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I.—*Homestead Laws.* By C. F. Bastable, M.A.

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A good deal of interest has recently been excited on the subject of the peculiar body of legislation known as the Homestead Laws of the United States. Alike in the British House of Commons, and in the Political Economy Society of Paris, the subject has been brought forward; and suggestions have been made that European states might with advantage avail themselves of this particular system.

The present paper aims at giving a concise account of the origin and development of the Homestead Laws of the United States, with notices of similar legislation to be found elsewhere. It next considers the practical working of the laws, and the various theories by which they are supported; and it finally endeavours to form some judgment as to the expediency of adopting the policy which is recommended to our attention.

It is essential for a right understanding of the system under consideration, to carefully distinguish between the legislation of the Federal government and that of the various states, and it will, perhaps, be convenient for us to take the former first. One of the greatest problems which occupied the attention of American statesmen in the early years of the Republic, was the best mode of dealing with the vast mass of unoccupied land which was placed at their disposal. It was necessary for the preservation of order to establish some legal method of occupation, and at first the expedient of selling spare land by auction, or at a fixed minimum price, was adopted (in 1800 the price was 2 dollars credit, or 1.64 dollars cash; reduced in 1820 to 1.25 dollars cash, per acre). "The popular notion," says Professor Sumner, in his excellent *Life of Jackson*, "was that the lands while wild and in the hands of government were a great property." As a natural consequence, extensive land speculations prevailed. Men purchased in the hope of a rise in the value of land,

and when disappointed became insolvent. This was one of the causes of the great commercial crisis of 1837-9. The sufferings thus produced led to the passing of the Pre-emption Act of 1841, which gave the first choice of land to the actual settler, or even squatter, and thus sought to encourage the occupation of land by a class of comparatively small proprietors. The events from 1841 to 1861, involved as they were with the struggle between the slave-holding and the free states, gave still greater strength to the advocates of the small farm system, whose views were represented in the act of 1862, known as the Homestead Law. The object of this act is thus described in Mr. Hardinge's report:*

"To encourage the settlement, possession, and cultivation of the land in small quantities, by a class of industrious citizens, who by their occupation of the soil and establishment of homes, would tend to form communities adverse to lawlessness, and social or civil disorder, and to the exclusion of individual speculators and land companies. It is also held that the possession of proprietary rights in the land tends to promote industry and thrift, and to foster a feeling of independence and love of country. With this view, provisions were introduced into the act, protecting the settler and his family from the loss of their homestead, and a certain amount of personalty, by execution or sale, in the event of the settler being overtaken by debt, whether through illness, bad seasons, or other misfortunes."

All the provisions of the law bear out this conception of its fundamental objects.

"A settler desirous of availing himself of the benefits of the Homestead Law is required to be the head of a family, and to be twenty-one years old." "He is expected to occupy his quarter-section (160 acres) as a residence within six months after filing his entry." "After five years continued residence and cultivation of the soil the homesteader, on making application to the Land Office, is entitled to a patent for his quarter-section, six months after proving to the satisfaction of the registrar that he has complied with the necessary conditions."

With some slight modifications, this is at present the law all over the United States.

In addition to the federal legislation, it need hardly be said, that in all matters unprovided for by the constitution, the several states possess full power of legislation; and though this conception of reserved sovereignty was rudely shaken by the civil war, and the events which succeeded, and is being further weakened by the doctrines of the newer American political theorists,† it still has important practical effects. From it results what is to us the anomaly of two different though converging lines of legislative action, each independent, and each strictly legal.

The state legislatures have anticipated congress in dealing with the homestead question, as the following sketch shows. The first homestead law of which we have evidence was passed by Texas, then an independent republic, in 1839, which runs as follows:—

* *Further Reports on the Homestead and Exemption Laws*, 1887.

† See a remarkable article by John W. Burgess, "The American Commonwealth," in *The Political Science Quarterly*, January, 1886.

"Be it enacted by the Senate and House of Representatives of the Republic of Texas, in congress assembled that, from the date of this act, there be reserved to every citizen and head of a family in this republic, free and independent of the consequences of a *ieri facias*, judgment, or other execution ratified by any competent court of justice, 350 acres of land, or a town plot, his homestead and improvements thereon included, not exceeding 500 dollars in value, and in addition all domestic and kitchen utensils—provided that they do not exceed 200 dollars in value—all implements, books, and apparatus which in any way appertain to the industry or employment of a citizen; five milch-cows, a yoke of oxen, or a horse; twenty cattle, and a year's provision; and all laws, or portion of laws, which recall, or are contrary to, the provisions of this act are hereby void; provided that the exemptions of this act are not to apply to contracts previously entered into between parties."

