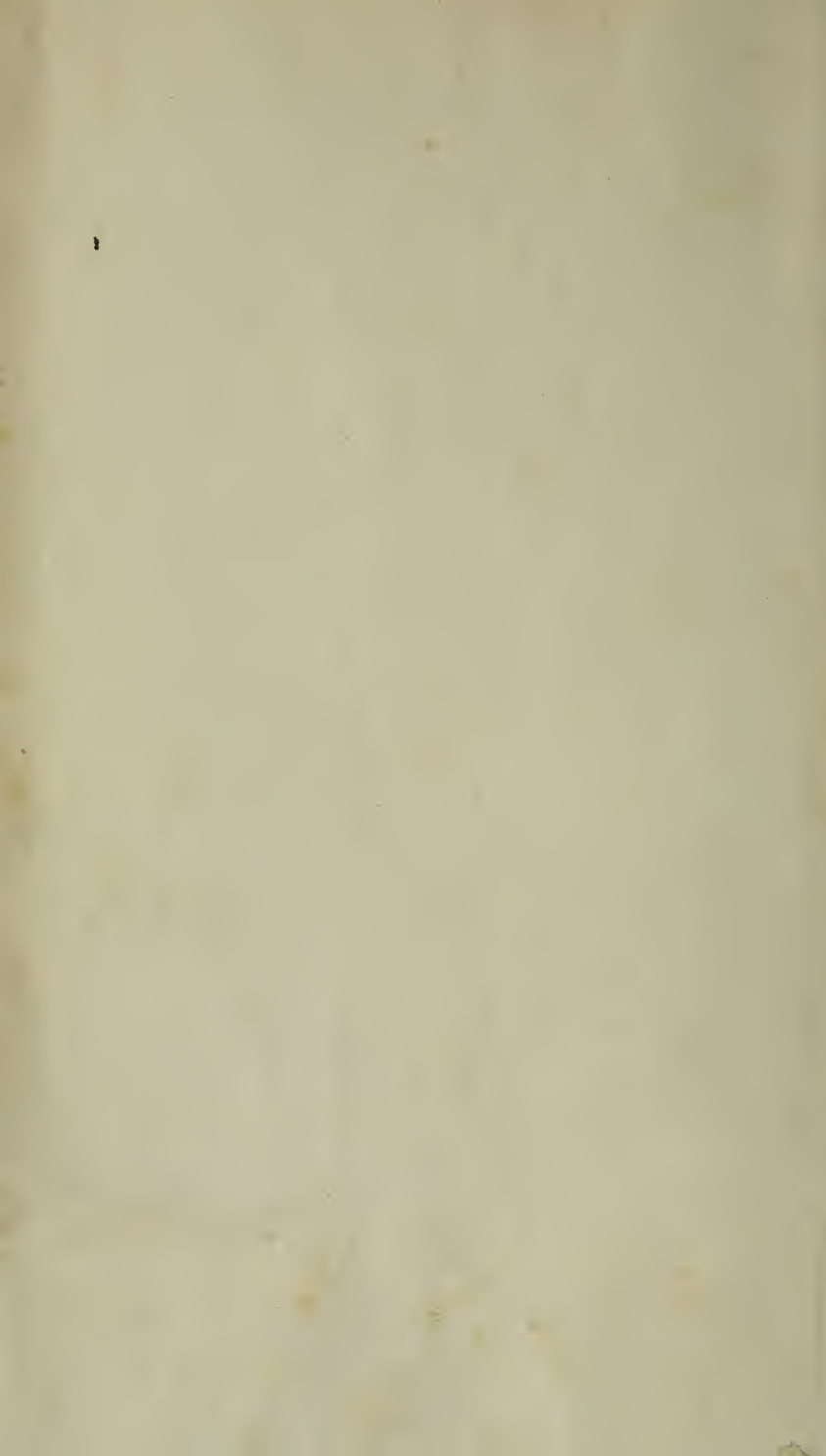


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*John-Jacob*<sup>9</sup>

USEFUL PREFACE

TO

THE IRISH LAND BILL.

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REPRINTS FROM "THE ST. JAMES'S GAZETTE."

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# PREFACE TO THE IRISH LAND BILL.

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## JUDGMENTS FORGOTTEN.

SIR,—Cabinet Councils appear to be over for a time; and the members of the Government have retired to their several homes to indulge in Christmas cheer, content to know that the law of the land which they are appointed to administer and enforce is in complete abeyance in Ireland, while the law of the Irish Land League is in full, unquestioned, and unresisted force. Meantime they are supposed to be elaborating, not a measure for the vindication of law and order and the protection of life and property in Ireland, but some further measure of landlord spoliation, consequent upon the failure of the Act of 1870 to satisfy the Irish land-hunger. What form this further attempt at what is called remedial legislation will take outsiders have no means of knowing; but common rumour says a new Land Bill is being framed on the lines of the extension of the Ulster Custom to the whole of Ireland—fixity of tenure at fair, State-valued rents, and money advances to the tenants for the purchase of their holdings. It may, then, I think, be a help to the formation of sound public opinion upon these matters, and possibly useful to Ministers themselves, to recall the sayings of distinguished Liberal statesmen on Irish land legislation, and notably of the present Prime Minister in 1870, when carrying his Land Bill through the House of Commons.

