

settle these poor people on an inhospitable waste, rather than enable them by emigration to settle on some of the most fertile land in the world, where they could live in the midst of abundance, and soon become valuable customers for our manufactures.

I therefore think that the true remedy for the deplorable condition of the cottier class is emigration. I am aware that to conduct it on a sufficient scale, and with proper humanity, would cost a considerable sum; but I do not think it would be nearly so expensive as settling the cottiers on the waste land; nor anything like the capitalized value of the extraordinary cost now annually incurred in abortive attempts to keep order in the country.

As to the class of tenants proper it is a more difficult question, owing to the unfortunate nature of the new departure. Many rights have arisen under the Acts of 1870 and 1881, and they, of course, must be respected; but subject to the preservation of those rights those laws should be repealed, and more equitable arrangements, such as I have already referred to, or others of a like kind and founded on the same principle, substituted for them. I shall be told, and I admit, that such a proposal is not at present within the range of practical politics; but changes come rapidly in these days, and nothing is more certain than that if either by purchase or confiscation the bulk of the tenantry of Ireland ever become absolute owners of their farms, they will not, and should not, endure for a single session a law which prevents them either setting or selling their land at the best price they can get for it in the open market.

On the last occasion on which I had the honor of addressing this society I had to record the death of one of our oldest and ablest members, the late Judge Longfield; and to-night we have to lament the death of another very old and much respected member, the late Sir John Lentaigne. He took a warm and active interest in our proceedings, and in all things calculated to benefit Ireland; but his energies were more particularly directed to the reform of our prison system, and the establishment and improvement of Reformatory and Industrial Schools. His earnest and successful services in these important departments will long be remembered with gratitude by every true lover of his country.

II.—*Considerations as to an Extended Scheme of Land Purchase.* By Richard R. Cherry, Barrister-at-Law.

[Read, Tuesday, 7th December, 1886.]

THERE appears to be a general concensus of opinion that the Irish Land question can only be finally settled by an extension, on a wide scale, of the system of land purchase inaugurated by Lord Ashbourne's Act, and by the creation of a large number of occupying owners throughout the country. I do not propose now to discuss the wisdom of this policy, but rather to consider how the objects sought for can best be attained, and in what manner a sound system of land

tenure can thus be established, without any loss to the present landlords or to the state.

At the outset, it will be well to lay down clearly, what are the objects to be aimed at in any proposed scheme. These may, I think, be fairly stated under the five following heads :—

(1) To create a large number of occupying owners of small properties throughout the country.

(2) To do so without seriously diminishing the incomes of the present landlords.

(3) To secure the state against any possible loss by reason of advances of public money made for this purpose.

(4) To place a reasonable limit upon the amount to be so advanced.

(5) To establish for the future a sound system of land tenure suitable to the economic conditions of the country.

At first sight it may appear impossible to devise any scheme which will at the same time fulfil all the conditions. The experience of the working of the Land Purchase Act of 1885, however, (the simplicity and clearness of which afford a model of excellence for future legislation) may suggest certain modifications in the working of the purchase scheme, which if adopted would succeed in attaining the desired result.

The first and chief amendment in the existing law which appears to me to be required, is the fixing of some limit to the size of holdings to be purchased by government aid. Under the present Act, the holdings purchased have in many cases been very large—so large that it would be absurd to call their owners *peasant* proprietors. The owner of 100 acres of land in Ireland, (and many of the tenancies sold are considerably over that size) ranks as a landlord, not as a tenant : when the instalments due to the government are all paid off, he will most certainly let the land and live on his rent. The old system of “landlordism” will thus revive, and the country be left in the same condition as before. If, therefore, the chief object of the proposed legislation be the creation of a system of peasant proprietary in Ireland, such a limitation to the size of the holdings to be purchased is necessary. Thirty acres is I think as large as any holding can be, which is actually cultivated by the owner and his family, so that this would be a fairly good limit.

