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The Irish Land Acts of 1870, 1881, and 1885

Margaret Philomena Costello

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THE IRISH LAND ACTS OF 1870, 1881 AND 1885

A THESIS

SUBMITTED TO THE FACULTY OF THE GRADUATE DEPARTMENT

OF THE

UNIVERSITY OF NORTH DAKOTA

U⁹⁵/₃P

BY

MARGARET PHILOMENA COSTELLO

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS IN EUROPEAN HISTORY

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This thesis, presented by Margaret P. Costello, in partial fulfillment of the requirements for the degree of Master of Arts in History, is hereby approved by the Committee on Instruction in charge of this work.

Committee on Instruction

Clarence Perkins
Chairman

James E. Cox

J. V. Breitwieser

J. V. Breitwieser
Director of the Graduate Department

80177

Bdg. 150/34 Hertenberg 1.00

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PREFACE

The purpose of this Thesis is to show how the British Parliament by its unjust legislation for Ireland, caused discontent and misery among the Irish people, and how by later Agrarian legislation - The Land Acts of 1870, 1881 and 1885 - it tried to remedy some of these evils.

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CHAPTER 1

A SKETCH OF THE IRISH DIFFICULTIES BEFORE 1870

"The fundamental cause of the discontent of the Irish lies in the fact that Ireland is a conquered country and that the Irish are a subject race".¹

As early as the twelfth century the Norman kings invaded Ireland. In 1172 an official lordship was established over Ireland by King Henry II. The English settled in a region around Dublin which became known as the Pale.² The various conquests by English rulers has been followed by extensive confiscations. In 1652 a great confiscation, known as the Cromwellian Settlement was consummated as a punishment for the Irish who favored Charles I against Parliament. Large sections of the provinces of Leinster and Munster were confiscated and given to the Englishmen. Another great confiscation followed the history of King William over the Irish at the Battle of the Boyne in 1690, when large tracts were given to the favorites of the King.³ Ireland was almost exclusively an agricultural country. The land was chiefly owned, not by those who lived on it and tilled it, but by a comparatively small number of landlords. Many of these were English absentees, who rarely

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1. Hazen. Charles Downer, Europe Since 1915, New York; Henry Holt and Company; 1910, Ch.XX, p. 467
 2. Schapiro. J. Salwyn, Modern and Contemporary European History, Boston, Houghton Mifflin Company, Ch.XIV, p. 282.
 3. Schapiro Op. Cit. p. 384

if ever came to Ireland and who regarded their estates solely as a source of revenue. The business relations with the tenants were carried on by agents or bailiffs who often treated the tenants most unjustly. As there was no competition among the landlords to rent their land, the tenants were not treated with liberality or consideration.⁴ Before the close of the seventeenth Century a system of legislation was devised by the English Government which had for its object the degradation, if not the destruction of the Irish people. No Catholic could vote or hold office. All education had to be under Protestant auspices, and Catholics were not permitted to enter any liberal profession except that of medicine. No Irish Catholic could inherit or buy land from a Protestant or lease it for a period longer than thirty-one years. A special tax was laid on all Catholics engaged in industry, and they were forbidden to employ more than two working men. Driven from the land the Irish turned to cattle raising for which the country is well fitted. The English Government put a high export duty on cattle and so destroyed that industry. The Irish began to build a prosperous trade in wool, but the English put a high export duty on wool and this industry, too, was ruined. Manufacturing survived to any extent only in the province of Ulster.⁵ Land is essential to the very existence of the greater part of the Irish people. For this reason

4. Hazen Op. Cit. p. 473

5. Schapiro, Op. Cit. p. 473

they promised a higher rent to the landlords than they were able to pay. This led to evictions. Lands were not rented for a year or five years, but only as long as the landlord saw fit.⁶ Evictions were the main cause of the Irish land crime. Major M'Kie, poor law inspector of Galway, made the following report about evictions, made by Mr. Blake, a magistrate of the county of Galway, in the year 1848, - on New Year's eve.

"It would appear from the evidence recorded, that forcible ejections were illegal; that previous notices had not been served; and that ejections were perpetrated under circumstances of great cruelty. The time chosen was at midnight or on the eve of the new year. The occupiers were forced out of their houses with their helpless children and left exposed to the cold on a bleak western shore in a stormy winter's night; that some of the children were sick; that the parents implored that they might not be exposed, and their houses left until the morning; that their prayers for mercy were vain; and that many of them have since died. I have visited the ruins of these huts, not any great distance from Mr. Blake's residence; I have found that many of these unfortunate people were still living within the ruins of these huts endeavoring to shelter themselves under a few sticks and sods, all in the most wretched state of destitution. Many were so weak that they could scarcely stand when giving evidence."⁷

7. Hansard, Op. Cit., Vol. 97, p. 1009

This report was read in the House of Commons by Sir R. Peel, March 24, 1848. It was debated upon by some of the members and the House took action upon the matter.

The Governor General said it was an indictable offense and that the parties might be taken before a magistrate, but it was not usual in this country and certainly not in Ireland, to make any amount of private wrong the subject of public indictment.⁸

Mr. Robert Peel said, "It is more incumbent upon us when cases of this kind are brought under the notice of the House, where the law affords no remedy and when the government is powerless, to exercise the moral power which we possess, by marking our indignation against such occurrences".⁹

Mr. Reynolds said, "Mr. Blake a magistrate of Galway, had admitted in evidence that he had unhoused the people without sanction of either law or justice, and sent them forth upon the wide world in the inclement month of December, and that their lives had been sacrificed in consequence. He asked that Mr. Blake be dismissed from office".¹⁰

8. Hansard, Op. Cit., Vol. 97, p. 1007

9. Ibid, p. 1009

10. Ibid, p. 1008

Mr. P. Scrope asked if the law to punish did exist let it be vindicated, if not, let a law be passed to do justice to all - to the poor as well as to the rich.¹¹

Sir G. Grey afterward reported that this case was brought to the notice of the Lord Lieutenant of Ireland who submitted the case to the law officers of the Crown. The decision given was that the Government could not legally undertake a criminal prosecution. The Lord Chancellor afterward secured Mr. Blake's dismissal from office.¹²

Mr. Thompson, late President to the Royal Agricultural Society said it was an appalling fact that out of 500,000 occupiers of the soil in Ireland, 250,000 possessed holdings under fifteen acres. Such a state of affairs represented beggary. The English laborer might make 12s a week, and £5 harvest money, £37 per annum; but the utmost a man could hope to gain from fifteen acres of land was £28 or £30 a year.¹³

11. Hansard, Op. Cit., Vol. 97, p. 1009

12. Ibid., p. 1062

13. Hansard, Op. Cit., Vol. 200, p. 754

Table to show the size of farms in Ireland.¹⁴

Year	1 acre & under	1 to 5 acres	5 to 12 acres	15 to 30 acres	Over 30 acres
1841	135,514	310,436	252,799	79,342	48,625
1851	37,728	88,083	191,854	141,311	149,090
1861	40,080	85,496	181,931	141,252	151,833
1871	48,448	74,809	171,383	138,647	159,303

There were four different systems of land holdings in Ireland, and under each system generally the improvements were made by the tenants.

If a tenant drained a marsh, built a fence, or improved his cottage his rent was immediately raised by his landlord; if he refused to pay it, he was promptly evicted and the improvements, as well as the farm became the landlord's property without any compensation to the tenant. The only exception to this was found in the Ulster custom which recognized the principle of "tenant right" by giving compensation for improvements to tenants in case they were evicted for causes other than the non-payment of rent. There was one blot on this custom however for it was only binding in a court of morals, not in a court of law.

14. Bryce. James, Two Centuries of Irish History, London. Megan Paul French and Company, 1888, Ch. VI., p. 486

The second system was that which existed under other customs analogous more or less to that of Ulster prevailing irregularly and variously over a large part of Ireland, but not having the weight of tradition belonging to the Ulster Custom. The third system was that which had not practically enjoyed, hitherto, any protection from any custom such as that of Ulster, or such as may be found in other parts of Ireland. The fourth system was modeled after the Scottish and English fashion under which a farm is delivered over with all its appliances, generally speaking, in the hands of the tenant for the purpose of cultivation, these appliances being furnished by the landlord. This system was very rare in Ireland.¹⁵

Many of the Irish farms were too small to support a family. Living almost exclusively on potatoes and in wretched huts which sheltered alike human beings and animals, the Irish peasants were in a state of indescribable poverty and misery. The failure of the potato crop in 1845 to 1847 produced unimaginable suffering. About eighty thousand persons died of starvation during those years, and between 1846 and 1851 a million and a quarter Irishmen emigrated to America.¹⁶

15. Hansard, Op. Cit., Vol. 199 p. 565

16. Schapiro, Op. Cit., p. 389

In 1852 the emigrants numbered 220,000; and in 1853, 192,000. This emigration relieved the distress which existed in Ireland because of the scarcity of land,¹⁷ but this did not make the Irish people happy or contented. Serious attempts to right Irish Agrarian wrongs were not made until Mr. Gladstone took up the problem. His first effort was the Bill of 1870 which now claims our attention.

17. Hansard, Op. Cit., Vol. 261, p. 1083

CHAPTER 2

THE IRISH LAND BILL OF 1870

In his introductory speech, Gladstone gave the following reasons for formulating the Bill:

"We have avoided by this Bill any interference of public authority with any existing rent, but when we look at the case of Ireland, we are compelled to admit that of late years, especially, there may have grown up in certain cases contracts for rent of a character most extravagant which are impossible for the tenant to pay and at the same time to live upon his holding:¹ We have tried hard in the construction of the measure, but we are far from believing it perfect. Our desire is that when it has been received and sanctioned by the Legislature, it may become a great gift to Ireland, and may put an end to the grievances and sufferings which have so long accompanied the tenure of land in Ireland.² We sought to give security of tenure to the occupiers of the soil by attaching to evictions such conditions as would render them impolitic and difficult on the part of the landlord. We wish to secure the evicted tenant, if he fulfil his contract, from the danger and fear of being thrown upon the world without carrying with him a fair and reasonable compensation. We have afforded the landlord improved security for his rent, and improved

1. Hansard Op. Cit., Vol. 199, p. 379
2. Hansard Op. Cit., Vol. 199, p. 382

security for his rent, and improved security, as we think for the better cultivation of his land; we have also given him power against unauthorized subletting and subdivision of his property which he does not now enjoy. The landlord may likewise if he sees fit avoid by his leases the more exceptional operation of the bill. For the benefit of the Irish laborer we have allowed the tenant to subdivide and sublet for cottages and gardens, to be let to the laborers employed upon the holding; and, in offering from the public funds facilities for the acquisition of the land. We have been careful not to exclude the acquisition of land in small quantities. The Legislature increased the demand for labor by imparting a stimulus to the agriculture of that country and to insure its requiring strong hands to carry it on.³ One of the evils of exacting an increased rent in proportion to an increased product is that many small farmers out of fear of having to pay more for his holding converted his tillage into pasture, or kept land in pasture that should be converted into tillage. By either course of procedure he lessened the demand for agricultural labor. If we can convince every man that from the time this act passes he will be able to prosecute his industry in safety, and in a manner most advantageous to himself, so that all the land that is fit for tillage may be devoted to tillage, and that in a word the noble pursuit of agriculture shall be practically

3. Hansard Op. Cit., Vol. 199, p. 383

as well as theoretically free. We, shall confer upon the agricultural laborer the greatest boon which it is in our power to bestow."⁴

The Ulster Custom Defined.

The tenant's right was undisturbed possession of his holding as long as he paid his rent, and fair payment for all permanent improvements, in case he should relinquish his holding, whether voluntarily or because of inability to pay his rent.⁵

The Main Provisions of the Original Irish Land Bill of 1870.

The Ulster Custom as it existed in Ulster was legalized. Outside of Ulster less binding customs were legalized with certain restrictions. In cases where no such custom was to be found and where the tenant was not protected by any lease a scale of damages for eviction was established. This could only be applied where the landlord disturbed the tenant in his holding. It could not be applied if the tenant divided or subdivided his holding, as if he was evicted for non-payment of rent; arrears of rent or damage to the farm might be set off against it; it might be barred by a length of lease for thirty-one years or upward. In case of holdings above £50 parties might make contracts as they wished provided a lease was

4. Hansard, Op. Cit., Vol. 199, p. 284

5. Hazen, Op. Cit., Ch. XX, p. 475

given for twenty-one years, and if by that lease the landlord contracted to execute the improvements necessary in order to cultivate the soil in due manner of husbandry. In farms of certain size the landlords could make contracts which were not according to the provisions of the Act.

When using the scale of damages, the Judges, had to consider two things, -first, the improvements which the tenant had made on the farm, and second the loss which the tenant sustained by being ejected from his holding. It included compensation⁶ for improvements such as manure, tillage, fencing, permanent buildings and reclamation of land.

SCALE OF DAMAGES

If the holding was between £10 and £50 he might be awarded a sum not to exceed 5 years' rent. If the holding was from £50 to £100 he might be awarded a sum not to exceed three years' rent. If the sum was over £100 he might be awarded a sum not to exceed two years' rent.⁷ In using the Equities Clause the Judge was allowed to use his own judgment on all points.⁸ Special Courts were established to carry out the provisions of the Bill. There was a Court of Arbitration which could be used by a choice of the parties where awards once decided had the force of law, or the Civil Bill Court.⁹ No claim was allowed for improvements made more

6. Hansard, Op. Cit., Vol. 199, p. 370

7. Hansard, Op. Cit., Vol. 199, p. 371

8. Ibid., p. 372

9. Ibid., p. 353

than twenty years before the passing of the Act unless it were permanent buildings or for the reclamation of land.¹⁰

THE BRIGHT CLAUSE

This Clause of the Bill was formulated for facilitating the transfer of land from the landlord to the tenant. John Bright added the Clause to the Land Act of 1870.

A loan of public money was to be given to those who wished to purchase the land which they occupied from the landlord. The assistance was only to be given when the landlord was willing to sell. The tenant was to pay 25% down and the remainder was to be borrowed from the government. The re-payment of the loan was to be arranged upon the basis of the Drainage Act.¹¹ Loans were to be given to owners of waste land for the purpose of preparing the land for occupation, - by making roads, and by the erection of necessary buildings, etc. These waste lands might then be sold by the landlord to tenants provided the landlord was willing to become joint security to the Government for the money, or that other satisfactory security could be had. All of these transactions were to be under the direction of the Board of Works in Dublin.¹² For the purpose of adjusting land matters in this bill a

10. Ibid, p. 373

11. Hansard, Op. Cit., Vol. 199, p. 361

12. Hansard, Op. Cit., Vol. 199, p. 362

distinct judicial machinery was to be established.¹³

After Mr. Gladstone had explained his reasons for presenting the Land Act of 1870 and outlined the main provisions of the bill, it was debated in the House of Commons. The arguments given for and against it are in the following pages.

