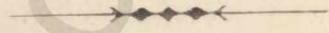


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FURTHER REPORT
OF THE
LAND TENURE REFORM COMMITTEE.

DECEMBER, 1880.



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

1880

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Committee :

THE RIGHT HON. LORD MONCK.
LORD POWERSCOURT.
LORD MONTEAGLE.
THE RIGHT HON. LORD EMLY.
LORD GORT.
THE RIGHT HON. M. LONGFIELD
THE HON. COSBY GODOLPHIN TRENCH.
SIR STEPHEN DE VERE, BART.
SIR DAVID V. ROCHE, BART.
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E. MCCAUSLAND, *Hon. Secretary,*
32 Upper Fitzwilliam-street, Dublin.

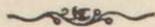
PERSONS in accord with the general views of the
"Land Tenure Reform Committee," and willing to
have their names published as approving of the
principles advocated by them, are requested to com-
municate with the Hon. Secretary. (*See Introductory
Observations, second paragraph.*)

E. McCAUSLAND, *Hon. Sec.*

32 UPPER FITZWILLIAM-STREET, DUBLIN.

Houses of the Oireachtas

Land Tenure Reform Committee.



INTRODUCTORY OBSERVATIONS.

ON the 25th of November last the Committee published a preliminary report of a portion of their proceedings, and they now print a further report, with an Appendix of the text of the resolutions, and of the papers read, with some other miscellaneous documents.

It must be understood by the reader or critic that this report only expresses the general views of the Committee. Individual members, although in accord with the principles, must not be assumed to have agreed without qualification to the details of every resolution.

PRELIMINARY REPORT.

CERTAIN persons interested in, and impressed with the importance of the question of a reform of the Law of Landlord and Tenant in Ireland, voluntarily combined for the purpose of the free discussion of this important question. The original members were subsequently joined by others of various political opinions and positions in society, and many meetings have been held in which the present political and economic questions were debated in a friendly but unrestrained spirit. It is difficult for such a society to choose a name which would correctly express their object or organization, and they therefore resolved themselves into a committee to consider the reform of the law of landlord and tenant in Ireland, although it is to be admitted that they had

no commission from any external authority or party. The committee therefore claims no representative character, nor puts forward the conclusions at which it has arrived as having weight beyond that which they are entitled to by their own intrinsic merit. The conclusions, however, were not arrived at without long and contested debates, carried on by a number of persons interested in and long conversant with the question in hand.

The subjoined statement and resolutions represent the conclusions which were almost unanimously arrived at; and the results may not be without interest, and may perhaps be of some importance to the general public.

The physical and social conditions of the various parts of Ireland are so diverse, that any measure aiming at a final settlement of the question should embrace several alternative schemes, inclusive of those proposed for the establishment of peasant proprietors, the granting of perpetuities to occupying tenants, the granting of long leases, and others of a similar character.

It appears, however, that notwithstanding the successful operation of any scheme for the creation of a peasant proprietary, the relation of landlord and tenant must continue to subsist in Ireland, and that therefore the most important portion of any new legislation must be that regulating, so long as it may subsist, this legal relation.

Any alteration of the present system, although intended to meet in the fullest manner existing and acknowledged evils, must proceed upon the assumption that no injustice should be done to any class in the community, and that as little alteration as possible should be made in legal and social relations.

It cannot be denied that the existing forms of the tenure of land are unsatisfactory to all parties, and that the rules of law incident to them have operated in such a manner as to create discontent among the farming classes, and retard the development of the country; and it is therefore necessary that any permanent and satisfactory legislation should finally and

decisively deal with the often unexercised, but always mischievous, technical legal rights incident to the present system.

In England the landlord generally lets to the tenant a farm in perfect working order—an agricultural machine, equipped with all the requisites of production; in Ireland the tenant often acquired merely a certain area of land, upon which he was required to expend the capital, if he had any, and in any case the labour requisite to bring it into working order. Under these circumstances, the uncertain tenure from year to year, and the absence of any security for the tenant's expenditure on improvements, could not have continued until the present, had not many landlords abstained from taking advantage of the rights which the law allowed them.

The legislation of 1870 failed to place the relation of landlord and tenant upon a satisfactory basis; for although compensation was given to the tenant for disturbance and for improvements, his position remained uncertain, and the very exceptional arbitrary action of some landlords in the assertion of their strict legal rights has stimulated the demand upon the part of the farmers for Fixity of Tenure, Fair Rents, and Free Sale.

It must be admitted that these objects cannot be carried out without depriving *all* landlords of certain of their legal rights; but, on the other hand, it may be asserted without fear of contradiction that upon many Irish estates the tenants enjoy, although without legal sanction, the substance of their present demands. It is not to be expected that any class of the community should be satisfied with a state of things in which the security of their position rests solely upon the sense of justice of a single individual, and it is not unreasonable that those who have experienced the utmost consideration from their landlords should desire that their equitable rights should be legally secured, and not remain dependant upon the generosity of another.

As to those landlords by whom the tenants have been equitably treated, and under whom they have enjoyed the

substance of their present demands, such a change in the law as is proposed in the subjoined resolutions is purely technical, and involves no injury to the profit or the enjoyment of an estate.

All that is proposed is that rights hitherto generously conceded should henceforward be protected by law; and it is submitted that the destruction of legal rights which in the many cases have been allowed to fall into abeyance, cannot be regarded under present circumstances as a practical grievance.