I find, then, that in 1860 Lord Cardwell, when Irish Secretary in Lord Palmerston's Administration, thus expressed

himself when bringing in an Irish Land Bill: "If we cannot violate the law of property—if we cannot give what is called fixity of tenure, by which I understand the transferring the property from the landlord to the tenant—is there nothing we can do?" The measure to which these words were the prelude, and which subsequently became law, gave compensation for prospective improvements assented to by the landlords. In 1863 Lord Palmerston, when referring to this Act, said:—

How could a Government increase the prosperity of a country? By removing obstructions and securing life and property; the Government had done all that could be done to effect these objects. He protested against communistic views disguised under the term tenant-right. In his opinion owners and tenants ought to settle their own affairs themselves; and they were now at full liberty to do so. In the Act of 1860 the Government had gone as far as it was proper to go consistently with the principles of justice. They refuse to adopt that tenant-right which would transfer property from the owner to the occupier as a joint, or in some cases as a sole, owner.

In 1864, Lord Palmerston said, when speaking against a motion of Mr. Pope Hennessy's, which invited an expression of opinion on the part of the House of Commons against emigration:—

We are told that tenant-right would remedy the evils complained of, and that if we were to adopt a change in the law regarding landlord and tenant, instead of leaving that relation to be dealt with by bargains between man and man according to the plain and simple doctrine that should regulate transactions of that sort; if we would only pass some law which would impose an obligation on the landlord that, as I apprehend, would transfer a part of his property eventually to the tenant: that would form such an inducement as would prevent the Irish people from going to America. Now, all these remedies appear to me wide of the mark. It is a simple question of the law of level.

His last words on the Irish land question were spoken in 1865, and were as follows :—

I am sure that on reflection the Irish nation would not wish that to be done which would be pregnant with injustice. Now, if there be one thing more than another which a nation, in my opinion, is bound to respect and regard, it is the rights of property ; because upon those rights every man, however rich or however poor, must find it his interest to rest and to depend. And if laws are passed which infringe the rights of property, depend upon it that in the main those laws would be injurious to the nation in which they are passed, however tempting and apparent may be the advantage which for a time may be expected to arise from their operation. The honourable member (Mr. Maguire) said, as I understood him, that some tribunal should be created to determine as between landlord and tenant what changes—for I will not adopt the word improvements, for they may not be improvements—but what changes the tenant should make upon the landlord's property, and what should be the conditions of rent and period of occupation which the tenant should be liable to and have a right to with regard to the landlord. Now, it seems to me that an arrangement of that kind would violate the fundamental principles of justice.

Mr. Lowe, in 1864, when speaking in favour of emigration, said, *inter alia* : “ There is nothing more fatal to the progress of agriculture and civilization generally than a compulsory partnership between two persons on the same land, such as we have here experience of in copyhold and tenures of that kind.” He attributed the state of Ireland to “ disorder, small tenancies, want of capital, climatè.”

Upon the subject of State advances to tenants for the purchase of their holdings, he thus expressed himself in 1868 :—

The State must of necessity be a harsh, unyielding landlord, acting on fixed principles. When you have a property and a tenant who will not pay rent you must evict : it is quite clear that the burning desire of these tenants of the Government

would be to get rid of the landlord. Having first withdrawn all the conservative influences in the country, you would in the next place give the strongest possible impulse to the desire for separation; because the tenant would think that by getting rid of his landlord—that is, the Imperial Government—he would be enabled to live like a gentleman for the remainder of his life.

There is much more, pregnant with wisdom, that might be quoted from Mr. Lowe's speeches on Ireland—more especially what he says about the sound principles of political economy being the oasis in Irish politics on which alone statesmen can safely take their stand; but I pass on to what (circumstanced as we now are, under the rule of the present Prime Minister) is of more moment—namely, the sayings of Mr. Gladstone in 1870 on fixity of tenure, State-valued rents, non-payment of rent, security for rent, the extension of the Ulster Custom, etc. The only difficulty I find in making a selection from his sayings is superabundant matter. On the second reading of the Land Bill, 1870, Mr. Gladstone said:—

I ask the House whether, during the four nights in this great arena of reason and discussion, any argument has been made by any English, Scotch, or Irish representative to show that fixity of tenure, to be applied as a means of securing justice and peace in Ireland, can for a moment abide its trial at the bar of reason. I wish to record the great fact that fixity of tenure has remained during four long nights' debate on the second reading of a Bill on land tenure in Ireland wholly unsustained by the slightest attempt at reasoning. Perpetuity of tenure is a phrase that I flatter myself is a little going out of fashion. If I have contributed anything towards disparaging it, I am not sorry.

He then described "fair rents" and "valuation rents" as "an old friend with a new face," and proceeded as follows:—

I am not prepared to admit that the tenant's just protection affords either an apology or a reason for endowing him with a joint property in the soil. I own I have not heard, and I

cannot conceive, what is to be said for the prospective power to reduce rents. Shall I really be told that it is for the interest of the Irish tenant bidding for a farm that the law should say to him: "Cast aside all prudence and foresight; go into the market and bid what you like; drive out of the field the provident man who will fulfil his engagements; bid right above him and induce the landlord to give you the farm; and the moment you have got it come forward, go to the public authority show that the rent is excessive, that you cannot pay it, and get it reduced?"