Many other considerations appear to concur in favour of this limitation. In the first place, there appears no reason on the face of the earth why money should be advanced by the state to tenants of large farms, more than to any other persons, to enable them to purchase land. Again, assuming as I think we may fairly do, that sufficient money cannot be advanced to purchase the whole soil of Ireland, the smaller tenants should certainly be the first provided for. They deserve the most consideration, not only in consequence of their poverty, but from the fact that they have in general effected far more valuable improvements on their holdings in proportion to their size than the larger occupiers. Large farms in Ireland are mostly used for grazing purposes. These do not require and do not receive as great an amount of labour, by way of permanent improvement, as tillage

farms. It is the small tillage farm that the labour of the occupier has rendered twice or three times as valuable as it originally was, and it is therefore in this case chiefly that the assistance of the state is required, to secure to him the full reward of his labour. The smaller occupier, too, is in a much worse position if compelled to leave his holding than the larger tenant. He is necessarily a man of small means, and generally of scanty education; he cannot therefore turn to any other employment, and he has, as a result of his ignorance and poverty, the greatest dread of a change in his circumstances. He has generally, too, lived on his little farm from the day of his birth.—(The statistics of the Irish counties showing that the proportion of the population who reside in the counties in which they were born is much greater where the holdings are small than where they are large.) If, then, owing to a failure of crops, or any other cause, he is unable to pay his rent, his position is really pitiable. In such cases the horrors of an eviction are very great: but with the larger tenants it is difficult to see what is to distinguish their cases, if unable to pay their rents, from that of a merchant or trader who has been unfortunate in his business, and who must in consequence lose everything that he possesses.

Whether, then, the object be to establish a system of peasant proprietary in the country, or to bring assistance to a class of people who are in necessity and unable to help themselves, the limitation of the scheme to the smaller class of holdings is equally desirable. Such a limitation will also considerably reduce the amount required to be advanced by the state. In the year 1881 it appears, from a return issued by the General Register Office of Ireland, that only 24.2 per cent. of the *area* of Ireland was occupied by farms under thirty acres in extent. Although the area occupied was proportionately so small, still in *number* these formed 69.9 per cent of the whole. Assuming, then, that the land comprised in these small holdings is not of more value than that in the large, the state, by advancing about one-fourth of the total value of the land of Ireland, could transfer very nearly three-fourths of the tenants into owners of their farms.

For the same reasons, it should be made an indispensable condition, that the tenant should actually reside on the holding, for the purchase of which public money is advanced. In many parts of the country, especially in the south, it has become common of recent years for one tenant to hold several farms, which are often situated at considerable distances from each other; four or five farms are often held in this way. It is no hardship for a man to be compelled to give up a holding where he does not live, if from any cause he is unable to pay the rent, for the only motive he can have in keeping it is that of pecuniary gain. No man, at any rate, should be allowed to purchase *at the expense of the state* more than one farm. If he chooses to invest his private means in another, by all means let him do so; but surely such a system of pluralism should not be encouraged by public money. One man, one farm; and that the one on which he and his family actually live, should, so far as the state assists the purchase, be the inflexible rule.

If we thus exclude all holdings of over thirty acres, and all holdings

on which the tenant does not actually reside, the amount of land left, after excluding the demesnes and other holdings at present owned by their occupiers, will not be so very large. As the holdings of over thirty acres alone comprise three-fourths of the total area of the country, we may fairly assume that all the excepted classes taken together would make up four-fifths. If, then, the total value of Irish land be £250,000,000 (a rather high estimate), it will only take £50,000,000 to transform all the small occupying tenants of Ireland into peasant proprietors. Considering the enormous advantages which would be gained by the transformation and the stability which, there can be no doubt, would be thereby introduced into the economic condition of the country, it appears to me that it would be both wise and statesmanlike to advance this sum. The interest on it would amount to £1,500,000 per annum, an amount which the addition of 1d. in the £ to the income tax would be sufficient to realize. Even assuming that one half of this was ultimately lost, the saving which would be effected in the expense of the constabulary alone in the country districts would almost compensate for it.

