

BELFAST SOCIAL INQUIRY SOCIETY.

WHAT ARE THE

CAUSES

OF THE

PROSPEROUS AGRICULTURE

IN THE

LOTHIANS OF SCOTLAND?

A PAPER READ BEFORE THE SOCIETY ON THE 23^d DECEMBER, 1851,

BY

W. NEILSON HANCOCK, LL.D.

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Belfast Social Inquiry Society.

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THIS Society was established in December, 1851, for the purpose of promoting the scientific investigation of social questions of general interest, including inquiries in the sciences of Statistics, Political Economy, and Jurisprudence.

The Meetings are held once in each month, from December till April, inclusive, at 8, P.M.

The business is transacted by Members presenting to the Society written communications on social questions of general interest, or on any branch of the sciences of Statistics, Political Economy, or Jurisprudence, and reading the communications at the meetings of the Society.

No communication is received by the Society involving topics likely to produce discussions connected with religious differences or party politics.

No communication is read to the Society unless two Members of the Council certify, in writing, that they consider the paper accordant with the rules and objects of the Society.

The reading of each paper, unless by express permission of the Council previously obtained, is limited to *half an hour*.

The Council may form Special Committees for promoting the investigation of any particular subject.

Some of the papers read before the Society are selected by the Council for publication, and, by an arrangement with the Dublin Statistical Society, all the publications of each Society are sent to all the Members of both Societies.

Applications for leave to read papers should be made to one of the Secretaries at least a week previously, to the meeting.

Proposals of Candidate Members should be sent to the Secretaries at least a fortnight previously to the meeting.

The subscription is *ten shillings* a year, payable in advance.

THE LAWS

OF

THE BELFAST SOCIAL INQUIRY SOCIETY,

Adopted on the 23d December, 1851.

CHAPTER I.

CONSTITUTION OF THE SOCIETY.

1.—The object of the Society shall be to promote the scientific investigation of social questions of general interest, including inquiries in the sciences of Statistics, Political Economy, and Jurisprudence.

2.—The Society shall consist of Resident Members and Corresponding Members.

3.—Resident Members shall be elected by ballot, at the meetings of the Society. No candidate shall be elected, unless three-fourths of those balloting vote in his favour.

4.—Every candidate for admission must be proposed, in writing, to the Council, by one Member, and seconded by another at least a week previously to the ballot.

5.—The subscription shall be ten shillings a-year.

6.—The subscription shall be due on the 1st of December in each year, and be payable in advance. No Member shall exercise the privileges of membership whilst his subscription is unpaid. Any Member a year in arrear shall cease to be a Member, and shall not be eligible for re-election without paying one year's arrears.

7.—The Council shall be empowered to elect Corresponding Members, who shall be exempt from all subscription, and entitled to all the privileges of membership.

CHAPTER II.

GOVERNMENT OF THE SOCIETY.

1.—The Officers shall be—

A President,

A Treasurer,

And two Secretaries,

Who, together with twelve other Members, shall constitute the Council.

2.—The Officers and Council for each year shall be elected by ballot, at the annual general meeting of the Society.

3.—But, in case an Officer or other Member of the Council shall die, or resign, the Council may appoint a Member to supply his place until the next annual meeting.

4.—The President shall preside at all meetings of the Society and Council, when present.

5.—The Members of Council shall supply the place of the President, in his absence.

6.—The Treasurer shall pay away no money, except upon an order of the Council, recorded on its minutes.

7.—The Secretaries shall attend to the execution of the rules, orders, and directions of the Society and Council.

8.—The government of the Society, and the management of its funds, shall be confided to the Council.

9.—The Council shall meet whenever summoned by one of the officers of the Society. Three Members shall form a quorum, and the Chairman shall have a double or casting, vote.

10.—The Council shall have the power to make bye-laws for the regulation of its own proceedings.

CHAPTER III.

BUSINESS OF THE SOCIETY.

1.—The business of the Society shall be transacted by Members presenting to the Society written communications on social questions of general interest, or on any branch of the sciences of Statistics, Political Economy or Jurisprudence, and reading the communications at the meetings of the Society.

2.—No communication shall be received by the Society, involving topics likely to produce discussions connected with religious differences, or party politics.

3.—No communication shall be read to the Society, unless two Members of the Council shall certify, in writing, that they consider the paper accordant with the rules and objects of the Society.