As to those landlords who have harshly and inequitably exercised their rights, no class in the community is so interested in restraining their action as the majority of the landlords upon whom undeserved odium is cast by the reprehensible conduct of the minority of their own body.

The tenant should be secured in the possession of his holding, subject to the payment by him of a sufficient consideration, and should also possess an absolute property in so much of the value of his holding as represents the accretion caused by the application of his labour and investment of his capital. Such right of property being once conceded, it necessarily follows that he should be able to dispose of his interest in his farm as freely as any other portion of his property—as freely as the landlord of his.

It appears absolutely essential to permanence of any system of fixity of tenure that the tenants who attain a fixity of tenure should be restrained from subletting, or building upon their farm dwellings for a number of families in excess of the demand of the farm for labour. The tenant who has hitherto been prevented by his landlord from so dealing with his farm, cannot claim as incident to his fixity of tenure a right which he has never enjoyed. Such subletting may be prevented either by enactment of a simple prohibition, as assignments are at present in certain cases, by the 10th section, and subletting by the 18th section of the 23 & 24 Vic. c. 154, or by being considered by the proposed Court of Tenures as a sufficient reason justifying the service of a notice to quit.

FURTHER REPORT.

As many tenants may be desirous of arranging with their landlords upon the basis of a specific voluntary contract, it remains to consider how far, for the special purpose of the present question, all restrictions upon the power of existing landlords to deal with their tenants, may be removed without affecting the rights of their creditors or remainder-men. That most beneficial results, as well political as economic, may be expected to ensue from the acquisition by a greater or less proportion of the Irish tenant farmers of the fee-simple of their holdings has been already twice affirmed by Parliament—upon the latter occasion without a dissenting voice. That it is desirable that a tenant proprietary should be established in Ireland, is a question which has passed beyond the stage of discussion, and it would be idle for any private association to give in their adhesion to a universally accepted doctrine, but we may be permitted to suggest the means by which the attainment of this desired end may be facilitated.

In all cases in which the landlord and tenant come to an agreement for the sale to the latter of the fee-simple of his holding, the utmost facility should be given to any landlord possessed of an estate less than a fee-simple, or as a trustee, in carrying out such agreements. The object of the Bright Clauses in the Act of 1870 was to a great extent defeated by the selection of the Landed Estates Court as the medium by which these sales should be carried out. The inevitable enquiries incident to the granting of an indefeasible title increased the expense of the purchase to an extent which the author of the clauses in question never anticipated.

Following the precedent given in the Bill of Earl Cairns introduced during the last session of Parliament, it is suggested that a power of sale to any tenant of his holding, should be

Resolution 15,
page 16.

given to all limited owners, as defined by 33 & 34 Vic. c. 46, sec. 26; and the interests of all third parties, whether incumbrancers or remaindermen, claiming under any settlement, should be protected by the payment of the purchase-money into the Court of Chancery to the credit of the landlord's estate, and the Lands Clauses Consolidation Act. As such transactions would, of course, be subject to be set aside upon the ground of fraud or collusion, the purchasing tenant should have the right to have the sufficiency of the purchase-money investigated, and his title confirmed by an order of the Court of Land Tenure.

Resolution 23,
page 18.

Peasant Proprietary.—It would not seem advisable, however, to leave the development of a peasant proprietary to the comparatively slow action of a system of purchase, based exclusively upon voluntary agreements between landlords and tenants themselves. Public opinion would not sanction any scheme by which the tenant, as against the landlord, should be given a power of compulsory purchase; but the Government may not unreasonably be expected to assist in bringing into the market a sufficiency of lands for sale to the tenants desirous of acquiring a fee-simple farm.

Resolutions
21, 24 to 28.

Appendix,
page 35.

The scheme known as that of Mr. Shaw Lefevre would, in our opinion, work well in this direction.

The essential element of this scheme was the creation of a Commission for the purchase of lands to be again re-sold to occupying tenants. Such a Commission would be possessed of no judicial power, but would simply act as a landbroker or agent in affording the tenants of such estates as might come into the market the desired facilities in purchasing their holdings. To such a Commission should be given the power of purchasing compulsorily the estates of corporate bodies, and of purchasing other estates by private agreement.

An injustice to owners might arise by deterring other purchasers from entering into competition, if such a Commission should be empowered publicly to compete as a purchaser in the sales in the Landed Estates Court.

For the purpose of sale to such Commission, limited owners should be given similar powers as in the case of sales to the occupying tenants, and the purchase-money should be paid into court for the benefit of the parties entitled.

Any lands purchased should be re-sold by the Commission to the occupying tenants, in a manner resembling that adopted by the Commissioners of Church Temporalities in the sales of church land.

The price of the lands re-sold should be fixed so as to secure the Commission against loss, and the conveyances prepared and furnished to the purchasers by and at the expense of the Commission; and in such deeds it might be anticipated that the *ad valorem* stamp duty would be dispensed with by the Treasury. To all tenants purchasing the fee-simple of their holdings advances should be made, either by the Board of Works, in analogy to the powers given by the 44th section of the 33 & 34 Vic. c. 4, or by the Commission for the Purchase of Lands, in the same manner as has been the practice of the Irish Church Temporalities Commissioners. In the latter case the advance to the tenant would take the form of a credit against the purchase-money, and not of a pecuniary loan.