Mr. Gladstone then went on to say that "he could conceive nothing more calculated—first, to throw into confusion the whole economical arrangements of the country; secondly, to drive out all honest and solvent men; thirdly, to carry widespread demoralization through the whole of the Irish people—than that there should be an authority always existing ready to relieve them from the contracts they have deliberately entered into." "If," he added, "you undertake to fix the valuation of rents by public authority, you must likewise undertake to fix the whole conditions of every agricultural holding. There is no escape from that conclusion."

At another time, when speaking of perpetuity of tenure, Mr. Gladstone said:—

If perpetuity of tenure were good for Ireland it could not be very bad for England or Scotland. There are, indeed, peculiar features in the condition of Ireland that, in my judgment, justify and demand peculiar legislation; but I am aware of none of those features that could by any man be held to recommend perpetuity of tenure in Ireland that would not also be applicable to England and Scotland. If perpetuity of right is to be transferred from one class to another, that would not be a bit more or less expedient on this side of the water than on the other; and accordingly, in that view of the matter, this with which we have now to deal is not an Irish land question, but an United Kingdom land question. The Government sought stability, not perpetuity, of tenure.

And speaking in Committee on compensation for ejection Mr. Gladstone said :—

They would on no account propose anything that should apply to the future ; and, with respect to the past, they desired to put words in the clause to show that what was [proposed should be applied only under circumstances of a very exceptional character, and that the court could allow no excuse in case of non-payment of rent. If any readjustment of tenancies had been made after the passing of the Act, that fact would take it out of the category of the cases contemplated ; for it was intended to give warning that henceforth every man must enter into such covenants as he could fulfil.

Finally, when in Committee on the Land Bill, on May 19, Mr. Gladstone in a few words described its general scope and intention, and dealt summarily with fixity of tenure, etc.

I am (he said) irreconcilably opposed to the granting to fixity of tenure. Had our object been merely to solicit favour for the hour we should have adopted no doubt some plan of absolute tenant-right, of valuation rents, and in some form or other of perpetuity of tenure ; but on looking carefully through those plans we thought they were fraught with danger ; we thought they involved mischief to every class concerned in the ultimate working of a Land Bill, and therefore we founded our Bill on other bases. We resolved to recognize the right of the tenant to improvements made by him, and to sanction custom where established. With the view of checking arbitrary evictions, we framed provisions which impose a payment in the nature of a fine for such evictions. But in doing so we carefully put aside everything that promised, or seemed to promise, fixity of tenure, and everything in the way of what may be described as valuation of rents. The Ulster Custom is no creation of ours ; we only ask Parliament to give its sanction to that which is a custom ; and in the most rigid language we prevent the Ulster Custom being adopted in other parts of Ireland unless it is in all respects the Ulster Custom. In other words, we have been careful not to allow currency to what may be called a spurious Ulster Custom.

These words were spoken in opposing a clause proposed by Sir John Gray for the establishment of "Permissive tenant-right." Further, it is well to note that Mr. Chichester Fortescue, the Irish Secretary, on the same occasion, said:—"When once the perpetuity of tenure was conceded which his honourable friend (Sir John Gray) proposed, it would in practice be absolutely impossible to enforce any restriction, and still less any forfeiture for any cause short of non-payment of rent. To suppose that under such circumstances the landlord would retain in his hands any practical power of preventing the subdivision of lands was, according to his knowledge and experience of Ireland, an absolute delusion. The Government had steadily resisted the idea of rent being fixed arbitrarily by a public authority."

Comment upon these extracts is needless. I will only add that until I have heard from Mr. Gladstone's own lips in the House of Commons that that which in 1870 he said "could not for a moment abide its trial at the bar of reason," and was calculated "to demoralize" the Irish nation, is now to become law, I will believe even "truth to be a liar."

I remain, Sir,

Your obedient servant,

ST. JAMES'S PLACE, *December 4.*

ELCHO.

## MINISTERIAL OPINIONS ON THE "THREE F's."

LORD SELBORNE.

We printed a few weeks ago a letter from Lord Elcho in which he set forth Mr Gladstone's opinions on the questions of fixity of tenure, Government valuation of rents, the extension of the Ulster Custom, etc., as evidenced by quotations from the Prime Minister's speeches delivered while he was passing the Irish Land Act of 1870 through the House of Commons.

In certain respects an even more remarkable protest against revolutionary expedients for settling the land system of Ireland was made by the great Lord Selborne, on the motion for the second reading of that measure. Sir Roundell Palmer was then, it will be remembered, an independent supporter of the Government, untrammelled by the restraints and uninfluenced by the necessities of office. His words therefore may be accepted as the conscientious and unbiassed utterances of an eminent Liberal lawyer and statesman on a subject to which he had voluntarily applied his mind.

