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THE LAND QUESTION IN IRELAND,
THE LAND ACT OF 1870,
THE INTERESTS OF THE STATE,
CONSIDERED.

A Study.

BY

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The accompanying Publication is considered, by many competent judges, calculated to educate usefully the public mind with reference to the Irish Land Question. You are respectfully requested to assist in its circulation with your influence.

TO
THE LAND LEAGUERS OF IRELAND,

LINEAL DESCENDANTS OF THE "WHITEBOY,"

FAITHFUL INHERITORS OF HIS PRINCIPLES AND PRACTICE,

The Following Pages are Dedicated,

WITHOUT PERMISSION, AND WITHOUT RESPECT.

PREFACE.

IN the discovery of the truths which govern and explain systems and sciences, the usual plan is to collect a few facts and construct a theory, with which for some time facts are expected to agree. By and by, other men arise, discontented with theories in the construction of which they had no part, more facts are collected, and newer and less erroneous theories follow as necessary results. Thus as one Troy is built upon an older Troy, so by building one theory upon the ruins of a previous one, we gradually rise above the dead level of ignorance, and achieve some real knowledge.

Theories, however, in respect of things Irish, have, like most things Irish, a way of their own. They require absolutely no facts. One theory, therefore, does not destroy another, but each as it comes to the surface is a distinct acquisition, which can be added with perfect convenience to those already existing. To find a parallel to a mental attitude so easily contented, we must go back to Roman history. In the tolerance with which the Romans assumed into their theological system the divinities of the countries they overran, there was the same contempt of truth, the same instinctive doubt of its existence, which characterise most theories respecting things Irish.

Thus, that the nature of the Irish landlord is exceptionally prone to evil; that the Irish tenant, as compared with tenants elsewhere, has been treated with exceptional harshness, are theories supported by a most respectable mass of authority—each utterer quoting some other utterer, each assuming that what some one else had said is true,—none of them caring to examine facts, none of them able to produce them.*

* It is not intended to be maintained that there are no harsh landlords—there are harsh landlords, as there are grocers who sand their sugar;

The writer of these pages has often marvelled at the strange ignorance of things Irish displayed by English writers, (men for instance, so distinguished as Mill,*) and the deliberate way in which they adopt theory and disregard facts; and he sees in this *Poco curante* style of investigation, a sufficient explanation of the ill success in regard of Ireland of British legislation.

The apathy of the Irish proprietor in allowing calumny to be piled on calumny to his discredit, without ever raising his voice, would be a greater marvel, were it not susceptible of an easy explanation.

It is a fact which cannot be gainsaid, that landlord rights in France, Belgium, Prussia, Denmark, the United States, &c., are larger and more easily enforced, than are landlord rights in Ireland. That being so, it is difficult for any man in Ireland who has anything to lose, to realise that any number of sensible persons can think, that justice would be done, the State better served, the peace of the country be re-established or secured, by interfering with rights which everywhere outside Ireland, are held to be in harmony with the requirements of civilisation and the internal polity of every nation. It can then be understood, how it has come to pass, that disregarding a senseless but dangerous clamour, Irish owners have been content till now, to rely for protection on the practical good sense of Parliament.

Meanwhile, whatever be the cause, the state of Ireland has gone from bad to worse. In the name of the constitution, and under its ægis, freedom has been banished by licence, women skulk in the dead of night to pay their husbands' lawful debts; the agent or landlord receives his just dues with his finger on the trigger; senseless and monstrous outrages are committed on beasts as well as on men, and the brute can not, and the human being dare not, claim that redress and protection which the

nevertheless, it would be an untruth to say, because of such delinquents, that the trade was a dishonest one, and it would be absurd and unjust to hamper the trade by special legislation because of such delinquencies.

* Mill's tractate *England and Ireland*, is a wonderful instance of crude ideas acting on deficient information. Any unprejudiced person reading *Mr. Mill's Plan Examined*, by Lord Dufferin, must infallibly give such a verdict.

law promises, and is unable to perform : he dares not, lest worse should befall.

The Land League says it does not desire outrage, and in this declaration it proclaims its dishonesty as in all else, because there is not a shadow of doubt, that it could everywhere punish and repress these outrages, and they most abound where its power is the greatest.

In these shameful and distressing circumstances, our legislators are of opinion that something must be done ; and so the Land Laws are to be remodelled, and Parliament is to do—it knows not what—it knows not why.

It would be incredible, if it were not a patent fact, that no one seems to ask himself, why it is that land systems which succeed everywhere else should fail in Ireland—if indeed they have failed, and if indeed the cause of the disorder does not lie elsewhere.

People talk glibly indeed, of “free land,” of the evils of “settlement and entail,” and so on ; but none of these things affect the relations existing between landlord and tenant, and it is precisely these relations, which agitators are seeking to alter and subvert.

It is an unappreciated fact, that there is and has been, no system of tenure in Ireland which does not and has not existed in France, since the revolution of 1790. Whether it be the middleman system, which Lavergne says works well in some, ill in other districts of France ; or whether it be the system of tenants making all the improvements, as they do in Brittany, or did until comparatively lately, under what is called “Le Domaine congéable system.”

Even the system of agrarian outrage is not peculiar to Ireland. It existed in Flanders till stamped out in 1850 (as it might be in Ireland), after a ten years’ struggle.

In particular districts in France and Belgium, where economic conditions resemble those of Ireland, where the towns are small and local markets insignificant, a poverty equally grinding exists, as testified by Lavergne, Laveleye, and the Reports respecting tenures of land in Europe presented to Parliament in 1870—a work much quoted in the following pages.

It is a fact to which all practical agricultural economists testify, that the comfort of an agricultural population depends, not so much on land systems, as on the proximity of markets—in other words, on the circulation of capital.

There is in Belgium a much fiercer competition for land than in Ireland; * Laveleye testifies to the high rents, and the miserable profits reaped by the small agriculturist; yet nowhere out of Ireland, is it for a moment contended, that the necessities of the tenant are a legitimate ground for breach of contract. How a plea for breach of contract can be held in accordance with morality in one country only, and be invalid under practically identical circumstances everywhere else, let casuists say.

Everywhere out of Ireland, "free contract" is the rule, and the power of the State, in case of difficulty, unhesitatingly supports it. Everywhere out of Ireland, peace between landlord and tenant exists, agriculture is fairly prosperous, and land systems present no special difficulty.

And so in our wisdom, we have set about widening the difference which exists between the land system of Ireland and land systems elsewhere, by interfering with "free contract." It is seriously proposed, to move still further in the same direction, and we expect peace and prosperity to result, from a new system absolutely opposed to that which succeeds elsewhere.

The law has never been enforced in Ireland as it has been enforced in other countries. For the last 200 years, landlord and tenant have been practically left to fight their quarrels out, as if the State had no concern in the matter, and a little anarchy more or less, was of no account. Bottle-holding for both, the State seems to have thought, that what mattered most, was to have the greatest possible number of rounds fought out. This, I suppose, is one of the privileges of constitutional government. Nevertheless, it might be profitable, to take a leaf out of the

* In Belgium, properties being smaller than in Ireland, the commercial principle is more active, and owners of land find it their interest to extract as much rent as they can. In Ireland, on the contrary, many landlords, particularly perhaps in the north, are at much trouble and incur some obloquy in endeavouring to limit competition.

book of constitutional law, as understood in France under Louis Philippe, and in Belgium under Leopold, and try whether a limitation of freedom for ten years, might not be a cheap price to pay, for ending the anarchy of two centuries.

It has not, however, entered into the writer's plan, to propose any project of reform himself, or discuss those of others. This wide field he leaves willingly to those who, having invested in a tourist's ticket, think they know all about it.* He at least has experience enough, to have made himself acquainted with his own incompetence for such a task.

If he shall have been able to get some few readers to ask, why our Legislature should set its head up stream, and act on principles ignored elsewhere, and shall not be satisfied till they have obtained an answer, he will have achieved the modest end he had in view.

The brief historical sketch which follows at page 31, goes no further than the Union. It was thought sufficient to trace up to that date, the gradual growth of any differences which may exist between the land system of Ireland and that of England, and it was before that period that the seeds of such differences were sown.

* Chinese Gordon's recent letter, is one of the most recent instances of the supposed intuitiveness, with which English tourists see at a glance, what is so obscure to us who live in Ireland.

With a little more patience, and a little less self-confidence, he would have found what Arthur Young discovered 100 years ago, that the apparent poverty of the Irish cottar is not always real. Owners of small holdings have often stock at graze, which they have no room for at home; and on Sundays, out of the pig's drawing-room there come feathers, silks, kid gloves, and what not; evidences if not of comfort, at least of the credit extended by shopkeepers, who ought to be able to estimate the means of payment.

RUNNAMOAT, ROSCOMMON,
December 13, 1880.

THE LAND QUESTION IN IRELAND.

THE present object of Irish agitation, is the conferring on a limited number of persons, certain property in land, now enjoyed by a number still more limited. Whether the attainment of this object, is calculated to benefit the State at large, is a matter which it is the purpose of this paper to study.

a Present Object of Irish Agitation.

Object of this Paper.

