

122  
1  
*With the Editor's Compliments.*

THE PRINCIPLES AND SCOPE  
OF  
MR. GLADSTONE'S  
**IRISH LAND BILL.**

DEDICATED TO

**The Earl of Granard, K.D.**

*Reprinted from the CARLOW COLLEGE MAGAZINE of March, 1870.*

CARLOW: L. PRICE, 55, DUBLIN-STREET.  
DUBLIN: WILLIAM B. KELLY, 8, GRAFTON-STREET.

1870.





TO

THE RIGHT HONORABLE

**The Earl of Granard, K.P.,**

&c., &c., &c.,

IN ADMIRATION OF HIS LORDSHIP'S DEVOTION  
TO THE CAUSE OF THE TENANT FARMERS OF  
IRELAND, THIS PAMPHLET IS, BY PERMISSION,  
MOST RESPECTFULLY DEDICATED.





## Mr. Gladstone's Irish Land Bill.

---

"I think that of the crimes, which we have been so recently lamenting, no small portion is to be traced to an interference with the fixed usages of the country, and with what the people believed to be their rights."—GLADSTONE.

ALL who had the privilege of hearing Mr. Gladstone's magnificent statement, introducing his Irish Land Bill, must have thought that the evil star of Ireland was about to set for ever, and the sun of justice to shine out brightly above the dark horizon of this unhappy country. He sealed with his high authority the admission of Lord John Russell, that agrarian crimes were caused by the action of unjust laws. He deplored that redress had been so long delayed; he sketched the condition of Ireland with a graphic power peculiarly his own; and candidly admitted that the miseries of the Irish tenant-farmer and the Irish peasant had been directly aggravated by British legislation, from the period of Catholic Emancipation to the present. He traced the marked difference between the relations of landlord and tenant in Ireland, and in other parts of the Empire; and significantly added that

"In Ireland the landlord is generally different from the tenant in politics and religion.

There is rooted in the minds of the people the old Irish notion, that the tenant has some interest in the soil."

Is there any nation in Europe where this old Irish notion is not rooted in the minds of the people,—except, perhaps, in England, where it has been stamped out by rampant Feudalism, and where every good man, honestly anxious for the glory and greatness of the Empire, earnestly wishes to see it restored.

Mr. Gladstone, in contrasting Mr. Cardwell's description of the laborer and occupier in 1860 with their condition at the present time, uses the following remarkable words:—

"Wholesale evictions have been fewer, I admit, but some have been most indefensible."

In the first days of the battue the bags are larger; as the packs and covies are thinned down, the keenest sportsman cannot bring down so many head of game. The Irish landlords had grand battues whilst the forty-shilling freeholders lasted; when they were all swept away, the larger game, of course, were not so abundant, and, hence, wholesale evictions have been fewer. But we can assure the honorable gentleman that, even at the present day, the Irish landlord has fair average



sport, and seems to enjoy it as keenly, as in the halcyon times, to which the Premier refers.

Whilst we write, there are twenty-two families, numbering 138 persons, under notice to quit in this district. Not a shilling of rent is due by them; not a shadow of crime is charged against a single member of this community: yet, the law, under which they have the happiness to live, decrees them banishment from their homes, as the reward of their peaceful industry. And this law, as amended by Mr. Gladstone, we regret to say, affords them no protection.

Not many months since, twenty-one families, numbering 122 persons, were exterminated in the same locality. We have before us the statistics of evictions for the last twenty years, and shall be happy to place them at the disposal of the Right Hon. Gentleman, should he require them. They seem almost incredible; and yet they were perpetrated without a single act of violence in retaliation. Had Mr. Gladstone issued a Commission, and ascertained the extent to which the Irish landlords exterminated the people, he would have been in a better frame of mind to legislate on this vital question. And if he is a just and wise ruler, he could not have left in their hands a power, which they so fearfully abused.

After stating that the sale of land in the Encumbered Estates' Court was a confiscation of the tenant's property, in tracing the action of the Poor Laws in Ireland, Mr. Gladstone adds:—

“But, if we have a peasantry endowed with vigorous arms, with both ability and will to earn their own subsistence, and if we encourage a system, under which that peasantry can expect to labor, with only a precarious title to occupation, ever liable to be evicted without fault, or neglect of any kind, and if we think then, it is enough to say, though you are evicted, the doors of the Poor-house are open to receive you, my answer is, that is not an operation by which we can bring about National content.”

Yet Mr. Gladstone has left the peasantry in the unhappy condition he describes. Under his legislation the peasant and farmer must labor as they have heretofore labored, “with only a precarious title to occupation, ever liable to be evicted without fault or neglect of any kind.” Such law in the words of the Premier, cannot “bring about National content.” As long as the title to occupation is precarious, and the tenant liable to be evicted without fault or neglect of any kind, we cannot expect peace, prosperity, or contentment in Ireland. Under Mr. Gladstone's Bill the title to occupation is precarious, the tenant can be evicted on the payment of a small fine. He, therefore, has failed to legislate for Ireland. His measure will not be the



harbinger of "National content," but a terrible incentive to agitation, and deadly strife between classes already but too embittered against each other. Far better not legislate at all on the question, than crush the hopes of an entire people by what they must regard as another delusion, mockery, and snare.

