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THE SCOTTISH HIGHLANDERS

AND

THE LAND LAWS



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THE  
SCOTTISH HIGHLANDERS

AND  
THE LAND LAWS

*AN HISTORICO-ECONOMICAL ENQUIRY*

BY  
JOHN STUART BLACKIE, F.R.S.E.

EMERITUS PROFESSOR OF GREEK IN THE UNIVERSITY OF EDINBURGH

“Ὅν γὰρ σθένειν τοσοῦτον ἠόμην τὰ σὰ  
Κηρυγμαθ' ὥστ' ἄγραπτα κάσφαλή Θεῶν  
νόμιμα δύνασθαι θνητὸν ὄνθ' ὑπερῶραμείν.”—SOPHOCLES.

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TO

The Right Honourable John Bright, M. P.,

THE STOUT ASSERTOR OF POPULAR RIGHTS,

THE ELOQUENT DENOUNCER OF IRISH WRONGS,

AND

THE ACCOMPLISHED MASTER OF THE ENGLISH TONGUE,

THESE PAGES

ILLUSTRATIVE OF THE OPERATION OF

THE BRITISH LAND LAWS IN THE SCOTTISH HIGHLANDS

ARE, WITH SINCERE ESTEEM, DEDICATED

BY

THE AUTHOR.





## PREFACE.

SOME thirty years ago or more, when spending my summer holidays among the breezy Bens of dear old Scotland at Braemar, with the full cup of joy which on these occasions was poured into my soul, one drop of bitterness was mingled—the tear of sorrow for the misfortunes and maltreatment of our brave Highland people written visibly on the face of that beautiful country.

Wherever I turned my foot in my lonely wanderings up the straths and through the glens, I came on the ruins of cottages where once happy families dwelt, whose sons and daughters, brought up in an atmosphere of moral and physical health exceptionally good, had through long generations contributed in a remarkable degree to the glory of the British name abroad, and the comfort of domestic life at home; now, as by the passing wing of destroying angel, they had all been swept away, leaving nothing behind but dreariness and desolation. Being a rhymer by temperament, and finding a certain relief to my sorrow in lyrical utterance, I gave

voice to my feelings at the time in certain 'Braemar Ballads' and other poems, appended to the first edition of my 'Lays and Legends of Ancient Greece,' published in 1857. Those effusions, as was natural, attracted some notice from the Press, and from private friends in the granite metropolis of Aberdeen, in which city I then held the office of Professor of Humanity. One of these gentlemen, seeing how earnestly I was occupied, not only with poetical sentiment, but with the plain prose of the matter, gave me the hint, that, if instead of weeping fruitless tears and flinging woeful ballads into the idle ears of passing tourists, or the deaf ears of local landlords and land-agents, I were to send a sober statement of facts to the 'Times' newspaper, he had influence to get a leader from the thundering Jupiter of the Press in favour of the poor people whose unworthy treatment had so moved my pity, which would have more influence on the public mind than a century of sonnets from the best poet in the country. I accordingly did so; the leader appeared; and did not appear without a sequence. For six weeks after the appearance of that number of the paper, I found my breakfast-table loaded with newspapers from all parts of the world, containing accounts of the process by which the glens of my beloved Highlands had been denuded of their natural population, and the very pith and marrow of the rural life in the Highlands

sacrificed to economic theories alike unhuman and impolitic, and to aristocratic pleasure-hunting which sowed the seeds of disaffection and stirred up class against class throughout the land. This outbreak of the flow of popular indignation at the appearance of a passing word from a daily newspaper, could not have taken place without a serious cause; I was forced to conclude that there was something radically unsound in the economy of the Highlands; and the analogy of the usurpation of the lands of the Italian yeomanry by the aristocracy in the latter days of the Roman Republic, with the consequent patriotic struggle of the Gracchi to restore the land to the people, flashed with a painful vividness on my mind. From that time forward, the case of my poor fellow-countrymen in the glens lay upon my soul, a burden of which I could not acquit myself; and the yearly rambles which I continued to make into remote parts of the Highlands assumed more and more the character of a grave social duty going hand in hand with a healthy summer recreation. Some years after my summer in Braemar, I took a tour into Sutherland, and stayed six weeks at Durness. This tour brought me face to face with a yet more dreary desolation than I had witnessed in Braemar; I was now made acquainted with the heartrending details of those violent evictions in the far North which roused the indignation of that noble-minded Scot, Hugh Miller, and