The movement in Ireland, derives countenance from a school of thought in England, which sees inconvenience to the State in large territorial possessions, and desires to multiply owners, by applying to property in land, principles not applied to it in Europe, and which, if applied to any other description of property, would dissolve society as at present constituted.

Political School in England.

This doctrine, commonly called Free Trade in Land, has no necessary connection with the respective rights of landlord and tenant, and persons holding the most opposite views respecting entail, primogeniture, &c., may sympathise with every word in this tractate.

As illustrating the views and principles of this school I give a few extracts.

Thus, according to Buckle (*Fragments*, p. 350, quoted by Arnold in *Free Land*),—"Landlords are, perhaps, the only great body of men whose interest is diametrically opposed to the interest of the nation."

Propositions erroneous in their absolute form, and as applied solely to land.

Thus Froude (quoted by Arnold, *Ibid*, p. 186),—"No individual, or set of individuals, can hold over land, that personal and irresponsible right, which is allowed them in things of less necessity."

Thus Arnold (*Ibid*, pp. 188-9),—"The land belongs to the State,"—"the land belongs to the nation, to the State, to the people."

Thus again, quoting Mr. Gladstone at West Calder, Nov. 27,

1879—"Those persons who possess large portions of the space of the earth, are not altogether in the same position as possessors of mere personalty. . . . For personalty does not impose the same limitations on the action, and industry, and the well-being of the community, in the same ratio as does the possession of land."

Mr. Mill, in his *Principles of Political Economy*, says, at p. 281 of the third edition,—“The greatest burthen on the land is the landlord;” at p. 284,—“With regard to the land, in everything which he does with it, and in everything which he abstains from doing, he (the possessor) is morally bound, and should whenever the case admits, be legally compelled, to make his interest and pleasure, consistent with the public good.” Again, at p. 279,—“The reasons which form the justification in an economical point of view of property in land, . . . are only valid, in so far as the proprietor of land is its improver;” and at page 264,—“The institution of property, when limited to its essential elements, consists in the recognition in each person, of a right to the exclusive disposal of what he or she has produced, by their own exertions.”

Rousseau. But these propositions are by no means new. That somewhat discredited philosopher, Rousseau, dreaming of a society founded on principles which have proved a powerful solvent, thus wrote:—
“Le premier qui ayant enclos un terrain, s’avisait de dire, ceci est à moi, et trouva des gens assez simple pour le croire, fut le vrai fondateur de la société civile. . . . Gardez vous d’écouter cet imposteur; vous êtes perdus si vous oubliez, que les fruits sont à tous, et que la terre n’est à personne.”

Communism. We find, then, laid down, by men whose names give weight to questionable opinions, that property in land, and property in something else should be held on principles essentially different; and between the communism of Rousseau, that of the Land League, the principles of Mr. Mill, and the gloss of Mr. Gladstone, it is hard to discriminate.

Mill. Mr. Mill, in the commencement of his twelfth chapter, gives the “limited quantity, and the limited productiveness of land,” as a sufficient reason for applying to its possession, exceptional principles.

Limitation in quantity, of anything necessary to man's use, has led, and will occasionally and very properly lead, to a suspension of the rules ordinarily applicable to property.

Examination of these Propositions of Limitation in Land

Thus, in a beleaguered city, should there be any danger of that product of labour called flour running short, it would be the absolute duty of the authorities to lay hands on any they might happen to find, totally irrespective of the wishes of the proprietor; and the question of compensation to the late owner, would become a wholly secondary consideration, and compensation would certainly not be measured by his or her views.

Illustration.

But should the city not be beleaguered, should there be merely a scarcity, such as each individual can remedy by a sacrifice of time or money, by enduring privation short of absolute want, or by removing to some district where flour is plentiful,—then there is no sufficient reason, why the ordinary rules applied to enjoyment of property should be infringed, and, as a matter of history, infringement of the laws of property in like cases, has invariably aggravated the inconvenience or suffering, which each such infringement was intended to relieve.

Applying this reasoning to land, interference with the laws governing its possession is not justified by the circumstance, that in Ireland land is hard to get, and limited in quantity.

As a matter of fact, land in Ireland is purchasable at a price, as compared with annual value, decidedly lower than the prices which obtained one hundred years ago; and by emigration, land elsewhere can be had literally for the asking.

Land in Ireland Purchasable.

So far then, its being "limited in quantity," is not a sufficient reason for applying to its possession, principles not admitted, in respect of other kinds of property.

Furthermore, the world at large has a direct interest, in urging the occupation of wild land abroad, rather than in the division of cultivated land at home. The area of cultivation is thereby increased, fresh markets are created, intensity of production generally stimulated.

Interests of the World and State.

The State has a still more direct and particular interest in the matter, inasmuch as thus without interference, not one, but two of its children, will have been provided with profitable occupation;

and in the matter of markets, it may fairly look for some preference.*

Thus it appears, that "absolute property in land" is an indirect but beneficial agent in promoting general interests. A few pages on, we shall see that it is in complete harmony with the land systems of Europe, and of the United States.

Error of Mr.
Mill. False
Origin of
Property.

That a man should be attached to a particular parish, county, or kingdom, is not a reason for State interference which I care to discuss. Let me examine Mr. Mill's principles further. In placing the origin of property in the result of labour, Mr. Mill appears to me to have fallen into an error, which vitiates many of his conclusions, and of the conclusions of the school which has adopted his teaching.

Such a view seems to me, inconsequent, narrow, and somewhat sordid. Mr. Mill unfortunately was not a Christian; and if Christianity be a light to the mind, no thoughts of his were the brighter for it.

All men have some hidden bias. If Christianity be true, then to be biassed by the doctrines and practice of Christianity, as all Christians undoubtedly are, is an unmixed gain.

Providence.

Mr. Mill overvalued the exertions of the individual, undervalued what he and his school, would I suppose, call the "accidents of birth," otherwise spoken of by Christians as the "Providence of God."

Mill's Theory
examined.

He saw, that to attribute too much to the result of labour, goes far to destroy the rights of capital, and so removes an incentive to accumulation (p. 264); and he approves of the operatives in a manufactory, receiving no more than their stipulated hire, in place of dividing the products of their labour, on the ground that the materials and machinery, without which their labour would be comparatively valueless, are the results of the "antecedent labour and abstinence of some other person." This seems to me, to be reasoning very much in a circle. The acquisition of land is, in numberless cases, the result of the "antecedent labour and abstinence of some other person;" and

* I am not now concerned in the question of waste lands at home, a detail which does not affect the principle I am here discussing.

the inheritance of anything, whether it be land, capital, a cotton mill, strength, beauty, the capacity for mental or physical labour, the mere power to work,—each and all of these, are “accidents of birth,” denied to some, and to the existence of which, the possessor has not contributed in the very smallest degree.

It does not affect the question, that the possessor has the power of ruining these attributes of his, or of enlarging their power. This capacity is itself, one of the very attributes with which he was born and endowed.

But Christian philosophy likes not the term “accidents of birth.” In its view, all these possessions are gifts, the gifts of an all-wise and munificent Creator,—given, not for the sole and absolute enjoyment of the possessor, but, each and all, to be held in trust for the benefit of others, equally created by the same Almighty power. The Christian principle

Hence it follows, that the Christian principle wholly ignores this “right to the *exclusive* disposal, of what he or she has produced by their own exertions,” which Mr. Mill gives to labour, and denies to property in land; it loudly maintains, that the State has an undoubted right, to call upon each to contribute of his or her gifts for the common weal, whatever those gifts may be. Is broader.

Which is the broader principle, that of the Christian or that of Mr. Mill?

Hence it follows again, that each will be made more secure, in the possession of what he or she has received; for the source of the gift demands respect, the heavy responsibility which the reception of these gifts entails on the possessor must be recognised; and it would be alike improper and impolitic, for the State to lessen such responsibility, by any interference or limitation, not shown to be absolutely necessary. Sacredness of Property

Both the individual and the State are interested in the Christian principle; for whilst, on the one hand, the individual is benefited, (the State being bound to protect him in the enjoyment of the very fullest rights, not *clearly* injurious to society); on the other hand, the State enjoys, on its side, the Reasons for it.

Right of Property and Freedom of Participation found in Harmony. fullest rights, and the most absolute freedom; for if it can be shown beyond yea or nay, to the satisfaction of reasonable and unprejudiced men, that it is necessary for the well-being of society, that, for instance, every landlord in Ireland should be expropriated to-morrow, I am compelled by this very principle to admit, that the State has full right to expropriate them, and that it would be the absolute duty of the sufferers, cheerfully to acquiesce.

Similarly, and for the same reasons, and in our Ireland, it is the duty of the State, to protect each individual, in the fullest enjoyment of his personal liberty. But each man holds his liberty, his life itself, on the same principles as the landlord holds his land, always in trust for others, as well as for himself.

Should it be necessary, the State is fully justified, in depriving a man of his liberty, in depriving a barony, a county, a whole kingdom of its constitutional rights, if need be and it have the power; and as in the case of land, so in the case of loss of liberty, cheerful resignation may become a positive duty. "*Salus populi suprema lex.*"

The most ardent reformer, can desire no wider principle, neither can the most ardent stickler for landlord rights, desire one in his favour more cogent; and thus I am brought back to the object of my paper, which is to consider, whether the present object of Irish agitation, is calculated to be of use to the State or not.