It would be advisable that no hard and fast rule should be laid down as to the proportion of the purchase-money to be advanced to a purchasing tenant. The present rule as to such advances, which treats the interest purchased as the sole security for the loan, excludes from consideration the value of the tenant's own interest in the lands, and has unnecessarily contracted the limits of value within which advances are made.

Fee-farm Grants.—Many tenants would probably prefer a fee-farm perpetuity grant at the existing, or a reduced rent, to the purchase of the fee, and there are many cases in which the former course would be the more advantageous. Additional leasing powers, inclusive of a power to make fee-farm grants, should be given to all limited owners, in the same manner as it has been before proposed that powers of sale should be given; and the fines (if any) might be treated in the same

Resolution 17.

Appendix,
page 23.

manner as has been before suggested in the case of the purchase of the fee simple by a tenant.

Long Leases.—The power of making fee-farm grants, if given to limited owners, should include the power of making leases for any lesser duration; such an extensive power of leasing by limited owners is in accordance with the views of Earl Cairns as embodied in his late Bill, and cannot be injurious to remainder-men as long as the present rules of equity as to the exercise of leasing powers be maintained, nor dangerous for the tenants accepting such leases, if they have the same powers of obtaining a confirmation of them, as is now the case in respect of leases granted by limited owners under the statutory leasing powers of the 33 & 34 Vic., c. 46.

We have not suggested any change in the relation of landlord and tenant in cases in which a lease is given of thirty-one years or upwards, as we were of opinion that, in such case, the respective rights of the parties should be regulated by their contracts.

Parliamentary Tenant-right.—We have also had brought under our consideration the scheme for the creation of a Parliamentary Tenant-right, which by defining the interests of the landlord and tenant in relation to each other, places their otherwise conflicting rights upon an intelligible and satisfactory basis. This system might be specially applicable to certain circumstances in the case of parties entering into voluntary arrangement, and affords a valuable alternative to the other plans proposed.

Farm Labourers.—There is reason to apprehend that the granting of fixity to occupying tenants, would render it more difficult to provide for the accommodation of the farm labourers, and it may be necessary to make provision for the supply of appropriate dwellings for the working class, and to bring them within the range of the sanitary code.

Reclamation of Waste Land.—The country suffers from two acknowledged evils—a deficiency both of employment and

Resolution 19.

Appendix,
page 26.

Resolutions
19, 20.

Appendix,
page 29.

Resolutions
29, 30, 31, 32.

Appendix,
page 34.

of cultivated land suitable for agriculture. Under these circumstances the public money could not be more advantageously expended than in giving assistance to the reclamation of the waste lands. The provisions of the 33 & 34 Vic. c. 46, sec. 43, should therefore be brought prominently before the attention of the public, and every facility be given to companies and private individuals willing to advance substantial sums of money for the reclamation of waste land, to acquire the lands necessary for such purpose through the instrumentality of the Local Government Board and the Lands Clauses Consolidation Act.

Resolution 16.

Appendix,
page 35.

Over-populated Districts.—No change or improvement as regards Tenure of Land can alter the physical and economic facts existing in some thickly peopled localities. The Committee cannot conceal from themselves that the distressed condition of certain poor districts is largely caused by local overcrowding. While they feel much sympathy both with the owners and occupiers of land in these places, they cannot as yet offer any definite suggestions on this subject.

Court of Land Tenures.—The effectual working of any system for the regulation of the relations of landlords and tenants must in our opinion turn upon the efficiency and character of the court, which we have styled the "Court of Land Tenures." To swell the miscellaneous business of the County Courts by throwing upon their judges the additional duty of carrying out such a system of legislation as has been proposed might be economical, but would certainly be ineffectual and mischievous. Such a tribunal as is contemplated should possess as well a legal as a practical lay element, and be of a similar character and composition to the Court of the Commissioners of the Irish Church Temporalities. The Commissioners for the purchase and re-sale of land should—indeed must—be wholly independent of, and distinct from, the Court of Land Tenures; for the Commissioners, as essentially incident to their business, would themselves, for perhaps a lengthened period, fill the position of extensive landlords.

RESOLUTIONS IN FULL ADOPTED BY THE
COMMITTEE.

(1) That, in the opinion of this committee, the tenure of land in Ireland cannot be effectually reformed by the adoption of any one scheme, and that it is essential for the satisfactory settlement of the question that several schemes, dealing with the different branches of it, should be adopted and worked concurrently.

(2) That such schemes may be comprised under the following heads :—

- (a) The acquisition by the tenants of the fee of their holdings.
- (b) The acquisition by them of fee-farm interests, subject to a fixed rent.
- (c) The conferring on them of fixity of tenure at variable rents, with a right of sale of their interests.
- (d) The acquisition by the tenants of valuable interests in their holdings by long leases or otherwise.
- (e) The consideration of the special economic conditions of those parts of Ireland in which a reform of land tenure alone would not be sufficient.
- (f) The amelioration of the condition of agricultural labourers.

(3) That, in the opinion of this committee, it is desirable that each of the schemes to be proposed and brought forward for discussion should aim at giving a security of tenure to the tenant, amounting, practically, to Fixity of Tenure, Free Sale of his interest, and Fair Rent, and at the removal of all obstacles to the formation of a Peasant Proprietary.

(4) That no scheme of land tenure or project for the furtherance of peasant proprietorship be adopted the details of which shall not appear to a majority of the committee to be just, and to provide fair compensation for any invasion of the legitimate interests of either landlord or tenant.