13. Ibid., p. 363

ARGUMENTS FOR AND AGAINST THE IRISH LAND BILL OF 1870
BY THE HOUSE OF COMMONS BEFORE GOING INTO COMMITTEE

Mr. Disraeli said in discussing the Bill that his main objections were that the Bill was moved for political reasons rather than for any desire to improve the condition of Agriculture in Ireland.¹ He objected to the principle of giving advances of Government money to tenants in order to make them free-holders. Instead of putting their own capital into the purchases of land, it would be better for them to dedicate it to the cultivation of the soil.² He thought the Bill was very complicated and clumsy.³ The Bill altered by an Act of Parliament the nature of property, the thing least to be tampered with safely by legislation. The landlord could no longer do what he wished with his own property. In place of absolute ownership, it made the tenant a part owner, for he could not be evicted as long as he paid his rent. He thought Parliament was unwise to interfere with the freedom of contract in Ireland for freedom of contract was one of the greatest securities for the progress of Civilization.⁴ He said it were better to leave the Ulster Custom as it was for it worked with very general satisfaction. If a man without a lease who had

1. Hansard, Op. Cit., Vol. 199, p. 1806

2. Ibid., p. 1818

3. Ibid., p. 1821

4. Hansard, Op. Cit., Vol. 199, p. 1824

paid his rent were evicted, let him go before a Judge who would investigate all the elements of the equity of the Case. His decision would guard the tenant from coercion and the landlord from fraud.⁵ The Courts of Arbitration would not work well and appeals from assistant barristers would take up the entire time of the Judges of the Assizes, or the duty would be performed in a most unsatisfactory manner.⁶

Mr. Gladstone said that Mr. Disraeli wanted a simple Bill, and that he thought it best to leave the Ulster Custom as it was and to respect freedom of contract. Just appoint a Judge when a tenant was evicted who would guard the tenant from coercion and the landlord from fraud. "Suppose that a landlord contracts with a tenant that he shall not upon eviction go before a Judge, what would become of the measure proposed by Mr. Disraeli?"⁷

Mr. Cavanagh said he did not think that the provisions which took away freedom of contract were at all advisable for they took away from a man the right to do as he saw fit with his own and obliged him to pay over again for what is already his. This would also lessen the value of land as security.⁸

5. Ibid, p. 1821

6. Ibid, p. 1823

7. Ibid, p. 1828

8. Hansard, Op. Cit., Vol. 199

Mr. Agar Ellis said as long as the Bill gave the tenants the improvements which rightfully belonged to him, he would vote for the Bill.⁹

Mr. Bryan thought that there was almost a universal feeling on the part of the country that the Bill would fail in its object unless the Government was prepared to receive Amendments of so serious a nature as almost to alter the entire Bill.¹⁰ The Bill was vicious in principle for it tried to prevent eviction, not by touching tenure, but by proposing a scale of penalties to deter the landlord from what was thought unjust. The competition for land was so great that no scale fixed by the House would prevent eviction.¹¹

Mr. Hunt said as he understood the Bill damages for eviction had no reference to improvements on the land which the tenant had made and for that reason he didn't think the Bill was a just and equitable measure.¹²

Mr. H.B. Samuelson said that in regard to compensation for disturbance he thought the Government had taken the true course but on economical grounds he thought it best not to adhere to the doctrine. When it came a question of choosing between political economy and remedying the state of Ireland he would choose the latter.¹³

9. Ibid., p. 1405

10. Ibid., p. 1337

11. Hansard, Op. Cit., Vol.199, p. 1376

12. Ibid., p. 1501

13. Ibid., p. 1528

Mr. Maguire said that if the Ulster Custom was to be extended to all parts of Ireland it would be confusing and unjust if it were not defined as the Custom is different in many places.¹⁴

Mr. Hunt said that if the Ulster Custom were defined a great injustice would be done because it would introduce great alterations and force landlords whose estates are not subject to the extreme rights of the Custom to submit to the same law with those that are.¹⁵

Mr. Ball said he objected to the idea that the Irish tenant was not able to take care of himself by contract as the English tenants do.¹⁶

Mr. Maguire said, "I think that the Government should extend this protection for free contract does not and cannot exist. The condition of Ireland is different from that of England. Land to the Irish people is necessary to their very existence. They must have land. They will make any contract in order to get it."¹⁷

After deciding that the Bill should be read a third time, the House of Commons resolved itself into a Committee to consider the Bill in detail and tried by Amendments to make it more adequate for the purpose for which it was formulated. On the following pages are enumerated

14. Hansard, Op. Cit., Vol. 199, p. 1498

15. Ibid, p. 1499

16. Ibid, p. 1461

17. Ibid, p. 1488

many opinions given by the Committee and also the important Amendments made by the House of Commons.

THE FOLLOWING OPINIONS WERE GIVEN MAR. 28, 1870 BY

A Committee of the House of Commons

About the Land Act of 1870

Mr. Headlam objected to the Clause which declared the tenant - right custom legal. He said that the Custom was already legal as it was, for no court ever pronounced it to be void as against public policy.¹ The tenant-right custom rendered it mathematically certain that the tenant would be rack-rented to the highest possible amount, for he had to pay money to the tenant on entering the farm and also the rent to the landlord, and those two put together made a high rent. Under these conditions it was best to do away with the system. It made the landlord antagonistic to his tenant and induced him to be an absentee.²

Mr. Chester Fortescue objected to the criticism of Mr. Headlam. He said that Mr. Headlam talked as if the hostile relation of landlord, and tenant, and the evil of absenteeism were the result of the Ulster Custom, and that we provided no means of getting rid of that which was obnoxious in character.³ He felt sure that the tenants of Ulster would not agree with Mr. Headlam for they appreciated the proposals made by the Government.⁴ They wished to depend on the law of the land and not on the will of the

1. Hansard, Op. Cit., Vol. 200, p. 738

2. Ibid, p. 742

3. Hansard, Op. Cit., Vol. 200, p. 745

4. Ibid, p. 746

landlord. If Mr. Headlam acquired some knowledge of the Ulster Custom and studied the Bill, he would know that the Ulster Custom must be legalized.⁵

Sir Frederick Heygate gave further explanation to Mr. Headlam in regard to the benefits of the Ulster Custom. Mr. Heygate said that wherever the tenant-right prevailed great security existed. The people of Ulster saved money and not being satisfied with getting small interest on it, put their money into tenant-right, knowing that they were sure to get good returns on it. To give a large number of people an interest in the land of their country would be a great advantage. In regard to the high rent in Ulster the proximity of the manufacturing was to some extent responsible for it.⁶

Mr. Gladstone said that he objected to any condemnation of the principle of the Ulster Custom unless such condemnation were followed by some practical action. The tenants of Ulster had £20,000,000 sunk in the Custom and it would annoy them to speak disparagingly about it. Mr. Headlam made a proposal for the extinction of the Custom which he thought was not a good policy. If a landlord bought up the claim of the tenant he would be free to let his land altogether exempted from the Custom.⁷

5. Ibid., p. 748

6. Hansard, Op. Cit., Vol. 200, p. 749

7. Ibid., p. 752

Mr. Banke wished to know why it was that other customs in Ireland were treated differently from the Ulster usages of Ireland.⁸

Mr. Headlam agreed with Mr. Banke that he saw no reason why the Government legislated for Ulster in a different manner from that in which they legislated for other parts of Ireland.⁹

Mr. Samuels also stated that no distinction should be made between the North and the South of Ireland. There should be one legal custom for both. If the Ulster Custom was used at all it should be used for all of Ireland. He proposed to amend Clause II so that there would be only one custom throughout Ireland.¹⁰ The amendment was denied by a majority vote of 283.¹¹

8. Ibid, p. 759

9. Hansard, Op. Cit., Vol. 200, p. 759

10. Ibid, p. 760

11. Ibid, p. 775

IMPORTANT AMENDMENTS MADE BY THE HOUSE OF COMMONS IN
THE LAND ACT OF 1870

The Act Considered by a Committee of the House.

Mr. Douse proposed an amendment to give the Court jurisdiction over the disputes which arose between the landlords and tenants in regard to money due the landlord by the tenant. He thought it was necessary as many such disputes would occur.¹

Mr. Chichester Fortescue introduced an amendment which he thought would be a great benefit to laborers. This provided that the landlord might after six month's notice in writing take one-twenty-fifth of the tenant's possession and erect laborers cottages with or without gardens. He would not be subject to any compensation to the tenant beyond a proportionate abatement of rent.²

Mr. Roundell Palmer proposed an amendment so that the Judge would have a right to exercise his discretion against the tenant - where the landlord had offered him fair terms of continuance in his holding. Under such conditions any claim for compensation was to be disallowed if the tenant refused such offer.³

Mr. Bruen proposed an amendment for further protection to the landlord. When a tenant claimed money

1. Hansard, Op. Cit., Vol. 201, p. 427
2. Ibid., p. 1418
3. Ibid., p. 1439

for disturbance the landlord had a right to deduct for deterioration of the holding arising from non-observance on the part of the tenant of the covenant. The amount of taxes due by the tenant might also be deducted by the court.⁴

Mr. W. M. Farrrens said that in 1852 a bill had been prepared to protect the tenant who bought land under the Encumbered Estates Court from arbitrary evictions. 88,000 tenants had been driven from their homes during the past sixteen years because the Bill failed. He proposed that after the decree of sale of such land the tenant be given a lease for thirty-one years with such covenant as the Court may see fit and the property to be sold according to the covenant.⁵

Mr. Chichester Fortescue said that as the Bill stood it required the hearing of every appeal to be before two Judges of Assizes which upon consideration he thought was going too far. He proposed that the hearing of appeals be tried before one judge, but if a question of law arose the said Judge of Assizes might call in another Judge.⁶

Mr. Pim proposed an amendment to protect the tenant further. No distress for rent due under a tenancy

4. Hansard, Op. Cit., Vol. 201, p. 397

5. Ibid, p. 597

6. Hansard, Op. Cit., Vol. 201, p. 1440

was to be made by the landlord after the passing of the Land Act unless this privilege was given by a written agreement regulating the terms of the tenancy and giving the landlord this right.⁷

After these Amendments were voted the Bill passed the House of Commons for the first time May 30, 1870. The House of Lords then took the Land Act under consideration. As will be seen by the following arguments, it was attacked vigorously by some of the Lords because it interfered with the freedom of contract and property rights.

7. Ibid., p. 1420

OPINIONS GIVEN IN THE HOUSE OF LORDS ABOUT THE LAND
ACT OF 1870 BEFORE GOING INTO COMMITTEE

The Earl of Granville stated that the Bill was founded on the assumption that the great bulk of Irish tenants were unable to contract for themselves, and that they required some protection from the law. The Bill tried to remedy this evil with as little disturbance as possible.¹ Interference with freedom of contract was not contrary to the principle of the English law. A shipmaster is subject to such interferences with regard to taking on board his vessel persons, who in other respects are quite competent to enter into contract.² The Bill was not revolutionary, but it did aim to give the tenant his just compensation for improvements. The proprietary rights of the landlord were to be maintained.³

The Duke of Richmond objected to the idea that the tenants were unable to make contracts for themselves, and that they needed the protection of the law, so that they would not be unjustly evicted without compensation for their improvements. He said that the Irish landlords as a class were good landlords. This provision was not necessary.⁴ The law should not interfere with the freedom

1. Hansard, Op. Cit., Vol. 202, p. 14

2. Ibid., p. 18

3. Ibid., p. 9

4. Hansard, Op. Cit., Vol. 202, p. 24

of contract. The illustration given about the owner of a ship was not at all applicable to the land situation.⁵

The Earl of Russell pointed out that it was a necessity to interfere with the freedom of contract for there were many tenants-at-will in Ireland who often got a notice to quit in six months. The Duke could not dispute the case of a Mr. Scully who tried to make his tenants sign an agreement to give up their tenancies on a fortnight's notice.⁶

Lord Dufferin said the small Irish tenant could not be considered as an agent capable of free contract and that however right these rules might be, it was best under certain circumstances to dispense with them. With respect to the main part of the Bill, the giving of compensation to tenants-at-will on eviction, he considered it an equitable obligation on the part of the State to interpose in their behalf.⁷

The Marquess of Salisbury stated that the policy of interference by Parliament with the making of contracts except in matters which affected human life had disappeared. When a tenant was evicted he should be paid for his improvements on the land. He was entitled to nothing more. Under certain circumstances you wish to give him one-fourth to one-third of the value of the land which he occupies.

5. Ibid, p. 21

6. Ibid, p. 46

7. Hansard, Op. Cit., Vol. 202, p. 73

This was robbery. On what grounds was this to be done?⁸
 His feeling was that if Ireland had a larger number of small proprietors there would never have been any need of Land Bills.⁹

The Earl of Kimberley agreed with the Marquess of Salisbury that what Ireland needed most for peace and safety was a large number of small proprietors. The only objection to Mr. Bright's scheme was that it did not allow a large number of tenants to become proprietors.¹⁰ If as the Marquess said nothing was to be given to the tenant except what he was actually entitled to by the letter of the law, he must consistently object to legalizing the Ulster Custom which was regarded by the landlords as binding in honor, yet it was a custom which was based on no law.¹¹

The Earl of Brandon said that in the south of Ireland matters were just the reverse of what people thought. He believed that only in exceptional cases were there insecurity of tenure and too high rent.¹² To interfere with existing leases would be the cause of endless litigation.¹³ On account of middlemen leases

8. Hansard, Op. Cit., Vol. 202, p. 80

9. Ibid., p. 75

10. Ibid., p. 84

11. Ibid., p. 86

12. Hansard, Op. Cit., Vol. 202, p. 90

13. Ibid., p. 91

in Ireland it would be impossible to ascertain who made improvements on a farm, or at what time they were made, in order to carry out the provisions of the Bill in regard to compensation. Retrospective compensation was unjust for you took from one what belongs to him and gave it to another. "If you can do this, where are you going to stop?"¹⁴

Lord Monk said that his honorable friend the Earl stated that evictions and high rent were exceptional cases in the south of Ireland,¹⁵ but a reference to authorities from the time of Elizabeth showed that liabilities to disturbance had always been a grievance in Ireland and the uncertainty of tenure had prevented the possibility of good cultivation of the land. The intimidation caused by uncertainty of tenure was often aggravated by exceptional instances of injustice.¹⁶ He believed that the tenant should be made secure in whatever interest he had in the soil. Why not put a clause in the Bill to settle the question of fair rent? Let the Assistant Barrister of the Civil Bill Court decide it. This would prevent unscrupulous landlords from harassing their tenants.¹⁷

14. Ibid., p. 92

15. Hansard, Op. Cit., Vol. 202, p. 94

16. Ibid., p. 95

17. Ibid., p. 97

The Earl of Lucan gave as his opinion that the Government should advance purchase money to tenants paying 2,000 pounds to 3,000 pounds as well as to those paying from 20 pounds to 30 pounds. Advancing money to too many small tenants was to create a peasant proprietary which was mischievous. As to the other parts of the Bill it was dishonest, oppressive, revolutionary and totally uncalled for. It took from A and gave it to B which was robbery. It gave seven years valuation as compensation to the tenant. It was unfit for civilized Government to propose such a measure. To find a parallel to this measure one must go back to the French Revolution.¹⁸ The landlords will lose control of their estates and become absentees if this Bill passed.¹⁹

The Earl of Granville said he felt that he expressed the feeling of most of the House in not agreeing with Earl Lucan in his attack on the Government and the House. If he thought the Bill a robbery, an outrage, and a revolution, why did he sit silent for three nights of debate on the second reading without delivering his opinion?²⁰

After these opinions were given the Lords passed the following important Amendments in Committee.