Demands of Irish Land Agitators. The aspirations of the party of Irish Land Reform differ much. I will endeavour to specify them, beginning with the more moderate, rising to the climax.

1. They desire Fixity of Tenure (in reality, Perpetuity of Tenure, a term which, henceforth, in this paper, I shall employ in place of the term Fixity).
2. Perpetuity of Tenure at present rents.
3. The same; rents to be fixed permanently by a legal tribunal.
4. The same; rents to rise or fall with the times, at a rate to be ascertained as in case of No. 3.

5. That the tenant should be allowed to purchase his holding, with or without the consent of the present owner.

6. That he should be assisted to do so by the Government.

7. That the purchase should be at a price in the fixing of which the seller is to have no voice.

8. That, in order to facilitate the purchase, the value of the land should be depreciated by a course of agitation.

9. That, instead of the purchase being effected by the transfer of a lump sum, there should be substituted the payment of rent for a certain number of years, the landlord to be then discharged as a useless servant, and relieved of all further trouble.

10. That, without transfer of money, he should be summarily disestablished and disendowed, and the "burthen on the land," spoken of by Mr. Mill, definitively removed by some process not as yet formulated.

So far, there has not been promulgated, any authoritative proposal, for hanging and disembowelling landlords; but at almost all these meetings, whether presided over by priests or not, there are constant recommendations from enthusiastic hearers, to give the landlords lead, to destroy landlordism, and so forth. That the bystanders play the part of the Greek chorus, and point the moral, is sufficiently clear, and the proof is being written in bloody characters from south to west.*

Meanwhile, in the districts where these meetings have been and are being held, the destruction of landlordism is being practically brought about, by the simple system of withholding rent—a system which members of Parliament have advised the people deliberately to adopt.

Dangerous
and Difficult
Situation of
Landlords.

If the landlords desire to recover their land and work it themselves, the notice-servers are attacked with lethal weapons; and to meet this difficulty, it is proposed by certain members of Parliament, to disarm the police. It is considered probable I

* The *Freeman* of Oct. 1, 1880, drew an affected distinction between efforts against landlordism and efforts against landlords. You cannot get rid of landlordism without getting rid of landlords, and you can only get rid of landlords by taking their property, or by putting them to death; buying them out against their will is taking their property.

suppose, that differences must cease, when people on one side only, can be hurt.

Tenants dispossessed are replaced by main force. Thus, unable to get rent, not allowed themselves to work their lands to profit, it becomes impossible for landlords to meet the demands upon them; and next spring and summer, there is every reason to anticipate, that the eviction of landlords, at the suit of mortgagees and other creditors, will commence in right earnest.

Courage of
Irish Land-
lords.

Up to this, it certainly cannot be alleged against Irish landlords, that they are a timorous race.

Accustomed to the invectives of popular oratory, to diatribes of the Irish National press, founded upon false principles, false logic, and the utter perversion of truth; accustomed from month to month, sometimes oftener, to read of the cowardly murder of some of their fellows, still they have continued up to the present, to pursue the tenour of their way, apparently undisturbed in mind, keeping a patient silence almost unbroken.

Fears of
Irish Land-
lords caused
by apathy of
Government.

But there is no doubt, that they are now seriously alarmed. The singular apathy of Government, the evident tendency of the present Parliament, to play into the hands of the more extreme of the Irish party, has shaken the nerve, of men who were proof against any ordinary danger.*

It will be of use to such as read this tractate, who may have property, other than landed property, to bethink themselves, how the principles and views sought to be applied to property in land, would suit them.

Having now given, what I believe to be an unexaggerated picture of some aspects of the Irish land question, let us turn to other countries, and see how they manage these things; and let us more especially observe,—

Land Ques-
tion abroad.

(1.) Whether the system of letting land for terminable periods, at the expiration of which the landlord resumes possession; or,

* Since this was written the Government has instituted certain prosecutions. Meanwhile the Land League meetings continue to be held, the like doctrines taught. On one side the Land League is furnished with an extra text, on the other multitudes of well-disposed persons wholly refuse to believe in the sincerity of the Government.

(2.) Whether the system of letting land by competition, or by contract between man and man—what in Ireland we should call a rack-rent—are systems which harmonise with, or are repudiated by, the customs of any or all of the countries of Europe, &c.

Fortunately we can be guided by official documents,—namely, Part I. of Reports respecting the tenure of land, collected by H.M. representatives, and presented to Parliament in 1870. What follows, are extracts taken almost verbatim. The volume I quote from, deals with the land systems of Belgium, France, Denmark, Greece, the Hanse Towns, Italy, the Netherlands, Prussia, and the North German Confederation, Saxe-Coburg Gotha, Sweden, Wurtemberg, and a considerable number of the United States. The details are as abundant as they are reliable, and I may say before I go into some of these details, that in no one of these countries, would the proposals of the Irish tenant-right gentlemen, be received with anything but the most unbounded astonishment, and their personal liberty would be in the very greatest danger, should they go there to preach them.

In some of these countries, the number of tenants bears a small proportion to the proprietors, be they large or small, who are engaged in working their own lands; still in every one of these countries, except, perhaps, the Hanse Towns, tenants are to be found, in greater or less numbers. The soundness of the principles affecting their tenures, is however, in no way affected by the number of tenants, whatever their relative numbers may be, as compared with landowners.

In every one of these countries, the absolute right of the owner to his land is admitted; and it may almost be accepted as an axiom, that the more democratic the government, the more complete and the more decidedly marked, is the care taken to protect and safeguard those absolute rights. I record this, as what seems to me to be a fact, without wishing to deduce any principle or reasoning from it.

Absolute
rights of
Owners ac-
knowledgeed.

In several countries, certain portions of territory have been held by landlords and tenants with joint rights, from remote times.

Thus, in Denmark the landlord, amongst other property, owned

Denmark—
pp. 189, 190,
191,

what were called "peasants' farms," which he could neither annex nor cultivate himself, but was compelled to find tenants for, and usually in the family of the last tenant. The tenant's rights were limited: he had to pay rent, he could not sell, he could not name his successor, and his claim for improvements, was practically of no value. The landlord's powers were also limited, still he had sufficient, to be in the words of the Report, a "scourge to the peasantry." In spite of later limitation of his powers, it appears that on the "peasants' farms" rents are now rising.

On that portion of the property, where the landlord's rights have always been absolute, they are so still, in despite of late legislation, the tendency of which favours the tenant; and the relations between landlord and tenant, depend absolutely on contract.

The tenant may be fined for breaches of contract, and may in certain cases be visited with absolute eviction; he is also liable to forfeitures of his lease, if he neglect to pay rent, or misuse the farm, or *stir up his fellows against the landlord, or assault him by word or deed*. (Conditions which would certainly be of use just now in Ireland.) The landlord also expects rent in advance, or security.

Prussia—
pp. 234, 236,
237, 239, 242
of the Report

In Prussia similarly, while there were domains under the absolute control of the great lords, the bulk of the land was held with joint rights by peasant and noble.

The lord had rights of property, claim for services, dues in money and kind, the farming stock and the real services (tilling the lord's land, for instance). The lords were also the local authorities, and the subjection of the peasant to the lord was so general, that "the air makes us serfs," became a common expression.

On the other hand, the peasant's rights were, "support in misfortune, the claim for wood, and other advantages in respect of forests; the obligation of the lord to build and repair buildings, and to pay taxes and other public dues and services in case of destitution; also rights of grazing.

Stein and
Hardenberg.

Stein's work, was to endow *all classes*, nobles as well as peasants, with "absolute ownership, and the free use of landed property." His and Hardenberg's legislation divides itself into two parts:

the laws passed for the abolition of real charges and services, including the regulation of property relations; and the laws passed for the arrangement of rights of common, and the enclosure of common lands, and for the consolidation of landed properties.

Those statesmen differed much from some of ours, because they looked upon it as a principle, that "all that is common is hurtful to the individual." Their mission was to destroy, not create joint interests in land; they evidently believed, that the land must belong, either absolutely to the landlord, or absolutely to the occupier. According to their view, "the real strength of a nation is only to be developed, by perfect freedom in agricultural organisation." The two divisions of the agricultural legislation I have already mentioned, were steadily pushed forward, and the laws of 2nd March, 1850, converted into absolute and free property, all those classes of peasant lands, with incomplete proprietorship, to which legislation had previously given attention.

Differ from
our States-
men.

To be brief, the result, for the most part, of the commutation of their mutual rights was, that the lord added to what he already possessed, the absolute ownership of one-third, in some cases one-half, of what he had previously shared with the tenant; and, on the other hand, the tenant became the absolute owner of the remainder by purchase, with State aid and at moderate cost.

Result of
Commuta-
tion of Mu-
tual Rights.

The land reform in Prussia, appears to have begun in 1807, and to have been practically worked out forty-three years later, in 1850, subsequent legislation up to 1860 (the Report is dated 1869) carrying out and extending its principles.