If Mr. Gladstone legislates wisely, is he not bound, as an honorable man, to prevent the injustice he denounces as a cause of National discontent, and to place the peasantry and the tenant-farmers of Ireland in a position, in which they can labor with a certain title to occupation, never liable to be evicted without fault or neglect of any kind.

In referring to emigration as a justification, or mitigation of eviction, Mr. Gladstone uses the following remarkable words :—

"When the emigrant is one, whose wish is to stay, who is truly, fondly, passionately attached, as these people ever were, to the soil on which they were born, and on which they have grown, to say we cannot insure you possession of your holding, we cannot even give you a reasonable probability that you will be able to exercise your industry with confidence; but there is the way across the Atlantic, and there are the wide plains of America to receive you. Do not let us conceal from ourselves that, under such circumstances, emigration is but another word for banishment, and the Country, whose laws inflict that punishment, cannot expect, and does not receive the affection of these people."

We have, then, from the Prime Minister of England the important admission that English Law inflicts on the Irish tenant-farmer a severe penalty, though guilty of no offence against its provisions; that it grants to one class of the community the power of visiting on another, without the suspicion of crime, the gravest penalty known to the Law, except capital punishment. What remedy does Mr. Gladstone apply to the injustice he so clearly and so forcibly states? Does he leave the Irish tenant still exposed to the penalty of banishment at the bidding of his landlord, or does he extend to his home the protection of the Law? Does he say that banishment shall only be the punishment of crime, and that no class shall have the power of inflicting it arbitrarily on the innocent? Does he insure the tenant possession of his holding, and say to him that he may exercise his industry with confidence? Does he close up this broad way across the Atlantic, and give to the Irish tenant a quiet home, not in the wide plains of America, but in the green fields of his Native Land, to which he is so truly, so fondly, and so passionately attached?



An Act, which inflicts the penalty of felony, where there is no guilt, is itself felonious. Mr. Gladstone admits the crime, but condones it; and grants to one class of the community the power of inflicting the penalty of banishment on another, on the payment of a fine, varying from one to seven years' rent.

This provision is most vicious in principle. No State can grant to one class the power of inflicting injury on another for a mulct. Mr. Gladstone might just as well put a price on the honor of the wife and daughters of the Irish farmer, as admit that it is a crime to banish him, and yet legally sanction that banishment on the payment of a fixed sum. The principle not only condones a felony, but legalises it; and strikes at the root of all legislation.

We know of no law in any civilised country, where this principle is recognised; and we believe no law resting on such a principle can be the harbinger of peace, or the guardian of social order. Were the classes, between whom it legislates, in perfect harmony of sentiment and feeling, it must very soon estrange them from each other; but, when they are antagonistic in politics and religion, as Mr. Gladstone admits, such legislation must become the fruitful source of oppression and violent resistance. Heretofore there was but one class of agrarian crime:—henceforth, thanks to the Premier's admission, people will begin to distinguish two, and to regard the landlord, who exterminates the peasantry, and inflicts on them the penalty of banishment without crime, as only less guilty, than the armed assassin, who avenges this wrong.

The Bill is not stamped with the clear intellect, close logic, and varied knowledge of the present Prime Minister of England. It is a measure of expediency, rather than of principle; a hopeless effort to reconcile contradictory claims by yielding a little to each, without testing the justice of either, and cannot be a final measure to seal up this vexed question, as its author fondly predicts. It is impossible to frame a law, which shall recognise the legal rights of the proprietor, and the natural rights of the occupier. It is the old bootless attempt to construct a square circle. We may, at one time, approach more the qualities of the circle, and, again, go more towards the properties of the square, but the figure must ever want the essential properties of both; so a law, which attempts to reconcile contradictory claims, must ever want the first essential of every good law—JUSTICE.

Such laws are behind the time; they come sanctioned by the seal of authority, but wanting the higher sanction of right; and can never win the respect, confidence, and cordial support



of an enlightened people. The World is sick of such laws. They are the worst legacy of a barbarous period, and have been the prolific parent of many of the ills that afflict European Society. No nation has suffered so sadly by their baneful action as Ireland. If we wanted a proof of this, we have it in Mr. Gladstone's statement, introducing his Land Bill. The enactments of English law in Ireland have been so monstrous, that the people hate the very name of law. Mr. Gladstone knows this well, and expresses a sincere wish to govern the Irish Nation justly and equitably ; yet the principle of his Bill, which permits a landlord to banish an Irish tenant on the payment of a fine, is the very principle of the most atrocious law in our notorious Penal Code, which imposed a fine of two shillings and six-pence for the murder of a mere Irishman !

No logic can convince the Irish people that what is justice for the North, is not justice for the South ; and no enlightened statesman can expect that the tenants of the South can regard the Land Laws as just, until they are uniform over the whole Island. The present Land Law will be but a new incentive to agitation, which has ever been the bane of this unhappy country, and a fresh source of discontent and disaffection.

The Bill should recognise, first—The right of the tenant to his improvements ; and, secondly, his right to his occupancy, which means, as Mr. Gladstone expresses it, his right to live in the Land where he was born, and where he has grown up. If the public interest requires that the proprietor should have the right of purchasing one or other of these rights (which we emphatically deny), he should, at least, in justice pay, for it its full value ; and this should be ascertained by what it will bring in open market.