Texas entered the American Union in 1845, and its homestead legislation became a part of its state law. During the succeeding forty years the imitation of the system by the other states was extensive. We find a homestead act in Vermont in 1849; and by 1886, out of forty-five states and territories, there were only seven in which the homestead exemption did not find a place, viz:—Delaware, Idaho, Indiana, Maryland, Oregon, Pennsylvania, and Rhode Island, to which the district of Columbia has to be added.

But though the general principle is so widely diffused, there are remarkable differences in details which are well deserving of notice. In the majority of states the homestead law is an ordinary enactment; but fifteen of them have introduced it into their constitution, and thus bestowed on it a kind of consecration, as well as what is in practice more important—rendering any attempt at repeal more difficult. Another matter of greater weight is the way in which the homestead right is created; in some states no formality is required to give the exemption, in others, registration is a necessary antecedent. A third point of difference is the extent of the exemption enjoyed. A limit is in all cases fixed, either as to area or to value, or to both; but this limit varies from 500 dollars in Maine, New Hampshire, and Vermont, to 5,000 dollars in California, Nevada, and Texas. Where the limit is one of area, it varies from 40 acres in Iowa, Michigan, Nebraska, and Wisconsin, to 200 acres in New Mexico and Texas. In some cases a distinction is drawn between town lots and ordinary land—a small area of the former, varying from 18 square rods in Missouri, to $1\frac{1}{4}$ acres in Wisconsin, being allowed as homestead.

The privilege of the homestead is in most states indefeasible, but in some it can be abandoned by the possessor. Waiver is permitted in Georgia, Iowa, and Virginia, as also possibly in some other states; but it must be in writing. The husband and wife jointly are allowed to waive the right in Alabama, Florida, Kansas, Michigan, Nevada, North Carolina, Tennessee, and Texas, by provisions inserted in the constitutions of those states. In some states, *e.g.*, Louisiana, there are express provisions against waiver. We may finally notice classes of creditors against whom the homestead exemptions do not prevail. Among privileged claims which are

* R. Meyer, *Die Heimstätten*, S. 415.

not set aside by the law in one or more states, may be enumerated:—mortgages, pledges, and liens; debts contracted for the purchase or improvement of the property, or removal of incumbrances thereon; a claim for taxes, or for the services of a labouring man or mechanic; debts incurred by a public officer, or a trustee for an express trust; a claim for rent, or for the legal fees of an official. There is naturally much diversity as to the areas over which these limitations are applied. Thus the limitations respecting debts incurred for purchase of the property, and for taxes are each to be found in twelve states; that with respect to a claim for rent, in Virginia only.

The extent to which the laws have been practically used in those states in which claims under them are dependent on registration for their validity also varies much. In the eastern states they seem, in most districts, to be almost a dead letter. Thus Mr. Carrol D. Wright states—that in only four out of the fourteen counties of Massachusetts was any popular knowledge of the law shown. Consul-General Booker bears similar testimony in reference to the states of New York, New Jersey, and Connecticut:—

“It is evident,” he says, “that the law has never been fully taken advantage of, and has been less during the last ten years than before. Did the act exempt the holders of a homestead from paying taxes on it, there can be little doubt but that the law would be in active force, as in one county of this state, where from 1850 to 1881 there had been only 65 homesteads recorded; there have been since, and principally in 1882, 490, which was the result of an erroneous assertion on the part of a leading firm of lawyers, that the law not only exempted the property from levy and execution, but also relieved the owner from the payment of all taxes to the extent of 1,000 dollars valuation. The reasons assigned for the very limited use of the homestead law in New York, New Jersey, and Connecticut, are the smallness of the value of the homestead exemption, the necessity of having the exemption recorded, and the want of knowledge of the existence of such a law, especially in agricultural districts. It will be seen by the paper annexed that in this county (New York) only seventeen homestead exemptions have been recorded since the passage of the act in 1850; and several lawyers in this city, to whom I have spoken, and officials elsewhere, to whom I have addressed communications, have not been aware of the existence of such a law.”

In those western and southern states, where registration is necessary, it is believed that the privileges given by the law are more generally used (though the evidence as to Louisiana does not bear out this idea), but I have not been able to obtain any reliable statistics, since the reports of the English consuls seem not to distinguish sufficiently between the Federal Homestead Pre-emption Law of 1862, and the exemption laws of the various states. As regards the former, the table at page 16 will show the recent operation of the law.

Such, in brief, are the leading facts relating to this body of legislation; but for further illustration I have subjoined the texts of the laws for New York, as an eastern, and for Arkansas, as a south-western, state, in the belief that they are fairly typical of these enactments.*

* See Appendix, p. 222.

OTHER INSTANCES OF HOMESTEAD LAWS.