After stating that he should endeavour to confine himself "as strictly as possible to questions of principle" in the observations which he was about to make, Sir Roundell Palmer said that "if the Government had yielded [in framing their Land Act] to the wild demands which were made with loud voices, but, he trusted, not really by the majority of the people in Ireland, they would have taken the most fatal course any Government could possibly have taken in a country like our own; a course of which no man could foretell what might have been the ultimate consequences." Of such "wild demands" Sir Roundell Palmer then spoke more in detail. He said:—

The only questions I am disposed to ask myself on the second reading are—first, whether this Bill preserves the rights of property substantially; and, next, whether you are likely to do any good by it? With regard to the first of these questions, I confess I could not myself have been induced to agree to any measure which seemed to me, upon the whole, to involve any serious and substantial departure from those great and necessary principles on which, as it appears to me, the rights of property rest. Some of the schemes which have been proposed with regard to Ireland do seem to me, I confess, to entirely ignore these principles. I shall not go into the argument on that subject, because that point was exhausted by the head of the Government when he spoke of fixity of tenure, which, in plain English, means taking away the property of one man and giving it to another. My right honourable friend said that, according to the principles of justice, if we transferred property in that

way, we must pay for it. No doubt we may take a man's property, but in that case we must compensate him for it. I prefer the doctrine of my Right Honourable friend the First Lord of the Treasury to the extreme proposition stated by the Secretary for Ireland, as held by Judge Longfield. It seems to me that the language quoted as that of Judge Longfield is somewhat dangerous in its extent. That learned judge appears to have said that those who bought the parliamentary titles granted under the Encumbered Estates Act could not complain of any subsequent legislation which dealt with landlords as a class, and not as private individuals. But that entirely depends on the nature of the legislation. An Act of general confiscation would, indeed, violate fundamental principles in all cases, and not only in the cases of persons having titles guaranteed by Parliament. But still I think it cannot be denied that it would be contrary to the special guarantee, as well as to general principles, if you destroyed in one session titles on the faith of which you had induced purchasers to invest their money in another. There is no doubt that there may be a kind of legislation which would be the grossest possible breach of faith; but it does not appear to me that there is anything in this Bill at variance with the universal principles of equity, except, perhaps, the third clause, which deals with estates not held under custom.

On the proposed extension of the Ulster Custom, Sir Roundell Palmer observed :—

With regard to legalizing the Ulster Custom, no one has suggested that there is any serious difficulty on that point; but when the Right Honourable Member for Liskeard (Mr. Horsman) said that the extension of the Ulster Custom to the rest of Ireland was open for our consideration, I must say that that does appear a manifest violation of the principles of justice, and to be impossible, if we mean to respect those principles. It is unquestionable that where the custom obtains and landlords and tenants act on it in their dealings with one another, in such a case it is a matter of honesty for the landlord to allow the tenant to have the benefit of the custom. But when you talk of extending that custom to other parts of Ireland, you speak of a change which would alter the terms which in those other parts

of Ireland have already been agreed on between landlord and tenant ; and therefore, if you gave in such a case to the tenant the value of the custom existing elsewhere, you would be just taking so much from the landlord and giving it to the tenant.

With respect to two others of the three F's he went on to say :—

Another matter mentioned either by the mover or the seconder of the amendment was the scheme of giving what in substance would be fixity of tenure, with a periodical valuation of the land for the purpose of determining the rent. A scheme more full of objection, both as respects landlord and tenant, I cannot conceive. On the part of the landlord it is objectionable because you would take away from him his land ; and on the part of the tenant it is likewise disadvantageous because his rent would be just as variable and uncertain as under the present tenure, and would be sure to be periodically raised in many cases in which a liberal landlord might otherwise allow it to continue unchanged. Under such a scheme you would have constantly brought in a judge or the State—and what could be worse than the interference of the State in a matter of that kind—to settle the terms of the holding, to value all the lands whenever the time of valuation came round—and there would be a continual conflict between landlord and tenant. The working of a somewhat similar system in India has been referred to ; but I see in a pamphlet by Mr. George Campbell that he was against its introduction into Ireland because he foresaw that even in India it would not long work as a tolerable system.

On another point, now made a great deal of, Sir Roundell Palmer spoke as follows :—

I do not think we need trouble ourselves very much about the clauses for enabling people to acquire land. It seems to me that they are very unimportant ; but I am quite willing that a little money should be so spent, and that the experiment should be tried upon the responsibility of the Government.

Of the general effect of Mr. Gladstone's Bill and the measures which he thought should accompany it, Sir Roundell Palmer said :—

I will say but a few words on the effect to be expected from the Bill. No man can expect that standing alone it will accomplish its object. No wise man who knows the history and character of the outrages that have disgraced the Ireland of the present day, can believe that those who are guilty of those outrages draw any just or equitable distinctions. Whether the evictions be for non-payment of rent or for any other cause, the evidence before the Devon Commission, and much later information which has reached me, and which I am sure I can trust, proves that those who have no regard for other men's lives are just as likely to use the violent methods to which they are accustomed where a landlord has done no wrong, and where an eviction has taken place for the most justifiable cause, as where it has been for the most arbitrary cause. That evidence proves that such ruffians not only draw no distinction between eviction for non-payment of rent and eviction for any other cause, but it proves that old claims, aye, and claims that have actually been amply compensated, are sometimes after the lapse of many years raked up, and raked up for purposes of the most horrible description. No wise man, therefore, will expect that this measure, standing alone, and recognizing, as it does recognize, the rights of both landlords and tenants, will of itself put an end to these outrages, or produce that peace and harmony which we all so much desire to see established in Ireland. . . . It would be a mockery to talk of justice; it would be a mockery to talk of redressing wrongs, if you allowed the greatest wrongs to pass unredressed, if you allowed the rights which in this Bill are solemnly asserted to remain at the mercy of the secret assassin and of the bands of conspirators who can invoke him when they please. It would be an absolute mockery. Your Bill will not be worth the paper it is written on, if it is not followed up by measures sufficient to establish the authority of the law.

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#### THE DUKE OF ARGYLL.