18. Hansard, Op. Cit., Vol. 202, p. 742

19. Ibid, p. 744

20. Hansard, Op. Cit., Vol. 202, p. 744

THE HOUSE OF LORDS WHICH RESOLVED ITSELF INTO A COMMITTEE JUNE 2, 1870 TO DISCUSS THE IRISH LAND ACT OF 1870, PASSED THE FOLLOWING IMPORTANT AMENDMENTS

The Earl of Litchfield proposed the following Amendments - First, an amendment to compel every future purchaser of Ulster-tenant right to have his right evidenced by a deed registered in Court within a month after his purchase. This was necessary to prevent difficulties when legal question arose.¹

His second Amendment was to add a compensation clause as that if the landlord or his predecessor had put money into the land in the way of improvements it would be deducted from the tenants' compensation for improvements. The improvements were not to date back more than 20 years.²

The Duke of Richmond proposed the following Amendments - First, he proposed to change the scale of compensation. The Bill gave the highest scale of compensation - seven years' rent to the holdings valued at 10 pounds and under 10 pounds. He changed the wording of the scale to read 4 pounds and under.³

His second Amendment was to extend the limitation of disturbance in holdings. The original

1. Hansard, Op. Cit., Vol. 202, p. 757

2. Ibid., p. 774

3. Hansard, Op. Cit., Vol. 202, p. 759

Bill allowed that eviction for non-payment of rent only would not be considered disturbance. The Duke added to this "Or for breach of any condition which the Judge before whom the case is tried shall think a reasonable one."⁴

His third Amendment provided that when a tenant held a lease for 20 years he would not be entitled to compensation under the Act. The original Bill stated that leases had to be granted to tenants for 31 years in order to get the landlord exempt from awarding compensation.⁵

In the Duke of Richmond's fourth Amendment he provided that in all cases of dispute between landlord and tenant taken into court, the order of the Court should be reduced to writing making an exact entry of everything in the decree.⁶

The Lord Chancellor objected to the Amendment. He thought the Court could make its own rules of procedure. Lord O'Hagen added a few words and the Amendment passed.⁷

The Marquess of Clanrigaide moved an Amendment that all claims for improvements put forward either by landlord or tenant should be proved by evidence and that such evidence should be subject to appeal.⁸

4. Ibid, p. 994

5. Ibid, p. 875

6. Ibid, p. 1064

7. Hansard, Op. Cit., Vol. 202, p. 1064

8. Ibid, p. 988

He also proposed an amendment to the clause barring compensation for improvements made 20 years before the passing of the Act. He worded the clause to read that Compensation could be claimed for even one-hundred years before the passing of the Act.⁹

He proposed a third amendment to prevent the tenants from vexing their landlords. It stated that when a tenant demanded compensation under any provision of the Act he must surrender his holding. This Amendment was voted down.¹⁰

Lord Dunsay said that in order to protect the landlords' property he proposed that an Amendment be made to the Bill forbidding the tenant to break up or till any land or lands used for grazing or grass lands before the passage of the Land Act.¹¹

9. Ibid, p. 955

10. Ibid, p. 1060

11. Hansard, Op. Cit., Vol. 202, p. 960

ON THE RETURN OF THE BILL TO THE COMMONS

THE HOUSE REFUSED TO ACCEPT IT

They did not accept the Duke of Richmond's Amendment to have the scale of compensation lowered. The original Bill gave the highest scale of compensation - seven years' rent to holdings valued at 10 and under. The Lords wished to have the scale read 4 and under. The Commons felt that the scale was low enough as it was stated in the original Bill.¹

They refused to accept the Amendment of the Duke of Richmond which changed the wording of the Bill so that if a landlord granted a tenant a lease for 21 years he would not have to grant compensation as under the Act. They asked the Lords to restore the 31 years instead of 21 years as this was the proper length of period to exempt landlords from granting compensation for disturbance.² They objected to the Duke of Richmond's Amendment to extend the limitation of disturbance in holdings. The original Bill stated that non-payment of rent only would not be considered as disturbance by the landlord, but the Duke added that any breach of law on the part of the tenant could also be considered. They did not accept the change.³

They did not accept the Duke of Richmond's Amendment that in cases of dispute between the landlord and

1. Hansard, Op. Cit., Vol. 203, p. 118

2. Ibid., p. 119

3. Hansard, Op. Cit., Vol. 203, p. 119

the tenant which were taken into Court, the orders of the Court should be reduced to writing making an exact entry of everything in the decree.⁴

The House of Lord's Agreed to all changes made in their amendments except this amendment about the Court keeping an exact record of its decree. This they insisted on.⁵ The House of Commons agreed to this Amendment July 28, 1870. The Bill passed and received the Royal Assent, August 1, 1870.

4. Ibid., p. 118

5. Ibid., p. 820

REASONS WHY THE IRISH LAND ACT OF 1870 FAILED

On account of the scarcity of land in Ireland, the tenants were unwilling to give up their land. The landlords raised their rent so as to rack-rent their tenants, thus appropriating the tenants' interest which it was the intention of the Act to secure. Sometimes there was a wholesale revaluation of estates of landlords. Often it was done by a "silent process" of successive raising of rent in small amounts until it reached 25% or more. The latter process left the tenant in doubt as to whether it would be better to give up the holding and claim the interest which he had in it or not. In Ulster it was accompanied also by the creation and invention of arbitrary office rules reducing the tenant-right, or putting the tenant to great legal expenses in proving his right. These cases, were numerous enough to create widespread feeling of injustice, insecurity and alarm through large classes who felt that they might be dealt with in the same way.¹ The Act seemed to proceed in the wrong direction from the outset for it created bitter hatred between the landlord and the tenant. The landlord thought that a part of his property had been taken from him without any compensation and handed over to the tenant.² The Act made no provision

1. Hansard, Op. Cit., Vol. 260, p. 1590

2. Ibid, Vol. 261, p. 830

for the evils arising from the keen competition for land which existed throughout Ireland. The landlord raised his rent whenever he wished to. The Act made the process for securing compensation for disturbance both expensive and difficult.³ Many of the decisions given by the Country Court were adverse to the tenants and when the Courts did give a decision favorable to them the amount due for compensation was eaten up by the costs.⁴ The Bright Clause which sanctioned the advance of two-thirds of the purchase money did not work well for in eleven years the Act only succeeded in establishing 870 peasant proprietors. This was due to the fact that the tenants didn't have enough money to supply the one-third of the purchase price.⁵

3. Hansard, Op. Cit., Vol. 261, p. 833

4. Ibid., p. 80

5. Ibid., Vol. 299, p. 1040

CHAPTER 3

THE CONDITION OF IRELAND BETWEEN 1870 AND 1881

Sir William Bartelott (member of the House of Commons) said May 19, 1881, "Civil War at the present moment prevails in Ireland; blood has been shed every day, and there are constant collisions between the authorities and the people; Ireland, in fact, is in a more dangerous condition than she has been at any period during the present century notwithstanding the fact that the Government is armed with exceptional powers."¹

The Government brought forward in 1880, a Compensation for Disturbance Bill which was to prevent evictions in certain districts where the tenant's inability to pay his rent arose from the calamitous seasons; in such cases the legal tribunal to whom the question was referred was empowered to award him compensation for disturbance. The Bill passed the House of Commons by 225 to 199, but was rejected by the House of Lords by an enormous majority 282 to 51.² The effect of the rejection of the Bill on the temper of Ireland may be seen by the following data. The number of evictions were in 1880, 2110; in 1881, 3415; in 1882, 5201.³

1. Hansard, Op. Cit., Vol. 261, p. 877

2. Sir James O'Connor, History of Ireland, New York: George H. Doran Company, Vol. II, Ch XI., p. 54

3. Ibid., p. 85

The hatred of the Irish peasant found expression in acts of violence and terrorism. Many landlords and their agents were murdered. A system of "boycotting" landlords and their hirelings was instituted. No one could buy of or sell to them; no servant could seek employment in their homes; and no physician could attend them in their sickness.

In 1875 the celebrated Land League was formed by Michael Davitt and Charles Stewart Parnell. It demanded the three "F's", freedom of sale, fixity of tenure and fair rent. The return of the soil to its original owners was the ultimate solution advocated by the League. The far reaching agitation set on foot by this organization enlisted almost the entire peasant population of Ireland. The league did not advocate violence, but it was often resorted to by the tenants.⁴

Ireland went through three bad harvests in succession - 1877, 1878, 1879.⁵ A large portion of the Irish tenants would have been face to face with starvation but for almsgiving from all parts of the world on a large scale.⁶ In some parts of the country Civil War actually existed between landlord and tenant. Rent could not be collected except at the cost of wholesale evictions.

4. Schapiro, Op. Cit., p. 390

5. Sir James O'Connor, History of Ireland, Op. Cit., p. 53

6. Mansard, Op. Cit., Vol. 261, p. 653

This was the means of leaving numerous people without homes.⁷

Mr. Callan (member of the House of Commons) May 19, 1881 gave its members the following figures as an illustration of the unfairness of rent. A Donegal tenant whose farm was valued at 31 pounds 10s., paid to the County Chairman a rent of 65 pounds 7s 4d. This was more than 100% above the Pool Law valuation.⁸

The lawless and disturbed condition of Ireland after 1870 caused Mr. Gladstone to attempt a further solution of the land problem by the Three F's Land Act which is explained in the following pages.

THE IRISH LAND ACT OF 1881 (THE THREE F'S LAND ACT)

When Mr. Gladstone introduced the Land Act of 1881 he explained why the Act was necessary. He said that the Land Act of 1870 had achieved only partial success and that Civil War existed in Ireland between the landlord and the tenant. The Government found it necessary to expend large sums of money to keep peace.

Parliament sent out Commissioners to investigate conditions. These Commissioners reported that the main causes were insecurity of tenure and rack-rent. They

7. Ibid, p. 918

8. Ibid, p. 925

suggested that a Court should be created to look after the interest of the tenant.⁹ Mr. Gladstone outlined the Bill as follows:

Every tenant which existed in Ireland in 1881 had the right to call in the Court to have a "Judicial Rent" fixed. The rent fixed would be a fair rent. The rents fixed by Court were to be unchanged for fifteen years, during which time the tenant might not be evicted except for breaches of certain specified covenants or for non-payment of rent.¹⁰ The landlord had the right of pre-emption in case the tenant wished to sell his tenant-right at any time.¹¹ The landlord had the right to refuse the party to whom the tenant wished to assign his right. The price of all tenant-rights was fixed by the Court.¹²

Compensation for disturbance was regulated by the amount of rent paid. In case of a tenant who paid 50 pounds rent, the compensation did not exceed seven years' rent, if under 50 pounds, five years' rent, and if over 100 pounds, three years' rent.¹³ All Ulster tenants under lease in 1881 might claim compensation as provided for in the Act.¹⁴

9. Hansard, Op. Cit., Vol. 260, p. 893
10. Hansard, Op. Cit., Vol. 260, p. 909
11. Ibid, p. 910
12. Ibid, p. 912
13. Ibid, p. 913
14. Ibid, p. 914

In cases of large holdings valued at over 200 pounds a year the landlord and tenant might make contracts as they wished. Such large holdings were not subject to the Act. A Land Commission acted for a Court. It had final authority over decisions of all land cases. The Civil Bill Court tried all land Cases first. The Land Commission had three Judges one of whom was a Judge, or ex-Judge of the Supreme Court. Its proper seat was in Dublin. The Bill also contained a Purchase Clause similar to the Bright Clause in 1870, but this Clause advanced to the purchaser three-fourths of the purchase money instead of two-thirds as provided in the Act of 1870. The Land Commission was to assist the tenants in the purchase of their holdings and to advance three-fourths of the purchase price when it saw fit. The rate of interest was 5% and the period for payment thirty-five years.¹⁵ The Land Commission might advance money also for the reclamation of waste land whenever it saw fit.¹⁶

After the Bill was read and explained by Mr. Gladstone, the members of the House of Commons expressed their opinions about it as follows —

15. Hansard, Op. Cit., Vol. 260, p. 916

16. Ibid., p. 918

OPINIONS EXPRESSED BY THE HOUSE OF COMMONS IN REGARD TO
THE LAND BILL OF 1881 BEFORE GOING INTO COMMITTEE

Mr. Summers said that the principles contained in the Bill were sound. They were new to English Law but that the Act was not dealing with England. It was dealing with Ireland.¹ The landlord should not be permitted to eat away the tenant-right by constant raising of rent. The tenant should be secured in his property for he was the weaker of the two. There should be a court of Arbitration to settle disputes between the landlord and the tenant.²

Sir John Volker thought that the Bill would work an alarming and appalling infringement of the rights of property, and if these alterations of the rights of property were to be sanctioned why were they not to be sanctioned in respect to homes, manufactories and all other types of property in Ireland? The alterations of property proposed were obviously to satisfy the clamor of the Land League and those whom the Land League contrived to render discontented.³ The Act gave a lease for 15 years to the tenant. The landlord could not get rid of him. The tenant could sell his tenancy at any time and all improvements were his. This would work an alarming injustice on the

1. Hansard, Op. Cit., Vol. 261, p. 81

2. Ibid., p. 91

3. Ibid., p. 94

rights of property as the landlord got no compensation for his enormous sacrifice. This violated economic law. The poor laborers were not considered in the Bill. Was it because they didn't have a vote? The laborer depended on the landowner. If he could not improve his land where would the laborer be?⁴ He proposed emigration as a remedy, but it must be voluntary and aided by the Government. Reclamation of waste land would also be an aid. Migration to other parts of the Kingdom would be good.⁵