(1) *British North America.*

The free distribution of land has not been a general part of English colonial policy. Under the influence of Wakefield and his disciples the tendency has rather been to ask a *sufficient*, which is really equivalent to a high price for colonial land; while in recent years it has been the aim of one school of colonial politicians to reserve the ownership of land to the state. In the Auckland and Westland districts of New Zealand, however, a homestead law is in force, but so far as I can learn it gives no exemption to the homesteads. In Canada, too, the nearness of the United States has made the free distribution of land almost a necessity, and as a natural consequence the settler is protected by the nature of his grant until he has acquired full ownership. For the older provinces no further homestead exemption exists, but in the more recently settled countries of British North America, we find laws obviously modelled on those in force in the United States. Thus in Manitoba a homestead up to 160 acres is exempt; in British Columbia the limit is fixed by value instead of area, and is 2,500 dollars; and finally, in the North West Territory, it is allowable to register an area not exceeding 80 acres of agricultural land, or the ground on which a house is erected in a town, which thereupon is not liable to be seized for any after-incurred obligation, provided that it does not exceed 2,000 dollars in value. When the registered homestead exceeds that value, the exemption only applies to the amount of 2,000 dollars, and does not affect (1) a hypothek for purchase money, or (2) a claim for taxes.

(2) *Servia.*

The only European instance of such exemption is to be found in the Balkan peninsula. Since 1874 Servia has possessed a homestead law which is described in the following terms by a competent witness:—

“The law is paternal. The day labourer cannot charge or assign the tools that are indispensable for the exercise of his trade. By virtue of the same law (passed in 1873) the peasant cannot alienate his homestead, which consists of five acres of land, with the farm and buildings thereon. The peasant cannot sell his homestead of five acres, which is regarded as the property of the whole family and not of any member of it. The law, passed in 1873, only enforced a very ancient custom.”*

To which statement it should be added that in the case of a house community (*Zadruga*) each member (at least up to five) can claim five acres as exempt. It is, however, plain that this provision is really a survival of the old joint family system, and aims at preserving that specially Slavonic institution. It therefore does not exactly resemble the American cases that we have previously examined.

Policy and practical working of Homestead Laws.

In considering the operation of these laws, it is likewise desirable to carefully separate the homestead pre-emption system from the

* *The Growth of Freedom in the Balkan Peninsula*, by J. G. C. Minchin, p. 195.

local homestead exemptions. The former is evidently a particular mode of dealing with great tracts of unoccupied land. It seeks to establish a yeomanry, as being the best class of inhabitants, alike on social, political, and economical grounds. The exemptions which it carries with it are incident to the operation of a definite public policy. The homesteader receives a gift from the state, subject to certain conditions which are connected with that gift, and which, therefore, are no infringement of the extremest doctrine of *laissez faire*. The real grounds for criticism are rather (1) the expediency of the policy adopted, and (2) the efficacy of the law in carrying out that policy. And first it should be noticed that the homestead law is in its essence a law of settlement. It is significant that Rudolph Meyer, the ardent admirer of homesteads from a social-conservative point of view, places his discussion of the English laws of entail immediately before that of the American homestead laws. From many quarters we hear assertions, which are for the most part true, of the tendency of aristocratic legislators to make laws in the supposed interest of landlords, but it is possible to add with equal truth that the most democratic communities—such as the United States and Switzerland—legislate just as much in the interest of small land-owners, or other politically-powerful classes. It is instructive to see that exemptions from taxation and tying up of land are to be found elsewhere than in England. Assuming the law to work, there can be no doubt that it would seriously impede the transfer of land, and prevent it passing into capable hands. It is more important to notice that the law has never been strictly observed, nor is it effectual in securing its object.

“In all the stages of the American land history,” says Mr. Phillips, “there has never been any adequate effort to secure the public land for the continuous use of the cultivators of the soil, in proportions just to the interests of all. No steps have been taken to prevent the land from going into or remaining in the hands of unoccupying holders, or preventing the creation of a landlord and tenant class. . . . The pre-emption and homestead laws professed to do what they did not. The theory was that the land should be reserved for the cultivators of the soil. Neither law secured that end.”*

And if this statement has to be received with caution as the exaggerated utterance of a hot-headed enthusiast, it can be supported by other testimony:—

“Unfortunately the beneficent object held in view by this legislation has been partially defeated, the provisions of the act having been converted by speculators into a means of acquiring possession of large tracts of land, by making fraudulent entries at the various land offices throughout the States, and also a method of dishonest evasion of debts lawfully contracted. During the debate in the senate last session on the repeal of the Pre-emption Timber Culture and Desert Land Laws, it was stated that the Land Commissioner had made the admission that 40 per cent of the entries under the Homestead Law were of a fraudulent nature.”†

In fact the inducements to speculate were too strong to be restrained

**Labour, Land, and Law*, pp. 339-41.

† Mr. Harding in *Further Reports on Homestead Law*, 1887.

by anything short of the most stringent enactments, and, as has so often happened in the United States, the law itself has been made an aid in evading its intention. A further obstacle to the success of the homestead system lay in the fact that the inducements which it held out to labourers to take land were offset by another part of American legislation. The protective tariff drew labourers towards manufactures just as strongly as the homestead law drew them to agriculture. The Wakefield system of selling land at high prices, and protective tariffs, are in reality both modes of preventing, and are generally intended to prevent, that dispersion of the population on the soil which free access to land encourages.* It may also be remarked that the system of grants to corporations in some degree counteracted the endeavours to establish small freeholders. It has sometimes happened that a railway company has possession of the water-frontage of a whole district, and has thus virtually had the farmers of that district at its mercy. The whole question of land policy, as it is at present discussed in the United States, is naturally beyond the scope of the present paper.†

State Homestead exemptions.

