

# IRISH LANDOWNERS' CONVENTION.

---

*Replies to Queries on the subject of the Sale and  
Purchase of Land.*

---

THOMAS COOKE-TRENCH.

DUBLIN :  
HUMPHREY & ARMOUR, PRINTERS,  
2 CROW STREET.



IT is but right to state that for the following replies to Queries submitted by the Executive Committee of the Landowners' Convention I am solely responsible. They have not even been seen by the Committee before being put in type, the object of the Committee being in the first instance, to elicit expressions of individual opinion.

THOMAS COOKE-TRENCH.

*December, 1887.*

# Houses of the Oireachtas

It is a right to state that for the following reasons the Committee submitted by the Executive Committee of the Labourers' Organisation is not wholly responsible. They have not even been seen by the Committee before being put in the report of the Committee being in the first instance, to which expression of individual opinion.

THOMAS CHARLETTRECH

December, 1987



## Replies to Queries on the Subject of the Sale and Purchase of Land.

---

THE financial view of any system of purchase is so prominent and essential a one that I think there is danger of its overshadowing other, and really far more important aspects of the subject. But if we allow the former to monopolize our attention, overlooking the broader questions of the general tendency of the age, and how this or any other measure is likely to affect the future mutual relations of the empire and its component parts, we shall do wrong. We cannot ignore the financial effects of purchase on all the parties concerned. We must consider how the money is to be obtained, and considerable space must be given to these details, but they should be treated as details. The nation should make up its mind as to whether a large increase in the number of owners of real property is desirable or not ; and if it is decided that it is, it should only be necessary to show, first, that it is possible, and, secondly, that the cost to any of the parties is not incommensurate with the advantages to be obtained.

In thus approaching the subject we must, first of all, keep clearly before us the great movement that is going on all over the world. There is unquestionably a strong tendency amongst those whom Mr. Gladstone describes as the "masses," as distinguished from the "classes" to assert themselves. There have been such upheavals before and they have subsided, though generally after much bloodshed, and leaving indelible traces behind them. But there has never



been such an upheaval under circumstances in the least similar to those of the present moment. There are forces at work now, steam, electricity, a cheap press, for instance, which never were before, and which all lend a power to the present movement which promises it a success and permanence which others lacked. Whether this be for good or for evil on the destinies of mankind is another question. All we have to do with now is the fact, and a very important fact it is. One great outcome of this fact in Britain has been such an extension of the franchise as virtually places the whole political power in the hands of the lowest, because the most numerous class of householders. We see how this power is being used in Ireland, where nine-tenths of the population may be classed as belonging either to the landlord or to the tenant class. If the majority here had not been balanced by the more sober and law-abiding Anglo-Saxon, there is no doubt that the numerically weaker class would ere this have been despoiled of their goods, and driven from the country. Having thus stated, as clearly as I can, the standpoint from which I wish to consider this question, I shall proceed to answer the queries submitted by the Executive, observing as far as may be their order, though this may not be always possible.

### GENERAL OUTLINES AND PRINCIPLES.

- 1.—*State reasons for or against creating large numbers of occupying owners (1) in Ireland as a whole, or (2) in particular areas or districts. Show that such a course would, or would not, be beneficial (1) for the Landlords, (2) for the Tenants, (3) for the State.*

If I believed that there existed in the minds of the Irish peasantry, that is to say, in the minds of the tenants, for in Ireland the two words are nearly synonymous, such a strong desire for the



independence of Ireland from England that they were prepared themselves to face a large increase of taxation as the necessary outcome of that separation, and otherwise to make material sacrifices for that cause, I should feel little, if any, desire for an extensive system of purchase ; but all our experience points in the opposite direction. Mr. Parnell's famous saying that he would not have taken off his coat to the land question, save with a view of thereby creating such complications as should be only soluble by separation, merely put into words what everyone who has lived all his life in Ireland, as I have done and, in constant intercourse with every class in the country, knows to be the truth, namely, that it is impossible to get up a strong political movement without the application of some external lever, and that the lever that has always been applied is the agrarian one. Instead of the peasantry being ready to make material sacrifices, it is found necessary to offer them a distinct money bribe. At first they were promised what was known as the three F's, fair rents, free sale, and fixity of tenure, but as Government tried to outbid the league, so their demands grew, step by step, till now the leaders warn their followers not to purchase on terms that would give them far more than their wildest hopes originally embraced ; and they are promised that, if they will only carry the agitation to a successful issue, their reward shall be the fee of the land for nothing. It is to see this lever finally removed that I desire such an increase in the number of owners as shall constitute them a real power in the state. Amongst the causes that have operated to deter tenants from purchasing under the extraordinarily favourable terms that have been placed before them by Lord Ashbourne's Act, is a keen appreciation of the heavy taxation that must follow Home Rule. This taxation, they are led to believe, will mainly, if not wholly, fall upon the landlords, and while this makes them indifferent to the fact, at the same time it makes them very unwilling to



place themselves in the position of owners. Once place them in that position of responsibility, and they will be very slow to advocate a measure which they believe will be financially disastrous to themselves. The "League" know this well, and therefore use every means in their power to hinder purchase. At one time, when there appeared no probability of any Government consenting to advance the whole purchase money, an effort to induce them to do so was a principal plank in their platform ; but when, contrary to their wishes and expectations, this object was attained by making the landlord the guarantor, purchase has been discouraged in every way both by promises and threats. Therefore as regards the State, I believe that a large measure of purchase would (1) remove the one great lever that has always been used by agitators to stir up the masses, and (2) would enlist on the side of law and order and of the Union every additional proprietor. I therefore hold that as regards the State such an extension of proprietors is of the first importance.