called forth a protest from one of the greatest economists and historians of the continent. I walked down the whole length of Strathnaver, from its desolate southern end to its northern declivity, where the extruded peasantry some seventy years ago had been huddled down to the coast; and I composed on the spot the ballad of 'Bonnie Strathnaver,' published in the 'Scotsman' newspaper, which I was happy to be informed from various quarters had been largely circulated in Sutherlandshire, and had been the means of dropping some kindly balm of human sympathy into the bleeding wounds of the mis-used peasantry. The investigation thus commenced into the rural economics of the Highlands, was continued year after year, till there remained scarcely a district which I had not visited, and where I had not ascertained, with the witness of my own eyes, both the lamentable effects of general mismanagement, and the good results of exceptional wise administration. Further, in pursuing these inquiries, it soon became manifest to me, that the special evils under which the Highlanders groaned were no isolated phenomenon, but were merely the natural result of a general one-sided and unjust body of Land Laws; of which the operation in the remote Highlands, as in Ireland, had been intensified by local peculiarities. I was accordingly forced to widen the sphere of my studies, and to inquire systematically into the rural

economics and agrarian legislation in various countries of Europe, for the purpose of contrast and comparison. Once put upon this scent, I found by reading, and by observation made on the spot, ample materials for important inductions in Rome, in Florence, in Germany, and in the Channel Islands; I then read all the books and pamphlets I could procure on rural economy, and on the Land Laws, both from the legal and the economical point of view; and I crowned my studies with a careful perusal of the Report of the late Royal Commission on the condition of the crofters and cottars in the Highlands and Islands.

I have made this statement, because I think the readers of this book are entitled to know what opportunities I have had of making myself acquainted with a subject that did not seem to lie in the line of my professional studies. I ought to have mentioned also, in the same view, that having pitched my summer quarters for twelve years in the centre of the Western Highlands, and having taken the trouble to make myself acquainted with the language and poetry of the people, I consider that I have enjoyed advantages in penetrating to the core of this matter which have been the lot of few; and in order that my testimony as an independent witness might stand before the reader *valeat quantum valcat*, I took care not to read a single page of the evidence laid before

the Commission till the whole of my text, up to p. 206, had been written; and I have not found occasion from anything in that Report to alter a single word in the results of my own independent studies.

In conclusion I have to return my special thanks to his Grace the Duke of Sutherland, and his Commissioner, Sir Arnold Kemball, for the kind manner in which they opened their views to me on this subject; to Sir Kenneth MacKenzie of Gairloch, Bart.; to Lachlan MacDonald, Esq., of Skeabost, Skye; to Roderick Maclean, Esq., Manager of Estate to Sir Alex. Matheson of Ardross; to Mr. Ross, Teaninich, Alness; to John Mackay, C.E., Hereford; to the Dean of Guild, Inverness, specially for the use of several valuable and rare pamphlets on the history of Highland economy; and last, not least, to Fraser MacIntosh, Esq., M.P., who gave me very valuable information, from his own experience, and from the stores of his private library.<sup>1</sup>

*Edinburgh,*

*1st November, 1884.*

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<sup>1</sup> Those interested in the detailed history of the Clearances, will find an interesting account of the depopulation that went on in Badenoch, first in 1770, and recently in 1876, in the 'Celtic Magazine,' vol. ii., September 1877, by Mr. MacIntosh, a paper which came to my knowledge by favour of the author unfortunately too late to take its place in the text.