On proceeding to examine the special laws of the various states, we find that the questions to be considered are entirely different. It is not as a mode of establishing new settlers or promoting the peace and order of the community, but rather as a particular way of regulating the relations of debtor and creditor that the state laws act. They aim at protecting, under certain circumstances, the citizen who has incurred debts, from the consequences of his obligation—at all events this is their most obvious aspect. The judgments which people are likely to pronounce on these laws will therefore vary with their views of the general policy of protecting debtors. The advocates of sentiment in legislation will say with Mr. Hardinge:

“That to the artisan and labouring classes the benefits accruing from such legislation are very great. . . . People of small means find these laws a great blessing to them, since in the case of sickness or other misfortunes they enjoy the feeling of security that their home is assured to them, and that they will not be reduced in the moment of failure to a state of abject poverty. The weak are protected against the strong, and against unscrupulous merchants and usurers, who wish to take advantage of the ignorance and poverty of the settlers, to wring from them their uttermost farthing.”

Nor can it be denied that the popular feeling of the states, and the testimony of many of the British consuls, strongly support this view. On the other hand, the upholders of the rights of property, and of capital, which is but a particular form of property, will assert “that the law is a mistaken kindness; that it wrecks the credit of the poor man, and prevents his doing business on a cash basis, and forces him into the hands of the usurer.”‡

* See Sumner's *Life of Jackson*, pp. 186-7.

† An interesting article on the subject, by Mr. A. B. Hart, in the *Quarterly Journal of Economics*, of January, 1887, may be referred to.

‡ Consul Cridland in *Further Reports Respecting Homestead Laws*, 1887.

Before examining these sharply opposed views, there are some features of American legislation which should be taken into account. The problem of doing justice to the creditor while treating the debtor with mercy has disturbed the repose of almost every community ; and at times the struggles of these two classes have rendered the forcible intervention of the legislator absolutely necessary. From the days of Solon down to the present time, the strict rights of the creditor have at intervals been curtailed in the interests of social order ; and the law has sought to restrain the exaction of undue interest, as well as to release the insolvent debtor from his legal obligations. The main expedient for the former purpose has been the enactment of usury, as for the latter that of bankruptcy laws.* Now, it is a suggestive fact, and one dwelt on with much triumph by Rudolph Meyer, the advocate of reactionary legislation in every form, that in one form or another thirty-nine American states possess usury laws, though it appears that for the most part they are practically inoperative. Nor, indeed, can we wonder at this latter result, when we remember the many ways in which, according to a distinguished American economist,† such laws can be evaded, and the unquestionable astuteness of American capitalists. The other safeguard against undue pressure on the debtor is, at least for the whole Union, absent, though particular states possess bankruptcy laws which only affect citizens of the same state. When to these rather strange conditions we add the absence of any general poor-law system, and the peculiar position of a newly-settled country, where land is plentiful, and loanable capital, comparatively speaking, scarce, we need not be surprised to find that cases of hardship in the relations of debtor and creditor are of such constant occurrence, as to make the popular sentiment favour any method which secures the weaker and less provident members of the community against unforeseen disasters, or even im-providence. The relations of the merchants and the smaller farmers in the state of Mississippi are thus described by Mr. Dennett:—

“ Mississippi has a large number of business men, merchants, many of them exceedingly sharp and unscrupulous. . . . Many of them came here strangers to make all the money that possibly could be made out of the farmer and the people. The farmers of this state are, most of them, poor and ignorant ; merchants often take great advantage of their poverty and ignorance. Cash prices for goods are usually pretty high, but credit prices are usually not less than 40 per cent. above cash prices, often 75 and 100 per cent., and even more ; and again, as to borrowing money in Mississippi, few farmers are ever able to obtain loans of money. Those who are fortunate enough to have money to loan get from 15 to 25 per cent. per annum for it on good security.”

It is apparent that the ultimate cause of this condition of things is the absence of capital, and that homestead or usury laws are *at best* but palliatives for evils arising from economic conditions.

The objection, however, to all such measures is not, I conceive, that they violate the rights of the capitalists, since restrictions may

* Mr. Thorold Rogers has remarked, that bankruptcy laws are in reality indirect usury laws : *London Statistical Society's Journal*, vol. 46, p. 638.