The succession of land-acts, and the sense of insecurity and uncertainty which has resulted from them, has entirely closed the market for Irish land. It is, therefore, needless to argue (compulsion apart) that opening of one possible means of sale must be an advantage to landlords as a class ; and to encumbered owners it may be just the one chance of escaping from final and complete ruin. Its probable effects on the landlords as residents I shall consider further on, as a distinct branch of the subject.

As regards the farmers, an opportunity of converting a perpetual judicial rent of £100 a year into a terminable annuity of £80, or as I should propose £60, appears such an enormous boon as hardly to need arguing. But the fact that five millions provided by Lord Ashbourne's Act, and which would be sufficient to convert perhaps one-fortieth of the occupiers of the land into owners, is after more than two years, still



unexhausted, seems to point to the inevitable conclusion that the farmers do not look upon this boon in the same light that ordinary men of business would. Let us consider what are the causes that have led to this singular result, and in how far they are remediable. In doing so, I think we shall arrive at the conclusion that the break down is due to one or more of the following causes:—

- (a) The want of finality in legislation. We have had a series of acts passed, each of which was to bring joy and peace and contentment to Ireland, and each of which was declared at the time to be the utmost that justice would permit, or that could be granted. But the Irish tenantry have grown by experience to regard these protestations of finality much as bidders do the auctioneer's "third and last time." They must see the hammer fall, and then, when there is visibly no further room for exaction, they will settle down to make the best of their enormous spoil. Till then, they will surely continue the game which has proved up to this very year such a profitable one.
- (b) The opposition of the League. Of this I have spoken above. We must reckon on a continuance of it, no matter how advantageous to tenants purchase may be made.
- (c) Their well-founded dread of taxation in case of Home Rule. Of this I have also spoken above.
- (d) They greatly dread the idea of having the State in a relation to them at all analogous to that of a landlord. O'Brien & Co. are all very well as their advocates, but, if they have to choose between them, or any other rulers, and their present landlords, they greatly prefer the latter.
- (e) Markets have been steadily falling for a long time. Many tenants are honestly afraid to stereotype their condition, even at a large reduction on their present liabilities, lest a continued fall



should bring them below the point at which their instalments would become a possible rent. We must only look to an improvement in prices, which is pretty sure to accompany any revival of trade, to restore confidence in this particular. If the last two years had been years of rising instead of falling prices, we should have a very different story to tell as to the working of Lord Ashbourne's Act.

- (f) The great delay and cost of making the transfers.
- (g) The certain loss, and further risk to the landlord, of having to leave one-fifth of the price as a guarantee deposit.
- (h) The high price demanded by the State for the redemption of tithes and other State charges.
- (i) The last cause of failure to which I shall advert is the enormous reductions which, under whatever inspiration, are at present being made by the Sub-Commissioners. I believe that I could satisfy any unprejudiced person that these reductions are unjust, but that is no part of my present case—all I wish to do is to point out that they are acting prejudicially on the question of purchase. It is an unanswerable argument for those who wish to keep the sore open to say, "those who purchased got thereby a reduction of some 20 or 30 per cent, but those who took our advice and stood aloof are now getting 50 or 60 per cent. with a prospect of still more when they have reduced the landlords to the position of paupers."

For myself, I frankly confess that, if I thought it practicable, I should advocate some such scheme as that propounded by Mr. Arnold Forster, whereby a general transfer to the present occupiers of the fee-simple of all the land in the country should be carried out. I would even go further, and make rent with certain exceptions, irrecoverable at law, so as to prevent



the old relations growing up again under new and inferior conditions.

But I fear that this is not, as yet at least, within the range of practical politics. It would be opposed by a considerable body of landlords, who do not wish to be expropriated. It would be opposed by the League, for the reasons above given, and it would I fear meet with a fatal amount of opposition from that formidable person, the British taxpayer: but I believe that a measure may be devised, which, while voluntary, shall still hold out such inducements as shall bring about a large number of sales.

To effect this we must make it apparent that the extreme limit has been reached, and that there is nothing more to be gained by waiting. We must hold out to both parties the utmost inducement that the circumstances will admit of, and we must quicken and cheapen the process of transfer. We must further reduce to a minimum the risk to the taxpayer.

The main features of the plan which I would propose with these objects are as follows:—

1. Payment in 3 per cent. debentures chargeable primarily on the land sold, with one ultimate State guarantee, and intermediate security as detailed further on.
2. Making the sinking fund optional.
3. The removal as far as practicable of the minor impediments noted above.
4. Facilities of transfer.