4.—The reading of each paper, unless by express permission of the Council, previously obtained, shall be limited to half an hour. After the paper has been read, Members may (subject to the control of the Chairman) make observations on the subject of it. The Chairman shall take care that the discussion shall not lead to any topics unconnected with the immediate object of the paper.

5.—The Council may form Special Committees for promoting the investigation of any particular subject, and may, from time to time, select the Members to serve on such Committees.

CHAPTER IV.

MEETINGS OF THE SOCIETY.

1.—The Society shall meet at least once in each month, from December till April, inclusive, at 8 P.M., on such day as shall be appointed by the Council.

2.—The meeting of the Society in April, shall be the annual meeting for the election of officers, and reading of the annual report, the auditing of the accounts, and the consideration of additions to, or alterations in, the laws.

3.—No motion shall be brought forward at any annual or extraordinary meeting of the Society, for the election of officers, or for any addition to, or change in, the laws, unless a notice of the intention to propose such motion shall have been given to the Secretaries at least one fortnight previously to the meeting, and by the Secretaries to the Members.

4.—These laws shall not be added to, or altered, except at an annual meeting of the Society, or at an extraordinary meeting, summoned by the Council, or twenty members of the Society, of which at least two weeks' previous notice shall have been given to all the Members.

What are the Causes of the Prosperous Agriculture in the Lothians of Scotland? By W. Neilson Hancock, LL.D.

GENTLEMEN,

THE subject to which I propose to direct your attention in this paper is expressed in the following question :—What are the causes of the prosperous agriculture in the Lothians of Scotland?

You have all, no doubt, heard a great deal of Scotch agriculture, and of the sad inferiority of our farmers as compared with the Scotch, and one of the innumerable plans for regenerating Ireland is by the introduction of Scotch farming.

From its intimate connexion with the investigations I had made into the causes of the state of agriculture in Ireland, I became very anxious to see this farming that we heard so much about, and to inquire whether its success depended on the climate, on the Calvinistic creed, on the broad accent, on the size of farms, on the state of agricultural knowledge, or on the state of the law.

In the autumn of 1850, I had a favourable opportunity of making a very careful and extensive investigation into the state of agriculture in Scotland, and also an elaborate inquiry into the causes of that state under circumstances that I will briefly explain. When in Edinburgh, at the meeting of the British Association for the Advancement of Science, I arranged with my brother, Mr. John Hancock, who, as an agent, has been long connected with the management of landed property in Ireland, to make a tour through the different most remarkable agricultural districts of Scotland. We obtained introductions to some of the farmers and proprietors in each district who had the reputation of being most successful and intelligent. We visited farms in the Lothians, which comprise the three counties lying along the south of the Firth of Forth, sometimes called East Lothian, Mid Lothian, and West Lothian, and sometimes Haddingtonshire, Edinburghshire, and Linlithgowshire. We then visited lands near Perth and near Dundee, and also in the famous district between Perth and Dundee, lying along the banks of the Tay, and partly formed by alluvial deposits of that river, called the Carse of Gowrie. From

Perth we proceeded to Montrose, thence to Aberdeen, thence by steamer to Wick, to within ten miles of John-O'-Groats-house. From Wick, we came inland through Caithness, Sutherlandshire, Rosshire, to Invernesshire, and in all the places I have mentioned we visited farms. From Inverness we came to Oban, thence to Inverary and Glasgow; thus completing a very extensive tour. I mention these incidents to show that the opinions which I have formed on the subject of this paper are the result of careful inquiry. I may add, too, that for the purpose of guarding against any mistake about the Scotch law, I returned from Glasgow to Edinburgh, and made the most accurate inquiries, from a very obliging and intelligent lawyer, Professor Menzies, Professor of Conveyancing in the University of Edinburgh, to whom I am much indebted for his courtesy and kindness, but, above all, for the accurate and valuable information on the numerous points of Scotch law, about which I made inquiries.

In investigating the question that I have stated, "What are the causes of the prosperous agriculture in the Lothians of Scotland?" the first consideration that naturally suggests itself is to inquire whether the success has any real existence, and, secondly, in what does it consist.

On the first point I can state, from my own observation, that there can be no doubt whatever as to the remarkable success of the system of agriculture pursued in the Lothians of Scotland, which is taken as the model of Scotch farming, as it is the best in the entire country.