The Bill, however, does not recognise fully the right of the tenant to his improvements, for the landlord can confiscate them by a lease ; nor to his occupancy, for he can cancel it by a fine varying from two, to seven years' rent : in other words, the right of the tenant to his home is not the right of a moral being, of which he cannot be deprived by private authority, or for private interests, but such as the law grants to the *feræ naturæ*. According to Mr. Gladstone's Bill, a peasant may be banished on the payment of a fine. You may kill a hare on the same terms.

If Mr. Gladstone recognised fully and unqualifiedly the right of the tenant to his improvements ; and, secondly, his right to his occupancy (even though he paid the landlord for the legal right, of which the Bill deprived him),



and left the most full and complete free trade in the sale and transfer of both rights, he would have settled the Irish Land Question finally, so that it never again could possibly disturb Society ; he would have vindicated his fame as a legislator, his courage and integrity as a reformer, and would have inaugurated a new era in Ireland — an era of prosperity, contentment, and peace. He would not have linked his name with such an undigested mass of clauses and sections, as the present Bill ; and offered to a rural and illiterate people a law as complex as the Justinian Code, or the Decrees of Gratian, a piece of conglomerate, held together by official paste, resembling more the production of a batch of *Nisi Prius* lawyers, than of a just, wise, and enlightened statesman, a boon to the lawyers certainly, and not a boon, but a snare to the tenant-farmers of Ireland. It is exceptional legislation of the worst type. Its principle is the principle of the Penal Laws. It recognises rights partially, and must be a source of irritation ; it places the tenants of the South and West in an inferior condition, and must create discontent, and become a prolific source of future troubles.

Mr. Gladstone shows that British legislation, since 1816, stripped the Irish tenant of all legal protection, and left him helplessly at the mercy of his landlord. He designates that legislation, as ungenerous and harsh, and on these grounds proposes to change by just laws the anomalous relations of the owners and occupiers of land in Ireland. What, then, are the evils he admits, and the remedies he suggests : the evils are stated with a clearness, a fulness, and a fairness, of which none can complain ; but the remedies, we regret to say, we consider totally inadequate.

But Mr. Gladstone, before he introduces his own remedies for the ills of Ireland, discusses and rejects the remedy proposed by the unanimous vote of the Irish people, sanctioned by the authority of the Irish Episcopacy and Priesthood, and by many of the owners of extensive estates in Ireland.

Mr. Gladstone's first objection to fixity of tenure is, that compensation should be paid to the landlords, which, he thinks, would be attended with the greatest practical difficulties.

We cannot see the practical difficulty, and wonder exceedingly that anything could appear a practical difficulty to the gentlemen who devised the Irish Land Bill, and trod their way through its tortuous mazes. Let us grant that the landlord has a right to a remuneration for giving to the tenant permission to live peaceably in his home, paying for it its full value. Even the greatest stickler for landlord rights must



admit that the claim of the landlord must be assessed at a minimum—First, because the claim is very doubtful in Equity, though very clear in Law ;—Secondly, because Irish landlords, as a class, unjustly acquired more of the property of the Irish tenants, as a class, than would purchase the perpetuity of their farms ten times over.

The Irish tenant loves peace. He dreads eviction, and would willingly pay a very high price for security, so that, if, Mr. Gladstone grants him the perpetuity he asks, and makes him pay for it its full value by a per centage on his rent, he will willingly assent to this arrangement. We cannot, then, see the force of Mr. Gladstone's first objection to fixity of tenure, even admitting that the landlord should receive a consideration. The settlement is exceedingly simple. Let the proprietor receive an increase of a given per centage on the rent.

Mr. Gladstone's second objection to fixity of tenure is that it would make loungers of all the Irish landlords. This statement, we believe, is without foundation. There will still be ample scope for the beneficent influence of the good, the benevolent, and the humane. As to the other class, whose members are too numerous in Ireland, a wise and just legislator would contract their power, for it is better they should lounge in idleness, than revel in mischief ; that their time should be spent in follies which injure only themselves, than in harrassing the unhappy tenants, and tending by their oppression and injustice to the disruption of Society, and the dismemberment of the Empire. Mr. Gladstone seems to think that to evict is the primary function of an Irish landlord, and that he must become a lounge, if he ceases to be an exterminator. He assumes that the Irish tenant is influenced only by a motive of fear, and the landlord only by a lust of power, and, if you place landlords and tenants in a mutual relation of independence, that all influence for good of the proprietor over the tenant must cease.

We believe the contrary is the fact ; and that the state of serfdom of the Irish tenant was the great cause of the unhappy relations, which heretofore existed ; that it extinguished all respect and affection on the part of the tenant, and all feelings of sympathy and interest on the part of the landlord.

Let us test the fact by that favorite principle of modern philosophy—experience. Where is the landlord most revered, and his influence most respected ? Certainly on the estates, where the tenant is most independent, and the landlord least exacting.



doing justice to the Irish tenant, of protecting him from the penalty of banishment, which he has often suffered, though guilty of no crime, and of bringing peace, contentment, and loyalty to his home. Whatever wealth was added to the soil would be the property of him who produced it, and would not be confiscated for him, who has no just claim to its enjoyment. It would be diffused amongst the humble and industrious, whose homes it would bless with abundance, and would not be squandered in luxury by the idle and extravagant. If agriculture should not flourish (which we emphatically deny), a nobler plant would spring up—contentment, peace, and happiness in the peasant's home.

But Mr. Gladstone's insinuation against the Irish tenants, who hold in perpetuity, is incorrect in fact, and, though correct, his inference, is unfair, inconclusive, and unworthy of the great champion of Reform.