(5) That the carrying into effect of the changes in the relation of landlord and tenant recommended by this committee, should be controlled by a new tribunal, to be termed 'The Court of Tenures in Ireland,' whose decisions shall be without appeal, save when the Court shall, by case stated, submit questions of law for the determination of the Court of Appeal in Ireland.

(6) *Fixity of Tenure.*—That it shall be lawful for any tenant from year to year, served with a notice to quit, to apply to the Court of Tenures to set it aside, on the ground that it has been served without reasonable cause, and the Court shall have power to make such order thereon as it shall deem just.

(7) That no ejection for non-payment of rent shall be brought against a tenant from year to year; but any landlord to whom a year's rent shall be due, may apply to the Court of Tenures for an order that the interest of the tenant shall be sold for payment of the rent due; and, in every case of such sale, the rent shall be deemed the first charge on the proceeds of the sale, and on any such sale the landlord shall be at liberty to purchase.

(8) *Fair Rent.*—That in the case of a tenancy from year to year, it shall be in the power of either landlord or tenant from time to time, at reasonable intervals, to apply in a summary manner to the Court to fix the amount of rent to be paid by the tenant, and the Court shall have power on any such application to fix the rent to be paid henceforth by such tenant, either increasing or diminishing the previously existing rent, having reference to equitable principles.

(9) *Free Sale.*—That every tenant holding as a tenant from year to year, shall have the right to sell his interest in his holding, provided always that the entire estate and interest of the tenant in his holding shall be sold in one lot only, and provided also that the tenant shall give due notice in writing to the landlord, and that the price paid for the purchase shall not in any manner prejudice the right of the landlord thereafter to a readjustment of the rent, and that the purchaser, if not the landlord, shall become the actual tenant thereof.

(10) That on the termination of any existing agricultural lease originally made for a term of less than thirty-one years, the occupier shall be considered to hold the premises from year to year, subject to the provisions set forth in Resolutions 6, 7, 8, and 9.

(11) That in all cases of adjustment of rent, or sale of the tenant's interest, the particulars of the same shall be registered in the Court of Tenures.

(12) That no tenant from year to year shall be permitted to divide or sublet his holding, or any part of it, without permission in writing from his landlord.

LAND COURT.

(13) That it is expedient to create a strong court with jurisdiction to decide all disputed questions between landlord and tenant.

(14) That the Court of Tenures be of the highest character and standing and be made as accessible and inexpensive to applicants as possible.

(15) That all owners in possession of settled estates shall have power to make any of the leases or agreements herein recommended; that in the case of any existing settlements the fine or purchase-money which forms the consideration for such lease or agreement shall be paid to the trustees of the settlement, or lodged in the Court of Chancery. In the case of any future settlements, the owner may receive the fine or purchase-money when not exceeding the sum of £—; but if the amount exceed the sum of £—, the purchase-money must be paid to the trustees of the settlement, or lodged in the Court of Chancery.

RECLAMATION OF WASTE LANDS.

(16) That the reclamation of large tracts of land now lying waste would be of benefit to the country. That the Court of Tenures shall have large powers to permit and encourage such reclamations, the benefit of which shall enure to the persons by whom they are made.

FEE-FARM GRANTS.

(17) That it be competent for any limited owner of land to enter into an agreement with a tenant for the conversion of his tenancy into a perpetuity, at such rent and in consideration of such fine as may be agreed upon, subject to the approval of the Court of Tenures; and that advances for such fines may be made by the State. The amount of fines in cases of lands in settlement to be paid into court, and dealt with as money paid under the provisions of the Lands Clauses Consolidation Act; and that by like agreement, and subject to like approval, the rents may from time to time be fined down. That such tenant in perpetuity shall not be allowed to subdivide his holding without the permission in writing of the landlord; and if the landlord give permission, the rent shall be rateably apportioned.

MR. WILSON'S LEASE.

(18) That in the opinion of this committee the Government ought to advance a sum of money, not exceeding five years' rent of the farm held by the applicant, being a first charge upon it, to any tenant who shall require it for the purpose of obtaining a lease giving tenure of not less than sixty-one years with power of sale, in terms of a lease to be hereafter agreed upon (see lease p. 29), with no restrictions except such as are necessary to prevent the deterioration of the land at the end of the lease.

PARLIAMENTARY TENANT-RIGHT.

(19) That the principle involved in the system of Parliamentary Tenant-right proposed by Judge Longfield, as an alternative measure of land tenure dealing with the relation of landlord and tenant, meets with the approval of the committee, and would give, when adopted, a security to the tenant, amounting practically to Fixity, with Free sale of his interest, and Fairly adjusted rents.

(20) That, in the opinion of this committee, the Government should advance money through the Board of Works to tenants desiring to acquire a Parliamentary Tenant-right in their holdings, on the same conditions as to tenants purchasing their holdings under Part III. of the Land Act of 1870.

CORPORATE BODIES.

(21) That in the opinion of this committee it is expedient that all Corporate Bodies should be compelled to sell, at the market value, their landed property, except so much as is occupied or required for the purposes of their trusts, an opportunity being afforded (as in the case of the glebe lands sold by the Commissioners of Irish Church Temporalities) to the tenants of such lands to acquire their holdings, with such assistance from the State as may be fixed by Parliament.

OVER-POPULATED DISTRICTS.