If it be asked, in what does this great success consist? I can answer again from observation. It consists in the following particulars. You observe at once traces of extreme care, in the total absence of weeds and waste spots; in the extreme evenness and uniform quality of the crops, indicating a complete cultivation of the soil; then the great size and completeness of the farm buildings, with a steam engine attached to each holding, indicates an application to farming of the energy of manufacturing industry, which is to be observed in no other part of the United Kingdom. Then the systematic rotation of crops, the careful preservation of manure, the universal adoption of thorough-draining, confirm the same view of skilful management. The success that attends this mode of management is evidenced by the beautiful appearance of the crops; every species of produce seems to be in the most perfect state that human skill can bring it to; and there is an abundance in the amount of the produce that quite astonishes any one accustomed to the irregular and careless cultivation unfortunately so prevalent in Ireland.

In looking for the causes of this prosperity, the first point of investigation to which I directed my attention was, to find whether the farmers had legal security for the capital they employed in

cultivation. In answer to my questions on this subject, I ascertained that in the Lothians, and all the highly-cultivated districts of Scotland, leases were universal. Occupiers who had no leases were called crofters; and all Scotland may be divided into two parts—the districts where leases prevail, as in the Lothians, and where crofters prevail, as in the Highlands; and the contrast between these parts is as great as between the Lothians and the poorer parts of Ireland.

Finding that leases were universal in the Lothians, I was naturally led to inquire into the circumstances under which they were granted—the duration of the lease, the mode of fixing the rent, and, lastly, the sort of property the tenant acquired under them.

The first thing to be accounted for was, the universal prevalence of leases in the improved districts. I inquired how it happened that there were no defects in family settlements, and no incumbrances to interfere with the validity of the leases. I then learned that such defects and incumbrances, affecting the landlord's estate, existed in Scotland as well as in Ireland; but that, by a wise law passed about eighty years ago, the power of leasing was conferred by Act of Parliament, and was made quite independent of defects in the family settlement. The state of Scotch law on this subject is thus described in a recent very able treatise on the tenure and improvement of land in Ireland,* where that law is suggested for our imitation.

“A very valuable precedent exists in the case of Scotland, which has long enjoyed more liberal leasing powers in this respect, every proprietor of an entailed estate having, by the provisions of the 10th Geo. III., c. 51., notwithstanding the most strict entail as regards the granting of leases, the power of making farming leases for the purposes of encouraging agriculture [for nineteen years, on certain terms], for thirty-one years, at the old rent and building leases on certain conditions; and, by a later statute, being enabled to lease lands for twenty-one years, and mines and minerals for thirty-one years, at a fair rent, notwithstanding its being diminished from the old rent; and building leases for ninety-nine years. These powers have been still more enlarged by the provisions of the 11th and 12th Vic., c. 36, which have given very extensive powers of leasing to heirs of entail.”—p. 28.

Thus, it appears that the first cause of prosperity of agriculture in the Lothians can be traced back to wise legislation respecting leasing power; and so satisfied are the Scotch with the policy of this system, that there has been progressive legis-

* “The Tenure and Improvement of Land in Ireland, considered with reference to the relation of Landlord and Tenant, and Tenant-Right,” by William Dwyer Ferguson and Andrew Vance. Milliken, Dublin, 1851.

lation down to the late act of 1849, by which the most extensive powers are conferred on heirs of entail. With such facts before us, how vain it is to say, as we frequently hear it said, that legislation can do nothing to improve the relation of landlord and tenant, and to promote the adoption of successful agriculture in Ireland.

The next point of importance with respect to the Scotch leases is the priority which is given to a farming lease on the usual terms, over any incumbrance of the landlord. This priority is founded on the principle, that property in land is given in order that the land may be cultivated for the production of food and other commodities for the community, and not given for the purpose of enabling any extravagant proprietor to run in debt, and keep the land barren until his debts are paid.