Mr. Gladstone infers that, because the present tenants, who hold in perpetuity, do not increase the wealth of the soil and develope a flourishing agriculture, therefore, they would not do so, if perpetuity were the normal condition of tenures in Ireland. He must be aware that tenants in perpetuity are rare exceptions, and cannot be ignorant of the power of association in forming character. He must have witnessed it in the Public Schools and Universities of England, and seen examples of it in a thousand forms in his career through life. Place the most temperate in the continued association of drunkards; he will probably imitate the baneful example. A miser amongst spendthrifts will likely be cured of his infirmity. The association of rogues will corrupt the honest; and profligate companions will draw the moral into the erring ways of vice. Mr. Gladstone can tell us which of the antient philosophers defined man to be an *animal imitativum*. We wish he had remembered the definition. We fear he will himself ultimately become a painful illustration of its truth. His Whig associations have already done much to dim the beauty of his character. He seems rapidly adopting the sentiments and maxims of the class, and may yet become, with his present associations, as ardent a lover of office, and as much a minister of expediency, as Lord Palmerston himself.

The reckless and careless habits of Irish tenants and the system of agriculture, which bad laws made inevitable, became the normal condition of the Country, and probably, in many cases, certainly not in all, influenced tenants in perpetuity to imitate the evil example. In the Barony of Forth, County of Wexford, there are peasant-proprietors, who are not



excelled by any tenantry in the Empire in skilled agriculture, civilised habits, and social and moral excellence.

Were there no landlords thriftless, reckless, and retrograde? Were none of that class an obstacle to increasing the wealth of the soil, and developing a flourishing agriculture? Is, therefore, the condition of proprietor to be abolished in Ireland?

We beg respectfully to direct Mr. Gladstone's attention to the following extract from Sismondi's *Studies in Political Economy* :—

“What endowed man with intelligence and perseverance in labor, what made him direct all his efforts towards an end useful to his race was the sentiment of perpetuity. The lands, which the streams have deposited along their course, are always the most fertile; but are also those, which they menace with their inundations, or corrupt by marshes. Under the guarantee of perpetuity men undertook long and painful labors to give the marshes an outlet, to erect embankments against inundations, to distribute by irrigation fertilising waters over the fields, which the same waters had condemned to sterility.”

Is Mr. Gladstone, then, going to legislate for the Irish tenant on the assumption that he is an exception to the whole human race, and that the sentiment of perpetuity, which stimulates all other civilised members of the great human family to labor, would tend to make him more idle and reckless? Perpetuity prompts other men, because they have greater intelligence, to greater exertion, and more persevering labor. According to Mr. Gladstone, it would paralyse the activity and energy of the Irish tenant—we suppose, because he has not intelligence. Does Mr. Gladstone admit the inference? Does Mr. Gladstone expect any rational man to believe that the Irish tenant will labor less energetically and perseveringly to increase the wealth of the soil, when he knows that wealth is his own, than when it is, each year, confiscated for the landlord's benefit? Does Mr. Gladstone himself believe this paradox? This is certainly governing Ireland according to Irish ideas with a vengeance. This unfounded statement of the Prime Minister of England is more injurious to the intelligence of the Irish tenant-farmer, than any that was ever made against the irreclaimable Celt in the rabid ravings of the *Times*, even in the dog days. Had Mr. Gladstone candidly said to the Irish people—“We cannot give you fixity of tenure, because a Parliament of landlords will not pass it; there are none more hostile to its enactment, than some of the Irish Liberal members; there is but one man in my Cabinet friendly to the measure; he fought long and bravely for the Irish tenant; he has planted



litigation in Law and Equity : if he did not, he would be a fool for his pains, for the cure would be much worse, than the disease. Mr. Gladstone says that this Ulster custom, which he now legalises, has trebled the rent ; that it has been an advantage to both tenant and proprietor ; that it has produced contentment, happiness, and prosperity over an entire Province ; that it leaves intact all proprietorial rights ; and yet protects from unjust aggression the homes and the property of the tenants. It is not a new measure, nor is it for the first time proposed as a panacea for the ills of Ireland.

From 1832 to the present it has been sighed for by the tenants outside of Ulster, and guarded, as the shibboleth of their independence, by those who enjoyed it.

Why, then, is not this custom extended to the other Provinces of Ireland ? In this Mr. Gladstone is scarcely consistent with himself. He holds up Ulster as a model Province, where rents have trebled, though the soil is less fertile ; where the people are contented, prosperous, loyal, and happy ; and after this eulogy on the effects of Ulster Tenant-Right, he adds :—

“ I am far from saying it would be desirable, or possible to reproduce the state of that Province with precision, in other parts of Ireland, in regard to the occupation of land.”

Why not desirable ? Is it not desirable to have the people contented and loyal ? Is it not desirable to rid the country of those monstrous agrarian crimes, which so disgrace our civilisation ? According to Mr. Gladstone, these happy results are produced in Ulster by Tenant-Right. On what principle can he urge that such a state of things is not desirable in the other Provinces ?

“ But, though desirable,” says Mr. Gladstone, “ it is not possible to introduce the Ulster Tenant-Right in the other Provinces.” Why not possible ? Why not enact that any tenant evicted, or retiring from his holding, shall receive for it its full value, estimated in open market, either from the landlord, or from some other purchaser.