And now to the recorded judgments of Mr. Gladstone and Lord Selborne we proceed to add the opinions of the Duke of

Argyll. It will be seen that, like his great colleagues, the Duke is (or was) entirely opposed to the Three F's. And his judgment was given—seven years after the Land Act of 1870—in “An Essay on the Commercial Principles applicable to Contracts for the Hire of Land.” This is one of the Cobden Club Essays. On page 65 the Duke says :—

The demand for what is called “fair rents” is a demand that prices shall be cheapened by Act of Parliament in favour of the particular individuals who now hold farms in Ireland. The demand for “fixity of tenure” is a demand that all other Irishmen shall be prohibited from dealing with owners for these coveted possessions. The demand for the rights of “free sale” by the present holders is a demand that no part of these parliamentary privileges shall be passed on to any farmers coming after them.

Prophetically, on page 63, the Duke of Argyll tells us of—

Those Irish Home Rulers who . . . demand that all existing occupiers should be converted into copyholders; that is to say, that they should have “fixity of tenure,” or, in other words, permanent possession against all competitors, and at rents which, as against themselves at least, are *not* to be determined by any reference to the market rate. But those who . . . condemn as monstrous the doctrine of the owner's rent being determined by market rates are the same persons who condemn quite as loudly any limit short of market rates being placed upon the occupier in realizing the very highest sum that can be obtained by competition for his “goodwill;” . . . in short, the demand is that Parliament shall prohibit the owner from getting the full price for his interest in the land, and shall at the same time specially license the tenant to realize for his own interest the fullest benefit of competition.

But even this legislation would do the Irish people no good, he says :—

Every new right given to the existing tenants will simply be sold by them when convenient to the very highest bidder. The whole benefit will be discounted in the market . . . .

In short, such an act of attainder against the present owners would only substitute in their stead a new set of owners far more exacting, because far more necessitous.

On page 65, again, the Duke of Argyll is thinking of Mr. Cobden, no doubt: for he says:—

Probably these fallacies (of protection) have never been exposed more nakedly than in the demands . . . which are advanced by some Irish politicians. Prices are to be artificially cheapened to the present holders only in order that they may be artificially aggravated to all holders coming after them. Freedom of trade in the hire of farms is to be jealously guarded where it tells in favour of those now in possession, and to be jealously excluded where it tells against them. It is assumed that the general interests of the community are bound up in their holding on the lowest terms possible, and on everybody else, not *now* belonging to the fraternity, paying as high a premium as possible for the privilege of entering it.

It remains to be seen whether the Duke, and the Lord Chancellor, and the Prime Minister, either or all of them, will still maintain their opinions, or declare them erroneous—to their own great stultification. For men at their time of life, and with their pretensions, it must of course be a serious matter to admit that only a few years ago their judgment was all wrong on a question of economy.

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## FOREIGN LAND TENURES.

SIR,—In the early part of December last you kindly published a letter of mine, showing, I hope conclusively, by quotations from their speeches as recorded in Hansard, that the statesmen who undertook the reform of the Irish land laws—commencing with Lords Palmerston and Cardwell in 1860, and ending with Mr. Gladstone in 1870—had repudiated in the strongest language demands such as are now being made on behalf of the Irish tenant, and such as, strange to say, are endorsed by Lord

Bessborough's Commission, whose corporate views regarding the Eighth Commandment are not a little hazy and confused. I further showed that the Land Act of 1870 was brought in, advocated, and carried through Parliament by Mr. Gladstone as a final measure, which, while giving all needful security to the Irish tenant *in esse*, was purposely designed to encourage contract, and left all future tenants to its unfettered operation. What view the present Government take of Irish demands, and of the cuckoo-cry for so-called "remedial legislation," we have no means of knowing; but the Irish Secretary, in the course of the recent debates on the Coercion Bill, said "he hoped to see the evils of the present Irish land system swept away," and that "he looked to a complete reform of the land laws of Ireland." Words such as these necessarily lead the public, who cannot be supposed to know the law and facts of the case, to believe that the Irish tenant is still the suffering victim of a harsh, unjust, and exceptional land law, which, notwithstanding the passing of that final measure, the Irish Land Act of 1870, requires, in the words of the Irish Secretary, "a complete reform." It would therefore, I think, conduce to a right understanding upon this question if you would kindly find a place in your paper for the accompanying summaries of foreign land tenures. These are taken from the Parliamentary Blue Book containing reports on this subject from our British Legations in Europe and the United States. I was led to devote the first memorable night that we sat through in the House of Commons to the making out of these summaries, as the Irish Secretary, to whom I had spoken upon the subject, appeared to think there was some difficulty in doing it. My experience on that occasion showed me that two clerks of ordinary intelligence could in the course of a single day easily prepare from the Blue Book in question such an abstract of the foreign land tenure reports as would, if laid before Parliament by the Government, give to Honourable Members in a handy and readable shape that information without which, I maintain, they are not qualified to gauge properly the reasonableness or

unreasonableness of Irish demands, and form a sound judgment on the Irish land question. In my summaries I have confined myself to Belgium, France, Prussia, and the United States, as these are the countries most frequently referred to. I have also taken from the report on land tenure in Greece the account of the working of State-aided peasant proprietorships; and I have appended "An Irish Peasant's Privileges" under the existing law, which will serve as a standard of comparison with those enjoyed by foreign tenants. Such a comparison will suffice to show how, to use the words of Mr. Justice Fitzgerald in his recent charge to the jury in the Dublin State prosecution, "the land law of Ireland, as it stood, was more in favour of the farmer than that of either England or Scotland. England had no law equivalent to the Irish Land Act, 1870, and the terms of land tenure were more favourable in Ireland than even in America or Belgium:" he might have added—than in any other part of the civilized world.