The value of this provision of the Scotch law, which dates from the year 1469, can best be appreciated by considering the effect of the opposite principle of giving an incumbrance priority of a lease, which prevails in Ireland. This state of the law is briefly described in the work I have already referred to:—"Where the estate happens unfortunately to be incumbered by a mortgage, the proprietor too often becomes the mere nominal owner, both in point of influence and interest. He can no longer make leases that will afford security to an improving tenant, as his contract will not bind the mortgagee, who, having the legal estate, is alone competent to grant leases at law." "So, if the owner of the estate has confessed or suffered a judgment, his subsequent leases are liable to eviction by the judgment creditor registering the judgment, and converting it into a *quasi* mortgage, although he meanwhile suffers the debtor to remain in possession and receipt of the rents of the estate, and to continue its reputed and visible owner; and the tenant, who was ignorant of its existence, and on the faith of his lease may have expended his little capital upon improvements, is subject to be turned out without notice to quit, on demand of the possession, by one who, though having legally acquired an estate in the lands, has virtually but a security on the estate for the payment of so much money." The learned authors then state—"It has been suggested, and, as we think, wisely, that no mortgagee or judgment creditor, not actually in possession, should be permitted to avoid a lease made *bona fide* at a fair rent, and without an attempt to defeat or diminish the creditor's security, leaving it to the creditor to impeach any lease that is fraudulently executed, or made at a gross undervalue.*"

Now, the suggestion so sensibly and modestly put forward for adoption in Ireland has been for nearly four centuries the law of Scotland, and hence the incumbrances of the Scotch pro-

* "Tenure and Improvement of Land in Ireland."—Pp. 32, 33.

prietors have not had the same ruinous effect on the agriculture there that the incumbrances of Irish proprietors have had here.

When we reflect on the vast extent of land in Ireland, whose proprietors are so incumbered as to be unable to make a valid lease, we see at once how extensive have been the evils resulting from giving an incumbrance priority over a lease, instead of giving a lease priority over an incumbrance; and we are warranted in ascribing, as the second cause of the prosperity of Scotch agriculture, the wise principle of law to which I have thus directed your attention.

The next peculiarity about Scotch leases that attracted my attention was their duration. Nearly all the leases were for nineteen years. The origin of this term is the limit fixed in the Montgomery Act. Until the recent Acts of Parliament, it was the longest term that the entailed proprietors could grant, except under certain circumstances. This universal prevalence of a particular duration of lease suggested two inquiries: first, whether leases for uncertain or for certain duration were more favourable to the adoption of improved agriculture; and, secondly, how it happened that there were such substantial farm buildings on such short leases?

As to the first point, I ascertained that leases of uncertain duration, such as our leases for one life, or for three lives, were considered, by the best agriculturists, as unfavourable to good farming; they, no doubt, sometimes prevented a fraudulent tenant from running out the land, but they operated as a complete discouragement to a good tenant adopting the regular rotation of crops, as he never could tell at what point of the rotation his lease might expire. The agriculturists whom I consulted thought that the exhausting of the soil should be guarded against by covenants, and by cheap, simple, and effectual remedies for breaches of covenant; but then it was a very clumsy way to make the legal machinery for guarding against the frauds of bad tenants the means of destroying the security of the good ones. They told me that the success of their farming depended on forethought and calculation, and that the foundation of all accurate calculation was certainty in the basis on which it was to be made; and that for this purpose, as well as for the rotation of crops, it was essential that there should be no uncertainty in the duration of leases. I asked them, did tenants not run out the lands in the last years of the lease? They said that that was provided for, as the tenants were restricted to adopt a certain mode of cultivation in the last few years of the lease: and as the tenant was generally looking for a renewal of the lease, and as a renewal was often agreed for before the old lease expired, all these causes prevented the lands being exhausted.

Let us contrast, for a moment, this testimony against leases for

lives, as a system of agricultural contracts, with the legislation that has prevailed in Ireland on this subject. Down to the year 1832, the most powerful political inducement was held out to the adoption of leases for lives, and a sentence of political disfranchisement was passed against the agriculturist who indulged his taste for a term of years ; for, by a remnant of feudal pedantry, a lease for a life, however precarious, was considered as higher than an estate for years, however many ; so that under the term, freeholder, were comprised owners in fee and tenants for life leases, whilst tenants for years were called leaseholders, and down to the year 1832 the parliamentary franchise was confined to the freeholders, and leaseholders were excluded from it. The Irish Reform Act wisely extended the franchise to leaseholders, and the Act of 1850 has, with still more advanced wisdom, made the franchise to arise from the value of the holding, and to be quite independent of the contract between landlord and tenant.