But, it may be urged, this would violate proprietorial rights. The tenants in the other Provinces paid nothing for their tenements, and, therefore, have not the same claim for compensation for disturbance. Are they not tenants in possession, *de facto* tenants ? A wise, just, and enlightened statesman, legislating for an entire people, will not permit himself to be turned aside from the broad and clear principles of justice by miserable technicalities and trifling differences, which will make his Law an unintelligible bundle of exceptional clauses,



wanting that clearness and simplicity, which are the first characteristics of good laws. And, again, if the tenants, in the other Provinces have not paid for their tenements directly, as the tenants of Ulster, have they not paid for them indirectly? Has not all the property created by their skill, labor, and capital, which would be paid for by the incoming tenants under the Ulster right, been confiscated for the landlord in the other Provinces? All the property created by the tenant, houses, reclaimed lands, fences, manures, &c., amounting to millions outside Ulster, was confiscated for the landlords; but where the custom existed, all this property was preserved for the tenants and their heirs: so that the tenants of the West and South have a better claim to the enjoyment of Tenant-Right for the future, than the tenants of Ulster, who have enjoyed it for the past; for the Ulster tenants, at all times, enjoyed the fruits of their labor and capital, whilst the tenants of the other Provinces were despoiled of both,—unless Mr. Gladstone holds as another principle of his legislation that the fact of a class of subjects being robbed by law, in the past, is a reason why they should be robbed by law for the future.

Mr. Gladstone, in his Land Bill, says to the tenants of Ulster—"What you heretofore enjoyed by custom you shall now enjoy by law. You have not been in the habit of suffering injustice. We will not now ask you to submit to it, because we are well aware you would not." But to the tenants of the other Provinces, he says, by his Irish Land Bill—"For centuries you have been robbed of the fruits of your labor and capital COMPLETELY, for the future we will permit you to be robbed only PARTIALLY; but you shall not have that complete redress we give the tenants of Ulster, nor shall you enjoy the entire property created by your labor, capital, and skill. You have suffered oppression and injustice from arbitrary evictions, exorbitant rents, and notices to quit; be consoled, for the future, this shall be more expensive and tedious. We give you the right to live six additional months in your home, and charges the landlord two-and-sixpence for his notice, and two year's rent for your eviction, and if he raises your rent up to the last point of human endurance, submit to eviction, and you have the magnificent compensation of two years' rent for the penalty of being banished from your home and your Country!"

Be grateful, ye tenants of the South and West, and thank the great and good Gladstone, the Aristides of England, whom you have been taught to regard as the saviour of your race; to whose policy you pledged every member you sent into Parliament, and who now, in return for your devotion, tells the



Irish landlords they may continue their favorite sport of exterminating, at the expense of two-and-sixpence for every notice; and from two to seven years' rent for every eviction. As to rent, they may impose it without limit. If the present tenant does not pay you—another will; evict him—the land-market is high. And, lest the Parliament of landlords might not submit to the very trifling fine, which the Bill imposes on the exterminator, Mr. Gladstone grants them public money to satisfy all the demands of the tenant, which may arise under its provisions. They can get public money to buy up the Ulster Tenant-Right, and thus extinguish the last stronghold of the tenants' independence in Ireland. They can get public money to buy up the tenants in the other Provinces, consolidate their farms, and get three times the sum paid, in ready cash, from the incoming tenant. Any landlord, so disposed, can thus clear off his Irish Catholic tenants with increased facility, as many have done heretofore; and introduce Scotch or English, tenants, he himself making a very handsome sum by the exchange.

We do not say this was Mr. Gladstone's intention; but is not his Bill open to this grave objection? It aggravates the evils it pretends to remedy; holds out a new inducement to exterminate the Irish Catholic tenants; and furnishes the means of its accomplishment by grants of money from the public funds. Had the Bill been introduced by a Tory Government, it would have been received with a burst of indignation, and denounced as a cleverly-devised means of supplying public money to the landlords, to exterminate their obnoxious tenants. But, it may be said, public money will not be supplied to pay the evicted tenant. The landlord can easily induce the tenant to retire by threatening to evict, and paying a gratuity for compliance. The trick has been played a thousand times in Ireland; it will be practised more extensively than ever, under Mr. Gladstone's Bill.

The third evil, which the Irish Land Bill proposes to remedy, is direct eviction; and the means proposed is, to impose a fine on the exterminator of sums varying from two, to seven years' rent.

There seems here some confusion of ideas. The claim of damages for eviction, is confounded with the claim of compensation for improvements; and, if we understand the Bill rightly, the tenant, who retires voluntarily, is much better off, than the tenant, who is evicted, for the evicted tenant cannot claim for any improvement, except houses and reclaimed lands; but the tenant, who retires voluntarily, is allowed to



claim for all improvements, to their full value. If this interpretation of the Bill is correct, it is a new engine of extermination, more insidiously framed, than any, that has gone before, for it holds out a strong motive to the tenant to retire voluntarily, and not await the more public process of eviction. The threat of eviction would, therefore, induce him to accept the better terms, which he can obtain by voluntary retirement : so he accepts the compensation for his improvements ; bids adieu to his home ; and turns his face to the West. We do not think Mr. Gladstone capable of this policy ; but it is quite clear the Bill is not the creation of his brain. It wants the simplicity of genius, and the impartial and even-handed justice of his integrity. If this is not the correct interpretation of the Bill, why mix up claims that are totally distinct ? Why not say, for the damages of eviction, you can claim, according to the scale of remuneration, from one to seven year's rent ; and you can also claim for improvements of every kind, on the same terms, as a tenant, who voluntarily retires. In the clause, as at present framed, an improving tenant, who increased the letting value of his land, affords a strong temptation to a landlord to evict him, for, when evicted, he cannot claim beyond the scale of damages for eviction, no matter what may be the value of his improvements, if they were not permanent buildings, or reclaimed lands.

