THE NEWMARCH MEMORIAL ESSAY.

ECONOMIC ASPECTS

OF

RECENT LEGISLATION.

BY

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PREFACE.

IN the autumn of 1883 the Council of the Statistical Society announced that the sum of one hundred pounds had been placed at their disposal by Mr. H. D. Pochin for an Essay in memory of the late Mr. William Newmarch, F.R.S., on

> "The Extent to which recent Legislation is in accordance with or deviates from the true Principles of Economic Science, showing the Permanent Effects which may be expected to arise from such Legislation."

Public competition was invited, and, in accordance with the decision of the adjudicators appointed by the Council, the Prize was awarded for the Essay contained in this volume. Portions of the Essay formed the subject of discussion at a meeting of the Society, held early in the present year.

By way of preliminary to the Essay proper, and in order to carry out more fully its primary object, it seems desirable that some indication should be given, if only in outline, of (1) Mr. Newmarch's services to Political Economy, and (2) the special relation of his teaching to the action of the Legislature in recent times.

The name and work of William Newmarch require no Memorial Essay or Cenotaph to keep them in remembrance: they will live and be cherished with respectful attention and gratitude as long as Economic and Statistical Science continues to be cultivated. During his lifetime Mr. Newmarch was, among his contemporaries, a great, if for the most part, unseen power, influencing and directing in no small degree the thoughts of men, giving articulate expression and currency to profound truths, fruitful ideas, and the results of patient and laborious investigation. Through books and published memoirs, as a writer in the public Press, by oral expositions before a fit audience, as a witness before Parliamentary

Committees, and in the daily converse of life, he informed and impressed the minds of others as few Economists have done. Deeply versed as he was in economic theory and speculation, he lived and moved and had his being in a world of realities. That he was a most acute and painstaking observer of the phenomena of business is patent in all his writings. He was a great Statistician as well as a great Economist, and through Statistics he did much to impart to Economics a definitive position among the experimental sciences.

Like other men of a philosophic cast of mind, Mr. Newmarch cared much for the explanations of phenomena, but the phenomena themselves—the facts—interested him hardly less; and while placing a high estimate on the work already done in his own special branches of inquiry, he could appreciate better than most the nature and vast extent of the conquests still to be won, and the necessity for perfecting the methods of research and demonstration. In one of his best-known addresses he remarked that probably the most conspicuous fact in the

history of Economic Science during the second and third quarters of this century had been the change that had come over the method in which it was cultivated. "We have learned," he said, "that in all questions relating to human society, in all controversies where the agency of human beings is to be relied upon for working out even the smallest results, the only sound basis on which we can found doctrines, and still more the only safe basis on which we can erect laws, is not hypothetical deduction, however ingenious and subtle, but conclusions and reasoning supported by the largest and most careful investigation of facts." Again and again in his published writings, and not less emphatically and persistently, I believe, in his unrecorded disquisitions, he insisted on what he held to be the cardinal truth that Political Economy, following in the wake of the ancient physical philosophy, must more and more leave behind its *à priori*, abstract, and deductive character, and become a science of observation, experiment, fact, and induction. In common with Mr. Tooke, whose views he largely shared,

and with whose work he became so closely identified, Mr. Newmarch stoutly maintained at an early date, in opposition to the apparently-triumphant "Currency School" of Lord Overstone and Sir Robert Peel, that it is variations in the rate of interest and not any changes in the mere volume of the circulation of convertible bank-notes that affect credit, influence prices, and act on the foreign exchanges. On their own ground of deductive argument, the "Currency School" appeared to make out their case, but in the end their reasoning had to give way before the logic of accurate observation and of fact. This is one of the striking illustrations, and as such it was frequently adduced by Mr. Newmarch, of the all-important function of Statistics in relation to Economic doctrine. Before doctrine can be of real utility it must be connected with experience and practice; and Statistics, as the summing-up of a multitude of facts, furnish the proof or disproof of much of the teaching given forth under the name of Principles of Economics. There is every reason to believe that the unbounded faith in Political

Economy to which Mr. Newmarch used to give expression was intimately connected with his mastery in the art of Statistical investigation, and with the manifold and striking results which that art enabled him to reach.

The proper functions and duties of Government, as a question of general principle and of particular applications, received much attention from Mr. Newmarch, and as this question is intimately related to the several topics dealt with in this Essay, it may be well to give an account of his views regarding it in some detail, and, to avoid risk of error, as nearly as possible in his own words. Mr. Newmarch insisted that it is because this nation has, on the whole, striven to reduce those functions to a minimum in many directions that it has become so robust as well as free. He was of opinion that Political Economy has probably no important doctrines still to be discovered relating to the nature and production of wealth, the exchange of commodities, or taxation and finance, and that the fields of inquiry still to be explored and cultivated are those that lie in the direction of

Currency, Employments and Wages, and the limits of Interference by the State. "We seem," he said in his address in Manchester in 1861, as President of the Economic Science Section of the British Association, "to be gradually arriving at the conclusion—and a conclusion founded on no slight evidence—that, as society advances, especially in an old country, as social relations become more complex, there grow up a class of difficulties which cannot be dealt with satisfactorily by individual exertion, and, therefore, a class of difficulties which must be dealt with by the State. While, on the one hand, we are bound to maintain a salutary dread and a constant suspicion of the interference of the State beyond the narrowest limits, so, on the other hand, we cannot disguise from ourselves that there are a large class of cases in which individual agency wholly fails to protect the plainest individual rights." * In this address he strongly commended the Ten Hours Bill as a justifiable and necessary violation of the rule of *Laissez Faire* insisted on so strenuously by the

* *Statistical Journal*, xxiv., p. 465.

older economists ; but, in an eloquent peroration, he insisted in a somewhat different strain that —" No instance can be found of the decay of a community in which the humbler classes, in full possession of personal freedom and wholly apart from any artificial reliance or support, could, each by their own labour, earn the means of substantial independence. If for any length of time a community be strong and sagacious enough to solve practically the great problem of combining the largest and most orderly freedom, with ample wages earned in fair competition with all the world, we may depend upon it that the foundations of such a State are too firmly set to be shaken by any ordinary catastrophe."*

It is apparent from his writings—and the fact is of some significance—that Mr. Newmarch was not growingly tolerant of State intervention as the years went on. The evils inseparably connected with officialism, the deadening effects of reliance on the State, and the unadaptable monotony of the administrative machine seem more and more to have impressed his mind.

* *Ibid.*, p. 467.

Exactly a decade after the delivery of the Manchester address, it was his fortune to preside over the Economy and Trade Department of the Social Science Congress at Leeds. The key-note of his address on that occasion is sounded in this remarkable passage :—

Laissez Faire has become a contemned doctrine, and there is no lack of observant and vigorous minds who have satisfied themselves that the most hopeful feature of modern societies lies in the direction of increasing State control and interference with the free action of individuals. But by the term State they carefully explain that they mean not a blindly despotic but an enlightened State —a State markedly wiser and better than the mass of its subjects, so that with them State control would be the superintendence of a sagacious and well-meaning parental authority. For myself, I say without reserve that I do not belong to this party. No State authority can be wiser in the long-run than the community which supports it. A community capable of devising and sustaining a wise parental Government would abundantly prove by that very act that it was a sufficient law unto itself, and could accomplish by individual energy, virtue, and freedom every purpose to which a strong central authority ought to apply itself. A pervading and meddling Government means a wilderness of functionaries and an

apparatus of certificates, formalities, reports, and signatures, which, of themselves, fill up an average life. This is not Freedom, but Functionarism, and the radical vice of all Functionarism is the absence of any adequate motive of personal gain or loss. . . Nations have been frequently enough killed by Functionarism, but never created or advanced by it.*

In the Leeds address he justified the Factory, Mines, Workshops, Sanitary, Vaccination, and other similar Acts as measures of police, justified by special conditions of life, and perhaps destined to become as superfluous as the laws against bull-baiting and cock-fighting. The most noteworthy feature of this address, however, was a vigorous criticism of the programme of the Land Tenure Reform Association drawn up by Mr. John Stuart Mill, or rather of the clauses claiming for the benefit of the State "the interception by taxation of the future unearned increase of the rent of land," and recommending the purchase of lands by the State for letting to Co-operative Associations, or resale to small cultivators. The scheme for intercepting the unearned increment he held to be bad, not only

* *Statistical Journal*, xxxiv., p. 486.

because of the litigations and functionarism it would involve, but because "it takes away or impairs those motives of enterprise, self-denial, forethought, and industry apart from which there cannot be for long either any public estate to administer or any private estate to tax."

The true policy of the Legislature in relation to the pursuit of wealth, according to Mr. Newmarch, is to leave its subjects to become rich in their own way and under as few restraints as possible. In his later days he saw around him a growing tendency to lean upon Government, but he looked upon it as a temporary phenomenon, to be followed in due time by an inevitable reaction in favour of the sufficing rule of the free and healthy play of human interests and desires within the limits defined by the positive laws and ethical standards of a well-ordered State. In general terms, we are justified in affirming that, apart from necessary police laws, he held the doctrine of *Laissez Faire* with hardly any qualification. His definitive attitude towards it is indicated in such terms as these :— "Every human being is entitled to justice,

protection, freedom of thought and action, and to such a measure of education as will suffice for the intelligent use of his limbs and faculties," but from the State nothing more. While upholding the restriction of juvenile labour in factories on the economic grounds of benefit to health, physique, and education, Mr. Newmarch had little faith in the interpositions of Parliament in matters economic. In discussing the position of Statistical inquiry, he spoke of the necessity under which all Governments were finding themselves placed of understanding as clearly and fully as possible "the position of the social forces which, so far, Governments have been assumed to control, but which now, most men agree, really control Governments;" and he added, "The world has got rid of a good many intermediate agencies, all of them supposed originally to be masters, where, in truth, they were less than servants. The rain and sun have long passed from under the administration of magicians and fortune-tellers; religion has mostly reduced its pontiffs and priests into simple ministers with very circum-

scribed functions ; commerce cast aside Protection as a reed of the rottenest fibre ; and now men are gradually finding out that all attempts at making or administering laws which do not rest upon an accurate view of the social circumstances of the case are neither more nor less than imposture in one of its most gigantic and peerless forms."

How great was the gain to commerce from its casting aside of legislative protection was the subject of a masterly and exhaustive paper—his last—read before the Statistical Society in 1878, wherein he established, by a complete statistical demonstration, that the predictions and anticipations of economists and statesmen as to the results of Free Trade had been absolutely and strikingly fulfilled. In a comprehensive statistical table accompanying this paper, the progress of the trade of four great Protective countries was compared with that of the United Kingdom ; and Mr. Gladstone, one of the few surviving statesmen who took an active part in the reforms of forty years ago, in shortly afterwards tracing the respective influences of Free Trade

and improved locomotion upon the wealth of this country, described his task as merely "auxiliary and supplementary" to Mr. Newmarch's valuable table. Such a presentation of definite results, collected, generalised, and tabulated, as was given in that paper, is a notable example of the verification of Economic doctrine by means of Statistical proof.

The examination of the legislative work of recent years in the light of Economic principles, in this Essay, has been undertaken without more direct reference to the labours of Mr. Newmarch than is involved in the application of the principles of which he was one of the soundest and clearest exponents to the facts that have to be dealt with; and only in so far as those principles are rightly set forth and applied will the spirit of his philosophy overshadow these pages.

ECONOMIC ASPECTS
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I.
INTRODUCTORY.

THAT Political Economy has of late years fallen somewhat into disrepute as a basis of legislation is, I apprehend, a fact that no one will seriously challenge. Statesmen nowadays recommend their measures to the support of Parliament and the electorate on quite other grounds than that those measures carry out or are in harmony with sound economic principles. "This is not a question of Political Economy, but a question of justice," we are frequently told. Stress is laid on moral or on political considerations, and the economic principles that were so constantly invoked in the period between the first and

second Reform Bills have in recent years been relegated to a position of comparative neglect, if not even of slight discredit. At the same time the State, with the sanction of its Legislature and through the instrumentality of its Executive, is ever undertaking new functions of supervision, regulation, and execution. Within the last quarter of a century it has begun to carry on the businesses of banking (including, in the new postal notes, a branch very much akin to the issuing of a paper currency), of life assurance, telegraphy, and carrying of parcels. Inspection has been developed and extended in relation to mines, factories, and ships; it has been carried into workshops, brickfields, retailers' shops, the farmers' fields, and even private dwelling-houses. Public companies, shipbuilders, owners of land and of houses, employers of labour, parents and guardians, to say nothing of persons engaged in special trades, such as publicans and pawnbrokers, are all increasingly looked after by public officials. Innumerable regulations have been established with regard to the relations of landlord and

tenant, employers and employed, parent and child, the individual and the community. It sometimes appears, indeed, as if the great aim of our law-makers were to refurbish in new forms the old theory and practice of Protection. Individual liberty, freedom of action for persons or associations, is undergoing restriction on every hand; and the ends of social, moral, and even commercial and industrial improvement and progress are more and more sought to be compassed through Acts of Parliament. Oppressed and afflicted humanity appeals to the legislator for help, and the legislator, nothing loth, drafts a remedial bill, and by diligent exertion and perseverance gets it passed into law. And generally there is a certain apparent obliviousness to the truth that the imperative laws of Parliaments and judicial tribunals differ widely in their character and effects from the laws of nature. These are constant and unvarying in their action, and operate with inflexible impartiality, while laws that are the handiwork of the Legislature are apt to fail to answer their purpose—requiring amendment, extension, or

speedy repeal, or lapsing into the comprehensive category of dead-letter statutes.

More than a century has now elapsed since Adam Smith defined and demonstrated the law or principle of commercial and industrial freedom expressed in these familiar words :—"Every individual is continually exerting himself to find out the most advantageous employment of whatever capital he can command. It is his own advantage, indeed, and not that of the society, which he has in view. But the study of his own advantage naturally, or rather necessarily, leads him to prefer that employment which is most advantageous to the society." This fundamental axiom of economics applies not only to capital properly so called, but also to that capital which everyone possesses in his own skill and energy. And it follows, on economic as on other grounds, that everyone should be free to put forth his powers in the manner he deems best for himself, always provided that his action does not interfere with the just rights and liberties of others. Impelled and guided by the strong incentive of self-interest he is far

more likely to form a right judgment, and to act with efficiency in giving effect to that judgment, than if he surrenders himself to the guidance of governmental leading-strings. In relation to the getting of wealth the judgment and wisdom of men individually are incomparably more to be trusted than any general rules which legislators can lay down. The merchant endeavours to find out the trade in which there is the greatest prospect of profit; the manufacturer directs his productive resources, as far as possible, to the branch of his industry that appears to be least over-done. And to exclude foreign commodities from a country by means of a protective barrier and a little army of custom-house officers, is to deprive that country of the advantage of participating in the superior productive capacities of other lands. No better illustration of the effect of this suicidal policy could be given than that of which Adam Smith made use. Very good grapes can be raised in Scotland and very good wine made from them, but at a much greater cost than that at which either the grapes or the wine can be brought

from foreign countries; and what should we think of a law to prohibit the importation of all foreign wines merely to encourage the making of claret and Burgundy in Scotland? In this illustration the principle of Protection is set forth in clear and bold relief; and the principle is just the same whether the commodity proposed to be excluded is wine, or wool, or corn, or any other kind of raw or manufactured produce. Not many years after the publication of "The Wealth of Nations," Jeremy Bentham wrote his celebrated "Defence of Usury," in which he set up an unanswerable plea for "the liberty of making one's own terms in money bargains," and showed that nothing could be more injudicious than the attempt then made by law to protect borrowers by fixing a rate of interest that could not be legally exceeded. It is now many years since the Legislature of this country established the "humble form of liberty" for which Bentham contended, and since the Free Trade polity of Adam Smith and the economists supplanted the old devices for the "protection of native

industry." In the sphere of commerce the doctrine of *Laissez-Faire*, or natural liberty, has been triumphantly affirmed and carried into practice. Instead of the complicated tariff of some twelve hundred dutiable articles which Peel began to reform out of existence in 1842, we have now a *régime* of absolute and unrestricted freedom, except as regards a very small number of commodities on which import duties are levied purely on fiscal grounds and without reference to the old theory of Protection. Natural forces have obtained free play along nearly the whole line, and have ceased to be clogged and hampered by the clumsy regulations of Parliament. Under this reign of freedom, supply and demand of imported commodities constantly and easily tend towards adjustment, and, directed by the keen eye of self-interest and self-help, productive resources flow in those channels where they are most required and contribute in fullest measure to public as well as private advantage. It is the great function of Governments to give security of life and property and to provide for

the enforcement of lawful contracts. Beyond this the best service that Governments and Parliaments can render to trade is to leave it alone. It is their business only to establish and maintain the conditions under which it thrives —first, the condition that marauders, free-booters, and thieves shall be repressed and punished; and, secondly, the condition of unrestricted freedom of action within the limits of legality and justice. Security of person and possessions, protection of all just rights, enforcement of obligations, and repression of anarchy and crime—all these are essential to the existence of an economic *régime;* but legislative action having for its end to regulate the nature or extent of transactions or contracts is almost certain to be more harmful than advantageous. The main benefit which Parliament has conferred upon commerce in recent times has been to abrogate its own obstructive laws. When it attempts to give guidance the chances are a thousand to one that it will fall into error. At best its guidance is unnecessary, while its errors may be productive of incalculable mischief.

And if to guidance is added protection against foreign competition, a two-fold evil is done: the community is mulcted for the support of a class, and that class is taught to lean upon the Legislature, and to trust more and more to external aid, and place less and less reliance upon individual energy, skill, and perseverance.