Mr. John Bright objected to Mr. Volker stressing the law of political economy in Ireland for if Mr. Volker studied the history of Ireland he would find that within the last two or three centuries many acts of confiscation of the most undubitable character had taken place. He said, "There are not many estates in Ireland which have not been subject to that unpleasant transaction."⁶ There was a huge monopoly in Ireland which Mr. Volker must admit was the greatest enemy of economic law.⁷ Mr. Volker lamented that the landlord gave much to the tenant without any compensation. It was Mr. Bright's opinion that if all the improvements which the tenant had done were taken away and all the improvements which the landlord had done

4. Hansard, Op. Cit., Vol. 261, p. 90

5. Ibid, p. 87

6. Ibid, p. 97

7. Hansard, Op. Cit., Vol. 261, p. 90

were left, the land would be as bare of trees, fences, barns, houses and cultivation as it was in pre-historic times.⁸ In regard to emigration he thought that it was far better for the poor peasants to go to Canada or the United States.⁹ The laborer could only get work by the cultivation of more land. The Act must provide for building cottages on the tenancy for them.¹⁰

Mr. Assheton Cross agreed with Mr. Bright that emigration was a favorable remedy for the land difficulties in Ireland. He thought that lending three-fourths of the money to tenants to buy land would put him in a worse position than he was at present, for he must borrow the other fourth from the money lender at an enormous rate of interest. This would place him in a worse position than before.¹¹ He would favor the Bright Clause if it made the tenant an actual owner and not a money borrower.¹² He said, "What is it that the tenant has a right to sell according to this Act? Let us decide what he has a right to sell and pay him for it."¹³ If the landlord made any of the improvements let us deduct this amount when the tenant makes his claim."¹⁴

8. Ibid., p. 105

9. Ibid., p. 109

10. Ibid., p. 110

11. Hansard, Op. Cit., Vol. 261, p. 113

12. Ibid., p. 116

13. Ibid., p. 121

14. Ibid., p. 122

Mr. Shaw saw no reason why some of the speakers thought that the Bill aimed to take property away from the landlord and give it to the tenant. For generations the tenant put his energy and money into the property and the result of that labor the landlord claimed as his. This Custom must be broked down.¹⁵ Competent adjusters must be called in to see what each owns.¹⁶

Mr. Redmond attacked the Emigration Clause which aimed to relieve the land situation. He said in 1880, 100,000 people between 15 and 25 years of age had emigrated. No nation could stand such a strain and there was no reason for it as there were thousands of fertile land in Ireland without a homestead and thousands of acres of reclaimable land. Lending three-fourths of the money would fail. The Government could lend it all. The Civil Bill Court was a failure. This was allowed to reward compensation when tenants were evicted for non-payment of rent if the rent were exorbitant. Only three cases were reported so far where the rent was exorbitant. The Court was viewed by almost universal suspicion and mistrust in Ireland. He objected to the tribunal for that reason. What Ireland needed was a distinct and separate tribunal which would give all its time to cases arising under the Act.¹⁷

15. Ibid, p. 303

16. Ibid, p. 302

17. Hansard, Op. Cit., Vol. 261, p. 329

Mr. T. D. O'Connor said he agreed with the members who opposed emigration. Exportation of the wealth producing machine was a bad thing for Ireland and this is what emigration meant.¹⁸ Emigration was an easy process of getting rid of surplus population and disturbance in Ireland. "Give the emigrant a ticket and dispose of him. We have plenty of work in Ireland for all Irishmen on Irish land. The Emigration Clause must be struck out of the Bill."¹⁹

Mr. Plunket thought that Emigration was the only means of dealing with the deepseated evil which existed in Ireland over the land situation. It was the only relief afforded for the overcrowded condition.²⁰

Mr. Close also agreed with Mr. Plunket that the emigration and reclamation Clauses were the very best means afforded for the crowded condition in Ireland.²¹

Mr. Fitzpatrick said 3,000,000 pounds had been spent by landlords on improvements in Ireland since 1840. The landlords kept the rent low in order that their tenants might be thriving and prosperous. "If a compensation Clause to do justice to the landlord is not inserted," he said, "I shall do all I can to oppose the second reading of the Bill."²²

18. Ibid, p. 658

19. Hansard, Op. Cit., Vol. 261, p. 659

20. Ibid, p. 353

21. Ibid, p. 877

22. Ibid, p. 614

Mr. Chaplin said that the Bill deprived the landlord of nearly every right that attached to the possession of an estate in Ireland except what rent the Court saw fit to give him. These rights possessed value and were taken from the landlord without giving him the smallest compensation whatever.²³ The landlord was converted into a mere rent-charge on his own estate.²⁴ This part of the Bill was nothing else than one great scheme of judicial plunder. Why inflict all these pains and penalties on the landlords?²⁵ They did not create the fatal competition for land in Ireland, nor are they to blame for the absence of manufactories and other industries in Ireland. The truth was that the English Parliament and the English people were responsible for these conditions. A little volume called "The Commercial Restraints of Ireland" contained petitions sent by both Houses of Parliament in the year 1698, praying the King by every measure in his power to hinder the woolen trade of Ireland. One passage from the Petition of the Commons read thus -²⁶

"And we do most humbly implore your majesty's protection and favor in this matter and that you may make it your Royal care, and enjoin all those You employ

23. Hansard, Op. Cit., Vol. 261, p. 842

24. Ibid, p. 849

25. Ibid, p. 850

26. Hansard, Op. Cit., Vol. 261, p. 851

in Ireland to make it their care, and use their utmost diligence to hinder the exportation of wool from Ireland, except to be imported hither, and for the discouraging the woollen manufactories and encouraging the linen manufactories in Ireland, to which we shall always be ready to give our assistance." This petition was presented to the King and his answer was - "I shall do all that in me lies to discourage the woollen trade in Ireland, and to encourage the linen manufactories there, and to promote the trade of England."²⁷

Mr. Parnell said that the members of the Land League believed that it was impossible to reconcile the interests of the landlords and the tenants. The Commission must be given power to expropriate compulsorily landlords who were acting as centers of disturbance. The landlords should be paid 20 years purchase at the Poor Law valuation. To expropriate them would do more to reduce rack-rent than all the legal paraphernalia of the honorable Gentleman and his draftsmen. Emigration was simply an evasion of responsibility. We have plenty of land; we require the labor of everyone in Ireland for the purpose of developing the resources of our country.²⁸

After this long debate the House of Commons resolved itself into a Committee whose discussions and

27. Ibid., p. 852

28. Hansard, Op. Cit., Vol. 261, p. 888

Amendments were as follows.

THE IRISH LAND ACT OF 1881 AS TAKEN UP IN COMMITTEE
OF THE HOUSE OF COMMONS WAS DISCUSSED AS FOLLOWS

Mr. Walter Barttelot's opinion was that taking property from the landlord and giving it to tenant would drive the landlord out of Ireland which was the last thing they ought to do.²⁹ There were 6,700,000 acres held by tenants who had made all their improvements. Twenty-six of the landlords had done all of their improvements. Sixty-three percent of the landlords had done half of their improvements. "At what period was that?" said Mr. Parnell. He could not answer Mr. Parnell. Mr. Barttelot wanted the landlords given a fair price for their improvements.³⁰

Attorney General for Ireland, Mr. Law objected to Mr. Barttelot's remarks about the taking of property away from the landlord.³¹ The Bill just allowed the tenant to sell what was his. The landlord could bring his case into Court for adjustment.³² The Government thought that the landlord lost nothing except power which it ought not to have.³³

29. Hansard, Op. Cit., Vol. 261, p. 1374

30. Ibid., p. 1375

31. Ibid., p. 1379

32. Ibid., p. 1380

33. Ibid., p. 1379

Mr. Rathbone commented on the laws of Ireland. The Irish people he thought were not on the side of the law for the laws always had been unjust. Property had not been protected by law. It had only been protected by custom and good feeling. The yearly tenant had his rent raised from year to year, because of the increased value of his tenancy which is due to the expenditure of his capital and labor.³⁴ The tenant should be protected by the law.³⁵

Mr. Lewis liked the purchase clause of the Bill but he thought that the State might with great advantage advance a larger portion of the purchase money than was now proposed.³⁶

Mr. Mc Cartney demanded an explanation as to what it meant by saying that the landlord and tenant each had a certain interest and that in estimating the rent the value of the improvement by the tenant was to be taken from the rent.³⁷

Attorney General for Ireland, Mr. Law explained it thus - In Ireland the farm belonged to the landlord, and the improvements belonged to the tenant. It was therefore wrong to allow the landlord to charge the highest rent obtainable from a stranger in open market, for what belonged to the landlord,³⁸ as well as for what belonged to him.

34. Hansard, Op. Cit., Vol. 261, p. 1

35. Ibid., p. 1385

36. Ibid., p. 1386

37. Ibid., p. 1349

38. Hansard, Op. Cit., Vol. 261, p. 1395

Mr. Staveley Hill said nothing had been said about how improvements on farms were made by the landlords who notoriously under-let. The improvements were therefore made by the landlord - out of the rent which should have been the landlords if he had chosen it. When free-sale was established in a case like this, how could injustice to the landlord be prevented.³⁹

Mr. Disraeli said, "Under the guidance of the right honorable Gentleman we have legalized confiscation; we have consecrated sacrilege, and we have condoned high treason."⁴⁰

The Bill Passed the House of Commons July 29, 1881 - Ayes 220 - Noes 14 - Majority 206.

39. Ibid, p. 1398

40. Ibid, p. 1406

IMPORTANT AMENDMENTS MADE IN THE LAND BILL
OF 1881 BY THE HOUSE OF COMMONS IN COMMITTEE

Mr. Plunket proposed an Amendment in Clause 7 (Determination by the Court of the rent of present tenancies) which he thought would be just to the landlords. The Court was not to allow the tenant any compensation for improvements where it had satisfactory evidence that the improvements had been made by the landlord and not by the tenant.¹

Dr. Cummins proposed an Amendment by which when a tenant wished to sell his tenant-right, the landlord would have the right of pre-emption, and he could deduct the arrears of rent out of the purchase money. He thought that this was the best way to protect the landlord's rent.²

Mr. W. E. Foster moved that the Land Commission should once in every year after the year 1881 make a report to the Land Lieutenant as to the proceedings under the Act and every such report should be presented to Parliament.³

The Attorney General for Ireland, Mr. Law proposed the following Amendments, first, an amendment which gave anyone who so desired to do so a chance to take any case which was to be heard before the Civil Bill Court to the Land Commission and the Commission would then be the

1. Hansard, Op. Cit., Vol. 262, p. 900

2. Ibid., p. 502

3. Ibid., Vol. 263, p. 1530

Court before which the case was tried.⁴

Second, An Amendment by which the Land Commission might if it wished or on the application of any party to any proceeding pending before it, have the case taken to Her Majesty's Court of Appeal in Ireland. The decision of this Court was to be final and conclusive.⁵

Third, An Amendment which he thought was necessary in order to prevent the Courts from being overworked. When a landlord resumed possession of a tenancy from a present tenant, he might if he wished reinstate the tenant in his holding if the tenant and landlord could agree on the rent to be paid, such rent should be considered a judicial rent and have the same effect as if it were fixed by the Act.⁶

Fourth, he proposed an Amendment which he thought was necessary to aid the tenants. The tenant could let land to be used solely for the growing of potatoes or other green crops, if the land were properly manured, and also he could let land for temporary pasturage. In neither case would this be sub-letting as forbidden by the Act.⁷

Fifth, an Amendment to prevent the tenant from obstructing the landlord. It gave the landlord or

4. Hansard, Op. Cit., Vol. 263, p. 1015

5. Ibid, p. 1074

6. Ibid, Vol. 264, p. 56

7. Hansard, Op. Cit., Vol. 263, p. 1153

any person authorized by the landlord the right to enter upon the holding for the following purposes:-

Mining or taking minerals; quarrying or taking stone, marble, gravel, sand, brick clay, fire clay, or slate; cutting or taking timber or turf; opening or making roads, drains, and water courses; viewing or examining the state of the holding and all of the buildings or improvements thereon; hunting, shooting, fishing or taking game or fish.⁸

Sixth, an Amendment to change the scale of compensation in regard to disturbances. Where the rent was above 300 pounds and not exceeding 500 pounds the compensation for disturbance was not to exceed two years' rent. Where the rent was above 500 pounds a sum not to exceed one years' rent. Different suggestions were made in regard to this scale. Taken to a vote it was carried by a majority vote of 200.⁹

Seventh, An Amendment to the Clause to determine a fair rent when making a revaluation of rent. The Court must first hear the opinions of both the landlord and the tenant, consider all the circumstances of the holding, and district. It might then determine what was a fair rent.¹⁰

8. Ibid, p. 1184

9. Hansard, Op. Cit., Vol. 262, p. 1575

10. Ibid, Vol. 265, p. 1987

Eighth, an Amendment to determine in what case a landlord might compel a tenant to quit. The landlord might compel a tenant to quit when he did not pay his rent. The Court might if it saw fit, for any judicial reason restrain the action of the landlord.¹¹

Mr. Gwan proposed an Amendment which he thought necessary to protect the tenant. The trees planted for shelter by the tenant or his predecessor which are necessary for shelter and also turf required for the use of the holding were not to be taken by the landlord.¹²

Mr. W. E. Foster proposed an Amendment which provided that the sum of money to be expended for emigration was not to exceed 200,000 pounds in all, and one-third of that sum was to be expended in a single year.¹³ Mr. Parnell objected to 200,000 pounds being expended. He thought that 100,000 pounds was enough for Ireland may have good harvest and emigration would not be necessary. The amendment was, however, made.¹⁴

Mr. W. E. Foster proposed an amendment by which the tenant could borrow money from the Government to improve cottages or to build new cottages for the laborers. The sum loaned was not to exceed 100 pounds and was to be borrowed under the Landed Property

11. Ibid, p. 1990

12. Ibid, Vol. 262, p. 1184

13. Hansard, Co. Cit., Vol. 263, p. 960

14. Ibid, p. 962

Improvement Acts. He told how badly housed the laborers were. The Court was to be authorized to compel the tenants in certain cases to make these improvements.¹⁵

Mr. A. Moore objected to the Amendment because he thought that the Government had already conferred boons enough on the tenants and he felt that they should do the improvements without Government aid.¹⁶