When we are told that prosperous agriculture depends on leases having certainty in their duration, and when we find that for eighty years the Scotch law has, we may almost say, compelled the adoption of such leases ; whilst in Ireland, during sixty of those eighty years, the law almost prohibited their adoption ; and when we find the inferior agriculture in Ireland arising in a great degree from that prohibition, and the consequent adoption of uncertain tenures, can we doubt the proposition that the prosperity of agriculture is intimately connected with the laws respecting the tenure of land.

I may then consider it as established, that the third cause of the prosperous agriculture in the Lothians of Scotland is the universal adoption of leases for terms of years, and the total absence of leases for lives.

The next subject for inquiry that was suggested by the duration of Scotch leases, was with respect to the farm buildings. How did such substantial buildings come to be erected on such short leases ? The mystery on this point was soon removed by my ascertaining that these substantial buildings were invariably erected by the landlords, and not by the tenants, and were, of course, entirely independent of the lease.

This information, however, only removed the difficulty one step ; for, as I had always heard that the strict entails were very prevalent in Scotland, it became necessary to ask, How it happened that the proprietors were so fond of sinking their capital in permanent improvements on property that was strictly entailed ? I found that this practice had its origin in the Act to which I have so often referred, and to which Scotland is so much indebted for its improved agriculture—the Montgomery Act. By the provisions of this Act, the proprietors are enabled to charge the inheritance for a very large part of all sums that they expend in the permanent improvement of their estates. This Act has led

all the Scotch proprietors, who wish to make a good provision for their younger children, to invest their savings in the erection of farm buildings, and other improvements, on their estates; and even those who are extravagant, and save nothing from their income, borrow from their more prudent neighbours, and leave the debt a charge on the inheritance; which, unlike our Irish incumbances, is amply compensated for by the increased rental which the permanent improvements give rise to.

This one provision of the Montgomery Act thus affords to Scotch proprietors, and to Scotch capitalists generally, a ready means for investing their capital in the permanent improvement of their native soil. Had a similar enactment been in force for the last eighty years in Ireland, a great part of the £38,000,000 which has been exported for investment in the English funds, would have been spent in erecting substantial farm-buildings in Ireland, and in making our agriculture as thriving and prosperous as the agriculture of the Lothians of Scotland.

A striking illustration of the effect of an enactment of this kind, in framing the habits and arrangements of the people to the expenditure of money in improvements, was afforded by the result of the million loan for drainage, which Sir Robert Peel adopted as one of the compensations to the landed proprietors for the repeal of the Corn Laws. Of the first issue of this loan the Scotch proprietors received so large a share, in consequence of the numerous applications from Scotland, and the large amounts applied for, that, in the second issue, it was found necessary to divide the sum into two parts, and to have one part confined to England, so that no Scotch applications should be received for it.

We may safely conclude, that the fourth cause of the prosperity of agriculture in the Lothians is the power given to the Scotch proprietors of charging the inheritance for money spent in farm buildings and other permanent improvements.

The next peculiarity in the Scotch law is the mode of fixing the rent. In this country, the rent usually received is a fixed money rent. When I say fixed, I mean nominally fixed, for, in the South and West, the rents are usually at a nominal amount, so high as to be rarely paid in full; in fact, only in extremely favourable years. At other times, arrears were allowed to accumulate, and were retained as a load on the tenant, for the notable purpose of "keeping him in the landlord's power;" and even in the North of Ireland, on all the yearly holdings, reductions of rent to the extent of 20 and 25 per cent. have been very general for the past few years. However, the usual rent in Ireland is understood to be a money rent; but there are some exceptions which I will notice again.

Now, in Scotch leases, it is the custom to have only part, generally one-half, of the amount, a fixed money rent; the other

part consists of fixed quantities of different kinds of produce, such as wheat, oats, barley, &c., according to the terms of the lease. The produce, however, is not delivered in kind; but in lieu thereof, the price of the produce is given in money. The money thus paid in lieu of the fixed quantity is not the actual market price on the day of the rent falling due, or on the day of the payment. It is, properly speaking, not a price at all, but an estimate or average formed from a number of observed prices, by a tribunal constituted for the purpose by the Scotch law. However, this average is called "the fiar price."