I remain, Sir,

Your obedient servant,

ST. JAMES'S PLACE, *February 14.*

ELCHO.

#### BELGIUM.

LETTING.—Farms generally, not always, held under short leases—commonly three years—tenancies at will, if anything on increase. Where lands really purchased by persons in trade, etc., leases generally given and highest amount of rent exacted.

SUB-LETTING.—Tenant has right to underlet or assign lease, unless contrary specified in his lease—a restriction almost always stipulated by landlord. The letting of small patches to farm-labourers with consent of proprietor very common—at high rent to cover risk.

TENANCY AGREEMENTS.—Either written or by parol. Where lands held without written agreement, law gives occupancy claim until land has yielded full natural produce; thus, holder of arable lands not liable to be disturbed until full rotation of crops, according to custom of country, has been produced.

**RIGHT OF OCCUPATION.**—Ceases on expiration of written lease. No right to remain in occupation by continued payment of stipulated rent, or rent determined from time to time by legal tribunal or by agreement subject to arbitration. If left in undisturbed possession by landlord, tenant acquires *ipso facto* rights of tenant-holding, without written agreement, as above stated.

**RENT.**—Chiefly in money, though some leases stipulate additional payments in kind.

**VALUATION.**—Properties valued by Government land surveyors. Rent depends generally upon estimated value and productiveness. Lands belonging to charitable institutions habitually let to highest bidder. In densely peopled districts, where much competition, rents rise in proportion. Custom exists similar to hanging gale in Ireland.

**TERMINATION OF TENANCY.**—If rent not paid, landlord in some cases can terminate lease, which gives power of raising rent if he thinks proper.

**LANDLORD'S PREFERENCE OVER OTHER CREDITORS CONFERRED BY LAW.**—In preference to any other creditor may seize crops of the year, as well as furniture and farming utensils of tenant to extent of three years' back rent, and even on account of rent not yet due. In last case, other creditors have right of reletting house or farm for remainder of lease, and make profit out of leases or rents, on condition of paying to proprietor balance due. Proprietor can seize furniture of house or farm if removed without his consent; may arrest proceeds of crop or farming implements to cover advances made for seeds on account of crop or for purchase of utensils.

**EVICIONS.**—For non-payment of rent or other cause depends upon nature of lease. If *bail authentique* executed before notary, process summary; if tenant refuses to go, may be forcibly ejected. If lease privately signed, judgment by a competent tribunal must precede eviction; tenant may appeal, and have certain time to redeem. Where no lease, six months' notice required, and eviction must be preceded by judgment. Evictions, generally for non-payment of rent, by no means infrequent.

**IMPROVEMENTS.**—As regards buildings connected with farms, generally but not always executed by landlords. When im-

provements executed without consent of landlord (*e.g.*, new buildings or plantations), landlord can either purchase or compel restoration to original condition at tenant's expense without compensation, and exact damages for injury to property by reason thereof. When retained, tenant entitled to indemnity to extent of cost—not of actual value. If consent of landlord previously obtained, tenant may claim to be reimbursed cost; indemnities based on cost of construction and state of buildings at termination of lease. According to custom, which varies in each province, tenants giving up farms entitled to certain proportions of farms already sown and other advantages from incoming farmer. In some localities farmers have no right to any indemnity for improvements; in others, entitled to receive value of manures, seeds, and price of tillage; subsoil draining done by landlord, tenant paying 5 or 6 per cent. A general bank exists at Brussels for promotion of agriculture and public works, but does not make advances to tenants for improvements of their holdings. The creation of freeholds or tenancies by proprietors and the granting of leases have never been enforced by the Belgian Legislature. No person liable to be dispossessed of his property except on ground of public utility; tenants can only become proprietors as opportunities of purchase arise.

REPORT 1856.—“Too easy access to property not favourable to production—too large a proportion of profits of farmers being given to acquisition of land, farmers are prevented applying them to the improvement of the soil they already cultivate.” ‘There is no doubt that this tendency is one of the greatest obstacles to improvement in certain parts of our country, and that those of our provinces where all else being equal the appropriation of land on the part of the cultivator is of the slowest growth are also those in which the cultivation of the soil has attained the highest degree of development and perfection.’”

## FRANCE.

LEASES.—Vary from one to thirty years, according to quantity of land, mode of cultivation, and custom of department. Either in writing or verbal. If no written contract, duration depends on custom. If dispute as to rent, arbitration and tribunals decide. If lease not registered, tribunals do not take cognizance

until it is. So long as tenant pays rent and fulfils conditions landlord cannot interfere with him. No law or custom can alter the contract. In case of "dommages par cas fortuits ou force majeure" he has right to demand reduction of rent. Tenant has right to sell interest in his farm unless lease forbids him so doing. Almost every lease stipulates that he shall neither sublet farm or sell interest without consent of landlord. Fixed rents or services which by custom might render tenant irremovable are unknown.