Yet some amount of legal interposition is sometimes necessary in order that the full power of economic law may be brought into play. A striking illustration of this is to be found in connection with that Land Question with which we shall be much engaged in the course of this essay. The farmer, in the pursuit of his occupation, requires to incorporate with the soil of his farm certain fertilising agencies. These fertilising agencies in the course of a longer or shorter period of time are used up in the crops which he raises. But let us suppose that the farmer has to relinquish his holding while still the portion of his capital which has been put into the soil has not come back to him in the form of crops. Good policy requires that some means should exist whereby, on quitting his

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tenancy, he should be able to recover the equivalent of the capital which he has thus legitimately laid out in carrying on the business of agriculture. In the absence of any law or contract providing for compensation in such circumstances, the tenant-at-will, or the tenant under lease when the lease is approaching its termination, is at the mercy of his landlord; and if he has a "bad landlord," or the fear of a "bad landlord," he will expose as little as possible of his capital to the risk of being taken from him to enrich another. In this case the intervention of imperative law seems called for in order to afford security of property and protection of rights, and also, on economic grounds, in order that the farmer may have reasonable liberty of action in the pursuit of his own and the public good. For to withhold the right to compensation for capital so laid out is to put a premium upon bad husbandry, to discourage enterprise and improvement, and to prevent the free play of economic forces.

Nor is Adam Smith's principle of natural liberty of itself all-sufficing. In relation to in-

dustry it is subject to limitations which do not apply with respect to commerce; and, even on economic grounds, legislative action bearing upon the conduct of industrial operations may become necessary or advisable. The most obvious instance of this is to be found in the labour of children. Restrictions upon juvenile employment are requisite in order that the future interests of the young, and of the community of which they will form part, may be secured. The development of the physical frame is impaired by too early and severe labour. And as with the physical frame so with the mental powers: early life is the time of their fruitful development, and if the opportunity of obtaining the rudiments of knowledge is missed at this period, it is with great difficulty, if at all, that the omission can be remedied afterwards. The youth whose education has been neglected grows up to manhood ill-equipped for the work of life and unable to discharge intelligently the duties of citizenship. Potentialities undeveloped through lack of education are lost both to the individual and to

the world. Ignorance is, moreover, a social danger: it is the soil on which crime flourishes in rankest luxuriance. Accordingly, the State, for its own protection as well as in the interest of those who a few years hence will be beginning to leaven all ranks of society as its freshest and most hopeful element—the younger generation—has wisely ordained that a certain minimum of education shall be compulsory for every child. This is one example of State interference for which an economic justification can be maintained even independently of the moral and political arguments on which reliance is chiefly placed in vindication of such interferences. The efficiency of labour is greatly enhanced by the intelligence which comes of education. So, likewise, the provisions of the Factory Acts restricting the hours of labour of the young are justified partly by the necessity of providing opportunity for education, and partly by regard for that physical development which is hardly less essential to the effective workman—even more so in not a few occupations—and which is destroyed for the whole term of life by over-

work in childhood. In like manner also the general principle underlying the legislation of the last forty years relating to the public health may be vindicated on economic grounds. Labour is more efficient, less liable to interruption, when the ravages of disease are warded off by sanitary measures than where, through filth and neglect, communities of labourers fall an easy prey to the attacks of epidemic disorders. And not only does irregularity of labour impair the outcome of the industrial machine. But a high death-rate among skilled labourers involves the premature loss to the world of much skill that has been slowly and laboriously acquired, and, being always accompanied by a high sickness-rate, involves also much loss of working time, earnings, and productive power. To bad sanitary conditions much of our pauperism, drunkenness, vice, and crime, one way or another, are likewise traceable. Without discussing particular measures, it must be obvious from the considerations thus summarily enumerated that sanitary legislation may have an adequate basis even in the des-

pised teachings of political economy. To raise the standard of public health in a community is, *pro tanto*, to increase the industrial resources of that community, and is therefore an economic end. It is an economic end, however, which can be attained only through governmental action. The free play of natural forces is powerless to prevent over-crowding—to prevent great masses of human beings from being huddled together in unsanitary dwellings, to secure the "air space," drainage, and cleanliness prescribed by the laws of hygiene.

Thus it is manifest that the law of natural liberty promulgated by the great apostle of political economy is not a law that entirely excludes the positive enactments of legislation. On the contrary, it occasionally happens that legislation is requisite for the creation of the arena in which economic forces are brought into exercise, and in other cases it is found that legislation and economics advantageously go hand in hand as the joint factors in some far-reaching end of public improvement.

The ultimate test of the economic soundness

of acts of legislation is to be found in their permanent effects. The principles of economics are merely generalisations in which the phenomena of the production and distribution of wealth are summed up. They are accredited only in so far as they conform to and express the results of experience and observation. Political economy is not a fetish with mysterious and unintelligible claims to authority; it is not an oracle giving forth dogmatic pronouncements on human affairs. It is the gathered sum of knowledge of the phenomena of cause and effect within a certain well-defined domain, and serves as a standard by which legislative transactions may be judged. Economic laws are like the laws of nature—they may be studied, obeyed, and turned to account for human purposes, but they cannot be disregarded with impunity. Working in harmony with the laws of the seasons, of the winds and tides, of heat and the expansibility of fluids, of gravitation and of electricity, man exerts a wondrous mastery over matter, and achieves the great ends of agriculture, navigation, locomotion,

the propulsion of machinery, and instantaneous communication with the ends of the earth. But man cannot defy the law of gravity, or navigate a sailing ship against the wind, or grow hot-house flowers or fruits in the open air during the frosts and snows of winter. And as little can he set at naught the economic laws by which human action is governed in the production of wealth. Human action varies, it is true, within certain limits, just as no two seasons are the exact counterpart of each other. Conflicting motives come into play and obscure the operation of laws not in themselves obscure. But though the seasons never repeat themselves with absolute uniformity, yet their general course is the same from year to year, and from age to age; and so it is likewise with collective human action in relation to the pursuit of wealth.

In the inquiry on which we are now entering, the imperative laws of recent Parliaments affecting the tenure and cultivation of land make the first demand upon our attention. Many of these enactments undoubtedly appear, *prima*

facie, to be distinguished by that Protective character which pervaded the legislation against which Adam Smith and Ricardo directed their most powerful argumentative artillery.

Before we proceed to consider how far appearances in this case correspond with realities, one fundamental consideration requires to be mentioned. It is that there is no such thing known to the law of this country as private ownership of land in the full and absolute sense. A person can be possessor only of "landed estate"—of an "estate" in land—not of the land itself; and though we speak of a landowner, we use, in doing so, an expression which somewhat exceeds the meaning we intend to convey, and an expression which in its literality cannot be justified in point either of law or of fact. The Nation, the Commonwealth, the State—whatever name we choose to adopt for it—has a primary and vital interest in the soil. All private property in land is subject to this over-shadowing public interest. It is not a burdensome over-lordship, and though it is constantly being exercised for objects of public

utility, as when the private possessors are expropriated in favour of a railway or water company, or for the sake of town improvements, justice is done by the award of compensation for that which is taken away. And landed as well as other property is liable to taxation, which also is an interference by the State with the freedom and possessions of the individual.

In considering legislation affecting land there are four distinct interests to be taken into account—those of the landlord, the tenant-farmer, the labourer, and the community or State. These interests are not necessarily antagonistic to each other. The landlord derives a moderate interest from his capital invested in land by letting the land to a farmer, who relieves him from all direct responsibility or care for the operations of husbandry. The farmer exercises an active supervision, directs the whole work of the farm, provides the necessary implements for the performance of that work, furnishes the seeds and manures by means of which crops are raised, stocks the farm with the cattle, sheep, and horses, by which the crops

are in part consumed, pays the wages of the labourers, attends to all the operations of buying and selling connected with the farm, and, in a word, does everything pertinent to the business of agriculture. He naturally expects, as a person engaged in active business, a much higher percentage of profit on his capital than that which the landlord obtains, and therefore it is obviously an advantage to him that he obtains the use of the land at the lower rate of interest which satisfies the landlord, instead of having to lay out a portion of his own capital in the purchase of landlord rights which yield only this lower rate. The labourer's portion is governed by the ratio subsisting between the number of labourers and the effective demand for their services. By the migration of surplus labour, or by an extra demand for labour arising out of agricultural improvement, the rate of wages may be raised. The interests of the three classes are simultaneously advanced in improvements which call into active energy the latent capabilities of the soil—such improvements as the reclamation and drainage of land.

the propulsion of machinery, and instantaneous communication with the ends of the earth. But man cannot defy the law of gravity, or navigate a sailing ship against the wind, or grow hot-house flowers or fruits in the open air during the frosts and snows of winter. And as little can he set at naught the economic laws by which human action is governed in the production of wealth. Human action varies, it is true, within certain limits, just as no two seasons are the exact counterpart of each other. Conflicting motives come into play and obscure the operation of laws not in themselves obscure. But though the seasons never repeat themselves with absolute uniformity, yet their general course is the same from year to year, and from age to age; and so it is likewise with collective human action in relation to the pursuit of wealth.

In the inquiry on which we are now entering, the imperative laws of recent Parliaments affecting the tenure and cultivation of land make the first demand upon our attention. Many of these enactments undoubtedly appear, *prima*

facie, to be distinguished by that Protective character which pervaded the legislation against which Adam Smith and Ricardo directed their most powerful argumentative artillery.

Before we proceed to consider how far appearances in this case correspond with realities, one fundamental consideration requires to be mentioned. It is that there is no such thing known to the law of this country as private ownership of land in the full and absolute sense. A person can be possessor only of "landed estate"—of an "estate" in land—not of the land itself; and though we speak of a landowner, we use, in doing so, an expression which somewhat exceeds the meaning we intend to convey, and an expression which in its literality cannot be justified in point either of law or of fact. The Nation, the Commonwealth, the State—whatever name we choose to adopt for it—has a primary and vital interest in the soil. All private property in land is subject to this over-shadowing public interest. It is not a burdensome over-lordship, and though it is constantly being exercised for objects of public

utility, as when the private possessors are expropriated in favour of a railway or water company, or for the sake of town improvements, justice is done by the award of compensation for that which is taken away. And landed as well as other property is liable to taxation, which also is an interference by the State with the freedom and possessions of the individual.

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These improvements, by utilising dormant powers of production, add to the volume of produce. There is a larger return (1) to the landlord, whether in the form of rent for the inherent powers of the soil now called into exercise, or of interest on any investment he may have made in the execution of the improvements; (2) to the tenant-farmer, who almost invariably contributes hire of labourers, or use of implements and traction-power, in such cases; and (3) to the labourer, in the first instance by augmenting the demand for labour and tending to elevate the rate of wages, and, more remotely, in some degree, through the increase of the general prosperity due to the fuller utilisation of the productive energies of the earth. It follows that legislation which discourages the application of capital to the improvement of the land is prejudicial not only to the interests of landlord, farmer, and labourer, but also to that of the general community, which is concerned mainly with the amount of produce brought into the market, and with the prosperity of the agricultural as of all other classes.

II.

THE FIRST IRISH LAND ACT (1870).

THE perennial Irish Question, which has baffled successive generations of statesmen and is still far from being completely solved, is fundamentally an economic question, in which the relations of the people to the land are the most important element. It has presented itself in various forms and phases.

Now the demand has been for Catholic Emancipation, and again for the Repeal of the Union. At one time the popular discontent has manifested itself in political agitation, at another in secret societies, outrage, murder, and insurrection. But what has given body and substance to all the political and seditious movements that have occurred in Ireland in modern times has been the chronic or intermittent distress, aggravated by the fluctuations of the

seasons, by which large masses of its people have been afflicted. Except in one district of Ulster, the only great industry in Ireland is that of agriculture; and over extensive tracts of the south and west, a population, accustomed to a low standard of living, are densely crowded together upon an ill-cultivated and unkindly soil. To the squatter in the poorest districts a partial failure of the potato crop is dire distress, and a succession of bad seasons involves half the country in disaster and the prevalence of famine. Elsewhere than in the poorest districts deep-seated agrarian evils have widely prevailed. The landlord has been an alien and absentee, taking little practical interest in his estate beyond appointing an agent for the due collection of its rents, cut off, partly by his own act, partly by social and political circumstances and the teachings of the priests, from the sympathies of his tenantry, and frequently regarded without reason or justice as a public enemy. Often he has had neither the ability nor the desire to spend money on the improvement of his property; his estate has been heavily encumbered, and in the

oft-recurring periods of distress and agitation his revenue has been precarious and subject to large deductions. In consequence of the impecunious condition of large numbers of the landlords and of the over-population of much of the country, the reclamation and improvement of land and the building of houses have been generally, though by no means universally, carried out by the tenants;—inefficiently, it is true, for agriculture is backward in Ireland, and "houses" are often the most miserable hovels to be met with in Christendom. In this way the relations of landlord and tenant became somewhat complicated; although the ownership of the estate was vested in the landlord, the position of the tenant was not exclusively that of a hirer of land for agricultural purposes, for he, too, had his vested interest in the soil and its fixtures—an interest secured in the province of Ulster by the sanction of a custom having the effect of unwritten law.

Prior to 1870 two important measures dealing with Irish land had been passed by Parliament. One was the Encumbered Estates Act,

the object of which was to facilitate the transfer of landed property, from owners so heavily burdened with mortgages and other charges that they were destitute of the power to lay out capital in the improvement of the soil, to purchasers possessed of adequate means, and who might be expected to incur the expenditure necessary to bring their lands into a condition suited for the successful pursuit of agriculture. The other was the Landlord and Tenant Act of 1860, which substituted contract for the remains of feudalism in the relation between owner and occupier. Unfortunately it did not furnish a means of clearly and easily ascertaining the terms of the contract in each particular case. Written contracts were discouraged by the costs of which they were liable to be made the pretext; oral contracts were to have the same force as written ones, but this, obviously, could only be the case so long as both the parties lived and maintained a good understanding with each other. Certain facilities were indeed provided for securing compensation to the tenant for improvements executed with the landlord's

consent, but the Act fell far short in its operation of the hopes that were formed at its passing. It was the last attempt of Parliament to apply commercial principles to the letting and hire of land for agricultural purposes in Ireland, unless we take account of the abortive measure introduced in the House of Lords by the late Marquis of Clanricarde, which, had it passed, would have done much to strengthen and render operative the weaker parts of the legislation of 1860.

We come now to the Land Act of 1870, which marks a "new departure" in British legislation. The commercial principles that had been applied in all previous legislation concerning the occupancy and cultivation of land, and which were qualified in the case of the Act of 1860 by conditions favourable to the tenant, were now abandoned; whole classes of contracts were compendiously declared to be void both at law and in equity; and the novel principle of compensation for disturbance, or damages for eviction, was established. To the Ulster tenant-right, and to analogous customs in other parts

of Ireland, the force of law was imparted. The nature of this tenant-right, so far as it has not already been made apparent, may be explained in a few words. In the north of Ireland there had grown up, in the course of about two centuries and a half, a custom under which the tenant enjoyed a certain recognised right of property in the farm, for which on entering he made a payment to his predecessor, and in respect of which he looked for a similar payment should circumstances lead him in turn to quit. There were two elements underlying this right—first, improvements executed by the tenant and his predecessors; and, secondly, a vague understanding, ratified by prevailing custom, that so long as the rent was paid the tenant should not be deprived of his holding by the act of the landlord. To such an extent had this customary tenant-right become established, independently both of legislation and of contract, that when a tenant left his holding he might, without question or interference from the landlord, sell his interest to a person wishing to become his successor. The admission of the

purchaser of the tenant-right to the possession of the holding might, indeed, be vetoed and prevented by the landlord, but only on such reasonable grounds as that he had not the capital or the skill necessary for the proper cultivation of the land; and, as matter of fact, the veto was rarely exercised. Though unrecognised by law, the custom could not be lightly set aside. One of the witnesses before the Devon Commission of forty years ago—a land agent—declared that if systematic attempts were made amongst the proprietors of Ulster to invade tenant-right, he did not believe that any force at the disposal of the Horse Guards would be sufficient to keep the peace of the province; and such attempts as were made from time to time by some of the landlords led to agrarian outrages and the system of terrorism so frequently employed in other parts of Ireland. In most instances the landlord was obliged in the end to submit—out of consideration either for the personal risk which he ran, or for the impossibility of finding a tenant who would dare to enter upon the occupancy of a farm without paying for the tenant-

right of his predecessor. This was an anomalous condition of things which legislation, if it could not improve upon, could hardly make worse. But, besides the value of improvements, the tenant-right included the privilege of occupying the farm at less than a competition-rent. The measure of a competition-rent is the expected value of the produce, due regard being had to the facilities for its disposal. The farmer expects to get the average profits, and, having the average profits in view, he is prepared to offer such a rent as he thinks the surplus produce will enable him to pay. But in Ulster, and indeed throughout Ireland with exceptions, rents were fixed on a scale of moderation, and where tenant-right existed arbitrary raising of rent was discouraged by the whole force of that public opinion under which the system grew up. The landlord might from time to time obtain some enhancement of his income, on the ground of increased profits from agriculture, due to the opening of a line of railway, or some other cause, or to cover the interest of outlays on improvements ; but, gene-

rally speaking, such an enhancement was difficult to obtain. This lowness of rent and comparative immunity from risk of its augmentation contributed to the value of the tenant-right, which accordingly often fetched very high prices, and was the speculative item which the tenant had to consider—thus far taking the place of rent in an ordinary English or Scotch commercial agreement between landlord and tenant. Occasionally the tenant-right sold for as much as the landlord could obtain for the fee-simple of the holding, but in general it did not amount to over half that sum. Whatever its amount may have been in each particular case, it was equivalent to a second rent, with the disadvantage of having to be paid in a single sum instead of by periodical instalments. The difficulty of entering on a farm was increased by the necessity of providing this capital sum in addition to the capital involved in stocking and carrying on the farm ; and as the tenant-right often sold at an exorbitant price, the difference between the rent payable to the landlord and a full commercial rent left only a very moderate

interest on the capital sunk in the acquisition of the tenant's portion in this anomalous system of joint landlordism. But a low return on his outlay was not the only disadvantage the tenant suffered by the arrangement. The tenant-right, as has been said, was the speculative element which the Ulster farmer had to consider and estimate in relation to the amount of produce to be expected on an average of years. As such it would have to bear the brunt of any relapse in the value of land, and for a time, at all events, would serve as a security for the landlord's rent. Judge Longfield, of the Landed Estates Court—a high authority on all matters connected with Irish land—states that when the great depreciation took place in 1848 the condition of parts of the tenant-right counties of Armagh and Monaghan was little better than that of King's County and Tipperary; and the tenant-right, for which a high price had been paid, became unsaleable and valueless.* Much more recently, during the distress of 1879-80, the value of Ulster tenant-right suffered a temporary fall of

* "Systems of Land Tenure" (Cobden Club), p. 39.

probably 50 per cent.* So long as land tends to increase in value the tenant-right is a good and improving asset, though at best it is a fluctuating, uncertain, and questionable species of property in which to lock up an agriculturist's capital. By his one-sided participation in the ownership of the soil the Irish tenant under the Ulster custom relieves the landlord from a risk to which English and Scottish landlords are exposed, and by which they have suffered in the recent years of agricultural depression. Misfortune may overtake the tenant and compel the realisation of his property at the most unfavourable moment. The landlord, if not too near the water's edge, suffers far less than the tenant by inauspicious seasons; and, being secure in his tenure and exempt from most of the risks of ordinary business, he can hold on more easily in the hope of better times. In the north of Ireland the farmer, in addition to the ordinary risks of farming, has at stake a heavy capital outlay which serves as a margin to protect the landlord's interest, but in a time of

* Compare Seebohm, "Nineteenth Century," Jan., 1881.

reaction and depression rapidly swells his own loss.