#### LAND DEBENTURES.

8.—*Would it be desirable that payment should be made, wholly or partially, in all or any, and what, cases, in some form of land bonds or debentures, instead of in consols or cash? State the form which such land bonds or debentures should take.*

Refers to these debentures. It has been urged as an objection to a large scheme of purchase that the disturbance of the money market to be caused



by suddenly raising one, two, or three hundred millions would be a great evil. It would not be necessary to raise a single penny. No greater wrong could be done to the landlords than to pay them in anything of a depreciated currency ; but there is no reason to suppose that three per cent. land debentures, backed by an ultimate State guarantee, easily transferable, and the interest of which is paid by a State department, would be depreciated to any serious extent. There would probably be a certain effect on the money market caused by the issue of a large amount of these debentures, but not more than we have constantly to face from causes which bring in no corresponding advantage. The debentures should be issued in sums varying from £10 to £1,000. The several denominations should be changeable at pleasure for others of greater or smaller value. They should be redeemable at par, and should be a legal tender in payment of mortgages or other charges upon land. The interest should be payable at the Bank of Ireland, or other State agents, and the State should collect the interest from the owners. A certain period of grace should be allowed to the owners within which they might pay with interest at the rate of five per cent. per annum, after which time the intermediate security should be applied to.

By thus giving great facilities for the redemption of the debentures, I believe that a very considerable number would be redeemed from time to time. The large sums which now find their way into the savings banks and banks of deposit would naturally be invested in the redemption of debentures, which would give the owners a higher rate of interest, and tend to relieve them of liabilities. Prudent men would probably make an effort to pay off a certain amount in each ordinarily prosperous year, while the intermission of this in hard years might take the place of the present occasional remissions of rent.



## LOCAL GUARANTEES.

7.—*Could the risk or liability of the State be lessened by any, and what, form of local guarantee (without impeding the smooth working of a Land Purchase measure, or injuring either the landlord or the tenant) ?*

The intermediate guarantee which I would suggest is the local taxes of a limited area. My reasons for preferring this to Mr. Arnold Forster's proposal are these—when a liability is not redeemed the loss must fall upon somebody, whether it be the empire, or the country, or the barony, or an individual, and this is an injustice, though an inevitable one. But the injustice is reduced to a minimum when the loss falls upon those who have most power of influencing the defaulter, or of throwing the loss on his own shoulders. The old English principle of making the hundred responsible for the evil deeds of the individual has much to recommend it, particularly in a country where local popular opinion has so much weight as it has in Ireland. There are, and ever will be, in every community a proportion of failures. The present principle is that these failures are to continue to live on at the cost of the landlord, but that cannot always be so, and with a view to put an end to it public opinion should be enlisted against them. If Tom from Kerry fails to pay his instalments, and that results in the thousandth part of a penny additional duty on tea all over the country, Tom's neighbours will probably think that he has done rather a sharp thing, will support him in his resistance, and most likely follow his example. But if they find that they themselves have to pay a sensible sum for Tom, they will be down upon him, and make him pay, or make room for another who will. If it was thought necessary the intermediate guarantee might, in case of default by the barony, be extended to the county, or even to the whole of Ireland.



6.—*Show that British Credit may, or may not, be safely pledged for such transaction.*

With such an intermediate guarantee, the British taxpayer would be in no peril so long as a semblance of civilization was maintained in the country.

5.—*Show that the direct application of the credit of the United Kingdom is, or is not, absolutely necessary to carry out,—wholly or partially,—the creation of occupying ownerships.*

If I am asked what need then for an Imperial guarantee, my answer is, that recent legislation, together with permitted, and even encouraged lawlessness, has so thoroughly depreciated all Irish securities, that the debentures would be unsaleable without it. Besides, if it were only a private matter, there is no warranty that the State would lend any effectual aid to enforce the payment of the interest. A certain financial stake in the country is the best possible guarantee that John Bull will maintain some respect for law and order therein. This is the chief reason why tenants dislike the idea of the State in the position of a landlord. They know that it has the power to enforce payment, and that it will do so in a manner that private individuals can not.

It has been urged as an argument against using taxes as an intermediate guarantee, that it would give to the tax payer of the district a right to a voice in the arrangement of the price. Of course, if such is the case, it is fatal to the idea of a baronial guarantee; but is it so? There are already a number of compulsory presentments over which the direct payers have no control. They are all represented in parliament, and through parliament they have and must continue to have a direct voice in arranging the price, but not necessarily otherwise.