Mr. Parnell moved an Amendment so that when an action for the recovery of rent was taken into Court either before or after the application was made by the tenant to have a judicial rent fixed, the Court might sustain the action for the recovery of the rent until the Court has fixed the judicial rent. This was to prevent the landlord from taking his case into a Civil Bill Court or any Superior Court and after receiving a judgment against his tenant, after two days sell the whole interest of the tenant in his holding. This would cause landlords to sue tenants when they wished to get rid of them.¹⁷

After making these important Amendments the Bill was sent to the Lords who before going into Committee expressed their opinions about it as follows —

15. Ibid, p. 1512

16. Ibid, p. 1513

17. Hansard, Op. Cit., Vol. 284, p. 43

OPINIONS GIVEN BY THE HOUSE OF LORDS BEFORE GOING
INTO COMMITTEE ON THE LAND BILL OF 1881

Lord Carlingford expressed his opinion that uncertainty of tenure was a pressing grievance by all classes of tenants. It paralyzed all exertions and placed a fatal impediment in the way of improvements.¹ The Irish tenant wanted protection not so much against his actual as against his possible landlord. He was always in fear of a change of ownership. There was a widespread feeling among the tenants that it was dangerous to improve. This was fatal to the land situation.² There was no such thing in existence as freedom of contract in Ireland between landlord and tenant for the loss of his farm was to the Irish tenant the loss of his livelihood. An Irish tenant will too commonly submit to almost any terms rather than undergo the pains and penalties of eviction.³ The landlord on seeing a piece of property improved told the tenant to get out or pay a higher rent.⁴

The Marquess of Salisbury explained how the Irish tenant acquired new property - a tenant right of land. He did not buy it; he did not earn it; but he got it because at a certain moment Mr. Gladstone and the House of Commons went to sleep. In a statement made by

1. Hansard, Op. Cit., Vol. 264, p. 238
2. Ibid., p. 239
3. Ibid., p. 245
4. Ibid., p. 246

the Prime Minister he admitted that it was not perceived by any one during the passage of the Act of 1870 that the foundation of tenant-right was being laid and the House was not fully conscious of the result of what it was doing. The object was to fine the landlord for ejecting the tenant. Of all forms of legislation that done by inadvertence is the most strange and the most alarming.⁵

Lord O'Hagan believed that it was necessary that there should be legislative interference to protect the tenant from an arbitrary increase of rent. The landlord now could raise the rent at any time as much as he pleased. The Land Commission suggested that such arbitrary power should be restrained by law, and the tenant protected in that respect. If a fair rent was all a landlord exacted, he would lose nothing if a judicial rent were fixed.⁶ Parliament by unjust laws had ruined trade, manufacturing, and commerce in Ireland. This deprived thousands of families in Ireland of their means of living. The condition which now existed in Ireland was due to this cause and not to the fact that the Act of 1870 gave the improvements which the landlord claimed to the tenant.⁷

The Marquess of Lansdowne approved of the Act

5. Hansard, Op. Cit., Vol. 264, p. 263

6. Hansard, Op. Cit., Vol. 264, p. 272

7. Ibid, p. 274

for it conferred upon a large number of peasants of Ireland the possibility of ownership of land which would encourage them to thrift and industry. They would thus be given the idea that their future success or failure depended upon themselves.⁸ The Bill, however, limited its advantages to those already on the land who would be liberally endowed and given the power to sell what they had not bought. The future tenant got none of these advantages. They must pay two rents one to the tenant and another to the landlord.⁹ The landlord would be deprived of two privileges of ownership - the right to determine whether he would or would not let his land and the right of selecting the person to whom he wished to let it.¹⁰ His opinion was that in many places the improvements were made by the landlord or not made at all.¹¹

The Marquess of Waterford expressed as his opinion that giving millions of the landlord's property to the tenant would so strengthen the tenants position that they would start a gresh agitation. In regard to the Land Laws of Great Britian up to the present time Parliament had rarely interfered with the rights of property and where it took property for public good full compensation

8. Hansard, Op. Cit., Vol. 264, p. 278

9. Ibid., p. 289

10. Ibid., p. 290

11. Ibid., p. 294

was given for the property.¹² The Act would dismember the Empire. The Irish people would be made to believe that all they have to do in the future was to agitate and they will then get anything which they wanted. This agitation was led by men who wished to destroy the landlords of Ireland.¹³ The Act should be a simple measure which granted the tenants large advantages, but it should give the landlord's full compensation for what was taken from them.¹⁴ Under the Act of 1870 they purchased their tenant right paying in full for them. The tenant under this Act has a right to sell what the landlord paid for.¹⁵ The lower the rent was on an estate the higher the tenant right would become.¹⁶ In regard to emigration, he said that whenever England found Ireland hard to govern a wholesale depopulation of Ireland was proposed as a remedy. It was a poor thing that a rich Empire could not find a better remedy than confiscating the landlords' property and depopulating Ireland.¹⁷ The present state of Ireland had been brought about by the weakness of the present Government.¹⁸

12. Hansard, Op. Cit., Vol. 264, p. 306

13. Ibid., p. 307

14. Ibid., p. 309

15. Ibid., p. 313

16. Ibid., p. 314

17. Hansard, Op. Cit., Vol. 264, p. 318

18. Ibid., p. 319

The Earl of Dunraven said in a most forceful manner that if the Bill passed Parliament without the principle of confiscation being recognized, it would be the most unjust measure that had ever been approved by any Legislative Assembly in a civilized community. The Bill revolutionized the system of land tenure which was unwise.¹⁹ It deprived of property an important class of the community without giving them any compensation. It introduced a change in the habits of life and the social position of the greater part of the population of Ireland. This was revolutionary.²⁰ It would root to the soil a pauper population and it would thus lay the foundation for more famine and more agitation. It would organize pauperism and paralyze capital.²¹ Nothing would be left in Ireland except peasant proprietors who hated England and regarded it as a foreign country.

Mr. Gladstone said that all the grievances of Ireland were like branches growing out of the trunk of a poisonous tree. "The tree", he said, "is Protestant ascendancy, and against Protestant ascendancy we are banded together to make war."²²

Earl Dunraven's answer to Mr. Gladstone was that Protestant ascendancy must be good for it was identified with English ascendancy.²³

19. Ibid., p. 322

20. Ibid., p. 334

21. Hansard, Op. Cit., Vol. 264, p. 337

22. Ibid., p. 346

23. Ibid., p. 347

The Lords next considered the Bill in Committee where the following amendments were made —

IMPORTANT AMENDMENTS MADE BY A COMMITTEE OF THE
HOUSE OF LORDS. TO THE LAND BILL OF 1881

The Earl Cairns moved the following Amendments -

First, Whenever a sale of tenancy was made against the tenant, it must be deemed to be made by the tenant and the landlord must be paid the money due him first out of the purchase money. This eliminated judgment creditors from making such sales and safe-guarded the landlord's interest.¹

Second, Whenever the landlord was notified by the tenant of an intended sale, he must give notice within a prescribed time of the money due him. He might purchase the tenancy for such an amount if no higher bidder was found. He felt that it was no more than right to give the landlord the right of pre-emption. This Amendment would prevent the landlord from loss if the tenant tried to sell for less than he owed the landlord.²

Third, Earl Cairns said that the original Bill provided that land cases should be heard before a Commission, but where the parties concerned were dissatisfied, two such Commissioners could be called in. He Amended the Bill so that cases were heard before all three Commissioners. In case of illness of one member the case might be heard before the other two. To this he added that any person

1. Hansard, Op. Cit., Vol. 264, p. 385

2. Ibid., p. 785

aggrieved by the decision of the Land Commission might appeal to Her Majesty's Court of Appeal in Ireland.³

The Earl of Kimberley introduced an Amendment to prevent tenants from such dividing or sub-letting their holdings without the consent of the landlord. Earl Cairns added these words, "Any Act done by the tenant contrary to this law shall be null and void." Every member agreed to this Amendment being a great necessity as protection to the landlord.⁴

The Marquess of Waterford moved the following Amendments -

First, If a tenant was required to quit his holding during the continuance of a statutory term in his tenancy because of a breach of the law, he should not be entitled to any compensation for disturbance.⁵

Second, He suggested an Amendment to protect the rights of the landlord on his property. He proposed that during a statutory term of tenancy all mines, minerals, coal-pits, tar and stone should be considered the property of the landlord except such of these as had been given to the tenant before the passage of the Act.⁶

The Earl of Limerick proposed to amend Clause 16. When building cottages for laborers they should not

3. Hansard, Op. Cit., Vol. 264, p. 984

4. Ibid, p. 788

5. Hansard, Op. Cit., Vol. 264, p. 945

6. Ibid, p. 794

exceed one cottage for every twenty-five acres of tillage land contained in the holding. He considered that the building of several cottages on small farms was an evil.⁷

Lord Greville thought that the Land Commission was burdened with work so he proposed to leave one of the Clauses out of the Bill. This Clause to be left out provided that the Land Commission before buying any land should satisfy itself that a resale could be made without any loss and that the purchase would be able to work the holding profitably.⁸

The Earl of Pembroke moved an Amendment by which if any tenant or his predecessor caused a holding to become deteriorated contrary to the expressed or implied conditions of the contract, the landlord might make application to the Court to have such conditions removed before the end of the tenant's term. This would prevent tenants from letting their tenancies deteriorate so as to have their rent reduced after the expiration of the 15 year's lease.⁹

Lord Claringford proposed the following Amendments -

First, the landlord and the tenant were to have the right during the last 12 months of a statutory term to agree as to what was a fair rent of a holding. And after this

7. Ibid., p. 953

8. Hansard, Op. Cit., Vol. 264, p. 982

9. Ibid., p. 811

declaration was filed in the Court it would have the same effect in all respects as if the rent had been fixed by the Court.¹⁰

Second, he proposed an Amendment to protect the landlords who very often had trouble by tenants sub-dividing their holdings. He proposed an Amendment by which tenants were forbidden to sub-divide their holdings or sub-let any part of them without the consent of the landlord.¹¹

The Marquess of Salisbury moved the following Amendment. He proposed to leave out a Clause which gave a tenant power when an action was brought against him to recover a debt, to apply to the Court to have a judicial rent fixed. All actions against him would then be suspended until the Court saw fit to fix his rent. The respite gained would be of much importance to the tenant. He states that this extraordinary Clause was most unjust because any tenant who had not paid his rent to his landlord, or his interest to his banker, or any other legal debt, could have action against him deferred by simply making application to the Court to have a "judicial rent" fixed.¹²

The Earl of Donoughmore moved an Amendment to use the old scale of Compensation in the Bill of 1870

10. Ibid, p. 318

11. Hansard, Op. Cit., Vol. 264, p. 783

12. Ibid, p. 997

as this Bill gave a 15 year lease renewable for life. He thought the scale was entirely too high which applied to tenants paying 500 pounds to 1000 pounds.¹³

The Marquess of Lansdowne moved an Amendment by which after the passage of the Act tenants be forbidden to erect any dwelling house in addition to those already on the holding, and not allow to be used as a dwelling-house any building not previously used for a dwelling-house before the passage of the Act, except by consent of the landlord.¹⁴ He stated that upon a small holding scarcely sufficient to accommodate a single family were often found four or five families huddled together under circumstances of the greatest misery. The buildings which they lived in were not fit for human beings to live in.¹⁵

The Duke of Argyll proposed the following Amendment - When before the passage of the Act the present landlord or any of his predecessors had purchased the tenant's tenant-right and paid him for it, the landlord should have the right to apply to the court to have the money so paid returned to him. All fines collected and increased rent were to be deducted from the landlord's money so paid by the Court.¹⁶

13. Hansard, Op. Cit., Vol. 264, p. 818

14. Ibid, p. 790

15. Ibid, p. 791

16. Hansard, Op. Cit., Vol. 264, p. 778

The Lord Chancellor objected to this Amendment for the landlord was to be paid by the present tenant and in many cases he was not the one who had received the money.¹⁷ The Amendment passed by a large majority vote.¹⁸

The Earl of Dunraven proposed an Amendment by which the landlord could after the passage of the Act, without the tenant so desiring, buy the tenant-right of the tenant, and relet his holding if he wished.

Lord Clarlingsford objected to the Amendment because it would defeat the purpose of the Government in making a period of 15 years rest after the passage of the Act of 1881.

The Duke of Argyll supported the Amendment. He said that the policy of the Government was wrong for if a landlord wished to consolidate his farms he would not be able to keep them in his hands for 15 years. The landlord should not be prevented for 15 years from doing with his property what was to his advantage just to please the Land League.¹⁹

After making these Amendments the Bill was sent back to the House of Commons. After considering the Lords' Amendments the House refused to accept some of them and gave their reasons which are explained as follows,

17. Ibid., p. 779

18. Ibid., p. 780

19. Hansard, Op. Cit., Vol. 264, p. 955

THE HOUSE OF COMMONS DISAGREE TO SOME OF THE HOUSE OF LORDS' AMENDMENTS AND STATE THEIR REASONS FOR SO DOING

They objected to the Duke of Argyll's Amendment to allow the landlords a right when a tenancy was sold to apply to the Court to get the money which they had paid for the tenant-right before the passing of the Act, deducted from the tenants' sale money. The following reasons were given - The landlords already got this money through increased rent.¹ The Commons inserted these words - Provided that it is the opinion of the Court that the landlord shall not have been compensated by an increase of rent or otherwise.²

The House of Commons objected to the Earl of Kimberley's Amendment to prevent tenants from dividing or subletting without the consent of their landlords. The Attorney General for Ireland changed the wording to read the land may be sub-let for the purpose of growing potatoes and green crops if properly manured.³

The Commons objected the Marquess of Waterford's Amendment to give the stone, coal, minerals, etc. to the landlords. Their property was in no way affected by the Act. Such an Amendment suggested doubt about the landlord owning the mines.⁴

1. Hansard, Op. Cit., Vol. 264, p. 1635
 2. Ibid., p. 1398
 3. Ibid., p. 1412
 4. Hansard, Op. Cit., Vol. 264, p. 1636

The House of Commons objected to the Amendment of the Earl of Belmore by which when the landlord or his predecessor had purchased the Ulster tenant-right, it did not come under the general provisions of the Act of 1861. Mr. Gladstone said that the object of the Amendment was to exclude the tenant from the benefit of the sale of the tenant right. He proposed to insert the words "where the improvements have been made and substantially maintained by the landlords."⁵

The House of Commons objected to the Marquess of Salisbury's Amendment which provided that no reduction should be made in the landlords rent because of money paid by the tenant or his predecessor in title otherwise than to the landlord on coming into his holding.⁶ The House of Commons decided that there were many cases in which the money so paid by the incoming tenant ought to be considered in determining what was a fair rent. In Ulster such payment represented the real value of the tenant-right.⁷