(22) That this committee cannot conceal from themselves that the distressed and unhappy condition of certain poor districts, is largely caused by local overcrowding; but they have not as yet sufficient information before them to offer definite suggestions on the subject.

PEASANT PROPRIETARY.

(23) That it is desirable that increased facilities should be given by the Government for the conversion of tenant-farmers into owners.

(24) That a commission, having no judicial power, and such as has been suggested by Mr. Shaw Lefevre and others, should be appointed for the purchase of lands to be again re-sold to occupying tenants.

(25) That this may be done by purchase of estates by some properly constituted body from voluntary vendors, at the current market price, to be retailed to the occupiers on the most favourable terms that can be given by the Government, without loss.

(26) For this purpose trustees, with or without power of sale, life tenants, or owners of any greater estate, shall be empowered to sell the fee of the land, with proper safeguards against frauds—the proceeds of the sale to be vested in a proper authority, subject to the trusts affecting the land, and the land being freed from all charges and liabilities of every description, save head-rents and fee-farm rents.

(27) In retailing such estates to the occupiers, all deeds necessary to the completion of the tenant-purchaser's title shall be prepared by the selling body, and any cost so incurred shall be included in the price of each parcel sold. The title of each parcel or farm sold shall be registered.

(28) That the body which is entrusted with the power of granting such advances shall not be obliged to limit the grant to any particular proportion of the purchase-money, but shall be permitted to take into consideration the interest possessed by the tenant in his farm; provided that, in all cases, the margin between the sum advanced and the market value of the landlord's and tenants' combined interest in the farm shall afford an adequate security to the State.

AGRICULTURAL LABOURERS.

(29) That any scheme which may be adopted for settling the landlord and tenant question in Ireland should include, or be accompanied by legislation directed towards enforcing the providing of such dwellings for Agricultural Labourers, as will be consistent with health and decency, and for encouraging the providing of garden allotments for them, and that such further legislation should be based upon the principles embodied in the Public Health, Ireland, Act, 1878 (41 & 42 Vic., c. 52); and the Artisan and Labourers Dwellings Act, 1868 (31 & 32 Vic. c. 150), and the Amending Act of 1879 (42 & 43 Vic. c. 64).

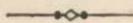
(30) That as regards houses unfit for human habitation, powers should be conferred upon the authorities of Rural sanitary districts, similar to those possessed by Urban sanitary authorities, under the Public Health, Ireland, Act, 1878, and

that inspectors under the Local Government Board shall be the persons charged with putting the law in action.

(31) That the sanitary authorities shall have power to prevent overcrowding by lodgers or otherwise.

(32) That the fixity of tenure to be acquired by existing tenants should be subject to all facilities and powers hitherto given by statute for the purpose of providing dwellings or gardens for the accommodation of agricultural labourers.

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APPENDIX.

FEE-FARM GRANTS.

THE proposal of which I have given notice, contemplates the conversion of tenancies from year to year into tenancies in perpetuities at fixed rents.

It is now almost universally conceded, that it would be in a high degree desirable to facilitate, so far as possible, the voluntary sale by landlords to tenants of the holdings of the latter, and with that object to substitute for our present cumbrous and expensive method of conveyance, one which would be cheap and simple. To simplify sales of land, especially in small lots, is right and necessary; but of itself it would have little effect, except in the rare cases in which the landlord is an unincumbered owner in fee. By far the greater proportion of the estates in Ireland is in settlement, almost as much, I think, as was the case thirty years ago, and, moreover, is considerably incumbered.

Now suppose the most ample power of sale to be conferred on tenants for life, what inducement would there be to a tenant for life to sell his holding to an occupying tenant? The purchase-money should either be applied in the payment of incumbrances, or invested in the funds or other securities permitted by law to trustees, and the chances are that in neither case would the saving in payment of interest, or the income of the investment, counterbalance the loss of the rent which would be given up; but if instead of a sale out-and-out, it were permitted to the tenant for life, or other limited owner, to grant to the tenant a perpetuity in his holding at a fixed rent, in consideration of a fine—amounting, say, to three or four or five years' rent, the inducement to tenants for life to enter

into such an arrangement would be one of a very powerful character. The landlord's income from his tenants would remain substantially undiminished, while the fines would be applied towards the sweeping off of incumbrances, or else invested on trusts corresponding with the limitations of the estate, as is the case with money paid for land taken for railways or other purposes under the Lands Clauses Consolidation Act.

If it be said that while, on the one hand, there would be this inducement to landlords to grant perpetuities at fines, the tenants, on the other hand, who complain of rents being already too high, would not find it their interest to pay a sum of money for the perpetuation of such rents.

I say in answer, that in a time of distress this may be so; but that such times of distress are temporary and exceptional. I feel certain that if such a law as I propose (a law of voluntary conversion) had been enacted ten years ago, multitudes of the tenants would have been delighted to avail themselves of it, and would have gladly invested their savings in buying a perpetual estate in their holdings, and securing themselves from what is their abiding terror—the dread of eviction, or the arbitrary raising of their rents.

This view I laid before Mr. Shaw Lefevre's committee two years ago. I find that it is the same in substance with that which was broached in a pamphlet published in 1869, by Mr. Edward O'Brien, which I have lately read with great interest and entire acquiescence. When the landlord and tenant have come to an agreement as regards rent and fine, the agreement should be submitted to the Court of Tenures, which would look to the agreement being a fair one, having regard to the rights of the remainder-men. I embody this proposal in the following resolution.