† F. A. Walker, *Political Economy*, pp. 336-46.

fairly be imposed on any class for the general advantage; but rather that they hinder the progress of the society in which they are applied, and that ultimately they do not even benefit the debtor class. The evidence as to usury laws seems to show conclusively that they are, unless in the most exceptional cases, useless or injurious, and though the evidence on homestead exemptions is not so clear, there are yet significant indications that these laws are not so beneficial, as might at first be supposed. For example, in Louisiana, by an act of 1874, all articles of furniture, and 600 dollars besides, were exempted from seizure :—

“This law was passed in the (supposed) interest of poor people and small traders; but its effect was to put a stop to their credit, and paralyze their business. The wholesale houses would not provide stock except for cash in hand, and the landlords required rent to be paid in advance.”

As a consequence, the law was modified in 1876, and by the constitution of 1882 the homestead privileges were made optional. It is further a noteworthy fact that the greater number of farmers in Louisiana do not register their homesteads; the number who do so varying in the several counties from 1 per cent. to 30 per cent. Like evidence comes from California. “There are many men here,” says Mr. Mason, “who do not dedicate any portion of their property as homestead, because they fear that it will impair their credit in business.” A third case is even stronger. Colonel Donohoe, reporting on four south-eastern states, tells us that :—

“Maryland has no homestead law, though the other states have one. . . . A man can borrow money on his property in Maryland with greater facility than in the other states. Take Virginia for instance. A man wishes to raise money on mortgage of his homestead. Besides waiving his right of exemption, he will probably be called on to insure his life for the benefit of the lender. It is a difficult thing to borrow money on Virginia property otherwise.”

Such facts, coming as they do from widely separated points (New Orleans, San Francisco, Baltimore), deserve attentive consideration. Again, Consul Cridland, in giving the views of the capitalists of the Charleston district, says of the homestead exemption :—

“That it has fostered the pernicious system of chattel mortgages, and that one of its results is that . . . the creditor selling goods on credit or lending money, raises the price of the goods or the rate of interest on the money, to cover the additional hazard which he encounters.”

Finally we hear from Boston :—

“These laws are taken advantage of only in rare and exceptional instances, and are not generally considered to be practically beneficial, property-holders preferring, as a rule, to be free to mortgage their estates, which they could not do if they were exempt from attachment.”

We are therefore driven to conclude that these laws are no unmixed benefit to the needy classes, whom they are intended to protect.

A further disadvantage is the encouragement to fraud which all laws of the kind undoubtedly offer. The opponents of these laws

dwelt rather strongly on this point. As reported by Consul Lyall, they assert of the Texan law:

"That it was enacted originally by the first settlers and founders of the State of Texas, who were mostly refugees from justice in other states—defaulters, pirates, forgers, assassins, embezzlers, and men 'under a cloud,' and that they enacted this law to shield themselves from paying their lawful debts."

Though it is impossible to question the historical accuracy of this not very flattering description of the inventors of homestead laws, it must be allowed that the available evidence goes to show that the attempts at fraud are not very numerous, and do not seem to impede the working of the laws. When the limit of exemption is a narrow one, the danger of fraud is considerably reduced.

On the whole, we may conclude that the American homestead system is applied to a special state of circumstances, where land is abundant and capital wanting, and where legal provision for the destitute is almost entirely absent—that under these very special circumstances it is neither a serious evil nor a considerable benefit, that when optional it is seldom availed of, and that when waiver of its privileges is permitted it is in the power of the money-lender to render it nugatory; and, finally, that until all the spare agricultural land of the United States is taken up the real time for testing these laws will not have come.

Homestead Laws as supports of the family.

There is a view of this system which has not yet been considered, but which, as it is at least plausible, deserves some mention. Mr. Devas, and other writers, contend that such laws are in reality a protection to the wife and children against the vice or folly of the head of the house. In the great bulk of the states we are told:—

"A genuine farmer's homestead is privileged property. Nor is the family to be scattered at the death of the head. On the contrary, the widow has the right to dwell in the homestead all her life, and the children have a right to dwell there undisturbed till the youngest of them is twenty-one years old. It is not difficult to see how such legislation, whatever the motives that produced it, is in complete accord with the Christian teaching on family duties."*

The details of many of the laws certainly show that the protection of the dependent members of the homesteader's family was one object aimed at. Still an examination of the texts of the various laws will, I believe, lead to the conclusion, that it was not the principal design of the inventors. To suppose that the original settlers of Texas were animated with the desire of preserving the "Christian family" seems to be a conclusion quite unwarranted by the facts of the case. Nor is it likely that, if the exemptions worked in the manner represented, the state of Pennsylvania would be without any homestead law. It may be further said, that the law of succession can accomplish the supposed object just as effectually; while the full recognition of the proprietary rights of married women will, for

* Devas' *Studies of Family Life*, pp. 170-1.

the most part, obviate the need for any peculiar legislation in their behalf.