## TESTIMONIA SAPIENTUM.

- “ *The case of historical writers is hard; for, if they tell the truth, they provoke man: if they write what is false they offend God.*”  
MATTHEW PARIS.
- “ *All history abounds with examples where the great tyrannise over the weaker sort.*”  
HUME.
- “ *Woe unto them that join house to house and field to field, till there be no place, that they may be left alone in the midst of the earth.*”  
ISAIAH.
- “ *He hath violently taken away an house which he builded not.*”  
JOB.
- “ *The husbandman that laboureth must be the first to partake of the fruits.*”  
ST. PAUL.
- “ *They that trust in their wealth, and boast themselves in the multitude of their riches: their inward thought is that their honour shall continue for ever, and their dwelling-place to all generations; they call their lands after their own names. This their way is their folly: yet their posterity approve of their sayings.*”  
PSALMS.
- “ *Permettez moi de vous dire en deux mots, très humblement ce que j'en pense. Ouvrez d'un côté—à gauche—les Economistes, Adam Smith et Stuart Mill, mais de l'autre côté—à droite—ouvrez l'Evangile. Et si jamais il y a désaccord, suivez avant tout l'Evangile, car entre le Bien, la Justice, et l'Utile il ne peut y avoir véritablement contradiction. Rappelez vous cette*”

*admirable et profonde parole de Jésus, qui mettrait fin à nos maux et à nos discordes, si elle était contre—Cherchez d'abord la justice (Righteousness) et la reste vous sera donné par surcroît."*

LAVELEYE.

*"In every organism the parts exist for the sake of the whole; not the whole for the sake of the parts. The parts have no meaning, except in their relation to the whole."*

ARISTOTLE.

*"Where the middle class fails, society consists of serfs and masters, not of freemen—of those who envy, and of those who despise."*

ARISTOTLE.

*"England is the paradise of the rich, the purgatory of the wise, and the hell of the poor."*

THEODORE PARKER.

*"England is inhabited by two nations, between whom there is no interest and no sympathy—the rich and the poor."*

EARL OF BEACONSFIELD.

*"Let the great lords of Scotland beware; if once they believe that they have no need of the people, the people may in their turn think that they have no need of them."*

SISMONDI.

*"I am favourable to the abolition of restrictions and limitations on land, and to having holdings of all sizes, with abundance of small holdings. On my son's property and my own we have this abundance: they form the vast majority: and we would on no account disturb them."*

W. E. GLADSTONE.

*"The ruined peasant's cot may downward draw  
The stately hall that neighbours it. We are  
All members of one body; and a flaw  
Or lesion here, the perfect whole shall mar;  
Therefore let JUSTICE rule and LOVE inspire!"*

WALTER SMITH.

*"The English law of real property is the most unmitigated nonsense ever put together by the perverted ingenuity of man."*

POLLOCK.



*“ But, and if it please your Highness, I hear say that in England we have landlords, nay, step-lords I might say, that are become graziers.”*

LATIMER.

*“ The selfish and hard-hearted policy of the Highland landlords.”*

SIR WALTER SCOTT.

*“ The reckless and in many cases unprincipled clearances perpetrated in the Highlands.”*

DR. NORMAN MACLEOD.

*“ Latifundia perdidere Italiam.”*

PLINY.

*“ Then none was for a party,  
And all were for the State ;  
Then the great man helped the poor,  
And the poor man loved the great :  
Then lands were fairly portioned,  
Then spoils were fairly sold,  
The Romans were like brothers  
In the brave days of old.”*

MACAULAY.

*“ Ex agricolis et viri fortissimi et milites strenuissimi gignuntur ; maximeque pius quæstus stabilissimusque consequitur : minimæque male cogitantes sunt qui in eo studio occupati sunt.”*

CATO.

*“ Voluptates agriculturalum mihi ad sapientis vitam proxime videntur accedere.”*

CICERO.

*“ Per lo stato è tutt' altro che indifferente l'esistenza ò no di una classe di contadini o lavoranti agricoli, numerosa, contenta, e ben nutrita.”*

SYDNEY SONNINO.

*“ Felicissimus est fundus qui colonos indigenas habet et tanquam in paternâ possessione natos jam inde a cunabulis longa familiaritate retinet.”*

COLUMELLA.

*“ Justice is to be our guide.”*

GLADSTONE.

*“ Time's glory is  
To wrong the wronger till he render right.”*

SHAKESPEARE.



# THE SCOTTISH HIGHLANDERS.

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## CHAPTER I.