The House of Commons objected to the Earl of Pembroke's Amendment to prevent tenants from letting the tenancy deteriorate because it would be unjust to

5. Ibid., p. 1398

6. Hansard, Op. Cit., Vol. 264, p. 1489

7. Ibid., p. 1636

refuse a tenant's application to have a fair rent fixed because one of his predecessors had committed some act of waste.⁸

The House of Commons disagreed to the Earl of Limerick's Amendment which limited the number of cottages built for laborers on holdings to one for every twenty-five acres, because it would prevent the building of laborers' cottages even with the sanction of the Court unless the holding contained the full extent of tillage. The Court should be left some power in determining this matter.⁹

The House of Commons objected to the Earl of Dunraven's Amendment which gave the landlord, without the tenant so desiring the right to purchase the tenant-right after the passage of the Act and relet his holding if he so desired. It was expedient that for sometime after the passage of the Act the right of pre-emption should not be used to defeat the object of the Act by extinguishing present tenancies with the view of creating future tenancies in their stead.¹⁰

The House of Commons disagreed to the Amendment of the Earl of Donoughmore to change the scale of compensation for disturbance to the same as that used in

8. Ibid, p. 1637

9. Hansard, Op. Cit., Vol. 264, p. 1638

10. Ibid, p. 1638

1870 as the Bill of 1881 gave what was practically a 15 year lease renewable forever. The House of Commons' reason for rejecting the Amendment was that the existing provisions for disturbance had been found to be insufficient.¹¹

The House of Commons disagreed to the Amendment of Lord Carlingford to allow the landlord and tenant to fix the rent during the last twelve months of a statutory term. This arrangement was to have the same effect as if it were fixed by the Court. The House decided that it was best to leave the matter to the Court as there may be cases where the landlord would fix an unjust rent.¹²

The Commons disagreed to the Lords' Amendment to leave out Mr. Parnell's Amendment which gave the Court power when a landlord brought a suit for the recovery of rent or damages to stay the suit if the tenant made an application to have a judicial rent fixed, until the judicial rent was fixed. They thought it necessary to stay the suit until the Court determined what was a fair rent and also the value of the tenancy.¹³

The Bill was again returned to the House of Lords who refused to accept the changes made by the

11. Hansard, Op. Cit., Vol. 264, p. 1636

12. Ibid., p. 1638

13. Hansard, Op. Cit., Vol. 264, p. 1639

Commons and stated their reasons for so doing as given in the following pages.—

THE HOUSE OF LORDS INSISTED ON THE FOLLOWING
AMENDMENTS WHICH THE HOUSE OF COMMONS REJECTED

The House of Lords insisted on their Amendment that the tenant should be made aware by express declaration that because of causing his holding to have deteriorated contrary to the implied conditions, the Court may refuse an application to fix a fair rent.¹⁴

The Lords insisted on their Amendment that the landlord should have the right to buy out the tenant-right if he wished and re-let his holding after the passage of the Act. They believed it desirable that the power of resumption should be subject to as little restriction as was consistent with the interest and claims of the owners.¹⁵

The Lords insisted on their Amendment which stated that the mines, minerals and coal pits were the exclusive property of the landlord during the continuance of a statutory term and the tenant should have express notice thereof. It would be very unjust otherwise.¹⁶

14. Hansard, Op. Cit., Vol. 254, p. 1708

15. Ibid., p. 1708

16. Ibid., p. 1708

The Lords insisted upon the Earl of Donoughmore's Amendment that the scale of compensation for disturbance should be lowered. They believed it should be as low as the scale for the act of 1870. It was necessary to place a closer limit upon the sum to be given as compensation for disturbance.¹⁷

The House of Lords insisted on the Amendment proposed by the Earl of Belmore that if the landlord or his predecessor had purchased the Ulster tenant-right before the passage of the Act, the tenant had no right to sell the tenant-right. The House of Commons inserted the words the improvements have been substantially maintained. The Lords objected to these words for they might exclude cases to which the Clause should apply.¹⁸

The House of Lords insisted that Mr. Parnell's Amendment which gave the Court the power when a landlord brought suit against a tenant to recover rent or damages, if the tenant made an application to the Court to have a judicial rent fixed, to stay the Action of the landlord until a judicial rent was fixed for the tenant. The Lords thought it was unjust to creditors to postpone the time for recovery of their just debts without relieving

17. Hansard, Op. Cit., Vol. 264, p. 1708

18. Ibid, p. 1708

them from obligations to which they are themselves liable.¹⁹

The Bill was again returned to the Commons with the reasons why the Lords could not accept some of their Amendments.

19. Hansard, Op. Cit., Vol. 264, p. 1709

THE FOLLOWING AMENDMENTS REJECTED BY THE HOUSE OF LORDS WERE STILL INSISTED UPON BY THE HOUSE OF COMMONS

The Commons insisted that the Amendment of the Earl of Donoughmore to lower the scale of Compensation for disturbance be lowered, could not be accepted because the scale was necessary for effectual protection of the tenant.¹

The Commons insisted that the Amendment which the Lords insisted upon which gave the landlord the right to buy the tenant right and re-let his holding after the passage of the Act, be rejected because it was desirable that for sometime after the passage of the Act that the tenant should not be disturbed.²

The Commons insisted that the Earl of Belmore's Amendment which stated that if the tenant or his predecessor has purchased the Ulster tenant-right before the passage of the Act, such holding would not be subject to the conditions of the Act of 1881, be rejected because it would place some of the Ulster tenants under a disadvantage not imposed on tenants in other parts of Ireland.³

The Commons agreed to the Marquess of Waterford's Amendment that all mines, minerals, coal and tar were to be the property of the landlord except such as were given the tenant before the passage of the Act, but they added

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1. Hansard, Op. Cit., Vol. 264, p. 2009
 2. Ibid., p. 2010
 3. Hansard, Op. Cit., Vol. 264, p. 2009

these words which they insisted on - "Subject to such rights in respect thereof as the tenant under contract of tenancy subsisting immediately before the commencement of the statutory term was lawfully entitled to exercise."⁴

The Commons disagreed to the Earl Pembroke's Amendment that when a tenant made application in Court to have a judicial rent fixed, the Court may deny such application if the tenant or any of his predecessors has allowed the holding to deteriorate, until the tenant has performed such duties as it may think proper. The Commons disagreed because the object of the Amendment was already provided for in the equities Clause.⁵

The Lords finally agreed to the decision of the House of Commons and the Bill passed, and received the Royal Assent August 22, 1881. As the Land Acts of 1870 and 1881 did not succeed in creating the peasant proprietary so much desired for the peace and welfare of Ireland, and as it was evident that no land legislation would succeed unless the Government supplied all of the purchase money, Lord Ashbourne presented to the House of Lords another Land Bill by which the Government furnished the entire purchase price to tenants who wished to buy their holdings. The nature of the Bill was as follows.—

4. Ibid, p. 2010

5. Hansard, Op. Cit., Vol. 264, p. 2010

THE LAND PURCHASE BILL FOR IRELAND PRESENTED TO THE HOUSE OF
LORDS, JULY 17, 1885 BY THE LORD CHANCELLOR OF IRELAND,
LORD ASHBOURNE

In presenting his Purchase of Land Bill the Chancellor stated that it was his intention to introduce a Bill short and workable and which would present as few points of contention as possible. The principle of the Bill was that the landlords and tenants were left to act according to their own discretion and on examination of their own interests to do as they thought right. The purpose of the Bill was to create a peasant proprietary. The Land Act of 1870 contained the germ of the Bill. It granted two thirds of the purchase money to those who desired to purchase land.¹ The Clause did not work well for in 11 years the Act only succeeded in establishing 870 peasant proprietors.

The Land Act of 1881 increased the advance of money from two thirds to three-fourths. Down to 1885 only 733 peasants proprietors bought land this way and the whole sum expended was 238,000 pounds. The desire of the Government was to establish peasant proprietors. The Landed Estates Court used to sell land at the rate of 1,500,000 pounds a year but in 1885 there was a

1. Haasard, Op. Cit., Vol. 299, p. 1041

block in the land market and the amount of land sold was 150,000 pounds. The number of estates under receivers and subject to expensive and costly machinery were in 1878, 437; in 1830, 565 and in 1884, 1081.² A committee of the House of Lords made the following report to Parliament in 1882 - "There is a concurrence of testimony that no scheme for converting tenants into proprietors which requires tenants to pay down a portion of the purchase money, or to pay down a yearly instalment of it greater than the rent is likely to be successful."³

After Lord Ashbourne had explained the reasons why further land legislation for Ireland was necessary he outlined the Bill as follows - The State was to advance the whole purchase money to purchasers. One-fifth of the entire purchase money was to be retained at moderate interest in the hands of the Land Commissioners until the tenant by equivalent payments, had paid out a sum equal to the amount so retained. This was to afford protection to the State. The Irish Church Surplus which consisted of 750,000 pounds was also to be used by the Government for security. In 1869 when the Anglican Church was disestablished in Ireland, this money which was paid to the Church in titles by the Irish was retained in Ireland to be used for

2. Hansard, Cp. Cit., Vol. 299, p. 1042

3. Ibid., p. 1043

charitable purposes. The purchase money was to be advanced to the tenant for a period of 49 years at 4% interest.⁴ The Land Commission Court was to carry out the provisions of the Bill. The Bill provided for the appointment of two additional Land Commissioners who were to hold office for three years, at a salary of 2,000 pounds a year. The Land Commissioners were to investigate titles at their own expense and make vesting orders which would cost the tenant neither time or trouble. To assist the Commission in that important work capable officials were to be transferred from the Landed Estates Court.⁵

The amount of State money to be provided in carrying out the provisions of the Act was limited to 5,000,000 pounds.⁶ 750,000 pounds of Church Surplus was available as security.⁷

The State retained one-fifth of the purchase money belonging to the landlord for 12 years.⁸

The Bill was then discussed by the House of Lords before going into Committee where the following unfavorable criticisms of the wording and terms of the Bill were given.

4. Hansard, Op. Cit., Vol. 299, p. 1046
5. Hansard, Op. Cit., Vol. 299, p. 1048
6. Ibid., p. 1056
7. Ibid., p. 1081
8. Ibid., p. 1362

Lord Castleton said the Bill was too confined - it was not bold enough. The modes of transfer of land were not clear in the Bill. Then there was the question of recoverable right. If a farm were put up for sale and not sold, the owner should have the right to re-purchase it. This was not made clear in the Bill.⁹ The owner when he sold was required to have a deposit guarantee of one-fifth and take one-fourth as a mortgage on the holding. If the debt were irrecoverable he would lose perhaps, both sums. The Bill provided a Registry of Deeds Office instead of a Record of Title Office, where the work done would pertain to land transactions only. He hoped that this would be changed.¹⁰

The Irish Church Surplus should not be taken as a guarantee fund for it was a local fund connected with Ireland and the land question was an imperial question and should be treated as such. The fund should only be applied to local needs such as education.¹¹ He believed if the Bill were amended and passed it would do much to relieve Ireland.¹²

Lord Denham thought that it was far better for a tenant to be under a landlord than to purchase under the provisions of the Bill. In the course of 49 years a

9. Hansard, Op. Cit., Vol. 299, p. 1178

10. Ibid., p. 1179

11. Hansard, Op. Cit., Vol. 299, p. 1180

12. Ibid., p. 1180

tenant purchaser would have to pay 196 pounds for every 100 pounds borrowed. It was almost impossible for a poor tenant to pay instalments and maintain his family.¹³

Lord Inchiquin regretted that the Bill proposed to give the working of the transfer of land to the Commissioners for it was necessary to appoint extra Commissioners. He suggested to let the Landed Estates Court do the work for they had little to do.¹⁴ He said if the Land Commissioners fixed the price of land the Bill would not work at all. The independent land owner would not sell his land for one iota less than its value.¹⁵

The Lords then went over the Bill more in detail in Committee where the following discussions took place—

13. Ibid., p. 1181

14. Hansard, Op. Cit., Vol. 299, p. 1182

15. Ibid., p. 1183

THE LAND PURCHASE ACT OF 1885 CONSIDERED IN A
COMMITTEE OF THE HOUSE OF LORDS JULY 21, 1885

The Earl of Spencer said that it was the intention of the House to proceed gradually, and in a sound way to increase the number of proprietors in Ireland. It wished by this Act to raise up an independent class of small proprietors. The Bill proposed to proceed to the amount of 5,000,000 pounds, but we may here after increase the amount and buy all of the farms of Ireland. The political difficulty appeared to him to be a serious one as the State was placed in the position of landlords in Ireland, and this was a grave responsibility for the State to assume. The tenants' cry was, "No rent!" and a strike against individual landlords.¹

What if there should be a strike against the State? The Act placed a heavy burden on the taxpayers of the United Kingdom. There should be proper security for this money. He thought that if the State only advanced a part of the money the tenant who supplied the rest of it would be interested in keeping up the annuities. It has been proven, however, that no plan except the advancement of the entire amount will succeed.² There should be a local body interested in looking after

1. Hansard, Op. Cit., Vol. 299, p. 1343
2. Hansard, Op. Cit., Vol. 299, p. 1344

the farms and having full knowledge of the occupier. They would look after payments and be a buffer between the Government and the occupier.³ He thought the idea of retaining one-fifth of the money for security was good. 25 years instead of 49 years was a long enough period to grant for the payment of the money borrowed by the tenant. The Irish Church Surplus has been used for Education, Emigration and arrears of rent. The Bill locks up this money 750,000 pounds for 49 years. The Government made grants of this money from time to time to Ireland when it was necessary. These funds were a benefit to the country in several ways.⁴

The Marquess of Salisbury refuted some of Earl Spencer's objections to the Bill. He said local bodies in Ireland as a buffer between the State and the tenant would fail for they would share the feeling and passion of the communities from which they were elected.⁵ Their sympathy would be with the non-paying tenant. They would gather an organized resistance hard to deal with.⁶ In regard to the Earl's objection to the use of the Church Surplus, in 1868 it was decided by Parliament to use these funds in cases of inevitable suffering and distress.