A fiar price for each kind of grain is determined every year for each county in Scotland, in the following manner:—The sheriff of the county, whose duties much more nearly resemble those of our assistant-barristers than those of our sheriffs, summons a jury of persons experienced in such matters, in February and March in each year. The sheriff and jury then examine sworn witnesses, and returns of sales, and take such other means as they may think necessary to inform themselves of the prices during the preceding year. They then specify, in their verdict, certain average prices of each kind of grain, which, for the purpose of the payment of the produce part of the rent, and of the payment of the tiends or tithes of the clergy, is taken to be the fiar price of such grain in the county where the verdict is given, for the previous year.

"The origin of the 'fiars' has not," says Mr. M'Culloch, "been very satisfactorily ascertained, but they appear to have been struck so early as the end of the sixteenth and the beginning of the seventeenth century, and have been since regularly continued."

If I might venture to hazard a conjecture as to the cause of their existence in Scotland, when not found in other parts of the United Kingdom, I would suggest that it arose from the longer continuance of the metayer system, which was handed down from the Romans, and the continuance of which was favoured by the Roman law being retained as the common law of Scotland.

Adam Smith mentions that, in his time, metayers still existed in some parts of Scotland, who were called steel-bow tenants. The payment of rent in produce is one essential characteristic of the metayer contract; and hence, in the progress of civilization, when exchanges made commodities have a money value, a system like the fiar prices would be found convenient. The adoption of fixed money rents, as in England, may also have been retarded by the frequent depreciations to which the Scotch currency was subjected. Adam Smith mentions that the English pound was only depreciated to one-third of its value, whilst the Scots pound was depreciated to one thirty-sixth.

However the fiar prices came to exist, the system of making

part of the Scotch rents vary according to their variations has had a most important effect within the past few years. It has secured for the Scotch tenants large reductions of rent by the mere terms of their leases, without any application to their landlords. This explains a circumstance that puzzled me very much before I went to Scotland: how it happened that we heard so little of applications for reductions of rents in Scotland, when the Irish papers were full of announcements of such applications, and of the reductions being granted or refused. The reduction of the Scotch rents, by the fall of the fair prices, rendered such applications unnecessary.

In this country we have two instances of the principle of produce rents being adopted, in the tithe rent-charge, and in the fee-farm rents reserved in the grants under the Church Temporalities Act. In the future arrangement of the rent of the estates of Trinity College, the same principle has been introduced. All these cases differ from the Scotch short leases, inasmuch as the tenures are perpetual, and the question is complicated with the more extensive question of the best permanent standard of value.

The comparative advantages of a money and a produce rent is too large and too important a question to be discussed in incidental observations on Scotch agriculture. But, without pronouncing an opinion on that question, I may observe that during the depreciation of the currency, from 1793 till 1819; during the extreme fluctuations in the prices of grain produced by the bad seasons and the war before 1815; and the Corn Laws from 1815 till 1846; and during the crisis of the famine in 1846, and the subsequent fall in prices; the Scotch system has preserved the Scotch rents from the necessity of readjustment during the continuance of the leases, and has thus given a stability and certainty to agricultural contracts which they have not had in this country. And, so far, the system of produce rents has, no doubt, had a beneficial effect on the progress of Scotch agriculture. Whether this system will hold its ground in competition with the production of peasant proprietors in Europe and America, and fixed money rents in England and Ireland, with improved laws with regard to land, remains to be seen. But the competition can only operate gradually, and the expiration of the leases will afford the Scotch proprietors an opportunity of changing their system for the plan of money rents, should that prove to be the best.

The last peculiarity respecting Scotch leases which I shall notice is the nature of the tenant's interest under them. The point to which I shall direct your attention is the effect of the nature of the interest on the credit of the tenant; or, in other words, on his means of obtaining the loan of capital from others.

On this subject there are three arrangements that might be

adopted. The first is to make the tenant's interest a legal estate, to have it registered in a public registry office, to have a simple mode of pledging it as a specific security for a loan by an entry on the registry, and to give such registered loan priority over all other claims. Such is the mode adopted with regard to the peasant proprietors on the Continent; and it has the advantage of enabling a tenant to raise the largest possible amount of capital on specific security; it does away with much borrowing on personal credit, and the necessity for getting parties to give security for each other.