So far as Ulster is concerned, the Act of 1870 did not establish any fresh deflection from sound economics; it only gave legal effect to arrangements, which, however objectionable in principle, were already in active operation, and formed the basis of a large amount of property belonging to the tenants. And for the system thus consecrated by the benediction of Parliament there is, no doubt, something to be said from the economic point of view. The tenant under it must be a man possessed of larger capital than would be necessary if he had only to stock and till his farm and provide for a yearly rent. He must be a comparatively wealthy man; and to such a man the system offers the advantage of security of occupation, accompanied by certain of the incidents and pleasures of proprietorship. This advantage is all the more to be prized by reason of the peculiar social and economic conditions of Ireland, where "land hunger" in its most aggravated form prevails—where land is scarce in proportion to the demand for it, and

farmers are more numerous than holdings. In this state of matters it is a great object to obtain secure possession of a farm. On the other hand, it has to be borne in mind that the market for tenant-right in Ulster has derived great support from the cultivation and manufacture of flax successfully carried on in that province.* Elsewhere the supply of wealthy purchasers is by no means so plentiful; and, if the purchase-money had to be borrowed at an interest corresponding to the instability of the security, investment in tenant-right would be apt to lose much of its attractiveness.

Besides giving the force of law to Ulster tenant-right and analogous customs, the Act of 1870 provided that the tenant should receive compensation for "the loss sustained by him by reason of quitting his holding" when "disturbed in his holding by the act of the landlord;" as also compensation in respect of all improvements made by himself or his predecessors in title,—the presumption being created by the Act that all

*"Systems of Land Tenure," p. 41.

improvements are tenants' improvements. Then comes a very important provision—the most important and crucial of the whole Act—under which contracts whereby the tenant is deprived of his right to make any claim under the "disturbance" section, or is prevented from making improvements or claiming compensation for them, are declared void. In all previous legislation the consent of the landlord to the execution of improvements had been a necessary preliminary to any liability on his part for compensation. His consent now ceased to be required. In form this was a serious and alarming change of the law from the landlord's point of view; in substance, however, it was qualified and restricted by conditions that left him with nearly all his old power if he chose to call it into exercise. The compensation was to be payable by the landlord in the event of his having "disturbed" the tenant—that is, evicted him; but there was no check upon the raising of rent, even though thereby the tenant's interest in his holding might be depreciated to vanishing point.

In regard to the results of the Act of 1870,

we are in the fortunate position of having a vast mass of evidence to guide us to just conclusions. One of its great defects as an operative measure was that while it gave legal efficacy to tenant-right customs and extended the doubtful principle of dual ownership, it provided no natural and self-acting method of determining the respective proportions of the produce or its price that should belong to the landlord and tenant respectively. The tenant, let us suppose, holds undisturbed possession for a number of years, and then the landlord demands and obtains a rise of rent. This rise of rent is so much abstracted from the proportion of the produce hitherto enjoyed by the tenant; and not only has the tenant to pay more rent, but for every shilling per acre added to his yearly payment to the landlord a shilling per acre is taken away from the yearly value capitalised in the tenant-right. For, obviously, as the rent is enhanced, the money value of the privilege of occupancy must be correspondingly lowered; and a tenant who, having paid for the tenant-right of his predecessor on the basis

of the rent then subsisting, has the rent shortly afterwards raised, is manifestly deprived of a value for which he has paid.

But let us follow the principle a little further. The working of an arrangement so abnormal must depend very much on the existence of relations of mutual confidence between the two classes concerned. Such confidence, it is notorious, does not universally and at all times prevail; and even if it did exist under ordinary circumstances, it might be unable to bear the strain of such an antagonism of interests as is apparent in the case we have been considering. Here we see the law itself creating a conflict of undefined interests; and, in the north of Ireland, where the system had previously existed, though in a less fully developed form, the Act of 1870 aggravated rather than lessened the keenness of the conflict. Both parties were led to reconsider their position. The Ulster tenants thought they had scored a gain; the Ulster landlords were unwilling to make any surrender of property or prerogative. Many of the Ulster witnesses before the Bessborough Commission of 1880 laid

much stress upon the prejudicial effects of the practice of raising rents that had been going on since 1870, which, they said, was "eating up" the tenant-right. Mr. Shillington, the chairman of the Armagh Farmers' Association, stated that the raising of rents in the north of Ireland had lessened the value of the tenant-right and produced a great deal of agitation and discontent, and that the events of the preceding ten years proved that it was only a question of time when the whole of the tenant-right would disappear. Several witnesses spoke of advances of rent being of general occurrence when tenants were changed, and of the depreciation of the outgoing tenant's interest from this cause. Evidence to the same effect was given before the Royal Commission on Agriculture, and, amongst other witnesses, by Professor Baldwin, of the Agricultural College at Glasnevin, who said—"The tenants complain that the landlords unduly raise their rents. That is a common complaint in Ulster, and I am bound to say that the result of actual observation, verified by an examination of the

receipts of tenants and by reference to the office books of the land agents, is that I think the complaint is thoroughly justified by the number of cases that occur. The number of cases is a great deal larger than I believed it was." According to the general testimony of the witnesses before both Commissions the large estates of wealthy proprietors were in nearly all cases low-rented ; but on the smaller estates competition rents were often exacted, and especially was this the case on the properties purchased in the Landed Estates Court. Many of the purchasers of the encumbered estates that had come into the Court were not wealthy men, and had acquired as much as their means enabled them to pay for. They bought on commercial principles, and on these principles they dealt with their properties. Some could ill afford to suffer any reduction of income; others were greatly opposed to the law of 1870 on the ground that, as they believed, it would interfere with the value of their property and the success of their speculation. There was thus an indisposition to make any abatement of rent in times

of depression, and an inclination to push up rents to the full competition standard, and so to get rid both of tenant-right and the Act of Parliament. According to the testimony of Judge Flanagan, the head of the Landed Estates Court, those purchasers who had acquired estates through the Court and then cleared them and let the land at rack-rent were in a great measure the cause of the agrarian agitation, a few cases being sufficient to produce a wide-spread feeling of insecurity and discontent. The struggle of classes was not a new thing in Ireland—it was a very old thing; but there is a consensus of testimony that it was aggravated and intensified by the new legislation. That legislation excited the hopes of the tenants and the fears of the landlords; the one class thought that Parliament gave them something which they did not possess before, the other apprehended that tenants' gain would be landlords' loss, whether the gain was in property or in status. After the lapse of a year or two from the passing of the Act, indeed, the tenantry found that their hopes had been pitched too

high, and that few of them could point to any advantage which the new law had actually conferred upon any particular person. The smaller landlords, however, had taken alarm, and were trying to make the best of their position. They nervously clung to their property in fear of invasions of what they conceived to be their rights, and took every opportunity, by clearances and by raising rents, to strengthen their hold upon the land and to augment the revenue which it yielded. A bitter war of classes ensued as the natural consequence of these untoward conditions, and then came the trying period of agricultural depression. The deep-seated feeling of distrust prevailing among the tenants is strikingly illustrated by a circumstance mentioned in the evidence of Professor Baldwin. With the view of encouraging improvement, Earl Spencer generously established a system of prizes for cultivation, but the scheme was received with the utmost coldness and suspicion, the tenants as a class refusing to have anything to do with it, on the ground, as was understood, that the better appearance of their farms would

at once lead to an increase of rent. It is unnecessary further to accumulate testimony on this part of the subject. From what has been said it is manifest that the Ulster system of customary relations, with its indefiniteness and the scope it affords for a conflict of interests and a war of classes, is by no means an ideal arrangement. And when the custom was converted into law the state of things was made worse. The tenant was left in a position of dependence on the landlord for the property comprehended in the tenant-right—except in so far as the landlord might be influenced by public opinion or by agrarian agitation and terrorism. The landlord was under strong temptation to check the growth of tenant-right by raising the rent, the instinct of self-preservation inciting him, and his very existence as a landlord being at stake.

In a country of small holdings, like Ireland, it was inevitable that improvements should be mainly the work of the tenant. If executed by the landlord they would be ruinously expensive. I refer to such improvements as reclamation of land, fencing, and the erection of houses. It

must be confessed, however, that an advanced state of improvement is not the predominating characteristic of Irish agriculture. A few of the wealthier landlords have expended large sums of money in improving their estates. The Earl of Dufferin, for instance, stated before the Bessborough Commission that between £80,000 and £90,000 had been laid out on his property during the preceding quarter of a century; and much has likewise been done by other proprietors. The sentiment of property is notoriously of great efficacy, and, notwithstanding the prevalence of absenteeism, it has operated in Ireland as elsewhere in stimulating improvement. But the power of this sentiment was impaired by the Act of 1870, and landlords' improvements were thenceforth less freely undertaken. At first this discouragement of landlords' improvements was counterbalanced by an accession of enterprise on the part of the tenantry. In this respect the additional security afforded to the tenants not under leases had the effect that might have been anticipated. It was, however, as might also have been anticipated,

an evanescent effect. The report of the Bessborough Commission is very explicit on this point. "The Land Act seems at its first passing," say the commissioners, "to have stimulated tenants, especially in Ulster, to improve, while landlords' improvements were checked by it." Professor Baldwin states that after the first year there was a far greater amount of work done by the tenant than had been done in the preceding six years; but presently the old "sense of insecurity" returned—the "amounts awarded in compensation for improvements fell so immensely short of the expectations of the people that it practically killed all improvements, and there has been little done since." The tenants had been taught to lean on Governmental help, and it had failed them.

Governmental help on a larger scale was now demanded. Nor were the tenant-farmers alone in thinking that the one thing needful was a second and more drastic intervention of Parliament. The various Commissions of Inquiry—the Bessborough Commission, which inquired into the working of the Act of 1870; the Royal

Commission, presided over by the Duke of Richmond and Gordon, which inquired into the condition of agriculture generally; and the minority of these latter commissioners, who issued a separate report (Lord Carlingford, Mr. Stansfeld, Mr. Joseph Cowen, and others)—all proceeded on the assumption that more legislation was necessary. The several reports of these commissioners dwell upon the advantages which the Act conferred upon the tenant, but yet the commissioners are unable to say that it had done much good. It "contained within itself the seeds of failure as a permanent settlement;" "it failed to give satisfaction to either party." Such is the general strain. More security was declared to be necessary, more compensation, arbitrary control over the landlord's power of raising rents, more protection in its various forms. The tenants had learned their lesson. The salutary and self-acting principle of free contract had been set aside, and Parliament had undertaken to regulate the conditions of land tenancy. Its regulations were ineffective, but the tenants had been taught to place their

dependence upon external help, and to regard political agitation as a paying enterprise. A small modicum of protection had disappointed them, and they demanded a larger instalment. A succession of bad seasons arrived and bore heavily upon all classes, for in Ireland nearly everybody is directly or indirectly dependent upon agriculture for his income. The poverty-stricken mass in the over-populated districts were reduced to extreme straits. Some of the landlords took advantage of the prevalence of distress to enforce their claims and get rid, by eviction, of tenants in arrear with their rents. The Land League was organised, and agrarian agitators declaimed under its auspices to meetings of farmers and peasants already driven by adverse fortune to the verge of desperation. Vague hopes had been kindled by the Legislature and had ended in bitter disappointment; the cruelty of the Legislature in not coming to the rescue with fresh and sweeping measures for the benefit of the afflicted tenants was the theme of every speech at every gathering of maddened and hungry men. Once more, large

and populous districts of Ireland were given over to outrage and terrorism, the operation of the law was at a standstill, the practice of "boycotting" sprang into existence, and a large military force was occupied in preventing anarchy from developing into armed insurrection.

III.

THE SECOND IRISH LAND ACT (1881).

THE political considerations out of which the legislation of 1881 proceeded do not come within the scope of our present inquiry. It is universally admitted that circumstances may arise in which the State (or Government) is justified in superseding economic by martial law, or in restricting the liberties and immunities of the individual in the interests of the society. There was undoubtedly an acute crisis in the affairs of Ireland prior to the passing of the Land Law Act of 1881, and it may be that the Act was politically expedient even if it was not economically faultless. This question is one which we are not called upon here to decide; and in discussing the Act on strictly economic grounds I wish to guard myself, once for all, against being understood to pro-

nounce a more comprehensive judgment than is relevant to the scope of the present Essay. We know, indeed, that it was not a deliberately elaborated measure. The Duke of Argyll has disclosed the fact that it formed no part of the original programme of the Ministry; and the Ministry was constituted, with the Duke as one of its members, considerably less than a year before the Bill was drafted. To the Earl of Derby, who took office in the same Ministry after the Duke of Argyll had left it, we are indebted for the further information that the Act had its origin in two causes—Irish outrage and Parliamentary obstruction. More inauspicious circumstances for the framing of a measure dealing so radically with grave economic issues can scarcely be imagined.

The Act which had this unfortunate origin may be briefly described as a measure establishing what are popularly known as "the three F's"—Fair Rents, Fixity of Tenure, and Free Sale. Its cardinal principle is the creation of an optional Court for regulating rents. This Court is optional in the sense that either land-

lord or tenant may resort to it. Freedom of contract is reserved to the extent that, if both parties are agreeable, they may by themselves arrange the rent. In default of agreement, either party may apply to the Court to fix the "fair rent" of the holding, and thereupon the Court, after hearing the parties, and having regard to their respective interests, and considering also the circumstances of the case, holding, and district, "may determine what is such fair rent." When the rent is thus judicially fixed it is to hold good for a period of fifteen years, when, by a similar process, it may be modified to suit altered circumstances during another term of like duration, and so on from period to period. This, however, contemplates fixity of tenure, and only in the event of non-payment of rent is the landlord to have power to resume possession. And, under restrictions, the tenant may exercise the privilege of free sale by disposing of his interest in the holding to another man, who retains possession of it at the judicial rent for the remainder of the term of fifteen years, and has then the power that would have been

enjoyed by his predecessor of going to the Court to have the rent fixed for another term. Tenancies under lease are exempted from the operation of the Act during the currency of the lease, but come within the scope of the fair-rent provisions at its termination. The landlord has also the right of pre-emption as regards the tenant's interest—the tenant-right—on terms to be fixed by agreement or the decision of the Court, and thus may resume occupancy when a tenant voluntarily leaves. Other power of resumption of land held by a solvent tenant he does not possess, except on payment of a fine under the name of compensation for disturbance. The principle of compensation for disturbance is carried further than in the previous Act.

Such is a matter-of-fact description of a startling innovation in the legislation of the United Kingdom. To a judicial tribunal are assigned almost unlimited powers of dealing with landed property; and these powers are delegated to Sub-Commissioners, of whom, in 1883, there were no fewer than eighty-five. It is not surprising that there should be complaints

of inconsistency in the judgments of these Sub-Commissioners. One of their number truly said that it was a frightful thing to "let loose" such a body on the property of the landlords. The appointment of such a body—of any body of men however competent—for the purpose of settling the terms of money bargains is an utter negation of economic principles. The task allotted to the Sub-Commissions, and to the Land Court—which settles principles and hears appeals—is one of considerable difficulty, and obviously there is great liability to error in its discharge. Under an economic *régime* the tenant judges for himself what he can afford to pay, and makes his offer accordingly; but here, instead of the keen eye and clear judgment of self-interest, we have an arbitrary declaration of bargains by hap-hazard or rule-of-thumb. Produce is to be taken into account in the judicial adjustment of fair rents; improvements made by the tenant are not to be chargeable with rent; and regard is to be had to the interest of the landlord and tenant and the circumstances of the case, the holding, and the district. No

directions could be more vague and elastic. Yet, with the guidance of these directions alone, an arbitrary interference with contracts is established, and "free letting," "free rent," and the free operation of economic laws are superseded and abolished.

According to the report of the Select Committee of the House of Lords, which was somewhat prematurely appointed to inquire into the working of the Act, the operations of the Land Court and the Sub-Commissions have resulted in a reduction of rent approaching 20 per cent. on an average, and amounting in many cases to 30 per cent. and upwards. I gather that this average would undergo some reduction if the later judicial rents were included in the computation, but the exact amount is of no great moment. Mr. O'Connor Morris, a county court judge in the West of Ireland and an exceptionally well-informed authority, likewise estimates the reduction roughly at 20 per cent., or one-fifth, since 1879-80—that is, taking into account the abatements made by landlords themselves on account of the bad seasons. The decline of

selling value, judging from the returns of the Landed Estates Court, he estimates at considerably more than one-third. It is difficult, indeed, to arrive at any definite estimate of the selling value of land in Ireland at present. Practically it is almost unsaleable. Present landlords cannot realise except at a reduction upon former values, which, if at all able to hold on, they consider prohibitive. There is reason to think that a high level of rents has in some cases saved estates from undue reduction, while moderate rents have been reduced in almost as high proportion. The Lords' Committee assert this very strongly. "The landlord who has unduly raised the rent of his land," they say, "fares best, for the reductions do not, as a rule, appear to be sensibly greater on estates high rented than on estates low rented."* And in this conclusion they are supported by the evidence of several witnesses. Lord Derby, at an earlier period, had arrived at the same conclusion as to the results of the Act in this respect. Within a month of its passing into law

* Fourth Report, p. 6.

he published an article in which he remarked that one peculiarity which it manifested in common with the legislation of 1870 was that the worst landlords fare best under it, and the best landlords fare worst. "Those who before 1870 utilised the time of distress by clearing their estates, regardless of the suffering inflicted, and turning them into grazing farms, have lost nothing by either Act. . . . On the other hand, the humane landlord, who has foregone his just dues and sacrificed his private means to help his half-starved tenantry through a difficult time, is rewarded by having them made in perpetuity part owners with him of the soil."* Both in its provisions and in its administration, therefore, the Act seems chargeable with doing less than justice as between individual landlords. Then, again, the Lords' Committee had before them a mass of evidence showing the disastrous effect of the Act upon landlords whose properties were subject to encumbrances and charges, and whose means of living were derived from the free margin between the amount of

* "Nineteenth Century," Oct., 1881, p. 477.

rent and the amount of these charges. In not a few cases the reduction of rent had swept this margin entirely away and left the former possessors of a moderate income in abject poverty. The proprietor of a small encumbered estate is much to be pitied. To get no rent for a year or two might perhaps be borne; but it is a very different thing when the whole or the greater part of his free income is given over permanently to his tenants.