RESOLUTION 17 (p. 17).

That it be competent for any limited owner of land to enter into an agreement with a tenant for the conversion of his tenure into a perpetuity, at such rent, and in consideration of

such fine as may be agreed upon, subject to the approval of the Court, and that advances for such fines may be made by the State—the amount of fines in case of lands in settlement to be paid into Court, and dealt with as money paid under the provisions of the Lands' Clauses Consolidation Act. And that by like agreement, and subject to the like approval, the rents may from time to time be fined down. That such tenant in perpetuity shall not be allowed to subdivide his holding without the permission in writing of the landlord, and if the landlord give permission, the rent shall be rateably apportioned.

JOHN O'HAGAN.

MR. GEORGE O. WILSON'S LEASE.

THE lease I propose to bring under your notice is one in which a long term of years with power of sale is given to the tenant. The term should be one sufficiently long to give security to the tenant, and yet not too long to deprive the landlord of all interest in the farm. A power of sale is also given to the tenant, provided always that no part of his interest shall be sold separately. The tenant is also allowed full freedom with respect to his working the farm, the landlord retaining only the royalties and game. These are very important privileges to the tenant; and, on the other hand, I propose, in order to secure payment of the rent, that a fine be paid at the commencement of the tenancy. I also think that the tenant's own interest is sufficient to prevent his running out or impoverishing his farm, at least during the greater part of his lease. But for the last five years he should be bound to such a course of grazing or cropping as may prevent the farm being thrown on the landlord's hands in an exhausted condition.

As an illustration of the practical working of such a lease, I will suppose a farm the fair rent of which is £40 per annum; for such a farm I think £200 about the fine that the tenant ought to pay. Now, taking twenty-five years' purchase as a fair value for the fee-simple, twenty years would be about the value of a sixty-five years' lease. Allowing the tenant a reduction of rent at this scale, his rent, after paying £200, would be reduced to £30 per annum.

The two difficulties in carrying out such a lease are—in the first place, the ascertaining what a fair rent would be; and, in the second place, the requiring a sum of ready money which the tenant may not possess. The first difficulty should, and I believe generally would, be settled between the landlord and tenant themselves; but in case this is found impossible, there remains the appeal to the Land Tenure Court which we all hope to see established in this country.

The second difficulty, where the tenant has not the necessary capital, is met by the proposal that the Government should advance it for the purpose. I believe it can be done without loss to the country at 4 per cent. for forty-five years, when capital and interest would be paid, and no further claim remain. If this be correct, you will see that the tenant profits by the transaction, even where twenty years' purchase is considered a fair value for the part of the rent to be capitalised. He, in fact, buys a £5 per cent. security for sixty-five years, and can borrow the money to pay for it at £4 per cent. for forty-five years. The case taken as an example would then stand thus:—

Agreed rent,	£40 per annum.
Reduced rent,	£30
Fine, £200, at £4 per cent.,	8
	<hr/>
Rent for forty-five years,	£38 per annum.
And for twenty years following,	£30 per annum.

So that the rent to be paid by the tenant is less by £2 for forty-five years, and by £10 for the remainder of the lease, than the sum agreed upon as a fair rent; in addition he has, practically, fixity of tenure and free sale. Yet I think the landlord's position is not injured. A fair rent is secured to him, and his prospect of receiving an increase, in case the prosperity and wealth of the country continue, is not so remote as to deprive him of all interest in his estate, where he would have every inducement to live, surrounded by a contented and prosperous tenantry.

Terms of Lease proposed by George Orr Wilson.

This Indenture made the 9th day of September, 1880, between A. B. of County Dublin, hereinafter called the Lessor, of the one part, and C. D. of County Kildare, hereinafter called the Lessee, of the other part, Witnesseth that the Lessor, in consideration of the sum of £200 paid to him by the Lessee, and of the rent and covenants hereinafter men-

tioned, doth demise to the Lessee that farm of land now in the possession of the Lessee, and situated at County Kildare, containing 40 acres or thereabouts; excepting and reserving to the Lessor and his heirs, all game and mines and minerals, and other royalties in or upon the said premises, with liberty to him or them at all reasonable times to enter upon the said premises for the purpose of taking or carrying away the things hereby excepted and reserved; and also with power for the Lessor, his heirs and assigns, or those authorised by him or them, to hunt, shoot, fish, and fowl upon the premises: to hold to the Lessee for the term of 65 years from the first of May last past, at the yearly rent of £30, to be paid by two half-yearly payments, on the first day of May and the first day of November in every year, the first of such half-yearly payments, to be made on the gale day after the date of these presents. And the Lessee, for himself, his heirs and assigns, doth covenant with the Lessor, his heirs and assigns, that he will pay the said rent at the times hereinbefore specified, and that he will keep the demised premises, and all buildings and fences thereon, in good order and repair, and that he will maintain the demised premises as one undivided farm, and will not assign or sublet any part thereof separate from the rest of the premises, and that during the last five years of the said term will not meadow or sow with corn or green crops any part of the lands (*or some covenant to the same effect*).

In witness whereof the said parties have subscribed their names and affixed their seals.

RESOLUTION 18 (p. 17).

That in the opinion of this committee, the Government ought to advance a sum of money, not exceeding five times the yearly rent of the farm held by applicant, being a first charge upon it, to any tenant who shall require it for the purpose of obtaining a lease-giving tenure of not less than sixty-five years, with power of sale: in terms of a lease (similar to the above), with no restrictions except such as are necessary to prevent the deterioration of the land at the end of the lease.