It will be seen then, that the land question in Prussia, from the beginning of the century to the present day, has not, and never had, the slightest resemblance to the land question in Ireland; but I desire to bring into strong relief, the immense importance attached to "absolute property in land," by the remarkable men who carried out the Prussian land reforms.

No simila-
rity between
Land
Tenures in
Ireland and
in Prussia.

Absolute
Property in
Land.

The number of actual tenants in Prussia, considering the recent date of these land reforms, is naturally small; still they

do exist, and the conditions under which they hold are worthy of note.

Tenure.

Leases are usually for twelve, eighteen, or twenty-four years. Where no lease exists, but simply a parole letting, it is assumed to be for twelve months (called in Ireland "Tenancy at Will").

Rent.

Subject, of course, to the conditions of the existing lease, rent is regulated by competition. The tenant has no right to sell or sub-let. He has no claim for compensation for any improvements not expressly sanctioned by the lease.

In advance.

In Ireland the tenant begins almost by obtaining from his landlord, the loan of a half-year's rent, commonly called the Hanging Gale. In Prussia, as in Denmark, a very different system obtains. The tenant has frequently to make a deposit of one or two years' rent, as the case may be, or give security. The landlord has the right of distress. I find also that in Prussia, as in Ireland, the poorest people could only get the cheapest land.

United States.

Tenure.

Penn-
sylvania.
Michigan.
California.
Louisiana.
Massu-
chusetts.

Turn we now to that land of democratic institutions, where feudalities are unknown, and let us take a rapid survey from Massachusetts to San Francisco. The longest lease *tolerated* by law, in any one of these states, is for twelve years. In Pennsylvania, any lease exceeding three years not in writing is treated as being at will—that is, no parole lease for more than three years is recognised as valid. In Michigan where no written agreement has been made, the tenant quits by a six or a twelve months' notice, according to whether he pays rent half-yearly or yearly. Lettings in California, vary from 80 to 8000 acres. Rent is fixed by agreement, and usually regulated by competition. Evictions are frequent in Louisiana for non-payment of rent. In Massachusetts upon neglect to pay rent, a *fourteen days'* notice is sufficient to determine the lease. Throughout, as far as I can find, the tenant has no security for his improvements, which become the legal property of the landlord.

Rent.

Evictions.

France—
pp. 67, 68.

But in republican France, where in 1789 the properties of the nobles were confiscated, (which, according to M. de Lavergne, they for the most part recovered,) and where the large possessions of the clergy were thrown in a mass into the market, to the

(according to the same authority) great detriment of agriculture, surely there we shall find the rights of landlord and tenant adjusted, more according to the tastes of Mr. Parnell.

There are tenants in France—leases vary from one to thirty years. If the tenant does not pay his rent, the landlord can seize his effects, and the tribunal annuls the lease. Almost every lease, stipulates that the tenant shall neither sublet his farm, nor sell his interest in it, without the consent of the landlord. The amount of rent is entirely a matter of arrangement between the landlord and tenant, and no law or custom can alter the contract. The landlord, in case of non-payment of rent, has privilege, over *all* property belonging to the tenant, and should the tenant build, he does so at his own risk and peril.

In Belgium (where we are told to go and see the small farming proprietor in all his glory), it appears that the land worked by tenant farmers, nearly doubles in extent that farmed by proprietors, and the laws between landlord and tenant, are less favourable to the latter than they are in France.

A lease gives a tenant no right to the realty (*droit réel*). Where granted, leases run for from twelve to eighteen years. Land let without a written agreement is understood to be let according to the rotation of crops, or the time necessary for the farmer to obtain from the land the profit of the manure which he has put into it; thus a meadow or vineyard is understood as being let for one year only.

As soon as the lease is expired, nothing can oblige the proprietor to continue the tenant. A landlord is at liberty to ask any rent he pleases. He has a prior claim over all creditors. He may seize all live and dead stock, even though removed from the farm, and maintains his privilege for a space of forty days. If the rent is in arrear, *even for an hour*, the proprietor can serve a notice upon his tenant; and, *twenty-four hours after* the notice, may seize all the effects in the building, all the crops on the land. Eviction having been pronounced, the late tenant must leave, generally *within ten or fifteen days*. Money expended by the tenant on matters only useful, remains attached to the soil.

In Portugal, where, according to the Report, "there is a direct

Rent pure
Contract.

Landlord
Privileges.

Belgium—pp
111, 112, 113.

Leases.

Rent, Pure
Contract.

Prior Claims
of Landlord.

Portugal—
pp. 173, 183.

movement towards democratic institutions," it is amusing subsequently to read, that one of the causes for evicting a tenant is "opposition to the landlord at election."

For the purposes of this paper, there is no object in carrying the reader through each country in detail. No matter where we look, whether to countries ruled by democratic institutions, where, as in France, the cries of an infuriated people still seem to hang about the tribune, or to countries, as in Prussia, still influenced by their old aristocracies, there is the same determination to make property in land absolute; to leave the relations between landlord and tenant to be determined by pure contract. Almost everywhere, the claims of the landlord appear to be considered, before those of any other creditor.

To go back to the points I recommended for comparison, it appears, that the resumption of his land by the landlord, at the close of the appointed time, be it a lease for years, or a tenancy at will, and the system of letting land to the best bidder, are systems in complete harmony with the common practice, the common conscience of the civilised world.

But there is a difference between the case of Ireland and that of the countries I have named, inasmuch as, in those countries, it must be assumed, that the primary ameliorations, without which agriculture cannot be satisfactorily or profitably pursued, have been made by the landlord, and that in Ireland the presumption is the other way.*

In such a case, the tenant has undoubtedly acquired rights, but those rights are appreciable, and must be confined within limits which we can measure.

A person who takes an unfurnished house, acquires no right to the freehold, by the fact of his bringing in that furniture, without the possession of which he could make no profitable use of the house he has taken. No matter how long he lives there, no matter how worn out the furniture becomes, no matter how much

* It is noteworthy that in Brittany a system analogous to that here alluded to survived the Revolution. It was called the "Domaine Congéable." By this system an impecunious owner who called in a tenant to reclaim his land, could at any time repossess himself of his land, paying the tenant for his outlay (Lavergne, *Econ. Rurale de la France*, p. 215.)

Absolute
Property in
Land.
Pure Con-
tract.

Home and
Foreign
Systems in
Harmony.

Difference
in case of
Ireland.

Rights of
Tenant
measurable.

Illustration.

it may have been added to, he has no more claim to the freehold the last day than the first.

The case of the Irish tenant who takes a piece of land, which for profitable use he must furnish, differs from the above illustrative case merely in this, that the furniture has become incorporated with the soil, so that he cannot remove it, possibly cannot even have the poor satisfaction of destroying it, when his lease is out and the land resumed; but it agrees with it in this, that no amount of furnishing, no lapse of time, will give him rights beyond the value of his expenditure.

Now it never was contended, that a tenant should be bound to improve his landlord's property for nothing. As every tax the tenant has to pay, every penny not immediately profitable he has to lay out, diminishes his power to pay rent, and so, according to Adam Smith's * theory of rent, practically comes out of the landlord's pocket, the landlord can have no object in wishing the tenant to improve his property. It would be like a man trying to enrich himself, by putting into one pocket what he takes out of another.

Improvements made practically at cost of Landlord.

What is said, and what always has been said, is this, that whether the tenant had or had not, specifically agreed to incur the alleged expenditure, either of time or money, he had been recouped by length of enjoyment and lowness of rent, and that thus, as indeed is probable, it was not he, but the landlord who was out of pocket.

Admit this, and it necessarily follows that it is unjust, to ask the landlord to pay over again, for what he has already paid; and that he is abundantly justified, after a sufficient term, in looking for interest on an expenditure, which practically has been made by himself. Whatever may be the merits of the case, the honesty of the landlord at least has been put on record, as may be gathered from the following extract:

"It is highly satisfactory to find that the searching inquiries of

Evidence from Devon Commission.

* "The rent . . . paid for the use of land is . . . not at all proportioned to what the landlord may have laid out . . . or to what he can afford to take; but to what the farmer can afford to give" (*Wealth of Nations*, Vol. I., p. 148, 4th Edition.)

Charges
against
Landlords
by Messrs.
Arnold and
Thornton.

the Devon Commission, have elicited few instances of real injustice in this respect; and that whilst general charges have been frequently made, authenticated facts have seldom been relied on; that cases of alleged oppression, when examined into, have generally proved unfounded The almost universal testimony given was, that there was no difference observable in the improvements effected by those who had leases, and those who held at will; that the greatest improvement existed where there was no lease, but a good landlord" (*Leases and Tenure of Land in Ireland*—Ferguson and Vance, p. 12). With the evidence of the Devon Commission at his command, it is difficult to exculpate the distinguished statesman, since gone to his account, who first accused Irish proprietors of "Felonious Landlordism." How can Mr. Arnold read that evidence as he should have read it, and be held excused for the following language,—“The Irish cottar lived under a system which is not distinguished by honesty, and he certainly was not industrious, nor was he frugal. . . . He was a rack-rented farmer, living in constant remembrance, that he had no encouragement to be either industrious or frugal; that the improvement which every day's labour effected, was not his own, but was absolutely the property of another, and might be made use of as a plea for increasing the burden of his rent” (*Free Land*, p. 339). In the rhythm of his flowing sentences Mr. Arnold forgets himself; he draws a picture of a man making daily improvements who is “neither industrious nor frugal.” What is this but the language of an advocate, without the advocate's excuse? He quotes a statement for which Mr. Thornton is responsible, to the effect that “in Ireland the actual occupiers of the soil are rack-rented tenants-at-will they are permitted to retain no more of the fruits of their labour than will barely suffice for their subsistence” (*Peasant Proprietors*). Commenting on this, Mr. Arnold goes on to say, at page 340, “Wherever we find peasant holders as a numerous body, we shall meet with this want of honesty on the part of landlords, and nowhere so strongly marked as in Ireland, because there a large population has been driven, by the absence of other occupation, to beggar itself in competition for the soil.”