The effects of Homestead Laws on the relation of landlord and tenant.

It has been suggested that the homestead laws operate as a protection to the tenant against eviction. There is, however, little evidence to that effect. The Virginian law expressly exempts a claim for rent from the operation of the law. In most of the homestead laws the expression "*owned and occupied*" is used in defining the area exempted. Indeed, it is hard to see how any other explanation of a "homestead" could be adopted. The only difficulty in the way of this view is the expression, "whether held in fee, or *any lesser estate*" in the report on the Carolinas, Georgia, and Tennessee; but it is clear, from what follows, that a tenant's estate cannot be meant, since elaborate arrangements for the sale of any land over the exempted amount, are provided. That a landlord leasing land may run the risk of losing a year's rent through the exemption is plain; that a tenant could, by aid of a local enactment, retain the property of his landlord is quite inconsistent with the whole course of American legislation. The real position of the American tenant is succinctly described by a writer who cannot be accused of any weak prejudice in favour of the rights of landlords:—

"The last time I crossed to England," says Mr. Henry George, "I sat at the steamer table by two young Englishmen. . . . Each had got him a considerable tract of new land; had cut it up into farms; erected on each farm a board-house and barn; and then rented these farms to tenants for half the crops. They liked America, they said; it was a good country to have an estate in. The land laws were very good, and if a tenant did not pay promptly, you could get rid of him without long formality." *

The evidence as to Mr. W. Scully's management of his American estates strongly supports Mr. George's assertion of the comparative strictness of the American law of landlord and tenant.†

In truth, it is the creditor that the exemption laws affect, or, to put the point concisely in a way which will be at once intelligible in Ireland, they are aimed not at the landlord, but at the "gombeen man."

* *Protection or Free Trade*, p. 128.

† At the same time we must bear in mind that this feature of American legislation, apart from the safeguard given to contracts by the constitution, is due to the small proportion of tenant-farmers in the Union. The following table, based on the Census of 1880, is instructive on this point:—

	Number.	Proportion per cent.
Farms worked by their owners, . .	2,984,306	74.44
Farms paying money rent, . .	322,357	8.04
Metayer Farms, <i>i.e.</i> , where a share (usually one-half) of the produce is paid as rent,	702,244	17.52
Total, . . .	4,008,907	100.00

Conclusion.

I have throughout the above discussion of homestead laws avoided the interesting question of personal exemptions, which, in almost every case, accompany them, and in some cases, as in Rhode Island and Pennsylvania, exist without them. It is in that shape that a so-called homestead law is advocated for England; but without the exemption of *land* from sale, there can be no true homestead law, and it is that side of the question which most interests us here, since any legislation proposed for Ireland would certainly deal primarily with land. As far as the evidence goes, the most probable conclusion is against such a measure. While it would in many cases injure the position of debtors, by destroying their credit, it would possibly have a most injurious effect by the inducements it would open to fraud. The money-lender, it is true, has generally the force of popular opinion against him; if to this be added the influence of law, he seems to be heavily weighted; but, on the other hand, he possesses that one power, of which no benevolent legislation can deprive him, viz., the right to refuse to lend a second time to the debtor who has once deceived him. And this force is generally sufficient to secure him repayment in the great majority of cases—repayment, too, with higher interest for every additional risk imposed on him by sentiment or law.

Another disadvantage is the inevitable check to economic progress which any such measure causes. Mr. Minchin, who is an ardent admirer of all things Servian, yet notes this disadvantage in the homestead law of that country:—

“Such a homestead law has its disadvantages as well as its advantages. It ensures a conservative peasantry, but it prevents the land proprietor ever becoming anything higher than a peasant. Probably as Servia abandons the patriarchal stage of development and enters on the commercial, the spirit of competition, which abhors equality, will considerably modify this homestead legislation.”*

It ought to be apparent that any measure affecting credit and rendering the transfer of land more difficult, will prove an additional impediment in the hard struggle which is probably before the industries of this country. To meet the competition of other countries, it is requisite to adopt every means for increasing productive power, and to remove every obstacle to the free movements of the industrial agents. This end will not be facilitated by a system borrowed from a widely different country, and probably applied, without the safeguards which experience has suggested as necessary, even under totally unlike economic conditions. At all events, we may be sure that we cannot have, at the same time the advantages of paternal government and those derived from economic liberty, and that it is but common prudence to weigh carefully the respective merits of these opposed social types, without any regard to those sentimental considerations which are so often the sole guide in political action.

* *Growth of Freedom in the Balkan Peninsula*, pp. 195-6.

NUMBER AND AREA OF ENTRIES UNDER THE FEDERAL HOMESTEAD LAW, IN THE VARIOUS STATES OF THE UNITED STATES, DURING THE
YEARS 1883, 1884, 1885.