This clause imposes a penalty on industry, and offers a premium for idleness. No matter how badly I may have cultivated my farm ; if evicted, I have my claim for damages, houses, and reclaimed lands. No matter how well I may have cultivated my land, and improved its value, the Law grants me no more ; and if I seek compensation under the fourth clause, I must forfeit my claim to damages for disturbance. On what principle of justice we cannot discover. The clause affords no security against eviction, if the mulct imposes no loss on the landlord ; it is unjust, if the damages assessed are not an equivalent for the loss inflicted on the tenant. Let us test this by an example. A landlord of the exterminating class, against whose injustice the Bill should be framed, has ten tenants ; each holds a farm of fifty acres, and pays £51 rent. He evicts them : the damages assessed by the Bill after litigation in Law and Equity, of which, of course, the landlord will take advantage, cannot be more than three years' rent, if the tenants have not built houses, or reclaimed lands.

The landlord pays to the ten evicted tenants £1,530 : if he then consolidates the farms, he has a holding of 500 acres.



If he offers this farm for sale, at the normal rent of the Country, say twenty-five per cent. over Griffith's Valuation, he will get for it, whether set in farms of fifty acres, or consolidated, at the lowest, £3,000. So that, a landlord, exterminating his ten tenants, according to the provisions of Mr. Gladstone's Bill, could either consolidate these farms, or introduce Engtestants or Scotch tenants, and clear one hundred per cent. on the transaction.

If, then, Mr. Gladstone really intended to secure the tenants, he should not have granted money to the landlords to buy them out, but to the tenants, that they might more rapidly improve their farms, and thus make their tenancy more secure. As long as the law compels the sale of tenements to landlords, under their market value, it must be an incentive to extermination, especially as the landlord can buy them with public money. The Bill, to afford any security against eviction, should impose such fine, as that no landlord could evict a tenant, without a positive loss.

The Bill, therefore, affords no protection against arbitrary eviction. It imposes no fine on the landlord, that can be any check to him in his favorite amusement; and offers no equivalent to the tenant for the injury inflicted. To offer a tenant, who holds fifty acres, at the normal rate, and who pays £51 rent, £153 as compensation for the injury of eviction, would be an insult to his intelligence. You might as well offer him two-and-sixpence, as a means of supporting his family in the position they occupied, or of procuring a tenement of the same class, as the one, from which he had been evicted. This provision is, therefore, no remedy against arbitrary eviction; and affords no security of tenure. Had the Bill provided, that, if a tenant were evicted, he could go into the public market, and sell his holding for its full value, the landlord having the right of pre-emption, the tenant, would then receive an equivalent for the injury inflicted, and obtain for his farm a sum sufficient to procure him a tenement of the same class, as that, from which he had been expelled.

The landlord could not then traffic in the homes of the people by buying them under their real value, and selling them at a higher price. Arbitrary eviction would be difficult, expensive and unprofitable; and insecurity of tenure, which Mr. Gladstone proclaims to be the one great evil, would have been removed for ever from the list of Irish grievances.

The fourth evil, which Mr. Gladstone proposes to remedy by his Irish Land Bill, is exorbitant rents. We searched the



Bill in vain for the remedy of this evil; unaided by the gloss of the Prime Minister, we doubt if the most acute lawyer could discover it. We beg to quote Mr. Gladstone's words, as they are most important, and more perhaps, than any other portion of his address, show the spirit, in which the Irish Land Bill was framed.

"We were very anxious to avoid, by this Bill, any interference of a public authority with rent, &c., &c., &c."

In this passage Mr. Gladstone admits that some rents are so exorbitant, that it is impossible for the tenant to pay them, and live; that, of late years especially, there were contracts for rent of a character most extravagant; that a deadly necessity practically impairs, and, in many cases, destroys the freedom of contract on the part of the Irish occupier. "They have been compelled, says Mr. Gladstone, as a question of dear life, to enter into contracts, which they cannot fulfil in justice to themselves."

The case could not be more clearly, more fully, or more forcibly stated. What is Mr. Gladstone's remedy for this, the worst form of oppression, the worst abuse of landlord power? Is it a clause distinctly and clearly stating that the tenant, in this question of dear life, may appeal to the Court of Arbitration, and have his rent reduced to the normal standard by its award? Has even the Civil Court, or the Court of Equity power to correct this fraudulent contract, to adjust the rent according to the decision of the public valuator, and thus protect the oppressed tenant in his home? Does the Bill grant an action against a landlord, who exacts exorbitant and fraudulent prices for land, to the great detriment of the public weal, as the Law punishes the baker, the butcher, or the trader, who defrauds the public, in a matter of much less importance? No, the Bill contains none of these remedies; its sole redress in this question of dear life is—That the tenant declines to pay the exorbitant rents, submits to eviction, and appeals to the Court, which may consider his case, and award him damages for disturbance.