It might, on first consideration, be supposed that the security of the state for its advance would be diminished by confining the advance to the case of small holdings; but I do not think that this is so. If the tenant fails in the payment of his instalments, the only means by which the state can recoup itself is by selling the holding; and all the returns of sales of farms since the passing of the Land Act, show that the smaller the farm the higher the price relatively which has been paid for it. In one case in the County Kerry, thirty-five years' purchase has been paid for the tenant-right in a farm, the valuation of which was £2 5s. od., and the rent 50 per cent. higher! While in the County Donegal ninety-two years' purchase has been similarly paid for a farm, the rent of which was £1 2s. 6d. per annum. A return has been compiled, which shows that whereas 12 per cent. of the farms at a rental of under £20 have been sold for more than twenty years' purchase, only 5 per cent. of the holdings of over £20 have realized a corresponding amount.

It thus appears that, putting aside anything in the nature of a combination to resist payment of instalments, there would be an ample margin to secure the state from loss, and the smaller the holdings purchased, the greater would be the security. We cannot, however, ignore the possibility of an organized resistance to the sale of holdings for default in the payment of instalments, in the same way as the sale of farms for the recovery of rent is now resisted. In order to provide against such a contingency, I would suggest that in lieu of the present guarantee deposit by the landlord a system of local guarantees should be introduced, so that if a sale of a holding for default of payment of instalments did not realize a sufficient sum to repay the state the sum originally advanced, the deficiency should be levied on the barony or district in which the holding was situated, and made payable in the same proportion as the poor-rates, viz. :—one half by landlord and one half by tenant. If this were done, the boycotting of sales would, in all probability, be a rare occurrence, as

the persons concerned in the boycotting would be those most injured by it; a neighbouring peasant proprietor would be the greatest sufferer, as he would have to pay a double tax—both the landlord's and tenant's share, falling on him. The evicted man, too, would also be much injured by a boycotted sale, as the farm would otherwise in all probability sell for nearly twice the amount due to the state, and the surplus would of course come to him. In this way it appears to me that the state would be amply secured from danger of loss by terrorism.

There remains, however, a probability of loss arising from a great fall in agricultural prices, and a consequent diminution in the value of land. I do not think that there is any really serious danger from this quarter. Agricultural prices have certainly declined considerably within the last few years; this decline has, however, been greatly exaggerated; and moreover, it is in a considerable degree due to the appreciation of gold, and the general fall in prices which has taken place. No doubt it is in part due to the great extension in facilities for the transit of food from both North and South America. Those, however, who predict a continued decline in agricultural prices, seem to forget that the enormously increasing demand for food in America itself, coupled with the rapid exhaustion of the food-producing areas, must ultimately raise prices much more than cheapened cost of carriage can diminish them. Time will not permit me to enter upon this subject fully; but I can see no reason, from the present slight fall in prices, to doubt the received teaching of all economists—that the price of food, as compared with other commodities, tends to rise steadily with the increase of population, and that any interruption in this rise, caused by the opening up of new supplies, is essentially temporary in its nature. I see, therefore, no considerable risk of loss to the state, either from a fall in agricultural prices, or from illegal combinations to resist payment, if the measures I suggest be adopted.

The substitution of a local guarantee for the present system of guarantee deposit, will also have the further advantage of enabling the landlord who is willing to sell, to do so without any serious diminution in his income. So long as he can only obtain 3 per cent. on a portion of his purchase money, and is even in danger of losing the principal, it cannot be expected that he will be very anxious to sell, or that he will do so at a low figure. It is surely unjust also, after a man has sold his property and conveyed it to a purchaser, to hold him responsible for the default of the person to whom he has sold, in paying a third party interest on a mortgage.