2.—*Should a Land Purchase Measure be voluntary in all cases or compulsory in all cases.*

3.—*Are there any, and what, cases in which the Landlord should be empowered to compel the State or the Tenants to purchase? And on what terms?*



4.—*Are there any, and what, cases in which the State or the Tenants should be empowered to compel the Owner to sell,—such as the properties of Corporations, estates of absentee proprietors, encumbered estates on the file of the Court for which no purchaser has been found within a specified time, or any other cases? How should a fair price be ascertained in such cases?*

I do not believe that a universal compulsory purchase scheme is practicable, and, therefore, dismiss it without further consideration, though I believe that in the interests of the Empire, it would be the truest policy. Purchase must, therefore, in the main be voluntary, but there are certain cases in which I should recommend the transfer to the State, with a view to sale to the tenants of whole estates. We are told that there are at present 1,400 estates administered by the Court of Chancery, in other words, by a State department. There are also many estates only waiting for a purchaser to be compulsorily sold by the Landed Estates Court. Nor does it seem desirable in the interest of any of the parties that purely absentee proprietors should retain the position of landlords. A precedent for the purchase of estates by the State with a view to a re-sale to the tenants has been established by Lord Ashbourne's Act, the fifth clause of which enacts that when the commissioners are reasonably satisfied that four-fifths of an estate will be purchased by the tenants thereof they may so purchase the whole estate, and I would advise the extension of this principle to all cases where it appeared to be for the general welfare that there should be a change.

There are several and obvious ways in which a price could be fixed in such cases. That which most commends itself to me is the framing of schedules. Each schedule to be priced at so many years purchase. Estates then to be placed by an appointed authority in one or other of these schedules, with a power of appeal on the part of either the landlord or the tenant



to a court of the highest status, say to the Court of Chancery, or to the Privy Council.

9.—*Would it be advantageous, or otherwise, (1) for the Landlord, (2) for the Tenants, (3) for the State, that the State should grant advances to convert tenancies into perpetuities at reduced rents? What would be the best scheme, and what amendments or alterations of the Land Acts (1881-1887) would be necessary or desirable, for promoting and facilitating such transactions?*

I think that the best that is to be said for this proposal is that it is harmless, and I am not sure that it is even that. I cannot see what advantage it would be to any of the three parties concerned. Tenants who will not now purchase on terms that would give them an abatement of 20 per cent. are little likely to do so when the benefit to them is halved. For the next half century the landlord would be in the position of one deeply encumbered, for the first half of every rent would belong to the State, only the second, and therefore the precarious half, to the landlord. His position for 49 years would be, that he would have to collect the full rent, just as at present, but that he would have obtained a first mortgage on his estate for half its value, at 5 per cent., with which he might pay off mortgages at 4. All that embitters the relations of landlord and tenant would remain, with the same liability to evictions or other legal processes for the recovery of rent. If it were not that the intelligence of the gentlemen who support this proposal forbid such an idea, I should suppose that there was some confusion in their minds between the case of a tenant purchasing a perpetuity thus, and one purchasing the same at his own cost. I need not point out that the latter condition will not be reached till the last instalment shall have been paid. No doubt as that time comes within tangible distance, say after 30 years, the unwillingness of the tenant to suffer eviction will increase. The fact of



his rent being divided into two halves would, I fear, quickly suggest to him that one of these halves was as much as he ought to pay. I cannot conceive such a provision being operative in more than a very few cases, and so I should be content to leave it, were it not that I fear that, if it is put forward as a part of the landlords' claim, it will be at once conceded by the Government, who may very safely do so, and thus take the place of what might be substantial and valuable concessions.

10.—*State the advantages which would be likely to arise (1) to Landlords, (2) to Tenants, (3) to the district, and (4) to the State, by granting advances to Landlords to purchase Tenants' interests. How should such advances be secured and repaid? Are there any cases in which the Landlord should be empowered to COMPEL a tenant to sell his interest to him? How could the value of the tenant's interest be assessed?*

11.—*State reasons to show that where the Court sells an encumbered estate it should have the power to sanction the owner being made tenant of the whole or any part of the lands which had hitherto been in his own disposition or occupation, and that the Land Commission should be at same time empowered to make advances to him to buy in such lands at the price sanctioned by the Court.*

Far too much stress has been laid upon the fact of dual ownership as if this were in itself a great evil. Mr. Bright with his usual clearness of view has hit upon this plot, and has pointed it out in his letter to Lord Kilmorey. Under other conditions it has long existed in Ulster, which is now, as ever, the best affected part of the country. Dual ownership in the other three provinces was the concomitant and the creation of acts which are largely responsible for our present condition, and so has acquired a worse name than it deserves. But there are cases in which the



relations of the landlord and tenant have become so strained, that it is desirable, in the interests of the public as well as of the principal parties, that either of these should have a power to terminate their relationship. I should, therefore, be glad to see a provision introduced enabling either party to apply to the Land Commission to fix a fair selling value for both the landlords' and tenants' interests in a holding. Either party to be then entitled to say to the other, "I now offer to buy you out at the price put upon your interest, and, if you refuse, I *require* that you should buy me out at ten per cent. under the value put upon my interest." I say ten per cent. under the value, for, whenever there is compulsion used, the compellant should be obliged to give a certain pecuniary advantage to the compelled. This is compulsion of such a kind, that I should think most people would be glad to have it, together with its alternative, applied to themselves; while in acute cases it would give to either party an opportunity of slipping his neck out of a yoke which had become intolerable to him.