PARLIAMENTARY TENANT-RIGHT.

THE system of land tenure designed to enable tenants to acquire a statutory or Parliamentary Tenant-right in their holdings is not put forward as being *a better* scheme than others brought under the notice of the committee.

In some respects it will be at once conceded that the projects—

- (a) For the acquisition by the tenants of the fee of their holdings ;
- (b) For the acquisition by them of fee-farm interests at a fixed rent ;
- (c) Long leases, or leases in perpetuity, with right of sale of tenants' interests,

are, under certain circumstances, to be preferred.

The system of Parliamentary Tenant-right (generally known as the Longfield system) is advocated by its author as being better than the Ulster Tenant-right Custom, or than tenancy from year to year, as it exists in various parts of Ireland.

The vague and indefinite nature of the rights of the parties, one of whom owns the raw material of the farm, and the other of whom has added by his capital and labour to its value—necessarily leads to strife and contention.

To disentangle these interests from each other, render them definite, and declare or register the proportion they bear to each other, is the object of the Longfield scheme. This once accomplished, the chief source of quarrel is removed.

A Bill based on this principle, entitled "A Bill to enable Tenants of Land in Ireland to acquire a Parliamentary Tenant-right in their Holdings," was introduced in April, 1874. (Bill 82).

Some persons, not familiar with Ulster Tenant-right, seem to have a misconception of the proposal of Judge Longfield.

They erroneously fancy that he proposes to give the tenant a *present* of his Parliamentary Tenant-right in places where Ulster Tenant-right does not exist.

They also seem to think that it is essential that Parliamentary Tenant-right shall be 7 or 10 times the rent. This is not only not essential, but it will be at once admitted that if a tenant has honestly acquired an interest in his holding equal to only 3 or 5 years of the rent he is justly entitled to a legal recognition of that right. It would be unjust to say that unless he shall buy the two years additional, so as to make it up to seven years, he shall not be entitled to a recognition of his right. On the other hand, if by his skill, labour, capital, or industry he has honestly gained an interest equal to 10, 15, or 20 times the rent paid to the landlord, then the tenant is in justice entitled to have a legal recognition of his right, calculated at that rate.

There may be some advantages in uniformity, but it forms no essential part of the scheme: neither is it absolutely essential (although very desirable), that revaluation at certain intervals should be made by the parties themselves. This may be accomplished through the instrumentality of a court.

What is essential is that once the interest of the landlord and those of the tenant are ascertained, and disentangled from each other, they shall be registered, so as to form the basis of future equitable settlement, when changes in the value of the holding occur.

In order to give a simple view of actual working of the Parliamentary Tenant-right, the following case was adduced.

The instance given is an actual case, where the principle of the Longfield system is in operation in the County Antrim, in the form of a lease for 300 years, capable of being readjusted as to rent every 10 years on the principle in question. The case is the simplest which can be given to illustrate the plan, as there are neither improvements, occupancy, or anything else to complicate matters. It is as if part of a domain was broken up, and let to a tenant on the principle of the Longfield system.

The landlord and his tenant (Hunter) agree that the holding is fair value for £81 a year rent. Taking money at 5 per cent., and assuming that 20 years' purchase of the rent would

be a fair price, the fee would be represented by £1,620. The landlord has agreed with Hunter to accept a rent of £60 a year, and a fine of £420.

The case therefore stands thus:—

Value, £81 × 20 (years' purchase) =	£1,620 (value in fee.)
Of this, Tenant's share £ 420—at 5 per cent. ...	£21 0 0
„ Landlord's share £1,200—at 5 per cent. ...	£60 0 0
£1,620	£81 0 0

Now it will be observed that the tenant's share in this instance bears a certain proportion to the rent paid: it is 7 times the rent (£60 × 7 = £420).

The agreement is that every ten years either partner may, if he pleases, give notice of a change of rent, and a readjustment may take place. Thus, the landlord may send notice to increase the rent; but if the tenant chooses he may give up the land, and claim as compensation seven times the *increased* rent; or the tenant may send notice for a reduction of rent; but if the landlord chooses he may take up the land, giving as compensation seven times the *reduced* rent.*

The result of thus fixing a definite number of years' purchase of the rent as the mode of measuring the Tenant-right is that each partner has an interest in only demanding what is fair; otherwise he suffers a loss himself. This is at once a definite, intelligible, and just measure of the tenant's interest, apart, of course, from his improvements. Thus, suppose that at the end of the first ten years there is no change in the value of land, things then go on as they are. At the end of the next ten years, the property has become much more valuable. For simplicity, let us suppose that the landlord feels justified in asking double the rent of twenty years ago. The tenant has the right of choosing whether he will pay this £120, or claim as compensation for quitting his holding seven times £120 = £840. In fact, the landlord says: "I consider that the con-

* Improvements made after the adoption of this system belong to the man who makes them, whether landlord or tenant.

cern is now paying double what it was twenty years ago. My shares have doubled in value, and I assign to your shares the same value as I do to my own: you can choose whether you will remain in possession, or be bought out at the increased value which I assign to my shares." By doubling the rent the tenant's claim is doubled.

Conversely, the tenant has a right to claim a reduction. But the landlord has the right of choosing whether he will accept the reduction, or buy out the tenant at seven times the reduced rent.

Here is an exact statement in figures.