This state of things is attended by important economic effects which, whatever political good may come of the recent legislation, cannot but have a prejudicial and enduring influence on the interests of Ireland. The Act of 1870 discouraged landlords' improvements; the Act of 1881 has stopped them altogether. Landlords have less money to invest in ameliorating their estates; they have less interest in improving, and less inclination to improve. Their status is materially impaired; their sense of importance is lowered. They are now little more than rent-chargers, with income, dignity, and power all diminished, with little interest in the prosperity

of their estates, with no hold upon the management of the land, and practically only a legal reversion to it in eventualities which may not occur in a lifetime. Instead of being landlords in any real sense, their position is rather that of lenders or mortgagees with a right of foreclosure in the event of the non-payment of what is virtually a rate of interest kept low by a new law against usury. Nor is the rent-charge too well secured. The very pertinent question has been asked by one of the most illustrious and wise of Irish landlords—Lord Dufferin—"What guarantee can any Government or even Parliament give that the income left to the victims of 'the three F's' will not in its turn be confiscated in whole or in part?" The fear of fresh agitation is certainly not unreasonable; and the remembrance of the Arrears Act, by which, in 1882, the small tenants were relieved of part of their obligations, however necessary it may have been as a political measure, will be certain to raise and confirm an expectation of similar deliverance after the next period of distress. And what reason is there to think that rents

will be better paid in the future than they have been in the past? Mr. O'Connor Morris, speaking from his judicial experience in the West, says that every administrator of the Land Act is aware that it has increased the demoralisation and disregard of contracts, due in the first instance to the teaching of the Land League. Where leases exist and the tenant-right is acquired by the landlord, improvements may be carried out by the landlord with the co-operation of the tenant as heretofore; but this is outside the Act, and the conditions which the Act establishes are all calculated to repel landlords' capital from the improvement of the soil. It has been asserted that no money can now be obtained by mortgage of Irish land even where the security is ample. This is probably an exaggeration even if we do not interpret the remark too literally; but that landlords will any longer, unless in very exceptional circumstances, burden their estates or lay out part of their net revenues on improvements cannot for a moment be imagined. And it is no secret that some of the British insurance offices, after sending de-

putations to Ireland to consider and report as to the safety of investing money there, have on careful investigation been led to the conclusion that such investments would be highly imprudent. The reports brought back from Ireland were most definite on the unwisdom of sending money thither.* The cessation of landlords' improvements means that there is small chance of the vitally important matter of drainage being efficiently attended to. In general, efficient drainage is beyond the means of the Irish tenant. And apart from the drainage of particular fields and farms, the drenched and water-logged lands of Ireland require for their proper reclamation an elaborate and costly arterial or main-drainage system.

The ability of the tenant to improve will be increased by the reduction of rents. But will the extra share of the produce left in the tenant's hands be devoted to improvements? It is very much to be doubted. Personal expenditure seems much more likely to absorb the

* See on this point a pamphlet entitled, "Landlords, Land Laws, and Land Leagues in Scotland."

difference. A great change in this respect is stated by Mr. O'Connor Morris to have taken place since 1870. The tenantry shared in the growing wealth of the country during the first years of the last decade, and at the same time they contracted more expensive habits. Retrenchment in the scale of living is always difficult and need hardly be looked for except under pressure of necessity. Taking human nature as we find it, increase of personal expenditure is far more likely to occur than any abatement of the scale of expenditure already established. Besides having more money left in his hands by the abatement of rent, the tenant, it is true, has also the additional security afforded by the new legislation. If the landlord's position differs but little from that of a rent-charger or mortgagee, the position of a solvent tenant is as nearly as possible that of the owner in fee simple of a more or less heavily burdened estate. He has all the encouragement to improve derivable from certainty of reaping the fruit. He cannot be deprived of his improvements; they cannot be turned against him by

enhancement of rent. It is found, moreover, by experience that in the execution of minor improvements the tenant has great advantages over the landlord. He can supply the labour more cheaply—perhaps his own labour and that of his family—and can also furnish cartage of materials more easily. On the other hand, the future entrant upon an Irish tenancy will have to meet a large initial payment for tenant-right, absorbing much of his capital and, in effect, converting the judicial rent into a rack-rent. And the greater freedom which the tenant is to enjoy may be freedom to do nothing. Much of the capital that ought to be devoted to the business of agriculture will be absorbed in the tenant-right, and in proportion as this occurs will there be the less available for improvements or high cultivation. According to some observers, the Act positively encourages tenants to "run out" their land. At least we need not expect that it will put an end to the old habits of improvident and slothful agriculture which prevail even in the better parts of Ireland.

A system probably not less advantageous to the tenant than that created by the Act has existed on the Portsmouth estates, in county Wexford, for many years. The tenure is by lease for life or 31 years, whichever lasts longest; all improvements are the property of the tenant, and the rent is for the land only, while the tenant possesses the right of free sale and may dispose of his interest by private treaty or auction, the price he obtains being possibly from ten to fifteen years' purchase of the rent, according to the expenditure on improvements and the unexpired term of the lease. These arrangements are stated to have worked satisfactorily, and yet we find Lord Lymington, the heir to the estates, in describing the "Portsmouth custom" and its advantages, hinting that it is quite possible for the landlord to regret that he cannot, under such a system, introduce a newer and more convenient style of building, or carry out such improvements as he might deem advantageous or useful.*

Irish tenants, even the best of them, are not

* "Nineteenth Century, October, 1880.

celebrated as great improvers. Old habits are not easily overcome, and it is to be feared that under the more favourable conditions he now enjoys the Irish farmer will slumber on, exerting himself as little as before. Who is so easy-going and slovenly as the agricultural tenant, be he English, Irish, or Scotch, that holds a lease for life or a long period of years at less than a commercial rent? He is without the stimulus of ordinary economic conditions; his energy is paralysed, and he vegetates from year to year in lethargic and apathetic indolence. In Ireland there is no healthy rivalry in improvement; and it is to be feared that the effect of "fair rent" and fixity of tenure will rather be to stereotype the existing backward order of things than to infuse a spirit of impatient and headlong progression.

Hitherto we have been dealing with the more immediate effects that may be expected to arise from the recent legislation with respect to Irish land—immediate, but not therefore transitory. The great practical question, how-

ever, is—What permanent results may we look for as its fruit? What are its bearings upon the future of Ireland? Does it afford a lasting settlement of the land question? No person who has carefully considered the problem, either historically or economically, can with any confidence cherish such an expectation. For one thing, the benefits of the Act are confined for the most part to tenants in actual occupation. Future tenants—or rather, as that term is used in another sense, the successors of the present tenants—will be saved from competion rents, but will be subject to a fierce competion for the tenant-right. The interest on the price of the tenant-right, added to the yearly payments to the landlord, will be equal to a full and grinding rack-rent. For the essence of free sale is that there should be unrestricted competition; and "land hunger" in Ireland is not likely to abate. This may be illustrated by an actual case, a sample of many cases that must be within the knowledge of persons in Ireland at all conversant with what is going on. An application was made to Mr. O'Connor

Morris, at a Land Sessions at Tralee, to fix the judicial rent of a farm for which, in 1879, the tenant had given £500. He fixed the judicial rent at £106, the original rent having been £116; "but," he says, "it is obvious that at least £35 of interest on the £500 must be added to the £106, and this, if my decision was correct, is a rack-rent." Thus we see clearly the obvious and necessary effect of leaving any portion of the cost of hiring land open to free competition. In a country afflicted with "land hunger" as Ireland is, whether under a system of free letting of land or a system of free sale of tenant-right, one person will give a certain sum in order to obtain admission to the holding; but fifty persons desire admission, and if the first makes a moderate offer, another will give a little more, a third a little more still, and so on until the maximum is reached. It is a matter of no great importance whether the competition payment is for rent or for tenant-right: the economic result as regards the position of the new tenant is the same in both cases—reasonable security of tenure being presumed. In one

respect, indeed, he may find the new bondage worse than the old, for he will have less considerate creditors to deal with. The landlord, converted into a rent-charger, may be expected to press for his "fair rent" promptly as it falls due, and to allow no abatement such as was customary in olden days when the crops failed. Now he has no interest in bating one jot of his lawful claim. Full rent has been denied him; the management of his property has been withdrawn from his control; the political and social influence and amenity of landed proprietorship have been undermined if not entirely destroyed. Why, then, should he concede a fraction of his reduced income otherwise than rateably with other creditors?

The money-lender may be expected to stand by the terms of his bond, and the money-lender is fast becoming an omnipresent if unseen power in Irish rural economics. Debt-slavery is the curse of peasant communities in many parts of the world. It has caused riot and insurrection in the Slavonic provinces of Russia and the Lower Danube, and in the Deccan and other

parts of India ; it has aggravated the misery of the Egyptian fellaheen, and is by no means a stranger even to the peasantry of France. Prior to 1870 the Irish tenants were comparatively free of debt, for the very good reason mentioned by Lord Derby that they had no security on which to borrow. Such security they obtained when they got their statutory right to compensation for improvements and for "disturbance;" and so rapidly were their new powers made use of that by 1880 a large proportion of their number had become deeply indebted to the local money-lender. During the inquiry of the Royal Commission on Agriculture, the Assistant Commissioners for Ireland reported that debts had accumulated until many of the small farmers owed four, five, six, and even ten times the amount of their annual rent, that the banks had generally charged on small farmers' bills at the rate of 10 per cent. per annum, and that private money-lenders, who were numerous in remote districts and made advances freely to small farmers and cottiers, charged a still higher rate of interest. Inquiry was made into the

system of "gombeen," and the books and papers of some of the usurers by whom it is carried on were examined. One of these gentlemen, who resided in a small town in a populous district of the West, had at the time of the visit of the Assistant Commissioners some 500 I.O.U.'s for £1 19s. 11d. each, that sum being fixed to enable him to obtain decree from the petty sessions in the town. By his own statement he charged a rate of interest which came to 43⅓ per cent. per annum, and he kept a whisky and grocery shop through which his gains were largely enhanced. He had often lent in this way as much as £100 per week, but was curtailing his operations and selecting his customers on account of the depression. In his hands were 102 decrees ready for execution. In every case the borrower had to find one or two sureties.* What happened in the bad seasons of 1877-79 is what will happen again in an aggravated form whenever two or three bad seasons again follow each other. As the tenants' funds melted away their creditors became more and more importu-

* Preliminary Report of Messrs. Baldwin and Robertson.

nate. The landlord demanded his rent; the banker called up his loans; the merchant pressed for payment of his accounts; and the village usurer put his decrees in execution. The condition of the miserable tenant under such pressure need not be described. The Act of 1881 by increasing the tenant's security increases his power of borrowing. Tenants who were in possession at the passing of the Act may remain out of the money-lender's toils; but new tenants will be obliged to borrow largely in order to provide for the payment of the tenant-right, for otherwise entry upon a farm will be beyond the means of the class of men into whose hands vacant farms have hitherto fallen. The prospect, therefore, is the reverse of reassuring. Bad seasons will return and bring with them their political effects. What probability is there that when the immediate benefits of the reduction of rents and transfer of proprietary rights from landlord to tenant have passed away the Irish tenantry will be in a better condition to bear the strain of bad seasons than they have been in the past? The present

tenants will be wealthier for a time, but the lot of the purchasers of tenant-right with money borrowed at the high interest current in rural Ireland will be incomparably worse than that of the old-fashioned tenant at a moderate rent.

IV.

THE ARREARS ACT—PEASANT PROPRIETORS —GENERAL CONSIDERATIONS.

THEN there is the case of the small tenants of the West and South-west for whom the Act of 1881 did nothing until the Arrears Act was passed to relieve them of their unpaid rents. These tenants on their miserable patches cannot possibly live through two bad seasons on end, and pay any rent whatsoever. The first partial failure of the potato, or the first bad oats crop, will throw many of them into fresh arrears. Insolvency is attended by liability to eviction, and again they will be at the mercy of the landlord. There is reason to fear—indeed, it is almost as certain as anything in the future can be—that in a few years, or at all events as soon as two or three bad seasons follow each other, the condition of these Irish cottiers will be as bad as

ever. Some landlords may avail themselves of the opportunity thus afforded of consolidating small holdings, but even without this stimulus, renewed agrarian agitation may be confidently looked for, and the success which has attended it in the past will make it all the more difficult to appease. Here again we have the first-hand authority and skilled observation of Mr. O'Connor Morris, who warns us that those who ascribe to the Land Law Act the rest and freedom from crime enjoyed in Ireland at the present comparatively propitious time are mistaking the facts of the case. The outrages of the Land League party, he says, were rather the work of men "broken" by the distress of 1879-80, and of the more degraded class of the peasantry, than of the legitimate occupiers of the soil; and the Act "does scarcely anything for this mass of distress." There seems to be no escape from the conclusion of Lord Derby that the land question is not settled nor in the least likely to be.

And then how about the labourers, who are rather more numerous than the agricultural

tenants? For them the Act does less than nothing, for in proportion as landlords' improvements are stopped without tenants' improvements being increased will these labourers lose employment. A few labourers out of employment exercise a most potent influence in depressing the rate of wages, and here we have a great number of men scrambling for employment and willing to work for the means of bare subsistence. This alone constitutes a public danger; though public works, such as those authorised by the Tramways Act of 1883, may afford some palliative. The Acts directed to the benefit of the farming class, whether they have greatly helped that class or not, have done nothing whatever for the labourer except by emigrating him to other lands or districts.

We must now consider briefly the clauses of the Acts of 1870 and 1881 which contemplate the creation of a peasant proprietary—the Bright clauses, as they are sometimes called. The Irish Church Act of 1869 directed the Church Temporalities Commissioners, when disposing of

the glebes and other land property of the Church, to give to occupying tenants a preference of purchase at a fair market value, and the Commissioners were empowered to allow three-fourths of the purchase-money to be left on mortgage, principal and interest to be payable by half-yearly instalments extending over 32 years. The Land Act of 1870 gave inducements and facilities for the sale of holdings to tenants through the medium of the Landed Estates Court—the Irish Board of Works being authorised to advance two-thirds of the purchase-money, the advance to be repayable in 35 years at 3½ per cent. The Act of 1881 provided additional facilities to the same end, the limit of advances being raised to three-fourths of the price, as in the Church Act. The purchase clauses of the Church Act have worked successfully; those of the Land Acts have been an all but complete failure. The Church tenants, if they refused to purchase, had to take the risk of eviction or at least of the transfer of their holdings to less indulgent landlords, while the tenantry generally were not under any such

apprehension. It has been said also that the Act of 1870 did not give sufficient facilities, that under it unduly onerous expenses were chargeable, that purchasers were also discouraged by unnecessary conditions and limitations. The Committee of the House of Lords attributed the failure of the purchase clauses of that Act to the fact that the tenants had not sufficient inducement to buy, the benefits which it conferred in other respects serving even absolutely to discourage purchase; and the notable recommendation was made by the Committee that the *whole* of the purchase-money, which was to be determined by free contract between buyer and seller, should be advanced by the State subject to very easy terms of repayment. It is unnecessary to discuss the prudence of this proposal, but some of its economic bearings may be noticed. Even tenants in full enjoyment of "the three F's" might probably be induced to become purchasers of the fee-simple of their holdings if the whole of the purchase-money were advanced by the State, and the payments spread over so long a time and at such low

interest that they should not exceed the existing "fair rent." But what would be the result of the success of the measure recommended by their lordships? An artificial and unhealthy demand for land would be created, and this would lead to purchases at excessive prices, especially in good years. The proposal was that there should be free contract in the sales and purchases, that the landlord should be paid out at once by the State, and that the State should become the creditor of the purchasing tenant for the whole of the purchase-money. All might go well at first, and the periodical instalments of interest and sinking-fund might be duly forthcoming. But at the first period of distress the tenants would be less able to pay. Are we not warranted by precedent in supposing that an agrarian agitation would ensue for an abatement of purchase-money, after the manner of the agitations we have seen hitherto for abatement of rent? We have seen a strike against rent; is it beyond the bounds of reasonable probability that there would be a strike for the remission of purchase-money? Failure to

meet one or two instalments, it may be said, would be of no great consequence since it would only postpone the date of redemption. But there would, in the ordinary course of things, be many bad seasons during the two generations or so over which, by the hypothesis, the repayments would be spread; and frequent postponements would continue the repayments indefinitely. Further, it has to be remembered that the purchase-money must be advanced by the State out of funds raised on the credit of the taxpayers of the United Kingdom, and therefore it becomes a pertinent question, How would the Irish party of disaffection act? This party, we may rest assured, would not use its influence to promote continuous effort and sacrifice on the part of the tenant-purchasers in order to save the English and Scotch taxpayers from loss; and it is at least imaginable that its counsels might even be directed to the encouragement of repudiation as a convenient way of inflicting punishment upon the "hated Saxon." And such insidious counsels, plausibly urged, might fall upon not unwilling ears. For,

when the purchase had taken place, what substantial advantage would accrue to the purchaser? Practically none that is not enjoyed by the occupier under a judicial rent. The landlord would be got rid of, and with him the liability to an advance of rent at the end of fifteen years. And the State—the English and Scotch taxpayers—would stand in the place of the landlord for a longer term than any existing tenant could hope to survive! In a word, no experiment more provocative of wholesale repudiation of contracts has ever been broached.