If Irish landlords as a body required to be defended by those who know them, I should quote these extracts with pain ; as it is, I do so with indignation. In what part of Ireland is the landocracy to be found which is described by Messrs. Arnold and Thornton ? I know Ireland for over thirty years ; I have lived in Cork, I do live in Roscommon ; I have seen nothing of the sort. Within a morning's drive of me are portions at least of the estates of numerous proprietors, on one of whose estates, as he himself mentioned, I think in Parliament, 30,000 souls reside. On all these estates the people live in perfect security, with or without leases, and at very moderate rents ; and there, as over nearly the whole of Ireland, the good-will of the tenants could be sold for enormous sums, if the practice were permitted.

I was informed quite recently, of a case on one of these estates, where a five-acre holding had been sold for twenty-nine years' purchase. Mentioning this to a Queen's County friend, he told me of one which he knew of, where "a three-acre holding was sold for thirty-nine years' purchase by public auction, by permission of the Chancellor, the only certain tenure being for two years. The old occupier had died, leaving his interest to be sold, the proceeds to pay his debts and for masses." I ask confidently, would such transactions be possible in a state of society such as is described by Messrs. Arnold and Thornton ? If the theories of these gentlemen, based on evidence of which they alone have the key, are to bloom into legislation, God help us in Ireland.

There is no such evidence in the pages of the Devon Commission ; and Mr. O'Connor Morris, Chairman for County Louth, who travelled over Ireland, and collected his letters to *The Times* in a book published in 1870 (*Land Question of Ireland*), gives evidence of a very opposite nature, and in too many places to permit of quotation.

But to return to the claim made on behalf of the tenant, that it was at his cost, and not that of the landlord, that the land was put in a cultivable state. Let it be granted ; I have no wish to press the point against him. Let us assume that he did do so, and that wholly at his own charges. He is undoubtedly in this matter the weaker party, seeing that the landlord has the

Charges
rebutted

In 1880, two
instances of
Sale of Good
Will.

Testimony of
Mr. O'Connor
Morris.

The Land
Question of
Ireland.

right of resumption, and there is a want of evidence of contract, which implies carelessness or generosity on the part of the landlord.

Land Act,
1870, in part
cheerfully
accepted.

That part of the Land Act of 1870, which gives the tenant compensation for his improvements on quitting his holding, has a *semblance* of justice; it assumes that the landlord is getting some value for his money; it has been cheerfully accepted.

Pleas of Irish
Tenant for
exceptional
Treatment.

But the grievances of the Irish tenant are not speedily exhausted. The pleas he has for exceptional treatment, as compared with the systems approved of in Europe and the United States, are numerous. It is alleged that in his contract he is not a free agent, because, (a.) the competition is so fierce; (b.) because he has nothing but the land to turn to; (c.) because the possession of land is to him a thing of life and death. With regard to these allegations:

Pleas
examined.

(a.) As between two pieces of water both on the same level no motion can take place, so no contract can take place between parties on precisely even terms. Each must, at least, think he is deriving some advantage. Competition implies scarcity, and where an article is scarce, its owner must necessarily be more or less master of the situation. To accept as just, that fierceness of competition destroys the validity and equity of contract, is to strike at the root of all dealings between man and man, living in a state of civilisation.

Destructive
Theory.

But the real difficulty is not caused by competition, it is caused by a most unfortunate theory, the growth of the last forty years. That theory is, that "*no matter what the nature of his contract may be, a tenant has a right to retain his holding so long as he pays rent;*"

Favoured by
the Land Act

a theory which Sec. 3 of the Land Act of 1870, giving compensation to small holders for loss of occupancy, has gone far to legalise. With that theory before him, no landlord, unless he be a philanthropist or a lunatic, will let land in small parcels, if, by any possibility, he can otherwise turn the land to any profit.

It is this theory, which more than the difficulty of getting rent, is the cause of so much of the land of Ireland being let on yearly tenancies. Root up that theory to-morrow, and every *good* tenant

in Ireland would have landlords running after him, full cry, in packs.

(b.) If it be true, that the dispossessed farmer in Ireland has nothing else to turn to, he is certainly no worse off than the dispossessed farmer in England. Suppose such a man, at the age of forty-five, to have failed, and to be dispossessed, what else can he turn to? He is fit for no other business; every walk in life is crowded with younger men; whatever is open to him, is open equally to his Irish brother. His failure to support himself in his farm is not made a plea for leaving him in possession.*

(c.) It is not true that the right to his farm is a matter of life and death to the Irish tenant. In the first place, he can almost command from his landlord the emigration money; the poor law gives authority to help him to emigrate; he will have had time to make the little preparations necessary to meet a state of things which ordinary prudence must have shown him was approaching. In the second place, there are in Ireland a large body of men, about half a million, living directly by the land, whose circumstances are not so much removed from that of the small tenant farmer, and who have absolutely no tenure at all. I mean the farm labourers, the herds, and the dairymen of Cork, Waterford, Limerick, Tipperary, &c. The herds are paid for the most part in grazing and land; the dairymen also partly in land. These last pay large rents, not per acre, but per cow. These men live apparently in perfect contentment. The Land League does not take up their case. Adventurers who wish to ride into Parliament on the backs of a deluded, humbugged people, do not spout their wrongs; the reason is they have no votes. Lower the franchise, give them votes, and you will shortly be astounded at the depth of their wrongs, the intensity of their sufferings.

* It may be said that the English farmer can get another farm, and the Irish farmer cannot. This difference arises entirely out of the destructive theory I have described. That theory, backed up by the Land Act of 1870, makes it penal on the landlord to let his land, especially in small portions, hence his natural desire to reduce the number of his tenants. It is hard to blame him for the evil results of an evil principle which he of all others has the most reason to abhor.

Singular
Arguments
of Mr. Butt.

The late Mr Butt, in his *Irish People and the Irish Land*, employed some singular arguments; singular, I mean, as coming from a man of his talent; yet they have a currency which makes me wish to notice them. He wrote page after page, to prove the disastrous consequences which would ensue, if every landlord in Ireland exercised his full powers, and turned out all his tenants.

Refuted.

The first, or at least one of the first consequences, would undoubtedly be the bankruptcy of every Irish landlord. As well inquire what would happen, if all men went mad. There is a nursery maxim which says, that "if the sky fell larks would be cheap."

But at least individual landlords may abuse their power. All men may abuse their powers; I very much fear that occasionally, at least, most men do. To curtail the power of landlords because some abuse it, is as rational as it would be, to make all women shave their heads, because some abuse their beauty.

Such arguments do not merit serious reply; but there is one derived from erroneous statistical reasoning which deserves attention.

Fallacious
Statistics.

Mr Butt, examining the emigration returns for the years 1851 to 1861, discovered that the emigration from Ulster was less than that from other parts of Ireland, and deduced from that fact, that "in consequence of the insecurity of tenure, and all the evils that follow in its train, the occupiers are leaving a country in which they have no opportunity of exercising their industry" (p. 119); and elsewhere he spoke of Ulster tenant right as "virtual fixity of tenure" (p. 39).

Now, in the period which he selected for examination, Ireland was slowly recovering from a state of misery, which in June, 1851, had reached its culminating point. The lesser emigration from Ulster, was solely attributable to its greater wealth, and the comparative absence of distress. But the pressure of the time being removed, and natural causes being left to produce natural effects, emigration from Ulster, and consolidation of farms in Ulster, leaped at once into the first place, Ulster tenant right notwithstanding.

Insecurity of
Tenure no

Thus, it appears from Thom's Directory, that in 1876 its per-

centage of emigration exceeded that from Leinster and Connaught, ^{cause of Emigration.} being in Ulster .9, while in the other two provinces named it was only .3 and .4. Munster that year equalled Ulster in emigration; but by comparing a wider range of time, it appears, that if the stream of emigration during the seven years ending with 1876, had flowed from Munster with the same rapidity as it did from Ulster, Munster instead of parting with 62,319 of her children, would have lost more than double the numbers, namely 140,343.

Again, the consolidation of farms going on in Ulster (year 1871) is nearly double that of Connaught, nearly thrice that of Leinster, and more than thrice that of Munster, which, be it observed, is larger than Ulster in its superficial area.

It is therefore clear, that insecurity of tenure in no way accounts for Irish emigration; and that if what is desired, is the arresting of its flow, and "the rooting of the people in the soil," an extension of Ulster customs is not the way to do it.