In the year 1880:

Value in fee,...	£1,620	; value in rent, ...	£81	0	0
Tenant's share, ...	£420—at 5 per cent.	...	£21	0	0
Landlord's share	£1,200—at 5 per cent.	...	60	0	0*
	<hr/>		<hr/>	<hr/>	<hr/>
	£1,620		£81	0	0

In the year 1890: No change. Rent continues as before.

In the year 1900: A town, a railway, or some such cause has much increased the value. Landlord claims £120 rent.

Tenant's share, ...	£840—at 5 per cent.	...	£42	0	0
Landlord's share,	£2,400—at 5 per cent.	...	120	0	0*
	<hr/>		<hr/>	<hr/>	<hr/>
	£3,240		£162	0	0

In the year 1920: Great depression. Tenant claims reduction to £30 rent.

Tenant's share, ...	£210—at 5 per cent.	...	£10	10	0*
Landlord's share,	£600—at 5 per cent.	..	£30	0	0
	<hr/>		<hr/>	<hr/>	<hr/>
	£810		£40	10	0

Under this system the landlord has the power of raising the rent; but if he demands an increase in excess of the real value, he has to pay a fine in excess of the real value.

In the case given in illustration, the tenant had no interest

* These amounts will be seen to be one-seventh of the tenant's share.

arising either from previous purchase, or improvements, or occupancy.

It will of course be understood that in cases where such interests exist they would be taken into account as part of the consideration given to the landlord for the "Parliamentary Tenant-right."

The plan is one which is fair and just. It is so sound in economic principle as to have met with the approval of some of our best political economists—such as its author, Mill, Cairnes, Fawcett, and others. So far, therefore, as justice and soundness are concerned the scheme is equally applicable to England and Scotland as to Ireland. Its peculiar suitability to Ireland turns upon this: it recognises an Irish custom—improves and defines it. It would accomplish what would be a real and effective security of tenure for the Irish tenant. It would accomplish this in a manner suited to the ideas and habits of the country; while combining with this end the further considerable advantage of reserving for landlords a place and function in the national economy.

RESOLUTIONS 19 and 20 (p. 17-18).

That the principle involved in the system of Parliamentary Tenant-right proposed by Judge Longfield, as an alternative measure of land tenure dealing with the relation of landlord and tenant, meets with the approval of the committee and would give, when adopted, a security to the tenant amounting practically to Fixity, with Free sale of his interest, and Fairly adjusted rents.

That in the opinion of this committee the Government should advance money through the Board of Works to tenants desiring to acquire a Parliamentary Tenant-right in their holdings, on the same conditions as to tenants purchasing their holdings under Part III. of the Land Act of 1870.

RECOMMENDATIONS OF SUB-COMMITTEE ON CON-
DITION OF AGRICULTURAL LABOURERS.

*From which Resolutions 29, 30, 31, 32 (p. 21 and 22) were adopted
by the Committee.*

(1) It is the opinion of this sub-committee that any scheme which may be adopted for settling the landlord and tenant question in Ireland should include, or be accompanied by, legislation directed towards enforcing the providing of such dwellings for agricultural labourers as will be consistent with health and decency, and for encouraging the providing of garden allotments for them; and that such further legislation should be based upon the principles embodied in the Public Health, Ireland, Act, 1878, (41 & 42 Vic. c. 52); and the Artisan and Labourers' Dwellings' Act, 1868 (31 & 32 Vic. c. 150); and the Amending Act of 1879 (42 & 43 Vic. c. 64).

(2) That as regards houses unfit for human habitation, powers should be conferred upon the authorities of Rural sanitary districts similar to those possessed by the authorities of Urban sanitary districts, under the Public Health, Ireland, Act, 1878, and that Inspectors under the Local Government Board shall be the persons charged with putting the law in action.

(3) That when a house or building is deemed unfit for human habitation, the sanitary authorities shall have power to give notice to the owner or owners, to put the premises into a proper condition, and on failure to do so, to take possession of the premises; and such sanitary authorities shall have power to prevent overcrowding by lodgers or otherwise.

(4) That the fixity of tenure to be acquired by existing tenants should be subject to all facilities and powers hitherto given by statutes for the purpose of providing dwellings or gardens for the accommodation of agricultural labourers.

RECLAMATION OF WASTE LANDS.

LARGE tracts of land in Ireland, in a state of waste, are capable of being reclaimed, and may be made available for the creation of a class of peasant proprietors. The reclamation of such waste land would improve the health of the districts wherein it is situated, and would be a great public benefit. The planting of mountain districts would, after a time, become highly remunerative. Were it in the power of the Court of Tenures to permit and encourage such improvements, and at the same time to secure the benefits arising from them to those who made them, a great impetus would be given, not only to the reclamation of land for tillage but for other purposes, which would in the end repay the capital invested in such undertaking. Through the instrumentality of the Local Government Board, with the powers which it at present enjoys, and the Lands Clauses Consolidation Act, facilities can be given to companies or private individuals willing to advance money for such purposes. In this way there is reason to hope that something may be done to "facilitate the creation of a class of small landed proprietors in Ireland," as has been proposed in a Bill for this purpose, introduced in April, 1875 (Bill 148).

RESOLUTION 16 (p. 16).

That the reclamation of large tracts of land now lying waste would be of benefit to the country. That the Court of Tenures should have large powers to permit and encourage such reclamation, the benefit of which shall enure to the persons who made them.

