a pensioner and rentcharger upon what is now his own estate. The Legislature has, no doubt, the perfect right to reduce him to that condition, giving him proper compensation for any loss he may sustain in money; the State has a perfect right to deal with his social status, and to reduce him to that condition, if it thinks fit. But then it is bound not so to think fit unless it is shown that this is for the public good. Now *is it for the public good* that the landlords of Ireland, in a body, should be reduced by an Act of Parliament to the condition practically of fundholders, entitled to apply on a certain day from year to year for a certain sum of money, but entitled to nothing more? Are you prepared to denude them of their interest in the land; and, what is more, are you prepared to absolve them from their duties with regard to the land? I, for one, confess that I am not; nor is that the sentiment of my Colleagues. We think, on the contrary, that we ought to look forward with hope and expectation to bringing about a state of things in which the landlords of Ireland may assume, or may more generally assume, the position which is happily held, as a class, by landlords in this country—a position marked by residence, by personal familiarity, and by sympathy with the people among whom they live, by long traditional connexion handed on from generation to generation, and marked by a constant discharge of duty in every form that can be suggested—be it as to the administration of justice, be it as to the defence of the country, be it as to the supply of social, or spiritual, or moral, or educational wants—be it for any purpose whatever that is recognized as good and beneficial in a civilized society. Although, as I have said

nothing would induce me voluntarily to acquiesce in the continuance of such a state of things as has prevailed, and still to a great extent, prevails in Ireland—it would, I own, be a most melancholy conclusion were we to find that we could not rectify that which is now wrong in the land tenures of that country without undertaking *a social revolution*—a social revolution in which the main characteristics would be the absolution of wealth and property from the performance of duty, and an addition to that lounging class—unfortunately too abundant in this country—who are possessed of money and of nothing else, and who seem to have no object in life but to teach us how to multiply our wants and to raise the standard of our luxuries, even when we have not yet solved the problem, or got to the heart of the secret, how we are to relieve the destitution which is pining at our doors.

Again, perpetuity of tenure must, I think, be further considered from *this point of view*. If the land is to be bought, it should be bought by and for the State, and that which is so purchased should be distributed among, or applied for the benefit of, the whole nation. But the occupiers of land in Ireland, though they of themselves constitute something near a moiety of the people of the country, yet are not the whole people. And it would, I think, be difficult to show why, in favour of these particular persons being occupiers, the whole essence of proprietary right should be carried over from the class that now possesses it to that which, though infinitely larger, is still a class, is not the whole people of the country. But consider again *how this plan is to work*. Let me suppose myself an Irish occupier invested by an Act of Parliament with perpetuity of tenure. If I want to let the property which I have thus acquired, am I to be allowed to let it to a tenant—a mere tenant—or am I not to be allowed to let it to anybody but a perpetuity-man like myself? If I am only to let it to a perpetuity-man, I can only let it to that class of men who are prepared both to cultivate the soil and to pay

me the price of the permanent estate. The *strange position* in which we should then find ourselves would be, that all that active and energetic class which does not require any permanent estate in the land, but exists by the intelligent and profitable application of capital to farming purposes, would be absolutely proscribed; you would not anywhere let a man in to put a spade or plough into the ground unless he was able to purchase the perpetual estate. But, on the other hand, if I am told—"You, a perpetuity-man, will be allowed to deal with the land as you choose—to let it from year to year, to create yearly or any other form of tenancies which you think proper"—then I say the Act of Parliament would contain within it *the seeds of its own destruction;* nay, not the germs only, but the body and substance of provisions which would soon generate the very mischiefs which you proposed to extinguish. We should still have landlords and tenants with relations as ill-regulated as ever. At first they would be small landlords, but not long. The wealth of this country would go forth once more into the market and accumulate great estates, so that—not we, perhaps, but, at any rate, our children, should again have to assemble within these walls, and to deal afresh with the difficulties of the Irish Land Question.—*Hansard's Reports*, vol. cxcix., 350–353.

FAIR RENT AND FREE SALE.

But it is proposed that we should establish permanently and positively a power in the hands of the State *to reduce excessive rents*. Now, I should like to hear a careful argument in support of that plan. I wish, at all events, to retain at all times a judicial habit of not condemning a thing utterly until I have heard what is to be said for it; but I own I have not heard, I do not know, and I cannot conceive, what is to be said for the prospective power to reduce excessive rents. In whose interest is it asked? Certainly not in the interest of the landlord? Is it asked in the interest of the tenant? Shall I really be told that it is for the interest of the Irish tenant bidding for a farm that the law should say to him—"Cast aside all providence and forethought; go into the market and bid what you like; drive out of the field the prudent man who means to fulfil his engagement; bid right above him and induce the landlord to give you the farm, and the moment you have got it come forward, go to the public authority, show that the rent is excessive and that you cannot pay it, and get it reduced"? If I could conceive *a plan more calculated than anything else*, first of all, for throwing into confusion the whole economical arrangements of the country; secondly, for driving out of the field all solvent and honest men who might be bidders for farms, and might desire to carry on the honourable business of agriculture; thirdly, for carrying widespread demoralization throughout the whole mass of the Irish people, I must say, as at present advised—to confine myself to the present, and until otherwise convinced—it is this plan and this demand, that we should embody in our Bill as a part of permanent legislation a provision by which men shall be told that there shall be an authority always existing, ready to release them from the contracts they have deliberately entered into. This is one

demand; the other demand is for valuation of rents; and I beg the House to consider what is meant by *the valuation of rents*. I have heard from my hon. Friend the Member for Galway (Mr. W. H. Gregory)—speaking in the character of an Irish landlord, which he so well sustains—some expressions showing that he looks with no disfavour on valuation of rents. Well, I at once make this admission—if the Irish landlords, if any particular landlord thinks it desirable to have his rents fixed by public authority—I will not say it is desirable on public grounds, but still it may be done. However, what I do wish is, in the first place, that there should be a clear manifestation of the views of the Government, and secondly, of the House, that we are not ready to accede to a principle of legislation by which the State shall take into its own hands the valuation of rents throughout Ireland. I say take into its own hands, because it is perfectly immaterial whether the thing shall be done by a State officer forming part of the Civil Service, or by an arbitrator acting under State authority, or by any other person invested by the law with powers to determine on what terms as to rent every holding in Ireland shall be held. If you are to value rents you must take into your own hands the fixing of every other condition of agricultural holdings, because otherwise in vain do you fix the rent. You fix the rent, but the landlord thinks it too small, and having imposed some onerous condition, he then says to the tenant—"I will relax the conditions if you consent to pay an advanced rent." *The mathematical result* is, that if you undertake to fix the valuation of rents by public authority you must likewise undertake to fix the whole conditions of every agricultural holding. There is no escape from that conclusion. Well, then, are you prepared to undertake that? We say—"Give shelter to the tenant from loss by eviction, and make that shelter effectual." This doctrine says—"Give over to the tenant a great, a paramount, a permanent interest in the land." Am I mistaking

it or not? *My proposition* is that if you value rents you may as well for every available purpose adopt perpetuity of tenure at once. It is perpetuity of tenure only in a certain disguise. It is the first link in the chain, but it draws after it the last. Now look at *its practical difficulty*. We are to value these rents. What an army of public officers are you to send abroad to determine from year to year the conditions of the 600,000 holdings in Ireland—conditions which are settled with comparative ease when settled by private intercourse, but conditions the fixing of which beforehand by a public authority would be attended with ten-fold difficulty. Here I may be told that by the Bill in a certain case we refer the fixing of these conditions to a public authority. ["Hear, hear!"] I answer no; that is a mistake. There is no compulsory reference of the conditions of any holding in Ireland to any public authority. We have said to the landlord—"If you wish to escape from the provisions of the Bill with respect to evictions, you may of your own free will go before a public authority for that sole occasion and for no other." But that is a totally different matter, as the hon. Gentleman who cheered will admit, from a compulsory provision that all persons shall be carried before a public authority for the purpose of fixing the conditions of contract between landlord and tenant. How are these rents to be valued? *What is the test?* The prices of produce? Of what produce? Of one kind of produce or of all kinds? Can any man fix by law any system upon which it will be possible to adjust rents by calculations founded upon prices of agricultural produce of all kinds? Perhaps you will say—"What was done in the case of commutation of tithes?" I will tell you what was done. It was a very rough process, indeed, and it was a process to which the tithe commutators submitted, but to which, you may rely on it, no other powerful class in this country will ever again submit. Besides, the cases differ in this—the tithe of agistment was gone, the

right of the tithe commutator only subsisted in *produce of certain kinds*, and therefore it was not very difficult to get at the prices of these kinds of produce. The landlord's interest is not restricted to wheat, barley, and oats, but extends to all the varied descriptions of produce. There are no records of the prices. I defy you to keep records of the prices. They are sold in every possible way and under every possible circumstance. It is impossible to combine them together so as to found upon them a compensation which you can make the basis of these enormous and complicated arrangements. Again, how is the landlord's rent to vary? Is it to vary according to *the prices of produce?*—because that is the proposal that I have seen. It is impossible, in my opinion, to get the prices of produce so as to found the rent upon them by a public authority; and if you could get them it would be absolutely impossible to apply a standard according to the varying circumstances of each particular holding, and its capacity to produce this or that kind of produce. But what are we to say with regard to *the quantity of produce?* Supposing the quantity of produce is doubled, is the landlord to receive the same price for the increased quantity, or is he not? If he is to receive the same price for the increased quantity, where is the tenant's inducement to increase the quantity? But if the quantity is to remain the same, by what right do you cut off the whole of the landlord's interest in the prospective increase in the quantity of produce? The quantity of the produce may be increased by the enterprize of the tenant, or by other causes—by the cheap access of manures by railway—by improvements in machinery, and by many other things; and none of these advantages can you justify giving over bodily to the tenant, to the exclusion of the landlord, unless upon the assumption of that *one principle* which is involved in perpetuity of tenure—namely, that the paramount interest in the soil is to be transferred from the owner to the occupier, and that the owner of the soil is to

become a tithe commutator only upon a larger scale. Sir, if I state these things, it is that I may provoke *confutation*. I disbelieve in the possibility; but, at the same time, I think that it would be well that the attention of those who have stated all along that the Irish people will be perfectly satisfied with continued occupancy, subject to a valued rent. should really consider what is the meaning and scope and extent of the terms in which they couch their demands, Sir, we have a *social system* established in this country under which two persons have a vital interest in the land. One of them is the landlord, who regards the estate as a whole, and who is very largely concerned in the development of its general prosperity; the other is the tenant, whose position it is desirable to simplify as much as possible, in order that he may be able to devote the whole of his resources and his capital, if he thinks fit, to the prosecution of his trade. But if you once adopt this principle to which I am referring, you cannot retain these two classes upon the land; the man who becomes a mere annuitant loses all general interest in its prosperity.—*Hansard's Reports*, vol. cxcix., 1844-1848.

THE

LAND QUESTION,

IRELAND.

No. VIII.

MR. BONAMY PRICE

ON

THE THREE F'S.

FEBRUARY, 1881.

FIFTH THOUSAND.

ISSUED BY

THE IRISH LAND COMMITTEE,
31, SOUTH FREDERICK-STREET, DUBLIN.

LONDON: WILLIAM RIDGWAY, 169, PICCADILLY.
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PREFACE.

At the conclusion of the Preliminary Report from Her Majesty's Commission on Agriculture, the following paragraphs are printed:—

Bearing in mind the system by which the improvements and equipments of a farm are very generally the work of the Tenant, and the fact that a yearly Tenant is at any time liable to have his rent raised, in consequence of the increased value that has been given to his holding, by the expenditure of his own capital and labour, the desire for legislative interference, to protect him from an arbitrary increase of rent, does not seem unnatural; and we are inclined to think that, by the majority of landowners, legislation properly framed to accomplish this end would not be objected to.

With a view of affording such security, Fair Rents, Fixity of Tenure, and Free Sale, have been strongly recommended by many witnesses; but none have been able to support these propositions in their integrity, without admitting consequences that would, in our opinion, involve injustice to the Landlord.

The Preliminary Report is signed by Mr. Bonamy Price, the Professor of Political Economy at Oxford, and one of the most liberal and en-

lightened Economists of the age. Moderate and guarded as the foregoing paragraphs may seem, Mr. Price feels himself compelled to add the qualifications contained in the following Memorandum.

He profoundly observes, that for nations, as for individuals, there is one golden rule—never to start from false principles, however trifling their action may at first appear to be. An inevitable law decrees that their evil nature shall do its work, and develop the mischievous consequences which they entail.

On the Three F's, the triple chimera, which is the favourite remedy of the dilettante politician and self-confident doctrinaire, the condemnation of the Royal Commissioner is unequivocal, and most emphatic.

Fixity of Tenure, he says, would strip the Landlord of his property without compensation. It would convert him into an Absentee, exacting a perpetual tax, which would be doomed to eventual confiscation. It would deprive Agriculture of capital and intelligence, and it would perpetuate the small holdings, the subdivided tenures, and the bad farming, which are the misery and the shame of Ireland.

With regard to Free Sale, Mr. Price asks the pertinent question, What has the Tenant got to sell? His answer is, His improvements, and nothing else. He shows that, owing to the competition, the purchase-money, under a system of Free Sale, would be worse than the heaviest of Rack-rents. He shows, that with a capital diminished by such payments, the Farmer would be robbed of his resources, and compelled to live for ever on the verge of actual starvation.

Mr. Price maintains that legislative interference with the Valuation of Rent is a direct violation of that Freedom of Contract which he justly regards as the fundamental principle of all soundly constituted industry. The determination of Fair Rent other than by free contract, he says, would strike at the root of all improvement in the agriculture of Ireland. No Government machinery, he observes, can value rents. In his opinion, every circumstance which enters into the valuation is personal and local. Fair Rent, he says, ascertained otherwise than by Free Contract, is the spoliation of the Landlord.

Mr. Price therefore condemns the Three F's as false in principle, and as predestined to develop all the mischievous consequences with which false

principles are fraught. He regards them as calculated to arrest Ireland in its advance towards prosperity, and to perpetuate the evils of which it is the victim.

It will be said that Mr. Bonamy Price, although a man of undoubted ability and European reputation, is a mere Collegiate recluse, a mere University Professor, and that the question is to be determined by men of experience acquainted with the state of Ireland, both past and present. But fortunately, the practical statesman and the man of practical experience have arrived at the same conclusion as the speculative thinker.

Lord Dufferin, at all events, is no recluse. He is a man of the world, as well as a man of genius. A greater part of his life he has been a resident landlord. His estate is in the heart of Ulster. For years he has devoted his attention to the Irish Land Question. He is a leader of Liberal opinion. And what is the opinion of Lord Dufferin? It is the same as that of Mr. Price. He proclaims his sympathies with Free Government and Free Trade; but he recognizes the fact that the principles of Free Trade and Free Government involve the principle of Free Contract, and that these three beneficent principles

are each and all of them ignored by the advocates of the Three F's. He shows that the Three F's, even in a modified shape, would imply Confiscation ; and he very pertinently asks, 'What guarantee can any Government, or even Parliament, give that the income left to the victims of the Three F's would not, in its turn, be confiscated in whole or part?'

And what are the views of the Leader of the Liberal Party—the Prime Minister of England? A more conclusive argument was never delivered than that which Mr. Gladstone made against the Three F's, in his speeches delivered in the House of Commons in the year 1870. He treated the question in every aspect. He considered it financially, and socially, and in its probable working and effect. He showed that Perpetuity of Tenure, without compensation to the Landlord, would be simply confiscation, and that, with compensation, it would be an inroad on the Consolidated Fund, which the British tax-payer could not justly be called upon to suffer. He showed that it would work a social revolution, of which the main characteristics would be the absolution of wealth and property from the performance of duty. He showed that in one alternative it would involve the absolute proscription of

that active and energetic class which does not require any permanent estate in the land, but exists by the intelligent and profitable application of capital to the purposes of agriculture; and that in the other alternative it would contain within itself the seeds of its own destruction, and generate the very mischiefs which it was the object of the politician to extinguish.

He will be a bold man who persists in obtruding this thrice refuted fallacy of the Three F's upon the public, in the face of the recorded opinions and unanswered and unanswerable arguments of Mr. Price, Lord Dufferin, and Mr. Gladstone.

W.

MR. BONAMY PRICE

ON

THE THREE F'S.

In signing the Report I am anxious to add a few remarks on the last two paragraphs but one in the Report.

I feel obliged to dissent from the one beginning with the words 'Bearing in mind.' The fact complained of is the 'liability of a yearly tenant to have his rent raised in consequence of the increased value which has been given to his holding by the expenditure of his own capital and labour,' and consequently, 'the desire for legislative interference to protect him from an arbitrary increase of rent does not seem unnatural.'

It may be answered, in the first place, that protection is already given by the Land Act of 1870 against such an arbitrary increase of rent. It can be enforced only by eviction, and such an eviction would be manifestly capricious. A judge could

find no clearer proof of caprice than the fact that the disturbance was being carried out with the view of the landlord extracting a profit from an expenditure which the tenant, and not he, had made. The penalty actually prescribed by the Land Act for such a proceeding is severe. Still, if it is held not to be sufficiently efficacious, let the judge be empowered to award a still sharper penalty if he can affirm that, in his opinion, the disturbance had for its motive and object to make an unfair profit out of the tenant's improvements; and generally it may be regarded as a first principle that an evicted tenant is entitled to a complete, easy, and cheap enforcement of his claim for the improvements which he has laid out on his holding.

But legislative interference with the valuation of rent—with the amount of rent which a tenant can be made to pay for a holding which he has voluntarily taken—is a wholly different matter. It is a direct violation of the fundamental principle of all soundly constituted industry—freedom of contract; and soundly constituted industry is the root of national prosperity. The State might as well dictate what the price of corn, or coals, or cloth shall be. Such an idea would be held to be irrational; why is it less irrational in the business of farming? No one speaks of such a valuation of rent in England; it would be thought an unjustifiable meddling of the State with private business.

But we are dealing with Ireland, it is said. No doubt Ireland is in a sickly condition; but is her

cure to be effected by remedies false in their nature, and sure in the end to lead to yet worse malady? Who can set a limit to what may happen in Ireland or elsewhere if the doctrine is once laid down that the State can and ought to decree what the price of borrowing a piece of land shall be? In Ireland a demand for the complete extinction of rent would soon be looming in the distance.

For nations, as for individuals, there is one golden rule, which ought never to be violated—not to start from false principles, however trifling their action may seem to be at first. The law of human nature decrees and enforces that their evil nature shall do its work and develop the mischievous consequences which they contain.

Secondly, I desire to add some further remarks as to what the Report says on the Three F's.

I.—Fixity of Tenure.

I understand this expression to mean that, subject to the condition that the tenant shall pay the rent due, however that rent may be determined, the tenant shall never be evicted from his holding, and shall have the power of transmitting it to any other person, with no right of interference in the landlord.

On this proposal I observe—

1. That it ousts the landowner out of his land, and strips him of a considerable portion of his pro-

perty without compensation. It converts him into a holder of a rent-charge; in other words, an annuitant, a mortgagee. Such a measure would be a violation of that respect for property which is the fundamental principle of social order, political economy, and civilization.

2. It would make these nominal landowners absentees from their properties, whether in or out of Ireland. They would infallibly come to be regarded as men exacting a perpetual tax on the property; and the end would be the confiscation of the rent-charge.

3. It would stop the improvement of the estates by their owners, and then Ireland will be stripped of what she so sorely needs—capital and intelligent agriculture.

4. Further it would perpetuate the miserably small holdings, the bad farming, the subdivided tenures, which weigh so heavily on the productive power of the soil and the welfare of the population.

5. The landlord would still remain answerable to the law for evicting when the tenant acts illegally; and to his other wrongs liability to popular odium would be added.

II.—Free Sale.

1. The question at once arises, What has the tenant got to sell? His improvements, and nothing else. In the words of an eminent witness, good-

will, which is called the tenant's interest, as something over and above his improvements, is a 'myth.' Let the fullest, the extreme value of those improvements be secured to him, and let a cheap and easy method of assessing their value and effecting the payment due be framed. A tenant, on leaving the farm, has a right absolutely to nothing more.

2. Next, the incoming tenant, on whom depends that increase of production which is the greatest want of Ireland, is greatly injured by such sales. The competition, the greed for land, is so excessive in Ireland that prices are given for the tenancy which are positively insane, and worse yet than the heaviest rack-rents. The capital of the farmer is thus heavily diminished by such payments, and the cultivation of the land is robbed of resources indispensable for procuring that produce of which it is capable.

3. Under such sales there would be no security whatever that the purchasing tenant knew how to farm. The general bad farming in Ireland is universally admitted.

4. As under the first F, the landlord suffers confiscation of part of his property. The sum paid for the so-called interest of the out-going tenant is made at the cost of the rent, which cannot, under such circumstances, be the full fair rent due by the farm. Such confiscation is justified by no plea.

5. As before, free sale perpetuates the land miseries of Ireland as they actually exist—the

starvation holdings, the bad farming, the wretched dwellings, the living on the verge of starvation.

III.—Fair Rents.

1. No Government machinery can value rents justly; every circumstance which enters into the valuation is local and personal.

2. What a particular Tenant can pay is no rule for determining the Fair Rent—the rent which, if he understood his business, he ought to and would be able to pay.

With the Ulster Custom Fair Rent becomes what the Tenant can afford to pay after allowing for the exorbitant price he has paid for the good will. Such a rent is spoliation of the Landlord.

4. This F—this determination of Fair Rent other than by free contract—strikes at the root of all improvement in the agriculture of Ireland. It takes as its standard the ignorance, the indolence, the apathy, the want of capital, of the unhappy Tenant, who is protected in his want of industry by the adjustment of the rent to his state and habits.

The Three F's, consequently, ought to be condemned as false in principle, both socially and economically, as calculated to perpetuate the peculiar evils from which Ireland is suffering, and to arrest that increase of production from which alone she can hope to advance towards prosperity.

At the same time it must be fully admitted that great abuses have occurred in violent and unreason-

able raisings of rent by some landowners, who have not done justice to the actual situation in which both they and their tenants found themselves. The relation of landlord and tenant implies mutual duties and reasonable consideration of existing circumstances. These are not seldom disregarded, but the remedy must be sought, not from a legal interference with business, which is unnatural and mischievous, but from the training of both landlords and tenants to the understanding and the fulfilment of what each of them owes to the successful cultivation of the land.

BONAMY PRICE.

THE

LAND QUESTION,

IRELAND.

No. IX.

MR. GLADSTONE'S COMMISSIONERS

AND

MR. GLADSTONE.

MARCH, 1881.

TENTH THOUSAND.

ISSUED BY

THE IRISH LAND COMMITTEE,

31, SOUTH FREDERICK-STREET, DUBLIN.

LONDON: WILLIAM RIDGWAY, 169, PICCADILLY.

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MR. GLADSTONE'S COMMISSIONERS

AND

MR. GLADSTONE.

THE Liberal Party have made three great efforts to solve the Irish Land Question. In 1849 they passed the Act to facilitate the Sale and Transfer of Incumbered Estates in Ireland, which cleared away the pauper proprietary, and conferred the benefits of parliamentary title and simplified conveyance. The Landlord and Tenant Act of 1860 removed the last traces of feudal tenure, declared that every Irishman should be free to make his own bargain, and enacted that thenceforth the relation of Landlord and Tenant should be founded not on tenure but on contract. The Land Act of 1870 supplemented the principle of contract by the principle of compensation to the evicted tenant—the principle of awarding him compensation for his money payments; compensation for his tillages and manures; compensation for his improvements; compensation for capricious disturbance in his holding.

In thus simplifying conveyance, enforcing con-

tract, and awarding compensation, the Leaders of the Liberal Party conceived that they had done for the Irish Tenant Farmer everything that reason or justice could require. They deemed they had effected a triumphant settlement of the question. Nor was their confidence in the success of their measure, apparently, unfounded. Historian, philosophical inquirer, and scientific lawyer are all agreed that the Irish Land Act gives a protection to the Irish Tenantry which has no parallel in any other country. In no other country are the privileges of the Tenant so numerous and so carefully protected. In no other country are the rights of the Landlord so rigorously restricted, so jealously watched, and so reluctantly enforced. In no other country is the Tenant so secure. Twelve months ago these were the accepted facts. There was scarce a leading member of the Liberal Party who entertained a suspicion that a new Irish Land Bill was required. Mr. Gladstone made no reference to the necessity for such a Bill when he was in opposition. He left the reverse to be implied in his great oratorical campaign. He entertained no such idea when he acceded to office. No later than the 31st of March, 1880, he plumed himself on the success of the Land Legislation of 1870, and proclaimed to Midlothian that 'there was an absence of crime and outrage in Ireland, and a general sense of comfort and satisfaction such as had been unknown in the previous history of the country.'

What followed is a curious and instructive chapter in the history of Ireland. The Liberal Leader became the Prime Minister of England. His majority included from seventy to eighty Irish Members. In Ireland there were certain Acts for the Preservation of the Peace; and the Irish Party clamorously demanded that this grievance should be instantly redressed. Accordingly, on the 1st of June, 1880, the Peace Preservation Acts were permitted to expire—and forthwith all the professional disturbers of the peace were up and doing. They appealed to the selfish instincts of the Irish Farmer, and made the existing Land Law the pretext of their agitation. The Liberal Government unfortunately yielded to the cry; and the enemies of the public peace were emboldened by their yielding. On the 18th of June the Compensation for Disturbance Bill was introduced. In another month Anarchy was in full swing. And on the 29th of July it was deemed expedient that a Commission should forthwith issue to inquire into and report upon the working and operation of the Landlord and Tenant Act of 1870.

The methods of the Agitation are now well known. For months its orators and writers proclaimed from platform and from press that the Landlords of Ireland were rack-renters, exterminators, the robbers of the poor, the curse of Ireland, the garrison of England. For months the action of the Agitation was attended by mutilations and midnight outrages and assassina-

tions. The two engines of the Agitation, it is hardly too much to say, were mendacity and murder. The murderous instinct has been checked by the Liberal Coercion Bill; the mendacity is now exposed by the Liberal Commission.

The Royal Commissioners have visited every part of Ireland. They have ascertained the views of all sorts and conditions of men. They have examined Barristers, Solicitors, Surveyors, Professional Valuators, Government Officials, Judges of the County Courts, and Clergymen of every denomination. Above all, they have taken the evidence of five hundred Tenant Farmers (p. 1); and they have taken that evidence when men's minds were all but maddened by the Agitation of the Land League. And what is the result? The Commissioners have issued their Report. Do they report that the Landlords are the curse of Ireland? Do they report that Ireland is in a state of chronic misery? No. They confirm the views of Mr. Gladstone. They affirm that 'Ireland is now richer, and has fewer grievances of a social and political sort, than at any previous period of her history' (p. 5); and they expose the unscrupulous and impudent falsification of facts by which for months the English public was misled upon the Irish Question.

The Royal Commissioners unanimously report that in Ireland it is 'unusual to exact what in England would have been considered a full or fair commercial rent' (p. 3.) They report that in Ire-

land 'a tenant who pays his rent is very seldom evicted'; and that 'even if the rent falls into arrear, it has not been the general or the prevailing rule that ejectment should follow as a matter of course' (p. 3.) They report that 'the credit is due to Irish Landlords, as a class, of not exacting all that they were by law entitled to exact' (p. 4). They report that 'the weight of evidence proves that the larger estates' — which comprise the main body of the Tenantry of Ireland (p. 59)— 'are, in general, considerately managed' (p. 7). They report that 'there are Landlords who have spent large sums of money in improving their estates, who had no immediate intention of raising their rents in consideration of the value thus added to the farms' (p. 24.) In the face of the 'concerted refusal' of the tenants 'to pay more than the amount of Griffith's Valuation' (p. 13), they report it as a fact 'most thoroughly demonstrated' that 'the Government Valuation is not a trustworthy standard for the settlement of rents,' and that 'even when it was made it was considered as below the fair letting value of the land' (p. 26).

Such is the Report of the Commissioners so far as it affects the great body of the Landed Proprietors of Ireland. It is true they profess to have ascertained that 'most of the purchasers under the Landed Estates Court' (p. 6)—'very often thrifty, hard-working Irishmen, who by dint of hard work had laid by a competence which they invested in land' (p. 41).—'were ignorant of the traditions

of the soil'; and that 'some purchased land merely as an investment for capital, and with the purpose of making all the money they could out of the tenants, by treating with them on a purely commercial footing' (p. 6). Of this the Commissioners complain. But even here their only topic of complaint is 'that on *some* estates, and particularly on some recently acquired, rents have been raised, both before and since the Land Act, to an excessive degree'; and that the Land Act has 'failed to afford the tenants adequate security, particularly in protecting them against *occasional* and unreasonable increases of rent' (p. 7).

Such being the admitted facts, the natural conclusion would seem to be that no material alteration in the Irish Land Laws was required. This would seem to be the conclusion from what Mr. Kavanagh reports. He states it as a fact which, in his opinion, is proved in evidence, 'that so far as the management of the large estates is concerned'—and, he remarks, the 'large estates comprise the greatest agricultural and pastoral area in the country'—'no change in the present law would appear to be called for' (p. 59.) From this the other Commissioners dissent. They seem to think that the wound is great because it is so small. Though, in their opinion, the estates which comprise the greatest area in the country are considerately managed, they think that 'a thorough and very general change in the system of Land Tenure seems imperatively required' (p. 18). But

this is only what might have been predicted. They were Law Reformers by compulsion of the stars. The necessities of the Liberal Party required that a great Land measure should be proposed, and the Liberal Commission was under a necessity of nature to propose it.

And yet it is not easy to say what the Liberal Commission in reality proposes. Of the five Commissioners there are no two, if we except that estimable nobleman Lord Bessborough, and that consistent politician Baron Dowse, who think alike. Mr. Kavanagh dissents so seriously from his fellows that he has made a separate Report. The General Report, it is true, is signed not only by Lord Bessborough and Baron Dowse, but by The O'Conor Don and Mr. Shaw. But if the O'Conor Don and Mr. Shaw ostensibly agree with Lord Bessborough and Baron Dowse, they in reality agree to differ. Each of these gentlemen has made a Supplemental Report to record his own peculiar views. The five Commissioners have issued four Reports. Each of the Commissioners, in short, parades before the public, mounted on his private hobby, with the exception of the learned Baron and the noble Earl, who have not separate hobbies, but like the Knights-Templar in the days of their original poverty, sit one behind the other, mounted upon one.

In spite of the conceded facts, the Commissioners who sign the Report consider that there is 'a grave crisis in the affairs of the country' (p. 13).

They regard 'the present condition of affairs as a symptom of a deep-seated disorder in the body politic' (p. 14.) They proceed to make their diagnosis. They attribute the crisis to 'recent scarcity,' and 'political excitement,' and the 'sense of insecurity' which they say is left by Mr. Gladstone's Land Act (p. 13). They deal with these causes in succession. They do not assert that Legislation can prevent the recurrence of unfavourable seasons. They give us the comfortable assurance that even if the changes which they recommend were granted, many would regard the concession as extorted from 'the fears of the Legislature,' and would 'endeavour to continue agitating, some in the conviction they were acting patriotically, some from less worthy motives' (p. 37). But they consider that it is 'the present Land System,' and not 'the wiles of agitators,' or 'the recent scarcity,' which is really 'responsible for the mischief' (p. 22); and they express their conviction that 'the great mass of Cultivating Tenants will be satisfied with the concession of the Statutory Tenure' which they propose (p. 37).

But, unfortunately, the Commissioners ignore the fact that those whom they style the great mass of Cultivating Tenants are neither the great mass of the Irish People, nor that section of the Irish People in which the disorder of the body politic is seated. The Commissioners are aware that their 423,829 Cultivating Tenants are confronted by 444,729 Agricultural Labourers, whom the Commis-

sioners describe as 'farmers without farms' (p. 37). 'The bearing of the questions committed to us for inquiry upon the condition and welfare of the Agricultural Labourer, a point suggested by references in the Land Act, engaged our attention early,' they say, 'and we have taken a large mass of evidence respecting it' (p. 36). But they say that on this point 'it does not fall to them to make suggestions' (p. 37). They content themselves with platitudes. They say that 'wild and subversive proposals, which tend to shake confidence in the public sobriety and drive the capital of the wealthy out of the country, must injure most of all the man who lives by daily wages' (p. 37). They admit that 'there are Landlords who have spent large sums of money in improving their estates' (p. 24); and that 'the result of depriving them of the sentiment of sole ownership must inevitably be to discourage, if not extinguish, their expenditure upon land not in their occupation' (p. 25). They admit that 'the cessation to any extent of this expenditure will be an evil,' which 'will be rendered still more injurious if steps are not taken to ensure in its place a more steady and general outlay of labour and capital upon the improvements of their holdings by the Tenants' (p. 25). But they do not suggest the steps which the Legislature is to take. They think that their own general proposals are not 'calculated to *intensify* the poverty of the poor' (p. 37); and they 'trust that the tranquillity which,' they say, 'will follow on a well-

considered measure of Land Tenure Reform will be a blessing to all classes, and especially the poorest' (p. 37).

The Commissioners leave the case of the Farmers who are without a Farm, and proceed to the case of Farmers who have Farms on which they cannot live. They say that 'the condition of the poorer Tenants in numerous parts of Ireland, where it is said they are not able, if they had their land gratis, to live by cultivating it, is by some thought to be an almost insoluble problem' (p. 36). And yet, in the opinion of those best acquainted with the circumstances of the country, it is this problem which, of all others, most imperatively demands solution. The region to which the remarks of the Commissioners apply has been for generations the focus of Agrarian Agitation. It is a region which comprises the counties of Donegal and Kerry, and the whole of Connaught. It is a region of which we may take the county Mayo as the type. It was in Mayo and the adjoining counties that the Houghers maimed and mutilated cattle in 1711. It was in Mayo that the Insurgents took the oath to pay neither rent to the Landlord nor quit-rent to the Crown, in 1793. It was in Mayo that the Land League commenced its operations in 1879. It was in Mayo that the most ferocious and the most revolting outrages were perpetrated during the frightful Anarchy of 1880. To find the remedy for this recurrent state of things we must ascertain its cause; and its cause, unfortunately, is not far to seek.

The West is the most impoverished part of Ireland; and Mayo is the most impoverished district of the West. In Mayo the barren lands are 46 per cent. of the total area of the county. In Mayo the holdings under 15 acres constitute 57.4 per cent. of the total holdings. In Mayo the proportion of the population which can neither read nor write is also 57.4 per cent. It is Mayo which supplies the great mass of the migratory labourers, who periodically resort to the agricultural labour market of England. It is from Mayo that, owing to the poverty and ignorance of the population, there is a minimum of emigration. It is clear that the present Land System is not responsible for mischiefs such as these. It is not the Land System which has saturated the soil with the moisture of the Atlantic. It is not the Land System which has covered the face of Nature with barren mountains, and rocky plains, and bogs. The Commissioners think that their Statutory Tenure would bring a 'wealthier order of tenants to the soil' (p. 36). But they do not tell us what is to become of the miserable paupers whom the wealthier order is to supersede. They are unable to see that any special need has been proved for 'a great state-aided emigration' (p. 36). They cannot 'strongly support' the scheme which advocates a 'state-aided planting of the poorer tenants and labourers upon the waste lands of Ireland' (p. 36). In fine, they confess themselves wholly incompetent to solve the Irish problem which most imperatively requires solution.

We are told that 'they that are whole need not a physician, but they that are sick.' The Commissioners invert the text. They abandon the sick, and turn their attention to the whole. They contemplate the great estates which constitute the main portion of the agricultural and pastural area of Ireland, and they find that they are considerately managed. Still they think that 'a thorough and very general change in the system of Land Tenure is imperatively required' (p. 18), and they 'advocate the reform of the Land Law of Ireland upon the basis known as the Three Fs, *i.e.*, Fixity of Tenure, Fair Rents, and Free Sale' (p. 19), as a panacea for the partial evils which are all they see.

For Politicians of a certain class there is a curious fascination in this Triad of the Three Fs. It is as attractive as the Three Graces, and as inevitable as the Three Fates. What could be more consonant with common sentiment than Fairness and Fixity and Freedom? What could be more in accordance with the traditions of the land than the continuance of Tenure? What could be more reasonable than the recognition of the continued liability to Rent? These are the questions which are asked by dilettante politicians and impracticable doctrinaires. These are the questions of the amiable enthusiasts who go about mooning in a mist of metaphysics, and fancy they are statesmen. They do not pause to enquire whether their substantives and their adjectives agree—whether the members of their Triad are

consistent. They do not ask whether Fixity of Tenure is not a system in which all notions of Tenure are unfixed. They do not ask whether Fair Rent is compatible with Free Sale. They do not ask whether it is not reasonable that Rent should be as Free as Sale, and that Sale should be as Fair as Rent. To a mind which cares less for the jingle of words than for the realities of things, the real character of the proposal is transparent. A system in which the Tenant is promoted into the place of his Landlord, and the Landlord degraded into the Annuitant of his Tenant, is not a system of Tenure in any intelligible sense. It is not a system from which any practical advantages will follow. It is not a system which will work. Accordingly the scheme of the Three Fs is never considered by the Lawyer but to be ridiculed. It is never discussed by the Economist but to be refuted. It is never suggested to the Statesman but to be rejected. Rejected, refuted, and ridiculed, it still survives. It is not killed but scotched. Like the poisonous snake of the Roman Poet, it casts its slough and it renews its youth *Linguis micat ore trisulcis.* Again it wriggles its slippery convolutions, and erects its crest, and is as minacious and as venomous as ever.