A brief sketch of the difficulties the Irish landlord has had to deal with, and of the way in which he attempted to solve the ^{Historical retrospect.} problems before him, may help the English reader to appreciate better the present situation.

"Ireland, since the twelfth century, had been inhabited by two distinct peoples, who had no intercourse but war" (Abbé M'Geoghegan's *History*, p. 418). Under these dismal circumstances, husbandry was necessarily of the most primitive and desultory sort. The only buildings, save in towns, would be fortified posts or mere hovels, the burning of which would not entail much loss. It was not till Elizabeth, ^{Elizabeth.} that the country was conquered; and from that time to the time of William, ^{William III.} storms of insurrections, vengeance, confiscations, swept the land from end to end. The ownership of property was so insecure, that "as the woods would bring in their value at once, they were felled remorselessly, . . . sold at a mere trifle for ready money. . . . The Commissioners of Confiscated Estates spoke of this destruction as a grievous loss to the nation; . . . and Swift lamented the wanton and utter destruction of timber, ^{Destruction of the Woods} which had left bare and hungry-looking, great regions that had

lately waved with ancient woods." (Mitchell's *History*, Vol. I., p. 58.)

18th century. Were the then race of landlords to be blamed that they did not improve their estates, and build farmhouses? Later on, after William III., the land grew to be a secure possession, and the commencement of the eighteenth century dawned upon new conditions. What were those conditions? Among the lords of the soil were some of the old race and of the old faith, striving to save from the protracted agony and devastation of the penal laws, the remnant of property which successive confiscations had left them, remnants now threatened as before, in the name of law, but which is now threatened with further diminution.

The new men were, for the most part, penniless adventurers, with little but the naked and devastated land, which they had so recently acquired by the sword.

England's
dislike and
jealousy.

Inimical
Legislation.

Famines.

Poverty.

England looked with scorn and envy on her unhappy sister; scorning her old faith, her strange, misunderstood, hated, and despised people; envious lest her fertile soil and unaccountable energies, should rob England of some of that trade and commerce which her ignorant selfishness wished to engross. The Irish cloth trade was destroyed, the exportation of wool was in the hands of smugglers. Fat cattle were proscribed, provisions of all sorts rotted in the harbour stores, on account of the embargoes, and petitions were sent to Parliament, complaining of the Irish for catching and exporting their own fish! Is it singular that "rents in many places could scarcely be collected, so much was public credit essentially injured?" (Mitchell's *Ireland*, Vol. I., p. 61,) or that famine after famine wasted the desolate and mournful land, so that "the people fed on weeds and garbage?" (*Ibid.*) and Swift, with bitter irony, "proposed that the miseries of the country should be relieved, by cooking and eating the children of the poor" (*Ibid.*).

Is it singular that landlords did not lay out the rents which "could scarcely be collected," in improving their estates, building farm offices for the starving wretches, "fed on weeds and garbage"? Is it singular that many landlords were absentees?

The condition of things being as I represent, more or less,

and some of these miseries existing at one time, and some at another, during three-fourths of that century, does it lie in the mouths of political economists, to blame the Irish landlords for not improving their estates more than they did? and bear in mind that the bloody scenes of '98 were still to come. If the landlords had little money, the people had none. Young, writing in 1776, tells us of a man, then alive, who had sold a two-year-old bullock for five shillings. If it had not been for the smugglers there might not perhaps have been so much money in the country.

The problem that was then to be faced was how, without capital, and consequently without employment, the people were to be kept alive? Over a large part of Ireland the problem stares us in the face still.

Problem to
be solved
then, still to
be solved.

What did the owners of the soil do? They gave Fixity of Tenure; they could give nothing else. Young says,—“A vast proportion of Ireland is under lease for ever, other parts for 500 years, others for lives, and fifty or thirty years; in a word, under leases of every description” (*Tour in Ireland*, Vol. II., p. 325). Describing the property of a Mr. Bolton, in Waterford, he says, “All cottar tenants have leases, whatever their religion, of twenty-one or thirty-one years, or lives; even the occupiers of two acres have a lease” (*Ibid*, Vol. I., p. 531). Thus, it appears, the nostrums of our land reformers have been tried long ago, and that keen observer, Young, remarked in 1771, “If long leases at low rents, and profit incomes, would have improved it, Ireland had long since been a garden” (Vol. II., p. 98).

Fixity of
Tenure tried
long ago.

Remark of
Young.

The people, having little or no means, were allowed to hire in partnership; and Young said of this system, “The difficulties are easier got over, for one brings a few sheep, another a cow, a third a horse, a fourth a car and some seed potatoes, a fifth a few barrels of corn, and so on, till the farm among them is tolerably stocked, and hands upon it in plenty for the labour. . . . They are uncommon masters of the art of overcoming difficulties by patience and contrivance. . . . Give the farmer of twenty acres in England no more capital than his brother in Ireland, he would be utterly unable to get on at all” (Vol. II., p. 104).

System of
Partnership.

Division of
Farms.

Owner of
Capital in
Land may
desire in-
crease of
Income.

Commercial
Principles.

Mr. Butt.

His testi-
mony.

Brutality of
the age.

By and by as the people multiplied, and the times got better, and further perhaps, urged by an unwise attempt to force agriculture into a certain groove, by a system of corn bounties (or land carriage), landowners split up their farms as leaseholders had already done. It is imputed to the landlords, that this was done from mere avarice, to clutch at the growing rents. There are some minds who can never see a good motive in actions. But if it were so, why not? I am aware absolutely of no reason, why the owner of capital in land should be less desirous of adding to his income, than the owner of capital otherwise invested. And now-a-days above all, when in the supposed interest of the tenant, we have got rid of all feudalities, and established the relations of landlord and tenant on a commercial basis, it is to be expected, that in the matter of rent full values will be more looked for than they have been, Mr. Arnold and others say rents are too low. Mr. Butt at anyrate could understand, that it was possible for an Irish landlord, to act from other than purely selfish motives. That lamented gentleman, had derived from his profession, an instinctive veneration for law, which rendered him unsuited for his position as leader of the Irish so-called National party; there was, moreover, a natural generosity in the man, and a love of justice, and he thus wrote in 1867 on this very point:—"I am very far from being sure, that the breaking up of the large farms, the placing of six or seven Catholic occupiers where there had been before one Protestant, was not in reality a boon to the miserable population, which had been previously dwelling on the outskirts of these farms. If the hungry cattle trampled down the fences, and spoiled the pastures, at least they had the more to eat themselves." And he goes on to say, "The rental of Ireland multiplied threefold,* and there were *many persons besides the landlords*, who benefited by this state of things" (*Irish People and Irish Land*, p. 89).

It has been also alleged against the Irish gentry of the day, that they were brutal in their treatment of the poor people. There is too much reason for this charge; but it must be borne

* The rents when Young travelled in Ireland, 1776-7-8, and a little before his tour, had begun to fall again.

in mind, that the gentry were for the most part Protestant, and the people for the most part Catholic. It was the policy of the day, in England and Scotland, as well as in Ireland, that Catholics should be maltreated. Irish landlordism is not accountable for that. It must also be remembered, that among English squires of the day, coarse ruffianly sots were by no means uncommon. The times themselves, the very laws, were brutal, fierce, and bloody. In Ireland, as elsewhere, then, as now, as always, society contained, and will contain, the good and the bad.

English
Squires.

But if the democratic patriot Mitchell, and the aristocratic patriot Barrington, are to be believed, gentry and peasants were emphatically one people. "There had lately been formed gradually a marked Irish character, . . . the same powerful assimilating influence which had formerly made the Norman settlers *more Irish than the Irish* after two or three generations, had now also acted more or less, upon the very Cromwellians and Williamites; and there was recognisable in the whole character and bearing, even of the Protestants, a certain dash, of that generosity, levity, impetuosity, and recklessness, which had marked the Celtic race since the beginning" (Mitchell's *Ireland*, Vol. I., p. 177). And thus Barrington,—“With less necessity for exertion than the peasant, and an equal inclination for the indulgence of indolence, the habits (of the gentry), were altogether devoid of industry, and averse to reflection. . . . These habits, while they contracted the difference between the lower and superior orders, had also the effect of promoting, their mutual good-will and attachment to each other. The peasant looked up to, and admired in the country gentleman, those propensities which he himself possessed. . . . He liked to follow the example and tract of his forefathers; . . . he obeyed the orders of his landlord, and even anticipated his wishes, with cheerfulness and humility” (*Rise and Fall of the Irish Nation*, pp. 32, 33).

Higher and
lower orders
one People.

Character
of both Mit-
chell and
Barrington.

All this time, as the eighteenth century was running its course, what was the condition, conduct, and behaviour of the people?

The people
during 18th
century.

The people were poor and depressed; “all the laws were made, not for, but against the great mass of the people; the courts of

Misery.

Injustice.

justice were entirely in the possession of the oppressors, the proscribed race saw only mortal enemies on the bench, . . . enemies in the jury box, . . . and were continually made to feel, that law and justice were not for them" (Mitchell, Vol. I., p. 90).