The difference between fixity of tenure at a low rent and absolute ownership is so very slight that it is not surprising that sales should be few under the existing safeguards; nor is it easy to see how a peasant proprietary is to be created without adding, in the process, to the demoralisation already too rife in Ireland when agrarian questions are in the forefront. The Land Acts are themselves a serious, if not even insuperable, obstacle to the attainment of what is ostensibly one of their main objects.

The benefits of peasant proprietorship have

been much exaggerated. No doubt there are in some countries prosperous communities of peasant proprietors. In the Channel Islands, in Belgium, and in France the system of small holdings owned by the cultivators is in many cases attended by highly beneficial results. But these are lands of sunshine, fruit-trees, and market-gardens; and the climate and soil of Ireland, as well as the character of the people, are opposed to the development of the system there. The plodding drudge of France or Flanders is a different kind of person altogether from the typical Irishman. It may be that in time the Irishman would develop the qualities requisite for success under a rural economy such as exists in the parts of these other countries which are relied upon as affording the most telling examples of the excellences of peasant proprietorship. Nobody knows. Climate and soil, however, cannot be changed, and these are in Ireland inimical to the early and double cropping, and to the growth of the vine and other fruits, that contribute so much to the prosperity which some communities of peasant

proprietors enjoy. That there is no charm in the mere fact of peasant proprietorship is shown by what has been going on for some years in Bavaria—a country having a better climate than that of Ireland. In 1880, 3739 agricultural properties in Bavaria, averaging 8 hectares (rather less than 20 acres) in extent, were subjected to compulsory sale. In the more favourable conditions of 1881 the number of properties compulsorily sold was a thousand less than in 1880, and in 1882 the number was 2071. From an official report on the subject we learn that in 1882, as in the two previous years, the greater number of farms to which a compulsory sale was applied were those of small proprietors. Of the 2071 sold 1132 were of 10 hectares and under, 436 were from 10 to 100 hectares in extent, and only three above 100 hectares.* In Ireland far greater sub-division of land prevails than is met with in Bavaria. Judge Longfield states from his experience in the Landed Estates Court that it con-

* Reports by Secretaries of Embassy and Legation (Commercial), No. 37, 1883, pp. 601-2.

stantly happens in Ireland that a man with an estate of the size of a small farm lets the greater part of it, keeping no more than is necessary for the supply of his house. With the landlord's veto upon sub-division removed, the habits and tendencies of the Irish peasantry remaining unchanged, there would be no limit but that of absolute starvation to the over-crowding which already prevails in some districts to an appalling extent. This itself is a serious objection to peasant proprietorship in Ireland. Again, a considerable amount of capital is necessary for the successful cultivation of peasant properties. But men possessed of capital can do far better as farmers on a large scale than as owner-cultivators of small properties. To superintend a large farm is a far more agreeable occupation than to bear a hand in the operations of spade husbandry. No man who can command the necessary capital, and who has experience and intelligence enabling him to make a rational choice, would hesitate for a moment between these two alternatives. Under the stimulus of fear of eviction or of rent-raising the tenants of

the Church lands purchased their holdings, and on the whole the instalments of the price have been met with commendable regularity. But Mr. Tuke, in the course of his investigation in 1880, came upon a number of instances in which the whole of the ready-money margin of one-fourth had been borrowed from the money-lender, and in which the tenant was carrying on a hopeless struggle with adversity. Some had already succumbed and parted with their properties. Similarly the Assistant Commissioners of the Royal Commission on Agriculture report a large number of cases, taken indiscriminately, many of them in the best parts of Ireland, where the holdings were poorly stocked, where necessary cattle had been sold off to meet pressing demands, and where the condition of things described seems fully to justify the conclusion that "the system has broken down" even in the prosperous county of Armagh.* On the other hand there is much evidence in support of the conclusion of the several Commissioners that the experiment of a peasant pro-

* Preliminary Report of Assistant Commissioners.

prietary may be considered on the whole to have succeeded. The number of cases in arrear has been comparatively small; there has been no breach of the law among the purchasers, and no concerted refusal to pay, even in the time of greatest distress and disturbance; and, in the somewhat equivocal language of the Bessborough Commission, the distress that had overtaken some of the purchasers was "owing to recent bad seasons rather than to their having purchased."* These, however, are not terms in which a conspicuous success could possibly be spoken of.

The attempts of the Legislature to create a peasant proprietary have not prospered except in the case of the Church lands, and may we not fairly conclude that the experience of peasant proprietorship that has been obtained shows it to be at best a doubtful experiment in Ireland? At all events, it is not so clear a gain as to make Government interposition for its artificial extension desirable. The Land Commission is empowered by the Act of 1881 to

* Bessborough Report, pp. 31-32.

advance, on easy terms, three-fourths of the purchase price; and the Tramways and Public Works Act of 1883 provides facilities for the purchase of estates by land companies for re-sale in small holdings. These fostering measures, as their authors have avowed, rest upon political considerations and not upon the "pedantry" of political economy. But even under their encouraging aid, peasant proprietors are only slowly and tardily coming into being. Landlords who desire to get rid of their estates would welcome the advent of such a rush of purchasers as would enable them to realise at a high price; but the State has already undertaken as much responsibility for Irish land speculation as is compatible with a just regard for the common interests of the people of the United Kingdom. If the State is to undertake the burden of constituting the Irish tenants their own landlords, how is it to resist a demand that it should provide dwellings and even "national workshops" for the artisans and labourers in towns? The legislation which we have been discussing is more than vaguely

suggestive of an inclined plane descending to Communism, and further approaches towards the abyss are greatly to be deprecated even if their essential purpose is to relieve the landlords from their connection with property that has become almost as much a burden as a blessing.

Of the two great measures, then, dealing with Irish land, the first raised serious questions as to tenure and the respective rights and shares in the produce appertaining to landlord and tenant respectively, and it settled nothing; the second carried the unsettlement a stage further, and established the Land Court, which for the last two or three years has been busily engaged with its Sub-Commissions in reducing rents all over Ireland. Even if it were possible to show that these measures will not alienate much-needed capital from the soil in the mean-time, or are not otherwise on the whole injurious, they would still be doomed to failure as ignoring one of the fundamental conditions of the Irish problem. Reference has already been made to the "land-hunger" and its cause

in the over-population of a country where there are few manufactures. The Legislature may pass Acts for securing benefits to particular classes or to the whole country, but its efforts will do little good so long as the pressure of population upon means of subsistence is so great as at present. The old "checks" are removed; sanguinary feuds and desolating wars have ceased; famine is met by the Poor-Law and by the efforts of private philanthropy, while plague and pestilence are sucessfully warded off by sanitary administration and better conditions of living. Still there is a great mass of population in chronic distress or on its borderland. Two centuries ago the Irish people are supposed not to have numbered more than a million and a half. At the census of 1801 they numbered 5,395,000, and in 1841 8,175,000. Then came the great famine of 1845-7, when the population probably was not less than 8½ millions; and then the flood-tide of emigration to America. By 1851 about two millions had crossed the Atlantic, and there has since been a further decrease of about a million

and a quarter in the population, which is now about the same as at the beginning of the century. But over-crowding still prevails in much of Ireland, especially in the West and South-west. In the island of Achill, in 1880, Mr. Tuke visited two village communities, one of which consisted of 250 persons supported by the produce of 200 acres of agricultural land supplemented by hill pasture; the other of 450 persons "or more," who had 400 acres arable and a proportion of mountain grazing.* The Assistant Commissioners on Agriculture mention an estate in county Sligo where they found 94 tenants and 98 cottiers, in all 192 families, numbering 1152 human beings, "trying to live on 329 acres of land." "This state of things," they report, "prevails in many places along the seaboard of the West." Existence in these localities is eked out by a little inefficient fishing with miserable tackle. There are in Ireland about 600,000 agricultural holdings, of which 300,000 do not exceed fifteen acres,

* "A Visit to Donegal and Connaught in the Spring of 1880."

115,000 are of five acres and under, and 50,000 do not exceed one acre. In the five counties of Donegal, Mayo, Sligo, Galway, and Kerry about one-half of the holdings are not over £4 valuation; and nowhere in the world is the social condition of the people more wretched. No system of land laws can bring prosperity to a population so greatly over-crowded in such a country. This is the radical evil, and it is not an evil remediable by the specious expedients of ordinary statecraft. There is no help for it but emigration, or at least migration. The people are without industrial training; they are listless and unpersevering. By fishing they might earn a far better livelihood than they have ever known, but though the Government, in pursuance of its remedial expedients, has expended large sums in loans and grants for the encouragement of fishery enterprise, its efforts to stimulate activity in this direction have been only to a very moderate degree successful. As yet, so far as can be seen, there is little hope of the improvement of the Irish peasant's lot, for such advantages as the Legislature has given

him, or is likely to give him while still he remains on the ancestral patch of land, will very soon be dissipated on the maintenance of increased numbers, where a great diminution would be of far more benefit than anything the Legislature has done or is likely to do.

V.

THE AGRICULTURAL HOLDINGS ACTS.

BUT it is not alone with reference to Ireland that laws of far-reaching scope, bearing upon the ownership and occupancy of land, have been passed in recent years. Such measures as the Agricultural Holdings Acts of 1875 and 1883, the Ground Game Act, the Hypothec Abolition (Scotland) Act, and the Conveyancing and Settled Land Acts have very important provisions affecting the agricultural interest, but they do not introduce all the novel and questionable principles that characterise the Irish Land Acts, and our examination of their salient features will be much more briefly accomplished. The Agricultural Holdings Acts and the Ground Game Act restrict "freedom of contract," and are *prima facie*, though, as will be presently shown, not really, of a Protective character. The

abolition of Hypothec in Scotland, and the restriction of the Law of Distress in England, by undoing a law-made preference in favour of the landlord, place all the creditors of a tenant on a more equal footing. Very little of the land of Great Britain is in the hands of peasant proprietors, and comparatively little of it is let in small holdings to tenant-holders who are their own labourers to the exclusion of hired labour. The tripartite system of landlord, tenant, and labourer, each individually and vitally interested in the soil, is all but universally prevalent throughout England and Scotland. The landlord supplies the raw material--the land —generally with the accompaniment of houses, fences, and other permanent improvements or "fixtures." The tenant-farmer provides the working capital—the implements of husbandry, the live stock, seeds, extraneous manures and feeding-stuffs; he hires and directs the labour, and carries on the business of the farm. His is the risk of failure, and his the free margin of profit that may remain after giving the landlord and labourers their fixed portions, and after meeting

all other expenses. The labourer works for a stipulated rate of wages. His condition is gradually improving. A century ago he had to give five days' labour for the price of a bushel of wheat; in 1840, four days' labour, and in 1870, two-and-a-half days' labour enabled him to pay for the same quantity of the staff of life.* Education is now compulsorily secured to him, he is about to receive the franchise, and with the mental quickening due to these causes, the increased movement everywhere going on, and the progressive drafting of labourers from the country to industrial employments and to the colonies, his lot is almost certain to improve still further, and with accelerated rapidity. This unique system has great practical advantages. Nowhere is so much taken out of the land at so little cost as in this country—acre for acre. Nowhere is the practice of agriculture carried to such perfection as on our best farms. Our British system is not compatible with minute sub-division of the land; it requires that farms should be of considerable size in order that

* Sir James Caird—"The Landed Interest," p. 65.

advantage may be taken of machinery, division of labour, and all the aids of economic production.

Before the passing of the Agricultural Holdings Acts—one for England and the other for Scotland—the best system of tenure for agricultural land was that of a lease for a moderate term of years. By this system such security was given to the tenant as encouraged him to carry on his business with energy and in the confidence that he would be able to reap the reward of his enterprise. But leases had their faults. They were often vitiated by restrictive covenants as to game, mode of cropping, and disposal of produce; and, in general, they were not renewable until their currency had expired. Thus they became a means of handicapping rather than helping the farmer. On the whole, however, the system has worked well on estates where the landlord has himself taken an intelligent and active interest in the management of his property. The practice of granting leases has long existed on the admirably managed estates of the Earl of Leicester, in

Norfolk, and the lease there in vogue is a model of its kind. The tenant has full liberty of cultivation and disposal. The period of the lease is twenty years, but at the end of the sixteenth year the question of renewal is raised. If landlord and tenant agree a new lease for twenty years is the result—four years at the old rent and sixteen at the new. Should they fail to agree the tenant's liberty of cultivation ceases, and in the remaining four years he has to restore the farm to the Norfolk four-course rotation, due provision being made for compensation being paid to him for unexhausted manures. But in Scotland, though leases have been general since the early part of this century, they have too often been dictated by "factors" having little practical knowledge of the requirements of modern agriculture, and have fallen far short of the judicious arrangements carried out by the Earl of Leicester and his eminent predecessor. By neglecting to provide for renewal before their expiration, and for compensation for unexhausted manures, they have created a system of

exhausting the land during the last few years of their currency. A common practice has been to have the farm valued at the end of the lease by a professional valuer, and either let at the valuation rental or put up to public competition. If the land was in good condition the valuation and new rental would be so much the more, so that the tenant who expended capital liberally to the end of his term was liable to have his expenditure made the basis of a rise of rent to his own disadvantage. As a matter of fact, very many of the Scotch farmers have acted on the dictates of prudence, and have tried to take as much out of the soil and put as little into it as possible during the last years of the currency of their leases. The result has been a serious loss to the agricultural interest as a whole and to the nation. Production has slackened in the last rotation under the old lease, the land has been exhausted, and a few years of the new lease have elapsed before the restoration of full fertility has been effected by means of liberal expenditure in the purchase of manures. This alternate system of exhaustion and renovation

has been going on during about half the currency of the ordinary nineteen years' Scottish lease, so that only for about half its time has Scottish agricultural land been in full productive activity. Still worse has been the condition of English tenancies-at-will, for under them expenditure and high farming have been placed under the greatest discouragement. Whether under lease or held from year to year, British agricultural land has been too often administered in accordance with the old legal maxim, *Quicquid plantatur solo, solo cedit.* Any building raised upon the soil, any drain put under it, any manure put into it, has been liable to confiscation by the landlord. Many instances in which such appropriation has taken place are well known. Perhaps the most notorious case is that of the late Mr. George Hope, of Fentonbarns, Haddingtonshire, a farmer of more than national repute, whose family had been tenants for more than a century upon the estate, who suddenly received notice to quit, and whose extensive outlays in the improvement of the land were appropriated by the landlord without

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* "The Tenant Farmer: Land Laws and Landlords." By James Howard. 1879.

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Mr. Howard's Bill was the precursor of the Agricultural Holdings Act of 1875. That Act classified improvements, and fixed for them a certain value in years and a scale of compensation based on the original outlay of the tenant. The principle was affirmed that capital invested by the tenant in the improvement of his holding was his own property, and the right of the landlord to compensation for deterioration of the

holding by the act of the tenant was also recognised. This Act was inoperative. It was a "permissive" measure; if either landlord or tenant declared his wish not to come under its provisions it did not apply. Its principal promoter had been the Duke of Richmond and Gordon, and his Grace, in the Report of the Royal Commission on Agriculture drawn up by him a few years afterwards, admitted its failure, which, indeed had been proved before the Commission by the unanimous testimony of the witnesses examined on this matter. In the words of the Report, the farmers had too often refused to ask and the landlords to offer "the fair compensation which we believe it is the interest of both that the tenant should enjoy, and to which we think he is entitled;" and the Commissioners accordingly recommended that the principles of the Act relating to compensation "should be made compulsory in all cases where such compensation is not otherwise provided for." The current of public opinion had been moving strongly in this direction for some years. An agitation on the subject had been

successfully carried on by the Farmers' Alliance, and bills for making compensation compulsory had been introduced by two members sitting on opposite sides of the House and representing important agricultural constituencies—Mr. Chaplin and Sir Thomas Dyke Acland. Then came the next great step in advance—the Agricultural Holdings Act of 1883, with its companion-measure applicable to Scotland.

The leading features of this Act are (1) An indefeasible right of compensation to the outgoing tenant for such improvements as he may have effected on his holding according to their value to the succeeding occupier; (2) A year's notice to quit; (3) One year's distraint for rent (instead of six), with limitations on the seizure of stock and machinery. The compensation may be fixed by private agreement or by arbitration under the procedure sections of the Act. Improvements are divided into three classes—*First*, Permanent Improvements, including building, making permanent pasture, planting fruit-trees or hops, reclaiming waste land,

making gardens, roads, fences, embankments, and reservoirs; *Second*, Drainage only; *Third*, All Manurial Improvements, such as boning, chalking, liming, claying, and marling. For the first class of improvements the consent of the landlord is required; in the absence of such consent the compensation provisions of the Act do not apply. As to drainage, the Act provides that notice shall be given to the landlord, and that he shall have the option of executing the work himself. After such notice, and in the event of the landlord not undertaking the work, the tenant may proceed with it and claim compensation when he quits. With respect to the third class, the liberty of the tenant and his right to compensation in accordance with the principles of the Act are absolute. Any private agreement to the exclusion of compensation under the Act for this class of improvements must secure to the tenant "fair and reasonable compensation" or it will be "void both at law and in equity." On the subsidiary provisions concerning current tenancies it is not necessary here to dwell.

The objection has been raised to compulsory compensation for improvements that it violates the principle of freedom of contract. "Freedom of contract" has been bandied about as a phrase or catchword saving the trouble of argument and sometimes serving to obscure the point at issue. By the Agricultural Holdings Act the landlord's power suffers no infringement or diminution in relation to improvements or alterations that change the character of the holding. To all such alterations his consent is required, and if they are made without his consent they become his property at the end of the lease. To this there is an exception, indeed, in the case of "fixtures" within the meaning of a later section. These fixtures may be removed by the tenant, but the landlord has the option of buying them at a valuation. With this exception the Act leaves the position of landlord and tenant in relation to permanent improvements unchanged. It takes nothing from the landlord and gives nothing to the tenant. So far, "freedom of contract" is untouched.