The true character of the scheme of the Three Fs, in its various aspects, financial, political, and social, was triumphantly exposed by Mr. Gladstone in the speeches which he addressed to the House of Commons when carrying the Land Act.

For himself and his colleagues he indignantly repudiated the idea of 'endowing the tenant with a Joint Property in the soil.' With equal energy he repudiated the notion of investing him with Perpetuity of Tenure. He denounced the proposal to reduce Stipulated Rents by legislation as the one most calculated to derange the whole economical arrangements of the country, to deter all honest and solvent men from the pursuits of agriculture, and to demoralize the whole mass of the Irish People. It is strange that Mr. Gladstone's Commissioners should so completely have misconceived the exigencies of Mr. Gladstone's Government as to recommend the scheme which was thus deliberately repudiated by Mr. Gladstone. It is still stranger that they should have recommended the scheme in its harshest and its most obnoxious form. But so it is. The Commissioners propose that the Landlord should be deprived of 'his legal reversion, considered as a piece of substantive property' (p. 20); and that the tenant from year to year should be placed in 'a position differing but little from that of a legal owner of property in the soil' (p. 27). They propose that the Increment in the value of the land—the Increment in its value which is owing to the lapse of time and change of circumstances, and which under the existing law is the property of the Landlord—should be divided in equal shares between the Landlord and the Tenant (p. 25). They disparage the three great Liberal Acts of 1849, of 1860, and of 1870 (p. 6). They

offer no suggestions for the amendment of the Land Act—they call for its repeal (p. 37). They make the astounding assertion that 'Freedom of Contract, in the case of the majority of Irish tenants, *large and small*, does not really exist' (p. 21); and in lieu of measures of Conveyance, or Contract, or Compensation, they recommend to the adoption of the Liberal Government—a comprehensive measure of unmitigated Confiscation.

The one indispensable condition under which the proposal of the Four Commissioners could be entertained by the Legislature is clearly recognised by Mr. Gladstone. 'I do not think,' said the Prime Minister in 1870, 'that anything dishonourable—anything that tends to the injury of another—has been projected by those who have set up Perpetuity of Tenure for the Irish Occupier as their favourite scheme; because we have not a doubt that they have seen that, inasmuch as Perpetuity of Tenure on the part of the Occupier is virtually Expropriation of the Landlord, and as a mere readjustment of rent, according to the price of produce, can by no means dispose of all contingencies in his favour, *compensation* would have to be paid to the Landlord for the rights of which he would be deprived.' This, in the opinion of Mr. Gladstone, constituted an insuperable objection to the scheme. The English Tax-payer, he saw, would refuse to be taxed for the benefit of the Irish Tenant; and the Irish Tenant, he saw with equal clearness, would decline to pay an additional rent as compensation

to his Landlord. But morals, it seems, like politics, is a progressive science, and the tone of political sentiment seems to have advanced beyond the code of political morality which was recognized ten years ago. Three of the Four Commissioners see nothing dishonourable in what Mr. Gladstone regarded as replete with political dishonour. They would deprive the Landlord not only of his existing rights, but of the contingencies in his favour—they would deprive him of his 'legal reversion' (p. 20), of his 'sole ownership' (*ibid.*), of 'his power to choose his tenants' (p. 29), of his 'control over his property' (*ibid.*)—and their Report does not even refer to the question of compensation, except in connexion with the privilege of Free Sale, which, they say, is 'not calculated to lessen the value of his property,' and which, in their opinion, establishes no claim for compensation except upon a speculative basis (p. 29).

But not only do the Commissioners disregard the first principles of justice—in their anxiety 'to do equal justice between man and man' (p. 37); they do not even consider how their project is to work. Take, for instance, the Prime Minister's Dilemma. 'Let me suppose myself an Irish Occupier,' says Mr. Gladstone—'invested by an Act of Parliament with Perpetuity of Tenure—if I want to let the property which I have thus acquired, am I to be allowed to let it to a tenant, a mere tenant, or am I not to be allowed to let it to anybody but a Perpetuity-man like myself?' Let

us see how the signatories of the Report affect to answer Mr. Gladstone's question. In order to avoid the evil of subletting at a rackrent, the Report recommends that 'the purchaser should in every case be bound to become himself the actual tenant of the farm, and to continue practically in direct occupation of it,' under the penalty of eviction or re-sale (p. 28.) In other words, they forbid their Perpetuity-man to let. But what would be the result of this, in the opinion of Mr. Gladstone? 'The strange position in which we should then find ourselves,' says the Prime Minister, 'would be, that all that active and energetic class which does not require any permanent estate in the land, but exists by the intelligent and profitable application of capital to farming purposes, would be absolutely proscribed;—you would not anywhere let a man in, to put a spade or plough into the ground, unless he was able to purchase the perpetual estate.'

The absurdity of this is clearly perceived by the O'Conor Don. In his Supplementary Report he repudiates the recommendation to which he has subscribed his name, and adopts the language of Judge Longfield in his Essay published by the Cobden Club. 'The public,' he says, 'would not long bear a law which prevented two men from making a bargain just in itself, useful to the public, and profitable to both parties' (p. 43). He takes the case put by Judge Longfield in his Essay. 'Suppose I wish to set my land for a

term of seven years, and on account of the shortness of the lease I am willing to accept a lower rent than if I were granting a longer term—this exactly suits my neighbour, to whom a moderate rent is a greater object than a long lease. But the law of Fixity of Tenure would step in, and say that *I* must either hold on my land at a loss or part with the possession for ever, and that *he* must either do without a farm or pay a sum for a fee-farm tenure beyond what he could afford.' 'This, in practice,' says the O'Conor Don, 'would be found intolerable' (p. 43). So clearly does the O'Conor Don perceive the futility of the proposal of his Co-signatories that he advocates Free Letting and Free Rent as earnestly as they advocate Free Prices and Free Sale. 'The scheme of Fixity of Tenure and Valued Rents,' he says, 'must be applied only to existing tenancies; its application to *them* may be necessary and justifiable, but with this its existence must cease; and once it has established a large number of the occupiers in secure occupation of their farms, it must give place again to Freedom of Contract' (p. 43). But, unhappily, the O'Conor Don only avoids one horn of the Prime Minister's Dilemma to be gored upon the other. 'If,' says Mr. Gladstone, 'I am told—"You, a Perpetuity-man, will be allowed to deal with the land as you choose, to let it from year to year, to create yearly or any other form of tenancies which you think proper"—then I say the Act of Parliament would contain within it the seeds of its own destruction—nay, not the germs

only, but the body and substance of provisions which would soon generate the very mischiefs which you proposed to extinguish.'

The Prime Minister is clearly right. Of all rack-renters the small proprietor is the hardest and the harshest. It is so in France—it is so in Belgium—it is so in Ireland itself. Such is the testimony of Leslie and de Laveleye. Such is the testimony of Judge Longfield, and of the Commissioners themselves. Suppose, then, that the present occupiers were established in the secure occupation of their farms; suppose that in their interest Freedom of Contract is to be alternately suspended and restored. The old Proprietors would pass away. There would arise a new set of Landlords unacquainted with the traditions of the old—Landlords like the purchasers in the Landed Estates Court, whom the Commissioners denounce—Landlords bent on exacting 'the full commercial value,' with the result of 'utterly impoverishing the Tenants' (p. 6). The preordained result would follow. In the course of another decennial period there would be the same complaints of excessive rents, of insecurity of tenure, of liability to eviction, as at present. The Irish difficulty would recur like the recurring point of a circulating decimal. A pause in agitation, a temporary lull of disaffection, would have been gained by suspending contract and by confiscating right. But this would be the sole result of all the robbery and all the revolution which the Commission recommends.

It is not merely in connexion with Fixity of Tenure that Evil would repeat itself. It would repeat itself in a still more disastrous form in connexion with Free Sale. The Commissioners admit that, 'under the stress of excitement, and of the prevailing desire for land,' sums will be bid which are 'far beyond the real value of the holding,' with 'the necessary consequence' that 'the purchaser will be unable to cultivate at a profit.' 'This,' they think, 'is an evil that must be left to right itself.' Free Sale, it seems, has a *vis medicatrix*, which is denied to its antagonist, Free Rent. But the right of Free Sale would impose upon the Cultivating Tenant the liability to be sold out. He would be liable to be sold out by the Landlord for arrears of rent (p. 27). He would be liable to be sold out by the usurious money-lender with whose money he had bought the land. He would be liable to be sold out by the shopkeeper to whom he was in debt for goods. As Proprietor he would have no kindly and indulgent Landlord to assist him in misfortune. There would be no abatement of the rent of the Annuitant—no abatement of the interest of the Bank. There would be no compensation for disturbance to the evicted owner. There would be no redemption. The patriarchal and the commercial systems, as the Commissioners acknowledge, cannot co-exist (p. 30). The Cultivating Tenant, with his new-fangled Statutory Tenure, would have to stand the brunt of depression, and distress, and want, and to endure the utmost rigours of the law.

Of the three Fs, Fair Rent is the most plausible in its appearance. But the demand for Fair Rent is like the cry of a fair day's wages for a fair day's work. Who is to be the judge of the fairness of the work? and how is the fairness of the wage to be determined? Metaphysically these questions cannot be answered—practically they require no answer. As it is with Master and Workman, so it is with Landlord and Tenant; they must come to an understanding; they must make their bargain. If 'the occasional and unreasonable increases of rent,' which is the text of the Commissioners, could be prevented, consistently with sound principle, it would be regarded as a public boon. It is intolerable that small purchasers in the Landed Estates Court (p. 6).—'the thrifty hard-working Irishmen,' of the O'Conor Don (p. 41)—should reflect discredit on the great body of the Irish Landlords. But Mr. Bonamy Price, a distinguished member of the Duke of Richmond's Commission, considers *this* an evil which must be left to right itself. 'The remedy,' he says in his Memorandum, 'must be sought, not from a legal interference with business, which is unnatural and mischievous, but from the training of both Landlords and Tenants to the understanding and fulfilment of what each of them owes to the successful cultivation of the land.' Others may think it possible to find a legal remedy for the hardship. Though the Usury Laws have been repealed, and though, after the arguments of Bentham, they will never be re-enacted, yet Courts of Equity have found

the means of checking usurious contracts, when accompanied with oppression, without trenching on the principle of contract. Everyone would rejoice if the Law with equal safety could interpose between the usurious Landowner and his Tenant. But there is a difference between the position of a tenant admitted at a stipulated rent, and that of a tenant on whom rent is sought to be unduly raised during the period of his tenure. It cannot be tolerated that a Tenant should repudiate his initial contract. 'Shall I be really told,' says the Prime Minister, 'that it is for the interest of the Irish Tenant bidding for a Farm, that the law should say to him—"Cast aside all providence and forethought; go into the market, and bid what you like; drive out of the field the prudent man, who means to fulfil his engagement; bid right above him, and induce the Landlord to give you the Farm, and the moment you have got it, come forward, go to the Public Authority, show that the rent is excessive, and that you cannot pay it, and get it redressed"?' Such a proposal the Prime Minister stigmatizes as more calculated than anything else to confuse the economical arrangements of the country, to deter honest and solvent men from Agriculture, and to demoralize the whole Irish People.

But, again, the thing denounced by Mr. Gladstone is the very thing which Mr. Gladstone's Commissioners recommend. 'In settling what is a Fair Rent,' they say, 'the present Rent, or such

Rent as is agreed on, under the new system, between Landlord and Tenant, may be assumed, in the absence of any demand for its alteration, to be the Fair Rent required' (p. 21). But in their view its alteration may be legally demanded. The 'rent as settled,' they say, 'should remain fixed for a certain period, or for such other term as may from time to time be determined by mutual consent (p. 25)—the mutual consent of parties incapable of mutually contracting (p. 21)—but they insist that even Fair Rent should be 'liable to Future Revaluation' (p. 25). They conceive that their plan of confiscation would 'confer upon the country the blessings of a settled harmony' (p. 29), and to secure the blessings of this settled harmony they keep the question of Rent open as a running sore in the form of 'Variable Rent' (p. 25). They provide for its settlement by 'arbitration or fair trial at law' (p. 21). They do not consider 'professional arbitrators' a 'sufficiently independent class to inspire confidence,' and they recommend the establishment of 'a standing committee of local arbitrators' (p. 22)—as more likely, we presume, to be exempt from local influences in favour of the farmer. They would extend the power of the County Courts (p. 23); they would establish an 'Imperial Tribunal' (*ibid.*); they would have a 'Strong Central Court' (p. 22). In short, as the best means of promoting the blessings of settled harmony between Landlord and Tenant, they would commit them to eternal litigation.

What the result of such litigation would be is tolerably evident from the Report. The bias would always be against the Landlord. The question of Fair Rent, apart from Free Contract, is a matter of opinion. It cannot be demonstrated; it cannot be defined. How then is it to be determined? The answer is suggested by the evidence of a County Court Judge to which the Commissioners refer with approbation. 'I think the only justice in these cases,' says Mr. Robert Ferguson, speaking of cases under the Land Act, 'would be the discretion of the Judge' (p. 14). But Mr. Ferguson, though a Lawyer, seems to have forgotten the celebrated saying of Lord Camden. 'The discretion of a Judge,' said Lord Camden, 'is *the law of Tyrants*. It is always unknown; it is different in different men; it is casual, and depends on constitution, temper, and passion. In the best it is oftentimes caprice; in the worst it is every vice, folly, and passion, to which human nature is liable.'

But this eternal litigation, this law of tyrants, would not be the last or worst result which would follow in the train of the Three Fs. 'We have a social system established in this country,' said Mr. Gladstone, in 1870, 'under which two persons have a vital interest in the land. One of them is the Landlord, who regards the estate as a whole, and who is very largely concerned in the development of its general prosperity; the other is the Tenant, whose position it is desirable to simplify as much as possible, in order that he

may be able to devote the whole of his resources and his capital, if he thinks fit, to the prosecution of his trade. But if you once adopt this principle to which I am referring you cannot retain these two classes upon the land; the man who becomes a mere Annuitant loses all general interest in its prosperity.' The result, as the Prime Minister foresees, would be 'a Social Revolution—a Social Revolution in which the main characteristics would be the absolution of wealth and property from the performance of duty, and an addition to that lounging class who are possessed of money, and of nothing else.'

Again Mr. Gladstone's Commissioners presume to differ. They conceive that their Annuitant would not be converted into an Absentee. It is true they deprive him of his 'legal reversion' of his 'sole ownership' of 'his power to choose his tenants' (p. 29), of his privilege of regarding the estate of his forefathers as a whole. It is true they not only outrage his 'sentiment of ownership,' but disregard all his 'historic associations' and 'family traditions' (p. 20)—they who are so anxious to respect what they call the 'living traditions' of the tenant (p. 4). But they fancy he will not lose an interest in the prosperity of the country. They do not think it will follow as of course that all his kindly offices will be withdrawn (p. 30). In any case they leave him important duties to perform. He is to see that 'the conditions of the new Tenure' are observed (p. 19). He is to enforce

his contracts with the men who, according to the Commissioners, are unable to contract. He is to forbid 'the exercise of any right not necessary to the due cultivation' of the holding, 'from which the Tenant is debarred by express or implied agreement with the Landlord.' He is to prevent the Perpetuity-man from 'subletting' his land to a tenant, and from 'subdividing' it among his children. The Annuitant also has his privileges to enforce. He is to evict the Owner, or sell him out, when he is behindhand with his rent. He is to have the right of entering on the Owner's land to search for minerals, to quarry stone, to fell timber, to cut and carry fuel. He is to have the privilege of 'hunting, shooting, fishing, and taking game and fish' on the land which he no longer owns. What would be the position of the 'lounging' Annuitant with these invidious duties and these still more invidious rights? The reply is simple. The Irish gentry would be reduced as nearly as possible to the position of the French Noblesse immediately before the Revolution.

History is Philosophy teaching by examples. We may read the History of the Future in the History of the Past. If the Irish Proprietary be reduced to the condition of the French Nobility, what would be the result? Let us listen to de Tocqueville. Let us read the masterly chapter in his *Ancien Régime*, in which he discusses the question, Why the Feudal Rights became more odious to the People of France than to any other People. The French Noblesse,

he says, had long ceased to exercise any influence in the government of the State. They had been excluded from any share in the administration of the Province. They had been superseded in the seat of Justice. The old Frank Aristocracy had been reduced to insignificance. In the meanwhile one half of the soil of France belonged to Peasant Proprietors, in whose hands the land was burdened with rents payable to this 'lounging' nobility, and subject to the exercise of its invidious rights. Then, too, there were the Clergy. The French Peasant had become a Landed Proprietor, but he was confronted by the Noble and the Priest. 'Wherever he went,' says de Tocqueville, 'he met his troublesome neighbour, ever ready to interrupt his pleasure, to interfere with his industry, to devour his produce; and when he had finished with him, others, arrayed in black, presented themselves to deprive him of the choicest portion of his harvest. Figure to yourself the condition, the necessities, the character, the passions of this man, and calculate, if you can, the treasures of envy and hatred which would be accumulated in his heart.'

Property divorced from duty is an invidious and a precarious thing. Lord Dufferin clearly foresees the inevitable end of this policy of confiscation. 'What guarantee,' he asks, 'can any Government, or even Parliament, give that the income left to the victims of the Three Fs would not in its turn be confiscated in whole or part?' It was confiscated in France, and it would be confiscated here. The

Farmer would refuse to be burdened with the support of the lounging Annuitant above and of the lounging Labourer below. He would refuse to be ground to death between the upper and the nether mill-stone. A fierce Agitation would arise. The Government in England would bend before the storm. The Revolution would be made complete. The last trace of English institutions would disappear from Ireland, and the Irish Annuitant would be obliged to fly across the Channel, as the French Noblesse were obliged to fly beyond the Rhine.

If the Commissioners were determined to disregard the teaching of Mr. Gladstone in 1870, they might have remembered the equally emphatic teaching of Mr. Bright in 1868. In 1868 Mr. Bright addressed the House of Commons on the State of Ireland. He saw that the true policy was not to banish the present race of Proprietors from Ireland, but to increase their number and reinforce their strength. To effect this object he proposed to assist the Irish Tenantry in purchasing the fee-simple of their tenements by an Imperial Loan. He did not wish to create the Tenant Proprietary of the Commissioners, or the Peasant Proprietary of Mr. Parnell. He saw that the one would be like the strong Ass couching down between two burdens, and crushed by the combined weight of interest and rent; he saw that the other would constitute a sordid democracy of Paupers. What he contemplated was the multiplication of

Tenants in Fee Simple—the only form of Fixity of Tenure which a lawyer understands or which a true statesman could for a moment entertain. The means suggested by Mr. Bright were such as might have been expected from the friend of Mr. Cobden. He did not insult the Irish people by alleging that they were incapable of freedom of contract. He did not insult the moral sense of England by proposing a measure of barefaced confiscation. He did not even propose a sale upon compulsion. 'Let not the House imagine,' he said, 'that I am proposing to take anybody's land upon compulsion—I am proposing to buy where men are willing to sell, and to transfer only in cases where men are willing and able to buy.' He declared that he would do nothing in the whole transaction, which was not perfectly acquiesced in by both Landlord and Tenant; and he would pay to every Landlord every shilling he could fairly demand in the market for the estate which he proposed to sell. Mr. Bright was as opposed as Mr. Gladstone to any Expropriation of the existing race of Lordlords. 'I am in favour of *more* Proprietors,' he said, 'and some will be small and some will be large.' The great object which he had in view was to 'establish from among the Tenantry of Ireland a class of Proprietors who would stand between the present great Proprietors and those who are actually landless, and would give steadiness, loyalty, and peace to the whole population of the island.'

These are the views of a statesman, not the

dreams of a mere doctrinaire. It is possible that if the scheme proposed by Mr. Bright were adopted it would fail. But if it failed it would entail nothing but a loss of money. It would have established no evil precedent of confiscation. It would have given no countenance to the pernicious idea that the Irish farmer might repudiate his contracts. It would have given no countenance to the 'popular consents' and the 'prevailing sentiments' and the 'living traditions' to which the Royal Commissioners appeal, and to which they would give validity, though manifesting themselves in 'defiance of political economy,' and in an 'attitude of antagonism' to the Law which has been settled by innumerable Acts of Parliament, and which for centuries has formed the basis of property and right. (p. 5). Still less would it have frozen up the very fountains of benevolence for all future time, by perpetrating a fraud on the forbearance of the indulgent Landlord—by converting his voluntary kindness into contract—and by distorting his very humanity into a plea for confiscation (p. 4).

Such are the suggestions of the Commissioners for the solution of the Irish Problem. They candidly admit that, in their attempt to assert the rights and redress the grievances of individuals, 'many rights and many grievances, some of them, no doubt, all-important to particular individuals, must have been overlooked' (p. 37). They admit that in their solution of the difficulty with which they had

to deal they have not attempted to remove the difficulties involved in their solution (p. 37). It is a strange admission to be made by Commissioners appointed to advise the Crown. But still they make it. And what is it, on their own confession, that they have effected after all? They afford us no ground for expecting that their proposals if adopted would put an end to Agitation. They leave the Agrarian Pauperism of the West exactly as they found it—a consuming cancer in the body of the state. They regard the improvement of the condition of the Agricultural Labourers of the country as a thing beyond their scope. They admit that the Tenants of the great estates who constitute the great mass of the Tenantry of Ireland, are considerately treated, are seldom evicted, and are subject to the payment of rents below the full commercial value of their holdings. But they discover occasional acts of oppression, such as are to be found in every social relation; they mark a sense of insecurity from which no mortal is exempt. It is for this that they propose their cure. But their cure, like that of the quacksalver in a country market, is more disastrous than the disease which they affect to treat. Their Statutory Tenure violates every idea of which the word Tenure is the sign. It inverts all the existing relations between those who are interested in the land. It converts the Tenant into an owner independent of his Landlord, and it degrades the Landlord into the Pensioner of his Tenant. And what is the practical benefit which the Com-

missioners confer upon their new created owner? In defiance alike of sound policy and economic science, they deprive him of the most ordinary incidents of ownership. They forbid him to let his lands. They forbid him to subdivide his property among his children. They forbid him to cultivate it according to his own good will and pleasure. They subject him to a thousand restrictions under which he will chafe, and which he will do his utmost to evade, and which will render him a discontented and disaffected subject of the Crown. Nor is this the worst. They make provision for everlasting litigation and dispute between their owner and the annuitant with whose support his property is burdened. They exclude from the social system the influence of kindly feeling and mutual forbearance, and reduce everything to the rigour of the law. They profess to do all this in the interest of the community at large. In the interest of the community they would place a fetter upon contract—they would legalize confiscation—they would exterminate a class—they would revolutionize the whole social system of the country. And with what result? To leave Ireland still subject to its Agrarian Pauperism, and still liable to all its recurrent Agitations.

Whether the Irish Problem is one capable of solution, no mortal man can say until it is actually solved. Politicians are apt to believe in the omnipotence of Legislation. They are apt to take Blackstone at his word, and to believe that Parlia-

ment can do everything but make a woman a man, or a man a woman. They forget that there are such things in the world as problems that are destined never to be solved. They forget that there are problems which only admit of approximate solution. Philosophers have ceased to look for the universal solvent or the universal cure. Politicians may well follow their example, and take a lesson from their wisdom. They should cease to prate about bold and comprehensive statesmanship, which is not statesmanship but folly. They should content themselves with laws which, to use the words of Mr. Gladstone, produce a 'sense of general comfort and satisfaction.' Instead of vainly regretting that Civil Government does not remedy every particular evil, or provide for every individual case, they should recollect that the universe itself is governed by general laws, and they should console themselves with the reflexion of the great philosophic theologian, that, even in the Government of the Universe, it may be impossible in the very nature of things to prevent all irregularities, or remedy them as they arise, by the best and wisest general laws which even the Governor of the Universe can frame.

The true policy of England, after the experience of centuries, is plain. Her ancient policy was an ignominious failure. She successively treated Ireland as a conquered country—as a colonial dependency—as a confederated state—as an outlying province of the empire. She

strove to rule it by force—by division—by persecution—by corruption—by concession. To enable her to govern it she kept it weak. To enable her to govern it she kept it poor. She delegated its government to family and faction. And she failed. She failed, because she had not dreamt of ruling Ireland by the only two agencies by which either man or nation can be ruled—by Justice and by Strength.

A change came over England, and 'Justice to Ireland' was the cry. In obedience to that cry the Government in England granted the masses of the Irish People the fullest measure of emancipation. It made them the masters of the Parliamentary Representation of the country. It filled the Municipal Corporations with their nominees. It so regulated the Jury System that it left the general administration of justice in their hands. In their favour it degraded the Commission of the Peace. At their demand it revolutionized the Law. In deference to them it tampered with the Constitution. But it was in vain. In vain were all grievances redressed and all inequalities removed. In vain was the popular party made the depositary of all political influence and patronage and power. The Irish difficulty remained. Ireland was still unruly—Ireland was still ungoverned.

Within the last few years there has been another change in the attitude of parties. The demand for Justice has become exhausted, and the demand for Exceptional Legislation has been substituted in its

place. Ireland, we are now told, is an exceptional country;—its circumstances, we are told, are exceptional and require to be exceptionally treated. In favour of Ireland exceptions must be made in the application of the principles of Free Government, and Free Contract, and Free Trade. In favour of Ireland, the great Liberal Party must suddenly apply the brake; it must reverse its engines; it must go back upon the rails. When the exceptional turbulence of the Irish agitator has become intolerable he vociferously protests against the exceptional legislation which is required to curb it. His only notion of Free Government is that of a Government which leaves him free to defy it, when he finds it impossible to coerce it or cajole it. When the object is not the repression of disorder, but the establishment of an evil precedent, it is then that 'Exceptional Legislation' is the cry.

The Land Act of 1870 gave a protection to the Tenantry of Ireland which has no parallel in any European country. It was a piece of exceptional Legislation. The Royal Commissioners say it is defective, and call for further Legislation of so exceptional a character that if carried it would amount to a social revolution. And what are the exceptional circumstances on which the Commissioners rely? Either exceptional circumstances which have ceased to exist, or circumstances which are not exceptional but are common to every settled country in the world. Ireland no longer swarms with 'a homekeeping people, without manufactures

or colonies or commerce, dependant upon tillage, and holding on, for life and living, to the soil of which they were not the owners' (p. 4). The Irish are no longer a homekeeping people. They are no longer dependent upon tillage. The whole world lies before them. The manufactures and colonies and commerce of England are the manufactures and colonies and commerce of Ireland. The waste lands of Ireland, like the waste lands of England, do not lie within the compass of the British seas; they lie within easy reach beyond the waters of the great Atlantic.

What is really exceptional in Ireland is not its economic condition, which is steadily improving so far as it is permitted to improve, but the existence of a disaffected class which the Government is unable to conciliate, and which it is unwilling to coerce. It is a class in Ireland which stands aloof from its industrial life. It is constantly recruited from abroad. Its elements are perpetually shifting. Its members are intent on different objects. Some are indoctrinated with the communistic notions which are rife in the capitals of Europe; and these have made themselves conspicuous in the agitation of the Land League. They demand the confiscation of an interest. They clamour for the extermination of a class. They contemplate a state of society in which there shall be no distinction of classes, no counterpoise of interests, no diversity of ranks—a state of society in which there shall be none of those subordinations which

God and Nature have appointed, and in which there shall be no vestige of that equilibrium of peaceably conflicting forces which constitutes the harmony and order of the world. But in Ireland the chimeras of communism and socialism have little scope. Here, at all events, the heart of Ireland is sound. In spite of the teachings of communist and nihilist, the mass of the Irish People is religious. In spite even of its outrages it is moral. It is not by the false lights of Anti-Christian doctrines that the masses are misled; it is by the flickering reflections of a vanished nationality, and the fading traditions of a patriotism of the past.

There is a spirit of nationality which is a nation's life; a spirit which moulds its genius, which forms its character, which constitutes its force; a spirit which is to the nation, what his individuality is to the man, the condition of its dignity, the essential of its self-respect, the source of its influence for good. And as the strongest individuality is consistent with the subordinations of social life, so the strongest national spirit is compatible with the common interests and mutual relations of the members of a consolidated State. It promotes a generous emulation among united peoples; it gives occasion to noble rivalries which are a bond of union; it is a perpetual incentive to great and glorious deeds. It is not by a spirit of nationality such as this that Ireland is misled. But Ireland has not yet fully realized its fortune or its fate. She has not loyally accepted the fact

that she is indissolubly united to England by the invisible chain of community of interest. She had not even formed a true estimate of the fixed resolve and settled purpose of the people of Great Britain to maintain the Union. Here it is in vain that the Irish Malcontent invokes the aid of the Radicals of England. The Radicals of England are Englishmen; they are Englishmen animated by the instincts of the English race. The Irish Patriot forgets that the first Union between the countries was established by the great Protector in the interests of the Commonwealth of which he was the head. They forget that the republican spirit which preserved the United States is equally potent and equally resolved to maintain the territorial integrity of the United Kingdom.

And yet there is no reason why the British Statesman should despair of Ireland. A great Anglo-Irish nation is being gradually formed. The whole intellect, and wealth, and honest manhood of the country is committed to the Union. The old dream of an independent Ireland, it is true survives. But it survives only with the dupes of the half-educated adventurer, who shrinks from the toil of a legitimate profession, and who, with no patrimony but his tongue, embraces the profession of a patriot. The cause of the 'Nationalists' of the present day is neither adorned by genius nor characterized by power. It is a spurious thing which is fostered from abroad. It is a delusion by which none but the lowest are deluded. In his last

speech in the turbulent Parliament, over which he had flashed and fulmined for more than twenty years, the great Irish Rhetorician apostrophized his country, and exclaimed:—

> Thou art not conquered! Beauty's ensign yet
> Is crimson in thy lips, and in thy cheeks—
> And Death's pale flag is not advanced there!

But even as the Orator was speaking, the Nationality which he apostrophized was dead. The hues of life still lingered on its face, but the work of dissolution had begun. Year after year the crimson ensign has been fading; year after year the pale flag has been more certainly advanced. The illusion is at last dispelled. Irish Nationality can no longer be taken for a living thing—it is a mere memory of the past. It is not a Sleeping Juliet—it is a Phantom of the Dead—

> There's bloom upon her cheek;
> But now I see it is no living hue,
> But a strange hectic—like the unnatural red
> Which Autumn plants upon the perished leaf!

W.

THE

LAND QUESTION, IRELAND.

No. X.

MR. GLADSTONE'S BILL.

SECOND EDITION—REVISED.

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MR. GLADSTONE'S BILL.

WHATEVER may be the difference of opinion which exists on matters of mere party politics, there is a vague feeling of anxiety which pervades the whole community at the present crisis. It is not that the fate of an administration is at stake; it is not that a great party triumph, or a great party catastrophe, is likely to occur. It is that we seem to have reached a turning point in the history of the Nation. Hitherto the progress of reform has been a progress consistent with the Nation's life. Great constitutional changes have been effected, but they have been effected within the limits of the constitution. Great social and financial measures have been carried; but they have left the foundations of property untouched. They have done no violence to the reverence for prescription, and the regard to law, on which the existence of society is based. In the benefit of these changes Ireland has shared. The Irish Nation has been regarded as a free community — a community composed of free men, sharing in the advantages of, and allowing its

transactions to be regulated by, the unseen operation of the great principles of Free Government, Free Contract, and Free Trade. It is a matter of no small moment that the measure now before Parliament is one which assumes that there is no room for the play of Free Contract in the regulation of what the Prime Minister allows to be the most numerous and the most important transactions between man and man in Ireland. It is a thing to arrest attention when the Free Trader proclaims that Free Trade has no application to the case of Irish Land. Still more momentous is the proposal that the fundamental principle of Free Government should be ignored in Ireland, and that, instead of allowing the rights of Irishmen to be regulated by a system of fixed law, administered by the Judges of the land, they should henceforward be committed to the arbitrary discretion of individuals who are to exercise their arbitrary powers during the pleasure of the Crown, which, in reality, is the pleasure of the Minister of the day.

The Prime Minister seems to have no misgiving as to the policy of the course on which he has resolved to enter. He ridicules those who would 'apply, in all their unmitigated authority, the principles of abstract Political Economy to the people and circumstances of Ireland, exactly as if they were proposing to legislate for the inhabitants of Saturn or Jupiter.' He conceives everything to be anomalous in that abnormal country, and as a remedy for its disorders he proposes to

apply abnormal legislation. The 'core of the measure' which he submits, the 'salient point and cardinal proposal' of his Bill is 'the institution of a Court,' which is to undertake the regulation of 'the most important transactions between man and man' in Ireland; and which in the exercise of its jurisdiction is not to act upon any system of fixed law, but is to 'act upon the general principles of justice.'

A Bill which introduces a change so subversive of all our pre-existing ideas requires the most careful examination. The task of examination is rendered more difficult by the fact that a multiplicity of previous statutes is incorporated with the Bill by reference. The Prime Minister in his speech endeavoured to explain its leading provisions, but those provisions are so complicated and so strange that, in spite of the light thrown by the Minister upon the Bill, it remains little better than an illuminated mist—a mist through which it requires the utmost caution and perspicacity to detect a way.

The Court to which the Bill proposes to delegate such momentous powers in the first instance is 'the Civil Bill Court of the county where the matter requiring the cognizance of the Court arises' (sect. 31). Of this Court, a legal functionary styled the County Court Judge and Chairman of Quarter Sessions (40 & 41 Vict. c. 56, s. 3) is the sole Judge, and of this functionary the sole qualification is, that he shall be at the time of his appointment

a Practising Barrister of ten years' standing at the least, who shall have actually practised ten years in Her Majesty's Superior Courts in Dublin (14 & 15 Vict. c. 57, s. 2). He is a provincial Judge, at a salary which is not sufficient to tempt the foremost members of the Bar; and no increase of that salary is contemplated by the Bill. By the Act of 1877, the number of County Court Judges was reduced from Thirty-three to Twenty-one—a number which was then considered barely sufficient for the discharge of their existing duties. But though he is already fully occupied with the Civil Bill business of a number of consolidated Counties, and with the Land Claims which are brought before him under the Land Act of 1870, the Bill proposes to throw its additional burden on his shoulders. By the Land Act of 1870 it is provided that 'the Judge shall himself without a Jury decide any question of fact arising in any case brought before him under the Act' (s. 23); and this proviso is incorporated in the Bill (s. 32).

Under the Civil Bill Act of 1852, in the case of the ordinary business of the Court, an Appeal lies from the County Court Judge to the Judges of Assize. Under the Land Act of 1870, any person aggrieved by an order of the Chairman might appeal to two Judges of the Superior Courts, or to the Judges of Assize, as the case might be, and they, if they thought fit, might state a case for the consideration of the Court of Land Cases Reserved (s. 23). Under the provisions of the Judicature

Act this was altered. Any person aggrieved by any decision of the Judges upon any question of law under the Land Act of 1870 might '*require* the Judge or Judges making such decision or order to reserve such question of law by way of Case Stated for the consideration of the Court of Appeal in Ireland (s. 49). This provision was inserted at the instance of Mr. Butt, in the interest of the Tenant; but this again is modified by Mr. Gladstone's Bill. The Bill creates a new Court of Appeal—the *Land Commission*. It proposes that 'any person aggrieved by the decision of any Civil Bill Court with respect to the determination of any matter under the Act may appeal to the Land Commission,' and that 'such Commission may confirm, modify, or reverse the decision of the Civil Bill Court' (s. 41). A question may be raised, whether the Appellate Jurisdiction created by the Act of 1870 is to be ousted by the Appellate Jurisdiction to be created by the Act of 1881. But the speech removes all doubt as to the extent of the powers of the Commission appointed by the Bill. 'As a Court,' said Mr. Gladstone, 'it will be charged with the final authority over the decisions *in all Land Cases*, and it will be the business of the Court to lay down rules for the guidance of the Civil Bill Courts which will in reality be the Courts of first instance in Land Cases' of every kind. The Bill proposes that 'the Land Commission may review and rescind or vary any order or decision previously made by them, or any of them'; but it proposes that, 'save as afore-

said, every order or decision of the said Commission shall be final' (s. 40). The Land Commission is thus invested with a higher jurisdiction than Her Majesty's High Court of Justice, with a higher jurisdiction than Her Majesty's Court of Appeal in Ireland; it is invested with the jurisdiction of the House of Lords, and is the Court of Ultimate Appeal, to deal with property to the amount of some £300,000,000 sterling, and to determine the rights and obligations—nay, the very income—of every Landed Proprietor in Ireland, so far as they are affected by the Land Acts.