Under these circumstances, the people were as miserable, as their buoyant nature permitted. The laws against them, relaxed somewhat of their virulence by degrees, at least in practice; and that art of overcoming difficulties, to which Arthur Young testified, stood them in good stead.

Abundance
of Food.

When he travelled, what struck him most, was the fecundity of the people, and the abundance and sufficiency of their food. "When I see (he wrote) their cottages swarming with children, their men athletic, their women beautiful, I know not how to believe them subsisting on an unwholesome food" (Vol. II., p. 116). "They have an absolute bellyful of potatoes, the children eat them as plentifully as they like, . . . all afford whisky," (Vol. I., p. 287.) They greedily sought education: "every child of the poorest family (Arthur Young tells us) learning to read, write, and cast accounts." Their nature was joyous: "they are infinitely more lively and cheerful, than anything we commonly see in England, . . . and they can dance with a most *luxuriant* expression" (Vol. II., p. 231).

Gaiety.

Bad farmers

Nevertheless they were execrable farmers, indolent when the immediate necessity for exertion did not present itself, and hard on each other. The leaseholders made a profit off the lands, by subletting them, instead of working them themselves; the farmers again oppressed the cottars, and in many cases the labourers went with the farm, as part and parcel of its belongings. As circumstances improved, and the people became less cowed, the turbulence inherent in the race began to display itself, and to be guided towards social objects by the reformers of the day. In the North, vexatious and unequal taxation for roads and so forth oppressed the people, and in the South they suffered from tithe exactions. Irish love of reform, unfortunately cannot rest contented, with the removal of undoubted abuses. The uneducated Irishman, cannot understand any liberty, which does not allow

Turbulence.

him to oppress some one else. The secret and illegal combinations of the day, undertook the restoration of enclosed fields to the condition of commons, the regulating of rent, the fixing of the rate of labour, the marrying of girls who had money, to young men who had not, and unless my memory deceives me, Young mentions a case, in which they deemed it within their province, to visit with punishment some breach of morality. In fine, they took up all those branches of business, now transacted by the Land League, and some others in addition.

Secret Societies.

Land League

Under these circumstances, the progress of the country was immeasurably delayed. Civilised countries cannot get on without capital, and the streams of capital will not flow where peace is uncertain, property insecure.

Want of Order.

It is one of the scandals of the day, that the mode of governing Ireland gives no confidence to capital. It was charged against the "Disturbance Act," brought in during the last session, that its mere introduction had driven away capital; and Mr. Gladstone's unfortunate rejoinder was, *that it was an old story that capital avoided Ireland*—that is to say, this great statesman, saw nothing to raise a blush, in admitting that his own legislation, partakes of the spirit of the laws and customs, which have for centuries past, rendered Ireland obnoxious to capital.

Want of Capital.

Disturbance Act of last Session.

Gladstonian Legislation, spirit of.

The misfortune of the last century in Ireland, is the misfortune of this; weakness, apathy, timidity of government. At that time, the suppression of disturbance was largely left to private enterprise; at present, disturbance has to be borne, till the tale of outrage and murder is filled up, which will, in its own opinion, justify the Government in putting forth its strength.* That a Government may be merciless as well as weak, was made sufficiently clear in '98, when uniformed ruffians, who, in the opinion '98 of the brave Sir Ralph Abercrombie, were dangerous only to

Absence of Government

* Since this was written the Government has instituted certain prosecutions. Meanwhile the Land League meetings continue to be held, the like doctrines taught. On one side the Land League is furnished with an extra text; on the other multitudes of well-disposed persons wholly refuse to believe in the sincerity of the Government.

Case of
Flanders.

their friends,* were let loose to perpetrate atrocities, the memory of which is still green.† That the state of things now ruining Ireland, and which has been its curse for nearly two centuries, can be entirely quelled, appears from what was done in Flanders, during the present generation.

I quote from pages 118 and 119 of Part I., Reports from H.M. representatives respecting the tenures of land in the several countries of Europe, 1869, presented to Parliament in 1870.

Agrarian
disturbances
in Flanders.

There was rampant in French Flanders about forty years ago, what was called the *Mauvais Gré*: a state of things dating from at least 1585, which, if it had only been a little worse, would have corresponded exactly to the state of things now existing in Ireland.

This *Mauvais Gré*, “consisted, in the outgoing tenant doing his utmost, to prevent the proprietor from leasing his property to another tenant, unless the incoming tenant purchased his (the outgoing tenant’s) consent to the arrangement,”—that is to say, in Flanders, as in Ireland, they desired “fixity of tenure and free sale,” and adopted very much the same method as in Ireland, in endeavouring to get it.

“Should the incoming tenant or proprietor, attempt to defy this barbarous custom (*usage barbare* according to *La Belgique Judiciaire* of 1846), outrages on property and assassination follow, and justice rarely finds witnesses to testify to the outrages, even though committed in broad daylight, under the eyes of the population of the commune.”

Just as in Ireland;—There is another similarity—

State of
things less
bad in Flan-
ders than in
Ireland.

“The actual perpetrators being, as a rule, hired from a distance, the evicted tenant taking care to be seen as much as possible in public, in order to be able to prove an alibi, in the event of suspicion falling upon him.” Just as in Ireland; but it must be admitted, that things did not go quite so far in Flanders as

* Some of these heroes met some French and peasants at Castlebar, and though they much outnumbered them, they turned and ran for about forty miles.

† The Government of that day was accused of fostering disorder, to assist their contemplated legislation. The present Government is largely credited, with being actuated by the like, abominable motives.

they do with us, because there, "if a landlord wished to take his land into his own hands at the termination of a lease, no ill-feeling was excited."

This thoroughly Irish state of things, had "spread to the district of Tournai, Gt. Amand, and Martagne, invading next certain parts of the province of Hainault and Brabant, reaching even as far as Brussels."

I need not attempt to show by quotation, how this evil condition was attempted to be met by Charles V. and succeeding rulers; but laws passed under the Empress Maria Theresa affected later operations. "If a crime was committed, and the guilty were not immediately discovered, the last tenant was arrested and imprisoned, his goods sold, and the proceeds (deducting debts), went to indemnify the injured parties, *unless the persons under arrest could prove within three months, that the outrages had neither been committed by themselves, by their adherents, nor with their knowledge or sanction.*"

System by which these crimes were stamped out.

The inheritors of the ideas of 1789, the French Conseil-general du Dep. du Nord, in 1842, made "farmers or tenants responsible in proportion to the extent of their holdings, for injuries, crimes, or outrages, which might be committed against the person or property of an incoming tenant. An outgoing tenant was to be considered, *for six years after leaving his farm*, as responsible for any outrage committed upon his successor, unless indeed his domicile was fixed at a certain distance from the seat of the crime." So late as 1845, the Belgian government, considering that "the existing laws, if *rigorously* applied, were sufficient," contented themselves, with having "increased the gendarmerie, placed troops at the disposal of the authorities, and *stimulated the zeal of officials and the severities of tribunals.* These measures appear to have had the desired effect, for since the year 1846, but little mention has been made of the 'mauvais gré.' . . . The last execution took place on the 19th of February, 1850, for an attempt at assassination, committed by an assassin hired to do the deed for a sum of ninety francs."

French Legislation.

Belgian Measures.

Success of these Measures.

Here it would probably have cost less, owing perhaps to Ireland's being a poorer country.

"Since 1850, agrarian outrages have been almost unknown, and the people, feeling that such acts, no matter to what cause they may be attributed, will be punished by the Government (*ever jealous of the rights of property*) with severity, will hesitate before again having recourse, to such barbarous means of obtaining, what they may consider as their rights."

Difference of
our System.

We proceed on different principles. Where Belgium and France give the halter, we give "compensation for loss of occupancy."

Land Act of
1870, Sec. 3.

It was said in defence of the "Disturbance Act" (an act which was a positive bribe to the tenant to withhold his rent, whether he could pay or not), it was said in defence of that proposed act, that it was a logical sequence of the Land Act of 1870. This view was not urged by the authors of the bill, who fought shy of the deduction; but it was said for them, by those who desired to see the Disturbance Act pass. Undoubtedly it was a logical sequence of the Land Act; for if it be right and just, that a tenant, no matter what the terms of his contract, should receive a fine from his landlord, on his landlord's resuming possession, it is wrong and unjust that he should lose that sum of money, because circumstances over which he had no control, and which he could not possibly have foreseen, have taken place.

A Prolific
Parent.

But the Land Act of 1870 has been a prolific parent. Not only was the "Disturbance Act" its own child, but all the agitation which has since taken place—the banishing of capital, the loss of property, the loss of life which has since accrued,—are all of the same brood.

Two condi-
tions in Let-
tings of Land

Before 1870, all land not "in hands," or permanently let, was let on two simple conditions: one and the least important, was to pay rent; the second, and the most important, because it practically includes the first, was to give up possession on demand, or at the time agreed on.

Now bearing in mind, that the resumption of his land by the landlord is in complete accordance with the common practice, the common conscience of Europe, and of the United States, it cannot be disputed, that a contract embodying a clause of resumption and surrender, is one, which whether it be wise or not, landlord

and tenant are morally justified in entering into, and binding themselves by.

Contract for
Surrender
morally
justifiable.