### THE SCOTTISH HIGHLANDERS.

“THE Highlands of Scotland,” said that grand specimen of the Celto-Scandinavian race, the late Dr. Norman Macleod, “like many greater things in the world, may be said to be well known, and yet unknown.”<sup>1</sup> The Highlands indeed is a peculiar country, and the Highlanders, like the ancient Jews, a peculiar people; and like the Jews also in certain quarters a despised people, though we owe our religion to the Hebrews, and not the least part of our national glory and European prestige to the Celts of the Scottish Highlands. This ignorance and misprision arose from several causes; primarily, and at first principally, from the remoteness of the situation in days when distances were not counted by steam, and when the country, now perhaps the most accessible of any mountainous district in

<sup>1</sup> ‘Reminiscences of a Highland Parish’—a book full of the stout manhood and breezy inspiration which is produced nowhere in better form than among the Bens and glens of our Scottish fatherland.

Europe, was, like most parts of modern Greece, traversed only by rough pony-paths over the protruding bare bones of the mountain. In Dr. Johnson's day, to have penetrated the Argyllshire Highlands as far west as the sacred settlement of St. Columba was accounted a notable adventure scarcely less worthy of record than the perilous passage of our great Scottish traveller Bruce from the Red Sea through the great Nubian Desert to the Nile; and the account of his visit to those unknown regions remains to this day a monument of his sturdy Saxon energy, likely to be read with increasing interest by a great army of summer perambulators long after his famous dictionary shall have been forgotten, or relegated as a curiosity to the back shelves of a philological library. The opening up of the sublilities and beauties of this most picturesque region we owe in the first place to the greatest of Scottish literary men, Sir Walter Scott, and in the second place to David Hutchison, and the enterprise with which he opened up the most remote lochs of the inner Highlands to the mercurial traffic of the steam-boats.

But, though Scott has done much and steam more to make the Bens and glens of Caledonia familiar and fashionable to thousands to whom Skye and Harris would otherwise have remained as unknown as the frontiers of the Black and the Blue Nile, they could not prevail to make these flitting troops of summer pleasure-hunters do more than take a hasty note of the most salient features of the physical landscape. The people and the soul of the people remained as formerly, either altogether unknown, or known only from the unfavourable or the ridiculous side. Of the host of "plodding antiquaries, crazy sentimentalists, silly

view-hunters, and impudent stone doctors,"<sup>1</sup> who from time to time favoured the public with stray notices of Highland life and manners, not one had the sense to understand that to know anything of a people beyond a scratch on the skin, you must take the trouble to study their language, and to identify yourself sympathetically with the fervid current of popular song and patriotic tradition, which, as the Laureate says of poets' thoughts generally, makes rich the blood of the people. Jean Paul Richter, after Goethe perhaps the greatest of the great Germans of the last century, says somewhere in his usual striking style that the key to a mother's heart is in her children, the key to a people's heart in their language. In neglect of this great truth, the lords of uncounted leagues of Highland glens were brought up in systematic ignorance of the language of the people from the sweat of whose brow they drew their rents; nay, even the daughters of thoroughly Celtic clergymen, instead of cultivating the native Muse, so strongly marked with significant characteristics, allowed themselves to be seduced into a servile imitation of what was foreign and fashionable, rather than to grow up in the loving exercise of what was native and natural. A pseudo-gentility and a shallow affectation of Anglicism usurped the throne of the unstudied grace and the unsophisticated manhood that belonged to the soil; and, with eyes foolishly wandering over the earth, people bought gorgeous show flowers at an immense expense, while they cast scarcely a passing glance on the lovely blooms that were springing at their feet. And, if those

<sup>1</sup> Dr. Browne's 'Critical Examination of Dr. MacCulloch's book on the Highlands,' p. 5.

who ought to have guided public taste in the social centres of our Highland glens shared so frequently this lamentable want of self-esteem, we shall be less disposed to wonder when we find even grave historians like John Burton blotting his fair page with shallow sneers and sharp sarcasms at a people whose noble character he either could not or would not comprehend. Add to all this the natural insolence which characterizes the judgment of dominant majorities—an insolence which leads them to ignore, to under-rate, and to over-ride the minorities, whom on principles of Christian love and of social policy they ought rather to cherish, to encourage, and to elevate. Thus the Englishman is apt generally to ignore and to depreciate the Scot, and the Scot in the same way is fond to look down upon the Celt. This flows from a fault of human nature, which it were in vain to quarrel with here ; we only refer to it in passing as one among other obvious explanations of the fact that the Highlanders of Scotland are so often unkindly thought of and unworthily talked of by persons who derive much pleasure and no little profit from the interesting country in which they dwell.