The vital principle of the Act is to be found in the provisions relating to draining and manures. This principle, briefly stated, is that freedom of contract is to be subordinated to freedom of industry. The landlord is not to be at liberty to let land for ordinary agricultural purposes and to annex conditions depriving the lessee of the right of carrying on his business in accordance with the rules and practice of good husbandry. Land is not to be let for cultivation, and cultivation to be hindered or restrained by onerous and inequitable restrictions. If the tenant deteriorates his holding the landlord becomes entitled to compensation, but the freedom of action of the tenant in conducting the ordinary business of agriculture in accordance with the most approved methods is not to be interfered with. The great need of British agriculture is admittedly the application of more capital to the soil, and though it is desirable that much of this capital should be landlord's capital, the business of actual cultivation appertains to the tenant. The present Act gives the tenant a security he has never before enjoyed

that whatever capital he employs with due skill and judgment in improving the productive qualities of the soil shall be restored to him either in the form of crops or in that of a money payment. Draining, it is true, partakes very much of the character of a landlord's improvement; but it is so essential to good husbandry that the Legislature has seen fit to give the tenant a power of executing drainage-works, subject to certain conditions. Hitherto, notwithstanding the great facilities afforded them by legislation, the landlords have only carried out a fractional part of the drainage-works necessary to the full productive utilisation of the land of the United Kingdom. On this point we have the definite testimony of the Report of a Committee of the House of Lords, drawn up by Lord Salisbury in 1873, to this effect:—"The general result of the evidence is to show that, although considerable use has been made of Improvement Acts, and extensive improvements have been effected under them, the progress has not been so rapid as was desirable, and what has been

accomplished is only a small fraction of what still remains to be done. Mr. Bailey Denton states, as the result of his calculations, that out of 20,000,000 acres of land requiring drainage in England and Wales only 3,000,000 have as yet been drained. Mr. Caird, the Inclosure Commissioner, speaking not only of drainage but of all kinds of improvements, estimates that we have only accomplished one-fifth of what requires to be done." And we know on high practical authority that there is never any difficulty in deciding upon the expediency of drainage in these islands, because wherever it is required and is judiciously executed it at once becomes remunerative.* Draining is in many situations the primary and cardinal improvement upon which all others depend. "Until the land is freed from stagnant water, and thus rendered capable of yielding its fullest assistance to the further efforts of the agriculturist, all other outlay is vain."† By drainage the land is rendered "warmer and more wholesome for

* Sir James Caird: "The Landed Interest and the Supply of Food," p. 87. † Caird *ut cit.*

plants and animals," everything upon it "becomes more thrifty," and all operations "much more easy and certain in their results."* Without efficient subsoil drainage a high condition of agriculture is unattainable.

The Act recognises the importance of drainage, and enlists the enterprise of the tenant as a supplementary means of its execution. It treats it as a fundamental part of good husbandry, and therefore within the province of the tenant. But being also a permanent or at least durable improvement, draining is most fitly executed by the landlord. Accordingly, the Act reserves to the landlord the power of executing the work if he sees fit; all that he loses is the liberty of doing nothing and preventing the tenant from doing anything. If the tenant takes the initiative, he must, in the first place, give not less than two nor more than three months' notice in writing to the landlord of his intention of executing the work, and of the manner in which he proposes that it shall be done. The landlord may then elect to carry out

* *Ibid.*

the work himself or he may leave it in the hands of the tenant. If he decides to do it himself, two courses are open to him. He may agree with the tenant on the terms, "as to compensation or otherwise," on which the improvement is to be executed, or failing this, unless the notice by the tenant is previously withdrawn, he may proceed with the work "in any reasonable and proper manner which he thinks fit," and charge interest on the outlay, not exceeding five per cent. per annum, or such annual sum as will repay the principal, with interest at three per cent. per annum, in twenty-five years, the amount payable by the tenant in either case being recoverable as rent. It would, I think, be impossible to meet in any more reasonable and satisfactory way the just rights of the landlord, while providing legitimate freedom of industry on the part of the tenant, and at the same time to afford the highest degree of security for the public interest, which is that the improvement should be carried out and the land brought to its full degree of productiveness. To what extent this portion of the Act will be efficacious

remains to be seen. There is reason to hope that it will stimulate indifferent landlords to provide such drainage as will put their land into proper condition for the operations of the agriculturist. If the landlords fail to do this—on the extremely unburdensome terms which the Act puts within their reach—the tenants may do the work for themselves, and claim compensation at the end of their tenancies on the basis of the estimated value of the improvement to their successors. Thus, an enterprising and energetic tenant, with the command of adequate capital, will no longer be dependent for the condition of the land he tills upon the will of a bad or indifferent landlord. Mr. Hope once expressed the opinion that if farmers had leases, with compensation for improvements, one-third would be added to their crops in the course of a few years. Whether or not this was too sanguine an estimate I do not undertake to say, but that enormous benefit is derived from draining is beyond all doubt. In many situations it is the very foundation of successful agriculture, adding enormously to its remune-

rativeness and to the share of the produce which accrues to the landlord in the form of rent. There appears to be no barrier in the Act to the adoption of the arrangement recommended by the Duke of Argyll, whereby the landlord supplies the tiles and the tenant cuts the drains and fills them in, receiving no other compensation than the consequent better crops. There is considerable latitude left, but the Act seems well adapted to its purpose of promoting improvement by giving the tenant a certain power of stimulating the landlord to action or rectifying the consequences of his neglect and inactivity.

Again, the security which the Act gives that the tenant shall receive not only the crops he leaves growing out of the soil, but the estimated value of the manurial ingredients he has left incorporated with the soil itself, will conduce to improvement and enterprise by imparting confidence and minimising risk. It will put the tenant from year to year in nearly as favourable a position as the tenant under lease, and thereby quicken the lethargic agriculture of many dis-

tricts. It will obviate much of the loss of productiveness connected with the expiry of leases, and will tend to keep the land constantly in a condition of maximum fertility. These advantages, though not commensurable with the general promotion of drainage, the effect of which is practically to multiply the acreage of cultivated land, nevertheless constitute an economic change salutary in all respects, and by no means insignificant in its probable effects on the national wealth. In relation to this matter of compensation for manures, the specious phrase "freedom of contract" has little meaning. The Act provides that the tenant shall receive back only his own, and not even that unless his outlay has been judiciously applied in the way of good husbandry, and so as to be of value to his successor. Failing this last condition, his expenditure is lost and irrecoverable. The question is not one of contract, unless it be of the right to contract a man out of what belongs to him without giving him anything in return. Contrary to the tendency of much of the recent legislation as to Irish land,

the compensation clauses of the Agricultural Holdings Act do not promote but prevent the forcible transfer of property from one class to another. Justice is done to the respective interests concerned. Agricultural industry is emancipated from the deadening apprehension that capital invested in improvements of some years' durability may be irrecoverably lost, or made the basis of a demand for increased rent. The application of capital to the soil was the great desideratum on which Lord Beaconsfield laid stress when arguing in favour of the Act of 1875. The prosperity of British agriculture—of the landed interest, as regards its three great classes of landlords, tenant-farmers, and labourers, and of all the various contributory industries which are dependent upon agriculture —will be advanced by the just and sound provisions formulated in the Act of 1875, and invested with the character of positive law by the Act of 1883. The disability and discouragement that weighed upon "high farming" under the old law have been removed, and the producer of corn and meat now enjoys,

so far as law-made conditions are concerned, nearly all the freedom of action that appertains to the manufacture of hardware or of textile fabrics. He has not the same permanence of tenure as the manufacturer who holds a building lease, but, on the other hand, he has in the landlord a "sleeping partner," who advances two-thirds or three-fourths of the capital involved in their joint enterprise at a very moderate rate of interest.

It is almost unnecessary to remark that many wealthy and enlightened landlords, without the stimulus of legislation, have given quite as favourable conditions for the development of agricultural enterprise as are established by the Agricultural Holdings Act. None the less was the Act required in order to give free scope for the action of the economic forces that energise the whole circle of industries. Henceforth the farmer will enjoy his freedom and security of industry not as an exceptional boon conferred upon him by an exceptional landlord, but as part of the ordinary conditions of agricultural economy. And the advantage is one that,

exhausting the land during the last few years of their currency. A common practice has been to have the farm valued at the end of the lease by a professional valuer, and either let at the valuation rental or put up to public competition. If the land was in good condition the valuation and new rental would be so much the more, so that the tenant who expended capital liberally to the end of his term was liable to have his expenditure made the basis of a rise of rent to his own disadvantage. As a matter of fact, very many of the Scotch farmers have acted on the dictates of prudence, and have tried to take as much out of the soil and put as little into it as possible during the last years of the currency of their leases. The result has been a serious loss to the agricultural interest as a whole and to the nation. Production has slackened in the last rotation under the old lease, the land has been exhausted, and a few years of the new lease have elapsed before the restoration of full fertility has been effected by means of liberal expenditure in the purchase of manures. This alternate system of exhaustion and renovation

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The objection has been raised to compulsory compensation for improvements that it violates the principle of freedom of contract. "Freedom of contract" has been bandied about as a phrase or catchword saving the trouble of argument and sometimes serving to obscure the point at issue. By the Agricultural Holdings Act the landlord's power suffers no infringement or diminution in relation to improvements or alterations that change the character of the holding. To all such alterations his consent is required, and if they are made without his consent they become his property at the end of the lease. To this there is an exception, indeed, in the case of "fixtures" within the meaning of a later section. These fixtures may be removed by the tenant, but the landlord has the option of buying them at a valuation. With this exception the Act leaves the position of landlord and tenant in relation to permanent improvements unchanged. It takes nothing from the landlord and gives nothing to the tenant. So far, "freedom of contract" is untouched.

The vital principle of the Act is to be found in the provisions relating to draining and manures. This principle, briefly stated, is that freedom of contract is to be subordinated to freedom of industry. The landlord is not to be at liberty to let land for ordinary agricultural purposes and to annex conditions depriving the lessee of the right of carrying on his business in accordance with the rules and practice of good husbandry. Land is not to be let for cultivation, and cultivation to be hindered or restrained by onerous and inequitable restrictions. If the tenant deteriorates his holding the landlord becomes entitled to compensation, but the freedom of action of the tenant in conducting the ordinary business of agriculture in accordance with the most approved methods is not to be interfered with. The great need of British agriculture is admittedly the application of more capital to the soil, and though it is desirable that much of this capital should be landlord's capital, the business of actual cultivation appertains to the tenant. The present Act gives the tenant a security he has never before enjoyed

that whatever capital he employs with due skill and judgment in improving the productive qualities of the soil shall be restored to him either in the form of crops or in that of a money payment. Draining, it is true, partakes very much of the character of a landlord's improvement; but it is so essential to good husbandry that the Legislature has seen fit to give the tenant a power of executing drainage-works, subject to certain conditions. Hitherto, notwithstanding the great facilities afforded them by legislation, the landlords have only carried out a fractional part of the drainage-works necessary to the full productive utilisation of the land of the United Kingdom. On this point we have the definite testimony of the Report of a Committee of the House of Lords, drawn up by Lord Salisbury in 1873, to this effect:—"The general result of the evidence is to show that, although considerable use has been made of Improvement Acts, and extensive improvements have been effected under them, the progress has not been so rapid as was desirable, and what has been

accomplished is only a small fraction of what still remains to be done. Mr. Bailey Denton states, as the result of his calculations, that out of 20,000,000 acres of land requiring drainage in England and Wales only 3,000,000 have as yet been drained. Mr. Caird, the Inclosure Commissioner, speaking not only of drainage but of all kinds of improvements, estimates that we have only accomplished one-fifth of what requires to be done." And we know on high practical authority that there is never any difficulty in deciding upon the expediency of drainage in these islands, because wherever it is required and is judiciously executed it at once becomes remunerative.* Draining is in many situations the primary and cardinal improvement upon which all others depend. "Until the land is freed from stagnant water, and thus rendered capable of yielding its fullest assistance to the further efforts of the agriculturist, all other outlay is vain."† By drainage the land is rendered "warmer and more wholesome for

* Sir James Caird: "The Landed Interest and the Supply of Food," p. 87. † Caird *ut cit.*

plants and animals," everything upon it "becomes more thrifty," and all operations "much more easy and certain in their results."* Without efficient subsoil drainage a high condition of agriculture is unattainable.

The Act recognises the importance of drainage, and enlists the enterprise of the tenant as a supplementary means of its execution. It treats it as a fundamental part of good husbandry, and therefore within the province of the tenant. But being also a permanent or at least durable improvement, draining is most fitly executed by the landlord. Accordingly, the Act reserves to the landlord the power of executing the work if he sees fit; all that he loses is the liberty of doing nothing and preventing the tenant from doing anything. If the tenant takes the initiative, he must, in the first place, give not less than two nor more than three months' notice in writing to the landlord of his intention of executing the work, and of the manner in which he proposes that it shall be done. The landlord may then elect to carry out

* *Ibid.*

the work himself or he may leave it in the hands of the tenant. If he decides to do it himself, two courses are open to him. He may agree with the tenant on the terms, "as to compensation or otherwise," on which the improvement is to be executed, or failing this, unless the notice by the tenant is previously withdrawn, he may proceed with the work "in any reasonable and proper manner which he thinks fit," and charge interest on the outlay, not exceeding five per cent. per annum, or such annual sum as will repay the principal, with interest at three per cent. per annum, in twenty-five years, the amount payable by the tenant in either case being recoverable as rent. It would, I think, be impossible to meet in any more reasonable and satisfactory way the just rights of the landlord, while providing legitimate freedom of industry on the part of the tenant, and at the same time to afford the highest degree of security for the public interest, which is that the improvement should be carried out and the land brought to its full degree of productiveness. To what extent this portion of the Act will be efficacious

remains to be seen. There is reason to hope that it will stimulate indifferent landlords to provide such drainage as will put their land into proper condition for the operations of the agriculturist. If the landlords fail to do this—on the extremely unburdensome terms which the Act puts within their reach—the tenants may do the work for themselves, and claim compensation at the end of their tenancies on the basis of the estimated value of the improvement to their successors. Thus, an enterprising and energetic tenant, with the command of adequate capital, will no longer be dependent for the condition of the land he tills upon the will of a bad or indifferent landlord. Mr. Hope once expressed the opinion that if farmers had leases, with compensation for improvements, one-third would be added to their crops in the course of a few years. Whether or not this was too sanguine an estimate I do not undertake to say, but that enormous benefit is derived from draining is beyond all doubt. In many situations it is the very foundation of successful agriculture, adding enormously to its remune-

rativeness and to the share of the produce which accrues to the landlord in the form of rent. There appears to be no barrier in the Act to the adoption of the arrangement recommended by the Duke of Argyll, whereby the landlord supplies the tiles and the tenant cuts the drains and fills them in, receiving no other compensation than the consequent better crops. There is considerable latitude left, but the Act seems well adapted to its purpose of promoting improvement by giving the tenant a certain power of stimulating the landlord to action or rectifying the consequences of his neglect and inactivity.

Again, the security which the Act gives that the tenant shall receive not only the crops he leaves growing out of the soil, but the estimated value of the manurial ingredients he has left incorporated with the soil itself, will conduce to improvement and enterprise by imparting confidence and minimising risk. It will put the tenant from year to year in nearly as favourable a position as the tenant under lease, and thereby quicken the lethargic agriculture of many dis-

tricts. It will obviate much of the loss of productiveness connected with the expiry of leases, and will tend to keep the land constantly in a condition of maximum fertility. These advantages, though not commensurable with the general promotion of drainage, the effect of which is practically to multiply the acreage of cultivated land, nevertheless constitute an economic change salutary in all respects, and by no means insignificant in its probable effects on the national wealth. In relation to this matter of compensation for manures, the specious phrase "freedom of contract" has little meaning. The Act provides that the tenant shall receive back only his own, and not even that unless his outlay has been judiciously applied in the way of good husbandry, and so as to be of value to his successor. Failing this last condition, his expenditure is lost and irrecoverable. The question is not one of contract, unless it be of the right to contract a man out of what belongs to him without giving him anything in return. Contrary to the tendency of much of the recent legislation as to Irish land,

the compensation clauses of the Agricultural Holdings Act do not promote but prevent the forcible transfer of property from one class to another. Justice is done to the respective interests concerned. Agricultural industry is emancipated from the deadening apprehension that capital invested in improvements of some years' durability may be irrecoverably lost, or made the basis of a demand for increased rent. The application of capital to the soil was the great desideratum on which Lord Beaconsfield laid stress when arguing in favour of the Act of 1875. The prosperity of British agriculture—of the landed interest, as regards its three great classes of landlords, tenant-farmers, and labourers, and of all the various contributory industries which are dependent upon agriculture —will be advanced by the just and sound provisions formulated in the Act of 1875, and invested with the character of positive law by the Act of 1883. The disability and discouragement that weighed upon "high farming" under the old law have been removed, and the producer of corn and meat now enjoys,

so far as law-made conditions are concerned, nearly all the freedom of action that appertains to the manufacture of hardware or of textile fabrics. He has not the same permanence of tenure as the manufacturer who holds a building lease, but, on the other hand, he has in the landlord a "sleeping partner," who advances two-thirds or three-fourths of the capital involved in their joint enterprise at a very moderate rate of interest.

It is almost unnecessary to remark that many wealthy and enlightened landlords, without the stimulus of legislation, have given quite as favourable conditions for the development of agricultural enterprise as are established by the Agricultural Holdings Act. None the less was the Act required in order to give free scope for the action of the economic forces that energise the whole circle of industries. Henceforth the farmer will enjoy his freedom and security of industry not as an exceptional boon conferred upon him by an exceptional landlord, but as part of the ordinary conditions of agricultural economy. And the advantage is one that,

in contradistinction to the numbing effects of Protective legislation, will tend to strengthen his independence and self-reliance. He will be incited to trust to his own resources and not to lean upon landlord or Legislature. The Act gives him certain legal rights, or rather removes from him certain law-made disabilities, but he is left to assert his rights and utilise his powers.