States and Territories.	1883.				1884.				1885.			
	Original Homestead Entries.		Final Homestead Entries.		Original Homestead Entries.		Final Homestead Entries.		Original Homestead Entries.		Final Homestead Entries.	
	No. of Entries.	Acres.	No. of Entries.	Acres.	No. of Entries.	Acres.	No. of Entries.	Acres.	No. of Entries.	Acres.	No. of Entries.	Acres.
Alabama, ...	2,212	268,732	1,066	118,625	2,353	284,996	1,217	131,955	1,398	165,321	1,416	159,516
Arizona, ...	70	10,422	43	6,178	105	14,762	36	4,534	334	48,678	36	4,099
Arkansas, ...	3,035	353,824	1,118	117,023	2,445	275,167	1,281	135,067	1,904	218,955	1,350	143,731
California, ...	2,057	299,800	1,199	170,545	2,922	427,761	1,132	159,577	2,983	434,209	1,001	141,334
Colorado, ...	1,387	210,800	722	107,092	1,305	193,394	435	64,303	1,154	176,214	398	58,355
Dakota, ...	22,061	3,437,386	1,735	264,843	14,086	2,161,267	2,559	397,817	7,854	1,218,478	3,493	548,031
Florida, ...	1,646	212,895	767	90,201	2,302	286,613	593	68,812	1,367	175,553	505	58,356
Idaho, ...	604	90,907	177	26,694	782	118,871	218	32,921	725	110,493	210	32,746
Illinois, ...	—	—	—	—	2	184	—	—	—	—	—	—
Indiana, ...	1	56	—	—	1	40	—	—	—	—	—	—
Iowa, ...	26	1,982	60	5,066	25	2,293	48	3,618	24	1,434	35	2,411
Kansas, ...	3,549	508,780	3,517	506,081	3,547	514,720	4,786	698,271	9,954	1,530,372	4,131	601,478
Louisiana, ...	936	124,660	185	20,996	1,117	145,619	178	21,975	710	92,810	240	28,046
Michigan, ...	639	79,173	534	59,569	571	71,656	575	69,588	448	55,951	423	50,435
Minnesota, ...	3,146	431,872	2,279	286,238	3,144	444,358	2,409	303,339	2,058	280,211	2,739	367,226
Mississippi, ...	1,356	167,079	288	32,603	1,248	148,936	278	34,443	858	97,619	350	39,202
Missouri, ...	1,755	206,233	352	34,846	2,731	320,649	376	36,514	2,032	250,361	403	40,794
Montana, ...	599	81,213	144	18,027	548	81,821	134	18,526	460	70,591	124	18,657
Nebraska, ...	4,728	716,509	1,768	24,511	8,887	1,362,186	2,595	375,128	11,293	1,748,841	2,658	393,239
Nevada, ...	26	3,687	21	2,751	14	2,079	31	4,514	13	1,751	22	3,188
New Mexico, ...	1,014	151,800	551	81,487	546	78,528	277	40,215	484	68,075	192	37,754
Ohio, ...	1	40	1	160	—	—	—	—	—	—	—	—
Oregon, ...	1,589	236,362	600	85,559	1,548	233,148	559	77,285	1,274	191,444	477	67,990
Utah, ...	432	58,639	465	61,915	415	60,601	407	57,222	444	63,538	341	48,234
Washington, ...	2,537	375,735	646	88,506	2,813	419,365	734	105,470	11,776	259,264	759	110,980
Wisconsin, ...	1,000	115,567	719	72,901	1,229	133,241	922	96,938	1,032	109,517	701	77,985
Wyoming, ...	189	27,748	41	4,975	296	44,153	63	7,530	298	46,195	62	8,882
Grand total,	56,564	8,171,914	8,998	2,501,414	55,045	7,831,509	21,843	2,945,574	50,877	7,415,885	22,066	3,032,679

Note.—It should be remembered that the number of homesteads taken up in any State depends mainly on the available area, and it is thus that the high place of Dakota and Nebraska is explained.

APPENDIX.

A.

NEW YORK.—*Homestead Act*, 1850.

Homesteads.—A lot of land, with one or more buildings thereon, not exceeding in value 1,000 dollars, owned and occupied as a residence, by a householder having a family, and designated for that purpose, is exempt from sale by virtue of an execution, issued upon a judgment, unless the judgment was recovered wholly for a debt or debts contracted before the designation of the property, or for the purchase-money thereof. But homestead property is not exempt from taxation or from sale for non-payment of taxes or assessments. To designate the property as "homestead," a conveyance thereof, stating in substance that it is designed to be held as a homestead, must be recorded, or a notice to the same effect, containing a description of the property, must be subscribed by the owner, and recorded in the county where the property is situated. The foregoing provisions as to homesteads apply to a lot of land, with one or more buildings thereon, owned by a married woman, and occupied by her as a residence.