Nor is this the only prerogative of the Land Commission. It is to be exempt from the restraining and controlling powers by which inferior jurisdictions are kept within the limits of their authority; for the Bill proposes not only that 'the Land Commission shall have full powers to decide all questions whatsoever, whether of law or fact, which it may be necessary to decide for the purposes of the Act,' but that 'they shall not be subject to be restrained in the execution of their powers under the Act by the order of any Court, nor shall any proceedings before them be removed by *certiorari* into any Court' (s. 40). In ordinary cases enactments which provide that proceedings shall not be removed by *certiorari* to a Superior Court are held to be inapplicable when the lower tribunal has overstepped the limits of its jurisdiction. But there are no limits to the jurisdiction of the Land Commission. The Court is constituted 'so that no

matter relating either to the assignment or tenure of land or to rent can escape the supervision of the Court if the present tenant desires it'—these are the words of the Prime Minister—and in the exercise of this comprehensive jurisdiction all that the Prime Minister requires is that 'the Court must act upon the general principles of justice.'

Nor is this all. The Judges of Her Majesty's High Court of Justice are invested by the Judicature Act with the power of making Rules for the Regulation of Practice or Procedure in their Courts; and if they purport to make Rules which go beyond the sphere of mere Practice or Procedure, such Rules have been held to be *ultra vires*, and, consequently, void. But a higher jurisdiction than this is deliberately conferred upon the Land Commission. The Commission 'may from time to time make, and when made may rescind, amend, or add to, Rules' not merely with respect to certain specified matters, but 'as to any other matter or thing, whether similar or not to those above mentioned, in respect of which it may seem to the Land Commission expedient to make Rules for the purpose of carrying the Act into effect' (s. 42). In the case of the Rules made by the Judges of the High Court of Justice, the Judicature Act provides that the Rules shall be laid before Parliament, and that they may be annulled by an Order in Council on an address from either House (s. 69). But the Land Bill omits even this salutary provision; and the consequence is, that even if the Rules of the Commission should

override the Law of the Land, or the Act of Parliament itself, it will require an Act of Parliament to remedy the usurpation.

Where such extensive powers are vested in individuals, it is all-important to inquire into the status of the individuals in whom they are to be vested. They are vested in three gentlemen, to each of whom there is to be paid 'a salary not exceeding two thousand pounds a-year' (s. 39)—a salary which will scarcely command the exclusive services of first-class men of high position in the social scale. The Commissioners to be constituted under the Act are to be *A. B.*, and *C. D.*, and *E. F.*; and the only qualification required for any of them is, that *C. D.* is to be 'one of the Judges of the Supreme Court of Judicature in Ireland' (s. 34). How any one of the Judges of the Supreme Court, the number of which was reduced by the Act of 1877 to the minimum sufficient for the public service, can be spared from the discharge of the duties of an office, which is supposed to occupy the whole of his time and attention, it is difficult to see. In the homely words of one of the Northern Members, all the Bill gives is the 'piece of a Judge,' and, from the nature of the case, it must be the smallest piece. Nor is it easy to see why any Judicial Dignitary whatsoever should be taken from his duties on the Bench, to assist in the duties of the Commission. Under the provisions of the Bill, the Layman is invested with all the functions of the Lawyer. The Bill proposes that 'any power or act by the Act vested

in, or authorized to be done by, the Land Commission may be exercised or done by any one member of the Land Commission' (s. 37). It does not even provide the qualification of the Church Act (s. 4), that any person aggrieved by an order of one Commissioner may require his case to be heard before the whole of the Commissioners *in banco*.

The Bill goes further. It proposes that 'the Lord Lieutenant may from time to time, with the consent of the Treasury as to number, appoint and remove *Assistant Commissioners*' (s. 36); and it enacts that 'any power or act vested in, or authorized to be done by, the Land Commission may be exercised or done,' not only 'by any one member of the Land Commission,' but 'by such Assistant Commissioner, or number of Assistant Commissioners, as the Land Commission may from time to time determine with the assent of the Lord Lieutenant' (s. 37). A mere Assistant-Commissioner, therefore, a man for whom the Bill provides no qualification, and who owes his existence to the favour of the Land Commission, may adjudicate upon questions which will determine the status of the Duke of Abercorn, or the Duke of Leinster; and may fix the rents which the tenants of a whole Estate, or of a whole County, will have to pay for a period of fifteen years under the subsequent provisions of the Bill. The peculiar circumstances of Ireland may demand the appointment of such Commissioners and such Commissionaires; but never since the times of the Star Chamber and the Court of High Commission were

such extensive powers vested in any body of men; never before in the whole history of England were such extensive powers vested in a single man. And these omnipotent functionaries will not even exercise their omnipotence as independent men; for the Assistant Commissioners will hold office at the pleasure of the Triumvirs, and the Triumvirs will hold office, not *quamdiu se bene gesserint*, but during the 'pleasure' of the Crown (s. 34).

The chief case in which the newly constituted Court is to intervene is stated in that portion of the Bill which is entitled the *Intervention of the Court.* The Bill proposes that 'the Tenant of any present tenancy, to which the Act applies, may from time to time, during the continuance of such tenancy, apply to the Court'—that is, the Chairman of Quarter Sessions—'to fix what is the Fair Rent to be paid' (s. 7). This is in reality the central point of the Government proposal—the point from which every consequence radiates within the sphere of the operation of the Bill.

The impossibility of valuing Rents by Public Authority was clearly perceived by the Prime Minister in 1870. 'Look at the practical difficulty,' he exclaimed—'We are to value Rents. What an army of Public Officers are you to send abroad to determine from year to year the conditions of the 600,000 holdings in Ireland—conditions which are settled with comparative ease when settled by private intercourse, but conditions the fixing of which beforehand by Public Authority would be attended

with tenfold difficulty.' 'How are these Rents to be valued?' he asked—'What is the *test?* The prices of produce? Of what produce? Of one kind of produce or of all kinds? Can any man fix by law any system upon which it will be possible to adjust Rents by calculations founded upon prices?' 'The mathematical result,' said the Premier, 'is, that if you undertake to fix the valuation of Rents by Public Authority, you must likewise undertake to fix the whole conditions of every agricultural holding in Ireland.' The Prime Minister does not profess to have changed his mind as to the truth of these considerations; he has merely resolved to disregard them. 'Referring to the Public Authority what ought to be transacted by the private individual may,' he says, 'be an infinitely smaller evil than some which you have to contend with.' Accordingly, the Prime Minister, finding he has to contend with the Land League, resolves to make a 'holocaust of contract,' and to relegate the 'practical difficulties' and the 'mathematical results' of 1870 to Jupiter and Saturn. He requires a score of provincial Judges, whose time is already fully occupied by their ordinary business, to perform the task of valuing 600,000 holdings; and to aid them in the performance of the task, he himself undertakes to perform the impossibility of ten years ago, and to supply his Chairmen with a 'test.'

A variety of attempts have been made to arrive at a definition of FAIR RENT. The Rent which the Poor Law Act of 1838 (1 & 2 Vict. c. 56) accepted

as the basis of its Rate was 'the Rent at which, one year with another, the hereditaments might in their actual state be reasonably expected to let from year to year, the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain the hereditaments in their actual state, and all rates, taxes, and public charges, if any (except tithes), being paid by the tenant' (s. 64). For the purposes of general taxation the Valuation Act of 1852 (15 & 16 Vict. c. 63), which formed the basis of the famous Griffith's Valuation, enacts that the Valuation of Lands 'shall be made upon an estimate of the net annual value thereof, with reference to the average prices of the several articles of agricultural produce hereinafter specified, all peculiar local circumstances in each case being taken into consideration, and all rates, taxes, and public charges, if any (except tithe rentcharge), being paid by the Tenant' (s. 11). But though such a valuation might be made the basis of taxation, it was never intended to be, and was never taken to be, a basis for the estimate of Rent. Accordingly Mr. Butt, in the Land Bills which he introduced in 1877 and 1878, defined a Fair Rent to be 'that which a solvent and responsible tenant could afford to pay, fairly and without collusion, for the premises, after deducting from such rent the addition to the letting value of the premises by any improvements made by the tenant or his predecessors in respect of which the tenant, on quitting his farm, would be entitled to compen-

sation under the provisions of the Land Act' (s. 44). But the definition of Mr. Gladstone goes far beyond the definition that contented Mr. Butt. He courts popularity by complying with a popular demand, and he speciously defines a Fair Rent to be 'such a Rent as, in the opinion of the Court, after hearing the parties, and considering all the circumstances of the case, holding, and district, a solvent tenant would undertake to pay one year with another: provided that the Court, in fixing such rent, shall have regard to the tenant's interest in the holding' (s. 7).

The more obvious objections to this definition, or description, call it which you will, are patent. Fair Rent is reduced from what the land is intrinsically worth to a mere matter of opinion. The opinion to be formed on the consideration of 'all the circumstances of the case,' when the circumstances are so numerous, so minute, and so remote, that they would defy the calculations of a second Adam Smith. It is an opinion to be formed on the evidence of what solvent Tenants would undertake to pay, when the solvent Tenants would all have an interest in lowering rents, and when in all probability they would be members of the Land League.

But if we wish to see the full scope and purport of the definition, let us consult a remarkable Essay, originally written for the Cobden Club, and republished within the last month at the instance of the Prime Minister himself. It is an Essay on the

Tenure of Land in Ireland, by the Right Hon. M. Longfield, who, as Commissioner for the Sale of Incumbered Estates, and as Judge of the Landed Estates Court, has had a life-long experience of the results of judicial valuations. 'The settlement of Rent by Valuation,' says Judge Longfield, 'appears just only to persons who do not know what a valuation of land is, and always must be. The value, certainly, is that Rent which a solvent tenant will be ready to offer for the farm on a lease of moderate duration' (p. 48). That test, of course, is excluded by the Bill. Private contract by free offer and acceptance is a portion of the old economical arrangements of Ireland which is relegated to Jupiter and Saturn. But in the absence of Free Contract there can be no trustworthy valuation. 'As soon as the possession of land ceased to be a subject of contract by mutual agreement,' says Judge Longfield, 'the valuators would have no average market value to refer to, and would form their estimates on the wildest principles' (p. 51). Nay more. He considers it highly probable that, 'in the excited state of feeling that would be raised by an alteration of the law, no valuator would venture to express an opinion of the value of land that was not in accordance with the tenant's wishes' (*Ibid.*) 'It is not uncommon,' he adds, 'to see two valuators differing enormously in their estimates, and yet neither suffering in reputation as if he had made a discreditable mistake'; and, he gives it as his deliberate opinion, that in all probability '*the value, as fixed by any tenant-right*

measure, would be less than half the rent which a solvent tenant would be willing to pay' (Ibid.)

Let us look, then, to the value as fixed by the tenant-right measure which is embodied in the Bill. In fixing the Rent which a solvent tenant would undertake to pay—under a system of open competition—the Court must have regard to the *Tenant's Interest in the Holding*, and the Tenant's Interest in his holding is to be estimated with reference to the following considerations :—

In the case of any holding subject to the Ulster Tenant Right Custom, or to any Usage corresponding therewith, the Tenant's Interest is to be estimated with reference to the Custom or the Usage (s. 7). This is a vague and ambiguous form of expression. It is not the expression of a lawyer. In what manner is the 'reference' to be made? In whose favour? and with what results? The Prime Minister did not inform Parliament in his speech; but, judging from the general purport of the speech, and the general policy of the Act, the reference of the Bill would seem to be some reference in favour of the tenant, and so far as one can guess the interpretation of a political conundrum, the answer to the riddle would be this. The Chairman is to estimate, as best he can, the value of the Tenant's right, and he is to deduct the interest of the sum which represents the value from the Landlord's rent. But how is such an estimate to be made? On what principle? and on what data? In Ulster the Tenant Right is various, and the standard

by which it is to be determined, like the Lesbian Rule, must vary. If, as the leaders of the Land League say, the Ulster Tenant is to be at liberty to go into the market and sell his Tenant Right for the highest price that it will fetch, the market price, it is evident, will be diminished by the slightest increment of rent. If the Act is to be administered, as it is intended to be administered, and as it will be administered, past a doubt, in favour of the tenant, it will be impossible for the landlord in any case to raise his rent, for the smallest raising of the rent will necessarily depreciate the right. But more. In Ulster there is not only a divided ownership of the land, but in practice the land, strange as it may appear, commands a double price; and in *Friel's Case*, reported in Donnell's Land Cases, Mr. Justice Lawson actually decided the value of the Tenant Right to be forty-two years' Rent, or double the value of the fee. Not only, then, will it be practically impossible for the Landlord to raise his rent; but if the interest of the money value of the Right is to be deducted from the Rent which a solvent Tenant would undertake to pay, were it not for the existence of the Right, the Right, it is evident, may absorb the Rent, and the Rent payable may be reduced to zero.

If we take the case where there is no evidence of any such custom or usage, we are conducted to equally startling results. In such cases the Tenant's Interest, according to the Bill, is to be estimated not only with reference to his right to com-

pensation for improvements—which was all that was demanded in the Bills of Mr. Butt—but with reference to the scale for compensation for disturbance. What the Bill means by the term 'reference' is, in this case, tolerably clear. In the case of *improvements* the reference contemplated is evidently this. Suppose that the rent originally payable for a holding was £100; and suppose that, by reason of the improvements of the Tenant, the Land is worth £120. If, then, £120 is what a solvent Tenant would undertake to pay, there would be nothing inequitable in deducting the £20 due to the improvements of the Tenant, and fixing the Judicial Rent at the original rent of £100 per annum. The improvements being the work of the Tenant are regarded as his property, and the interest of the capital expended on them is deducted from the rent. If then the 'reference' to the scale for compensation for *disturbance* is to be explained in the same manner as the 'reference' to improvements, the operation of the Bill may be illustrated in the following manner. Suppose, as before, that the rent actually payable by the Tenant is £100 a-year, and that, in the opinion of the Court, after hearing the parties and considering all the circumstances of the case, £100 a-year is what a solvent tenant, under a system of free contract, would undertake to pay, one would imagine that the undisturbed Tenant would be obliged to pay his previous rent. But no. The Court must have regard to the Tenant's interest in the holding, and the Tenant's interest in the

holding must be estimated with reference to the scale of compensation for disturbance payable under the Act, which, in the case supposed, would amount to a sum not exceeding three years' rent, that is to say, £300. Deduct the interest on £300 at 5 per cent from the existing rent, and the rent payable by the tenant would be 15 per cent lower than the rent which, but for the proposed legislation, he would be both legally and morally obliged to pay.

Or put the case as it is put by a leading article of the *Times* of the 13th of April, 1881. 'Take the case of a Landlord in the West of Ireland with an estate of £5000 a-year, divided into £25 holdings let at, or a little over, Griffith's Valuation. The capital value of the property at 20 years' purchase is £100,000, and this sum the owner may have paid for it since the Act of 1870 passed. If his tenants agree to apply to the Court to have Rents fixed, the first duty apparently of the tribunal will be to deduct seven years' rent from the twenty, and to assess the fair rent on the basis of the reduced value. Thus, however easy the existing rents were, the introduction of the allowance for tenant-right—compensation for disturbance being recognised as tenant-right though no disturbance has taken place—*must cut down the Landlord's annual income by fully one-third, and in the same degree reduce the capital worth of the property.*'

A measure attended with such results is so monstrous that attempts have been made to put a different construction on the Bill. But all at-

tempts are vain. The clause provides that in fixing Fair Rent the Court must regard 'the Tenant's interest in his holding;' and 'holding,' according to the Glossary, means 'a parcel of land held by a Tenant of a Landlord.' The Tenant's interest in his 'holding,' therefore, is his interest in the 'land'; and if he has an interest in the land why should he pay rent for what is in reality his own? That this is the view which the Court is meant to take is evident from the speech of Mr. Gladstone. 'What the Tenant had to assign at Common Law,' says Mr. Gladstone, 'was so small that the assignment was little worth giving or receiving. But in the Land Act, not, I must own, with a view to fortify the principle of Tenant Right, but simply to defend the Tenant in possession of his holding, and to render it difficult for the Landlord capriciously to get rid of him, we proceeded to enact a scale of compensation for disturbance without which he could not be removed. That being so, it was evident a valuable consideration was, by the Act of 1870, tacked on to every Yearly Tenancy in Ireland. *And under the Act of* 1870, *whether we intended it or not, Tenant Right has become something sensible and something considerable.*'

Giving the Prime Minister credit for not wilfully suppressing the truth in 1870, the Legislation of that year has produced an effect which he never contemplated or intended. It was confessedly a piece of inadvertent Legislation. Now, if the legislation of 1881 is not to be inadvertent also, let us examine

how the matter stands at present; and it stands, as we conceive it, thus. Before 1870, the Tenant from year to year possessed a precarious estate, liable to increase of rent, and liable to determination on a six months' notice. According to the Prime Minister, it was a thing worth nothing. To mitigate the precarious position of the Tenant the Land Act of 1870 provided that, if he were capriciously evicted, he should be entitled to compensation for disturbance—the compensation to the Tenant being a penalty imposed upon the Landlord for the exercise of a legal right which he retained. This did not satisfy the Tenant. 'In nearly all cases of dispute between Tenant and Landlord,' says the Report of the Bessborough Commission, '*what the aggrieved Tenant wants is, not to be compensated for the loss of his farm, but to be continued in its occupancy at a Fair Rent*' (p. 7). Accordingly the Bill proposes to prevent the Landlord from resuming possession of the land, and confers upon the Tenant not only the privilege of Fair Rent but the privilege of Fixity of Tenure. This does not satisfy the Land League. Common sense would suggest that a Tenant with Fixity of Tenure would be content to pay a *higher* rent than if he were liable to be disturbed; but the Land League holds, that he should pay a *lower*. The Bill endorses the opinion of the Land League. In order to make the rent payable by the existing Tenant less than the Fair Rent which a solvent Tenant would undertake to pay, it declares the existing Tenant to be entitled

not only to Fixity of Tenure but to Compensation for disturbance also. But if the Tenant is never to be disturbed, on what possible grounds can he claim compensation for disturbance? And if he has no claim for compensation for disturbance, on what ground should 'reference' to such a claim be made in the calculation of the Fair Rent which a solvent Tenant would undertake to pay? The Prime Minister is ready with an answer. In 1870, he says, I inadvertently 'tacked on' a 'valuable consideration' to every yearly tenancy in Ireland, and this valuable consideration is 'something sensible,' 'something considerable,' something which constitutes an 'interest in the land,' which I inadvertently conferred upon the Tenant by my Land Act. The reply is obvious. The Bill confers Fixity of Tenure as a *substitute* for Compensation for Disturbance, and the Tenant, who has ousted the Landlord from the possession of his land, cannot in common decency claim both. This is what the Prime Minister declines to see. He does not propose to remedy the consequences of his inadvertence; he proposes to extend them. He extends the area over which compensation for disturbance can be claimed (s. 17). He raises the scale of compensation (s. 5). He capitalizes the amount, and deducts the interest from the Fair Rent which a solvent Tenant would undertake to pay (s. 7). He not only confers upon the Tenant the privilege of Fixity of Tenure at a Fair Rent, but he makes a deduction from the Fair Rent to enhance the value of Fixity of Tenure. Lord

Monteagle attempts to defend the Prime Minister by saying that 'the question for the Court would be, not, What portion of the fee-simple belongs to the Tenant as his interest? but, Can the Tenant, at such and such a rent, *sell* his interest for as much as the disturbance scale would give him?' But the defence is a confession of the crime. Mr. Gladstone, to satisfy the League, is compelled to bestow on the Tenant something that he can sell as well as hold; and having provided him with something he can sell, he proceeds to confer upon him the privilege of Free Sale.

Whether the Proprietor will ever be enabled to resume the *possession* of the land which is at present in the occupation of a Tenant is one of the mysteries of the Bill. The Bill, which deals so fully with Fair Rent and Free Sale, is strangely reticent as to FIXITY OF TENURE. 'My proposition,' said the Prime Minister in 1870, 'is that, if you value Rents, you may as well for every available purpose adopt Perpetuity of Tenure at once—it is only Perpetuity of Tenure in disguise.' It is in this disguise that Fixity of Tenure goes masquerading through the Bill. It is there; but it is never mentioned, and it never drops the mask. The purpose of the Bill, however, is permitted to transpire in the language of the Speech. There will remain to the Tenant,' he says, 'liberty to apply to the Court for a Judicial Rent, which may be followed by a Judicial Tenant Right, to exist for a Statutory Term of fifteen years, Renewal to be provided as long as the

present tenancy exists, and the present tenancy not to determine by a mere change of tenants.' 'Evictions,' he adds, 'will hereafter, as I trust, be done away with, except for causes both reasonable and grave.' These grave and reasonable causes are set forth in the 4th section of the Bill as the Statutory Conditions which regulate the Statutory Term. But even in the case of a Statutory Term the Landlord cannot re-enter for breach of condition; he can only compel the Tenant to quit his holding, as in the case of an ordinary tenancy from year to year, by ejectment for non-payment of rent, or by ejectment founded on a notice to quit (s. 13); and during the pendency of even such ejectment proceedings the Tenant, as it would appear, may defeat it by an exercise of his statutable Right of Sale (*Ibid.*). Indeed, so anxious is the Prime Minister to prevent the Landlords from resuming the possession of their Estates, that the Bill goes further. If a Tenant should determine to sell his tenancy under the provisions of the Bill, he must give notice of his intention to his Landlord, and 'on receiving such notice the Landlord may purchase the tenancy for such sum as may be agreed upon, or, in the event of disagreement, may be settled by the Court to be the value' (sub-s. 3). But even this privilege is clogged with a proviso the equity of which it is hard to understand. Even in the case 'where a present tenancy in a holding is purchased by the Landlord from the Tenant in exercise of his right of pre-emption under the Act,' the Bill provides

that 'if the Landlord, within fifteen years from the passing of the Act, *re-lets* the same to another Tenant, the same shall be subject, from and after the time when it has been so re-let, to all the provisions of the Act which are applicable to present tenancies' (s. 45, sub-s. 2).

Proposing to evict the Landlord from the possession of his land, and proposing to make a considerable deduction from his rent, in order that the Tenant may have 'something considerable' to sell, the Bill consistently confers upon the Tenant the privilege of FREE SALE. The first Section of the Bill proposes that 'the Tenant for the time being of every tenancy to which the Act applies may sell his tenancy for the best price that can be got for the same,' subject to the 'regulations' and 'provisions' of the Act (s. 1). 'The power of the Landlord, or of the Court, to raise the rent,' says the Prime Minister, 'is the due and just means of preventing the Tenant-right of the Tenant from passing into extravagance and trespassing on the just rights of others'; and, accordingly, with this view the Bill provides that 'the Tenant shall give the prescribed notice to the Landlord of his intention to sell his tenancy' (sub-s. 2).

If, then, on the receipt of the prescribed notice, the Landlord thinks proper to demand an increase of Rent, one of two things may happen. If the Tenant 'accepts such increase' his tenancy is converted into a Statutory Term of fifteen years (s. 3), during the continuance of which he cannot be 'com-

pelled to pay a higher Rent than the Rent payable at its commencement,' and cannot be 'compelled to quit the holding,' except 'in consequence of the breach of some one or more of the conditions' referred to in the Act as Statutory Conditions (s. 4); and his statutory term is subject to perpetual 'Renewal.' If, however, the Tenant 'does not accept such increase' he has a privilege, from participation in which the Landlord is excluded, and he may, if he think fit, apply to the Court to fix the Rent. When once the Rent is fixed in the manner provided by the Act, a Statutory Term will be created which will have all the incidents of the Statutory Term created by the agreement of the parties; and in either of these cases the Tenant will enjoy a perpetually renewable interest, subject to the payment of a Rent determined either by the Free Contract of the parties, or by the judicial determination of the Court.

But the Bill gives another alternative to the Tenant. Under the provisions of the Land Act of 1870, the Tenant is disallowed his claim for compensation 'if it shall appear to the Court that the Landlord has been, and is, willing to permit the Tenant to continue in the occupation of his holding upon just and reasonable terms, and that such terms have been, and are unreasonably, refused by the Tenant' (s. 18). The Bill refuses even this modicum of justice to the Landlord. Even if the increase of rent demanded by the Landlord is just and reasonable, the Bill provides that 'where the Tenant does not accept such increase, and is com-

pelled to quit the tenancy, but does not sell the tenancy, he shall be entitled to compensation as in the case of disturbance by the Landlord' (sub-s. 3). Here the Tenant's contingent claim for disturbance is clearly converted into a vested interest in the land; and in order to enable him to realize this interest, the Bill entitles him to *refuse* a Fair Rent, and in spite of his clamour against eviction, to claim the *privilege* of being evicted.

But the Bill, in the third place, provides that 'where the Tenant does not accept such increase, and sells his tenancy, in addition to the price paid for such tenancy, he shall be entitled to receive from the Landlord ten times the amount of such sum (if any) as the Court, on the application of the Tenant, may determine to be the excess of the increased rent over a Fair Rent within the meaning of the Act.' To test the justice of this provision of the Bill, let us take a simple case. A Tenant is in possession of a holding for which he is paying a rent of £100, and for which his Landlord demands an increase of £50 a-year; the Tenant refuses to comply with this demand; the Landlord cannot apply to the Court to fix the rent, and the Tenant elects to sell his tenancy. His 'Tenancy,' according to the glossary, is his 'interest in the holding during the continuance of his tenancy,' and the 'Rent of tenancy' is 'the Rent *for the time being* payable by such Tenant.' What he sells, therefore, is a holding subject to £100 a-year, and for this he receives its full value, under his statutable privi-

lege of Free Sale. Now, suppose that £150 is the Fair Rent which a solvent Tenant would undertake to pay under a system of Free Contract; and suppose that £100 is the Judicial Rent which a solvent Tenant would be compellable to pay under the system of the Bill; the excess of the Fair Rent of contract over the Judicial Rent of compulsion is £50; and by the provisions of the Bill the Tenant is entitled to receive from his Landlord ten times the amount of that sum, or £500, as the penalty for making a reasonable demand, which he cannot enforce against the Tenant who elects to sell, and which the Judge, on the subsequent application of the Tenant, may decide that he cannot enforce against the buyer who has thought fit to buy.

Nor is this the mere blunder of the draftsman. No Parliamentary draftsman can be ignorant of the fact that rent cannot be raised by a mere demand to raise it. It is the deliberate injustice of the Bill; for the injustice is repeated. The 12th section of the Bill provides that, 'where a Tenant sells his tenancy without notice from the Landlord that he is about to raise the Rent, and the Landlord *demands* a higher Rent from the Purchaser of the tenancy than he received from the Tenant, the Purchaser may sell such tenancy *forthwith;* and if he sells the same forthwith, he shall, in addition to any moneys he may receive from the sale of such tenancy, be entitled to receive from the Landlord the amount by which the selling value of his tenancy may have been depreciated by the increase of Rent'

(s. 12). The iniquity of this is patent. The Tenancy which the Purchaser has bought is subject to the existing Rent by the very definitions of the Bill, and it is subject to that existing Rent that he proceeds to sell it. He sells exactly what he bought. But in addition to what he realizes by the sale—which may be a considerable advance on what he paid—the Bill declares him entitled to demand and receive from the Landlord 'the amount by which the selling value of his Tenancy may have been depreciated by the increase of Rent' which the Landlord has demanded—an increase which the Landlord has taken no proceedings to enforce, and which the Purchaser, by applying to the Court to fix a Judicial Rent, might effectually prevent him from enforcing.

The full consequences of the Bill are best seen in the light reflected upon them by the Prime Minister's speech in 1870. In 1870 the Prime Minister deliberately refused to be a party to any scheme for the *Valuation of Rents* by Public Authority, on the ground that no Public Authority could by any possibility perform the duty. 'The mathematical result,' he said, 'is, that if you undertake the Valuation of Rents by Public Authority, you must likewise undertake to fix the whole conditions of every agricultural holding in Ireland.' This impossible task the Prime Minister now proposes to impose on the County Court Judges, already overwhelmed with the business of their Civil Bills and the existing Land Claims. But what is the necessary result of this? 'My proposition,' said the Premier

in 1870, 'is, that if you value Rents, you may as well for every available purpose adopt Perpetuity of Tenure at once—it is Perpetuity of Tenure in disguise.' But what is *Perpetuity of Tenure?* The principles of Political Science may be disregarded, but their disregard does not alter the nature of things or arrest the operation of the laws of nature. 'The one principle which is involved in Perpetuity of Tenure,' said the Premier, 'is, that the paramount interest in the soil is to be transferred from the Owner to the Occupier, and that the Owner of the soil is to become a Tithe Commutator only on a larger scale' —'a mere Annuitant who loses all interest in the prosperity of the country.' In the words of the Minister, it is a virtual *Expropriation of the Landlord.* The Prime Minister stated these things in 1870, as he said, to 'provoke confutation.' No confutation of their truth has ever been offered; they cannot be confuted. But if they are true, what are the consequences of their truth? If the principles of Political Science, as far as Ireland is concerned, are to be relegated to Jupiter or Saturn, the principles of Political Morality remain, for the Prime Minister invokes them. And what is it that justice imperatively requires in such a case? The Prime Minister has told us. 'I do not think that anything *dishonourable*,' he said, 'anything that intends an injury to another, has been projected by those who have set up Perpetuity of Tenure for the Irish Occupier as their favourite scheme, because we have not a doubt that they have seen that, inas-

much as Perpetuity of Tenure on the part of the Occupier is virtually Expropriation of the Landlord, and as a mere readjustment of Rent, according to the price of produce, can by no means dispose of all the contingencies the future may produce in his favour, *Compensation* would have to be paid to the Landlord for the rights of which he would be deprived.'

Here then, on the Premier's own showing, we have the whole concatenation of the consequences which are enveloped in the Bill. A Court is to be constituted for the Valuation of Rents; Valuation of Rents entails Perpetuity of Tenure; Perpetuity of Tenure is the Expropriation of the Landlord; and the Expropriation of the Landlord, if the country is not to adopt a course which is at once 'dishonourable' and 'unjust,' must be followed up by Compensation.

Now trace the progress of Mr. Gladstone's Legislation as embodied in his Land Acts. The Tenant, having certain political support to give, demands that he should be awarded compensation out of the Landlord's *capital*, if the Landlord should venture to exercise his legal rights. Mr. Gladstone complies with the demand. The legal right is not avowedly taken away, but a penalty is imposed upon its exercise, and the right, like Olivia's guinea, is one which the Landlord may keep in his pocket, but must never use. The Tenant is not satisfied with this. He exclaims that he does not want compensation for disturb-

ance, but requires that henceforward he should be rooted in the soil, and not disturbed. Again Mr. Gladstone yields—he concedes Fixity of Tenure, and the *possession* of the land, the privilege of occupying it and using it, is taken away for ever from the Landlord. The persistent Tenant is not contented even yet. He invokes the assistance of the Land League, and he demands not only Free Sale, but some 'considerable something' which he may have in his power to sell. The Bill of the Prime Minister concedes it, and he disguises the concession thus. Having secured the Tenant from the possibility of being disturbed, he retains the principle of Compensation for Disturbance, and under the guise of Compensation for Disturbance he surreptitiously extends the Tenant Right of Ulster to the rest of Ireland. Immediately Fair Rent appears upon the scene. Having deprived the Landlord of a portion of his capital—having deprived him of the possession of his land—Mr. Gladstone proposes to deprive him of a portion of his *rent*. But while advocating these liberal inroads on the rights of property, the Liberal Minister makes no reference to the right of compensation which in 1870 he said it would be 'dishonourable' to withhold in the case of mere Fixity of Tenure. The Prime Minister, it is true, denounces the proposal of the Land League as involving schemes which 'it passes his ability to distinguish from schemes of public plunder.' But the scheme of the Leader of the Land League is less odious than the scheme of the Leader of the

Liberal Party. If Mr. Parnell wishes to expropriate the Landlords, he proposes to pay for everything he takes. Mr. Gladstone recommends what he admits to be a 'virtual expropriation of the Landlords,' and he makes no similar proposal. He simply tells the House that, being backed by an overwhelming majority, 'there is nothing that can legitimately be done by the Government for the promotion of legislation which he will hesitate to do, for the purpose of passing an effective measure dealing with the Land Question in Ireland.'

The peculiar circumstances of Ireland may require that its Land Laws should be fundamentally remodelled; but they do not require that this Social Revolution—for in his speech of 1870 the Prime Minister expressly called it a Social Revolution—should be effected by the ruin of a class. If the Government, for the public benefit, authorizes the compulsory purchase of property, it grants a compensation for the mere compulsion. But here the compulsory enactment entails a ruinous depreciation. We have seen that the Landlord is practically debarred from resuming the tangible possession of the land which is at present in the occupation of a Tenant. We have seen that the capitalization of the compensation for disturbance, and the grant of the amount to the Tenant, as his interest in his holding, would probably diminish the Landlord's capital by at least a third. We have seen that the compulsory valuation of Rents would probably reduce the Rent payable in future to less than half the

Rent which a solvent Tenant would undertake to pay. We have seen that heavy penalties are henceforward to be imposed on a Landlord if he incautiously demands an increase of Rent which, in the newly constituted Court, he may be unable to sustain. We have seen that even to maintain a fragment of his pre-existing rights the Landlord will be driven into a hostile Court—a Court constituted for the very purpose of benefiting the Tenant—a Court in which witnesses and valuators will be under the influence of an organized conspiracy to defeat his rights—a Court which in the face of the Land League will be unable to guarantee him the enjoyment of the modest rights which it awards. The large Estates of the great Absentee Proprietors may be able to sustain the depreciation of property that will thus ensue; for such Proprietors regard their Irish Income as a mere adjunct and addition to their English Incomes. But the Estates of the small resident proprietors will be swamped. The small Estates, which are subject to large head rents, will be sunk to the water's edge. The Estates which are heavily encumbered will be finally submerged—the very incumbrances and charges will be lost. All this ruin will be entailed on the Landed Proprietor of Ireland. And why? Because the Irish Land Laws are iniquitous? No. The Prime Minister denies it. Because the great body of the Irish Proprietors have been guilty of oppression? No. The Prime Minister admits that they have been put on their trial, and that they have been triumphantly

acquitted. Why then are the Landed Proprietors to be subjected to a Confiscation as sweeping as if it had been effected by Foreign Conquest or by Civil War? The Prime Minister informs us. It is because 'a limited number of the class has been distinguished by conduct different from that of the predominating numbers.' This the Prime Minister calls Justice by the 'Divine Light' of which he professes to be guided. But his Justice is no reflex of the Eternal Justice which administers the world. The Divine Equity would have spared even Sodom and Gomorrah for the sake of ten righteous, and the Statesman who claims to be guided by the 'Divine Light' is prepared to rain down the ruin of Sodom and Gomorrah upon ten thousand righteous as a punishment for the sins of ten.

In his speech of 1870 the Prime Minister invoked the principles of Eternal and Immutable Justice as eloquently as he invokes them now. 'That rare, that noble, that imperial virtue,' he said, 'has this above all other qualities, that she is no respecter of persons, and she will not take advantage of a favourable moment to oppress the wealthy for the sake of flattering the poor, any more than she will condescend to oppress the poor for the sake of pampering the luxuries of the rich.' He compared the face of Justice to the face of Janus; he compared her countenance to that of the Lions, which present one tranquil and majestic aspect to every quarter of the globe. *Verborum volubilita sinanis!* The Prime Minister has taken advantage of his favourable

moment. He has changed his front. His Lions have been metamorphosed into vulgar beasts of prey. His Janus has turned out to be a Janus Bifrons—a false Deity with a double face. His Imperial Virtue has been excluded from all participation in the affairs of Ireland; and his Political Morality, like his Political Economy, has been banished to Jupiter or Saturn.

What reason has the Prime Minister assigned for the abandonment of the principles which he enunciated in 1870? In 1870 he demonstrated that it was impossible for any Public Authority to value Rents. In 1881 he makes light of the impossibility, and determines to perform it. In 1870 'he had not heard, and he did not know, and he could not conceive, what was to be said in favour of the prospective power to reduce excessive Rents.' In 1881 he makes the establishment of a Court for the reduction of excessive Rents the salient point and cardinal proposal of his Bill. In 1870 he denounced the plan of the present Bill as one calculated to throw the whole economical arrangements of the country into confusion. He now proposes to entrust the work of confusion to a Commission of Triumvirs. In 1870, he denounced the plan as one calculated to drive out of the field all solvent and honest men. He is now resolved to drive them out. In 1870 he denounced the plan as calculated to carry a widespread demoralization through the masses of the Irish people. He is now determined to debauch them. What change

has come over the spirit of his dream? What has happened to convert him? In 1870 the Prime Minister was no infant phenomenon, no inexperienced politician. He had reached his grand climacteric; he was the Premier of England. If there is now a scarcity of land in Ireland, there was an equal scarcity ten years ago. Ten years ago men were as content to pay the fancy price for land, which the Premier pedantically calls the *pretium affectionis*, as they are at present. Ten years ago there were a few bad landlords. But these things were not peculiar to the time; nor are they peculiar to Ireland. The area of every country in the world, the area of the great globe itself, is limited. The *pretium affectionis* is paid wherever there is an affection to be gratified, and the ability to purchase the gratification. In every country in the world, in every department of human life, so long as human nature retains any trace of its primeval imperfection, there will be a small minority of men who will attempt to push their legal rights to the very limits of the law. It is so with the peasant proprietors of Belgium; it is so with the peasant proprietors of France; it would be so with the peasant proprietors of Ireland. It is not these familiar facts, these elementary truths of political science, which have changed the Prime Minister of England. Why does he not honestly avow the reason of the change? When Sir Robert Peel abandoned his old opinions on the great question of Protection, he boldly proclaimed to Parliament and to the Nation, that whatever merit might

attach to the measures which he introduced did not belong to himself, but ought to be attached to the name of the man whose pure motives, and indefatigable energy, and unadorned eloquence, had forced the world to listen to him—to the name of Richard Cobden. Let the Prime Minister imitate the honesty of Sir Robert Peel. Let him confess that whatever merit may attach to the great measure of Confiscation which he is about to pass does not belong to him, but to the unadorned eloquence of Mr. Parnell—to the indefatigable energy of Mr. Dillon—and to the pure motives of the Land League. Let him confess that he has adopted, at the dictation of the Land League, a scheme which it passes even his ability to distinguish from a scheme of public plunder. And if, with his overwhelming majority to back him, he thinks it necessary to plead an apology for the course which he adopts, let him confess that his Administration has allowed Ireland to be converted into an Aceldama; and that the price which he has paid for his popularity—his *pretium affectionis*—is the price of blood.