The restriction of the Law of Distress will also be of considerable indirect advantage to the farmer. The landlord's preferential right lowered the tenant's credit with the banker and merchant, and thereby impeded the application of capital to the soil. It likewise increased the competition for vacant farms, and thus enhanced rents to the injury of agriculture. Secured by the Law of Distress (in Scotland called the Law of Hypothec), the landlord or agent was tempted to let the land to the highest bidder, even though the highest bidder should be a man of inadequate capital, who, having little to lose, was all the more reckless in incurring risks. The risk of loss to the landlord through letting indifferently-

cultivated land, at an extravagant rent, to a tenant of inadequate capital, was greatly reduced by this iniquitous law; and thus by an unnatural competition rent was raised to an abnormal level. Nor did the iniquity end with this. Whatever was to be found on the land was liable to seizure. If a farmer in embarrassed circumstances let the grass of one of his fields to another farmer, and the other farmer put his cattle or sheep into the field to consume the grass, the landlord might seize the cattle or sheep in order to make good any deficiency in his tenant's estate and cover arrears of rent. The Scotch law gave the landlord a preference so absolute that so long as the crop of the year for which the rent was payable remained in existence, and any part of the rent unpaid, he was entitled to follow the crop and take it out of the hands of third parties wherever it went. In England and in Scotland, however other creditors might fare, the landlord had his preferential right to payment in full. The law gave him twenty shillings in the pound before the seed-merchant, the manure-merchant, or the implement-maker received a

farthing. This preferential right is now cut down to narrow limits. Landlords, like other people, will henceforth have to exercise reasonable care and circumspection in giving credit—that is to say, in the choice of tenants ; and the solvent tenant will no longer have his credit impaired by a needless and unjust preference conferred by the law upon one of his creditors. This salutary change restores the natural economic relations, giving the agriculturist a freedom and power of which he was long deprived, and enabling him to turn new resources of credit to account in more fully supplying his farm with the elements and conditions of productiveness. The landlord loses nothing but an unjust privilege and its consequences ; and the tenant, the merchant, and the community are all of them gainers by the change. It is a change in full accord with sound economic principle, and adds to the freedom of cultivation established by the compensation clauses an enhanced command over the commodities required for the farm.

VI.

GAME PRESERVATION.

CLOSELY connected with the Agricultural Holdings Act is the Ground Game Act of the same Government. It provides that every agreement shall be void which divests the agricultural tenant of the right, which it confers upon him, of killing hares and rabbits on his farm, or which gives him any advantage in consideration of his forbearing to exercise this right, or imposes upon him any disadvantage if he exercises it. This is manifestly a violation of freedom of contract, for the landlord is prohibited from letting his land for the purposes of agriculture subject to reservation of a right of quartering wild animals on the tenant's crops, against which animals the tenant shall have no right of protecting himself. As a set-off against the infringement of freedom of contract, therefore,

there is established an indefeasible right of protecting property. The landlord is not deprived altogether of his right of sport, but the tenant has a joint and indivestible right of protecting his property against the ravages of four-footed animals. That the establishment, under legal sanctions, of this right is not a gratuitous interference with the landlord's liberty will be apparent from the facts and considerations about to be adduced. Let us, first, take a few illustrative examples of the destruction of tenants' property by game preservation. In a pamphlet published a few years ago, Mr. James Howard, M.P., who describes himself as a keen sportsman having no bitter animosity on this matter, cites the testimony given to him by "a highly respectable farmer" whom he had known for many years, to this effect:—"I have just threshed the produce of a field of twenty acres, situated near the wood, and have got barely twelve quarters of saleable wheat," Mr. Howard adding that a hundred quarters might have been expected.* Before Mr. Bright's Committee one

* "The Tenant-Farmer," &c., p. 35.

witness stated that on a farm rented at £800 the damage was £200 per annum, and that the preservation of game had begun after the farm was taken; another, that two valuers had assessed the damage to forty-five acres at £172, for which no compensation had been received; another, that on a farm of two hundred acres he had had the damage valued twice, at £105 and £129 respectively. A large number of witnesses gave evidence to a similar effect. The Committee of 1872 were told of damage to the extent of £150 done to one field, and to the extent of £300 upon a farm of five hundred acres, besides which the occupier could keep no more than one-fourth of the usual number of sheep and two-thirds of the usual number of cattle; of fields of turnips nibbled by hares so that almost every turnip became rotten; of the loss of fertility and the poisoning of the land by hares and rabbits; and of the insolvency of many Norfolk farmers being due to the over-preservation of game—these facts being attested by witnesses so well known and so well versed in all that concerns agriculture as Mr. Barclay, the member for Forfar-

shire, Mr. C. S. Read, the member for South Norfolk, and the late Earl of Airlie. Again, we have the evidence of a Middlesex farmer that one field of wheat sold for £11 10s. per acre, while another field fetched only 16s. per acre—the difference being due solely to the destruction caused by game; and of a Hertfordshire witness, who said that not an ear was gathered on one field of wheat, while the damage on another was valued at £6 per acre. As to the consumption of food by game, Mr. George Gayford, an extensive farmer in Suffolk and Norfolk, submitted to Mr. Bright's Committee an account of careful experiments made by himself, which went to show that four rabbits consume as much food as one sheep; and from other observations it appears that the one sheep increases in weight seven times as much as the four rabbits in a given period of feeding. Summing up the evidence of this character, the Committee reported that "There is a pretty general agreement as to the damage done by hares and rabbits, from three to six being equal to one sheep.". And the damage inflicted by these

animals, as we have just seen, is not limited to the quantity of food they actually consume and to the difference between the quantity of human food that results from their feeding as compared with the quantity of beef and mutton that would be produced were the same food consumed by cattle and sheep. They trample down and destroy both white and green crops to such an extent that what they leave is sometimes nearly as much lost to the farmer as what they take away, and both directly and indirectly they impair the fertility of the soil. I am not aware that any accurate data of an exhaustive character exist as to the extent to which loss is suffered from game throughout the country; but some returns not altogether without statistical value were obtained a few years ago by a joint committee of landlords and tenant-farmers of the county of Aberdeen. Schedules embodying a list of queries, with blank forms to be filled up, were issued to the tenant-farmers of Aberdeenshire, numbering 6064. Of the schedules so issued 4758 were returned with the blank forms filled up as desired. The number of tenants

who stated that their crops were injured by "game and other wild animals" was 3817, of whom 3202 complained of damage by hares and rabbits. An estimate of their annual loss was given by 2267 tenants, occupying altogether 184,000 acres, and the results may be tabulated as follows:—

Estimated Loss.	No. of Tenants.	Total Acres.	Acres per Tenant.	Loss per Tenant.
Under £1	71	1,749	24½	£0 10 0½
£1 to 5	757	36,418	48	2 7 8
5 „ 10	684	52,586	77	6 0 0
10 „ 15	353	36,812	104¼	10 10 9
15 „ 20	133	14,716	110½	15 12 9
20 „ 30	159	21,192	133¼	21 13 5
30 „ 40	58	9,529	164¼	31 7 7
40 „ 50	23	3,590	156	41 10 5
50 „ 60	13	2,272	174⅓	50 7 8
60 „ 75	8	1,745	218	62 10 0
75 „ 100	2	317	158½	80 0 0
100 „ 130	6	3,285	547½	104 3 4

The total estimated loss was £19,906, and the individual estimates ranged from a few shillings to £125. The answers of 761 tenants were to the effect that their crops suffered no damage.*

* Report to the Commissioners of Supply, Aberdeen, 1872.

The average size of the holdings from which the returns were received was rather more than 80 acres—comparatively small farms of from 50 or 60 to 100 acres being very numerous in the county of Aberdeen. The estimates of damage are open to the objection that they are *ex parte* and indefinite; on the other hand, the list includes cases in which the alleged damage is insignificant, as well as cases in which it is extreme, and the report shows, at least, the prevalence among the great body of tenant-farmers of a belief that substantial injury was being done them by the ravages of game. How stringently the preservation of game was carried out before the recent change in the law may be gathered from the following extract from a lease in force upon an estate in the same county:—"The tenants are to have no privilege whatever of following or killing game, or fishing; and they shall prevent all destruction and injury of any kind to the game or fishing, as far as in their power — the whole game, deer, roe, hares, rabbits, wild fowl, and fish on the estate being reserved to the proprietor, with the exclusive

liberty and power of shooting, hunting, coursing, and fishing for the same, either by himself, his servants, others having his permission, tenants under game leases, or their servants, *and that notwithstanding any modification or alteration which may hereafter take place in the laws now existing for the protection of game.*" And the lease was to be forfeited if the tenant sought to protect his crops by "poaching" in his own fields, "whether by law qualified to kill game or not, or of conniving at the same." I have before me extracts from a number of leases applicable to estates in other parts of the country, the reservations of which are equally specific, and in several of which it is expressly provided that the whole of the stipulations shall continue in force notwithstanding any change in the law. There have been instances—some within my own personal knowledge—in which a moderate head of game at the beginning of a tenancy has grown and multiplied in the course of a few years, under the fostering care of a new game-preserving landlord, into a devastating scourge of wild animals. No state of things

could be more discouraging to the farmer than that a plague like this should come upon him while his hands are tied by covenants such as I have quoted. The corn or roots raised by the farmer's industry, and by means of his capital, are just as much his property as the cattle or sheep that browse in his fields; and the fundamental condition underlying all economics and all well-ordered society—the principle of security of property—requires that he should have the same freedom to preserve his crops from destruction by wild animals as to protect them from being trampled down by a neighbouring farmer's cattle or sheep, or destroyed by fire or inundation. Hitherto the farming class has not been able to assert for itself this freedom, in relation to game, by means of contract; but the law has now said that a landlord shall not let his land for agricultural purposes, and at the same time prohibit the tenant from destroying the vermin that live upon his crops. This change of the law does nothing for the tenant who neglects to take advantage of it. It accords him a freedom of action of which he cannot be

deprived, but it does not compel him to make use of that freedom. He is under no obligation to save his crops. There is no Government inspector looking after him and compelling him to shoot or trap. All that is done by the Ground Game Act is that the landlord has no longer the power of letting his land for the growth of corn and cattle, and then quartering animals upon it for his own profit or amusement, without the tenant having the power of protecting his property from these extraneous animals. Practically there is no limitation of the tenant's power of contract, except in the sense, and to the extent, that he cannot part with the right which the Act confers upon him. He receives the power of self-help, but beyond this nothing is done for him. The intervention of the Government in this case cannot be expected to have the effect, so frequently chargeable against Government interventions, of sapping the foundations of independence and self-reliance, and of enervating those on whom the benefit is supposed to be conferred. The oppression and wrong hitherto connected with the over-pre-

servation of ground-game, especially where the over-preservation has begun during the currency of a tenancy, will be checked ; tenant-farmers will be encouraged and stimulated to maintain their rights, and educated in the ways of freedom ; and the investment of capital in agriculture will be more secure and more remunerative, while the production of wealth will be facilitated and enhanced. Land may no longer command as high rents from shooting tenants as formerly, in addition to the agricultural rents; but the total produce will be augmented by the better utilisation of crops in the production of human food, by the saving of waste and of the impoverishment of the soil due to wild animals, and by the greater freedom and economy with which the farmer will be able to carry on his business.

VII.

"FREE TRADE IN LAND."

FROM the consideration of a law passed with the express object of benefiting the great class of agricultural tenants, we pass on to the consideration of legislative enactments concerning, primarily, the position and status of landlords, but also having a close and intimate bearing on the improvement of land and the prosperity of agriculture.

About three-fourths of the land of this country is held by "limited owners" under settlement or entail, and a large proportion of the land so held is encumbered to such an extent that the nominal owner is unable, even if he had an adequate motive to do so, to expend any part of his revenue on the improvement of his estate. Several measures giving some relaxation of the strict tying-up of land hitherto in

vogue have been passed in recent years, and in particular Lord Cairns's Settled Land Act of 1882 and the Scotch Entails Act. The purpose of the Settled Land Act is to enable the "tenant-for-life," or limited owner of land in settlement, to sell, lease, exchange, or otherwise deal with it in a great variety of ways, and, generally speaking, to exercise the same powers as have hitherto usually been conferred upon the trustees of a settlement with the consent of the tenant-for-life. Subject to a great many conditions and restrictions, the tenant-for-life may exercise the power of selling any portion of his land, with the exception of the mansion-house, in order to raise money for paying off existing encumbrances or for improvements. The money is to be paid to the trustees of the estate or into Court, and the improvements must be sanctioned by the Land Commissioners before being undertaken. But the authority of the trustees is no longer necessary to a sale. No matter how strictly or how recently the land may have been tied up, the owner in possession may sell it at once and convert it into person-

alty. If it be the case, as Sir James Caird stated in his address to the Statistical Society —and there is no better authority on such a matter—that over a considerable extent of England at this time there is as much need of a Landed Estates Court as there was in Ireland in 1849, it is manifest that these new powers of sale may come to be of no small importance in extricating nominal owners from a very undesirable position. It is a step towards what is called "free trade in land," though it does not abolish limited ownership nor do away altogether with the system of entails. It will tend to put more land into the market and to increase the number of moderate-sized estates. It may also be expected to conduce to the improvement of agricultural holdings by enabling the landlord to expend capital on this object without sacrificing his present income. He is enabled to consolidate his estate by selling part in order to improve the rest. The abolition of the law or custom of Primogeniture in cases of intestacy, and the giving of free play to the natural forces of accumulation and dis-

persion in regard to landed as to other property, are reforms still necessary ; but the Settled Land Act creates important facilities and increases the power of the limited owner to do justice to the permanent interests of his estate. Landlords' improvements are chiefly of three kinds—Drainage, erection of farm buildings, and erection of labourers' cottages. Drainage, as we have seen, is in general a profitable investment for capital. Mr. George Hope stated before the Committee of the House of Lords, in 1873, that as tenant he began works of drainage fifteen years before the expiration of his first lease, and in the course of the next lease of twenty-one years he was fully repaid. In general, however, drainage recoups itself in shorter time than this. Under the Improvements Acts the landlord—to whom the execution of drainage works properly belongs—cannot borrow from the companies at a less rate than seven per cent., capital and interest being paid-off in twenty-five years. When the work is executed by the landlord, the tenant has to pay interest, but he cannot always be got to pay the whole 7 per cent. Very often

5 per cent. is his limit, leaving the landlord with a margin of 2 per cent. to pay for a quarter of a century, or longer than the majority of actual owners can expect to survive. At the end of this period, if the improvement still exists, the whole benefit accrues to the landlord. As drainage adds to the productiveness of the soil, and thus pays itself, some profit usually goes to the landlord in the form of additional rent before so long a period as twenty-five years expires; and where he is sufficiently wealthy to be able to embark his own capital in it he obtains a very good return from the first. But with the other classes of landlords' improvements the case is different. For farm buildings of a new and sufficient character, in substitution for dilapidated and tumble-down erections, it is difficult to obtain from a tenant, on fairly-rented estates, the full interest charged by the Improvement Companies without sinking-fund; and labourers' cottages notoriously are not remunerative, at least directly. Where the landlord is free there is no difficulty about these improvements, because whether or not they add

to the immediate income he derives from the estate they are an addition to its capital value, and yield some return from the point of view of its permanent interests. But then the heavily encumbered proprietor, though he has now greater facilities than formerly for dealing with his land, has little inducement to consider permanent interests, and, out of regard for the younger members of his family, is unwilling to divert any part of the possible free margin of revenue to payment of interest and sinking-fund even on improvements that are undoubtedly advantageous. Still the Act of 1882 will not be resultless. Under its provisions parts of estates suitable for residential purposes will be sold from time to time at prices which, on reinvestment in eligible securities, will yield far more than the equivalent of the rental parted with. Land may be said, with sufficient accuracy for the purpose of illustration, to yield a return of 3 per cent., after deduction of public burdens and other yearly charges, on its buying or selling price. But let a piece of land yielding £1000 of clear annual revenue at this rate be sold

and the proceeds be reinvested at 4 per cent., and there will be a yearly gain by the transaction of £333. In such a case it is manifestly to the interest of the encumbered landlord to sell a portion of his land, provide for the fixed charges for which it is liable, and apply the margin to the judicious improvement of the remainder of his property. We need not look for miraculous results from this (or any other) legislative change; but it is salutary so far as it goes, and may be expected gradually to bear fruit in the improvement of old estates and in putting more of the soil of the country into the hands of proprietors of business-like training and habits, and possessed of capital which they will be inclined to lay out in developing its productive powers. It is an instalment of freedom to the landowner, and another step in the change from feudal to economic relations.

VIII.

COMPULSORY EDUCATION.

IN the early part of this Essay the grounds on which compulsory education can be justified were stated in general terms. These grounds are twofold—the future interest of the child, and the interest of the State or community in the intelligence and good conduct of the individuals of which it is composed. The child is unable to judge for itself. The wise parent judges for it, and sends it to school. But all parents are not wise; and all parents have not the means of paying for the education of their children. For good reasons of its own the State interposes between its poverty-stricken members and absolute starvation; for other and equally good reasons it has ordained that unwise parents shall not bring upon it the evil consequences of entire neglect of the education of the young.

Before the passing of the Education Act we heard much about the inability of this country to compete with foreign manufacturers on account of the superiority of foreign workmen in education and intelligence. The present Vice-President of the Committee of Council on Education (Mr. Mundella) took a leading part in spreading and popularising information on this point, and the facts which he was able to adduce exerted a powerful influence on public opinion. Economic as well as moral considerations were advanced by the advocates of universal and compulsory instruction in "the three R's," and in process of time the Act was passed; and now we are in some degree able to form an estimate of its economic and moral results. In many of its provisions and details the Act is not free from objectionableness. Along with the Endowed Schools Act and other measures it practically hands over the whole educational machinery of the country—private schools as well as public schools—to the supervision and control of a central department, with its staff of inspectors. This is not an unmixed blessing. There is a

loss of spontaneity and initiative on the part of managers and teachers; a dead uniformity is promoted; public education is all of one pattern, regulated by a rigid code, inspected and paid for according as it conforms with arbitrary standards. In Scotland—where nearly all the schools are public schools, managed in all respects except as to the character of the education, by School Boards, and in England, though less universally—the cost of public education in the elementary stage is roughly divided into three not very unequal parts, and defrayed respectively by grants from the Exchequer, by local rates, and by school fees. To the extent of two-thirds of its cost, therefore, elementary education in public schools is what is called "free"—it is paid for by Imperial taxes and local rates; and we often hear it argued that, in accordance with the principles and provisions of the Act, the education that is compulsory ought also to be free. There is a certain plausibility in this contention, especially with reference to the case of the poorer class of parents. Under the existing arrangement, however, extreme poverty is ex-

empted from the payment of fees, and there are weighty reasons why the responsibilities consequent on bringing children into the world should not be lightened. The State steps in to save the child from parental neglect, but it does not charge itself with the duties of the parent in respect of bodily sustenance or mental education for his children. In the last resort it takes the burden of the child upon itself, but only when it is satisfied as to the inability of the parent. Instead of the fact of two-thirds of tne cost of education being devolved upon the public affording an argument for relieving parents from the other third, it ought rather to serve as a warning that we have gone far enough in a perilous direction. At the same time, the country is getting, and will continue to get, an ample return from universal compulsory education. Both directly and indirectly it will be abundantly repaid. For, in the first place, and notoriously, there is a close connection between ignorance and crime. Malefactors and drunkards, in the vast majority of cases, belong to the unlettered class.