The second mode is to prohibit the registration of the tenant's estate, to prohibit any specific charge upon it, and to make the lease forfeitable on the insolvency or bankruptcy of the tenant. Such a system of laws deprives the tenant of all power of raising capital on the specific security or direct mortgage of his farm; but then it gives the greatest possible value to his personal security and his general credit; and, consequently, enables him to raise the largest possible amount of capital on personal security. Such is the system adopted in Scotland; and from it, in connexion with some peculiarities of the Scotch law respecting the enforcement of debts, which I need not dwell on at present, has arisen the extensive credit given to the tenants by the Scotch banks. From the usury laws being now confined to loans on the security of land, and loans of sums less than three pounds, Scotch tenants are thus freed from their operation.

When we hear so much of capitalist farmers, and the capital employed in agriculture in Scotland, the circumstance I am referring to is commonly overlooked, that in consequence of the state of the law which I have pointed out, a very considerable part of the capital employed by the tenants in Scotland is borrowed by them as traders; and the legal arrangements are all made to favour this system of carrying on business as much as possible. When this plan of enabling tenants to borrow capital for carrying on their business is mentioned, it is said by some, "How inconsistent it is to object to incumbrances of the landlords, and to advocate a system of borrowing amongst tenants." We read also the most pathetic accounts of the amount for which the peasant properties on the Continent are mortgaged. But all this reasoning is founded on a very shallow mistake; there is nothing wrong—nothing injurious to the community—in borrowing on specific security, or in borrowing on personal security, provided the sum borrowed does not exceed the circulating capital necessarily employed in any trade. On the contrary, such a system of borrowing leads to the most advantageous use of capital; it enables those who have capital, but who are unfit to enter into trade, to lend their capital to those who, having industry, skill, and enterprise, wish to extend their business, and to make use of a larger quantity of fixed or circulating capital.

What is injurious to the community is when money is borrowed on the pretence of specific security, as under our system of lending on judgment, and when the lenders are defrauded by the pretence proving fallacious. What is injurious to the community is when the mode of borrowing is such that, after the proprietor or tenant has become bankrupt or insolvent, payment cannot be enforced, and the land cannot be sold. Incumbrances are not injurious to the community; incumbered estates or farms are not necessarily injurious, but land that is unproductive, because the owner is a pauper or a bankrupt—land that cannot be sold, because the law allows incumbrances to be so created that land is unsaleable, such waste of valuable productive power is injurious. The distinction I am thus referring to is recognized in the Scotch system of leasing, for the terms of the leases are that, on the bankruptcy or insolvency of the tenant, the lease is determined, and thus land in the Lothians is not allowed to remain for a single moment in the hands of an insolvent tenant.

The third mode of arranging the tenant's interest, with respect to the borrowing of capital, is that adopted in our unfortunate country. On the Continent, the law enables the occupier to raise capital on specific security. In Scotland, the law enables the tenant to obtain credit on his personal security; but here our legislation is so planned, that our tenants are virtually excluded from raising capital either in the one way or the other. The registration of a tenant's interest is not compulsory, but it is not excluded from registration; a tenant's interest is not forfeited on his insolvency or bankruptcy, but it is sold by the sheriff, and sold without a parliamentary title, the purchaser running the risk of a Chancery suit, to settle the priority of the creditors of the seller.

The priority of charges on the tenant's interest is at present such a complicated and difficult question to ascertain, that searches for deeds, searches for judgments, investigation of title for sixty years, and every possible difficulty of real property law, may arise in a loan of fifty pounds on a farm of twenty acres. In our improved legislation, this matter has not been thought worthy of the condescension of our legislators. The Incumbered Estates Commissioners are prohibited from giving a parliamentary title to any tenant's interest of less duration than sixty years. Whilst our Irish tenants have got the pretence, but not the reality, of obtaining capital on specific security, except at interest exorbitant in proportion to risk created by legal technicalities, the possibility of their raising money in that way destroys their commercial credit. This explains the failure of the Agricultural Bank. This explains why it has always been found impossible to introduce what is called Scotch banking to any extent in Ireland. That system of banking is the natural growth of the state

of affairs produced by the Scotch law. Were we wise enough to adopt the sensible provisions of that law, the same system of banking would grow up amongst ourselves without any extraordinary effort to introduce it.

I may, however, safely conclude that the mode in which the tenant's interest is arranged in Scotland, to secure to the tenant the largest amount of commercial credit, is one of the causes of the prosperity of agriculture amongst the leasehold farmers of Scotland.