3. Ibid., p. 1346

4. Hansard, Op. Cit., Vol. 299, p. 1350

5. Ibid., p. 1352

6. Ibid., p. 1352

Surely the Irish landlords have been reduced to a state of inevitable suffering and distress by Acts of Parliament. I can also add to them the unfortunate tenants.⁷

The Duke of Argyll cited examples to show how undesirable it was to buy land in Ireland. A property in Ireland was offered for sale. No bid beyond two or three years' purchase was received for it, and the property was therefore withdrawn. The occupancy of a holding was put up for a bid. The holding which brought 80 pounds was rented to a new tenant for 800 pounds. These facts showed that land is unsaleable and that occupancy has risen enormously in value.⁸ He thought there was very great danger that some of the large tenants in Ireland may purchase their holdings on the very easy terms which the Bill provided for the purpose of sub-dividing and sub-letting.⁹

Earl Spencer stated that the sum was limited to between 3,000 pounds and 5,000 pounds.¹⁰

The Duke of Argyll said that may be a holding very desirable to sub-let. The Irish Land Act prevented sub-division on the part of the tenant but there is nothing to prevent the landlords from sub-dividing.¹¹

7. Hansard, Op. Cit., Vol. 299, p.1354

8. Ibid, p. 1355

9. Hansard, Op. Cit., Vol. 299, p. 1360

10. Ibid, p. 1360

11. Idem.

Lord Carlingford that the Bill went beyond the bounds of wisdom and prudence in the enormous temptation that it held out to tenants to purchase the land which they occupied. The Bill put a check on the landlord for the state retains one-fifth of the purchase money for 12 years. There is no check on the tenant who may be induced in large numbers to purchase their holdings under the advice of some interested leaders.¹²

Lord Fitzgerald said that the Bill was emphatically one of finance; every clause of it dealt with finance. The Bill for that reason should have originated in the House of Commons.¹³ For this reason any changes made in the Bill by the House of Commons must be accepted by the Lords.¹⁴

Lord Ashbourne refuted some objections made to the Bill by Earl Spence. He said several of the Earl's criticisms were I think made more or less to save his conscience because the measures so far introduced by the Government were found to be not workable. There is at present a block in the land market which interferes with the welfare of Ireland. It must be removed.¹⁵

The Earl did not suggest a substitute for the guarantee money suggested in the Act - namely the retention of one-fifth of the money.

12. Hansard, Op. Cit., Vol. 299, p. 1363

13. Ibid., p. 1364

14. Ibid., p. 1365

15. Ibid., p. 1366

The Earl stated that the liberal terms of purchase money in the Bill were a bribe to purchasers. He believed that anyone acquainted with Ireland would not for a moment think that the measure would cause a headlong rush for land in Ireland. If there was, however, such a rush the law of supply and demand would again come into a healthy state of operation.¹⁶ In regard to Surplus Church Fund he did not believe the fund would ever be called upon to meet the deficiencies in the Act.¹⁷

The Bill passed the House of Lords July 24, 1885 and was sent to the Commons who discussed it very carefully. Some looked upon it as a landlords' Bill. Some of the opinions given were as follows—

16. Hansard, Cp. Cit., Vol. 299, p. 1367

17. Ibid., p. 1368

OPINIONS GIVEN IN THE HOUSE OF COMMONS ABOUT THE
LAND PURCHASE ACT OF 1885 BEFORE GOING INTO COMMITTEE

Mr. Sexton asked the Chief Secretary for Ireland to give the names of the two new Land Commissioners who were to be appointed.

The Chief Secretary refused to reveal the names for whenever new Commissioners were to be appointed, the names of the gentlemen to be appointed created more excitement and interest than the whole of the other provisions in the Act.¹ He explained the terms of the Bill. The sale was to be a voluntary act of the landlord. One-fifth of the purchase money was to be deposited as a guarantee fund. The purchase money was to be advanced for forty-nine years at a charge of 4 pounds for 100 pounds. He feared that the Act might create jealousy between the purchaser and the other tenants, but if the Bill were adopted these matters would adjust themselves.²

Mr. Walker also insisted that the names of the Commissioners by whom the Bill was to be carried into effect be given. The working of the Act would depend on these persons. He believed it was illegal to use the Irish Church Fund to carry out the provisions of the Bill, and that if the Irish learned that the Act was

1. Hansard, Op. Cit., Vol. 500, p. 1070

2. Ibid., p. 1071

passed to enable landlords to sell their land at an increased price, the Act would be a dead letter.³

Colonel King-Harman said that the Bill was a great disappointment to him. It was highly dangerous and exceedingly costly. The Land Commission would be appointed to carry out the provisions of the Bill. This Commission had rendered the provisions of the Land Act of 1881 nugatory. They interfered when a tenant wished to purchase his holding. In Mayo a landlord and tenant had agreed that the purchase price of a holding was to be $16\frac{1}{2}$ years purchase. The Commissioners interfered and refused to advance three-fourths of the purchase money, with the result that they themselves bought the unfortunate proprietor out at 12 years' purchase. The deadlock in Irish land was due to the action of the Land Commission to whom it was proposed to intrust the carrying out of the present Bill.⁴ The Landed Estates Court would be an excellent tribunal for carrying out the provisions of the Bill. Two new Commissioners were to be appointed. This would create an extra expenditure of public money.⁵ The Court was going to be a sham court. The names of the new Commissioners should be given so that the House could criticise them now.⁶

3. Hansard, Op. Cit., Vol. 300, p. 1074

4. Hansard, Op. Cit., Vol. 300, p. 1075

5. Ibid., p. 1076

6. Ibid., p. 1077

The Commissioners were to be paid 2,000 pounds per annum. Men worth their salt could not be gotten for that.⁷ The sum of 5,000,000 pounds put down for expenditure under the Act was a sham. Nothing less than 20,000,000 pounds would enable the measure to be successful. The proposal to reserve one-fifth of the purchase money was even a greater sham.

Michael Davitt had called the Bill a "Bill for the Relief of Pauper Landlords." He advised the tenants not to purchase their holdings and he (Colonel King-Harman) believed the tenants would take his advice.⁸ In 1880, 241 applications to purchase came before the Land Commission. Many of these were refused by the Commission because the price was too high. The Land Commission only allowed 16 years purchase but in two cases they had allowed 26 years and 28 years. In the former case the landlord was a member of the present Government, and in the latter case a member of the late Government.⁹

Colonel Nolan did not agree with Colonel Harman that 5,000,000 pounds was not a sufficient sum to aid the purchasers for he believed that there would not be 5,000,000 pounds worth of land sold before the new Parliament met. He said that the most important part of the Bill was

7. Ibid., p. 1076

8. Hansard, 3d. Ser., Vol. 500, p. 1078

9. Ibid., p. 1078

overlooked by the Colonel - the reduction of interest from 5 percent to 4 percent. He thought the purchaser should be allowed to purchase a few acres of grass land adjoining his holding as many tenants desired grass land.¹⁰ The machinery of the Act was good and proper.¹¹

Mr. Lewis pointed out that the tenants who bought under the Acts of 1870 and 1881 would be disappointed because they had paid 5 percent interest and that those who bought under the Act of 1885 had only to pay 4% and that the term of payment was extended from 35 years to 49 years.¹²

Mr. Shaw Lefevre said it was the Landlords of Ireland who were urging the State to offer inducements to buy their land. There would not be much sale of land in Ireland for the Land Act of 1881 gave such security to the tenant that he had no desire to become a complete owner.¹³ It would be better for the State if there were some intervening local authority which would be responsible for the collection of the interest.¹⁴

Mr. T. A. Dickson thought that the Bill had three good points which should redeem it in the eyes of everyone. It provided for the advance of the whole

10. Hansard, Op. Cit., Vol. 500, p. 1080

11. Ibid., p. 1081

12. Ibid., p. 1085

13. Ibid., p. 1088

14. Ibid., p. 1092

urchase money. The purchase money was advanced at a reduced rate of interest. The period provided for payment was extended from 35 years to 49 years.¹⁵ He did not agree with Colonel King-Harman that the Landed Estates Court should be entrusted with the working of the Bill. The people had no confidence in that Court. He thought a New Machinery should be created to deal solely with the land purchase.¹⁶

Mr. Parnell was very hopeful that the Act might aid in giving a final solution of the land trouble.¹⁷ He thought that it was not best to use the Church Surplus Fund. The Land Commission would be likely to allow too high a price for the land sold if they knew this security was behind them. To retain one-fifth of the purchase price money would cause contention between the landlord and the tenant. The tenant would think that the landlord should pay it.¹⁸ The tenants should be warned not to pay too high a price for their land for the price of farm produce was low and they would not be able to pay it. The advances made by the State should be large.¹⁹ He wished to inform the House that the much abused Land League was formed to do away with rack rents and prevent landlord oppression, eviction and enable occupying tenants to

15. Hansard, Op. Cit., Vol. 500, p. 1097

16. Ibid., p. 1098

17. Ibid., p. 1103

18. Ibid., p. 1104

19. Ibid., p. 1106

become owners of their holdings. These provisions seemed now to be absorbed into the political creed of the Conservative Party.²⁰

Mr. Thomasson agreed with Mr. Parnell that the tenant who purchased his holding may lose money for at the expiration of 15 years the rent would be likely to be reduced. The tenant would become discontented for he would have to pay a higher rent to the State than to the landlord.²¹ He thought that the State was running a great risk. It was to become the landlord of a large part of Ireland which was a most undesirable position for the State as it would have to exact the rent to the utmost farthing. The Bill was experimental and not a final one. Enough of experiments had been tried already.²²

The Attorney General for Ireland, Mr. Holmes, explained to Colonel King-Harman why the Landed Estates Court should not be entrusted to carry out the provisions of the Bill. The Judges of the Landed Estates Court were in the habit of trying large cases and had no practice in trying small cases between landlord and tenant, and they had already more work in hand than they were able to do.²³ If the Land Commission carried out the provisions of the Bill it would be carried out vigorously.²⁴

20. Hansard, Op. Cit., Vol. 300, p. 1108

21. Ibid., p. 110

22. Ibid., p. 111

23. Hansard, Op. Cit., Vol. 300, p. 114

24. Ibid., p. 114

Mr. Biggar considered the Bill experimental - a commencement with the question of Land Purchase. The landlords should not be allowed too extravagant a price from their tenants. The Commission should be instructed if possible to use the 5,000,000 pounds to buy property within the next three months.²⁵

The Bill was then considered by the Commons in Committee where the following opinions were given and important Amendments were made —

25. Ibid, p. 119

THE LAND PURCHASE BILL OF IRELAND CONSIDERED
IN COMMITTEE OF HOUSE OF COMMONS

The Attorney General for Ireland, Mr. Holmes, submitted to the House of Commons the names of the two gentlemen appointed as Commissioners - Mr. John McCarthy who for many years was a member of the House of Commons and was at present a Sub-Commissioner appointed to carry out the provisions of the Land Act of 1881. He had carried out the measures of the Act of 1881 in a spirit of fairness and equity to all parties concerned. The second Commissioner was Mr. Stanislaus Lynch who had been a Registrar of the Landed Estates Court for many years and in that position had great experience in the transfer of land. Mr. Lynch had devoted himself to the question of a peasant proprietor and had written upon the subject.¹ He believed that if the House adopted those names the Act would be carried out with efficiency, fairness, and equity.²

Mr. Horace Davey believed that the State was taking a great risk in advancing all of the money to the tenant without getting the proper security. The security provided in the Bill was illusory as only one-fifth of the money was retained and this had to

1. Hansard, Op. Cit., Vol. 300, p. 1622
2. Hansard, Op. Cit., Vol. 300, p. 1623

be given up as soon as the tenant paid one-fifth of the purchase money. It should be retained until the tenant had paid all of the purchase money. The security of the land depended on two factors - the first the ability and willingness of the tenant to pay; the second the ability of the Government to enforce its power as a secured creditor. If the Bill passed the State would be called upon for an advance of 100,000,000 pounds instead of 5,000,000 pounds as provided for in the Bill.³ The Bill was a present to the tenants of the land in Ireland. It was the English taxpayers who had to advance the money. Other parts of the Kingdom would likewise ask for the same principle to be applied to them. The State was placed in the position of a mortgagee. If the State tried to enforce the payment of annuities it would incur all the odium of a landlord.⁴ It would be a good idea to establish an Irish National Land Bank. The deposits could be lent to the tenants to purchase their holdings. This would make the Irish interested in maintaining the stability of the system.⁵

Mr. Sinclair did not agree with Mr. Davey that the deposit money was the only security which the Government had for in the North of Ireland the tenant

3. Ibid, p. 1624

4. Hansard, Op. Cit., Vol. 200, p. 1626

5. Ibid, p. 1628

right amounted to more than the value of the land and that security would remain in the hands of the Government until the entire amount of advance was paid.⁶ He believed that the Government was now trying to make an effort to undo some of the harm it had done in the past by bad legislation.⁷

Sir George Campbell saw Irishmen in every quarter of the House. He thought that the Bill was considered too much as an Irish question. The Bill was framed to relieve the landlords. The landlords could sell their lands for prices which they could not otherwise obtain. The State was to purchase the land of Ireland from the landlords. If the Bill passed it would soon reach 200,000,000 pounds instead of 5,000,000 pounds.⁸ He saw Irishmen on all sides of the House. He thought that the Bill should not be treated as an entirely Irish question.⁹

Mr. Bryce said that the Bill involved great political dangers because it would make Great Britain the mortgagee of the land of Ireland. This would aggravate the difficulties between the two countries.¹⁰

Mr. Sexton's main objections to the Bill were in regard to the guarantee fund.¹¹ He said that if the

6. Ibid., p. 1628

7. Ibid., p. 1630

8. Hansard, Op. Cit., Vol. 300, p. 1634

9. Ibid., p. 1636

10. Idem.

11. Hansard, Op. Cit., Vol. 300, p. 1637

tenants were required to pay yearly rent to the State in the form of interest, they might not be able to do so, and as a result might have to borrow it from some banker at the rate of six or seven percent. This would exert a great hardship on the tenant who had purchased the land. The Bill was illusory and really meant the guarantee of four-fifths of the purchase money. As the tenant provided the other one-fifth when he paid his interest. The Bill was very little more generous than the Act of 1861 which had failed.¹² The Government had plenty of security without the deposit of one-fifth as a guarantee fund. It had the security of the holding itself, and the security of the Irish Church Surplus. The interest of the tenant was more valuable than the holding itself. The interest of the landlords and the interest of the tenant should be security enough for the State. The purchase money must not be too high. It must be a fair and equitable rent.¹³ The guarantee deposit would injure the landlord, cripple the tenant and prejudice the State. The landlord only owned about one-fifth of their land for they were so highly mortgaged. The landlord's tendency would be to run up the price of land and to place it at a figure which the tenant would be unable to pay.¹⁴