In such cases, and in others where the landlord agrees to buy, and the tenant to sell his interest, advances should be made to the former for the purpose on exactly the same terms as they are made to the tenant. Indeed, I believe that, for several reasons, it would be a wise policy to advance to landlords, who desired to obtain them, land debentures to, say, three quarters of the selling value of all lands in their own hands. This would be an inexpensive boon to the landlords, many of whom might thereby be enabled to pay off remaining charges, and so to continue to live in their old homes; but, what is of more importance, it would place them, as regards the accidents of their properties, on exactly the same footing as their neighbours, and thus remove all possible excuse for future exceptional treatment.



**GUARANTEE DEPOSIT.**

12.—*State reasons to show that it would or would not be safe for the State, and necessary for the better working of a Purchase measure, that one-fifth of the Purchase Money should no longer be retained.*

13.—*If the deposit of one-fifth must be retained, are there any and what stocks, shares, or other investments in which the owner should be empowered to require it to be invested in addition to the investments now allowed by law?*

Of the minor impediments some are inherent in the case and must only be faced, but, others are, I think, capable of removal or at least of amelioration; for instance, a tenant at present can buy at 20 years purchase, and thereby obtain a reduction on his judicial rent of 20 per cent. This is however subject to abatement by the half poor rates which were formerly paid by the landlord. If these amounted to 5 per cent., it reduced his gain in the transaction to 15 per cent. net. But if the sinking fund be dispensed with, as proposed further on, he could still purchase on the same terms and secure an abatement of 40 per cent., less poor rate 5 per cent., net 35 per cent. Now seeing that tenants have on an average already obtained a reduction of something like 30 per cent. on rents, which for the greater part, had been regularly paid for 40 or 50 years, so that the total reduction would exceed 50 per cent.; seeing also that, whenever free sale is permitted, enormous sums are still daily procured for the tenants interest as it stands, there can be no doubt that, with the other guarantees here proposed, the payment of interest would be so well secured that the present deposit required from the vendor might be dispensed with, and thus one impediment to the success of a measure of purchase removed.



16.—*Is any and what legislation desirable for the redemption of Tithe Rent Charge, Crown and Quit Rents, and other State charges, in addition to, or substitution for, the provisions of the 15th Section of the Land Act of 1887?*

Again, it is surely not asking more than is just to seek that, where the State has a potential voice in fixing the rate of purchase, State charges, where such exist, should be redeemable by the vendor at the same rate of purchase as is paid for the fee. The aggregate amount of these charges is not very large, but they press with undue severity in individual cases; and, if there is a loss of, say, five years purchase on redeeming these and selling again to the tenants, this just turns the scale in not a few cases, as to whether a sale is possible to the landlord or not.

14.—*Where the whole or part of an estate has been sold, could head-rents be dealt with in any other and better way than is provided by the 16th Section of the Land Act of 1887? Is any and what legislation desirable in respect of head-rents on properties which are not for sale?*

15.—*Is any and what legislation desirable to enable the head landlord to buy out the middle landlord, voluntarily or compulsorily? If compulsorily, how should the value of the middle interest be assessed and valued?*

19.—*Is any and what legislation desirable for the extinction of Tithe Rent charge payable to Lay Impropriators?*

Queries No. 14, 15, and 19.—A private owner of a head-rent or rent charge stands on totally different ground, but he should not be allowed to block the way by refusing to sell. I would, therefore, give for a limited period a power to any middle man to buy up the whole or any apportioned part of the head-rent or rent charge at 25 years purchase. This is about the market price of



any well secured head-rent, and I do not think that the owner should be compelled to take less. I do not think that any special legislation is called for to enable the head landlord to buy out the middle man, beyond facilitating such a process by the issue of debentures if required

*17.—Would it facilitate Sales and Purchases, and be safe for the State, to make any and what change in the present annuity of 4 per cent., and term of 49 years —(1) by shortening or extending the term, (2) by increasing or decreasing the annuity, (3) by offering to sellers and purchasers the choice of several different rates and terms of annuities, or otherwise?*

I very much question whether the advantages of a sinking fund are an equivalent for the price which has to be paid for them. The advantages, as far as I understand them, are these ; that at the end of 49 years the State would be out of the transaction, and that in the meantime every instalment paid would make the remainder more secure ; while, at the same time, the prospect of the ultimate cessation of all further instalments is a large part of the inducement held out to the tenants. Any one who has had practically to negotiate sales to tenants knows that this last is entirely illusory. "Where will I be in 49 years?" is the stereotyped answer. It is vain to talk to them about their children. Nor is this from any want of natural affection. They keenly appreciate an additional pound a year with which to buy clothes for the child, but the prospect that he, as an old man, should come in for £100 is to them a thing of cloud-land for which they do not care a fig. I am by no means certain that as an optional alternative a much shorter period of repayment might not in some cases be more popular. A goal to be reached in five or ten years is an appreciable good, and worth making an effort for. Under the Church Act there were different scales of repayment, and I think that it will be found that the lowest and