In discussing the subject of this chapter I will arrange what I have to say under two sections. First I will endeavour shortly to put before the reader the leading characteristics of this people, so long as they were allowed to grow up freely out of their own roots, and to wave their branches in the breezy atmosphere of the clan life in the glens, forming for many centuries a world of their own, full of natural self-formative forces, and unaffected by uncongenial influences intruded from without. Then I will endeavour to unfold the steps of the process by which

this people, during the course of the last century and a half, chiefly since the date of the Stuart rising in 1745, have been submitted to the operation of powerful external forces tending to weaken their stamina, lower their tone, smooth away their most distinctive features, and render them less and less distinguishable from the foreign masses by which they are overborne or into which they have been absorbed.

As a race the Scottish Highlanders are historically identical with the Irish, whose language they speak, and closely connected with the Cymric Celts of Wales, Cornwall, and Bretagne, and with the Gauls, who, though at an early period receiving laws and language from Rome, and a dynasty of kings from Germany, still retained the blood and the nerve and the temperament which gives its peculiar type to all the branches of the Celtic race. Of this type, as contrasted with the solid weight and stout endurance of the Saxon, great vivacity and excitability, with that emotional fervour which assumes the form of eloquence in the forum and of dash in the field, have always been the most prominent features ; elements of character which, under bad treatment, as in Ireland, may readily assume a fierceness and ferocity of aspect degrading to humanity, but which, when wisely controlled and sweetly seasoned, have produced examples of loyal fidelity, of self-denying devotion to a great cause, and of self-disregarding courage in the hour of danger, unsurpassed in the annals of Greek or Roman fame.

So far also as a race may be improved by a liberal admixture of foreign blood, history shows plainly enough how the Scottish Highlanders have had the benefit of this

powerful inoculation ; for not only did Norman blood, Norman vigour, and Norman culture assert their influence sporadically in far north districts of the Highlands, but the strong arm of the Norse kings, commanding the Western seas from Orkney to the Isle of Man during four centuries, left a Scandinavian stamp on the population of which the virtue yet remains visible in the manly stature, kingly aspect, and effective brawn of some of our best-conditioned Highland volunteers. For though, no doubt, after the defeat of Haco at the battle of Largs, the superimposed Scandinavian element yielded in the matter of language to the revived vitality of the Celt, exactly in the same way that the Slavonic invaders of Greece in the middle ages after a few centuries became transmuted into Greeks, speaking a language inherited from Homer and Demosthenes, the foreign forces which had been acting on the social system of the Celt continuously for four hundred years could not be obliterated by a single naval disaster ; as indeed even at the present day the names of places in Skye and the Western Hebrides bear large testimony to the strength of the Scandinavian population that must have had a permanent settlement in those parts. But be this as it may, of this there can be no doubt, that of all the great branches of the Celtic race that drifted westward from the original seat of the Aryan race in the high Persian table-land, the Scottish Highlanders, whether from admixture of Scandinavian blood, or from the inherent virtue of the race, grown strong by the stimulus of a healthy air and the exercise of a hardy life, presented a type of physical manhood equalled only by Roman senators and Venetian doges in their best days. And, if



the individual, as a specimen of the unfeathered biped, was a creation of which the human race generally has good reason to be proud, the form of government by which his moral nature was nourished and his social character determined, though now outgrown and incapable of re-animation, was in its practical operation, while it lasted, one of the most kindly and, within certain limits, one of the most effective into which an aggregate of human beings can be organized. Of this form of government, known commonly as the clan system, we shall now attempt a short sketch, specially in its bearing on the character of the Scottish Highlander as a member of society, and on the relations of the members of the clan to the land which they occupied.