W.

THE END.

THE

LAND QUESTION, IRELAND.

No. XI.

FOREGONE CONCLUSIONS:

THE BESSBOROUGH COMMISSION.

APRIL, 1881.

ISSUED BY

THE IRISH LAND COMMITTEE.

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THE following pages were in type before the introduction of Mr. Gladstone's new Land Bill; to which measure, based as it is in many details on the Report of Lord Bessborough's Commission, they will be found equally applicable.

April 11*th*, 1881.

FOREGONE CONCLUSIONS:

THE BESSBOROUGH COMMISSION.

In August, 1879, a Royal Commission was appointed by Lord Beaconsfield's Government, under the presidency of His Grace The Duke of Richmond and Gordon, "to inquire into the depressed condition of the Agricultural interest, and the causes to which it is owing; whether those causes are of a permanent character, and how far they have been created, or can be remedied by legislation."

The land agitation in Ireland was started by Mr. Parnell and his associates about the same time, in anticipation of the distress likely to result during the ensuing winter, consequent on the extreme wetness of the summer of 1879; and, as it speedily assumed serious proportions, the attention of the Royal Commissioners was early and specially attracted to the condition of Agriculture, and those

dependent on agriculture, in Ireland. In view of probable legislation on the Irish Land Question, the Commissioners have published a Preliminary Report dealing briefly with the condition of agriculture and the tenure of land in Ireland. This preliminary Report is signed by the Chairman and twelve other Members of the Commission; including Mr. Bonamy Price, who adds a memorandum on certain points on which he dissents from the Report. Appended to the Report proper of the Commissioners, there is a separate Report, signed by six Members of the Commission, including Lord Carlingford, and Mr. Stansfeld.

In May, 1880, Mr. Gladstone succeeded Lord Beaconsfield as Prime Minister, and in July a second Royal Commission was issued, of which Lord Bessborough was appointed Chairman, "to inquire into and report upon the working and operation of the 'Landlord and Tenant (Ireland) Act, 1870,' and the Acts amending the same, and whether any, and what further amendments of the law are necessary or expedient, with a view (firstly) to improve the relation of Landlord and Tenant, in that part of the United Kingdom called Ireland, and (secondly) to facilitate the purchase by Tenants of their holdings." This Royal Commission proceeded to work with great activity, and the result of their labours is to be found in the Blue Book (Vol. I.) recently issued, containing no less than four Reports. The Report proper is signed by the Chairman, and by three of the four other Members of the Commission.

Two of the three, however, namely, The O'Conor Don and Mr. Shaw, publish supplementary Reports, and a separate Report is added by Mr. Kavanagh. We have thus six distinct reports, and Mr. Bonamy Price's Memorandum, as the outcome of the two Royal Commissions.

It is not our intention to analyse the constitution of these Commissions, but we think it right to call attention to the fact that Lord Carlingford and Mr. Stansfeld were added to the Duke of Richmond and Gordon's Commission by Mr. Gladstone, after his accession to power last year, in the room of Earl Spencer and Mr. Goschen, who had resigned.

The first thing that strikes us in considering the Reports of these Royal Commissions is the great diversity of opinion among the members composing them. That differences of opinion should exist, and find expression, is but natural; but it could scarcely have been anticipated that among the five members of Lord Bessborough's Commission only two should be found wholly in accord. There is less divergence among the members of the larger Commission, presided over by the Duke of Richmond and Gordon; but the opposition of opinion is quite as great as in the other case. We think that this want of harmony of opinion should convey a grave warning to all concerned in dealing with the Irish Land Question; it reflects but too faithfully the inherent difficulties that beset the question, and the nature of the conflicting interests involved; and it should cause those who are called upon to

formulate legislation on the subject to approach the task in a humble and cautious spirit. When men such as composed these Commissions differ so widely in their views, it is sufficiently plain that the Irish Land Question cannot be solved off hand by heroic measures, such as have conspicuously failed to settle it in the past.

The Report of Lord Bessborough's Commission, which is a very elaborate and ambitious document, professes to deal exhaustively with the whole question; but, when read in the light of a knowledge of the real condition of Ireland, it is found to be as remarkable for what it omits as for what it contains. We shall see this more clearly by-and-bye; for the present let it suffice to notice that, of the thirty-seven pages of which the Report consists, a single page exhausts all the Commissioners have to say on such important topics as the poor cottier tenants, the agricultural labourers, the reclamation of waste lands, and emigration; and that the Report, from beginning to end, does not contain one solitary substantive proposal on any of these important elements of the question.

It is necessary to remark that, when this Report was drawn up, the Commissioners had not before them the large mass of rebutting evidence which has since been sent in, and that so far they have based their Report upon *ex parte* statements—statements many of which have since been ascertained to be inaccurate, and in some cases devoid of foundation.

After describing briefly the proceedings of the Commission, the Report proceeds to discuss the nature and origin of the Ulster Tenant-Right, and of analogous customs existing in other parts of Ireland. It is not easy to follow the line of argument pursued, or to discern on what facts or principles it is based; but, stripped of the mass of verbiage in which it is swathed, the contention appears to be that, owing partly to the historical and social antecedents of the country, partly to the labour supposed to have been bestowed by the tenant in reclaiming and improving the land, partly to the implied acquiescence of the landlord where he did not actively dispute the claim, there survived or grew up a claim of ownership in the tenant to the land he cultivated, an idea which no lapse of time or vicissitude of fortune could eradicate. To quote the words of the Report, section 11, last sentence:—

"But the Irish farmer remained, as before, faithful to the soil of his holding, and persistent in the vindication of his right to hold it. In the result, there has in general survived to him, through all vicissitudes, in despite of the seeming or real veto of the law, in apparent defiance of political economy, a living tradition of possessory right, such as belonged, in the more primitive ages of society, to the status of the man who tilled the soil."

The Report of the Devon Commission is quoted to prove the existence of Tenant-right in Ulster, either recognized or connived at by the Landlords, at the time that Commission sat; and the existence of a claim to Tenant-right in other parts of the country which the Landlords did not allow, "either

openly or by sufferance, except in rare individual cases, and then upon a very much modified scale."

It is evident that Lord Bessborough's Commission does not attach much importance to Tenant-right, either in or out of Ulster, except as affording evidence in support of the alleged traditional right of partial ownership in the soil, which it is the object of the Report to establish. Indeed it is ultimately proposed that Tenant-right, as it now exists, should merge in the larger statutory tenure which is to be conferred on the tenants by legislation.

Neither does the Report look with much favour on leases. The section on the subject, No. 14, is worth quoting:—

"Many of those who have devoted thought to the settlement of the difficulty have come to the conclusion that the true remedy for all the evils of insecure tenure, and of discrepancy between law and tradition, lay in the gradual introduction and universal adoption of a system of Leases. The Report of the Devon Commission above quoted points in this direction. The tenants, however, refuse leases. The offer of security in their holdings for a term of years presents no attraction to them. They see in it, not a lengthening of the legal yearly tenancy, but a shortening of the continuous traditional tenancy. A lease generally involves an immediate increase of rent: at all events, rents are found almost invariably to be raised on its termination. It has seemed better to abide by the tradition, and trust to the easiness of the landlord, and the chapter of accidents. The number of leases in Ireland does not appear to be materially increasing; and this method of settling the land question has apparently become hopeless."

It is scarcely necessary to point out that this ingenious theory has no foundation in the facts of

the case. Leases were common enough in Ireland before the Famine of 1847; and it was the minute sub-division of the land under the leasehold system that rendered the country unable to make any stand against that fatal visitation. After the Famine, tenants would have been glad, as before, to get leases; but the Landlords, warned by the terrible ordeal through which they had just passed, were unwilling to grant them, and it is only since the passing of the Land Act of 1870 that there has been anything like a disinclination to accept leases manifested by agricultural tenants in Ireland, and that confessedly owing to the advantages conferred by the Act upon tenants from year to year.

The action of the Encumbered Estates Court, as a factor in the present position of the land question, is briefly referred to in section 15. We quote the passage in full:—

"Another cause which has operated in the same direction has been the extensive transfer, under the action of the Encumbered Estates Court and of the tribunals which have taken its place, ever since the famine of 1846, of ancient properties, previously managed in a more or less patriarchal fashion, to new owners. Most of the purchasers were ignorant of the traditions of the soil; many of them were destitute of sympathy for the historic condition of things. Some purchased land merely as an investment for capital, and with the purpose—a legitimate one so far as their knowledge extended—of making all the money they could out of the tenants, by treating with them on a purely commercial footing. A semi-authoritative encouragement was given to this view of their bargains by the note which it was customary to insert in advertisements of sales under the Court—'The rental is capable of considerable increase on the falling in of leases.' This hint has often been acted on, and rents greatly

above the old level—in some cases probably above the full commercial value—have been demanded and enforced, with the natural result, in a few years' time, of utterly impoverishing the tenants."

It is right to mention here that the Report before us bears remarkable testimony to the kindly and considerate dealings of the large Irish proprietors with their tenants. One or two extracts will suffice :—

'Thus, a tenant who pays his rent is very seldom evicted; and even if the rent falls into arrear, it has not been the general or the prevailing rule that ejectment should follow as a matter of course. Farms have remained in the same families, have descended from father to son, and are considered to be fully as much the family property of the tenant as the reversion of them is part of the family property of the landlord. These tenants have not been protected by law, or by any such general acknowledgment of their interest as could be called a local custom. Such protection as they had was due to the prevailing sentiment which affected the conduct, though it could not modify the legal rights, of landlords. . . . . Lastly, though the amount of rent was always at the discretion of the landlord, and the tenant had in reality no voice in regulating what he had to pay, nevertheless it was unusual to exact what in England would have been considered as a full or fair commercial rent. Such a rent, over many of the larger estates, the owners of which were resident and took an interest in the welfare of their tenants, it has never been the custom to demand. The example has been largely followed, and is to the present day rather the rule than the exception in Ireland."

It is rather hard on men who have treated their tenants with such consideration to find that their very generosity is turned into an argument for depriving them of their rights; that, because they forbore in the past to evict tenants in arrear of rent,

they are to be forbidden to do so in the future; and that, because they have hitherto been content to accept a rent below the fair letting value, they are to be practically prohibited from ever looking for more.

The Land Act of 1860—"Deasy's Act"—is dismissed with scant courtesy. The principle on which it was founded is too fatally at variance with that contended for in this Report to admit of any possible reconciliation. Hence it is contemptuously pooh-poohed. But let the Report speak for itself:—

> "The last step in the development of what may be called the English Land Law in Ireland was the passing of the Act of 1860, whereby it was enacted that 'the relation of landlord and tenant shall be deemed to be founded on the express or implied contract of the parties, and not upon tenure or service.' This enactment has produced little or no effect. It may be said to have given utterance to the wishes of the Legislature that the traditional rights of tenants should cease to exist, rather than to have seriously affected the conditions of their existence."

So far the Report has dealt with what may be called the historical aspect of the Irish Land Question, or, to speak more correctly, with what it professes to regard as its historical aspect; and it has dealt with it with the object of establishing the existence of a "possessory right" in the Irish Tenant on which to found a new system of land tenure in Ireland. Our feeling, as we read this earlier portion of the Report, is that we are reading not the grave and deliberate judgment of a quasi-judicial tribunal, or the summing-up of an impartial judge, but the sophistical special pleading of an advocate striving to palm off on the jury his own confused theories

as the real facts of the case. It is impossible to resist the conclusion that the framer of the Report entered upon his task with the foregone conclusion of finding grounds to justify the sweeping transfer of territorial rights from the Landlord to the Tenant, such as is afterwards recommended; and finding no such grounds either in the history or legislation of the country, antecedent to the Land Act of 1870, invented this theory of "possessory right" as best suited to his purpose. Putting aside for the present the novel doctrine that, because a man thinks he ought to have the property of another man, and desires to get it, the machinery of legislation is to be set in motion in order to gratify his wish irrespective of the wrong done to the man whose property is taken away, let us see how the Report regards the first effort to give practical effect to this peculiarly "Irish idea."

Speaking of the Land Act of 1870, it says:— "For the first time it was decided in some measure to recognise the *existing state of things*," meaning thereby the "possessory right" supposed to exist in the tenants. "The attempt was abandoned to establish by law the commercial system of dealing with tenancies of agricultural land." After referring to the Ulster Custom, the Report goes on: "Where the Ulster Custom did not exist, a legislative sanction was given *to the pre-existing sentiment* that a tenant ought not to be deprived of an interest, which, nevertheless, the statute did not in terms declare him to possess."

This is a good specimen of the manner in which the Report deals with the history of the Land Question. The Land Act is little more than ten years old. We can all recollect the circumstances under which it was passed; but we venture to say few will recognise the description of them which we have just quoted.

The Land Act was introduced, no doubt, in accordance with the "Irish ideas" of Mr. Gladstone and Lord Carlingford, then Mr. Chichester Fortescue; and those "ideas," which will be found faithfully represented in the Act, were first, to secure to the tenant the value of his improvements; and, secondly, to check or put a stop to "capricious evictions." So far from recognizing any "possessory right" in the tenants, as the Report would have us infer from the fact of compensation being granted for disturbance, the Land Act expressly denied its existence, by limiting the operation of the disturbance clause to the small tenancies, and providing a sliding scale for them. "Compensation for disturbance" was a pecuniary fine on Landlords for pressing their rights injuriously on small tenants—it was so regarded and so defended at the time—and it was no more a recognition of "possessory right" in the tenant to the soil he cultivates, than the "Ten Hours Factory Bill," which curtailed the power of the employer of labour, was a recognition of "possessory right," on the part of the operative, to a share in the mill in which he worked.

From this unfair attempt to press the Land Act

of 1870 into the service of the advocates of "possessory right," we can judge of the validity of arguments based upon theories drawn from less familiar sources; and, as the whole subsequent reasoning of the Report rests upon the supposed existence of this "possessory right," it is most important to understand clearly, at the outset, that it is really no more than a catching phrase, invented to give expression to the conjectures of the framer of the Report. If such a right existed—if it had even been seriously alleged to exist—before the passing of the Land Act, we scarcely think it would have been left for Lord Bessborough's Commission to discover and formulate it. It is only fair to say that there is no reference to any such right or claim in the separate Report by Lord Carlingford, who may be supposed to know something of the matter. On the contrary, that Report proves very conclusively that no such right or claim ever existed.

It will be observed that, while the introductory portion of the Report begins by tracing the existence of Tenant-right to "a *species of popular consent*, almost universal, though without legal sanction," and to "a *feeling* that tenants were entitled to an actual interest or right of occupancy in their holdings, larger than the legal tenancy"; it grows bolder as it advances, and finally speaks of the tenant's interest in his holding as a "genuine proprietary right." No proof is offered of the existence of the "popular consent" or the "feeling" any more than of the "genuine proprietary right"; nor of the

latter, except in so far as it is sought to infer it from the Land Act; but it is gradually written up to, and ultimately spoken of as though its existence had been regularly established. The reader of the Report having accepted the existence of the "popular consent," without perhaps bestowing a thought upon so vague and apparently harmless an expression, finds himself constrained, he knows not how, to admit the validity of the "possessory right" as well. He has become unconsciously familiarized with the idea; and having failed to mark the gradual steps by which he has been led on, from the original conjecture to the final assertion, he is in a fit state of receptivity for the bolder statements and proposals which follow. It is to be feared that many persons, not well acquainted with Ireland, and too busy or too careless to examine the matter for themselves, will be led to accept this theory of "possessory right" on the part of the tenant without question; and it is, therefore, most important to point out distinctly that it has no foundation in fact, and that nothing like proof of its existence is attempted in the Report. It is asserted, at first vaguely and cautiously, afterwards with greater boldness and exactness, but it is only asserted, not proved.

The idea of ownership thus claimed for the tenant is not to be confounded with the belief, common enough in some parts of Ireland, that the land is the property of the people, of which they were unjustly deprived in times, more or less re-

mote, by the numerous confiscations that took place. Such an idea would be at least intelligible as existing among a people so haunted by the associations of the past as the Irish generally are; but it could scarcely be advanced by a Royal Commission as a basis for legislation, or a reason for altering the land system of the country. The "possessory right" spoken of in the Report is of a far subtler and more complicated character, and loses none of its attractiveness from the vagueness with which it is formulated, or the mystery in which it is involved. If we seem to have dwelt too long upon this point, our excuse must be, that this alleged "possessory right" is really the foundation of the whole Report. If its existence be admitted, we cannot well oppose legislation designed to give it practical effect; if, on the other hand, it have no real existence, the demand for extreme legislative interference between landlord and tenant loses much of its force, and nearly all its sanction. The framers of the Report were well aware of the importance of setting up such a claim on behalf of the tenants, or they would scarcely have devoted so large a portion of their space to the attempt to establish it.

The Report next proceeds to deal with the Land Act of 1870, the special subject which the Commission was appointed to investigate. They dispose of it almost as summarily as they did of its predecessor of 1860; and state, without hesitation or qualification, that, "however useful as a temporary

measure, at a transitional period, it appears to us that the Land Act contained in itself the seeds of failure, as a permanent settlement. As such, now that it has been fairly tried, it is impossible to resist the conclusion that it has failed to give satisfaction to either party."

Again, in this paragraph we have a good example of the flippant style that characterizes this Report; and of the manner, already referred to, in which assertions, singularly economical of truth, are put forward as statements of recognized facts. If there was one plea more strongly urged than another in support of the Land Bill of 1870, it was its finality. As a final settlement of the question, it passed the House of Commons, and as a final settlement it was accepted, however reluctantly, by the House of Lords. Even its supporters admitted that it was an extreme measure, but they pleaded that it was final, and they claimed that it would be permanent. To speak of such a measure as "temporary" and "transitional" is an insult to the honesty of its author, and the intelligence of the Legislature which adopted it. And the assertion that it has been "fairly tried" is about as ingenuous as the suggestion that it was calculated to afford "satisfaction" to the Landlords.

Having thus disparaged Mr. Gladstone's Land Act of 1870, the Report proceeds to enumerate the points in which it has failed. First, "it has failed to afford the tenants adequate security, particularly in protecting them against occasional and unreason-

able increases of rent." We were not aware that the Land Act of 1870 was designed to afford tenants "security" against "occasional" increases of rent, or to interfere with rent at all, except in the case of "exorbitant" rents imposed upon holders of land rented at less than £15 a-year; and then only indirectly. It cannot therefore be said to have "failed" in this respect. What the Report appears to mean is that rents have been raised notwithstanding the existence of the Land Act, and that there is no provision in the Act to prevent this, except in the special case alluded to. They attribute the failure in this special case to the use of the word "exorbitant," quite ignoring the obvious alternative that, if the Act has remained a dead letter in this respect, the cause may be that rents in Ireland are generally moderate."

According to the Report, "this process" of raising rent "has gone far to destroy the tenant's legitimate interest in his holding. In Ulster, in some cases, it has almost 'eaten up' the tenant-right." This statement is so cautiously made that it is not easy to grapple with it. Such phrases as "it has *gone far* to," "in *some* cases," and "*almost* eaten up," are too vague for discussion. When the evidence in which the statement is based has been fully examined, we shall be in a position to judge how far this insidious system of raising rent has been general, and how far it has operated to "eat up" the tenant-right. Meanwhile, we believe that the imputation conveyed by the Commissioners is much exagge-

rated, and it certainly seems strange that the tenant-right which had survived through years of mere sufferance should be threatened with extinction as soon as it became legalized. Even if it can be shown that the value of tenant-right has deteriorated within the past few years, which we very much doubt, we should remember that causes have been at work during those years which have equally affected all kinds of agricultural property.

The Report adds that, even where rents have not been raised, even where there is no prospect, immediate or remote, of their being raised, the possibility that they can, and the fear that they may be raised, have tended to produce a general "feeling of insecurity" among tenants. There is no arguing against the possibility of contingencies of this sort; and, with all respect to the Commissioners, there is no possibility of removing them by legislation. Within the present generation capitalists and others were invited to invest money in Irish Land on the faith of an indefeasible title secured by Special Act of Parliament, and guaranteed by every possible sanction of Ministerial utterance. There are multitudes of such titles on which the ink is scarcely yet dry; is there no "feeling of insecurity" among those who have so recently purchased them?

There can be no doubt that this point of raising rent is the central pivot upon which the whole question turns. "Capricious" eviction is at an end—practically and irrecoverably dead. Eviction for

non-payment of rent, in some form or other, must survive as long as the relation of Landlord and Tenant exists, and as long as the payment of debts continues to be enforced by legal process. If the tenant cannot or will not pay his rent, he must vacate his holding, whether it be house or land. Discussion on such points is comparative waste of time. The practical question for the overwhelming majority of both Landlords and Tenants is the rent; and there is no fact to which the Report of Lord Bessborough's Commission bears stronger testimony than that Landlords in Ireland do not, as a rule, exact the full commercial rent of the land, as is done by Landlords in England and Scotland. But the Report urges that because some Landlords are in the habit of raising their rents, and because there is in consequence a "feeling of insecurity" among tenants, the system of free contract which has secured to the great majority of tenants land below the commercial rent is to be abolished, and a system of valued or arbitrated rents set up on its ruins.

Again, the Land Act of 1870 is reported to have failed, because a Landlord, if so minded, can resume possession of a holding by paying to the outgoing Tenant the full compensation provided by the Act itself. This also is an unfair charge against the Land Act, which did not propose to confer Fixity of Tenure on Irish Tenants, but simply to prevent the Landlords from turning them out of their holdings without compensation for the improvements

they had made, or which had been made by their predecessors; and, in certain cases, to restrict the power of eviction by imposing on the evicting Landlord a pecuniary fine, in the shape of compensation for disturbance. This was all the Land Act proposed to do, and the Commissioners do not pretend to say that it has not done this; but they seek to represent the new legislation, which they suggest, as an extension or development of the Land Act, rather than what it really is, a totally new departure in the land code of the country. They think, and justly, that many members of Parliament, who would shrink from adopting a new principle in legislation, if openly avowed, may be led to sanction it if presented as an improvement or extension of principles already recognized. Hence the Commissioners felt the importance of representing the organic changes that they propose as merely amendments of the Land Act of 1870.

Another and a more plausible complaint against the Land Act is that, instead of promoting harmony between Landlord and Tenant, it leads necessarily to litigation; and of so peculiar a character that the case begins by an award of the matter in dispute to one of the litigants, and compels the other to put up with a compensation in money, sure to be more or less inadequate. That the Land Act of 1870 tended to encourage litigation was not left for Lord Bessborough's Commission to discover; it was foretold while the Land Bill was passing through Parliament; and the only wonder is that it has produced

so little a result entirely due to the forbearance of the landlords. But, considering that before 1870 the Landlord could remove the tenant without compensation of any kind; that he was, by law, the absolute owner not only of the land, but of all improvements thereon and therein, it would seem to be a fairer statement of the case to say that the Land Act adjudged to one of the disputants, not the matter in dispute, but a substantial slice of the legal property of the other; and did so without a shadow of compensation, beyond the illusory promise that henceforth he would be securely protected in the enjoyment of the remainder.

The Land Act that, ten short years ago, was regarded as revolutionary for vesting in the tenant the presumptive ownership in all improvements, which had hitherto been the legally recognized property of the landlord, is now condemned because it did not go farther, and transfer to the tenant the joint ownership of the soil as well.

A specific charge is made against landlords in Ulster that they raise the rent on the eve of the sale of a tenant's interest, thereby depriving him of a portion of the value of his tenant-right. The Report states that this is a practice of recent introduction, and indirectly, if not directly, traceable to the Land Act. This is another of the points on which it would not be safe to speak until we have thoroughly examined the evidence. But granting for the moment that such a practice exists, let us ask whether, if a Landlord is ever to get an increase

of rent—even his share of the "unearned increment"—which the Report allows him to be entitled to—a more suitable time could be found for imposing it than on a change of tenancy. One would think that a Landlord who forbore for years—possibly for generations—to look for his share of the general improvement, from an unwillingness to demand it from an old tenant, was entitled to credit, if not praise, for his generous forbearance, and might without blame seek the increase from a new man with whom he had no old associations in common. Not so. The Report, ignoring completely the possibility of any element of justice on the Landlord's side, can see, in his effort to come by a portion of his own, nothing but a deliberate intention to "eat up" the tenant-right of the farm. The argument is that £1 added to the rent reduces the value of the tenant-right by £20—an admission, for which we thank the Commissioners, that the value of tenant-right is nearly, if not fully equal, to that of the fee-simple—but two important points are kept out of sight; first, that the outgoing tenant had enjoyed the farm for years, no matter how many, at a rent distinctly below the fair letting value; and secondly, that, if he had continued as tenant, his rent would not have been raised. Can anything be fairer than for a landlord to say to a tenant, "As long as you remain tenant I shall not seek to increase your rent; but if you leave, I shall expect more from your successor"? But this supposes that the Landlord has a tangible interest in the land;

while the contention of the Report is that, beyond the actual rent now paid, everything belongs to the tenant. In the very case we are considering the value of the tenant-right has been increased by the forbearance of the landlord; but, according to Lord Bessborough and his co-signatories, that increased value should belong exclusively to the tenant, and he should have the free and unfettered right to sell it, as it stands, to any chance purchaser he can find.

The Report alleges it as a further defect in the Land Act, that it is possible for a Landlord to evict a tenant, compensate him to the full extent required, and then get from an incoming tenant a sum sufficient to recoup him for all expenses, and leave a surplus. The Commissioners regard this as a serious defect to be removed only by mulcting the landlord in such a penal sum as shall effectually prevent his making sixpence by a change of tenant. Did it occur to the Commissioners that the difference between the compensation awarded by the Court, and the sum assumed to be received from the incoming tenant, might represent the value of improvements made by the Landlord himself; or the value of the margin between a low rent and a "fair" rent; or the value of the "unearned increment"; or numerous other incidents of the farm that will readily suggest themselves? In reference to this part of the subject, the Report, under the head of "illustrations from the evidence," gravely quotes a case, in which two unscrupulous knaves in

a southern county bid surreptitiously, each for a farm in the possession of the other, and got it, to the benefit of the Landlord, who evidently knew the men with whom he had to deal far better than did the County Court Judge, who seems to have wasted much good sympathy upon them. Most readers of this "very distressing" case will be inclined to say, "Serve them both right," and it certainly looks as if evidence on the point was not particularly abundant, to find such a "case" brought prominently forward.

The last charge brought against the Land Act of 1870 is, that it has operated to check the progress of improvement, and that it has contributed to bring about the present condition of affairs in Ireland! This is the very irony of fate. Let us hear the Commissioners' own words—

"In the result, the Land Act seems at its first passing to have stimulated tenants, especially in Ulster, to improve, while landlords' improvements were checked by it. In proportion, however, as its defects became apparent, the returning sense of insecurity has not only checked tenants' improvements, but has, in conjunction with other causes—recent scarcity and political excitement—contributed to bring about the present concerted refusal to pay rent, or to pay more than the amount of Griffith's valuation, which constitutes a grave crisis in the affairs of the country."

The Report next proceeds to consider how far the Land Act can be modified so as to meet this

new condition of affairs; and, as might have been foreseen, rejects the principle of that measure, which it describes to be "to increase the security of the tenant's interest in his holding by indirect means, while refusing him the direct protection which belongs to a proprietary right." The Report does not deem it advisable to proceed further on these lines; but it is careful to express approval of the Act as a "recognition of the actual condition of things." In other words, wherever the Act affords protection, however weak or inadequate, to the landlord's interests it is condemned; while those portions of it which can be pressed into the service of the tenants are approved. Finally, the proposal to extend the Ulster Custom to all Ireland is rejected on the assumption that "as legalized, it has proved insufficient"; and the ground having been thus cleared, the Commissioners proceed to make "proposals for legislation," which we shall give in their own words:—

40. "The principle which we adopt as a guide is that partially embodied in the Land Act, of giving legal recognition to the existing state of things. It appears to us that the conditions under which land has been held by yearly tenants in Ireland have been such, that the occupiers have, as a general rule, acquired rights to continuous occupancy which, in the interest of the community, it is desirable legally to recognize. We think the farmer should no longer be liable at law to the displacement of his interest in his holding, either directly by ejectment, or indirectly by the raising of his rent, at the discretion of the landlord. The landlord's right to eject should, we think, be limited to certain stated cases; and some way should be provided for the determination of the fair amount of rent to be paid in

cases of dispute. The legal effect of these changes may be described as amounting to the enlargement of the tenancy from year to year into a new kind of statutory tenure, defeasible only upon decree of the Land Court, for the breach of certain well ascertained conditions, and held subject to the payment of a rent, the amount of which should in the last resort be fixed, neither by the landlord nor by the tenant, but by constituted authority."

41. "To these two concessions, commonly spoken of under the names of Fixity of Tenure and Fair Rents, that of a right of Free Sale has usually been appended. This, also, on the same principle of recognizing the existing condition of things, we think it expedient to establish. In a word, so far as concerns yearly holdings within the Land Act of 1870, we advocate the reform of the Land Law of Ireland upon the basis known as 'The Three Fs,' *i.e.* Fixity of Tenure, Fair Rents, and Free Sale."

It is impossible not to be struck with the use of the word "advocate" in the closing sentence of this extract. It occurs again, in the same connexion, in Sections 48 and 49; and it expresses but too plainly the tendency of the whole Report. The Commissioners, almost in terms, avow themselves partizans—they do not suggest, or even recommend —they "advocate."

Having declared unreservedly in favour of "The Three Fs," as commonly understood, the Report proceeds to discuss them *seriatim*. No attempt is made to define any of the three terms, the exact force of which is left to be inferred partly from the term itself, and partly from the limitations proposed. Thus, "Fixity of Tenure" appears to mean that once a tenant has got possession of a piece of land, he acquires at the same time the right to

"continuous occupancy" for ever, provided that he does not subdivide or sublet, without the landlord's consent in writing; that he does not persistently waste the holding after notice in writing to desist; that he is not convicted of any serious criminal offence; that he does not persistently assert any right, not necessary to the cultivation of the soil, from which he is debarred by express or implied agreement with the landlord; and that he does not unreasonably refuse to allow the landlord to enter on the land to search for and take certain royalties, and in pursuit of game, or in order to view the holding.

There is not one of these limitations which is not calculated to afford grounds for litigation between landlord and tenant, especially when the appeal is to a tribunal created avowedly in the tenants' interest; but there is one of them so unique that it may well claim more than a passing notice. It is not particularly easy at any time to obtain convictions for serious criminal offences in Ireland; it is all but impossible in cases connected, however remotely, with land. We may readily judge what the prospect of a conviction for "any serious criminal offence" would become when the penalty would be not only that provided by law for the particular offence, whatever it might be, but the forfeiture of the prisoner's "fixity of tenure" in his holding!

The Report does not expressly include the payment of rent—fair or commercial—among the limitations of fixity of tenure; but we must suppose it

had some such limitation in view, when it recommends that "if the law of ejectment is retained, the landlord shall be entitled to maintain an ejectment *after* (the italics are ours) two years' rent is due." When two years' rent is due, the landlord may bring his ejectment for non-payment of rent; and if he can succeed in getting the necessary legal notices served, and obtains a decree for possession, the tenant is then to have six months more to redeem, and is to remain in possession until the expiration of these six months. Thus, at a most moderate computation, a defaulting tenant can hold possession of his land, for at least three years, in spite of the landlord, who may have some "unreasonable" necessity for the money; and during those three years he may violate all the other conditions of "fixity of tenure," with impunity—and finally, he may sell his interest, if he have any left, to a stranger who, in a few years, or the very next year for all the Report provides, may begin the same ingenious process of evasion over again. Nay more, for the breach of the carefully enumerated conditions of "fixity of tenure," the only remedy provided is that the landlord shall be "authorized to serve a notice to quit," or "entitled to compel the tenant to sell his holding." Indeed, this power of compelling the tenant to sell his holding is suggested as a substitute for ejectment "deserving of consideration."

Following the analogy of the Ulster Custom, the Report recommends that all arrears of rent should be paid out of the proceeds of the sale of a tenant's

interest; and looks to this provision for giving the landlord an advantage under the new system, which would in some measure compensate him for what he loses." This solicitude for the landlord's interest is very touching.

It is further recommended that a landlord may resume possession of a holding, or any part thereof, for a special purpose—such as building labourers' cottages, "on payment of the full selling price of the tenant's interest." It does not appear for whom these labourers are to work—scarcely for the landlord, who must be presumed to have no land of his own within reasonable distance, or he should not require the tenant's land; and, if for the tenant, why should the landlord be compelled to pay the tenant the full selling price of his interest? It is pretty plain that few labourers' cottages would be built under such conditions. And yet this is the only proposal, apparently designed to benefit agricultural labourers, which the Report contains from beginning to end.

But even the Commissioners themselves have some misgivings as to the honesty of their first "proposal for legislation." Let them speak for themselves.

"47. Even with these limits, there is no denying that the conferring of such a tenure upon the yearly tenants of agricultural holdings, that is to say upon the great body of Irish farmers, is, from the point of view of the existing law, a very considerable change, and would confer great advantages upon tenants. But from the point of view of the existing relations of landlord and tenant, on most well ordered estates, there is

already, and has been for generations, a virtual fixity of tenure, and the change would practically be not great, after all. The control of the landlord, which is now absolute at law, but confined in fact to very narrow lines, would be legally confined, in future, to those same lines on which it is now beneficially and generally exercised. There is a certain loss to the landlord, namely, that of his legal reversion, considered as a piece of substantive property. His greatest loss, however, would be that of sentiment—of the sentiment of ownership. In so far as the tenant is made into an owner, the landlord must be less of an owner than before. The strength of attachment with which men regard their property remains often undiminished even when the shadow of property, rather than property itself, is in question. Moreover, this sentiment of ownership is the shadow of more than a mere right of property—of political influence, once exclusively attached to the ownership of land, and of old family traditions, not to say in some cases of historic associations bound up with it. We do not under-estimate such considerations. We merely plead that all the circumstances must be taken into account, before it is decided that the interference with private right which we advocate is too great to be contemplated. It would be a far greater interference with the existing state of things to carry out in practice the theory of the existing law. A chasm exists, between the law and the facts, which has to be filled up somehow. In order to fill it, either the realities of society as we find them, which have existed for centuries, must at last be moved from their foundations, or the law must be altered. If the law is altered as we propose, there will be in most cases no great interference with the practical power of a landlord over his property, with his way of managing it, or with the present income he derives from it, but a good deal with his nominal rights, and with his sentiment of ownership."

We pass from "Fixity of Tenure" for the present with one further remark. The "proposal" is ushered in by a statement that "the principle adopted is that partially embodied in the Land Act, of giving legal recognition to the existing state of things." We need scarcely repeat that this is not

a correct description of either the principle or the aim of the Land Act; but, when we find "Fixity of Tenure" defended on the ground that "it would be a far greater interference with the existing state of things to carry out in practice the theory of the existing law," we must ask what is the necessity for a change? Reforms, as they are called, consist in the removal of grievances. If under the present law the majority of Irish tenants have practically "Fixity of Tenure," as the Report admits, what is their grievance on that score? Of course the reply will be that they are liable to be removed, and that, in consequence, a "feeling of uncertainty" exists; but this is only a "sentiment" and no more entitled to consideration than the "sentiment of ownership," on the part of the landlords, which the Report disposes of so summarily. The Parliament of 1870 did not improve the Ulster Custom of tenant-right by "legalizing" it—let the Parliament of 1881 take care lest "Fixity of Tenure" be not similarly "legalized" out of existence.

The second "proposal for legislation" put forward by the Commissioners—or rather adopted by them from the agitators—is based upon "Fair Rents," without which "Fixity of Tenure" would, in their opinion, be an "absurdity." The term "Fair Rents" is one of those happy phrases which disarm opposition while they sophistically beg the question in dispute. No one can object to "fair rents" without putting himself outside the pale of argument. The landlord cannot decently demand

more, the tenant cannot honestly offer less—but, alas! the word "fair" forms, in this instance, what logicians call an "ambiguous middle term," and is very differently understood by each of these parties. The landlord interprets it to mean a moderate commercial rent, rather below the agricultural value, but "fair" on an average of years—the tenant puts it at a much smaller figure, and claims to hold the land at a distinctly low rent—considerably under the agricultural value. The Commissioners adopt the latter view. "It is necessary," they say (Section 54), "at once to negative the idea that it means what in England is known as a full, or fair, commercial rent, but in Ireland as a rack-rent"; and they go on to lay down rules for estimating a "fair rent," which in practice would bring it down to a very low, if not an almost nominal amount. It is essential to bear this in mind throughout in considering this part of the Report.