RENT.—Generally a fixed amount in money. In some departments in kind—this gradually disappearing—payment in share of produce. "Métairie" system. The métayer in [the Code Civil is called "colon partiaire." Generally gives one-half produce. Proprietor gives land; the métayer labour and cultivation; if either fail him, no compensation. System becoming less resorted to. Only exists in a few departments. Amount of rent entirely matter of arrangement between landlords and tenants. Farm may be put up to competition. As regards rent and sale of produce, no law, custom, or valuation regulates such transactions. Periods of payment vary according to locality; generally agreed upon in lease. Landlord cannot break a lease or alter rent while in force. Tribunals only can evict or annul. No special law regulates respective rights of landlords and tenants. They depend upon the "droit commun." If tenant does not pay rent, landlord can seize effects, and tribunal annul lease. Landlord has privilege over all property of tenant in such case.

EVICCTIONS.—No special procedure—"droit commun" regulates. When tenant does not pay rent, summoned by proper authority within twenty-four hours. If upon this payment not made, if lease verbal, judge gives proper orders for seizure of all effects of tenant on or off the farm. If lease written, he can do this by virtue of it alone. Article 1244 empowers judge to use indulgences to tenants whom he may think hardly dealt with, and to grant them time of payment of rent. Evictions rare.

IMPROVEMENTS.—Proprietor generally constructs all buildings, and must maintain the farm "clos et ouvert." If tenant builds, does so at his own risk and peril. Can remove buildings at end of lease; only obliged to leave on farm what he found. Proprietor no right to buildings and improvements; tenant

bound to deliver farm in same condition he found it. Generally in practice an understanding between them respecting improvements. There is scarcely a question of enforcing or defining rights on either side. Reason for happy state—two-thirds of land cultivated by proprietors, and not by tenants; no creation of freeholds except by purchasing property; the creation of tenancies the result of mutual understanding; no law or legislative enactment to enforce the granting of leases; no limitation to proprietary rights, and consequently no compensation required. Tenants receive no assistance by law in their endeavours to become proprietors.

### PRUSSIA.

LAW OF LANDLORD AND TENANT.—Prussian law of contract developed from German common law under influence of civil law. Law of demises differs chiefly in presumption, according to object demised, whether house or land. A parol agreement is for one year at longest. Obligation under written contract varies according to rent. A demise of land for more than a year, if rent even below £7 10s., must be in writing; if £30 or more, and if a whole estate, and not merely isolated fields, must be executed before a competent tribunal or public notary. As regards interpretation, presumption against lessor and in favour of lessee. Rent in money or kind. Lessor, apart from express covenants to contrary, responsible for all charges upon demised land; and, similarly, lessee has to pay the taxes. No lessee can sub-let without special permission of lessor, except where demise comprises several distinct kinds of agricultural industry, or several outlying fields. Compensation can only be claimed for improvements specially sanctioned by lessor, and lessee can in no case compel the acquiescence of lessor; but lessee entitled to compensation for improvements ordered by the Executive of the Crown. Also, if rights of lessor become extinguished and involve determination of lease, lessee entitled to full compensation for improvements and for unexpired portion of lease—compensation found by distributing costs of improvements equally over whole term, and charging quota of each unexpired year. Cost of protecting demised property from damage can be claimed from lessor by lessee. Rent, apart from express

covenant to contrary, quarterly; arrears of two quarters give lessor right to give notice to determine lease. On other hand, if lessee, by circumstances beyond control, and not merely by personal disability, prevented for three months or more from benefiting by usufructuary right, can claim proportionate reduction of rent. If thus prevented for a year or more, no rent can be granted for that time. For arrears of rent or other demands, lessor has right of distress upon good and chattels of lessee found after determination of lease upon demised land. These rights extend to things of which lessee had, after alienation, only retained use during period of lease—to standing crops, as well as crops gathered in, and to live and dead stock; but these things must have belonged to lessee. Right of distress attaches to all goods and chattels from day of arrival on demised property. On other hand, lessee may withhold rent to satisfy claims for compensation. Contracts of demise can be tacitly prolonged from year to year. Where rotation of crops, such tacit prolongation only terminates at end of such period of rotation, according to local custom. In no case can notice be given except six months before end of agricultural year. Lessee must suffer determination of his lease whenever forced sale by law of the property takes place; can claim compensation from lessor's estates, with status of preference creditor of third class. Heirs of lessors only obliged to recognize leases for one full year or for customary agricultural period. For abuse and misuse, lessee subject to determination at any time. If lessor only tenant for life or term of years, successors not bound to recognize leases beyond one year, as above. In such case lessee, if fact of smaller estate of the lessor concealed from him, can claim compensation. For breach of covenant a contract of demise can be annulled. Lessee bound to maintain demised lands in good condition, and demised buildings in good repair. Repairs not rendered necessary by carelessness or want of foresight of himself or his agents, or requiring materials not found on the property, to be made by the lessor. Lessee cannot sell straw and other materials used in manure, and cannot diminish the cattle received with the land; but lessor must replace cattle killed by plague or other unusual misfortunes. With regard to sheep, lessee bears loss of first and third quarters, lessor of second and fourth. If cost of replacing cattle more than

estimated price in lease, lessor bound to pay difference. For breach of covenant or deterioration lease can be set aside by help of tribunal. Partial remission of rent can be claimed for failure of crop from external causes—such as frost, drought, hailstones, destruction by mice, locusts, flooding, and the like; also in cases of damages by fire and water.