CLAN is a Gaelic word signifying *child*, and from this word as from a root flows the whole strength and the great glory of the system. The original social monad on the model of which all larger societies ought as far as possible to be formed, is the family; for in it we find blended in the most perfect harmony the two elements of authority and love, which are necessary to unite an aggregate of distinct and self-assertive individuals into a compact organism. The clan system is simply the family system on a larger scale, but with the same mutual interdependence of its members, and the same soul-giving vitality to the body. It is not uncommon with a certain class of hard thinkers deficient in moral sentiment to look on the clan or patriarchal form of government as characteristic of a barbarous or semi-barbarous state of society; but, though the clan system, as the outgrowth of the family, may be found flourishing among the Bechuana tribes

in Africa as luxuriantly as among the Scottish Highlanders or the ancestors of the great Hebrew race, it by no means follows that this system, any more than monarchy or democracy, should always represent the same stage of civilization or the same quality of social forces.

Aristotle in his day, arguing from the narrow range of materials which political induction had then to operate on, seems to have concluded that monarchy was a form of government which the European world had outgrown, and which could never co-exist with a free, an independent, and a manly citizenship; but we have seen monarchies of various forms since his time, and live under them still, which are perfectly consistent with the most free formation of robust individual character, and not less effective than the absolute monarchies of the East in capacity of territorial expansion and wisdom of political administration. In the same way the clan system is a name for many governments which may be as different as monarchy under Frederick the Great in the Prussia of the last century, is from the monarchy of Great Britain under Queen Victoria at the present day.

No doubt the form of government which has grown out of the family, and exists penetrated and inspired by the original family idea, is in theory absolute monarchy; for the *patria potestas*, as the Roman law amply acknowledged, where severity is called for, has no limitation; but the cases which demand the application of this extreme rigour are few, and, even when they occur, are powerfully counteracted and beneficently tempered by the kindly instincts with which nature has so richly supplied the paternal breast. In practice the absolute monarchy of the clan system was limited by a sentiment of mutual love and

respect kindred to that which naturally grows up in every well-constituted family. The authority of the chief, of course, as father of his children, is in theory supreme ; but he is not therefore, nor in the general case is he at all inclined, to play the despot ; his general definition is that of a kind father, and his subjects are not in name only, but in deed, loving, devoted, and obedient children. And that this is not a poetical sentiment, but a plain prosaic fact, pages of the most authentic history amply testify.

Another thing implied in the family relation is the equality of the members amongst themselves ; they are all brethren, and entitled to a recognized position as such. For, though the first-born may for certain wise social purposes have certain privileges, as in the old Hebrew law (Deut. xxi. 17) and in the limited primogeniture of the Channel Islands, still a brother is a brother, and institutional preference in one respect cannot abolish natural equality in every other respect.

As to occupation, the two primitive and fundamental professions represented by Cain and Abel in the fourth chapter of Genesis give a distinctly marked industrial type to the members of the clan system. No doubt they are in the general case manufacturers also in an accessory way ; they weave their own cloth, make their own tools, and whet their own weapons ; but in the main each head of a family is either a tiller of the soil, a feeder of sheep, or a grazier of cattle. Every man also has his share in the territory occupied by the clan for tillage or pasturage, as the situation may dictate ; and though he may pay some acknowledgment in the shape of what we call rent to the head of the clan, it stands more in the place of what

we now call taxation for public purposes, than a price paid for temporary occupancy under the modern relation of landlord and tenant. Formal leases there could be none where the right of every member of the clan to have a share in the property of the clan was practically recognized by both parties.<sup>1</sup> Further, where property is