In order to enable landlords to sell, without incurring any serious loss of income, I would suggest also that much greater facilities should be given for the sale of settled estates than at present exist. A very large portion of Irish landed property is under settlement; and when this is so, not only is there a great increase in the expense and trouble of selling, but as the proceeds of the sale of settled land can only be invested on securities which yield 3 or $3\frac{1}{2}$ per cent., the income of a tenant for life is seriously diminished. A case in which I was myself professionally concerned will illustrate the disadvantages attending a sale of settled land under the present system.

A landlord, who regarded himself as absolute owner, agreed to sell to his tenants for eighteen years' purchase of their rents. When he proceeded to make title, it transpired, however, that under his father's will, the property was to pass, in case he died without issue, to the children of his brother. As he had seven children living, this was rather a remote contingency; yet in consequence of it, he was not only deterred from investing the purchase money at a remunerative interest, but he was put to the expense of two applications to the Chancery Division, one to appoint a guardian to his brother's infant children, and the other to appoint trustees of the settlement for the purpose of the Settled Land Act. When the costs of these proceedings, and of the sale are paid, and the residue invested in an authorized trust investment, his income will probably be cut down to less than one half what it formerly was. Considerable expense might be saved in dealing with settled lands, if the Land Commission were given the powers of the Chancery Division, as to the appointment of trustees of the settlement in all cases. It already possesses these powers under the 13th section of Lord Ashbourne's Act, when the sale is made to the Commission itself, so that it would only be necessary to make this section general in its operations.

In order to save limited owners from loss of income, a considerable extension might also be made in the range of investments open to trustees for monies resulting from sales under the Act. There can be no objection to the re-investment of trust funds in a security as secure as that from which they have been removed; and investments yielding 5 or even 6 per cent. could easily be found, which are certainly as secure as landed property in Ireland.

There remains the important question, whether any extended scheme should be left, as is the case under the present Act, to the voluntary agreement between the parties, or whether it should be compulsory. The experience of the working of Lord Ashbourne's Act does not give us very much encouragement as to the prospects of the voluntary system, only about £2,000,000 of the £5,000,000 sanctioned by the Act having up to the present been applied for. I am convinced that any scheme, in order to be thoroughly successful, must be compulsory on one side at least. As in the fixing of fair rents, the tenant should have power to compel the landlord to sell, and the landlord power to compel the tenant to buy, the court in either case fixing a fair price, and distributing it according to the different interests in the land.

If the compulsory system is adopted, we must not shut our eyes to the difficulty of raising a large sum of money in a short time, and of investigating the titles practically to the land of the whole country. As I have before shown, the limitation of the scheme to holdings of less than thirty acres, on which the tenants actually reside, will render the advance of one-fifth of the sum that would otherwise be necessary, sufficient; still, however, to raise £50,000,000 in one year might seriously disarrange the money market, and in order to prevent this, I would suggest that the compulsory scheme should at first be adopted in certain counties only, where the relations at pre-

sent existing between landlord and tenant seem to call most urgently for some state intervention. The Act might be made to apply only to such counties as Her Majesty in council should direct, and a limit to the advances in any one year could thus be easily placed. There would in this way be ample opportunity of judging by experience (and this is the only satisfactory way of testing such schemes) how the Act worked, before any very large sum of money was advanced by the state.