The following words, added to the 8th clause, are the sole check to rack-renting, in the Irish Land Bill:—

"Unless the Court decides that it ought, on special grounds, to be so denied, in the case of a person claiming compensation on the determination of a tenancy, existing at the time of the passing of the Act."

Mr. Gladstone admits that the great evil is insecurity, and yet his Bill, in all its provisions, especially in this (outside the Ulster Custom), tends to make the tenants more insecure, than



it found them; for the Bill is so framed, as to set a premium on eviction. Look at the working of the very clause we are considering. If a landlord of the exterminating class purchases an estate, on which are industrious and happy tenants moderately rented, and if he raises the rents to famine pitch, so that the question of dear life is involved, what redress does Mr. Gladstone's Bill afford them? None, except to submit to eviction, and sue for a paltry allowance in a Court, viciously constituted, where they can have little hope of justice.

This clause, which affords a remedy so inadequate against this monstrous social evil, refers only to tenancies existing at the time of the passing of the Act; so that the Bill implicitly says to the Irish landlords, "Clear off your present tenantry—The State will pay all demands against you from the public funds—place on your estates English or Scotch, tenants, and impose on them what rents you please—this rent clause shall not affect your contract with them."

Indeed, the Land Bill (always excepting the clause which refers to Ulster Custom) seems so framed, as to provide passage-money to America for the Irish tenants, and to afford to the landlord ample means from the public funds to enforce the penalty of banishment. There is no protection for the tenant's home, no adequate protection for his property, which the Bill confiscates every 31 years; and no redress against exorbitant rents, until the tenant first submits to what Mr. Gladstone aptly styles the *ultima ratio*—EVICTION.

Let us briefly state the evils of the Irish Land Laws and the remedies Mr. Gladstone proposes:—

- 1st Evil—Disturbance of Custom. Remedy—To protect it by law. This remedy seems to us satisfactory.
- 2nd Evil—Notices to Quit. Remedy—Fine of 2s. 6d. We do not hesitate to call this tinkering legislation of the lowest, and most contemptible type.
- 3rd Evil—Eviction. Remedy—To submit to the evil, and receive a remuneration for the injury miserably inadequate. The Bill, at the same time, tends to increase the evil it pretends to remedy, for it holds out an inducement to needy landlords to exterminate. The landlord can buy the tenants' occupancy and improvements, eighty per cent. under their real value, and sell them to the incoming tenant at their full value. He can pay for them with public money, and receive for them ready cash.
- 4th Evil—Exorbitant Rents. The remedy in this case also is, to submit to the *ultima ratio* of eviction with a very



doubtful chance of redress, which redress, inadequate and doubtful, does not apply to any tenancy not existing before the passing of the Bill, so that this clause is also an incentive to evict the old tenants, that the new may not profit by its provisions.

The constitution of the Courts under the new Bill, is, perhaps, the most signal proof of the spirit in which this law was conceived.

The Arbitration Court is fairly constituted, but the tenant can never seek redress there, unless the landlord consents to go into it: hence it becomes a dead letter.

The decision of the Civil Court must depend upon the award of the valuator. Who is this gentleman, at whose mercy are placed the fates and fortunes of the tenant-farmers of Ireland? A Castle official holding his office at the good pleasure of the Lord Lieutenant! It is unnecessary to add one word of comment. The Irish tenant knows what justice he may expect, when the issue is between him and an Irish landlord of the genuine type, if the award depends on the unquestioned decision of such an officer.

Mr. Gladstone's Bill is, we regret to say, a piece of vicious legislation, framed insidiously to exterminate, or enslave the tenant-farmers of Ireland. Perhaps its worst principle is introduced in the following statement:—

"The first right to improve the soil is vested in the proprietor." This rests solely on the authority of Mr. Gladstone, and, his great name notwithstanding, we much doubt its correctness. The first right to improve the soil is vested in him who occupies it, and whose duty it is to cultivate it, to make it productive, and to gather from it the fruits of his labor. The proprietor has no right to interfere, except as the delegate of the State, if the occupier neglects his duty. The public good requires that the land should not be left sterile, and the State can depute the proprietor to see that the occupier shall not allow his farm to remain unproductive. But to cultivate the farm and improve the soil is a private social duty, and cannot revert to a public functionary, until the individual neglects to discharge it.

To till his farm is as much the right and the duty of the occupier, as to educate his children; and the same principle, which would strip him of the one, would also deprive him of the other, and vest it in the State, or in its officer. If this principle is recognised, it makes serfs of the Irish tenants, and legalises one of the many abuses of landlord power in Ireland. We know how much tenants have suffered by "striping" and "squaring" farms.



If the landlord is told by law that it is his right, and hence his duty to interfere with the tenant's agriculture, with his houses, with his fields, his fences, his crops, his gates, his instruments of husbandry, &c., he can very easily make the position of the tenant intolerable. He can send in a troop of carpenters, and masons to build houses, and a troop of laborers to drain or erect fences, and thus very soon improve the poor tenant out of his little farm. When he has thus improved off all the small tenants, he can consolidate, and sell the improved farm to one of the favored class. Improvements executed by the landlord will be fifty per cent. more expensive, than if executed by the tenant, with his own horses, his own labor, and the labor of his children, and under his own close inspection. If this principle is admitted, it will reduce the tenant-farmers of Ireland to the condition of mere stewards, and destroy their social position, their sense of self-respect, and their independence. They can have no permanent property in their holdings, no rights, save those which the landlord in his good pleasure, may chose to concede, no social liberty, of which he wishes to deprive them. The tenant must till his land, build his houses, construct his fences, erect his gates, sow his crops, nay, educate and marry his children, as he is directed from the "Office;" and, if he dares to disobey the mandate, the notice to quit, the rack-rent, and the eviction will soon bring him to a proper sense of his position, and make him feel he is but a serf on his master's property.