That being so, it becomes a distinctly immoral act, for either of the parties to seek to evade that contract, contrary to the wishes of the other; and it is also a distinctly immoral act, for any one to aid or abet, one who may endeavour to evade it.

Refusal to
Surrender
immoral.

Thus, all those eviction scenes of which we read such thrilling and dramatic accounts, are each and all, with very rare exceptions, necessitated by distinctly immoral acts on the part of the tenants in overholding, and on the part of those who encourage them in these acts; because in each case, the tenant, or his predecessor in title, has distinctly covenanted to yield up quiet possession.

Scenes of this sort, when common, are crimes against the State, even more than against the individual, and ought to be visited with punishment by the State, in the interest of morality and public tranquillity.

Contracts containing clauses of surrender, may be held to be prejudicial to the interests of the State; and if they be found so, the State is fully justified in forbidding them for the future. But it is also undoubtedly true, that in annulling such a contract, without giving fair compensation to the party aggrieved, the State would be committing an immorality, and in the case of tenants under a certain rent, the Land Act of 1870 did commit that immorality.

Land Act,
1870,
immoral.

Mr. Arnold, who is no friend to the landlord, since he voted for the "Disturbance Act," will not admit, that the "existing rights of individuals may be modified in the interests of society without clear proof of the resulting advantage to the community, or without, even then, full and abundant compensation" (*Free Land*, p. 84). His vote on the Disturbance Act makes me fear he has modified those opinions.

Opinion of
Mr. Arnold.

But in speaking of the Land Act, Mr. Gladstone has more than once boasted that it "had created property"! Strange words in the mouth of a financier! Who knows better than he, that Acts of Parliament are powerless to create property? They can destroy it, they can hamper its acquisition—these things Acts of Parliament have done for Ireland time out of mind. They can

Strange
operation of
Mr. Glad-
stone.

remove the trammels which hamper its acquisition, and they can transfer property. In 1870, at the word of the great magician, what was the landlord's property one day, the next day belonged to the tenant. But this was no creation of property, it was simply a transfer.

And what, perhaps, is the most singular feature of the whole transaction is, that there is no country so clearly bound to protect absolute property in land, as England—no part of its vast Empire where it is so bound, in honour and in conscience, as in Ireland.

Encumbered
Estates Act.

By the Encumbered Estates Act, the British Parliament pledged itself, to transfer to purchasers in Ireland "absolute property in land," in its most complete manner, as enjoyed in the United States and in Europe. How can you blame the Irish tenant if, finding that by agitation he has induced Parliament, to strain its honour and conscience, and do away with the most important clause in his contract—one, moreover, which might not have affected him or his for generations,—how can you blame him if he hopes, and not unnaturally thinks, that by persisting in a like course, he may induce Parliament to save him from the other clause, which presses on him twice a year? If it is just to do away with the greater clause, why not just to do away with the lesser? It is beyond reason to expect, that the poor fool, who is being maddened on to his own ruin, and to the ruin of his country, by his teachers, both clerical and lay, can be expected to discriminate. What is the use of telling him, that it is the want of capital, and that only, which keeps starvation waiting at his door; and that it is his conduct, and that of his teachers, which is driving capital away?

Irish Tenant
not blame-
worthy.

Capital
driven away.

What is the moral of the study we have been making?

The one
interest of
the State.

It is to ascertain and mark out the interest of the State in these matters. The State has, in respect of the management of land, but one interest—that is, that the greatest amount of *profit*, should be extracted from the land.

As between one system of farming or another, tenancies at will, leaseholders, proprietary farming, large farms or small farms,

the interest of the State does not lean one way or the other by so much as a single hairbreadth. It is absolutely immaterial to the State, which benefits most by such profit as is made, landlord or tenant. In either case the profit will pass into circulation, and enrich the State.

If, for political reasons or for social reasons, it be said that we cannot permit the existence of large territorial possessions, that is another matter, wholly outside my subject of study. All I say is, that from an agricultural point of view, the State has absolutely no interest but the one mentioned—namely, the extraction of the *greatest possible profit from the land*. That also is the interest of the landlord. The larger the profit extracted, the larger, sooner or later, will be his rent roll.

But the interests of the State may be damaged, farming may be ignorantly or carelessly pursued, the very fertility of the soil itself, may be, often is, impaired. The State has a very decided interest in checking this misuse. But it cannot see to every farm; it must have officers to look after its interests, and prevent these abuses taking place. To do this with success they require full powers. The officers who in our polity discharge this function are the landlords. Some do it well, some fairly well, some discharge it ill, others in a perfunctory manner. Still in all cases, the State holds the material guarantee, that no one has so great an interest in the discharge of the office, as the man who holds it. “No government could be so intelligent in its ownership as are private individuals. The main object for which private property in land is sanctioned by the State, with the concurrence of all rational people, is the belief that such ownership, is most successful in promoting production” (Arnold, *Free Land*, p. 195).

Necessity of
Supervision.

Landlords
Officers of
the State.

Opinion of
Mr. Arnold.

Our legislation has been retrograde; in these free trade days it has annulled contract, and damaged the interests of the State by tying the landlords' hands. Conscious of having wronged Ireland in the past, it thinks to repair the past, by giving to one set of Irishmen, what now belongs to another set.

The different systems of farming, the different forms of tenure are none of them absolutely or everywhere bad, nor absolutely or

Fanaticism
in Agriculture.

everywhere good. To prefer one absolutely to any other, is to be guilty of a kind of social fanaticism. There are political economists and legal gentlemen who write about these things, who live in towns and do not farm; they are often very eloquent and decided in recommending the small-farm system, proprietary or by leasehold tenure. These gentlemen, Mr. Mill, Mr. Butt, and others, have said, and many repeat, that Arthur Young was an advocate of large, and an opponent of small farms. Seeing that he was nothing of the sort, it is curious they should say so, unless perhaps they knew that he had a horror of theorists, and so they had a kind of spite against him, and did not study him fairly. In France, having been to see an experimental farm got up by a Royal Society, of which he had been made a member, he makes (perhaps ungratefully) the following remarks: "I wish my brethren to stick to their scientific farming, and leave the practical to those who understand it. What a sad thing for philosophic husbandmen that God Almighty created such a thing as couch." * Arthur Young was an enthusiast in agriculture, but he was a practical man. He had one measure by which he judged each system—"Did it pay?" If it didn't pay, no amount of improvements, no pretty gardens, no clean tidy children, no amount of patient, ceaseless industry, could win his approval. He admired all these things; all the stock quotations about secure possession, turning rocks into gardens, and so on, are by him; but he always returned to the one point,—*does it pay?* And so he found that in many, not to say in most cases, the labour of the small proprietor did not pay. Give him the sunny South, where he could busy himself with fruits and flowers, every tree a little property in itself, and it paid. Give him a few vines near a good market, and it paid. Give him a market garden near a large town, with a large capital, and it paid; but in the main he found that small properties did not pay.

Jersey
Farming.

I do not think he would have admired Jersey farming as much as does Mr. Arnold (*Free Land*, and speech in the House). He

* A bad weed particularly troublesome to eradicate, known also as "twitch grass," "switch," &c.

must have admitted, that the production per acre was greater than it would be on similar land in England; but he would have pointed out, that, while in England the lesser production was grown at a profit, in Jersey the larger production, so far as wheat is concerned, was grown at a loss. Mr. Arnold draws attention to the enormous price to which the fee simple of land in Jersey has been pushed by the small proprietary system, and seems to admire this consequence. Young would have pointed out that this was the very worst system of rack-rent; that there was sunk in the purchase of the land an enormous capital, wholly unproductive; and that the result was positive loss, not gain to the State. The case of Jersey also is peculiar: its market is London; its soil and climate are such, that, in that market, it can forestall other places, and, by unusually early crops, gain unusual prices.

It is very strange, that clever men should be blind to the Errors. fact, that large production does not necessarily mean profit; and that ceaseless patient labour may be misdirected, and comparatively at least useless, like the labour of a squirrel in a revolving cage.

But to look at home. In Ireland we have no local markets, Ireland. and carriage to Dublin, London, or Manchester, is too far and too costly, at least in small quantities, for most of the low-priced articles, which it suits our soil and climate to grow. All our best produce can be grown more cheaply, put in the market at less cost, supervision included, by capitalist farmers dealing with large parcels of land and large products, than by small farmers. Owing to the continued moisture (not rainfall merely) of our climate, tillage with us is, as agriculturists will understand, exceptionally costly. Spade labour is the most expensive kind of tillage known, and our people the poorest in Europe; and under these circumstances, there still are writers and talkers who would, by legislation, stimulate the people to become small proprietors. Legislate as they may, there are two forces at work which they cannot conquer (forces which tend to a low level of prices)—electricity and steam. There are places where small proprietors may succeed; there are individuals who, as small

Opposing
Forces,
Electricity
and Steam.

proprieters, could succeed in Ireland as elsewhere. But, in the interest of the State, they should first prove their capacity by acquiring land by purchase in the ordinary way, and circumstances must provide the opportunity, not Acts of Parliament. Cheapen the transfer of land, and where small farms will pay, they will soon come into being "*mere motu*."

Houses of the Oireachtas