The last suggestion I desire to make is in reference to a system of land registration. If a purchase scheme on a large scale is carried out, it would be a pity to let the opportunity slip of establishing a land registry. The titles of the lands sold to tenants must be investigated; and it will not involve any very great cost to register them, and to provide for the future that no further dealings with the land shall have any validity unless they appear on the registry. This would involve the two-fold advantage, of rendering all sales and other dealings connected with the new properties inexpensive and convenient, and at the same time of enabling the government to enforce any regulations they thought fit to impose, as to subdividing or reletting the holdings. An impression prevails in this country that there is some great difficulty, almost akin to an impossibility, in the introduction of a system of land registration. This arises from the failure of all attempts to establish one in England; but there exists no such impossibility. It has been successfully introduced in all the Australian colonies, and is now almost universal there. The Torrens' system, originally introduced into South Australia in 1857, has been gradually adopted by all the other colonies, and has been a decided success. It is a mistake to suppose that such a system is only adapted to a new country; for in New South Wales, where titles have sometimes to be investigated as far back as 1788, it has been even more successful than in the other colonies. The success of the Torrens' system is due to the fact, that although it gives the registered owner an unimpeachable title, it provides for the possible occurrence of a mistake; and by means of an assurance fund raised by a charge of one-fifth per cent. on all registration, enables a person who has been unjustly deprived of his property to obtain compensation. I do not think there would be any insuperable difficulty in introducing this system into Ireland simultaneously with an extended purchase scheme. The registry of the titles would render the new properties much more valuable than they would otherwise be, and would thus increase the security of the state for its advances, in addition to providing a ready means of checking any dealings with the properties which the state might seek to encourage.

To sum up. In order that any future scheme of land purchase should be successful in attaining the objects sought for by all parties—that is, in order that it should succeed in creating a large number of occupying owners, without any great loss to the present landlords, or risk to the state, it should, in my opinion, fulfil the following conditions:—

(1) It should be absolutely restricted to small holdings, and: (2) to holdings on which the tenants actually reside: (3) the guarantee

deposit by the landlords should be abolished, and a local guarantee established : (4) extended facilities should be provided for the sale of settled lands, and an increased range of investments legalized for the purchase monies arising from same while in settlement : (5) power should be given (at first perhaps only in certain districts) to either a landlord or a tenant to compel a sale, and provision made for fixing the price, and compensating all persons having interests in the land : (6) a land registry should be established of the new owners, and all dealings with the properties which did not appear on the registry rendered null and void.

A scheme on these lines would, I am convinced, be successful in restoring stability to landed property in Ireland, and would thus be an inestimable benefit to the country. The money advanced would be a profitable investment, if it succeeded in creating contentment and peace in Ireland. The danger, moreover, of ultimate loss would be extremely small.

III.—*The Purchase of Land (Ireland) Act, 1885, generally known as Lord Ashbourne's Act.* By J. H. Edge, Barrister-at-Law.

[Read, Tuesday, 7th December, 1886.]

NOTWITHSTANDING that a Royal Commission is now sitting to examine into the working of this measure, it may be useful for the purpose of drawing forth public opinion, that our society should discuss some of the questions which its operations have raised. The acquisition of the land by the occupier has now been removed out of party debate, as all sides desire its accomplishment. The fundamental idea in Lord Ashbourne's Act appears to be voluntary sale and voluntary purchase. A landlord under it is not to be compelled to sell unless he likes, and at whatever price he likes; and similarly, a tenant cannot be compelled to purchase, unless he thinks it is his interest to do so. The Act is at present the best available machinery for carrying out sales to tenants by loans from the government; and I propose to touch upon some points in which the Act might possibly be usefully amended, without changing its essential principle of voluntary sale, unless my proposal for the compulsory sale of head-rents and incumbrances may be regarded as a departure from it.

The Act was passed on the 14th August, 1885, and up to and including the 12th October, 1886, 3,681 loans were applied for; 3,005 were sanctioned; 1,479 were issued; and about 550 loans were refused: the total amount in value of loans applied for, was £1,835,220; sanctioned, was £1,335,286; issued, was £596,102; and refused, was about £200,000; and the average rate of purchase on loans sanctioned was eighteen years' purchase of the rent. And as the total advances to purchasing tenants under the Land Act of 1870, in eleven years, was £416,802, to 710 tenant purchasers, and of the Land Act of 1881, in four years, was £240,554, to 731 tenant purchasers, the Land Act of 1885, which has issued 1,479 loans to