12. Ibid., p. 1636

13. Hansard, Op. Cit., Vol. 300, p. 1640

14. Ibid., p. 1641.

The Attorney General for Ireland, Mr. Holmes, objected to Mr. Sexton's amendment for if 5,000,000 pounds of State money were advanced it must have adequate security for the payment of the money. The double interest in the holding - the interest of the landlord and of the tenant - would make it of more value for it would be considered as the value of a holding in possession of a landlord.¹⁵ The State had to take into consideration the variation in prices which would not be greater than one-fifth and for this reason one-fifth as a deposit was necessary. The one-fifth guarantee money would ordinarily be paid by the landlord and he would get 3 percent interest on the money.¹⁶ The landlord could raise money on the deposit if he saw fit. Mr. Sexton had spoken about the landlords raising the price of purchase, but the Attorney General explained that the price of purchase could not be raised without the consent of the Land Commission.¹⁷

Mr. Walker said that the Attorney General was wrong when he stated that the landlord was to make the guarantee deposit. The Bill only provided that the landlord should make it when he was willing to do so. The landlord could only do it when he was not heavily encumbered.¹⁸

15. Ibid, p. 1643

16. Hansard, Op. Cit., Vol. 300, p. 1644

17. Ibid, p. 1645

18. Ibid, p. 1646

Colonel King-Harman disagreed with the Attorney General that the landlord could borrow money on the security of the guarantee fund. He thought that no one would lend money on a security which owing to the tenant not paying his instalments would be likely to be snapped up by the Commission at any moment.¹⁹

Mr. Healy said that the provisions of the Bill were illusory and that it would do the tenants, the State and the landlords a distinct mischief. There was only 5,000,000 pounds allowed by the Act for the purchase of land. The Government wanted to settle the land question, but they had confined the operation of the Bill to rich grazers, large farmers, and people who did not deserve it. These were the only class who could get the one-fifth required. All the others were excluded from purchasing the land for they would not be able to pay the interest required.²⁰ The only way a poor tenant could get money was to borrow it at a high rate of interest so he would offer the landlord a lower price than the landlord would be inclined to take. He hoped that Mr. Sexton's Amendment would be pressed on the Committee.²¹

Mr. Shaw Lefevre agreed with Mr. Healy that it would be best to strike the Guarantee Clause out of the

19. Hansard, Op. Cit., Vol. 300, p. 1647

20. Idem

21. Hansard, Op. Cit., Vol. 300, p. 1648

Bill.²² Land in Ireland had often sold at 40 years' purchase because it included the landlord's and tenant's interest. The security of the holding was quite enough.²³

First Commissioner of Works, Mr. Plunket, was surprised that Mr. Lefevre recommended that the Government should give up all the security proposed in the Bill by the way of guarantee.²⁴ It would be a departure from all precedent to ask the taxpayers of the country to advance the whole of the purchase money without any guarantee.²⁵ He recommended that the Guarantee Clause be left unchanged.²⁶

Mr. F. A. Dickson also objected to Mr. Sexton's Amendment which would render the Act illusory and unworkable.²⁷ He wished to give the Land Commissioners a wider range of power and let them decide whether to loan three-fourths or one-half the purchase price. These Commissions were under the control of the Treasury who would see that the right amount of money was advanced.²⁸

The Chancellor of the Exchequer explained to the House of Commons that Her Majesty's Government looked

22. Hansard, Op. Cit., Vol. 300, p. 1651

23. Ibid, p. 1648

24. Ibid, p. 1649

25. Ibid, p. 1650

26. Ibid, p. 1651

27. Idem

28. Hansard, Op. Cit., Vol. 300, p. 1651

upon this guarantee fund as a matter of supreme importance in the Bill. He did not think it just to the British taxpayers, the taxpayers of Ireland or other taxpayers of the other part of the United Kingdom, that all of the purchase price be advanced without some guarantee. The Government did not intend to do as Mr. Dickson proposed and give the Land Commission power to carry out the provisions of the Act. The Government was determined to adhere to the guarantee deposit.²⁹

Mr. Villius Stuart, a landlord, said that he hoped Mr. Sexton would withdraw his amendment. Of course as a landlord he would prefer to get all of the price of his land instead of four-fifths, but if the Amendment carried it would wreck the Bill to the detriment of the peasant proprietorship in Ireland.³⁰

Mr. Sinclair also favored the withdrawal of Mr. Sexton's Amendment for the Exchequer had explained that the Government could not put the Bill before the taxpayers of England, Ireland and Scotland unless they retained the security of one-fifth of the purchase price.³¹

Mr. Sexton still insisted that the Government had plenty security without retaining the one-fifth of the purchase money. He quoted a paper read before the Statistical

29. Ibid., p. 1653

30. Hansard, Op. Cit., Vol. 300, p. 1655

31. Ibid., p. 1656

Society which stated that even in Clare and Mayo, the tenant's right was as great and even greater than the landlord's interest. The Land Commission having plenty of security would run up the price of land.³² He consented to withdraw his Amendment if the Government would give up the Church Surplus Fund guarantee. The Chancellor of the Exchequer consented that the Church Surplus would not be insisted upon for security.³³

32. Idem

33. Hansard, Op. Cit., Vol. 300, p. 1657

IMPORTANT AMENDMENTS MADE BY THE HOUSE OF COMMONS
IN COMMITTEE TO THE LAND PURCHASE ACT OF 1885

Mr. Sexton proposed that the Clause relating to the Irish Church Surplus would be omitted from the original Bill as it was agreed that the Surplus Fund was not needed for a Guarantee Fund.¹

Mr. Walker proposed an Amendment by which if the landlord who wished to sell his holding had a mortgage on it the Land Commission may assume the mortgage, and make it payable out of the purchase money. He thought that it was necessary to do this in order to give the purchaser a clear title.²

The Attorney General for Ireland, Mr. Holmes, proposed that instead of allowing the tenants 2,000 pounds to purchase their holdings, the sum should be increased to 3,000 pounds with permission to the Land Commission to increase it to 5,000 pounds if they saw fit.

Mr. Sexton objected to this Amendment for the purpose of the Bill was to help the small tenants only. The Amendment was passed with no further objections.³

The Attorney General for Ireland proposed an amendment by which the Land Commission could only purchase

1. Hansard, Op. Cit., Vol. 300, p. 1688

2. Ibid., p. 1688

3. Ibid., p. 1645

estates when they were sure that four-fifths of the holdings would be purchased and four-fifths of the purchase price paid. This Amendment was necessary in order to prevent a small number of tenants from trying to coerce the majority of tenants to buy when for some reason or other they did not wish to do so.⁴

The Chief Secretary of Ireland, Sir William Hart Dyke, proposed an Amendment by which the advances made to the tenants in the Land Acts of 1870 and 1881 should be made on the same terms as the advances made in the Act of 1885. This should be done in order to be fair to the tenants who had already bought holdings.⁵

Mr. Sexton proposed an Amendment that in every transaction of the purchase of an estate or holding, the Land Commission should retain not less than one-fifth of the purchase to satisfy the purpose of the guarantee deposit.⁶

The Attorney General amended this by striking out the words or holding. The Amendment then passed.⁷

The Chief Secretary, Sir William Hart Dyke, moved an amendment by which persons who had purchased land under the Irish Church Act of 1869 would have the same privileges extended to them as was granted in the

4. Hansard, Op. Cit., Vol. 300, p. 1696

5. Ibid., p. 1666

6. Ibid., p. 1850

7. Ibid., p. 1851

Act of 1885 - rate of interest $3 \frac{1}{8}$ per cent - and the term of payment 49 years instead of 35 years.⁸

Colonel King-Harman proposed an Amendment which required that a record of all land transfers should be kept with the Clerk of Peace of the county in which the transaction took place.⁹

The Attorney General for Ireland proposed an amendment by which the additional members of the Land Commission should perform all the duties which were required of the Commissioners appointed under the Land Act of 1881.¹⁰

The Attorney General for Ireland also moved two Amendments in regard to court procedure.

The first Amendment gave any person who so desired to bring any question arising under the law of the Act of 1885, before the Judicial Commissioners sitting with the additional Commissioners appointed.¹¹

The second Act gave anyone who was not satisfied with the decision of the Land Commissioners an opportunity to take his case before the Court of Appeal in Ireland for a final decision.¹²

The Bill passed the House of Commons August 11, 1885.

8. Hansard, Op. Cit., Vol. 300, p. 1896

9. Ibid., p. 1852

10. Ibid., p. 1853

11. Hansard, Op. Cit., Vol. 300, p. 1853

12. Ibid., p. 1854

The House of Lords agreed to the Commons'
Amendments August 13, 1885.

The Bill received Royal Assent August 17, 1885.

CONCLUSION

The Irish Land Acts of 1870 and 1881 were formulated and introduced into Parliament by William Ewart Gladstone. In regard to the character of this great man Lord Salisbury in pronouncing his Requiem on Mr. Gladstone said, "He left a great example to which History hardly furnished a parallel of so great a Christian man."¹

George Peele said of him. "In final conformity with his life, Mr. Gladstone ere he departed made a provision for the future. He gave his best possession, his library, in dedication and with endowment to the people forever. O' princely benefactor who having attained virtue and wisdom, didst plan to make us virtuous and wise."²

The Land Act of 1870 did not settle the agrarian difficulties of Ireland and proved a disappointment to Parliament and to the Irish people. By the provisions of the Bill the tenant was to receive compensation for improvements if evicted for any cause other than the non-payment of rent. He was also to receive compensation for disturbance. Before the passage of this Act the improvements were always

1. Peele, George. In Memory of Mr. Gladstone, Contemporary Review, London; The Contemporary Review Company, July-December 1931, Vol. 140:293-297
2. Ibid.

considered the property of the landlord's in all the Ireland except in Ulster where it was the custom to consider the improvements belonged to the tenant. The Act provided that the improvements should belong to the tenant. This transfer of property from the landlord to the tenant caused much opposition in the House of Lords for many of the Lords owned holdings. However on account of the state of lawlessness and distress that prevailed throughout Ireland the Lords consented to the Act for if the lawless condition continued their property would be valueless.

The landlords soon found a way of recovering the price of the improvements which they had lost. They raised the rent a small amount each year and thus recovered the price of the improvements. The tenant having no other means of livelihood remained on the holding and paid the exorbitant rent. In cases where the rent got so high that the tenants could not pay it they were evicted. Insecurity of tenure and high rent soon became a problem.

The Bright Clause of the Bill which allowed the tenant two-thirds of the purchase price of the land from the Government if he wished to purchase his holding only succeeded in placing a few tenants for the tenants were not able to furnish the one-third

of the purchase price.

The Act was however of some importance for it was a path breaker for better land legislation which was soon to follow.

The Land Act of 1881 was introduced by Mr. Gladstone to remedy some of the defects in the Act of 1870. By the construction of this Act Mr. Gladstone showed great power as a constructive statesman. The Act marked the beginning of the solution of the most difficult of Ireland's problems. It created a Court of Land Commissioners who fixed the price of rent which when once fixed was to remain fixed for fifteen years, during which time the tenant was not to be evicted except for non-payment of rent. The tenant was allowed to sell his improvements at any time he wished to the highest bidder in the market. This Bill contained a Purchase Clause like the Bright Clause in the Bill of 1870. The Government however advanced three-fourths of the purchase money instead of two-thirds as provided for in the Act of 1870. The Act was attacked with bitterness by the property owners of both houses of Parliament for it interfered with the rights of property holders, destroyed freedom of contract, and established that rent was not to be determined like the price of other things, by the

law of supply and demand. Over one hundred fifty Amendments were proposed to this Bill. The Act after much alteration passed both houses of Parliament and received Royal Assent.

Perhaps the greatest obstacle to the success of this Act, was the clumsy and unfair action of the Court of Land Commissioners. In Hansard Parliamentary Debates, Vol. 299, p. 1789 the following account was given about the dishonest acts of Sub-Commissioner Walpole. On July 12, 1881, Mr. O'Brien brought before the House of Commons a number of charges against Mr. Walpole. In a case brought before Mr. Justice O'Hagen he tried to impose a lease on one of his tenants named Higgings which bound him to renounce all claim for compensation under the Act of 1870 and also to renounce all claim for compensation in the future under any subsequent Land Act that might be passed. The Farmers' Gazette gave a list of cases prepared by Mr. James Byrne J. P. in which the landlords themselves reduced the rent fixed by Commissioner Walpole. The "judicial valuation" fixed by Mr. Walpole was 33% above the Government valuation. Mr. Walpole was paid 700 pounds a year to administer the Act, but was trying to defraud tenants of the benefit of it. Mr. Sexton complained to the Attorney General of Ireland, August 10, 1885 that

out of 34 appeals to the Irish Land Commission in the case of tenants on Lord Rosse's estate, Parsonstown only four were listed for hearing in Dublin, and after these four had come eighty miles to have their cases heard, the cases were put back to a future day. The Commissioners did not fix a time for hearing all the cases on the estate so as to render the cost less expensive to the tenant. After the passage of the Land Act the court was filled with tenants who had brought their cases into court. Mr. Parnell saw a way out of this confusion by insisting that under the advice of the Land League, the tenants should wait until a number of test cases were tried in court and then submit their cases. The Purchase Clause of the Act failed to aid the tenants to purchase their holdings because the tenants could not furnish one-fourth of the purchase price required.

As the Purchase Clauses of the Land Acts of 1870 and 1881 did not succeed in creating a peasant proprietary for Ireland, Lord Ashbourne, the Chancellor of Ireland, prepared another Land Bill and presented it to the House of Lords, July 17, 1885. Conditions in Ireland were growing worse. 26,000 men were sent to Ireland to keep peace there. This army cost 300,000 pounds a year. The system of policing Ireland was not

one of economy. There was a block in the land market of Ireland. The Landed Estates Court used to sell land at the rate of 1,500,000 pounds but in 1885 the amount of land sold was only 150,000. The landlords complained that their condition was made unbearable by the Land Acts of 1870 and 1881. They were disappointed with the Government's attitude toward them. The failure of the purchase clauses in the Land Acts of 1870 and 1880 proved beyond a doubt that the only way to establish a peasant proprietary in Ireland was to have the Government appropriate the entire purchase price to the tenants. This Act of 1881 appropriated 5,000,000 pounds to be given by the Land Commissioners to tenants who wished to purchase their holdings. The tenant was at once to be made the owner of his holding. The State retained one-fifth of the landlord's money for security until the tenant had paid in a sum equal to that amount. The landlord was then given the remaining one-fifth of the purchase price. This Act brought little benefit to Ireland because of the lawlessness which existed there. It was followed in 1886 by another Land Act introduced by Mr. Gladstone who believed that unless home rule were given Ireland, no land Act would bring relief to Ireland. Mr. Gladstone's Land Act was not passed.

In later years the Ashbourne Acts were

extended to a larger number of tenants by the appropriation of more money to be applied to land purchase. These later acts have gone far toward success.

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