The exemption continues after the death of the person in whose favour the property was exempted, as follows :—

1. If the decedent was a woman, it continues for the benefit of her children until the majority of the youngest surviving child.

2. If a man, it continues for the benefit of his widow and children until the majority of the youngest surviving child, and until the death of the widow.

If homestead property exceeds 1,000 dollars in value, the lien of a judgment attaches to the surplus. But the property cannot be sold by virtue of an execution; a creditor's action may be maintained to procure a judgment, directing a sale of the property and enforcing the lien upon the surplus.

B.

LAW OF ARKANSAS.—*Homesteads*.—*Constitution*, Article 9.

Section 3. The homestead of any resident of this State, who is married or the head of a family, shall not be subject to the lien of any judgment or decree of any court, or to sale under execution, or other process thereon, except such as may be rendered for the purchase-money or for specific liens, labourers' or mechanics' liens for improving the same, or for taxes, or against executors, administrators, guardians, receivers, attorneys for moneys collected by them, and other trustees of an express trust for moneys due from them in their fiduciary capacity.

Sec. 4. The homestead outside of any city, town, or village, owned and occupied as a residence, shall consist of not exceeding 160 acres of land, with the improvements thereon, to be selected by the owner, provided the same shall not exceed in value the sum of 2,500 dollars, and in no event shall the homestead be reduced to less than 80 acres, without regard to value.

Sec. 5. The homestead in any city, town, or village, owned and occupied as a residence, shall consist of not exceeding 1 acre of land, with the improvements thereon, to be selected by the owner, provided the same shall not exceed in value the sum of 2,500 dollars, and in no event shall such homestead be reduced to less than one-quarter of an acre of land, without regard to value.

Sec. 6. If the owner of a homestead die leaving a widow, but no children, and said widow has no separate homestead in her own right, the same shall be exempt, and the rents and profits thereof shall vest in her during her natural life, provided that if the owner leaves children, one or more said child or children shall share with said widow, and be entitled to half the rents and profits till each of them arrives at 21 years of age; each child's right to cease at 21 years of age, and the shares to go to the younger children, and then all to go the widow; and provided that widow or children may reside on the homestead or not; and in case of the death of the widow all of said homestead shall be vested in the minor children of the testator or intestate.

Sec. 7. The real and personal property of any femme covert acquired in this state, either before or after marriage, whether by gift, grant, inheritance, devise,

or otherwise, shall, so long as she may choose, be and remain her separate estate and property, and may be devised, bequeathed, and conveyed the same by her as if she were a femme sole, and the same shall not be subject to the debts of her husband.

Sec. 8. The General Assembly shall provide for the time and mode of scheduling the separate personal property of married women.

Sec. 9. The homestead provided for in this article shall inure to the benefit of the minor children, under the exemptions herein provided, after the decease of parents.

II.—*The Drought of 1887, and some of its Effects on Irish Agriculture.* By Richard M. Barrington, M.A. LL.B.

[Read Tuesday, 3rd January, 1888.]

THE exceptional character of the summer of the year 1887, and its marked influence on the crops on my farm at Fassaroe, Bray, Co. Wicklow, induced me two months ago to make enquiries, and collect information from other parts of Ireland, for the sake of comparison. A circular with queries regarding the rainfall and crops was sent to a large number of observers on November 2nd. Their names were selected from the list of Irish contributors to *British Rainfall*, published by Mr. G. J. Symons, F.R.S., Secretary to the Royal Meteorological Society of London, whose annual volume is the standard work on the distribution of rain over the British Isles.

The information received was very interesting, and the favourable reception my paper on "The Prices of Some Agricultural Produce, and the Cost of Farm Labour for the Past Fifty Years," met with, encouraged me to arrange and tabulate the results, and bring them before the Statistical Society.

To say that the state of agriculture is of vital importance to Ireland is a truism, and that its periods of prosperity and depression fluctuate not only with prices but with produce is evident. The produce of the crops varies more than anything else with the character of the seasons. They are beyond human control, but are of far more importance to the farmer than the nature of his husbandry, which he can change into good or bad by care or negligence. Rain falls on the just and on the unjust, and the produce of the crops of both is influenced alike by the ever-fluctuating conditions of moisture and temperature.

The method intended to be followed in this paper is, first of all, to show you the extent and nature of the drought of 1887 in Ireland, and then take the different crops, one by one, and mention some of its effects on each.

What is a drought?

In the Khasia Hills, north-west of Calcutta, 30 inches of rain are recorded to have fallen in one day. That is to say, an amount equal to the annual rainfall in Dublin sometimes falls in this region in twenty-four hours. The average annual rainfall in the Khasia Hills is about 600 inches. If only 400 inches fell it would be a dry year there. Coming nearer home, the Styne, in Cumberland, is