The Commissioners, sensible of the antagonism certain to be aroused by any attempt to interfere between landlord and tenant in so delicate a matter as fixing the amount of rent, boldly attempt to combat the notion that they recommend any interference with "freedom of contract." Their assertion—also borrowed from the agitators—is that "freedom of contract in the case of the majority of Irish tenants, large and small, does not really exist." This is certainly a simple method of getting out of the difficulty; but it will require something more

than the scrap of poetry, which they quote by way of argument, to reconcile this flippant statement with the admitted facts.

It would take up too much space to discuss this question at present; but we may be permitted to point out that the competition for land, which is supposed to destroy freedom of contract, is not caused by any act of the landlord; and, in so far as it is the result of inadequate supply, cannot be checked or removed by legislation. In the other aspect of the question, which represents competition as the result of excessive demand, owing to the absence of other modes of obtaining a livelihood than by the land, this condition is not peculiar to Ireland; and so far as it exists is a question chiefly important for the labourers and poorer class of tenants, with neither of whom does the Report even pretend to deal. Farmers, properly so called, even of the small class, do not, when deprived of their land by any cause, turn to other pursuits in England any more than in Ireland; they seek for land elsewhere, and if they cannot get it at home they look for it abroad. They do not seek to become mechanics, they do not look for employment in mills or factories where there would be but little welcome for them; they will not sink if they can help it to the "lower plane" of labourers; they emigrate. Labourers can migrate to the busy centres of industry, not only in Ireland but in England and Scotland, to which access is now so easy that they may be said to be almost at their doors. So can the poorer tenants, most of

whom are labourers in disguise. If they will not do so, if they prefer to hang on in helpless poverty to the churlish soil which refuses to support them, how can the landlords be blamed; or how will the evil be remedied if the present occupants of the land be fixed for ever upon it at a rent to be settled by an external tribunal? The ownership of land is a monopoly in every country where landlords exist; and it is to the eternal credit of the great mass of Irish Landlords that, possessing this monopoly in presence of a crowd of eager competitors ready to bid almost any rent, they do not as a rule exact even the "full or fair commercial rent," such as is demanded and cheerfully paid in every other country. But because they have been thus generous and forbearing, they are to be deprived of all effective control over their property. A strange recompense!

The Commissioners now approach the central point of the question; that which, in their opinion, as in ours, "appears to underlie every other," that of rent; and they proceed to discuss the mode of ascertaining the "fair rent" of a farm, and the principles to be observed in estimating it.

Starting from the position that the rent now paid, or agreed upon, between landlord and tenant may be assumed to be a "fair rent," if neither party seeks to have it altered, the Report proceeds to provide machinery for its alteration as quickly as possible. A new Government Valuation for the purpose of fixing the rent of every holding is mentioned only to

be rejected, "as there appear to be insuperable objections to it." These objections are stated (in Section 65) to be that, "to interfere with rent, except in case of dispute, is to raise more difficulties than are solved"—that it is objectionable to bring the authority of the Central Government into direct and necessary collision with the interests of landlords and tenants," and that "the delay that would occur before a new valuation could be completed is another serious objection." A new valuation being thus declared out of the question, the Commissioners fall back upon arbitration as the best means of settling the dispute. Of this they suggest two kinds; first, the ordinary system, according to which each party names an arbitrator, and the arbitrators, if unable to agree, choose an umpire; and as an alternative, a permanent local Committee of arbitrators, whose decision should be final. The Commissioners favour the latter scheme; and grow quite enthusiastic over the happy results likely to flow from its adoption. They have, however, a suspicion that "the state of feeling in Ireland is not such as to tolerate for the present even this form of local settlement"; and they suggest a modification of the common system of arbitration, by which an agreement by two of the three—that is, of the arbitrators and umpire—should be required. By this ingenious device, the umpire would be debarred from all independent action; he should adopt the view of either arbitrator, however repugnant to his own judgment, or the arbi-

tration would fall through—the arbitrators would in fact become a Committee of three; and how this would "strengthen confidence in resorting to arbitration" we confess ourselves unable to discover. Possibly the Commissioners are not very anxious to "strengthen confidence" in arbitration.

But whatever the local machinery may be, there must be a "strong central court" as the ultimate tribunal. After coquetting for a moment with the idea of entrusting the final jurisdiction to the County Court Judges, assisted by "assessors practically acquainted with the value of land," the Commissioners pronounce, as might have been foreseen, in favour of creating "an independent tribunal, consisting of persons above the suspicion of class feeling, to which official valuators might be assigned," which tribunal "should hear the case of both parties, and the report of the official valuator, and decide the amount of a fair rent, in accordance with the principles laid down for its guidance." The Report then proceeds to enunciate the principles for the ascertainment of a fair rent, as follows:—

"54. If it is considered desirable that some principles or general rules should be laid down by law for deciding what is a fair rent, we beg to submit the following suggestions; though persons of authority think it unadvisable that any rules should be laid down by the Legislature on the subject. It is necessary at once to negative the idea that it means what in England is known as a full, or fair, commercial rent, but in Ireland as a rack-rent. It is not contemplated that after deducting for the tenant, to use the language of political economy, the cost of cultivation, and the ordinary profits of

his trade, the whole of the surplus receipts should be the unquestioned property of the landlord. As a fact, the Irish tenant farmer has in general possessed something more; as a right, it is proposed to secure him in that possession. The difficulty is to settle what, in each case, is the existing fair rent. The computation should in general start with an estimate, first, of the gross annual produce, and secondly, of the full commercial rent, according to the rules observed by the best professional valuators. From this last should be deducted, as a rule, any portion of the annual value which is found to be due to improvements not made or acquired by the landlord. The Act of 1870 provided that with certain exceptions all improvements on a holding should, until the contrary was proved, be deemed to have been made by the tenant or his predecessors in title. Some term must, therefore, be fixed, beyond which the presumption should be that the improvements, even if not made by the landlord, were made by tenants who were not predecessors in title of the present tenant. Otherwise the rent of an ancient farm might in many cases be liable to reduction to the value of so much waste land. We suggest a term of thirty-five years. Within this term no considerations of the length of time during which the tenant may have enjoyed a return from his improvements should exclude the tenant from the benefit of them, in so far as they are found to be actually at the present time still adding to the annual value of the holding. Within this term, moreover, no technical breach of the legal tenancy should operate to deprive him of the benefit, when he can show that he substantially claims through those who have preceded him in the occupation of the farm. With regard to landlord's improvements, either on or outside the holding, the amount of the present annual value which his expenditure might be shown to have added to the holding will be included, of course, without deduction, in the computation of the full commercial rent. Subject to the above, the arbitrators or tribunal will proceed to estimate the fair rent; in which they will have regard to any sum paid by the tenant on incoming, or to sums which have ordinarily been paid by tenants in the locality on purchasing, in so far as such sums represent an existing valuable interest in the tenant, over and above any value due to improvements made by himself or his predecessors in title; to any other reasonable way in which the value of the tenants' interest in the farm can be ascer-

tained; and also to the rents which have commonly been paid by tenants in the locality whose rents are considered to be fair. With the addition of an Equities Clause, upon the model of the first part of the 18th section of the Land Act, whereby the Court may take into consideration any claim, objection, or set-off, made, urged, or pleaded by the party refusing the demand, and any default or unreasonable conduct of either party which may appear to the Court to affect the matters in dispute between them, and give judgment on the case with regard to all its circumstances, this will, we think, indicate the lines on which the law should be laid down for the guidance of arbitrators and of the tribunal in estimating a fair rent."

"55. It must not be supposed that the whole of this process will require to be gone through in all cases. It will generally be possible to start from some time when the rent was, in the opinion of both parties, considered fair, and to confine the investigation to the circumstances alleged, on the one side, as altering the conditions then existing, or, on the other, as set off against these circumstances. It will be expedient, further, to lay down that a rent which was paid at any time within the last twenty years and which continued for not less than ten years to be regularly paid, shall be, in all cases, taken to be such a starting point."

With every desire to understand clearly, and to represent fairly, the proposals of the Commissioners, we must confess that we are unable to grasp the full meaning and scope of the "principles or general rules" here laid down, and the more we study them the more difficult of comprehension do they become. On one point, indeed, they utter no uncertain sound—the rent to be paid by the Irish tenant of the future is *not* to be the letting value of the land; it is to be something distinctly below it; how much below it no one can even pretend to guess. Thanks are due to the Commissioners for stating this so explicitly; and, further, for giving the true defini-

tion of the word "*rack-rent*"—a term so much abused by the land agitators. Lord Bessborough and his co-signatories, who will scarcely be offended if we designate them as the tenants' friends, however cruel their friendship may ultimately prove to be, define "*rack-rent*" in Ireland to be "what in England is known as the full, or fair, commercial rent." This is the true legal meaning of the expression, and though the definition of the Commissioners merely enunciates a well-known fact, it is to be hoped that their authority will have sufficient weight with their clients to prevent any misrepresentation on the subject in future.

We see now more plainly how necessary it was to the proposals which the Commissioners designed to make that a "possessory right" in the tenant should be antecedently established. Its existence is again affirmed here without hesitation, as though incapable of denial; and its application is advanced a stage, so as to form a basis for the reduction of rent, as it had already served to found a claim to "Fixity of Tenure," and as it will, by-and-bye, be adduced in support of "Free Sale." Its importance to the argument of the Commissioners will be seen at once by denying its existence. If the "possessory right" falls to the ground, the whole fabric of the proposed legislation falls with it. Neither "Fixity of Tenure," "Fair Rent," as the Commissioners understand the term, nor "Free Sale" can be defended for a moment if the tenant have no "possessory right," such as the Commis-

sioners endeavour to formulate for him in the introductory portion of the Report. We don't say that they would follow from the admission of such a right, but they cannot exist apart from it.

Starting "in general" with an estimate of the gross annual produce, and of the full commercial rent, according to the rules observed by the best professional valuators, which ordinary people would regard as the fair letting value, the process of deduction begins. First is to be deducted any portion of the annual value found to be due to improvements not made or acquired by the Landlord; that is, which the Landlord cannot prove to have been made or acquired by himself or his predecessors. The Commissioners fix a term of thirty-five years as that behind which the tenant cannot claim to have his improvements taken into account in estimating the "fair rent"; but within that term, no "technical" breach of the tenancy is to bar his right; nor is the length of time he may have held the farm to be considered, no matter how low the rent may have been. This term of thirty-five years is peculiar, and we can scarcely suppose that its peculiarity escaped the observation of the Commissioners—it carries us back to the year 1846, the first year of the Irish Famine. For fully seven years from that date the condition of great part of the country can only be described as chaotic: large tracts lay deserted; over still larger tracts rents ceased to be paid; valuable farms were let for the amount of the poor's rate; for others not

even that amount could be obtained. Such was the ruin inflicted on the Landlords, that a special Act for facilitating the sale of Incumbered Estates had to be passed—an Act which survives, with but little alteration, to the present day. To fix the retrospective limit of allowance for the value of improvements at the commencement of that period of confusion is simply to leave it practically undefined, and to open a wide door to every species of fraudulent claim, which it would be next to impossible to rebut by evidence. Further, no allowance is to be made to the Landlord for rents abated or wholly lost during the Famine years—losses and abatements which compensated for the tenants' "improvements" many times over—while the tenants' interest in them is preserved intact. And here, as usual, it is the kind and indulgent landlord who will suffer most. The man who stood by his tenants, assisted them in their difficulties, abated or forgave their rents, nursed them, in fact, through the Famine, will now find himself mulcted for his generosity: whereas, if he had cleared his estate, or simply allowed the tenants to perish, as most of them would have perished but for his help, he would now have to deal with a new class of tenants who would have no claim in respect of improvements antecedent to their own occupancy of the land. One would think that, having allowed thus fully for improvements not made by the Landlord, the fair rent had been reached. Not so: it is only now that the "arbitrators, or tribunal," are to "proceed to estimate the

fair rent." And in doing so, they will "have regard to any sum paid by the tenant on incoming"; or "to sums which have ordinarily been paid by tenants in the locality on purchasing"; also "to any other reasonable way in which the value of the tenant's interest in the farm can be ascertained"; and finally, "to the rents which have commonly been paid by tenants in the locality, whose rents are considered fair." No; not finally, for there is to be an Equities Clause of the widest character, giving "the Court" unlimited power to deal with every case at its discretion.

Whether these "principles" are intended to be cumulative, or alternative, or a combination of both, does not clearly appear; but their obvious—indeed their avowed—tendency is to force down the rent to the lowest possible point, and to provide for its being kept at that point. The value of the tenant's improvements, his interest in which the Commissioners themselves limit to a period of thirty-five years, is converted into a fixed and permanent charge on the land; the money which he paid on entering, though it may have been in the shape of a fine long since extinguished by the usufruct of the land at a reduced rent, is similarly converted into a mortgage on the reversion; and both are declared to be the property of tenant for all time. These provisions involve the infliction of gross wrong upon the landlord; still, as the tenant in both cases may be supposed to have incurred some outlay, there may be a shadow of justification for them; at least

in the case of recent tenancies. But what shall we think of the "principle" on which the Commissioners propose to reduce the rent in proportion to sums paid on entering, not by the tenant or his predecessor in title, but by other persons in the locality? Under the operation of this "principle" not only might a tenant obtain allowance for a much larger sum than he himself paid, supposing him to have made a good bargain; but a tenant who had never paid a penny on entering might find his rent reduced by a substantial yearly sum, if he could show that somebody else in his neighbourhood had paid a fine to his landlord, or purchased from an outgoing tenant—it may be surreptitiously—the interest in his farm. It is tolerably plain that this "principle" is based upon the imaginary "possessory right," which the Commissioners strive so hard to establish for the Irish tenant. On no other conceivable hypothesis can we suppose that men of ordinary intelligence could seriously make such a suggestion. But, even if such a "possessory right" were established and acknowledged in the case of the older tenancies, on what earthly grounds could the benefit of it be claimed for those of more recent date? On what "principle," consistent with reason or justice, can a tenant who took a farm direct from the landlord ten, twenty, fifty years ago, at a moderate rent—as most rents in Ireland are—and who paid no fine on entering, be held to have such a "possessory right" in his farm as to entitle him to an allowance in respect of it in estimating his

rent, because, forsooth, somebody else in the locality paid a sum of money on entering? Yet there is nothing in the Report to prevent this. On the contrary, the "principle" we are considering expressly recognizes such a claim.

The Commissioners do not suggest any limit to the amount of "money paid on incoming," which should be taken into account in estimating the "fair rent"; and thus, the more insane the competition, the greater will be the reduction of the rent, and the greater the wrong done to the landlord. Here again the most generous landlord—the man who in the past has been most indulgent to his tenants—will be the most severely dealt with; while the more recklessly the tenant may have bid for the land, the more liberally will he be rewarded. And lest the rent should not be sufficiently low after all these deductions; and lest, in their anxiety to help the tenant, they should have overlooked any plea that might be urged against the landlord, the next "principle" laid down is, that the "arbitrators or the tribunal" are "to have regard to any other reasonable way in which the value of the tenant's interest in the farm can be ascertained." This "*principle*," with the comprehensive "Equities Clause" suggested, completes the code of instructions for arriving at the "fair rent" of a farm, in the interest of the tenant. Two "principles" are laid down apparently limiting the destructive action of those just quoted upon rent. The arbitrators are to "have regard to the rents which have been commonly paid by tenants

in the locality, whose rents are considered to be fair"; and, secondly, "a rent which was paid at any time within the last twenty years, and which continued for not less than ten years, to be regularly paid, shall be, in all cases, taken to be such a starting point"—that is, as a "fair rent." The former of these limitations may not be worth much, as depending altogether upon the ambiguous term "fair"; but the latter is clear and definite, and so entirely opposed to, if not inconsistent with, the "principles" laid down in the preceding section of the Report, that it can only have found insertion as the result of a compromise; and, if the secret history of the Report could be made public, we venture to believe that it would be found that this recognition of existing rents as a standard was part of the price paid to The O'Conor Don for his signature to a Report, from the main features of which he dissents, and which he criticizes so destructively in his separate Report.

It is strange that the Commissioners having peremptorily rejected the proposal of a new Government Valuation to form a basis for rent, should almost in the same breath propose to let loose a flood of irresponsible valuators, under the guise of arbitrators, upon the country. Government valuators would at least be independent and competent. Who is to guarantee the competency or independence of the "Arbitrators"?

Notwithstanding all the deductions for which provision has been made, the Commissioners can-

not close their eyes to the fact, that in some cases the "fair rent thus estimated, and however estimated, will be above the existing rent." This is hardly consistent with the recognition of the rent paid during ten years of the last twenty, as being the "fair rent," especially as this limitation will apply chiefly, if not exclusively, to the low-rented farms on the great estates. But assuming that there will be some such cases, the Commissioners do not propose to raise the rents to a "fair" standard, though why this should not be done we are entirely at a loss to conceive; their proposition is to capitalize the difference between the actual rent and the "fair" rent; and to make it a first charge on whatever interest the tenant may have in the farm. There might be some shadow of justification for such a proposal, if power were reserved to the landlord to demand payment of this charge when he might require the money; but no such power is reserved, and the landlord must perforce wait till the convenience or necessities of the tenant bring the farm into market. It is not even suggested that this charge should bear interest. There is something ludicrous in the proposition to compel the landlord to lend money without interest to his tenant on the security of the farm which he holds from him, and to leave it optional with the tenant when, if ever, he shall pay off the debt; but, when this curious transaction is gravely proposed in the interest of the landlord, the climax of absurdity is reached. Some perception of this must have crossed

the minds of the Commissioners, for the section closes with an obscure suggestion that the Government might lend money to fine down this increase of rent.

The Commissioners see but too plainly that, under their system of "Fixity of Tenure" and "Fair Rents," landlords will cease to expend money on improving their estates. "The cessation to any extent of this expenditure," they regard as "an evil," which "will be rendered still more injurious if steps are not taken to ensure in its place a more steady and general outlay of labour and capital upon the improvement of their holdings by tenants." The steps which they propose to take with this object are not very clearly stated. They reject the expedient of perpetuity rents advocated by some; and, so far as we can make out, they seem to think that, if a term of thirty-one years be fixed as the period which must elapse before the question of rent can be reopened, with a view either to its increase or reduction; and if, further, the tenant be declared entitled to a moiety of the "unearned increment"—or *decrement* as the case may be—sufficient encouragement will be afforded to farmers to expend their labour and capital on the improvement of the soil, to such an extent as will compensate for the cessation of all similar outlay by the landlords. Having "split the difference" between landlord and tenant in respect of the "unearned increment," the Commissioners are not disposed apparently to be so generous with regard to im-

provements arising from "latent capacity" or "inherent quality" of the soil to an extent "incommensurable with the effort expended." Thus the reclamation of "cut-away bog," or of land that "lends itself so kindly to the improver, that the profits of one or more crops may go far to remunerate the husbandman for the labour that was needed to adapt it for tillage" are not to be credited to the tenant, as a matter of course. He must be prepared "to put in evidence the nature of the operations which he claims to have conducted," and the "Court or Arbitrators" may, if they think fit, take into account the "resulting increase of value." We suspect that this section is another part of the purchase-money paid for The O'Conor Don's signature to the Report.

The Commissioners do not fix any period of time within which the demand for a "first valuation" must be made, though they say that it "should be specified in the Statute"; and they add that, if not made within the specified time, the rent shall be assumed to be "fair" in the estimation of both parties.

The Commissioners condemn Griffith's Valuation as a standard for rent in language as emphatic as could be desired. We quote the passage in full:—

"64. If anything has been clearly established on evidence during this inquiry, the fact that the present Government valuation is not a trustworthy standard for the settlement of rents has been most thoroughly demonstrated. Fair as it may have been for the purposes of local taxation in the years when it was made, the evidence shows that even then it was con-

sidered as below the fair letting value of the land. Those who argue to the contrary ignore the fact that while there was nowhere any motive at work to cause the officials employed to value too highly, there was a universal pressure to force down the valuation, to which it was not unnatural for the valuators to yield. No injustice was done to anybody, while everybody was satisfied, so long as the under-estimate was general and uniform."

It may be mentioned that the Royal Commission on Agricultural Distress, presided over by the Duke of Richmond and Gordon, is equally emphatic in declaring that Griffith's Valuation "was not intended to represent, and did not represent, at the date when the valuation was made, the rental value of the property," and further that it is "not a trustworthy guide to the present rental value."

As we have already stated, the proposal that a new Government Valuation of Ireland should be made, either to fix the "fair rent" of agricultural holdings, or "to ascertain the gross annual value, or the full commercial rent," as a guide to the arbitrators, does not commend itself to the approval of Lord Bessborough's Commission.

We come now to consider the portion of the Report dealing with the question of "Free Sale," which the Commissioners regard as the logical and necessary consequence of "Fixity of Tenure" and "Fair Rents." They "consider that the tenant upon whom has been conferred fixity of tenure, at a fair rent, will be in a position differing little from that of a legal owner of property in the soil; and that he ought not to be unnecessarily deprived of any of the ordinary incidents of property. There-

fore, he should be at liberty to sell his interest—that is to say, his right of continuous occupancy, the improvements made by himself, or his predecessors in title, and all the title he has in the land, in any way he wishes; subject, however, to some reasonable restrictions"; and the Commissioners are good enough to say that they "believe this proposal will be found beneficial, at least as much to the landowner as to the tenant."

Few persons will be disposed to contradict the proposition that a tenant, upon whom "Fixity of Tenure" and "Fair Rents," as the Commissioners understand the term, have been conferred, will be in a position differing little from a legal owner of property; and, at first sight, it appears to be of little importance to the landlord whether the further right of "Free Sale" be conferred upon him or not. But if we look a little forward in this matter, we shall perceive that "Free Sale" may be more destructive of the landlord's property than even "Fixity of Tenure" or "Fair Rents." If the right of sale be absolutely free, there will be no check upon the competition that will ensue; and every shilling paid for the tenant's interest beyond the legitimate value will weaken *pro tanto* the security for the landlord's rent. The incoming tenant, finding the land too dear at the price he has paid for it, will feel the periodical payment of even a "fair rent" a burden too great for his strength; and every recurring gale-day will impress upon him the idea that the rent has been fixed too high. It

may be that he will find himself unable to pay it—he will certainly be unwilling; and thus a feeling of irritation will grow up in his mind against the rent and against the landlord who receives it. This will be no isolated or unfrequent case; and, when such cases multiply, we shall have the land question over again. The Commissioners endeavour to gild the pill by representing that, the rent being a first charge on the tenant's interest which must be paid out of the purchase-money, the landlord will be secured against loss of arrears, and they point to the fact that landlords at present have such a security under the Ulster Custom. We will assume that Ulster landlords, or those of them on whose estates tenant-right exists, have this security at present against loss of arrears; but it by no means follows that because under a partial and exceptional system certain conditions exist, the same conditions will continue when the system becomes universal. If the landlord in Munster or Connaught can force the sale of the tenant's interest in order to satisfy his claim for rent, and if the tenant be turned out of his holding in consequence, we fail to see how this proceeding differs materially from eviction for non-payment of rent. At present the evicted tenant takes two or three years' rent with him, which the landlord loses—and is generally satisfied to lose under the circumstances. Under the new system, these arrears will be paid to him out of the purchase-money, and so far the tenant will be the loser. Can anyone doubt that, within a very few

years, this right of the landlord to be paid his arrears out of the property of the tenant will be fiercely assailed; or that a Royal Commission will be found to "advocate" its abrogation "in the interest of the landlords" themselves?

It may be startling to those who reason from "feelings" and "traditional sentiments," as the so-called friends of the Irish tenant are prone to do, but it is nevertheless incontrovertible that the true logical conclusion from the premises laid down by the Commissioners is that the purchase-money paid for the interest of a farm, on its first sale under the new system, should go to the landlord and not to the tenant; at least on those estates, and they form the majority, on which the right of sale has not hitherto been recognised. Under the rule of "Fair Rent," as ascertained according to the "principles" laid down by the Commissioners, the landlord has been already compelled to compensate the tenant for any interest, outside the reserved rent, which he may have had in the farm, derivable from improvements, money paid on incoming, or any other source—has, in fact, bought it up by an equivalent reduction in the rent. All claim in respect to that interest on the part of the tenant is therefore at an end—the ownership of it now vests in the landlord. True, the landlord cannot realize the value of this interest so long as the tenant chooses to retain possession of the farm under the rule of "Fixity of Tenure," but this only gives him a stronger claim to be paid when the farm changes

hands. It is only on the *first* sale, however, that the landlord could logically claim the purchase-money or the portion of it due to the reduction of the rent to the "fair" standard. At every subsequent sale the tenant who had actually bought the interest would be clearly entitled to sell it for his own benefit subject to the landlord's moiety of the "unearned increment," and the value of any improvements made or acquired by the landlord during the tenancy. It seems strange that this view of the case should apparently have escaped the attention of the Commissioners. We do not for a moment imagine that they would have recommended anything so favourable to the landlord as that he should get even a portion of the purchase-money paid by an incoming tenant, however reasonable such a payment may appear to uninterested third parties, but we should like to see how they would have dealt with the question under the aspect in which we have placed it.

Casting about for arguments in favour of "Free Sale," the Commissioners hope that it will prove a "much needed solvent" in "loosening the undue attachment of the cultivators to the soil." We are not concerned to dispute this proposition; but we don't see how so indefinite a contingency justifies the introduction of a right of "Free Sale," if, as we have shown that right, as proposed in the Report, involves the grossest injustice—we might well use a much stronger term—to the landlords of Ireland.

Lastly, the Commissioners recommend the introduction of "Free Sale," because it is practically impossible to prevent it. We believe the Commissioners are mistaken in this opinion; and, if we may presume to speak for the landlords of Ireland, we rather think they would prefer to take their chance in the matter; but, we would ask, what force is there in the argument? There are few offences against morality or against law which it is not practically impossible to prevent. Are such offences to be declared legal and moral because of this impossibility? To argue that the right of "Free Sale" should be universally conceded, because it is practically impossible to prevent some tenants from selling their holdings, is not only false logic of the worst kind, it is an acknowledgment on the part of the Commissioners that their position cannot be defended by legitimate argument.

The "reasonable restrictions" suggested on the right of "Free Sale" are of a very moderate character, and need only be enumerated—they are, first, that the "landlord shall have a veto on the purchaser as tenant upon "reasonable grounds," the reasonableness to be determined in the last resort by the Land Tribunal; and, secondly, that the "purchaser should in every case be bound to become himself the actual tenant of the farm, and to continue practically in direct occupation of it," and that "a sale of the holding to two or more should not be permitted without consent in writing." But if, as the Commissioners say, it is practically im-

possible to prevent the sale of farms, how, we may ask, are these minor limitations to be enforced?

No restriction on the amount of purchase-money is recommended; and sales by public auction are rather approved than condemned. The landlord is to have a "right of pre-emption at the highest price offered by a *bonâ fide* purchaser in the open market," though why a landlord should desire to pay the extreme price for a farm, which he could re-let only subject to the conditions of the new statutory tenure, seems difficult of comprehension.

Mortgages to landlords, in consideration of their not having had their rents *raised* to the "fair" standard, and which, when first proposed, were to be paid off out of the proceeds of the first sale of the tenants' interest, it is now suggested "might be spread over the first and future sales, under equitable regulations for their final discharge." Landlords who may have purchased up or acquired the tenant-right of a farm, and let it to a tenant without imposing a "full commercial rent," and who may not care to have the rent raised, although not receiving what would be adjudged a "fair rent" for the holding, are to have the same peculiar privilege of getting a mortgage on the tenant's interest for the value of the tenant-right, with the pleasant prospect of having it paid off out of the proceeds of the first sale of that interest or spread over subsequent sales, according to the "equities" of the case.

The Commissioners admit that the right of

"Free Sale" is a "real interference with the landlord's right of control over his property"; but they maintain that it is "not calculated to lessen its value." They say that it has been suggested that compensation for such interference is due to the landlord in cases where the right of sale has never been recognised, but they make no recommendation on the subject; all they say is, that "if this suggestion is entertained, the compensation must necessarily be estimated on a basis more or less speculative." This is rather an impotent conclusion by men who have not shrunk from laying down "principles" for ascertaining the "fair rent"; and who are willing to go back thirty-five years to hunt for improvements made by Irish tenants on their farms. It might have occurred to them to suggest that a percentage of the purchase-money, varying within certain limits according to the "equities" of the case, should be paid to the landlord as compensation for the loss which they admit will be inflicted on him by the right of "Free Sale."

The Commissioners follow pretty closely the lines of the Land Act of 1870, as to the classes of tenancy to be affected by their proposals, or to be excluded from their operations, the only material difference being that, with certain necessary exceptions, no tenant is to be allowed to contract himself out of the new Act. Their language on this point is express: "the evidence shows that the amount of rent or of annual value constitutes no satisfactory

ground for refusing the protection of the statutory tenure."

The downward progress of opinion since the passing of the Land Act of 1870 is well exemplified in this astounding proposition. When that measure was under discussion, the provision forbidding a certain class of tenants to contract themselves out of its benefits was justified solely on the grounds that, being in a comparatively helpless condition, it was necessary to afford them exceptional protection. No one proposed—no one dreamed of proposing—that all tenants should be placed under similar disability. It was admitted on all hands, that the larger tenants in Ireland were as independent and as well able to take care of themselves as those in any other country; and there were many who thought that the £50 limit was too high. Now all tenants, no matter how wealthy or intelligent, are to be placed in leading strings, and forbidden to deal for land, except on the terms, and under the conditions, laid down by the Commissioners. The exception in the Land Bill of 1870 is to be not only the precedent, but the rule, in the Land Bill of 1881; and Parliament, which carefully strained out the gnat in the former year, is expected to swallow the camel, hump and all, in the latter!

The Commissioners make short work of existing leases. At their expiration the tenants are to succeed to all the benefits of the new statutory tenure, the only limitation being that the rent paid under the lease is to be "taken as having been a

fair rent," the inquiry before the arbitrators or the Court being confined to "circumstances which may since have occurred to affect the value of the holding." This is perhaps the most unjust of the many unjust "proposals" in this Report. The rent under the lease may have been wholly inadequate; it may have been fined down to a merely nominal amount; the tenant may have held the farm at this nominal rent for a century—no account is to be taken of these contingencies. The Landlord's right of reversion is to be wholly destroyed, and the tenant is to continue to hold the land at the old rent, in spite of the covenant in his lease to give up possession at its termination! Under which of the "Equities" may this proposal be supposed to fall?

In "cases, comparatively few, where the English or commercial system has been effectively introduced," these provisions are not to apply; and "for future letting of such holdings it may be lawful to exclude the statutory tenure by contract."

Our object in this review of the Report of Lord Bessborough's Commission being primarily to examine its recommendations as affecting the relation of Landlord and Tenant in Ireland, we do not think it necessary, at present, to go into that portion of it which deals with the purchase of their holdings by tenants. The two branches of the question are sufficiently distinct to admit of separate treatment, and we think it better not to mix them up with one another.

At the end of the Report the Commissioners refer cursorily—almost parenthetically—to two of the most important factors in the Irish Land Question; but for which it is doubtful if there would be any land question pressing for legislative interference at the present moment. Those are the poor cottier tenants, especially those in the west, and the agricultural labourers. How wholly incapable the Commissioners were to grasp the real difficulties of the question submitted for their consideration will be best shown by quoting their own words, on the two important points we have specified :—

"100. The condition of the poorer tenants in numerous parts of Ireland, where it is said they are not able, if they had their land gratis, to live by cultivating it, is, by some, thought to be an almost insoluble problem. Frequently, however, among this class high rents appear to be paid; and we may hope that in this respect a full investigation, followed by reduction where necessary, will do something to improve the condition of a depressed class. The solvent of free sale will do something also. It is said, indeed, that where all are so poor there might be none to buy; but this we doubt. Money is generally forthcoming whenever there is a single farm in the market. Free sale will bring a wealthier order of tenants to the soil that needs them; fixity of tenure and fair rents will give them a chance to thrive on it."

Now, when we remember that the land agitation commenced amongst this very class of poorer tenants; that amongst them it has raged with the fiercest vehemence and most determined lawlessness; that numerically they form a very large percentage of the tenants in Ireland, and belong entirely to that helpless class for whom the exceptional "disturb-

ance" clauses of the Land Act were thought a necessary protection; surely we have a right to complain that this Royal Commission, which paraded the country with so much pomp and circumstance, should dismiss their case in those few colourless sentences. If the Commissioners had said honestly, that they regarded the problem as "insoluble," we might pity their incapacity, but we could not censure their insincerity. If they had dared to propose the remedy which every man who knows Ireland knows to be the only possible solution of the difficulty, we would gladly recognise their wisdom and their courage; but their hearts failed them. And so the poor tenants who hastened from Donegal and Mayo and Kerry, to pour out their grievances before the Royal Commissioners, are told to go home and pay their "high rents," and hope that "full investigation, followed by reduction, where necessary," "Fixity of Tenure," "Fair Rents," and the solvent of "Free Sale," will one day "do something" to improve their condition. They might as well have stayed at home.

The agricultural labourers are even worse treated. Here is their answer:—

"102. The bearing of the questions committed to us for inquiry upon the condition and welfare of the agricultural labourer, a point suggested by references in the Land Act, engaged our attention early, and we have taken a large mass of evidence respecting it. The subject appears to demand speedy consideration for the sake of the country, as well as for that of the labourers themselves. We do not think that in the proposals we have made there is anything calculated to intensify the poverty of the poor. The Irish agricultural

labourer and the Irish farmer are not two classes, but one. The labourer is a farmer who is without a farm. Wild and subversive proposals, which tend to shake confidence in the public sobriety and drive the capital of the wealthy out of the country, must injure most of all the man who lives by daily wages. It does not fall to us to make suggestions for legislation for the improvement of the dwellings of labourers, for securing them gardens, or for facilitating, except in a general way, their acquisition of farms; but we trust that the tranquillity which will follow on a well-considered measure of Land Tenure Reform will be a blessing alike to all classes, and especially to the poorest.

To these poor labourers, nearly, if not quite, as numerous as the "farmers" among whom they live, and upon whom most of them depend for their scanty means of support, not one solitary word of comfort or hope is vouchsafed; and, although admittedly within the scope of the operations of the Commissioners, they are told that it does not fall within their province to make suggestions for the improvement of their condition other than by "facilitating in a general way their acquisition of farms." They are further told that "wild and subversive proposals, which tend to shake confidence in the public sobriety and drive the capital of the wealthy out of the country, must injure most of all the man who lives by daily wages." "*Wild and subversive proposals.*" Verily, the prospect before the agricultural labourer is gloomy indeed, if the "proposals" of Lord Bessborough's Commission should ever unhappily be carried into effect.

THE

LAND QUESTION, IRELAND.

No. XII.

THE RICHMOND COMMISSION.

NOTES

ON

LORD CARLINGFORD'S REPORT.

JUNE, 1881.

ISSUED BY

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LORD CARLINGFORD'S REPORT.

THE Irish Land Act of 1870 was not the exclusive work of Mr. Gladstone, with whose name it is inseparably associated. He was assisted, among others, by Lord Carlingford, better known as Mr. Chichester Fortescue, who was then Chief Secretary for Ireland. It was, therefore, only natural that, when Earl Spencer resigned his position as one of the Royal Commissioners on Agricultural Distress, Mr. Gladstone should nominate Lord Carlingford as his successor; more especially as the Land Agitation in Ireland had then begun to assume formidable proportions, and fresh legislation on the subject was already discernible in the near future. Mr. Stansfeld also was placed on the Commission, at the same time, in succession to Mr. Goschen.

As might have been anticipated, these new members did not coalesce very readily with the majority of the Commissioners; and, accordingly, when the Preliminary Report, dealing with the Irish branch of the subject, was presented to Parliament in

January last, we do not find their names among the signatures. 'Not feeling themselves able entirely to concur with their colleagues in their Report,' Lord Carlingford and Mr. Stansfeld prepared a separate Report of their own. The Report of the Commissioners is signed by thirteen of the members, including the Duke of Richmond and Gordon, Chairman; that of the dissentient minority has six signatures appended. It is this latter document which we now propose to examine. For convenience sake we shall henceforward speak of it as 'The Report.'

The Report opens by enumerating the most important causes of agricultural distress in Ireland, 'capable of removal or mitigation by legislative means,' which it declares to be—

'(1.) The extreme smallness of many of the agricultural holdings.

'(2.) The overcrowding of population in districts of poor land, where the occupiers often depend for a livelihood upon employment during a portion of the year in Great Britain, or in other parts of Ireland, the partial failure of which has, of late, reduced them to a condition which, without charitable efforts of a remarkable kind, would have been one of starvation; and above all—

'(3.) The general feebleness of industry and backwardness of agriculture, produced largely, as we see reason to believe, by a sense of insecurity which, notwithstanding the effects of the legislation of 1870, still prevails among the occupiers of land

in Ireland, tending to paralyse energy, to hinder improvement, and to produce, too often, feelings of dangerous discontent.'