The distribution of the public money is another remarkable feature of the spirit of the Irish Land Bill. The clause, which every man in Ireland rightly attributes to the wisdom and justice of Mr. Bright, and which grants public money to tenants to purchase their farms, is a noble exception. The farmers of Ireland have passed through a trying ordeal. They have lived under that insecurity which, in the words of the Premier, not only abridges their comforts, limits, and paralyses their industry, but vitiates their relations with the landlord, with the Law, and with Society. They have passed through that long and weary struggle for dear life; patiently borne their hard fate; and bravely struggled against notices, rack-rents, and evictions. Mr. Gladstone surely must have felt that, after such trials and sufferings, as he so forcibly describes, the Irish tenant, like an infirm patient recovering from a severe and protracted malady, needed sadly a little rest and a little aid. When public moneys are so liberally granted, one cannot see why the tenant-farmer is so carefully excluded from the privilege, except on the principle, which seems to inspire the Bill, in all its provi-



sions, of placing the Irish tenant more completely at the mercy of his landlord. If Mr. Gladstone really wished the Irish tenant to create a property in the soil, by increasing its producing power, and thus blessing the whole community with greater abundance, why not afford him the means, by allowing him to borrow, on the same terms, as the landlord? This he could have done without the possibility of loss to the public treasury. Mr. Gladstone also expresses his sympathies for the laboring classes; and shows, by the stern logic of facts, that their condition has been made worse by the indirect action of recent legislation. Since 1860 wages have not advanced, whilst the chief articles of consumption have trebled in value. The land of the Country is turned into pasturage; pauperism has increased; the laborers are driven from their gardens; and are congregated in towns, depending on precarious labor, often saved from starvation only by the charity of persons but one step removed from want. They demoralise each other by brooding over their miseries, and reading seditious newspapers; and thus spread discontent and disaffection, like a canker, in Society. What has Mr. Gladstone done for this numerous class, who have the first claim on his care? His own words are—"The only boon, and it is a great boon, which it is in the power of the Legislature to give to the agricultural laborer in Ireland, is to increase the demand for his labor."

But the most simple and efficient means to attain this end, Mr. Gladstone has withheld, by excluding the tenant-farmer from the power of borrowing public money to effect improvements on his farm. If Mr. Gladstone had secured the tenant in his home, and afforded him the means of creating property in the soil, he would have made that class contented and loyal. The demand for agricultural labor would have induced the tenants to place a number of cottiers on their farms. The cottiers, in the increased demand for labor, would thus have high wages, and a secure position. They would very soon imbibe, as they always do, the sentiments and sympathies of their employers; so that contentment would be diffused to the lowest ranks, and disaffection eradicated by the beneficent action of peaceful agricultural labor. But Mr. Gladstone has done none of these things; and, we fear, his legislation will leave matters in Ireland in worse condition, than he found them. Landlords will evict, for the Bill imposes no restraint, and affords many facilities and inducements to do so. Tenants will avenge crimes which the Premier has so strongly denounced; and thus the bonds of social order are broken, and



we are placed in the worst form of anarchy, when the laws are too weak to enforce order, yet too strong to be set aside, and to give place to that species of order, which public opinion would establish.

We have toiled through the Irish Land Bill with pain and regret. To criticise its glaring defects, and to show that it affords no protection to the Irish tenant farmer against evictions or rack-rents, that it leaves his tenure as insecure, as it found it, was an unpleasant duty; for we were full of hope, and expected very different legislation from Mr. Gladstone's Cabinet.

We cannot understand the character of the Premier. He disendowed the Irish Church, and handed its revenues to the landlords; and then, by a sort of financial puzzle, wishes to persuade us that this is no gain to the landlords, nor any loss to the public revenue. He now proposes a Land Bill, which is a still greater puzzle; for, whilst it professes to protect the tenant in his home, it leaves him more dependent, and furnishes the landlords with unlimited supplies of public money to facilitate his removal. Every little Whigling in the Country, every holder of place, and every needy expectant (and their number is not inconsiderable), is endeavouring to persuade the Irish people that the measure is one of magnificent justice. But the Irish tenant will not be deceived: the humblest man in Ireland can test the merits of the Bill, by asking himself what protection it affords him, if his landlord wishes to oppress him by notices to quit, eviction, or rack-rents. He has no protection against notices, except a fine of half-a-crown, nor against eviction, except a compensation miserably inadequate, nor against rack-rents, except an appeal to a Court, where the judge may be a Trench, a Senior, or an Adair. Why not extend the Tenant-Right of Ulster to the whole Country? If it violates proprietary rights, outside the bounds of the Ulster Custom, the public interest seems to require that the State should assess the amount; and, having paid the landlords in the other Provinces, should pass an uniform Land Law for all Ireland. \*

\* The extracts from Mr. Gladstone's speech have, throughout, been taken from the report given in the *Irish Times*.