EVICTIION.—Even in cases of deterioration requires judicial sanction. Usual to give security of from one to two years' rent. The term of the lease usually eighteen or twenty-four years. Law favours rents part in money, part in kind. Tendency of law to protect tenant during the period of his course of agriculture; gives no right of compensation for unsanctioned improvements; and, finally, process of eviction rendered difficult of execution. Law entirely silent as to the erection of buildings.

### UNITED STATES.

TENURE.—Tenancy created both by parol and written agreement—generally by the latter. Long terms not usual in leasing farm lands. Where no agreement, law declares tenant shall quit by notice; should he refuse, matter goes before competent tribunal. If rent payable half-yearly, three months' notice; if annually, six months' notice. Where no agreement as to time, presumption of law a lease for one year. Tenant no right to stay continuously in holding without landlord's consent. If tenant permitted to possess land without molestation for a month after expiration of lease, law presumes renewal of lease for one year, but no longer. Where lessee has qualified, temporary interest, assignable at will in absence of contrary agreement. Transferee takes land under previous conditions of transferor.

RENT.—Fixed by agreement. Money, shares, or produce. One-fourth or one-fifth crop as contracted generally. Amount usually regulated by competition. Money rents generally payable quarterly or half-yearly. No legal restriction on amount of rent fixed by agreement. Contract usually written. If both agree, continued year by year; if not, three to six months' notice. Condition inserted in contract. Terms of contract once made cannot be arbitrarily altered. If tenant remains on the land after expiration of lease, only liable for

amount of rent named in lease. Recovery of rent by common law process of distress by landlord—replevin by tenant. In Maryland property can be pursued for thirty days, and rent recovered by its sale, even if passed into other occupancy.

EVICCTIONS.—Evictions, when leases forfeited by their own terms and conditions for non-payment of rent or other stipulated cause, by summary process before justice of peace, with right of jury, if over 20 dollars (£3). No special statutes enabling tenants to redeem.

REPAIRS.—Permanent, by landlord generally. Law recognizes no right in tenant to improvements except under covenant in his lease.

IMPROVEMENTS.—When buildings become part of real estate and property of landlord, improvement and fixtures made by tenant for purpose of trade and commerce removeable by him. Tenants no means of raising loans for improvement of farms from Government or by special law; must raise on personal credit, or that of friends, from neighbours or banks. Tenants receive no assistance by law, public credit, or otherwise, to become owners of their holdings. They are wholly dependent on their own exertions and personal credit in the matter of buying property. A very large portion of the farm lands owned by men who have in early life been tenants.

## GREECE.

Law passed in 1836, conferring on each family of Hellenes right to purchase from the State, at public auction, thirty acres of land. For this purpose Government authorised to grant to head of each family credit on Treasury to amount of £71 8s. 7d.; this sum to be reimbursed in thirty-six years at 6 per cent. interest and sinking fund. All sums above this to be repaid in ten years, and interest at 8 per cent., if they exceeded £214 5s. 9d. In a financial point of view a complete failure. Purchasers unwilling or unable to meet engagements. On subject being again brought under discussion in 1855, new law passed remitting all arrears due up to that date. The measure proved as great a failure as the first; highly problematic whether State will ever recover large sums due. The original law, "Law of Dotation," long since in disuse. Bill submitted to Legislature

1864, to leave peasants in possession of present holdings, on condition of reimbursing to State price of land at moderate valuation. Nothing done down to 1870.

### AN IRISH TENANT'S PRIVILEGES.

A tenant who voluntarily surrenders his farm receives full compensation for improvements executed by himself or his predecessors.

A tenant disturbed by act of landlord for causes other than non-payment of rent must be paid by landlord full compensation for all improvements, and also, as compensation for disturbance, a sum of money varying from one to seven years of his rent. N.B.—A notice to quit is deemed a disturbance.

A tenant, even when evicted for non-payment of rent, must be paid by landlord—(a) full compensation for improvements. When rent does not exceed £15 he must be paid in addition (b) a sum of money, varying from one to seven years of his rent, if court decides the rent exorbitant. A tenant cannot be evicted for non-payment of rent until one year's rent is in arrear; even when evicted he can, within six months, get back possession and defeat landlord's action by paying amount due, less amount of any profit landlord may have made out of holding while tenant out of possession. A tenant, where he or his predecessor paid money with landlord's consent on coming into holding, and not been paid compensation in respect of any other claim, and not permitted to dispose of interest to incoming tenant, must be paid by landlord, not only such compensation as awarded in respect of money so paid, but also full compensation for all improvements made by himself or his predecessor since such payment. The court, in assessing the amount of compensation referred to, bound to take into consideration any unreasonable conduct on part of landlord, and must give judgment having regard to such conduct. A tenant can, immediately after notice to quit, bring claim for compensation, and cannot then be ejected from holding until landlord has paid amount awarded him. Almost all improvements presumed to be made by tenant or his predecessor. A tenant may register a schedule of improvements made by himself or his predecessor, and such schedule is *prima facie* evidence that improvements

were made as therein mentioned. Further, no tenant whose holding is at or under £50 can by contract deprive himself of compensation to which he is by law entitled.

ON PURCHASE.—When property sold in Landed Estates Court, court must give special facilities to tenants to purchase holdings. Board of Works empowered to advance to tenants any sum not exceeding two-thirds of money required for purchasing holdings, and whole loan, with interest, discharged by instalments of £5 per cent. per annum for thirty-five years on money borrowed.