Education opens up wider interests and avenues of rational pleasure that compete successfully with the degrading enticements of intemperance. The present Chancellor of the Exchequer (Mr. Childers), in his Budget speech of 1883, stated that, according to the best estimate that could be formed, there had been a decrease in the consumption of spirits in the United Kingdom during the preceding seven years, accounting for an annual loss to the revenue of no less than five millions. Since 1869 the number of persons convicted of criminal offences in Great Britain has decreased by nearly one-fourth; and pauperism has fallen off to about the same extent, notwithstanding the long-continued depression of trade.* That these changes are results of the Education Act exclusively, I do not for a moment maintain; but neither do I see how they are to be accounted for except on the hypothesis that the growth of intelligence, that is to say, education, has much to do with them. And if this view is

* See Prof. Fawcett's "Manual of Political Economy," Sixth Edition, p. 233.

correct, we may expect to witness still greater improvement very soon, when the living generation shall consist to a predominating extent of persons who have grown-up since elementary education was made compulsory for every child. Steadiness, trustworthiness, regularity, sobriety, are qualities that count for not a little in economic arrangements; the saving in the cost of repression of crime and in the cost of maintaining paupers, and the saving on the amount of time abstracted from industrial pursuits by intemperance and consequent ill-health, are clear gains both to the production of wealth generally and to the welfare of the labouring classes. The mis-spending of time and money, due directly or indirectly to ignorance, lowers the social status and physical condition of the labourers. What is spent on drink cannot be spent on food, clothing, and healthy dwellings. In another way, also, education has important economic results. It calls powers into exercise which without it are latent. Many men of the highest ability have sprung from the lowest ranks in the social scale, and there is every

reason to believe that much ingenuity that has been devoted to criminal pursuits would, in happier circumstances, have contributed to the nobler purposes of humanity. The modicum of education now provided by law will not be without effect in eliciting these latent powers, and in giving to all children a fair start in life. The nation will be intellectually richer, and will have a higher proportion of men qualified for other grades of labour than the lowest. In connection with education we must consider the restrictions on juvenile labour under the Factory Acts, and the measures relating to the employment of children in agriculture. The Factory Acts were not passed exclusively for educational ends; they were also intended to benefit the health and physique of children. And on the whole they appear to have been efficacious for their purposes. If so, their effect obviously is to husband industrial resources and increase the efficiency of labour. One economic result of the education of agricultural children will probably be that agricultural wages will thereby be raised. The agricultural labourer is now

obtaining a political position as a Parliamentary elector; his interest in public affairs will be increased; he will become more and more a reader of newspapers, and will find out from them where he can sell his labour to best advantage. In Scotland, where the standard of rural education is much higher than in England, agricultural labour has in some districts become comparatively scarce, and its remuneration has risen in a corresponding degree. Large numbers of labourers have emigrated to the United States, Canada, and Australia; large numbers more have been drafted into industrial employments in towns, or have entered the service of the railway companies. A similar movement will become more general in England with the spread of education, and the inevitable consequence will be that a larger share of the produce of the soil will go to the labourers by whom it is tilled. To some extent the augmentation of wages may be met by increased production, and to some extent the farmer, by employing machinery to a greater extent, may be able to reduce his labour bill. The free importation of corn and meat

will prevent the general body of consumers from having to contribute any part of this increase of wages through the instrumentality of a rise of price. Corn is easily imported, and is already coming in large quantity from the most distant parts of the earth, but the import of cattle and dead-meat is subject to more limitations, and cattle imported do not yield their full return unless fed for a time after landing. Probably corn-growing will diminish in this country, and dairy-farming, market-gardening, and cattle-feeding more and more take its place. Possibly by these means the labourer may get his better remuneration without even lessening the landlord's rent. In the graphic words of Sir James Caird,—"this country is becoming every ten years less and less of a farm and more of a meadow, a garden, and a playground;" and the awakening of the labourer can hardly fail to accelerate this change. The farmer has obtained security for his capital; the labourer will gradually be able to command higher remuneration, and, unless the farmer is to save in other directions, or somehow obtain a higher

revenue, he will be unable to give higher wages and equally high rent. Increase in the efficiency of labour may indeed be looked for. There will be more resemblance between the practical agriculturist engaged in the fields and the artisan in the workshop than has hitherto been seen. The agriculturist will no longer be rooted to the soil, but will become more a citizen of the world, observing and taking his part in the world's affairs, and moving from place to place with the object of bettering his condition. But the change in his lot renders inevitable a hardly less important change in the conditions under which agriculture is carried on.

There are defects in our educational machinery some of which cannot be overcome. The purchase of school sites and the erection of schools by public boards at the expense of the community, and the payment out of tax-money of a large proportion of the cost of education are measures affected by a Socialistic taint, and tending to encourage dependence on the State. Still more objectionable, on some grounds—but these are political rather than economic—is the

handing over of sums of public money to the managers of sectarian schools and training-colleges; and the uniform code, hide-bound in its mechanical stringency, is not an unmitigated boon. But when all is said that can be said on these matters, there is still an incalculable gain to the nation in the compulsory imparting to all its citizens of a sufficient educational groundwork in the years of childhood.

IX.

HEALTH—ARTISANS' DWELLINGS—MERCHANT SHIPPING.

THE Health legislation of recent times, though accompanied by many futile and vexatious regulations, has had the effect of reducing the sickness and death rates in all our cities in a very material degree. The sickness and mortality of bread-winners are causes of pauperism among their dependants, and so of cost to the community. They detract also from the volume and productive efficiency of adult labour. The great principle of natural liberty is inapplicable as a motive-power in sanitary improvement, because the self-interest of the owner of "slums" leads him to study, not what is conducive to health and well-being, but how he can make the largest profit for himself; and in many localities insanitary and dilapi-

dated dwellings yield a far higher rent in proportion to their capital-value than can be obtained from well-equipped and healthy tenements. Furthermore, individual liberty, when left unrestricted, is apt to lead to the spread of contagion and epidemic disease through a whole town or district, and to produce suffering and death among dozens or hundreds of innocent victims. Sanitary regulation rests upon a principle akin to that which justifies and underlies the repression of crime. Individual liberty must not be made a means or excuse for inflicting wrong upon others. Liberty to establish a hot-bed and centre of epidemic disease in the midst of a populous locality, is a liberty which the State has very properly established a sanitary police to repress and curtail. But while the general principle of our sanitary legislation is unquestionably sound, a great many of our sanitary laws, both local and general, are vitiated by fundamental error. The most notable Act of the last few years is the Artisans' Dwellings Act of 1875, which has been amended in some particulars by measures

of later date. Where a medical officer of health reports to a local authority that a certain area within its jurisdiction is in an unhealthy and dangerous condition, the local authority may prepare a scheme for the clearance and reconstruction of the area, due regard being paid to the requirements of the working classes in the matter of dwellings. On the confirmation of this scheme by the Secretary of State, power is given to demolish, to build, or cause to be built on the sites cleared, artisans' dwellings according to the Act. The Act applies only to boroughs of over 25,000 inhabitants, and, according to a Parliamentary return issued in 1883, only 33 schemes had been submitted in the course of the eight years during which it had been in operation, of which 15 had been approved, 14 rejected, and one partially accepted, while three were still under consideration. In 1882 a Committee of the House of Commons, presided over by Sir Richard Cross, the author of the Act, inquired into and reported upon its operation in the metropolis. From the report of this Committee it appeared that the

Metropolitan Board of Works had dealt in all with 42 acres of land, inhabited by rather more than 20,000 persons, and that in doing so the Board had incurred a net loss estimated at £1,211,000, or about £60 per head of the population supposed to be benefited. The law was intended to "guard against any excessive valuation" of the condemned properties; yet the cost of the cleared areas has been about 17s. per square foot, whereas the price obtainable for the land averages 3s. 4d. per foot, if given off subject to the obligation of erecting artisans' dwellings upon it, while, even if the Act were disregarded and the land disposed of on purely commercial principles, it would not bring more than 10s. per foot. If the areas in question were incompatible with health, and were centres from whence epidemics radiated all round, it is manifest that the properties were bought up at far too high a rate of compensation; and here we have a good illustration of the errors into which the Legislature is liable to fall when it deals with commercial matters. Where house property is so bad that its demolition is necessary for the

public safety, the commercial value of the site and of the materials after demolition is obviously the only value which the public interest can recognise ; and where it is desirable for local authorities to acquire properties for the making or widening of streets in such areas the price which they should be called upon to pay for them should be adjusted upon the basis of the value of the ground after it is cleared. It is not surprising that an Act embodying principles of compensation that have operated so injuriously to the pecuniary interests of the London ratepayer should have been to a great extent a failure.

The function of the State in relation to dwelling-houses should be only that of a police, to be exercised with care and discrimination ; and these might generally be secured by relegating this function to representative local authorities, assisted by duly-qualified sanitary officers, and subject to a power of appeal. Private initiative in the reconstruction of unhealthy areas would thus be stimulated. Overcrowding is pronounced to be a nuisance within

the meaning of the Sanitary Acts, and if these Acts were carefully enforced, in the sense just indicated, an adequate and natural remedy would be found for most of the existing sanitary evils, without involving either the central administration or local authorities in those mercantile dealings with land which are almost invariably little to their profit.

The relations of the State to Merchant Shipping being under the consideration of Parliament at the present time, and as much of the existing law seems likely to be superseded, we are absolved from the necessity of entering upon an extended discussion of this vexed question. A large number of Acts for the regulation of shipping have been passed in recent times, all having for their primary object the prevention of shipwreck and the saving of life; and so little success has resulted from this incessant process of law-making that the Department charged with the duty of seeing to the administration of these Acts is now promoting a radical change of principle and method. Some ten years ago Mr.

Samuel Plimsoll, then member for Derby, was carrying on a "crusade," which had the effect of concentrating public attention upon the deplorable loss of life at sea and upon some of its principal causes. The result was that an Act was passed extending the power of detaining unseaworthy ships to the local officers of the Board of Trade, and requiring every owner to place on his vessel a voluntary loadline, popularly known as the Plimsoll mark, though Mr. Plimsoll not only was not its originator but protested against it as worse than useless. A great staff of surveyors had to be engaged, and, between salaries and law expenses, the inspection and detention of vessels under the new law has been costing the country about £60,000 a year. And to what purpose? According to a memorandum issued by the Board of Trade, the loss of life and of ships has been greater since 1876 than ever it was before, and, subject to explanations, this assertion is borne out by statistics. The explanations are that the mercantile marine itself has greatly increased, and that there have been during that period two

or three exceptionally stormy seasons that have proved unusually disastrous to fishing craft as well as to the larger vessels subject to the Merchant Shipping Act. But making every allowance there is absolutely no advantage to show for the powers of restricting liberty conferred on the Board of Trade. Notwithstanding its huge staff of officials, the Board of Trade's inspection is necessarily still of a very superficial character. Dozens of vessels leave a large port daily, and what inspector can possibly be informed in each case as to all the details connected with the repair of the machinery and the distribution of the load? Each vessel would need an inspector to itself, and this it can obtain only through private responsibility. Mr. Chamberlain urges that prosecutions under the Merchant Shipping Act have almost uniformly failed because the shipowner has been able to plead that the vessel was not detained by the Government surveyors, and that if they saw nothing wrong with it, how could he be expected to be more keen-sighted or vigilant? This plea has almost invariably been successful, the shipowner

having "the benefit of every doubt." Such, then, is the result of lessening individual responsibility. Government action produces no better result, nay, affords an excuse and loophole for culpable neglect. The policy of the Legislature ought to be that of strengthening individual responsibility so as to make it a real factor in the success of enterprises, though not to the extent of rendering it too oppressive to be borne except by reckless men.

Mr. Chamberlain proposes that the principle of the Employers' Liability Act should be extended to employment at sea. It is quite possible, however, to carry this principle to such an extreme of indirect and constructive responsibility as to drive capital out of particular trades. Within moderate limits, and subject to the safeguard of insurance, the Act is of substantial benefit to the labouring classes and to the public, without materially harassing the operations of industry ; but it is easy to see how its provisions might be so extended and administered as that evil consequences would predominate over good. And so in regard

to shipping, it is possible so to extend the salutary principle of individual responsibility as to deter careful and cautious men from incurring its risks. Hitherto the tendency has been too often in the opposite direction.

X.

CONCLUSION.

THE conflict between the contending principles of Individualism and Socialism is manifest in all our recent legislation. On the one hand, we have the State, through its Ministers and Parliaments, undertaking all sorts of functions on behalf of the people, carrying their letters, telegrams, and parcels, doing their petty banking, even undertaking insurance; looking after their moral and physical welfare by means of the omnipresent inspector; lending them money to improve land, and even to buy it (in Ireland), and for building schools, constructing harbours, piers, and breakwaters, and emigrating "congested" populations to places where there is more room for them. By "subventions to local taxation" the unperceiving taxpayer, and the comparatively wealthy payer of income-tax,

have been burdened for the relief of real property, both in town and country, while at the same time the securities for economy have been impaired—representatives of localities being tempted to draw as much as possible from the general purse, when they have not to reckon with local constituents keenly interested in keeping the rates within moderate bounds. Loans for public works are not quite a recent innovation, but in their application to Irish tramways and to the purchase of land by companies for resale to peasant cultivators, they are receiving new developments the effects of which may not in the end be altogether pleasing. On the other hand, we have several important measures of recent date, the predominating character of which is to give freedom, to provide a field for the exercise of self-help, to do away with invidious restrictions and one-sided privileges. Many measures that tend to raise the less opulent classes to a higher plane of life are not deserving of being stigmatised as Socialistic in tendency. Education is an undoubted boon to these classes, because it gives them a means of

advancement into better circumstances; but, unlike Socialistic measures, it stimulates instead of paralysing individual energy. Sanitary legislation, though unnecessarily encumbered with details, is similarly beneficial to the commonwealth without leading to the evil of undue reliance upon the Government. To provide healthy houses at the public expense would be an enormous evil, especially if they were let at smaller rents than would sufficiently remunerate private enterprise in the erection of dwellings of the same class—and even this would hardly be going beyond the principles of the Irish Land Acts. But so long as sanitary measures are limited to the abatement of nuisances, and to such objects of municipal action as water supply and sewerage, they produce a maximum of good accompanied by a minimum of evil. The Factory Acts, which have in part an educational object and in part an object connected with the health and physique of the young, have, on the whole, and as regards their main scope, been justified by the test of experience, extending now through a

considerable period of time. They are restrictive of individual liberty, but such restriction is inseparable from our modern industrial organisation, and, in this case, conserves the human powers, and allows them to be utilised in a prolonged, and healthful, and instructed adult life. The Agricultural Holdings Acts, though also to some extent restrictive, are essentially measures giving freedom and security, and establishing conditions without which the tenant-farmer applies capital to the improvement of fertility at his peril. In the preceding pages the principal legislative measures of recent years have been discussed at considerable length, with the view of showing how far they are "in accordance with or deviate from the true principles of economic science," and to what "permanent effects" they may be expected to give rise. The discussion has not dealt very much with details, but has been for the most part confined to the main scope of the measures; nor has any attempt been made to review the whole list of recent laws, those only having been considered which seem to be of first

importance, and likely to exercise an appreciable influence for good or evil on the destinies of the Empire.

Mr. Newmarch, to whose memory this Essay is dedicated, was, as regards a wide sphere of economic operation, one of the most strenuous advocates of the doctrine of *Laissez Faire* or natural liberty, and I am afraid would have considered the preceding pages to be tainted by too great tolerance of State action where he would have had none of it. "One of the great dangers which now hang over this country," he once said, "is that the wholesome, spontaneous operation of human interests and human desires seems to be in course of rapid supercession by the erection of one Government Department after another, by the setting up of one set of inspectors after another, and by the whole time of Parliament being taken up in attempting to do for the nation those very things which, if the teaching of Adam Smith is to bear any fruit at all, the nation can do much better for itself." That such a danger exists is beyond all question,

and it is certainly not less patent and acute now than it was when Mr. Newmarch lived and taught. Sectional importunity seems unlikely to diminish, and statesmanship is too easily tempted into slippery ways. But sooner or later we may expect to see a healthy reaction set in against the busybodyism of Parliament and the delusive promises of politicians. Self-help is not yet dead in the land. The great Trades' Unions, whatever may be the errors into which they have fallen, have done an important public service in keeping alive and in robust operation this excellent principle of self-help through the agency of united effort. For the strength which comes of union, liable though it is to be grievously misdirected, is much to be preferred to the weakness begotten of reliance upon a meddlesome and self-complacent Legislature. And happily all our recent legislation has not been of an enervating character. Though in some prominent pieces of legislative work the principles of Political Economy have been ignored and despised, it has also been shown that Parliament can serve the nation by removing its own

unjust laws, setting free economic forces hitherto latent or repressed, and imparting fresh stimulus to individual effort. There is thus a conflict of tendencies in our recent law-making, and though the signs of the times are not at present altogether auspicious, we may look forward not entirely without hope to the development of an increasing distrust of "paternal" legislation, and an increasing regard for the sound and well-accredited principles of economics and polity that commended themselves to the strong mind of William Newmarch.

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