No one will deny that the first two of the causes here specified contributed very largely to the agricultural distress which prevailed in Ireland during the winter of 1879–80; though few will be disposed to coincide in the opinion that they can be removed, or materially mitigated by legislative means. Indeed the Report, as we shall see, does not attempt to propose any special legislation respecting them; it is taken up altogether in dealing with the third cause, which it justly regards as 'the most difficult and complex portion of the whole subject.'

That industry is feeble in many parts of Ireland, and agriculture backward, are facts with which we are but too painfully familiar. No one can travel through any considerable portion of the island without seeing abundant proofs on every side. But that this 'feebleness' and 'backwardness' are due largely to a 'sense of insecurity', prevalent among the occupiers of land, cannot be so readily admitted.

Granting, for the present, that such 'a sense of insecurity' does exist in some localities, we would ask can it fairly be regarded as the sole, or even as the chief cause of the feebleness of industry and backwardness of agriculture—can no other explanation be given? Have ignorance and sloth contributed nothing to the result? Have obstinate adherence to traditional methods however defec-

tive, simply because they were old, and prejudiced hostility to modern improvements, simply because they were new, had no part in retarding agriculture? Is political agitation, continued through successive generations, which has debauched the minds of the people, teaching them to look to Parliament, instead of relying on their own energy and skill for the improvement of their physical condition, to be left wholly out of account as an efficient cause of the feebleness of industry.

And further, are active industry and good farming to be uniformly found in those cases where no 'sense of insecurity' operates to 'paralyse energy and hinder improvement'? Are lease-holders, even for long terms, always intelligent and industrious farmers? Are free-holders, or peasant proprietors, uniformly characterized by energy and skill in the management of their holdings? There is at this moment a number of tenants in perpetuity, and of peasant proprietors in Ireland, quite sufficient, if their condition were carefully and honestly investigated, to prove that, whether or not a sense of insecurity paralyses exertion and hinders improvement, the fullest sense of security does not evoke skill or stimulate industry? It is simply notorious that, at least among the smaller Tenants who form the vast majority in Ireland, the worst managed farms are those held under lease; and that settlements of peasant proprietors, such as that at Ardfert for example, are generally warrens of paupers. Through three of the provinces of Ireland, if we

find a district characterized by comfortable houses, suitable offices, well divided fields, regular fences, and good husbandry, we may be perfectly certain that the inhabitants are neither lease-holders nor peasant proprietors, but yearly tenants, who owe their prosperity and comfort principally to the enlightened liberality and fostering care of the owner of the soil.

In the remaining province the state of things is different. Through great part of Ulster, but by no means universally, we do find industry and intelligence, and, foremost of all, thrift; but these qualities are inherent in the race to which the majority of the inhabitants belong; and are not the result of tenant-right, which, in its present form, is of comparatively recent growth, and which has never been recognised on some of the most prosperous estates. The existence of manufactures, which afford local employment for the surplus population and provide a local market for many agricultural products, is another element in the prosperity of Ulster, which the Report fails to notice, far more efficacious than the prevailing conditions of land tenure in that province. But there are parts of Ulster where there are no manufactures, and where the population is purely Celtic, and in these there is no greater strength of industry or forwardness of agriculture than in other parts of Ireland.

The truth is, that a 'sense of insecurity' is rather the excuse for 'feebleness of industry and backwardness of agriculture' than their cause.

Irishmen are not more ready to admit their faults than the inhabitants of other countries, or less prone to shift to others the blame which properly belongs to themselves; and, having been told by successive generations of agitators that they are the 'finest peasantry in the world,' and that their impoverished condition is due wholly to the tyranny of their 'oppressors'—meaning the people and Parliament of England—they are fain to accept, possibly to believe, the pleasant hypothesis; and to seek in political agitation the remedy for their 'grievances,' which, all human experience teaches, is to be found only in energy, industry, and perseverance. Hence, the theory that the backward state of agriculture in Ireland was caused by a sense of insecurity among the occupying tenants was pretty certain to be supported by evidence before the Royal Commission; and the Report proves that Lord Carlingford and his co-signatories accepted it without hesitation. Let us not, however, be misunderstood; we do not assert that there is no 'sense of insecurity' among Irish tenants; we cannot undertake to answer for the 'sense' in which any body of men may choose to view their position; all we say is, that the 'sense of insecurity' is not the sole, or even the principal cause of 'the general feebleness of industry and backwardness of agriculture' that prevail in Ireland; and we may add the expression of our belief that it is beyond the power of legislation either to improve agriculture, or to stimulate industry.

The Report next proceeds to account for the 'sense of insecurity,' which it attributes partly to 'the fear of capricious eviction,' and partly to 'the fear of an increased rent.' There is no positive assertion that capricious evictions actually take place; but it is confidently stated that 'the practice of raising rents at short and uncertain intervals prevails to an extent fully sufficient to shake the confidence of the tenants, and to deter them from applying due industry and outlay to the improvement of their farms.' This is a very different statement from that in the earlier part of the Report which represented the 'sense of insecurity' as enfeebling industry and retarding agriculture. A man may be very industrious, he may be a skilful agriculturist, and he may cultivate his land to the best advantage, and yet be unwilling to invest money or labour in the 'improvement of his farm.' In fact, in the passage just quoted as to the effect of a 'sense of insecurity' in preventing improvements, properly so called, Lord Carlingford merely states a particular case of the general proposition that men will not invest money without security, or the prospect of some equivalent advantage. We are not going to dispute the truth of so self-evident an assertion; but we cannot avoid remarking on the inconsistency which represents a 'sense of insecurity' as paralysing industry, and deterring tenants from expending money on the improvement of their farms; and, in the very next sentence, affirms that all existing improvements have been made by those

same tenants. Both statements cannot be true; and if it be the fact, as alleged, that the existing improvements were effected by the tenants, it follows from the principles laid down by Lord Carlingford that they must have been remunerated, in some form, for the outlay of their labour or capital—and this is precisely what took place. The tenant got the land at a rent below the value, on condition of executing some necessary work, either wholly or partially at his own cost; it may have been to build a house or an out-office; to make a fence, or deepen a watercourse; but, whatever it was, the tenant was indemnified by the reduced rent, and the work was thus done virtually at the landlord's expense. 'Compensating periods,' of which Lord Carlingford speaks as part of the 'English system,' and as 'unsuited to Ireland,' have been long familiar in this country. Formerly, it was quite a common practice to give reclaimable land rent-free for a certain number of years, after which it became subject to a stipulated rent. Much waste land was brought into cultivation in this way, and neither the tenants who reclaimed it, nor their successors in title, ever thought of questioning the Landlord's right to the rent till the apostles of the new Land Gospel appeared upon the scene. Similarly, many of the existing improvements were effected by tenants who held under leases, and who may be supposed to have counted the cost before undertaking them. They were compensated, according to their own estimate, by the length of time their leases had

to run; and when the leases expired they had no further claim.

Although it may be useless now to re-open the controversy, we cannot allow Lord Carlingford's assumption that the improvements on farms in Ireland were executed, for the most part, by the Tenants, to pass unchallenged. No doubt the Tenants did a great deal of the actual work, for which they were compensated in the manner sketched above; but, in many cases, the Landlord effected the improvements himself; and in the majority of instances he contributed to their cost, either by actual payment, in money or material, or by allowance in the rent. Recent inquiries made by the Land Committee, the results of which have been published (*Facts and Figures*), revealed the fact that the existing agricultural improvements were the work of the Landlords to a much larger extent than was generally supposed; and persons who know Ireland are well aware that, as a rule, the so-called 'improvements' effected by Tenants added very little to the letting value of a holding, and nothing to its productiveness. Lord Carlingford must know these facts, and, knowing them, it is scarcely candid of him to represent that the 'dwelling-houses, farm buildings, and other elements of a farm, including often the reclamation from the waste of the cultivated land itself, have been, for the most part, the work of the Tenants.' But his lordship had made up his mind to discard the Land Act of 1870, and to adopt the 'platform'

of the agitators; and he could not decently do so without some show of argument: accordingly he selected the 'sense of insecurity' as the groundwork of his new policy—and having established its existence, presumably to his own satisfaction, he proceeds to enlarge upon the theme, in support of the further legislation which The Report recommends.

Before entering upon the consideration of the changes in the law that are suggested, we must turn aside for a little, to direct attention to a very important difference of opinion that exists between this Report and that issued by Lord Bessborough's Commission. In the latter Report much space is devoted and much trouble taken to establish for the Irish Tenant a traditional 'possessory right' in his holding—in other words, a joint ownership with the Landlord—and upon this 'possessory right' the proposals of the Bessborough Commission in favour of the Tenant are based. It is not necessary that we should now discuss the arguments, or rather the assertions, of the Bessborough Report in support of this alleged 'possessory right'— that has been done in a recent publication by the Land Committee (*Foregone Conclusions*)—but we must refer to one point on which great stress is laid in that Report; namely, that the Land Act of 1870, by granting compensation for disturbance, expressly recognised the existence of the 'traditional possessory right' claimed for the Tenant, with its necessary consequences of 'Fixity of Tenure' and

'Free Sale.' Lord Carlingford, himself one of the authors of the Land Act of 1870, categorically denies the truth of this assumption, and refutes it by arguments which are simply unanswerable. He thus explains the 'principle upon which the third or disturbance section of the Land Act is based.'

'That important section endeavours to give increased security of tenure to the small occupier, whose tenancy is unprotected by custom, by requiring the evicting landlord, at the discretion of the Court, to make him compensation for the loss sustained by him in quitting his holding,' to use the words of the Bill as introduced into Parliament. Such payments have always been felt to be necessary, and have been made by humane Landlords, in order to relieve the small Tenant, who has lost his home and occupation, and enable him to seek a livelihood elsewhere, by emigration or otherwise. But that the loss contemplated by the section is not that of the value of the tenancy for the purpose of sale to a successor is evident from the Act itself, which calculates the compensation, not by the value, but by the rent of the holding, and where the rent is found to be "exorbitant," gives compensation even where it is unpaid. If this were otherwise, the rack-renting Landlord would escape the penalty which the law intends to be a check upon capricions eviction, having by his own act, in imposing an excessive rent upon the tenant, destroyed or impaired the saleable value of his interest.'

Lord Carlingford might have added, what is to some extent implied in the foregoing extract, that, by restricting the right of compensation for disturbance to one class of Tenants; by establishing among them a sliding scale, varying with the valuation; by fixing a maximum amount of compensation; and by excluding all Tenants whose holdings were valued above a certain amount from participation in the benefits of the section, the Legislature had indicated with sufficient clearness the principle on which it was founded, namely, by the imposition of a pecuniary fine, varying inversely as the valuation, to prevent Landlords from 'capriciously evicting' the poorer Tenants on their estates. No one outside the Bessborough Commission ever dreamed of wresting the 'Disturbance Clause' of the Land Act of 1870 into an argument in support of 'possessory right,' traditional or otherwise, inherent in the Tenant; but as Lord Bessborough has done so, it is well to have the weightier authority of Lord Carlingford so definitely expressed on the opposite side; and the more so, because Mr. Gladstone, in his new Land Law Bill, appears to have adopted the theory of the Bessborough Report. We shall be curious to see how Lord Carlingford will deal with this branch of the question, when the Land Law Bill reaches the House of Lords. Fortunately for him, consistency, either in policy or argument, has followed Astræa to the stars; but it will tax his ingenuity to establish for the Irish Tenant a 'traditional possessory right' to joint ownership of the

land, of the existence of which he was unconscious only three months ago.

We must not omit to notice that the Report we are considering, equally with that of the Bessborough Commission, pays a just tribute to the manner in which Irish Landlords deal with their Tenants. Speaking of the fear of increase of rent, it says—'We find that upon many, and especially the larger estates, the rents are moderate and seldom raised, and the improvements of the tenants respected,' and again, after describing the nature and effect of the 'sense of insecurity,' which it alleges to be so general as to call for legislative interference, the Report goes on to say—'We desire to repeat that upon very many estates the condition of things thus described is not to be found.'

But none the less does Lord Carlingford go in for the 'Three Fs,' as the basis of the legislation recommended in the Report. It is pitiable to reflect upon the poverty of expedient displayed in dealing with the Irish Land Question. We have now before us three distinct documents professing to exhaust the subject, all emanating from the Government or its declared adherents. We have the Bessborough Report, the Carlingford Report, and the Land Law Bill. In the preparation of these documents some thirty or more of the foremost members of the great Liberal party have taken a direct and active part, but they have not advanced a single step beyond the formula enunciated by a country priest, with a taste for alliteration, on a vil-

lage platform ever so many years ago. 'The Three Fs,' in one shape or another, is the sum and substance of each and every one of them; the only difference being the order in which they are taken, a difference in itself suggestive of the confusion of idea and vacillation of opinion that existed among their framers. Thus Lord Bessborough starts with 'Possessory Right' and 'Fixity of Tenure,' deducing from these premises 'Fair Rents' and 'Free Sale' in systematic order. Lord Carlingford repudiates 'Possessory Right,' but finds in a 'Sense of insecurity' arising from the 'fear of an increase of rent,' sufficient warrant for his acceptance of the popular formula, and leads off with 'Fair Rents,' followed by 'Free Sale' and 'Fixity of Tenure.' Mr. Gladstone, in the Land Law Bill, does not condescend to argue the case, even to the modest extent of a preamble, but plunges at once *in medias res* with 'Free Sale,' in the foreground, closely attended by 'Fair Rents,' and waited on, in the distance, by 'Fixity of Tenure,' somewhat disguised, but still plainly recognisable. Beyond the magic triad none of them can venture.

It is difficult to ascertain the precise meaning attached by Lord Carlingford to the term 'Fair Rent.' The Report does not attempt to give any definition, nor does it lay down any principles for ascertaining the amount of the 'Fair Rent,' from which its relation to the existing rent could be deduced with anything like certainty. We quote the passages bearing on the point:—

'Without referring to the present deplorable, and, it is to be hoped, temporary condition of many parts of Ireland, and without dwelling upon the lawless restraints of the legal rights of Landlords which are known to have often prevailed, we are convinced that, in ordinary times, freedom of contract cannot be said in any real sense to exist between the majority of Irish occupying tenants and their landlords. We think, therefore, that some public authority may legitimately intervene between the parties for the purpose of settling, upon the appeal of either of them, the question of rent. Evidence which we have received of the successful action of the Land Courts, both in Ulster and the other provinces, in ascertaining and indirectly fixing the fair rent of a holding under certain provisions of the Land Act, appears to us to be very encouraging, and leads us to believe, in common (as we have found) with many good judges in Ireland, that some such tribunal, armed with larger authority, would succeed with much less difficulty than might be supposed in exercising, with substantial fairness, a direct arbitration on this subject.' And further on:—

'In fixing the fair rent of a holding, the Court should not take into account buildings, fences, roads, or other such permanent improvements, which had been decided to be the property of the tenant; and in the case of reclamation, or other works developing the capabilities of the soil, the Court should not take them into account, unless

satisfied that the Tenant had enjoyed them for a period and at a rent admitting of full reward for his labour and outlay.'

These passages contain all that the Report has to say on the subject of 'Fair Rent'; they are studiously vague and indefinite; but they leave us under the impression that the 'Fair Rent' contemplated by Lord Carlingford is one that would be fair to the landlord as well as to the tenant. It is to be carefully remarked that there is no suggestion that the rent should be reduced in proportion to the value of the 'possessory right,' as recommended by the Bessborough Commission; or to the new scale of enforced preliminary compensation for a disturbance which has been rendered impossible, as provided in Mr. Gladstone's Bill: there is no reference even to payments for tenant-right or good-will, made by the tenant on incoming. Lord Carlingford knew well that such payments are altogether outside the existing rents; and that it would be open robbery of the landlord to reduce the rent, subject to which the tenant had purchased the interest in the holding, by an amount equivalent to the yearly value of the purchase-money. Hence there is no trace of a suggestion that the rent should be estimated with reference to the value of the tenant's interest; or even with reference to the value of the improvements, except in so far as they had been actually decided to belong to the tenant, and as he had not been compensated for them by the enjoyment of the farm for a sufficient time at a proportionate

rent. Even on the question of the Court, objectionable as the establishment of such a tribunal for the settlement of rent would be, the Reports seems to regard it only as a last resort, and has the fairness to throw it open to the landlord as well as to the tenant.

But though the Report appears to fall far short of the revolutionary theories on the subject of 'Fair Rent' propounded in the Report of the Bessborough Commission and adopted in Mr. Gladstone's Bill, it comes fully up to the mark on the question of 'Fixity of Tenure.' The following are the conclusions arrived at :—

'A further and very difficult question follows inevitably, as it seems to us, upon proposals to enable a public authority to fix the amount of rent between landlord and tenant; the question whether it would be possible, under such circumstances, to leave the *ultima ratio* of eviction absolutely in the landlord's hands, subject only to such compensation to the tenant as a Court might award. It is to be feared that the right of appealing to a Court on the subject of rent would be one which in ordinary times many occupiers would not venture to exercise (whether their fears were well-founded or not), if the uncontrolled power of eviction remained with the landlord.'

'Looking at the question, therefore, from this point of view, and considering the circumstances and feelings of the Irish tenantry, and also, we fully believe, the true interests of the landlords them-

selves, we are of opinion that the principle of fixity of tenure, subject to an appeal to the Land Court, should form part of any fresh legislation on the relations of landlord and tenant in Ireland.

'It might, we think, be provided that a landlord should not be at liberty to use the ordinary powers of the law for the removal of a tenant from his holding, except in the cases of non-payment of rent, sub-division, or waste.

'If on other grounds he desired to change a Tenant, with whom he was unable to part amicably, or to take portion of his estate into his own hands, he might be required to apply to the Land Court, which should not give its sanction to the use of the legal process of removal unless satisfied that good and reasonable cause had been shown, connected with the legitimate interests of the landlord's estate, or the conduct of the tenant.'

There is neither vagueness nor ambiguity about these sentences; their meaning is plain and plainly expressed. Let a Tenant but once get into possession of a farm, and he acquires, with the possession, the absolute right to continuous and perpetual occupancy, provided only he pays the rent. The Report makes the usual feint of reserving to the Landlord the right of re-entry in case of sub-division or waste of the holding by the Tenant, and the privilege of applying to the Land Court for liberty to bring an ejectment for good and reasonable cause, connected with the legitimate interests of his estate, or the conduct of the Tenant. These are plausible reserva-

tions, but they are wholly illusory, and no man knows this better than Lord Carlingford. Commenting, in 1870, in the House of Commons, on a somewhat similar proposal, his Lordship—then Mr. Fortescue —said—

'The proposal of his hon. friend would certainly be viewed by the Irish tenants as equivalent to perpetuity of tenure subject to periodical revaluation. He proposed, it was true, to attach to it three conditions, under either of which the tenure was to be forfeited—namely, non-payment of rent, sub-division of the holding, and serious waste of the farm. But, for his own part, he must declare that he was no believer in the possibility of enforcing these conditions. When once the perpetuity of tenure was acceded which his hon. friend proposed, it would, in practice, be absolutely impossible to enforce any restriction, and still less any forfeiture, for any cause short of non-payment of rent. His hon. friend believed that the thing was possible; but he certainly could not agree with him. To suppose that, under such circumstances, the landlord would retain in his hands any practical power of preventing subdivision of the lands was, according to his knowledge and experience of Ireland, an absolute delusion' (3 Hansard CCI. 992).

Such was Lord Carlingford's opinion in 1870, clearly and confidently expressed. Have Irish tenants, in the ten years that have since elapsed, become so submissive to the law that they could now be bound by legal restrictions that were then

declared to be practically inoperative to restrain them? Even the single condition of forfeiture which Lord Carlingford believed could be enforced, namely that for non-payment of rent, is now practically in abeyance. And, if statutory rights, reserved by express enactment, are thus impossible of assertion before the ordinary legal tribunals, what chance would a Landlord have of being listened to in the Land Court, when seeking to obtain permission to proceed against his Tenant on such trivial grounds as the legitimate interests of his estate, or the conduct of his Tenant?

But it is chiefly to the extension of the right of 'Free Sale' that the Report looks for anything like a permanent settlement of the Irish Land Question. On this point the language is clear and explicit.

'We believe that the true mode of securing to the Irish Tenant, both in fact and in feeling, the value of the interest which he has created, inherited, or purchased, as well as the strongest stimulant to improvement for the future, will be found in the legal recognition of that usage of native growth, already so familiar in Ireland, by which a tenant assigns his interest to a solvent successor, or disposes of it to the Landlord at the price which a solvent successor would give.'

Lord Carlingford does not base his recommendation on any such unsubstantial grounds as the imaginary 'possessory right,' invented by the Bessborough Commission. His argument—whether

sound or otherwise does not matter for the present —is that 'it is to the Tenants we must generally look for better dwellings, better farm buildings, better labourers' houses, better fences, and for the reclamation and permanent improvement of the soil. And if this be so, it becomes of the last importance, as a matter of public policy, to put the Tenant in a position which will furnish him with adequate and even ample inducement to devote his industry and capital to the land of another.'

This can best be done, in Lord Carlingford's opinion, by giving the Tenants the right of 'Free Sale,' which the Report describes as 'a natural growth of the circumstances of Ireland, always ready to spring up wherever it is respected, or even tacitly permitted.' The line of argument pursued, though starting from entirely different premises, is much the same as that adopted by the Bessborough Commission; and, if not exactly an argument in a circle, is uncommonly like one. Lord Carlingford first postulates a 'sense of insecurity' prevalent among Irish Tenants, which he ascribes to 'the fear of an increase of rent.' He proposes to remove this 'sense of insecurity' by establishing a Court to fix the 'Fair Rent'; and, lest the tenant might be deterred by fear of eviction from entering the Court, he proposes to confer upon him 'Fixity of Tenure' likewise. But since it is impossible to provide 'Fair Rent' and 'Fixity of Tenure' for the Tenant, without depriving the Landlord of all effective control over his property,

and reducing him to the position of a mere rent-charger, or annuitant; and since a Landlord in such a position could have no possible inducement to expend money on the improvement of his estate, it follows that, if improvement is to be effected at all, it must be by the Tenant; and to induce him to expend the necessary capital or labour, he must be invested with the rights of ownership of which the Landlord has been stripped. Such is the chain of reasoning developed in the Report; and, briefly stated, it amounts to this, that, in order that Irish Tenants may feel secure in their holdings, Irish Landlords must be expropriated; or, as Mr. Parnell more forcibly expresses it, 'Landlordism must be abolished.'

Lord Carlingford speaks in glowing terms of the benefits conferred on Ulster by the existence of tenant-right in that province. We cannot accept the theory that the prosperity of Ulster is due to the existence of tenant-right, any more than that the poverty of Connemara is caused by its absence. We regard tenant-right as the effect, not the cause, of the prosperity that exists in the north of Ireland; the 'natural growth,' as the Report says, 'of the sound relations which have long prevailed between Landlord and Tenant in the best parts of Ulster.' But even if it could be shown, as assumed in the Report, that tenant-right had conferred on that Province all the advantages claimed for it, it does not follow that it would be equally successful elsewhere. We might quote Lord Carlingford's opinion,

given in 1870, to prove that the extension of the Ulster Tenant-Right to the other provinces of Ireland would be impossible, and that, even if possible, would not be beneficial; but it is not necessary, for the system of tenure which the Report recommends, and which the Land Law Bill proposes to establish in a much more advanced form, is not the Ulster custom at all, but something altogether different. There is no analogy between a custom under which rents are a matter of contract between Landlord and Tenant, under which the Landlord can, if he chooses, resume possession of his land, and a system which provides for the adjustment of rent by a Court, and which guarantees fixity of tenure to the Tenant. The only element common to both is the privilege of sale—the privilege which interferes least with the property of the Landlord, and which is limited by the right of preemption secured to him—and it is inconsistent and absurd for Lord Carlingford to argue from the results of the custom which has spontaneously grown up in Ulster, that corresponding results will attend the legal establishment of an entirely different system of statutory tenure over the whole of Ireland. We believe the results will be very different; we believe that, if the present system of tenant-right in Ulster be swallowed up in the new statutory tenure of which 'Fair Rents' and 'Fixity of Tenure' are to be the leading features, the effect will be to destroy the present happy relations existing there between Landlord and Tenant. Landlords in

Ulster, when stripped of all rights of ownership, will not take a greater interest in their estates than Landlords, similarly circumstanced, in other parts of Ireland; Ulster Tenants will not be slower to assert their newly-acquired rights than Tenants in Munster or Connaught. Like cause will produce like effect in each case; and if the effect of the new legislation be to drive out the Landlords of Galway and Cork, those of Down and Fermanagh will not long remain behind.

Lord Carlingford is not blind to the fact that the right of sale, as it exists under the Ulster Custom, frequently leads to excessive competition for farms, but he seems to think that this is a less evil than any attempt to 'limit artificially the value of the Tenant's interest.' In this his Lordship is not a whit more consistent than the agitators whose principles he adopts. He sees no objection to limiting artificially the value of the Landlord's interest in the most arbitrary manner, by the introduction of a system of valued rents; he will not tolerate freedom of contract, much less competition, when a farm is to be let; but when it is to be sold, there must be no restriction whatsoever; the sale must be absolutely free. And yet, it is obvious that competition in the latter case may be even more injurious to the incoming tenant than in the former. Whatever be the inducement that causes tenants to undertake to pay high rents—whether it be the scarcity of land, the dearth of other means of livelihood, the '*pretium affectionis*,' or what you will—the

very same inducement will stimulate them to pay high prices for the interest in farms offered for sale. Every pound added to the price will add a shilling a-year to the existing rent, whatever that rent may be; with this difference, that if the shilling were paid as rent, the tenant would have the pound in his pocket towards the necessary outlay on the farm; whereas, if he parts with the pound in the shape of purchase-money, he may, not improbably, have to pay from two to four shillings a year, to some local bank or local usurer, for a pound to replace it, in order to carry on his business, Multiply the pound and the shillings by any number you please, according to the size of the farm, and the keenness of the competition, and the same argument holds good—the Tenant who purchases the interest in a farm, except as an investment for *bonâ fide* spare capital, beyond what is required for the due cultivation of the farm, is worse off than if he were to pay an equivalent annual sum as rent. But his judicious friends will not permit him to take the safer, and generally the more convenient course, while they compel him to adopt that which will probably be less convenient, and will certainly involve the greater risk of loss.

Though recommending the extension of the right of sale to all parts of Ireland, the Report admits that there are objections to the unqualified application of the system to every holding, one of which it states, as follows:—

'The tenant's interest might in many cases con-

sist to a large extent in the difference between a fair rent, and the low rent actually paid to the Landlord; and this value, where no tenant-right payment has been made at the beginning of the tenancy, is not morally the property of the occupier. To treat it as such by legislation would be a wrong to the Landlord.'

This is plain truth plainly spoken, but none the less likely to be forgotten, if indeed it be not already forgotten, amid the confusion of the conflict. Let us hope that when Lord Carlingford introduces the Land Law Bill in the House of Lords he will remember that he has so recently given utterance to an opinion not easily reconcilable with some of the provisions of that measure.

We are unable to find in the Report any suggestion that the Landlords of Ireland should be compensated for the loss of the rights of which it is proposed to deprive them; or for the depreciation of their property, which must ensue if the recommendations of the Report be carried into effect.

The constitution of a 'single Land Court or Commission for all Ireland, not exclusively legal in its composition, and some members of which should be possessed of practical agricultural knowledge,' is recommended in the Report. It is further suggested that this Court 'should hold its sittings in every county in Ireland in turn, and might divide itself into two or more circuits for that purpose.' In addition to its statutory powers, the Report thinks that 'such a body might

in many cases act as arbitrator by consent between Landlord and Tenant, beyond the provisions of the statute'; and that 'it should have power to convert into a binding order any arrangement so made.'

We do not think it likely that the Court would be much troubled with arbitration business, or that it would have much time to attend to it; and we cannot even conjecture how long it would take a Court, charged with the regulation of all relations between Landlord and Tenant, to make the tour of the entire country. Some Landlords might be respited for years.

Having 'devoted the larger portion of the Report to the question of the occupation of land in Ireland,' Lord Carlingford has but little to say about 'other remedies' for the present unhappy state of the country. He has, however, the courage to recommend voluntary emigration assisted by the State—a recommendation from which Lord Bessborough shrank—and, where practicable 'voluntary transfer' of some part of the surplus population to reclaimable waste or semi-waste lands at home. He prudently refrains from committing himself to any definite proposal on either subject, and intimates pretty plainly that he does not know where the reclaimable waste or semi-waste lands are to be found in Ireland, or how the 'voluntary transfer' of the people to them is to be effected. We must acknowledge that we are in a similar state of ignorance.

Unable to offer any practical proposal for relieving the overcrowded districts, except State-assisted emigration, which could hardly be extended to the whole surplus population, the Report winds up with a platitude about the effect of 'Free Sale' in extinguishing the very small holdings, almost identical with the lame conclusion of the Bessborough Report on the same important branch of the case.

No reference is made either directly or indirectly to the condition of the agricultural labourers; and yet Lord Carlingford, as an Irishman, must know how important a factor they form in the Irish problem; and, as a Statesman, must foresee that he shall have no sooner satisfied—if he ever can satisfy—the tenants at the expense of the landlords, than a fresh agitation will spring up which can only be allayed by contenting the labourers at the expense of the tenants. This may be staved off till the labourers have political power—but how long can that be withheld from them?

Lord Carlingford offers two suggestions for the amendment of the Land Act of 1870. He recommends that the word 'exorbitant' applied to rent in the 9th section should be changed to 'unreasonable'; and that section 12, which provides that a Tenant of a holding or holdings valued at not less than £50 a-year, may contract not to claim compensation under the Act, should be brought into harmony with section 4, which forbids Tenants to contract themselves out of certain claims under

it. He further believes that the case of the 'great farmers, and especially of the holders of the great grazing farms, will be best met by liberal leases containing full provisions or securities for permanent or unexhausted improvements.' His Lordship intends the specific recommendations made in the Report to apply only to the case of the 'ordinary resident Irish Tenant.'

Bearing in mind that Lord Carlingford was, as already mentioned, the joint-author, with Mr. Gladstone, of the Irish Land Act of 1870; that it was he who gave utterance to the profound constitutional maxim that 'Ireland should be governed according to Irish ideas'; and that, as an Irish politician, he might be supposed to know something of the wishes, if not the wants, of that section of the community who call themselves the 'Irish people,' one would think that Mr. Gladstone, in framing his new Land Bill, would have been content to confine legislation within the limits Lord Carlingford had laid down; and that, where he deviated from the recommendations of the Report, the caution of the statesman would have led him to stop short of those limits, rather than to exceed them. But it is not so. We have already indicated some points on which the Land Law Bill goes beyond the rcommendations, not only of Lord Carlingford's, but even of Lord Bessborough's Report; and it will not be uninteresting to pursue the subject a little farther, though our space will not allow us to do so in more than a cursory and imperfect manner.

We do not find in Lord Carlingford's Report anything to prevent a Landlord from seeking an increase of rent if he believes his land to be under-let—on the contrary, the Report expressly argues that 'there would be no difficulty in authorizing the Tenant to exercise the right of sale, without invasion of the Landlords property, and without hampering his power of obtaining a better rent for an under-rented farm.' Mr. Gladstone's Land Law Bill absolutely prohibits the Landlord from demanding a higher rent, except at the risk of exposing himself to penalties which no prudent man would be content to face. The prohibition in the Bill is not against the actual raising of the rent; but against the attempt to do so, and this attempt is handicapped by no less than three distinct alternative penalties, at the option of the Tenant.

Again, the Land Law Bill increases the scale of 'Compensation for Disturbance' on certain classes of holdings, and extends it to others hitherto exempt, while it removes altogether the maximum limit beyond which the Act of 1870 refused to go; the Report makes no recommendation on this point, except in connexion with 'exorbitant' rents, and thirty-one year leases, which it touches in the most cautious manner. Nor is this the result of any oversight or indifference, for it is stated, in the early part of the Report, that 'it would appear that the larger Tenants, to whose case the "Disturbance" section of the Act scarcely applies,

are dissatisfied with the amount and method of protection afforded to them in respect of their improvements'; clearly showing that the question of 'Disturbance,' in connexion with the larger tenants, was before Lord Carlingford's mind when framing the Report, from which we must infer that he deliberately refrained from recommending any increase or extension of the scale laid down in the Act of 1870.

The Report lays down the principle that 'the interests and rights of all Landlords who have adopted, wholly or partially, what may be called the English System on this subject.'—that is the system by which the Landlord provides the permanent or fixed equipment of the farm—'ought to be most carefully guarded'; the Land Law Bill (section 7, sub-section 8), contents itself with providing that 'where an application is made to the Court under this section in respect of any tenancy, the Court may, if it think fit, disallow such application where the Court is satisfied that the holding, in which such tenancy subsists, has theretofore been maintained and improved by the Landlord'; thereby, not only leaving a discretion with the Court to accede to the application for a judicial rent, even where the Landlord has himself maintained and improved the holding; but throwing upon the Landlord the burden of proving that he has done so.

It is, however, on the question of 'Fair Rent' that the Land Law Bill leaves the Report entirely

behind. Lord Carlingford recognises two parties to the contract for the hire of land; and does not hesitate to refer to 'the lawless restraints of the legal rights of Landlords, which are known to have often prevailed'; when he speaks of 'Fair Rent,' he means what the words imply, a rent fair to both parties. Mr. Gladstone's idea of a 'Fair Rent' is something very different from this; he adopts the 'principle' of the Bessborough Commission, that the 'Fair Rent' of a farm must neccessarily be considerably below the 'commercial rent'; and he provides machinery for reducing it to a point even lower than the Bessborough Report dared to suggest. In fact the 'Fair Rent' of the Land Law Bill is Lord Carlingford's 'Fair Rent,' reduced with reference to the Tenant's supposed improvements; to his imaginary 'Possessory Right'; and to the increased and extended scale of compensation for impossible disturbance laid down in the Bill. There is no way by which the two can be reconciled; they are fundamentally and eternally irreconcilable. And the reason is obvious — Mr. Gladstone adopts the theory, invented by the Bessborough Commission, of 'Possessory Right' or joint ownership by the Tenant in the soil, which Lord Carlingford rejects, and which he proves conclusively not to have been even thought of when the Land Act of 1870 was passed. It is to the recognition of this 'Possessory Right' by Mr. Gladstone that we owe the proviso in Section 7 of the Bill, that, where tenant-right does not exist, the 'Fair Rent' is to be estimated with reference

to the scale of compensation for disturbance; the evident object being to measure, however roughly and unequally, the value of the Tenant's imaginary ownership. But Lord Carlingford knew nothing about this 'Possessory Right,' or rather, he did know that it had no existence; and hence made no allowance for it in his estimate of the 'Fair Rent'; and thus, as we have said, the 'Fair Rent' of the Report, and the 'Fair Rent' of the Bill are two fundamentally distinct things, and cannot be reconciled by any ingenuity of argument.

With such divergence of opinion between Mr. Gladstone and Lord Carlingford, the joint authors of the Land Act of 1870, we trust we shall not appeal in vain to Parliament—Lords and Commons alike—to proceed with full deliberation and extreme caution in the formidable task which the Government has imposed on them, of legislating on the Irish Land Question. At another time, we might have appealed to the sense of justice and love of fair-play characteristic of Englishmen; but the English people are now in one of their dangerous fits of virtue; and, in their desire to do what they believe to be 'justice to Ireland,' it is much to be feared that the less imposing duty of doing justice between man and man in Ireland may be lost sight of. And yet the question is one which concerns themselves far more nearly than they now imagine, or than perhaps they would bear patiently to be told. They will find it out for themselves before long.

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EVICTIONS.

On the 17th February, 1881, Mr. Forster, Chief Secretary, moved for a Return relating to Ejectments in Ireland 'for each of the four years ending 31st December, 1880,' distinguishing between Ejectments brought in the Superior Courts and those in the Civil Bill, or Quarter Sessions Courts; and also distinguishing between Ejectments on Title and those brought for non-payment of Rent.

From this Return it appears that during the year ended 31st December, 1880, the number of Ejectment Decrees executed in Ireland was 2888, of which 725 issued from the Superior Courts, and 2163 from the Civil Bill Courts. The fact thus disclosed that, during the year 1880, the Civil Bill Ejectment Decrees executed were three times as numerous as the Haberes from the Superior Courts, effectually disposes of the calumny that the Landlords of Ireland, who were compelled to

proceed against their Tenants, elected to do so in the Superior Courts, with the object of heaping law costs upon them. Such was not the case; and the fact that the Irish Landlords abstained from doing so, in the face of the avowed determination of Tenants, whom they knew to be solvent, not to pay beyond a certain proportion of their rents, and in some instances not to pay rent at all, is but one more proof of the forbearance which, as the Bessborough Commission was compelled to admit, characterizes the dealing of Irish Landlords with their Tenants.