In suggesting these causes of the prosperity of Scotch agriculture, I do not for a moment mean to say that no other causes are in operation. I do not mean to deny the influence of the peculiar intellectual and moral qualities that are found in Scotch character. I do not mean to say that race, that political institutions, that historical recollections, that religious convictions, have no general influence beyond the immediate sphere of their operation; and that these essential elements of a man's and of a nation's character do not affect the industry, the thrift, the prudence, and the enterprise of a population, and do not affect their success in even the simplest economic operations. But what I maintain is, that no one, nor all these causes together, can afford a complete explanation of the economic success or failure of any undertaking, in any country, or amongst any race of people; that above and beyond their operation, there are always certain economic forces at work either for good or for ill.

And, to apply this general reasoning to the subject before us—That, for the prosperity of agriculture, in any and every country, certain economic conditions are absolutely necessary; that where these conditions are fulfilled, prosperous agriculture can be attained by common prudence and common industry; that where these conditions are wanting, improvement in agriculture is either impossible, or else can only, in spite of the economic impediments artificially created, be attained by the most extraordinary genius or the most indomitable perseverance.

These views I put forward in former papers, with respect to the agriculture of Ireland; and they have since been published* and widely circulated, so as to admit of their being canvassed, and refuted, if fallacious.

Amongst the causes to which I ascribed the backward state of agriculture in Ireland, you will find the following:—

1. The prevalence of yearly tenancies and want of leases.
2. The defects in family settlements, and the want of a uniform statutable leasing power.

* "Impediments to the Prosperity of Ireland." Simms & M'Intyre, Belfast and London, 1850.

3. The state of the law, which allowed the existence of incumbrances to prevent the granting of leases.

4. The disadvantages of leases for lives as farming contracts.

5. The existence of life estates, without power to charge the inheritance for permanent improvements.

6. The existence of the usury laws, and other impediments to tenants obtaining credit for capital necessary for the improved cultivation of the land.

Now, we have seen that in the Lothians of Scotland none of these causes are or have been for years in operation. On the contrary, leases are universal. The Scotch have wise laws respecting leasing power, making it independent of family settlements. They give leases the priority on incumbrances, as they ought in prudence and justice to do. They have no leases for lives, but all for certain terms. The proprietors are never disabled from expending capital in permanent improvements. The usury laws have no operation on loans to tenants, and Scotch tenants are placed in the most favourable position for raising the largest amount of capital on their personal security.

If we contrast the agriculture of Ireland, where these wise laws are absent, with the agriculture of the Lothians of Scotland, where they have long been in full operation, must we not be convinced that these laws are some, at least, of the economic conditions on which the success of agriculture depends ?

And, gentlemen, what a deep responsibility rests on all the intelligent members of the community to understand the causes on which the success of our agriculture—the prosperity of our country—depends, especially those causes which arise from human laws, for which, in a country like ours, the wealthier classes are mainly responsible !

The interests involved in this question are not merely questions of crops, of wages, of profits, or of prices, but the welfare of whole classes : the peace and prosperity of the nation depend on its solution. If we compare the state of Scotland for eighty years before the wise laws, that I have directed your attention to, came into operation, with its state for the eighty years since that time—if we contrast the violence, lawlessness, and disorder which prevailed during the period that comprises the rebellions of 1715 and of 1745—with the peace, order, and prosperity that now prevails throughout the entire leasehold districts of Scotland, we shall learn to place more reliance on human laws, and less on the influence of race or national character.

In conclusion, I may state that there are two plans proposed for introducing Scotch farming into Ireland.

One is by importing Scotch farmers without Scotch laws ; and the other is by adopting the Scotch laws without importing the Scotch farmers.

The former plan has been frequently tried by Irish proprietors, and has never been attended with permanent success, where the circumstances of the landlord and tenant were such as to call the causes I have referred to into operation. On the contrary, the introduction of such tenants has frequently led to general dissatisfaction, outrage, and crime.

The second plan of adopting Scotch laws is much simpler, and is certain to be attended with success.

As, in a recent publication,* I have shown that we do not want English capital, so in this I have shown that we do not want Scotch farmers. What we do want is only a fair opportunity of employing, under arrangements dictated by common prudence, our own labour and our own capital on our own soil.

* "Is there really a want of Capital in Ireland?" Hodges & Smith. Dublin, 1851.