longest was by no means universally adopted by the purchasing tenant. Making a one per cent. sinking fund optional would give to the tenant the choice of an additional reduction of 25 per cent. in the yearly amount he would have to pay as purchaser. Abolishing the sinking fund would increase the *present* security of the State by lessening the amount the tenant would have to pay. The ultimate repayment to the State at the end of two generations is, to it as to the tenant, so deferred a good, that it hardly enters largely into the argument. I admit that it would be a loss to forfeit the growing interest of the tenant in the land, but the process of repayment at first is very slow. It may well be a question whether the risk of advancing money at 3 per cent. without stated time of repayment would not be less than that of advancing it on a terminable annuity of 49 years at 4 per cent. As stated above, I believe that if the process of repayment were wholly optional, and that the debentures were convertible on demand into others of varying amount, very considerable sums would, from time to time be paid off, though a large proportion would probably never be redeemed. With the whole purchase money advanced at three per cent. and no sinking fund, it would be obvious that the utmost limit of concession by the State had been reached, and that the parties must now accept the boon as offered or lose it altogether.

18.—*Would it facilitate the collection and be more convenient to the tenants, and safe for the State if the annuities now collected by the Land Commission were collected through (1) local authorities, (2) through the Landlord, or (3) in any other way?*

Query No. 18.—I have no suggestions to offer.

20.—*On the sale of an estate, or separate holdings, to the tenants, should any and what special reservations be made in respect of the following:—*



- (1) Land suitable for afforestation.
- (2) Lands capable of reclamation on a large but not on a small scale.
- (3) Bogs and Turbary.
- (4) Rights of Way and Water.
- (5) Power to Tenants to compel adjoining or neighbouring tenants to keep their ditches scoured and drains open and in good order.
- (6) Game and Fishing.
- (7) Mountain Pastures.

Query No. 20.—The questions of turbary, game, mountain pastures, &c., are of deepest importance, and we are laying up for ourselves a crop of troubles by the haphazard way in which they are being treated under the present system, or rather want of system. It is plain that any easements which are to be enjoyed in common can only be profitably treated by a central local authority. Hitherto that authority has been the landlord, but if he is removed and no one put in his place confusion and disputes innumerable will arise. I shall only take two examples, game and turbary. The pursuit of game can only be indulged in with any satisfaction if a considerable area is at the exclusive command of the sportsman. But if he has to deal individually with some scores of small owners this would be impossible, for there would be sure to be some individual who would either refuse to let his shooting, or would try to extort an exorbitant rent. If, on the other hand, the right of sporting over all lands sold under the several Purchase Acts were vested in some local authority, to be let to the best advantage, the proceeds to be applied either in reduction of local taxation, or divided acreably amongst the owners, it might be made a source of considerable profit; and as each owner would feel that the higher the price obtained the more he would benefit, he would have a direct interest in helping to preserve. The possibility of obtaining such rights of game might also be a strong inducement to the owners of demesnes to live at home, or to wealthy strangers to settle in the country. Or again, turbary. If there is merely reserved to each purchaser a right to cut turf, or that so many yards of the bog edge are conveyed to him, who is to keep the water courses clear, and the bog edges



drained? The new owners should clearly combine for the purpose. But what if one refuses to join? Are the others to drain his portion for him, or is the whole to remain undrained? And who is to look after the spare portions, or to see that one man does not run over his portion to the detriment of his neighbours? All this should be placed in the hands of some local authority which should take the place hitherto occupied by the landlord, and under whom the spare turbary might be turned to a considerable profit.

21.—*Is it desirable to include Small Towns in a Purchase Scheme? State any distinct or special conditions or provisions necessary to the security of any advances that might be granted for the purchase of holdings of that class.*

Keeping before me the main object of a purchase scheme, namely, the establishment of as large a number as possible of men possessed of the interests and responsibilities of owners, I should say that the operation of the Act should be extended alike to large and small towns. If this is done it will probably be found essential for the protection of the taxpayer that some substantial part of the price, say a fourth, should be paid by the purchaser himself, and that sufficient security should be taken for the maintenance of a fire insurance.

22.—*Has the creation of occupying owners resulted satisfactorily, or otherwise, in the cases of the tenants in your neighbourhood who have already purchased under the Irish Church Act (1869) or the Land Acts of 1870, 1881, and 1885? Are such tenants reputed to be more contented, thrifty, and improving than formerly, or are they farming more carelessly and getting into debt? Quote instances, when possible.*

23.—*Name any estates, townlands, parishes, or other areas in your neighbourhood which would come under the definition of "a congested district."*



- 24.—*What is the gross Poor Law Valuation of the congested district, and what is the number of families living on the land.*
- 25.—*What is their principal means of subsistence ?*
- 26.—*Can you suggest any, and what, ways of improving their present position and circumstances ?*
- 27.—*Do any, and what, proportion of them hold rent free ?*
- 28.—*What definition would you give of the term "congested district" ? (The following definition has been suggested :—" A district where the population live upon holdings which are much too small or too poor to afford them the means of subsistence, and where the people are also mainly dependent upon earnings elsewhere.")*
- 29.—*State reasons to show that it is, or it is not, desirable that facilities for creating occupying ownerships should be extended to "congested districts" ; or that such districts should be dealt with under some scheme specially adapted to them.*