It would further appear from the Return that of the 2888 Ejectments executed in 1880, there were 441 on Title, and 2447 for non-payment of Rent. This, however, is not strictly accurate as regards the Haberes issued from the Superior Courts; for we find that, in six counties, all the Evictions are set down to non-payment of Rent, the Sheriffs being unable to say how many were on Title. The number of Haberes executed in those six counties was 316, and if we divide this number in the same ratio as in the twenty-six other counties, respecting which there is definite information, we shall find that 74 of them were presumably on Title; so that the true proportion between Ejectments on Title, and those for non-payment of Rent in the Superior Courts will be about 170 of the former, to 555 of the latter, instead of 96 to 629, the numbers given in the Return. The same result is arrived at if we divide the unclassed Ejectments

in those six counties in the ratio of the two classes of Decrees issued in them.

In the case of the Civil Bill Ejectments, the distinction between those on Title, and those for non-payment of Rent, is made with more certainty, there being only two instances in which there was any doubt on the part of the Sheriff making the Return; and these two cases relate to only 63 Ejectments in all. We may, therefore, accept the Return relating to the Civil Bill Courts as showing, with substantial accuracy, the distinction between the two classes of Ejectment; and combining it with the corrected Return relating to the Superior Courts, we find that of the 2888 Ejectments executed in Ireland in 1880, there were 515, or less than 18.0 per cent., on Title, and 2373, or a little over 82 per cent., for non-payment of Rent.

Now, let us suppose for a moment that every one of those 2888 Ejectments was carried out to the bitter end, and that 2888 Tenant-farmers were actually evicted in the year 1880. This, as we shall show, is very far indeed from being the fact; but let us assume it for argument's sake, and let us see what it means.

It is not easy to determine the exact number of Tenant-farmers in Ireland. Agitators on the platform and in Parliament, and their organs in the Press, speak flippantly of 'the 600,000 Tenant-farmers of Ireland'; but to show how much above the truth such a statement is, we need only mention

the fact that the number of holdings in Ireland above one acre in extent was only 525,900 in 1879 (*Thom's Almanac* for 1881, p. 681). Of these, moreover, 65,269 consisted of less than five acres, and, doubtless, the greater part were not strictly agricultural holdings; and there were also many Tenants with more than one holding, some perhaps having several. Making allowance for these probable deductions, we believe we shall not be far from the truth if we estimate the number of Tenant-farmers in Ireland at 425,000, which is very near the number returned at the Census of 1871. It would make our argument stronger if we could adopt a higher number; but we desire, if we err at all, to err against ourselves.

Taking then the number of Tenant-farmers in Ireland at 425,000, and assuming for the present that the whole 2888 Ejectments executed in Ireland during the year 1880 were carried out to the full extent, and the Tenants actually and for ever dispossessed of their holdings, the per-centage of evictions would amount to only 0.68 per cent. of the number of Tenant-farmers, or one Eviction for every 147 farmers; and distinguishing between the different classes of Ejectments, only one Tenant in every 964 would have been evicted on Title, and one Tenant in every 175 for non-payment of Rent.

We must not forget that the Return before us relates to the year 1880, when the clamour against Landlords was at its loudest, and when the new-born zeal of the Government led them to bring in

the celebrated 'Disturbance Bill,' to save the Irish people from 'extermination.' A queer sort of 'extermination,' that, at its possible worst, would remove only one tenant yearly out of every 147, and could not be completed in less than 147 years! We wonder whether more than one man out of every 147 in business in Ireland fails annually, and how many of those who were in business 147 years ago are now represented in the trading community.

So far we have dealt with the question on the assumption that the whole 2888 evictions were carried out to extremity, and the Tenants finally dispossessed; but, as we have said, this is very far indeed from being the fact.

As soon as the Return was made public the Irish Land Committee took steps to obtain accurate information respecting each case—a very difficult and tedious task for private individuals to accomplish. They have been successful in getting almost complete details from 22 counties, comprising 7 of the 9 counties of Ulster, 10 of the 12 counties of Leinster, 3 of the 5 counties of Connaught, and 2 of the 6 counties of Munster, and information of a less complete character from the others. The following Table shows, in detail, the particulars which the Committee have been able to obtain respecting Ejectments for non-payment of Rent in the 22 counties referred to:—

TABLE I.

Showing details respecting Ejectments for non-payment of Rent in Ireland during the year 1880, *so far as same could be ascertained.*

Province.	Number of Counties Tabulated.	Nature of Decree.			Defendants reinstated.			Some of Defendants, Relative, or Representative admitted as Tenant.	Defendants got compensation in money, or leave to sell their interests.	Premises not agricultural, Houses only, or deserted.	Defendant not resident on the holding.	Possession given up by agreement.	Defendant included in previous tabulation.	No Explanation offered.	No Information.	Total as in Col. (5).
		Superior Courts.	Civil Bill Courts.	Total.	As Tenants.	As Caretakers.	Total reinstated.									
(1).	(2).	(3).	(4).	(5).	(6).	(7).	(8).	(9).	(10).	(11).	(12).	(13).	(14).	(15).	(16).	(17).
Ulster, . .	7	46	716	762	276	190	466	28	45	99	48	8	30	22	16	762
Leinster, . .	10	140	245	385	73	46	119	21	26	86	61	6	18	25	23	385
Connaught, .	3	19	146	165	29	43	72	2	1	26	28	3	4	9	20	165
Munster, .	2	48	104	152	42	19	61	9	7	24	17	2	4	19	9	152
Ireland, .	22	253	1211	1464	420	298	718	60	79	235	154	19	56	75	68	1464
Per Centages, .	68·75	17·28	82·72	100·0	28·69	20·36	49·05	4·10	5·40	16·05	10·52	1·30	3·82	5·12	4·64	100·0

This Table deals with 1464 cases of Ejectment for non-payment of Rent, amounting to 61.7 per cent., of the 2373 included in the Government Return. The portion of Ireland to which it relates is fairly typical of the entire country; it includes Donegal, Galway, and Mayo, three of the poorest counties in Ireland, and comprises the whole mountainous seaboard of the North and West, from Lough Foyle to the mouth of the Shannon.

The Land Committee pledge themselves that they have made every exertion in their power to obtain information respecting these Ejectments; that they have faithfully tabulated the information they received; and they believe that if it had been possible for them to obtain full details regarding the counties not included in the tabulation, the result would not have been materially different from that presented by the Table. We may, therefore, safely assume that we have before us, in the 22 counties tabulated, a fair representation of all Ireland.

The first and most striking fact disclosed by the Table is, that of the 1464 Tenants evicted in 1880 for non-payment of Rent, no fewer than 718 (Col. 8 of Table), or very nearly one-half of the entire number, were not removed at all! Of these, 420, or 28.69 per cent., were restored as Tenants, and 298, or 19.80 per cent., as Caretakers. We shall have something more to say respecting these latter a little further on—for the present we need only know that they were left in occupation. The plain English of

this portion of the Table is, that of every 100 Tenants evicted for non-payment of rent during the eventful year 1880, no fewer than 49 were instantly reinstated, 29 of them in full possession as Tenants, and 20 in occupation as Caretakers; in fact, 49 out of every 100 were practically not evicted.

There yet remain, however, 746 cases of Ejectment for non-payment of Rent, or 51 out of every 100, in which the Tenants were not restored either as Tenants or Caretakers, but were actually 'evicted' in the ordinary sense of the term. Let us see what the Table says about them. The answer is complete and satisfactory. Taking the Columns in their order, we find that in 60 cases (Col. 9), or 4 in every 100, some of the Defendants—where there were joint-occupiers—or some relatives or representatives of the Defendants, were admitted as Tenants; that in 79 cases, rather more than 5 in every 100, the Defendants got compensation in money from the Landlord, or were allowed to sell the interest in their holdings; that in 235 cases, or 16 out of every 100, the holdings consisted of houses only, or were not agricultural—having possibly but a small garden attached to the dwelling-house—or had been deserted; that in 154 cases, rather more than 10 in every 100, the Defendants were non-resident on the holding from which they were evicted—there can be absentee Tenants as well as absentee Landlords—that in 19 cases, a little over one in every 100, the Tenant gave up possession by agreement with the Landlord; and that in 56 cases, rather less than

4 in every 100, the Defendants were included under some previous heading. Adding these cases together, we find that, of the 746 Tenants not reinstated in occupation, 603 were evicted under circumstances that deprived their removal of all element of harshness or greed on the part of the Landlord; leaving only 143, or less than 10 in every 100, of the whole 1464 cases unexplained. In 75 of these 143 cases no explanation was offered in respect of the eviction, and in 68 cases no information could be obtained.

We have already shown that if the whole 2888 Ejectments executed in Ireland in 1880 had been carried out to extremity, and the Tenants finally evicted, considerably less than one per cent. of the Tenant-farmers would have been disturbed; that, in fact, only one tenant in every 147 would have been removed. We now see that considerably more than fifty per cent. of those nominally evicted were not removed at all; and that of the remainder only ten per cent. cannot be accounted for. Let us apply these percentages to the 2373 Ejectments for non-payment of Rent. Adding together the percentage of Tenants reinstated in their holdings, of Tenants not resident on the evicted premises, of Tenants of premises not agricultural or deserted, and of those occupying houses only, we find that there were actually 76.62 per cent.—or over 76 cases out of every 100—in which either the Tenants were not removed at all; or, if removed, could not by any ingenuity be represented as being Tenant-farmers, for whom alone the Landlords can be held

accountable. The percentage of those not removed at all was 59.57—or nearly 60 out of every 100—and the remainder were not agricultural Tenants, in any sense of the term. And, admitting, what we are not in a position to deny, that the 9.76 per cent.—less than 10 in every 100 evictions—respecting which we are unable to offer any explanation, were for non-payment of Rent only, what does it amount to? Simply, that of the 2373 Ejectments *executed* in Ireland in 1880 for non-payment of Rent, there were only 231 Tenants evicted, in respect of whom there was not some cause, in addition to the non-payment, to justify or explain the eviction; while, on the other hand, there were 17.05 per cent.—or 405 Tenants—who were not agricultural, and 59.57 per cent.—or 1413 Tenants—who were not removed at all!

Let us now compare these numbers with the estimated number of Tenants in Ireland, and we find that the 231 unexplained cases amount only to .054 per cent. of the 425,000 Tenant-farmers, or *one eviction for every eighteen hundred and forty Tenants!*

Further, it does not follow that these Evictions, respecting which the Land Committee have been unable to obtain definite information, were all necessarily carried out to the full extent—on the contrary, it would be only fair to reason from analogy that the greater portion of them were not—and lastly, it must be remembered that both the 2373 Ejectments given in the Government Return, and the 1464 Tabulated by the Land Committee, were for non-payment of rent.

Hitherto at least, the payment of rent has been considered a necessary incident of the occupation of a Farm; and its non-payment a sufficient cause for the removal of the Tenant.

Reverting to the cases of those Tenants who were re-instated in their holdings as caretakers, it may be necessary to explain that, in Ireland, Tenants evicted for non-payment of Rent are allowed a period of six months, during which they can redeem their holdings by payment of the arrears of Rent and the costs of the Ejectment; and it is customary, at least in cases where there is any prospect of the Tenant's exercising this right of redemption, to allow him to remain in occupation during those six months. If the Landlord, however, were to allow him to remain in occupation after eviction, except as caretaker, and if he failed to redeem within the six months allowed for the purpose, it would be necessary to have recourse to further legal proceedings in order to remove him. This is obviated by allowing the evicted Tenant to remain in occupation as caretaker for the Landlord; and it commonly happens that before the expiration of the period allowed for redemption a new agreement is come to, and the temporary caretaker remains in possession as Tenant, or receives from the Landlord a sum sufficient to enable him to take his family elsewhere.

It will be observed that both in the Government Return and in the foregoing Table there is a much larger proportion of Ejectments executed in Ulster

than in the other Provinces. Without attempting to explain this apparent anomaly, we shall only draw attention to the fact that it is in the Province where Tenant-right exists, and in which the Tenants are supposed to be the most prosperous, that Ejectments are most numerous; a fact which clearly establishes that Ejectments are not necessarily a proof of arbitrary action on the part of the Landlords, and that they will not be prevented by the extension of the Ulster Custom to all Ireland.

It is necessary to bear in mind that no action of Ejectment for non-payment of Rent can be brought in Ireland until at least a year's rent is due. It is unusual, in the case of agricultural holdings, to proceed by ejectment when the tenant owes only a year's rent; and when such proceedings are taken, they are rarely commenced until a third gale of rent is nearly due. In consequence of this, and of the time necessary to carry out the legal proceedings, and also of the six months allowed for redemption, it is almost impossible for a Landlord to remove a defaulting Tenant until at least two years' rent is due; which rent, of course, he loses, as well as the costs of the legal proceedings. When a larger sum is due at the commencement of the proceedings, the Landlord's ultimate loss is proportionally greater, and, in practice, seldom amounts to less than three years' rent.

The following Table exhibits in a forcible manner the forbearance shown by Landlords in Ireland towards their defaulting Tenants:—

TABLE II.

Showing the Number of Half-yearly Gales of Rent Due before Ejectment Proceedings were commenced.

Province.	Number of Ejectments Tabulated.	Number of Gales Due.										
		2	3	4	5	6	7	8	9	10	Above 10	Total.
Ulster, . .	693	57	115	173	82	123	33	45	13	10	42	693
Leinster, . .	264	63	69	64	29	24	5	4	2	1	3	264
Connaught, .	109	27	26	25	11	7	1	2	1	3	6	109
Munster, . .	100	36	30	22	3	4	—	3	—	1	1	100
Totals, . .	1166	183	240	284	125	158	39	54	16	15	52	1166
Per Centages, .	100.0	15.69	20.58	24.36	10.72	13.56	3.35	4.63	1.37	1.28	4.46	100.0

The Ejectments included in this Table amount to 79.65 per cent., or very nearly four-fifths of the number in Table I.; and to 49.14 per cent., or nearly one-half of the number of Ejectments for non-payment of Rent given in the Government Return for 1880. The counties to which the tabulation relates are the same as in Table I., and are, as we have already shown, fairly typical of the whole country. There is no reason to believe that exactly similar results would not be arrived at if the entire number of Ejectments for non-payment of Rent executed in Ireland during the year 1880 could be investigated, and we may assume that such would be the case. It is scarcely necessary for us to analyze the Table minutely—it speaks for itself; but we may direct attention to the fact established by it, that of every 100 Tenants evicted, rather less than 17 owed so few as 2 gales, or 1 year's rent; that rather more than 20 owed 3 gales; that rather more than 24 owed 4 gales, or 2 years' rent; and that between 39 and 40 owed at least 2½ years' rent before the Ejectment proceedings were commenced.

As already stated, we must add on an average a year's rent in each case in estimating the loss to the Landlord, to cover the time necessary to carry out the legal proceedings, and the six months allowed for redemption; and we ask the public to consider whether it is fair to brand as tyrants and exterminators a body of men who in the few cases in which they are compelled to have recourse to the *ultima ratio* of Eviction, show such

forbearance towards their defaulting tenants. There can be no doubt about the answer.

In Table III. (p. 18) we give details of ejectments on Title executed in Ireland in 1880.

It ought to be sufficient explanation of the Ejectments in this Table to say that, so far as they are the result of the Landlord's action, the Tenants affected by them are *primâ facie* entitled to the full benefit of the 'Disturbance Clauses' of the Land Act of 1870, and, in addition, to full compensation for the improvements made by themselves or their predecessors in Title. But even here we find that the action of the Landlords is on the most limited scale, and of the most forbearing character.

No fewer than 36.88 per cent. of the whole number of Ejectments tabulated were brought at suit of, or for the benefit of, persons other than the Landlords. In 30.91 per cent. of the cases, the premises were not agricultural, or were deserted, or consisted of houses only. In 6.75 per cent. the tenants were reinstated, 5 per cent. of them as Tenants, and in 5.19 cases the defendants were non-resident. Adding these per-centages together, we have 79.83 of the Ejectments on Title, or very nearly 80 out of every 100 Ejectments which cannot be ascribed to harshness or caprice on the part of the Landlords; and there are only 9.87 per cent.—or less than 10 in every 100 evictions—of which a satisfactory explanation is not given.

Admitting, as in the case of Ejectments for non-payment of rent, that these 9.87 per cent.—equivalent to 51 of the 515 Ejectments on Title exe-

TABLE III.

Showing the Details respecting Ejectments on Title, executed during the Year 1880, *so far as same could be ascertained.*

PROVINCE.	Number of Counties Tabulated.	Number and Nature of Decrees.			Defendants Re-instated.			Ejectments at suit of or for benefit of persons other than Landlords, viz., Assignees, Reversionists, Mortgagees, Executors, Trustees, &c., or to carry out family arrangements between Tenants.	Premises not Agricultural; Deserted Premises, or Houses only.	Some of Defendants, Relatives, or Representatives admitted as Tenants.	Defendant got Compensation in Money.	Defendant non-resident on Premises.	Defendant a Squatter, Cottier, or Servant of a deceased Tenant.	On Expiration of Lease, or death of Tenant.	Defendant included in previous Tabulation.	No Explanation offered.	No Information.	Total as in Column (5).
		Superior Courts.	Civil Bill Courts.	Totals.	As Tenants.	As Caretakers.	Total.											
(1).	(2).	(3).	(4).	(5).	(6).	(7).	(8).	(9).	(10).	(11).	(12).	(13).	(14).	(15).	(16).	(17).	(18).	(19).
ULSTER, . .	7	37	146	183	6	5	11	99	40	1	4	8	—	4	2	7	7	183
LEINSTER, .	10	37	77	114	7	1	8	21	52	5	4	7	4	6	—	1	6	114
CONNAUGHT,	3	4	25	29	1	—	1	8	12	—	—	4	—	—	—	2	2	29
MUNSTER, .	2	20	39	59	5	1	6	14	15	4	2	1	2	2	—	—	13	59
IRELAND, .	22	98	287	385	19	7	26	142	119	10	10	20	6	12	2	10	28	385
Per Centages,	68.75	22.45	74.55	100.0	4.93	1.82	6.75	36.88	30.91	2.60	2.60	5.19	1.56	3.12	0.52	2.60	7.27	100.0

cuted in 1880—cannot be satisfactorily explained; though, as in the former case, this does not at all follow; and comparing this number with the 425,000 Tenant-farmers of Ireland, we find that *only one in every* 8333 *Tenants was so evicted during the year.* It is surely not necessary to pursue this branch of the question further.

The picture presented in the foregoing pages is very different from that drawn by the Agitators, with which we are all familiar. These men know, when they speak of thousands of persons flung daily on the roadside, without food or shelter, that they are speaking of a state of things that no more exists in Ireland than in Kent or Surrey; but they also know that assertions, no matter how reckless or false, if only made with sufficient boldness and repeated with sufficient frequency, will receive credit from the multitude, who know nothing of the facts, and have neither the opportunity nor the inclination to investigate them. They know, further, that no subsequent contradiction or disproof will remove the injurious impression made by the first calumny; and caring nothing for the exposure, which is sure to follow in due time, they do not scruple to utter the most malignant falsehoods.* It is thus the character of Irish Landlords is vili-

* The *Times* of the 14th of July, instant, speaks in the following unqualified terms on this very subject:—'It is only just to say that if any one thing has been clearly established in the course of this long inquiry, it is that the attacks made upon the general body of the Irish landlords have been absolutely baseless and calumnious.'

fied; it is thus that, in spite of the testimony borne by the Bessborough Commission, who say that, 'a Tenant who pays his rent is very seldom evicted'; and that, 'even if the rent falls into arrear, it has not been the general or the prevailing rule that ejectment should follow, as a matter of course'; in spite of Mr. Gladstone's declaration, in his introductory speech on the Land Law Bill, that 'the Landlords of Ireland had stood their trial, and had, as a rule, been acquitted,' the same course of slander against Irish Landlords is systematically persisted in. Day after day, under the flimsy disguise of questions to the Government leaders in Parliament, the calumnies are repeated in every form of exaggeration. Day after day Mr. Forster, speaking with the authority of Chief Secretary for Ireland and a Cabinet Minister, exposes their utter baselessness. All to no purpose; next day another head of the Land League Hydra rises to put a similar interpellation, only to meet with the same ignominious repulse. And yet, day after day the Land Law Bill proceeds through Committee, apparently on the assumption that no portion of the allegations made against Irish Landlords has been challenged, much less refuted; that they are the grasping tyrants and exterminators the Land League represents them to be, whom no moral obligation, no human sympathy can bind; and who can be restrained only by a special code of laws, that violates the soundest principles of economic science, and outrages the most sacred traditions of the British Parliament.

THE

LAND QUESTION,

IRELAND.

No. XIV.

THE WORKING

OF

THE LAND LAW ACT.

FEBRUARY, 1882.

ISSUED BY

THE IRISH LAND COMMITTEE,

32, MOLESWORTH-STREET, DUBLIN.

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THE WORKING

OF

THE LAND LAW ACT.

ONLY a few months have elapsed since Mr. Gladstone introduced his Land Law Bill. That measure professed to deal with five prominent points connected with the Irish Land question, viz. :—'Free Sale,' 'Fixity,' or, to use Mr. Gladstone's euphemism, '*Stability* of Tenure,' 'Fair Rents,' 'Peasant Proprietorship,' and 'Emigration.' All of these points, and the proposals affecting them, were discussed *ad nauseam*, except one; and that point is now the only one which engages public attention! Foreseeing but too clearly that even the present House of Commons would never sanction the theory of 'Fair Rent' which he had made up his mind to adopt, Mr. Gladstone adroitly proposed that the interpretation of the term, and its practical application, should be left to the discretion of the new Land Commission Court, subject only to a direction that the interest of both Landlord and Tenant, and the circumstances of the

case, holding, and district, should be taken into consideration. With a too fatal facility the insidious proposal was accepted; and the result is, that this central point round which the whole Land Question turns, instead of being debated openly in Parliament, and dealt with, after discussion, by the constitutional representatives of the nation, has been left to the secret decision of a number of mongrel tribunals—half court, half valuation office—of the very existence of which, much less their constitution, Parliament had no knowledge or conception, when it handed over to them the estates of the Irish Landlords to be dealt with as they might think fit. Who now speaks—or even thinks—of 'Free Sale,' 'Fixity of Tenure,' 'Emigration,' or 'Peasant Proprietary'? Aaron's rod has swallowed up all the rest; and 'Fair Rent' alone remains to attest the divine commission of Mr. Gladstone.

Let us ask, in all seriousness, was there a man in the House of Commons, except perhaps the few in the immediate confidence of the Government, who did not believe that in delegating the functions of Parliament to the embryo Land Commission Court, he was transferring the responsibility to the supreme tribunal, where the question would be dealt with in open court, according to the practice of the British Constitution; and where, as was then expected, men of independent character and trained judicial intel-

ligence, would preside? And let us further ask, how many of those who consented so to transfer to the new Land Court the duty of settling the principles on which the 'Fair Rent' should be assessed would have done so, if they had foreseen that the Land Court would, with scarcely a word of direction, content itself with passing on the responsibility to inferior tribunals, presided over by young barristers, and country attorneys, and numbering among their members persons with such peculiar qualifications as being officers of militia, coroners, publicans, and unsuccessful farmers?

But though Parliament deliberately abstained from laying down the principles that should guide the Land Court in fixing the 'Fair Rent,' it did not shrink at the last moment from allowing a clause to be introduced, almost surreptitiously, which affirmed the principle that no rent should be allowed in respect of 'improvements' supposed to be made by the Tenant or his predecessors in title. And, as if all this was not enough, Mr. Gladstone explicitly pledged himself that the persons selected to administer the Act should all be in sympathy with its spirit—in other words, that they should come to the discharge of their judicial functions prejudiced in favour of the Tenant.

In this last respect Mr. Gladstone has most scrupulously kept his word. Of the thirty-nine persons who compose the Chief Commission and

the Sub-Commissions, we doubt if there are five who, by any ingenuity of misrepresentation, could be said not to be predisposed in favour of the Tenant; and good care has been taken to yoke the few who might be suspected of Landlord proclivities with fellow-Commissioners of such sterling 'popular' virtue as to render the minority powerless for good or evil.

On the personal qualifications of the individuals appointed as members of the Sub-Commissions we do not propose at present to offer any opinion. We presume that, when Parliament meets, full scrutiny will be made into this important matter, and each case dealt with on its merits, or otherwise. But we think that, in the interests of public justice and of public decency, it would have been well if the sphere of action of some of the Sub-Commissioners had been removed to a distance from localities with which they were personally connected. It is scarcely edifying to see a gentleman who, two or three months before, had been a practising solicitor in a certain northern town, presiding in the same town as Commissioner under the Land Law Act, and his partner pleading before him as the advocate of the Tenants. Neither is it calculated, at the present time, to strengthen the confidence of the public in the impartial administration of the Act, to find the brother of a parish priest acting as Commissioner in a town not many miles from his brother's parish, and within less than ten miles of

his own dwelling-house; or a publican engaged in carrying out, not far from his own shop, an Act of Parliament which entertains so high an opinion of his calling as to make it a condition of statutory tenure, that no public-house shall be opened on the farm. There is no people in the world more keenly alive to incongruities of this kind than the Irish ; and if even a prophet has no honour in his own country or among his own people, what amount of respect will be felt for a Sub-Commissioner of the Land Court under similar circumstances ?

But apart from all considerations of public decorum, is it just or fair towards the suitors to submit their cases to the decision of men no less liable than others to the influence of local sympathies and local antipathies ?

We have already spoken of Mr. Gladstone's pledge that the persons appointed to carry out the Act should be in sympathy with its spirit; but, while we admit that the intention of the Act was to benefit the Tenants, we claim that it professed to do so without inflicting injustice upon the Landlords. Beginning with the Queen's Speech, in which Her Majesty is made to recommend the further development of the Act of 1870, 'which had been productive of great benefits and had much contributed to the security and comparative well-being of the occupiers of the soil *without diminishing the value or disturbing the foundations of property*'; we next have Mr. Gladstone

himself, when introducing the Land Law Bill, giving utterance to the remarkable statement that the Landlords of Ireland 'had stood their trial, and had as a rule been acquitted.' All through the weary debates in the House of Commons, and even more emphatically in the House of Lords, members of the Government and their allies again and again repeated the assertion that no wrong would be done to the Landlords, and no loss inflicted upon them.

It may be well to quote from *Hansard* a few of the Parliamentary utterances of Ministers and their friends as to the effect of the Land Law Act upon the property of the Irish Landlords.

Mr. Gladstone's remarkable statement, already referred to, is thus reported:—

'Well, sir, neither, I am bound to say, should we think it just to propose legislation on this great matter, on the ground, whether expressed or implied, of general misconduct on the part of the Landlords of Ireland. On the contrary, as a rule, they have stood their trial, and they have as a rule been acquitted. The Report of the Bessborough Commission, which certainly is not deficient in its popular sympathies, in its tenth paragraph declares that the greatest credit is due to the Irish Landlords for not exacting all that they by law are entitled to exact.' And again, 'It may seem hard, when there are so many Landlords with whom we have not a shred of title to interfere, were it possible to sever their case from other

cases around them, that they must be liable to interference on account of the acts or omissions of the few; but so it is, and so it must be, under the iron necessity of public affairs.' (*Hansard*, vol. 260, pp. 892-3). Again, Mr Gladstone says, 'We believe that by bringing together on fair conditions and in fair competition the right of the Tenant to assign, and the right of the Landlord to get what his land is reasonably worth, we shall be able to obtain a result agreeable to justice, and agreeable to the interests of both.' (*Ibid.* p. 904.) At a later stage of the debate Mr. Gladstone said:

'It is said that many Landlords in Ireland think fit to charge a rent lower than the law of fair rents would allow them. There are, no doubt, a number—and not an insignificant number—of Landlords who are content to take, and perhaps take pride in accepting, a less rent than the law would give them.' (*Hansard*, vol. 262, p. 1856.)

Mr. Bright, certainly no friend to Irish Landlords, says—'My view is, that in reality the rents in Ireland will, for the most part, in nine cases out of ten, be fixed very much as they are now. It does not follow that there will be no difference in rents; increases which are harsh and unjust will no longer take place. The effect of this law will be to change the position of the contracting parties; it will improve the position of both.' (*Hansard*, vol. 261, p. 103.)

Let us now hear the opinion of Mr. Law, the

late Irish Attorney-General, and present Irish Chancellor of Mr. Gladstone's Government, and, next to Mr. Gladstone himself, the leading spirit of the debates on the Land Bill in its passage through Parliament.

'Now he (Mr. Law) would like to know upon what ground the Landlords claimed to be entitled to compensation. . . . . If Landlords as a class, or any class of Landlords, claimed to be entitled to compensation, the question must be decided by that House. The Government, however, did not admit that there would be any loss to the Landlord, except the loss of a power which he ought not to exercise. . . . In conclusion, he must repeat that, for his part, he could see nothing in the Bill that interfered with the just rights of the Landlord . . .' (*Hansard*, vol. 261, pp. 1377, 1379, and 1381.)

Mr. Litton, now one of the Commissioners administering the Land Law Act, having given his opinion that 'there need be no litigation, except in those cases where the relations between Landlord and Tenant were strained,' went on to say: 'Once the Landlords adopted and carried out the principles of the "Three F's" the Bill was not required. Therefore, in dealing with this matter a just and fair Landlord had nothing to fear, and in that case things would go on just as if the Bill had never passed.' (*Hansard*, vol. 261, p. 324.)

Mr. Parnell, whom we do not mean to represent as a friend of the Government, or entitled to

speak for them, sums up the Ministerial declarations as to the effect of the Bill, in a speech which was not only not contradicted at the time, but which elicited the incidental concurrence of Mr. Gladstone. Mr. Parnell said—'But we have also the authority of the authors of the Bill as to the extent of this benefit to the Irish Tenants. We have, in addition, the declaration of the principal Ministers of the Crown. We have, first of all, the declaration of the Prime Minister in introducing the Bill, that the Landlords as a rule had stood their trial well, and that he did not propose to interefere with them as a body, and that this Bill would not interfere with the rents of the Landlords as a body [*Mr. Gladstone*, 'Except in the case of the payment of excessive rent']. Just so; in other words, that he did not believe that the rents of the majority of Irish Landlords would be in any way reduced. We have also the statement of the right hon. Gentleman, the Chief Secretary to the Lord Lieutenant, to the same effect. He stated that he believed that a very small minority of Irish Landlords would be affected, in any way, by the measure. We have also the statement of the right hon. Gentleman, the Chancellor of the Duchy of Lancaster (Mr. Bright) the other night, when he said that the Bill would not reduce the rents of more than one-tenth of the whole body of Irish Landlords; and certainly if I am entitled to assume—and anybody can predict, what would be the result of the work of this complicated mea-

sure—I am entitled to assume that the three right hon. Gentlemen who are responsible for this measure know more about its probable working than any other Member.' (*Hansard*, vol. 261, p. 885.)

Let us now turn to the debates in the House of Lords, and we find the Lord Chancellor and Lord Carlingford enunciating the same principles in even stronger language. The Lord Chancellor said: 'I think this is a case in which one cannot do wrong in trying to imagine one's-self in the position of an Irish Landlord. Remember the circumstances under which the legislation takes place, and say in your conscience whether you would think yourself wronged by such a Bill. I can say, with a clear conscience, that I should not think myself wronged.' (*Hansard*, vol. 264, p. 519). Again, referring to the existing agitation, His Lordship went on to say: 'Well, our object is, as far as possible, to put an end to that state of things; and by devising the best means—those most likely, as we think, to work permanently and justly—to secure and maintain the value of the Landlord's interest as much as that of the Tenant.' (*Ibid.* p. 522). Again, even more emphatically, the Lord Chancellor says: 'I deny that it (the Bill) will in any degree whatever diminish the rights of the Landlord, or the value of the interest he possesses' (*Ibid.* p. 532). Lord Carlingford, who was selected to succeed the Duke of Argyle as Lord Privy Seal, for the express purpose of carrying the Bill through the

House of Lords, said: 'My Lords, I maintain that the provisions of this Bill will cause the Landlords no money loss whatever. I believe that it will inflict upon them no loss of income, except in those cases in which a certain number of Landlords may have imposed upon their Tenants excessive and inequitable rents, which they are probably vainly trying to recover.' (*Hansard*, vol. 264, p. 252.)

It is not necessary to multiply quotations; those we have given suffice to show that the responsible authors of the Bill represented it to Parliament as a measure designed to apply only to a small section of Irish proprietors, and not calculated to inflict any injury, or cause any loss to the great majority of the Landlords, against whom no charge of exacting harsh or excessive rents was attempted to be advanced. Accordingly, in the Act itself, we find the rights and interests of the Landlords provided for with apparent care; but when we come to the administration of the Act, we find all the safeguards brushed aside—the one avowed object being to benefit the Tenants; and the one way to benefit them being to reduce the rent.

At the very first sitting of the new Land Court, Mr. Justice O'Hagan, the Judicial Commissioner, in his opening address, dwelt strongly upon the simplicity of the procedure to be adopted, and especially on the facility of access to the Court. His words were:—

'There are no pleadings, no elaborate enumeration of particulars, no statement of claim or of dispute. A Tenant, for example, desiring to have a fair rent fixed for his holding, serves notice on his Landlord saying so, and stating the circum stances of his holding as to situation, present rent, and valuation, all of which lie easily within his own knowledge. He has his choice as to the Court. He may either select the Civil Bill Court of the county or the Land Commission. And so soon as a copy of the notice is transmitted by post to the Clerk of the Peace or the Secretary of the Land Commission, the case is in Court, and will, as early as possible, receive a trial.'

This is, no doubt, a very simple proceeding, and harmless enough at first sight; but, simple and innocent as it looks, it has been the means of inflicting deadly wrong upon the unfortunate Landlords. Under the Land Act of 1870, a Tenant seeking compensation for improvements was obliged to serve on his Landlord a 'statement of claim,' setting forth the particular improvements on which he relied; and he was further obliged to serve this 'statement of claim' a month before the hearing of the case. But the Land Commission has changed all that. The 'statement of claim' is dispensed with, and instead, the Landlord is furnished with particulars as to the 'situation, present rent, and valuation' of the holding, all of which he knows as well as the Tenant. The result, as shown in nearly every case tried, is

that the Landlord learns, for the first time, the 'improvements' claimed to have been made by the Tenant only when the case is actually at hearing, and when it is utterly impossible for him even to cross-examine the witness, much less to offer rebutting evidence. Those who know Ireland—among whom we are willing to reckon Mr. Justice O'Hagan—know how loosely Irish Tenants will swear when their interests are involved. Even under the Act of 1870, when the Tenants were obliged to furnish particulars, and when they knew that the Landlord could and would produce evidence to contradict them, they were accustomed to swear so recklessly, that it was no uncommon thing to find the Court cutting down the claim, to the truth and justice of which they had deposed on oath, to one-fourth or one-fifth of the original demand. Are they likely to be more truthful, or more cautious now, when the claim is made for the first time on the witness table, with the full knowledge that the Landlord cannot offer more than a vague general contradiction in reply?

We repeat that it is almost impossible to estimate the amount of wrong done daily to Irish Landlords, by allowing the Tenants to withhold all information as to the 'improvements' in respect of which they intend to claim a reduction of rent, until the case is actually at hearing. Besides, such a mode of procedure is wholly foreign to British law. Fancy a statute

passed enabling a tradesman to sue a customer for a bulk sum on foot of an account without furnishing particulars before the trial! Fancy the worst criminal that ever disgraced humanity, learning for the first time, when given in charge to the jury, the offence of which he is accused! No nation, though just emerging from barbarism, would tolerate for a moment a proceeding so repugnant to even the most elementary notion of justice; but, under the 'simple procedure' of the Irish Land Court, the Landlords are hourly required to meet claims for improvements by Tenants of which they have had no previous notice, no 'statement of claim' whatsoever, and, consequently, no possible opportunity of testing their reality, or rebutting them, if unfounded. And this denial of justice is paraded as a merit of the Tribunal which sanctions it! We are entitled to ask if Parliament, when passing the Land Bill, had any idea of the possibility of such a mode of procedure being adopted. That it found no place in Mr. Gladstone's original conception of the Land Court is plain from the following extract from his speech introducing the Bill, as reported in the *Times* of April 8th, 1881:—

'There is another condition which I cannot help mentioning, and it is this—we cannot have a one-sided Court. If the Court is to interfere, it must be for the purpose of doing justice; we cannot lay down the proposition that it is to interfere for the protection and advantage of the Tenant alone.

We cannot make those who occupy the seat of justice forget justice, even for promoting objects so highly important as Land Reform.'

It is strange that these words, of which any statesman might be proud, are not to be found reported in *Hansard*.

Let us now see how the Sub-Commissioners have discharged their trust. So far they have been occupied solely with settling the 'Fair Rent' —an operation which they have reduced to a system of the greatest simplicity. It would seem as if it was part of their commission to reduce rents everywhere, and under all circumstances. In the cases already decided by them, the number in which they have increased the existing rent could almost be counted on the fingers; and in some of these cases they have added only a few shillings—six shillings in one case, and half-a-crown in another—to the rent paid previously. In one instance the addition was made avowedly in the Tenant's interest, so that he might reap, at an almost nominal cost, the whole advantage of the Landlord's outlay on drainage during the past two years. Various explanations of this uniform action in lowering rents have been given. The Land Leaguers say the rents are too high, and have not been reduced half enough. The apologists for the Commissioners say that the first cases brought into Court were necessarily those most loudly demanding interference with the present rents. Others, admit-

ting the suspicious aspect of the case, plead that it is necessary to entice the Tenants into Court by liberal reductions in the earlier instances, and assert that the more flagrant decisions will be set right on appeal. The Commissioners themselves scorn to give reasons for their decisions. They have excellent reasons, they say, 'plentiful as blackberries; but they won't give them on compulsion.' In some cases the presiding Sub-Commissioner pronounces a formal judgment after the orthodox fashion; but, if the Court is in a hurry to dinner, or wants to value a few farms before dark—and darkness sets in early in January in our latitude—he contents himself with reading out the figures without note or comment.