The statistics of the peasant proprietors hitherto created under the several Purchase Acts are more accessible to the Government than to private individuals, and I do not feel myself competent to speak upon them. I am happy to say that I have no personal experience of congested districts, and am therefore not competent to speak of them either. It seems, however, certain in the very nature of things that there is only one radical cure, whether this be called migration or emigration. My impression is that including such in a system of purchase would rather tend towards this end by giving a fuller scope to the action of economic laws. At present the landlord is held responsible for everything. Is a tenant whose whole rent is 5s. a year in a starving condition ? It is all put down to the rack-renting landlord who exacts



the five shillings. Does the landlord allow his tenants to live as they will, sub-dividing as they please? He is not unreasonably held responsible for the congestion that ensues. Does he sternly set his face against subdivision, covert or open? He is an oppressive tyrant, driving the people into immorality by forbidding them to marry. The recent land laws have almost wholly deprived the landlord of any power for good in such cases. Perhaps if he were removed, some of those who now call themselves the leaders of the people might begin to feel that they have responsibilities beyond that of hounding on the poor people to resist the payment of their few shillings of rent.

30.—*Can you offer any and what suggestions on any questions relating to the Sale and Purchase of Land in Ireland which are not embraced in the foregoing queries?*

A few words as to the probable effects on the landlords themselves, and their relations to the country of a system which should largely or wholly abolish their present relations to their tenants. Some would no doubt fly the country, glad to escape from associations of land acts and sub-commissioners, and all that at present renders life nearly intolerable to them. But I see no reason to suppose that this would be the case with the great majority. They would be released from the odium of their present position. If their nominal income was somewhat reduced, it would become a real one instead of nominal. They would still have their demesnes, endeared by long associations; and they must live somewhere, where else could they do so better? Sporting rights might be secured to those who cared for them in the manner above described. With the cause of dissension removed, their relations with their neighbours would rapidly improve; and (particularly if they were brought directly into line with these, by obtaining debentures chargeable on their lands) it is but natural to suppose that when there were no longer clashing interests, superior wealth and education, and



all that constitutes what is called position, would before long regain for them that leadership which is even now within their grasp, but which they can only obtain by sacrificing all that they believe to be for the truest interests of their country.

It sounds almost a truism to say, that if a system of purchase is to be of much use to the present generation, it must be large in its extent and speedy in its operation. Every additional owner created is so far a gain; but when the object is to correct the disproportion between 10,000 and 500,000 it is obvious that a thousand or two of additional proprietors will go but a short way to redress the balance. What we want is a few hundred thousand. One thousand each year would be a sensible gain, but even so it would take 500 years to convert the whole tenantry into proprietors.

I now propose to touch very lightly a branch of the subject which is not only one of vast importance from many points of view, but also of great difficulty; and I feel that, in approaching it, I am treading on very thin ice. The evil however is enormous, and if by chancing a fall or two, or even a good ducking, one can add ever so little towards its abatement, one must not be too squeamish about barked knuckles, or wet clothes. I am quite sensible of the proverbial capacity of him who is his own lawyer, and I am quite sure that there are difficulties and dangers of which a layman may know nothing; but, on the other hand, I cannot help thinking that the legal vision is the least thing in the world circumscribed by a thing called "precedent." Lawyers are apt to argue that because a thing never has been done, because it is contrary to all precedent, therefore it never can be done. But when the country has made up its mind that a thing shall be, Parliament has a way sometimes of knocking down the giant precedent, and walking over him as if he were not there at all. A few years ago, we were assured that our system of settlement was fatal to any idea of simple registration of title. Lord Cairnes' Settled Estates Act



has knocked all that into a cocked hat. In the same way there is probably not a conveyancer in Ireland who would not have told you, twelve months ago, that it would be simply impossible to get through the work of conveying the whole land of Ireland from the owners to the occupiers in less than fifty years. I have heard the assertion made over and over again. But a single clause (the 14th) in the land act of the present year, has enabled this process to be accomplished pretty nearly as fast as the conveyances can be written out. I would appeal to the lawyers not to waste their time in only exposing the error into which my untutored pen may lead me, but to see whether amongst all the pile of chaff there may not be some few grains of wheat, which their skill and learning may enable them to thresh out, and to plant and tend, so that in time it may bear good fruit.

The section to which I have referred (50 and 51 Vic., cap. 33, sec. 14) enacts that when landlord and tenant have shown a *prima facie* title, all further difficulties, quoad the conveyance, are to be jumped, and a conveyance is to be made to the tenant, which will be good even though it should ultimately turn out that the vendor's title was utterly bad, and that the estate belonged to some one else. This is all very nice for the tenant. He gets his conveyance at once, with absolute ownership, a large immediate reduction, and ultimate extinction of his liabilities, and he goes on his way rejoicing. But how about the unhappy landlord? For him there is no jump; painfully he must plod on through the old mile horse track, till he has proved his title in the old appointed way, and till a very sensible portion of the fraction of the value of the estate, which was paid into court, has been absorbed in costs, before he can get what remains of it. If there should happen to be a run on the court, experts tell us that he may have to wait for years before his turn comes round to be certified and paid. It is clear that such delay may just be the last straw that should mean final and



irretrievable ruin to him. No wonder that men should think seriously of this before they face the dangers of an unknown court. What I would urge is, not the introduction of any new principle, but the extension to the landlords, under sufficient, but not excessive, safeguards, of something of the same jumping principle which has already (pace precedent) been applied to the tenants.

There are certain classes of transactions which are more easily, cheaply, and expeditiously carried out in bulk than in detail, and pre-eminent amongst these are such as require much publicity to be given to them. Such is the making of individual titles; not only has every person who, by possibility, might be interested in the lands in question to be sought out and noticed, and the notice proved, but expensive advertisements have to be inserted so as to make it pretty sure that any interested party who by chance had been overlooked should still have notice. Then adjoining owners and occupiers have to be noticed in order that they may be satisfied as to boundaries, and finally, when the estate is sold there are further notices and advertisements addressed to creditors and claimants that the proceeds are about to be distributed. Now if this were made a great national movement, dealing at one swoop with all the lands in Ireland, all this noticing and advertising might be dispensed with. A great measure of general application is notice to every one, and if a few individuals through their own supineness were deprived of their rights, who would pity them? Their carelessness must not be allowed to stand in the way of a great forward movement. A considerable number of centres should be appointed, probably the unions, because a good deal of the requisite information is at hand there. Of course the whole thing must be founded on a cadastral survey, which should be on view at the centre. All persons claiming to have any ownership in land within the area surrounding the centre should



be required to produce some *prima facie* evidence as to who was the legal owner. For this purpose nothing more need be required than the production of the instrument, be it conveyance, will, or settlement under which they claim, an affidavit to the effect that the persons set forth were, to the best of deponent's knowledge, the legal owners, and that their title was undisputed, might be required in addition, or in substitution, where no title deeds were producible. It would not be necessary to examine deeds further than to ascertain in whom the legal estate was vested. A *prima facie* list of legal owners being thus formed, it should be published in sections (say electoral divisions), at a cheap rate, with copies of the survey, and further be on view at the centre, so that every facility should be given for correcting or disputing it. After a sufficient lapse of time all of these titles that were undisputed should become good selling titles, and be placed on the register as such.

The register should of course be supplemented by

(a). A Register of Mortgages.

(b). A Register of Leases.

No mortgage should be of any legal effect till placed on the register, nor should any further proof of its existence or of its satisfaction be necessary. A mortgage should not convey the legal estate in the lands mortgaged.

Absolute owners whether of the fee, of leasehold interests, or of mortgages would of course be registered as such. In cases of life tenancies, the trustees would be registered as the owners. They would hold the property, as they now do all other kinds of property, as absolute owners, so that a purchaser need inquire into nothing further. They would of course in this, as in all other matters, be personally liable for the due execution of their trust. Indeed, Lord Cairnes' Act has already to a great extent provided for this, though the cost and delay of making title still remain. There is no man who did more



towards paving the way for a Register or Title than that great Irishman, and there are abundant indications that had he lived he would have carried his work much further. Is there not one amongst the many able Irish lawyers who will take up and carry to a successful completion the work which he so well began?

A real representative would of course be a necessity. I see no reason why, where not otherwise provided for, the executor should not be ex-officio the real representative. The Register of Leases would protect all interests puisne to that of the fee, often far more valuable than the fee-simple itself.

Who can doubt that in the great majority of cases, probably in nine out of every ten, there would be no dispute as to the ownership? Of course, in cases where there were two or more claimants, their claims must be fought out in the usual manner. All that can be said of them is, that they are no worse off than before, while a large majority would be greatly benefitted.

Should any plan of registration at all analogous to that of which I have here so lightly sketched the outline become law, it would do away with the great initial difficulty, almost insuperable, when estates are taken separately, of getting them first placed on the register. It would get over the difficulty of having two concurrent systems of conveyancing, and it would do more to promote that Free Trade in land, which is so desirable, than many Purchase Acts.

If I am asked what are the grounds of certainty that a scheme of purchase such as I propose would produce the results which I anticipate, I reply at once that there is no such certainty. Since Mr. Gladstone took in hands to pacify Ireland eighteen years ago, a considerable amount of National sentiment has been aroused, which previously wanted at all events a visible manifestation. This has still to be dealt with, and it may be that our best endeavours will be fruitless. I do not myself think that they will, but of this I think we may be



certain—that till that, which has always proved the great engine of disaffection is removed, disaffection will continue to manifest itself. We cannot say with certainty that a large measure of purchase will pacify Ireland, but we can say with almost absolute certainty that she will not be pacified without it.