In no instance, however, has any Sub-Commissioner committed himself to a definite enunciation of the principles by which he has been governed in arriving at the judicial rent, although to ascertain and define those principles is the very duty which Parliament delegated to the Land Commission Court; and although it would be of the last importance to Landlords and Tenants anxious to come to a settlement—if any such be left—to know exactly what they might expect in the event of litigation.

Mr. Commissioner Litton, in a lengthened judgment, delivered by him at Belfast, in the case of *Adams* v. *Dunseath*, professes to give his opinion as to how the fair rent should be ascertained; but we must confess that, though we have

read this judgment more than once, we have not risen from its perusal with any clearer notions on the subject than we had before. Briefly stated, Mr. Litton's opinion is, that the 'Fair Rent' is the 'Commercial Rent' reduced by the annual value of the Tenant's improvements. Let us grant, for argument's sake, that such a rent would be fair; let us grant that such a rent is that contemplated by the Act—though to neither proposition can we give our entire assent—and how are we assisted or advanced in our effort to ascertain the 'Fair Rent' by Mr. Litton's formula? The fundamental difficulty still remains—what is the 'Commercial Rent'? Mr. Litton expressly states that it is not the 'Competition' Rent. What then is it; and how is it to be estimated? Until we know this, Mr. Litton's elaborate effort to define the principles for ascertaining the 'Fair' Rent affords really no assistance to either Landlord or Tenant anxious to avoid litigation by coming to a settlement out of Court. It is the old Hindoo theory of the universe over again: the world rests on the elephant, the elephant stands on the tortoise, the tortoise stands upon—what? 'Fair' Rent depends on 'Commercial' Rent; but what does 'Commercial' Rent depend upon? We infer from Mr. Litton's quotation from the Report of the Bessborough Commission that it depends upon the gross produce of the land; but neither Mr. Litton nor the framer of the Bessborough Report attempts to define how the Commercial

Rent is to be deduced from the gross produce. The truth is, that 'Commercial' Rent and 'Competition' Rent mean exactly the same thing—the terms are strictly convertible; and the only true way in which the value of land can be ascertained is by free competition between those who wish to have it. Some glimmering of this fact seems to have dawned upon one of the legal Sub-Commissioners, who has refused to assess the value of the Tenant's saleable interest in his holding, on the express grounds that it cannot be ascertained until the holding is actually in the market for sale, when the highest sum bid for it must be regarded as the true value. This is precisely the 'competition' or 'commercial' value of the Tenant's interest in the holding; and supposing the sale and bidding to be *bonâ fide*, it is the true value; and the Tenant, under the Land Law Act, is entitled to get it, subject to any claim the Landlord may have for rent, &c. On the same principle, the Fair Rent of a farm should be its *bonâ fide* 'competition' or 'commercial' value, subject to any well-founded claim the Tenant may have for improvements. The strange part of the matter is, that the Sub-Commissioner who is unable to assess the value of the Tenant's interest, without submitting it to the test of public competition, has no hesitation whatever about fixing the amount of the Landlord's rent after a trifle of hard swearing by interested parties, and a cursory view of the land as he drives from one town to another. So far from admitting competi-

tion as a guide to rent, he expressly excludes it, the value of the farm, in the shape of rent, being not what an ordinary Tenant would gladly pay for it, but what he thinks the Tenant ought to pay.

It is worthy of note that Mr. Commissioner Litton, when quoting the principles of 'Fair' Rent from the Report of the Bessborough Commission, omitted to refer to the remarkable limitation in paragraph 55, which will be found a little farther on.

But though the Sub-Commissioners so persistently refuse to state the principles by which they will be governed in fixing the 'Fair Rent,' they have not been equally reticent as to the principles by which they will *not* be guided. For example, no length of time during which a rent has been paid without a murmur, and during which generations of Tenants have 'lived and thriven' upon a farm, will be accepted as presumptive evidence that it is a 'Fair Rent.' Rents that have been paid for twenty, thirty, fifty, aye even for an hundred years, have been cut down as ruthlessly as if they had been raised but yesterday.

In the following Tables will be found a few specimens of the manner in which old rents have been reduced. We have arranged them in three periods, for the purpose of comparison; and we give none except such as had been paid for at least twenty years prior to the passing of the Land Law Act.

TABLE I.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed prior to* 1840.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, . .	2	77 19 11	57 2 4	26.8
LEINSTER, .	5	121 17 0	99 3 3	18.6
MUNSTER, .	1	80 10 0	66 0 0	18.0
CONNAUGHT,	11	89 12 9	66 0 0	26.4
TOTAL, .	19	369 19 8	288 5 7	22.1

TABLE II.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed between* 1840 *and* 1850.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, .	6	116 10 4	99 15 0	14.4
LEINSTER, .	—	—	—	—
MUNSTER, .	4	93 11 2	70 10 0	24.6
CONNAUGHT,	2	51 18 7	41 10 6	20.1
TOTAL, .	12	262 0 1	211 15 6	19.2

TABLE III.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed between* 1850 *and* 1860.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, .	1	47 0 0	35 0 0	25.5
LEINSTER, .	3	76 4 11	58 5 9	23.5
MUNSTER, .	15	599 12 8	441 18 0	26.3
CONNAUGHT,	5	114 7 8	86 14 3	24.2
TOTAL, .	24	837 5 3	621 18 0	25.7

Summarizing the foregoing Tables, we find that in the 55 cases tabulated, an aggregate rental of £1469 5*s.*, which had been paid for not less than twenty, and in 19 cases for over forty years, has been reduced to £1121 19*s.* 1*d.*—being a reduction of £347 5*s.*, or 23.6 per cent.—the standard reduction where judicial rents are declared.

It may be said that the number of cases tabulated is small; but the answer is, that they form no inconsiderable percentage of all the cases dealt with; and that they establish a precedent fraught with danger to the most deserving class of Landlords in Ireland—the very class with whom Mr. Gladstone said, when introducing the Land Bill, that Parliament 'had not a shred of title to interfere.' Contrast these sweeping reductions of old rents with the principle laid down by Lord

Bessborough's Commission, which says (Report, p. 24, par. 55):

'It must not be supposed that the whole of this process will require to be gone through in all cases. It will generally be possible to start from some time when the rent was, in the opinion of both parties, considered fair, and to confine the investigation to the circumstances alleged, on the one side, as altering the conditions then existing, or, on the other, as a set-off against these circumstances. *It will be expedient, further, to lay down that a rent which was paid at any time within the last twenty years, and which continued for not less than ten years to be regularly paid, shall be, in all cases, taken to be such a starting point.*'

Again, no amount of negligence or waste on the part of the Tenant, even though he may have exhausted the soil of his farm to the point of sterility, is to be taken into account in fixing the 'Fair Rent.' The farm is to be valued in its present condition, and the Landlord, who was powerless to prevent the waste, is mulcted in a certain percentage of the rent in favour of the Tenant who caused it. That a Tenant should not be required to pay rent upon *bonâ fide* improvements made by himself, for which he has not been compensated, is a principle which no one dreams of disputing; and the very arguments by which this principle is supported appear to ordinary minds to be equally cogent in support of the correlative principle that a Tenant who

ignorantly or designedly allows his farm to go to waste should not be recouped at the expense of his Landlord.

A third principle, which is not recognised by the Sub-Commissioners in fixing the 'Fair Rent,' is, that the usufruct of improvements for a certain number of years compensates the tenant for any outlay he may have incurred in making them. This principle is studiously ignored, even in cases where no additional rent has been imposed since the improvements were executed. How it can be contended that the rent of a farm is to be reduced because of improvements, no matter how beneficial, executed by the tenant since the farm was let at that rent, passes ordinary comprehension. The tenant has had all the benefit of them, the Landlord none; but, notwithstanding, the rent which the Tenant contracted to pay for the farm in its unimproved state is to be diminished in proportion to the advantage which he alone has derived from the outlay: contrary to the homely proverb, the Tenant is 'to eat his cake and to have his cake,' and that at the expense of the Landlord, who has had no cake at all—not even a slice! On this point, namely, that a compensating term is sufficient to recoup the Tenant for his outlay on improvements, the Bessborough Commission speaks very plainly, and suggests (Report, p. 24, par. 54) that a term of thirty-five years should be fixed as that beyond

which the presumption should be, that the improvements were not made by the Tenant. 'Otherwise,' adds the Report, 'the rent of an ancient farm might in many cases be liable to reduction to the value of so much waste land.'

There is another class of cases in which the Landlords had of themselves reduced to a considerable extent rents previously paid; but these fare no better at the hands of the Commissioners than Landlords who had raised their rents during the prosperous years. The consideration shown by them is held to justify still further reductions. We give a few such cases in tabular form:—

TABLE IV.—*Showing Voluntary Reductions which had been made by Landlords prior to the passing of the Land Act (at various dates), and the further Reductions by the Assistant-Commissioners.*

Province.	No. of Cases.	Rent prior to Voluntary Reduction.	Rent in Originating Notice.	Judicial Rent.	Percentage of Commissioners' Reduction
		£ s. d.	£ s. d.	£ s. d.	
ULSTER, .	11	279 1 0	247 8 2	179 8 6	27.4
LEINSTER, .	9	351 3 10	296 2 6	246 15 6	16.6
MUNSTER, .	8	315 0 5	273 3 2	214 0 10	21.6
CONNAUGHT,	3	43 13 0	36 3 0	21 12 6	40.2
TOTAL, .	31	988 18 3	852 16 10	661 17 4	22.5

These Landlords had already voluntarily reduced their rents by nearly 14 per cent.; but the

Sub-Commissioners are not satisfied, and a further average reduction of 22.5 per cent. is forthwith decreed.

But perhaps the most flagrant injustice—certainly the most obvious—is that done to purchasers in the Landed Estates Court. We do not refer to the speculative purchasers, who bought with the intention of raising the rents, and so getting a larger percentage on their outlay—though even for these much can be said on the ground of abstract justice—but we refer to *bonâ fide* investors, who bought with no intention of seeking a high percentage for their money, and who did not raise the rents above the point at which they stood when they purchased; nay, who had even in some cases reduced them. The following Table shows how they have been dealt with in the Land Court :—

TABLE V.—*Showing Rent of Holdings at time of purchase in the Landed Estates Court, the Rent in Originating Notice, and the Judicial Rent.*

Province.	No. of Cases.	Rent at time of Purchase.	Rent in Originating Notice.	Judicial Rent.	Percentage of Commissioners' Reduction
		£ s. d.	£ s. d.	£ s. d.	
ULSTER, . .	1	31 8 6	27 6 0	25 2 0	8.0
LEINSTER, .	6	222 19 10	222 19 10	157 15 0	29.2
MUNSTER, .	11	404 5 8	377 19 6	295 8 0	21.8
CONNAUGHT,	10	135 1 8	135 1 8	97 2 9	28.1
TOTAL, .	28	793 15 8	763 7 0	575 7 9	24.7

Let us recall briefly the circumstances under which these Landlords acquired their estates. After the great famine, caused by the loss of the potato in 1846 and following years, the Government of the day introduced a Bill for the Sale of Incumbered Estates in Ireland—a very sweeping measure, and one that was administered in a very sweeping manner. It would be tedious to go through the history of the Act and its operation, nor is it necessary for our present purpose. Suffice it to say, that the great difficulty was to find purchasers for the numerous estates suddenly thrown on the market. Previously the only medium of sale was, in most cases, through the Court of Chancery, by a tedious and expensive process —so expensive that, on small estates, the legal costs sometimes exceeded the purchase-money when the estate was at last brought to the hammer. Obviously, it was necessary to get rid of this cumbrous machinery, and to give the purchaser—who alone was considered then, as the tenant alone is considered now—a simple and perfect title at the least possible cost, and with the least possible delay. The plan adopted was to provide that every purchaser under the Court should get a Parliamentary Conveyance, absolutely indefeasible under any circumstances whatever; and so sacred was this title held that where, in a well-known case, portion of another man's estate was erroneously included in the conveyance, it was held by the Court of Appeal that there was no

remedy—that the conveyance could not be disturbed.

The Incumbered Estates Act provided for the transfer of all right, title, and interest in the land in the most thorough and complete manner. Everything in and upon the land was conveyed to the purchaser, including, of course, the reserved rent, which was fully set out in a schedule attached to the deed of conveyance, and the absolute ownership or reversion of all buildings and other improvements existing on the land at the time of sale. Further, the notices of sale, authorised by the Court itself, and signed by its officer, frequently held out, as inducements to the purchasers, that the rents were low, and could be raised; or that the Tenants held under old leases which would soon expire, 'when a considerable increase of rent might be expected.' The right to this increase of rent was one of the things conveyed by the Court in solemn form, and guaranteed to the purchaser by a special enactment of the Legislature, which has never been repealed. If ever a nation entered into a specific contract to maintain the security of property, the British nation did so with the purchasers in the Incumbered Estates Court; and it scarcely redounds to the credit of the British Parliament that, under its apparent sanction, those purchasers should be deprived of the property thus solemnly guaranteed. We say advisedly that Parliament had no more right to authorise the Land Commission Court to reduce the rents sold in the

Landed Estates Court, and conveyed to the purchasers by Parliamentary Title on which the ink is scarcely yet dry, than it would have to pass a law ordering the persons among whom the purchase-money was divided by the Court to refund one-fourth of it to the defrauded purchasers. We dwell upon this branch of the case, because it exposes, in the most glaring light, the vicious principle that underlies the whole Land Law Act, namely, that the property of one class can be transferred to another without compensation. The contract of the State with its members to maintain the security of property is as binding in the case of inherited as it is in the case of purchased property—as binding in the case of land as in that of houses, or money, or merchandize; and if the State requires the property of any section of its members for the benefit of any other section, it is bound to pay for it honestly in one form or other.

Owing to the number of Sub-Commissions recently let loose on the country, and to the different and distant localities in which they have been at work, it has been a matter of great difficulty to collect trustworthy statistics of their operations; but the Land Committee has succeeded in obtaining details of the decisions in 1164 cases in which judicial rents have been declared, being very nearly the entire number as yet adjudicated on. In the following Table, these 1164 cases are arranged by Provinces; and no trouble has been spared to present the particulars tabulated as accurately as possible.

TABLE VI.—*Showing details of cases in which Judicial Rents were declared up to 31st January, 1882, so far as same could be ascertained.*

PROVINCE.	Number of cases dealt with.	Area in Statute Measure.	Rent.	Poor Law Valuation.	Judicial Rent.	Reduction.	Increase.	Percentage of Reduction on Original Rent.
		A. R. P.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
ULSTER, . .	450	12,297 0 22	10,371 16 6	7670 16 7	7856 7 9	2531 0 11	15 12 2	24·3
LEINSTER, .	205	8564 1 30	7230 2 10	4855 15 3	5740 8 6	1492 11 10	2 17 6	20·6
MUNSTER, .	268	11,613 3 4	11,360 15 5	7051 12 2	8757 7 10	2613 17 7	10 10 0	22·9
CONNAUGHT,	241	5755 2 13	3307 13 3	2197 4 9	2395 7 6	914 12 3	2 6 6	27·6
IRELAND, . .	1164	38,230 3 29	32,270 8 0	21,775 8 9	24,749 11 7	7552 2 7	31 6 2	23·3

This Table demands most attentive consideration. It is to be observed, in the first place, that the holdings dealt with did not consist of specially poor soil; on the contrary, it was considerably above the average in point of quality. The average Poor Law Valuation of all Ireland, excluding the towns, is 10*s.* 1¾*d.* per statute acre; the average valuation of the farms in respect of which a Judicial Rent has been pronounced is 11*s.* 4½*d.* per statute acre, or 1*s.* 2¾*d.* per acre above the average of the whole country. In other words, the valuation of the lands included in the Table is a little over twelve per cent. above the average valuation of all Ireland. It is important to bear this fact in mind.

The next thing that strikes us is the remarkable correspondence between the Judicial Rents and the Poor Law Valuation. In Ulster, the Judicial Rents are less than two and a-half per cent. above the valuation; in Leinster, about eighteen per cent.; in Munster twenty-four per cent.; and in Connaught nine per cent. For all Ireland, the Judicial Rents, so far as they have been pronounced, exceed the valuation by not quite 13.7 per cent.

We have no desire to re-open the controversy respecting the Poor Law Valuation as a basis of rent. The question was fully discussed in one of the earlier publications of the Irish Land Committee,* and was finally disposed of by the

* 'Notes on the Government Valuation of Ireland, commonly called Griffith's Valuation.'

Reports of both the Richmond and the Bessborough Commissions, published last year.

The Duke of Richmond and Gordon's Commission reports (page 8) that—

'Difficulties have been raised regarding the assessment made by the late Sir R. Griffith, called "Griffith's Valuation," by the endeavour to set up this valuation, which was based on prices current thirty years ago, as a standard of rental at the present day. The circumstances under which the valuation was made are set forth in the evidence of several witnesses, and it is conclusively proved that the annual value, as set forth in that document, was not intended to represent, and did not represent, at the date when the valuation was made, the rental value of the property. The increase which has taken place in the prices of all kinds of agricultural produce by the introduction of railways, steam, and other developments since the valuation was made is so great that, even after making allowance for the increased cost of production, we are led to the conclusion that the valuation is not a trustworthy guide to the present rental value.'

The language of Lord Bessborough's Commission is even more explicit. The Report says, paragraph 64, page 26:—

'If anything has been clearly established in evidence during this inquiry, the fact that the present Government valuation is not a trustworthy standard for the settlement of rents has been most

thoroughly demonstrated. Fair as it may have been for the purposes of local taxation in the years when it was made, the evidence shows that even then it was considered as below the fair letting value of the land. Those who argue to the contrary ignore the fact, that while there was nowhere any motive at work to cause the officials employed to value too highly, there was a universal pressure to force down the valuation, to which it was not unnatural for the valuators to yield. No injustice was done to anybody, while everybody was satisfied so long as the underestimate was general and uniform.'

Sir R. Griffith himself declared that 33 per cent. should be added to the valuation to arrive at the fair letting value; and Mr. J. Ball Greene, the present Head of the Valuation Office, has put in evidence Tables showing how much the valuation of other parts of Ireland should be increased to make it uniform with that of Ulster, which is admitted to be relatively higher than the rest of the country. No one at all acquainted with the subject regards the Poor Law Valuation as a guide to the letting value of land; and, in the face of a fact so well established and so notorious, it is strange indeed to find the Sub-Commissioners under the Land Law Act following so very closely upon the lines of that valuation.

But the most remarkable, and the most discouraging feature disclosed by the Table, is the wonderful uniformity in the amount of reduction

made by the Sub-Commissioners in the rents that have come under their review. A reduction of 24.3 per cent. in Ulster; of 20.6 per cent. in Leinster; of 22.9 per cent. in Munster; of 27.6 per cent. in Connaught; and of 23.3 per cent. for all Ireland, is not more startling by its amount than by its marvellous uniformity. Let us examine the fact a little more closely. There are no less than *twelve* Sub-Commissions now in full work, each consisting of three members. The president of each is a lawyer, either a barrister or an attorney, who *a priori* knows nothing of the value of land: the other members of the Sub-Commissions are recruited from all sorts and conditions of men, whose varied antecedents agree in nothing except that, as a general rule, they have had no professional experience as practical valuators. We use the word 'professional' advisedly; the valuation of land is a profession as much as that of an engineer or a lawyer; and a man requires long and varied experience before he can hope to rise to eminence in it. The best and most painstaking Valuators will differ in their estimate of the value of a farm—sometimes differ considerably—just as men in other professions will differ in opinion; and we may go so far as to say that independent professional Valuators will seldom agree exactly. But here we have thirty-six amateurs, with no professional training, and, in many cases, with but little practical knowledge of land; they go north, south, east, and west; they visit farms at a

gallop, at the most unsuitable season of the year, even when the ground is frozen hard; and so wonderful is their instinctive knowledge, that, next day, they assess the value of each farm with the utmost minuteness; and when their decisions are tabulated, behold they correspond almost to a decimal! And yet some of these men assert that they got no instructions—that they are perfectly unfettered in their judgment!

Mr. Gladstone, as we all remember, made short work of the laws of political economy when they ventured to differ from him; but unless he can dismiss with equal facility the law of averages and the doctrine of chances, he will scarcely be able to persuade the public that thirty-six men of the class of his Sub-Commissioners, working by threes in different parts of the country, could have arrived at identical results on such a matter as the assessment of rent, without previous concert or direction.

Mr. Litton, Q.C., one of the Chief Commissioners specially appointed to lay down rules for fixing the fair rent, thus speaks of the difficulty of arriving at anything like unanimity on the point. In the case of *Adams* v. *Dunseath*, already referred to, he says: 'Now, I do not affect to define a fair rent—to do so is almost, if not altogether, impossible; and for this reason, if for no other, that a different estimate of what is fair as regards almost every action in life will be arrived at by different men, as the character of each may

have been formed under those influences which conduce to make some men instinctively reasonable and just, and others exacting and ungenerous. The question of rent forms no exception to the general rule, and the estimate of a fair rent is, within certain limits, as uncertain as the character of the man to whose judgment the question is submitted.'

If we were to reason analytically from the results to the principles that underlie them, we might venture to conjecture that two of the 'principles' laid down by the Land Commission for measuring the 'Fair Rent' were, first, to follow generally the lines of Griffith's Valuation, making the necessary deviations in different parts of the country; and, second, so to conduct their proceedings that an average reduction of twenty-five per cent. should be made in the rental of Ireland. These 'principles' might have been carried into effect in the General Valuation Office in Dublin, without any Land Court, and at the hundredth part of the cost of that expensive tribunal.

The proceedings of the Sub-Commission Courts afford abundant matter for criticism, which they will no doubt receive in due time. The hostile attitude towards the Landlords, contrasted with the eagerness not alone to benefit the Tenant, but to make him feel that the mission of the Court is to benefit him; the burlesque of evidence by tenants who, while waiting for their own cases

to be heard, come forward to testify for their neighbours as to the 'fair rent' of their holdings; the dictatorial and bullying airs of some practitioners towards the Court, submitted to with becoming meekness; the frequent applause, and not infrequent manifestations of personal hostility; the edifying spectacle of a Court of the Land Commission making a triumphal entry into a town in Mayo, preceded by the Land League band, and serenaded nightly by the same tuneful brethren; the judicial dignity of a legal Sub-Commissioner, and a Queen's Counsel to boot, speaking of a nobleman whose case he was trying as 'this man,'* and asserting that his superiors, the Triumvirate of Merrion-street, would not have the 'spirit of a mouse,' if they did not do something to 'this man,' which the law would not allow either him or them to do: these and many similar peculiarities will no doubt receive their full meed of attention in due season. For the present we must content ourselves with recalling to memory some remarkable judicial utterances which it would be a pity to let die.

At the very first sitting of the North-East Sub-Commission in Belfast, on the 31st of October

* It is right to say that Mr. Foley, the Sub-Commissioner referred to, has since publicly disavowed this expression, and we have no doubt has forgotten that he used it, however inadvertently. But the *consensus* of the reporters present is against him; and he has not disavowed the still more striking words in which he expressed his opinion of the courage of his superior officers. We may add that we took the expression "this man" from the *Freeman's Journal*.

last, Counsel for the Landlord in one of the cases 'asked a number of questions as to the surroundings of the holding and its situation'; we quote from the *Freeman's Journal* of the following day: 'Professor Baldwin said all these accidental circumstances were unnecessary. What they wanted was to get at the agricultural value of the land pure and simple.' Such may be Mr. Baldwin's opinion, but the Act of Parliament, which he is bound to administer, authorises him to fix the 'Fair Rent,' only 'after hearing the parties, and having regard to the interest of the Landlord and Tenant respectively; and *considering all the circumstances of the case, holding, and district.*' These words seem plain enough; but Mr. Baldwin declares judicially that these 'circumstances' are 'accidental' and 'unnecessary,' and proceeds to adjudicate accordingly.

The same gentleman lays down the very dangerous doctrine that 'skill in farming must be eliminated' from the estimate of the 'Fair Rent.' We do not mean to assert that a higher rent should be imposed on a good farmer because he is a good farmer; but we most emphatically dissent from the doctrine implied in the dictum, that the rent of a farm is to be fixed below its intrinsic value because the Tenant is a bad farmer. No one knows better than Mr. Baldwin that the 'fair average tenant,' of whom he speaks, is generally a very indifferent farmer; and it is pushing the principle of protection to

Tenants a little too far to take their want of agricultural skill and knowledge into account, as a justification for reducing the rent of their farms. There are tens of thousands of Tenants in Ireland, who, if their farms were valued in proportion to their agricultural ignorance and want of skill, would pay no rent at all.

Another rather startling proposition was affirmed by the Western Sub-Commission in the case of Malone *v.* Thompson.

In this case the Tenant said he was not ready to go on. He could not get a surveyor. All the surveyors had been taken up by the Landlords. The Chairman, Mr. J. G. M'Carthy, late Home Rule M.P. for Mallow, replied, 'It will be some comfort to you to know that we do not attach much importance to the evidence of paid valuators.'

The Tenant, be it observed, wanted not a valuator but a surveyor, probably to measure his holding; and, from Mr. M'Carthy's reply, it is to be presumed he would attach as little importance to the evidence of a paid surveyor as to that of a paid valuator. No doubt he would rely implicitly on the estimate made by his colleagues of the size as well as of the value of a farm; and we readily admit they would be as likely to be right in the one case as in the other.

But perhaps the most remarkable of the judicial utterances of the Sub-Commissioners were those at Urlingford, County Kilkenny, by Mr. Reardon, Barrister-at-Law, and his colleagues,

Messrs. Cunningham and Mowbray. It is right to observe that Mr. Mowbray is one of the few practical valuators who has found his way into the Commission.

Mr. Reardon said—'In these cases, as there is a difference of opinion amongst us, and as my brother Commissioners desire to make some observations, I shall review the evidence and state what in my opinion the fair rent of the holdings should be. The holdings are situated at a place called Damerstown, about a mile from Castlecomer. As far as we know, or have been informed, the rents have not been altered within the century, and they appear to have been paid with tolerable regularity except in some rare instances, and in bad years. The lands have been described to us as having been originally wheat lands, and there is some vague tradition that the rents were fixed at the time of the wars of the Great Napoleon, when the price of wheat was exceptionally high.

'No evidence has been given to us as to what state the lands were in when they were originally let, but there is the clearest evidence in the soil of the lands themselves that they always have been of excellent quality. Improvements in the way of building houses, making fences, and some not very extensive draining, have been proved to have been made from time to time by the Tenants and their predecessors in title, and no claim to these improvements has been made by or on behalf

of the Landlords. In considering, therefore, what the fair rent of the holdings should be, we have to give the Tenants credit for the value of such improvements. The holdings are bordered on two sides by a river, a circumstance which for farming purposes is well known to be of great advantage. Moreover, we find that the Tenants and the Landlords were on the best of terms, and, as far as we could discover, no unpleasantness had ever occurred between them with respect to the rents paid. We have it also that when one of the holdings became vacant within the last year it was purchased by one of the tenants at the old rent for a considerable sum of money. All the facts appear to point to one conclusion, and that is, that the rents on this estate are fair, and that we shall accordingly so declare. I have not, however, been able to come to this conclusion, for there are other circumstances and other evidence in these cases which lead me to believe we should be doing an injustice to the Tenants if we did not make some reduction in now fixing the rent to be paid by them during the judicial term. In my opinion a fair rent should be such as, having due regard to the property and interests of the Landlords, an intelligent and industrious Tenant can pay out of the return from the labour and capital expended on his holding, through good years and through bad, without having to apply in bad years for any abatement or reduction, while it leaves to the Tenant a fair

average remuneration for the labour and capital invested. I am satisfied the present rents are not fair rents according to my interpretation of the term, and in coming to this conclusion I am greatly influenced by the conduct of the landlords and the condition of the Tenants. There is evidence that the Landlords gave the Tenants a substantial reduction in a bad year. It appears to me that if they thought a reduction proper to be given to them, it is sure evidence that the present rents are too high to be paid by the Tenants through bad years and good. Mr. Maher, on behalf of the Landlords, and Mr. Bradley, on the part of the Tenants, valued the lands at a figure not much exceeding the Government valuation. It is true Mr. Nolan repudiated Mr. Maher, but still the fact remains. It appears to me from the evidence and from personal inspection, that though the Tenants have paid the rents they have not thriven. Taking these circumstances, with the fact that the Government valuation of the land, made by sworn and skilled valuators, is little more than half the rental, the rental being £209 12*s.* 2*d.*, while the Government valuation of the land is only £125 9*s.*, I cannot help thinking that it is incumbent on us to give Tenants some relief. I now come to consider the measure of that relief. The Landlords and Tenants have, I think, supplied us with a kind of measure by which a Fair Rent can be fixed, and that is the amount of abated rent which the Landlords offered to take and the Tenants were able to pay, after the bad season above alluded to, taken with the

offers the Landlords have here made to reduce the rent. Making my calculation on this basis, I have come to the conclusion that the following are the Fair Rents which ought to be fixed':—

[Mr. Reardon then proceeded to announce the Judicial Rents, the details of which it is not necessary to give.]

Mr. John Cunningham—'I concur in the judgment of the Chairmain. As, however, our brother Commissioner Mowbray dissents, I wish to make a very few observations. After considering, with what care and judgment I could bring to bear on the task, the circumstances of these cases, the holdings and districts disclosed by the evidence, and by a careful, personal inspection, my independent estimate of a Fair Rent, to be paid for fifteen years, is about six per cent. below the amount announced by the Chairman. While I regret that I am thus below my brother Commissioners as regards my valuation, I have some compensating support in the fact that, much further below mine, I have both the Government valuation and that of the two arbitratory valuators chosen by, or on behalf of the Landlords and the Tenants respectively. As skilled valuators frequently differ in the value they set on agricultural holdings, I have no hesitation in adopting the valuation of the Chairman. Looking at the general decline in rents over the United Kingdom, I confess I should examine and re-examine with anxiety any estimate which would saddle Irish Farmers over a whole estate for fifteen years

with rents forty-two per cent. over the valuation of the sworn and independent valuators of the Government made thirty years ago. To adopt the offer of the Landlord would have that effect in these cases. The Land Act of 1881 directs that no rent shall be made payable in respect of improvements made by the Tenant which the Landlord has not compensated him for. In my valuation I measured the Tenants' interests in their holdings at eight shillings per acre, and I deducted eight shillings per acre per annum from my estimate of the competition rent. As to the other general bearings in these cases, I cordially adopt the summary given in the judgment just delivered by the Chairman.'

Mr. Seymour Mowbray.—'I regret I am unable to concur with my brother Commissioners in the decision they have come to. It is quite clear under the Land Act that we are sworn to take into consideration all the circumstances connected with each case. I find the estate of Damerstown most favourably situated, being little over a mile from the town of Castlecomer, where there is a weekly market, besides the usual monthly fairs. It is also situated on both sides of the high road to Kilkenny, which is some nine miles distant. These I consider great advantages. It appears there has not been any rise of rent on this estate for generations, and the Tenants have always paid their rents regularly. This I consider some proof that they are not over-rented. We are all aware of the adverse seasons of 1878

and 1879, when agriculturists in all parts of the country suffered considerably, and when it became necessary for many Landlords to give a temporary reduction of rent to their Tenants. This estate was no exception to the rule, as we find that a reduction of 3*s.* in the pound was given. Mr. Nolan, one of the Landlords, stated he offered 5*s.* an acre reduction to some of his Tenants, and 7*s.* 6*d.* to others. After a careful inspection of the holdings, I came to the conclusion that the rents were not excessive, and that any reduction I could make would not be equal to the liberal offer made by the Landlords. Wishing, however, to give the Tenants the full benefit of their Landlords' offer, I am of opinion the rents should be fixed at the reduction offered by Mr. Nolan.'

It is scarcely necessary to comment upon this judgment. Mr. Reardon, in his opening remarks, states the case for the Landlords so forcibly that the conclusion, to which he admits the facts point, seems irresistible There was evidence that the rents had not been disturbed within the century; that the land was of excellent quality; that Landlords and Tenants had lived on the best of terms; that in a bad year the Landlords had come to the Tenants' aid by a liberal abatement; that only last year a vacant holding was purchased by *one of the Tenants* for a considerable sum of money; in fact, as Mr. Reardon candidly said, all the facts appeared to point to the one

conclusion that the rents were fair. But, as a Sub-Commissioner, he was bound to reduce them —else why was he there?—and accordingly reduce them he did *by over sixteen per cent.!*

The excuses—we cannot call them reasons—which he gave for this reduction would be simply amusing, if the matter were not fraught with such grave issues to the country. They were threefold: first that there was '*some vague tradition* that the rents were originally fixed at the time of the wars of the Great Napoleon, when the price of wheat was exceptionally high'; second, that 'the Landlords gave a substantial reduction in a bad year'; and third, that he had ascertained, by 'personal inspection, that though the Tenants had paid the rents they had not thriven.'

It is difficult to read this judgment with patience. With all the *facts* admittedly pointing to the irresistible conclusion that the rents were fair, Mr. Reardon decides that they must be reduced: his remarkable words are that 'it is incumbent on us to give the Tenants some relief.' Surely Mr. Reardon, as a lawyer, will admit that 'some vague tradition' should not be accepted as evidence, even by a Sub-Commission Court under the Land Act; and he will scarcely deny that the fact that the Landlords gave a substantial abatement in one bad year out of a hundred does not logically lead to the conclusion that the Tenants who had paid the rent for the other ninety-nine years could not pay it for fifteen years more.

It is almost childish for Mr. Reardon to talk of his 'personal inspection.' All we can say is, that if he knows so little of Irish Tenant-farmers of the smaller class, as to suppose they would allow him to see signs of prosperity at his 'personal inspection,' he is *primâ facie* unfit for his position.

He might have remembered the fact which he quotes in his Judgment, that, so recently as last year, one of these Tenants, 'who had not thriven,' paid a 'considerable sum of money' for a farm which had become vacant on the estate; and that at the old rent.

This case is one of several in which the kindness and forbearance shown by Landlords to their Tenants have been wrested into arguments against themselves, and their desire to come to an amicable arrangement made the grounds for depriving them of justice. Whatever may have been the previous relation of the parties, or whatever offer the Landlord may have made out of Court, as soon as the case is at hearing the sole duty of the Sub-Commissioners is to fix the 'Fair Rent.' In some of the few cases in which rents have been raised by the Sub-Commissioners they expressly declared that they would have added more but that the Landlord had expressed his willingness to accept a small increase. That was a plain dereliction of duty. They are bound to fix the 'Fair Rent,' and should do so irrespective of any private feeling of the Landlord; they are not so solicitous to consult his feelings when they are reducing the rent.

If the principles enunciated by Mr. Reardon in the Urlingford case are allowed to form a precedent, no Landlord in Ireland is safe from a reduction of his rents. We doubt if there be a Landlord in the country who has not at some time forgiven rent or made abatements to his Tenants in bad years. This, which has been hitherto considered a praiseworthy act, is now declared by a Court of competent jurisdiction to be one deserving of punishment; and the more liberal the abatement was, the more severe the penalty will be!

We conclude, for the present, by repeating the question, Had Parliament, when it delegated to the Land Commission the duty of defining the principles on which the Fair-Rent should be fixed, the remotest conception of the manner in which the trust would be carried out? And, if it had not, we further ask, Is it not the duty of Parliament, whose confidence has been betrayed, to interpose before it is too late, and remedy the grievous wrong that its too-confiding legislation has inflicted on the Landlords of Ireland?

Postscript.—Since the foregoing was written, a Parliamentary Return has been issued giving the details of the Judicial rents declared up to 28th of January, 1882. This Return shows results so nearly identical with those ascertained by the Land Committee, as given in Table VI. *ante*, that

the observations in the text will be found equally applicable to both.

The following is the Government Return, to which we have added the percentages:—

Summary showing, according to Provinces, the Number of Cases in which Judicial Rents have been fixed by Sub-Commissioners, and also the Acreage, Tenement Valuation, Former Rents, and Judicial Rents of the Holdings.

Provinces.	No. of Cases in which Judicial Rents have been fixed.	Acreage.	Tenement Valuation.	Former Rent.	Judicial Rent.	Percentage of Reduction on former Rent.
ULSTER, .	530	14,282	9,800	12,958	9,796	24·4
LEINSTER, .	258	11,595	6,618	9,620	7,541	21·6
CONNAUGHT,	221	5,033	1,877	2,866	2,050	28·5
MUNSTER, .	304	11,892	7,554	11,997	9,199	23·3
TOTAL, .	1,313	42,802	25,849	37,441	28,586	23·6