<sup>1</sup> The passage in the Crofters' Commission Report (p. 8), about the tenure of land by the small tenantry is curiously worded, and intended to convey the impression that these tenants have no "*inherited inalienable right to security of tenure in their possessions*;" while at the same time they admit that it is an "*impression indigenous to the country*." They admit also in a note that the same impression was conveyed to the mind of an intelligent Englishman—Burt—in the last century, and to the Earl of Selkirk in the work quoted below. Now, it is perfectly evident that such an indigenous notion could not have arisen out of nothing; the *fact* that it was so is the most scientific explanation of the *belief* that it was so; but the belief and the fact manifestly arose equally, and in the most natural way possible, from the historical basis on which all Celtic property in land originally rested, viz. on the principle that the land belongs to the tribe, and of course as a rule the members of the tribal family have a right to their portion in the common inheritance. It is quite plain also in the words of the Commissioners themselves, that the fixity of tenure which the Highlanders claim as their natural right was "practically embodied in the reciprocal necessities and affections of chief and clansmen." In answer to this it is of no consequence to say that these claims received "no legal recognition," and were "unknown to the Statute-Book." The Statute-Book, with a harsh over-riding imperiousness, ignored everything that was most sacred and most valuable in the territorial traditions of the Highlander, and substituted a piece of parchment and a lump of wax for rights that had been gained and maintained by the hot blood and the strong arm of the Highland people. The Commissioners, indeed, before they came to the end of their paragraph, were evidently afraid to follow to its just conclusion the claims of the hard and heartless legalism with which they start; for they say: "It is difficult to deny that a Macdonald, a Macleod, a Mackenzie, a Mackay, or a Cameron, who gave a son to his landlord eighty years ago to fill up the ranks of a Highland regiment, did morally acquire a

possessed it is held in security, and maintained against aggressive or rapacious appropriations from without; wherefore by the old clan law, as indeed also by the old Greek and Roman laws in their best times, every man who owns the soil is the natural defender of the soil; and every citizen, as in Prussia since the great Liberation War of 1813, is a soldier. And, though the existence of a separate profession for the purpose of national defence and war-like operations may have been rendered necessary by circumstances arising out of the natural growth of society, such a profession in the nature of things cannot permanently exist without a certain loss, both to the professional man and to the citizen, such as the division of labour generally, when carried out largely in certain departments, seems unavoidably to entail.

Let us now cast a glance at the social results of the clan system as they naturally unfolded themselves in the circumstances, and grew up into special amplitude and prominence among the Scottish Highlanders. The character of social development which we are to expect, and on the conditions just specified, will be a combination of the agricultural and the pastoral with the military virtues, not without the concomitant vices naturally springing out of the same soil and flourishing in the same atmosphere.

In a commercial age and among a commercial people, accustomed from the daily practice of their business to be governed by habits of acquisition and aggrandisement, in their nature mainly selfish, it is difficult to make people realize the power of essentially unselfish motives which tenure in his holding more sacred than the stipulations of a written covenant."

formed the firm cement of the social architecture under an altogether different system. But that these thoroughly unselfish motives were a living reality, and not a mere unfruitful sentiment, has been universally admitted by all who have even superficially looked into the history of the Highlanders.<sup>1</sup> They were indeed a great deal too unselfish in some respects for a business in which self-regarding motives play such a prominent part as they do in politics; and this lack of a prudent self-regard in favour of a chivalrous devotion and a noble self-sacrifice was no doubt one of the main causes which led to the brilliant blunder of 1745, from which the greater part of their present humiliation is to be traced. But this blunder, unfortunate as it was, made by a people living in a remote corner of the land, and untouched by the great current of general European policy, will not in any fair estimate detract from our admiration of the essentially noble character of the people who made it. The blunder was merely an excess, or say rather a misapplication, of the virtue of loyal attachment to the person who in the clan system stands to the people in the character of a father. Everybody has heard of Flora MacDonald, whose heroic devotion to the ill-advised Prince Charles in the days of his disaster has gained her a place in the annals of the Scottish Celts not less honourable than that held by Velleda and Boadicea in the larger field of Teutonic and British struggles against the rapacious civilization of the Romans.<sup>2</sup>

<sup>1</sup> See particularly the very sensible and valuable tract by the Earl of Selkirk, held in high estimation by Sir W. Scott, entitled 'Observations on the General State of the Highlands.' London, 1805.

<sup>2</sup> "Flora MacDonald preserved the sheets in which Prince Charlie, while under her protection, slept, to serve for her own winding-sheets

And this virtue of loyalty to the public cause, incarnated in a public person, when brought into conflict with considerations of personal safety and personal gain, was not the solitary instance of a romantic girl, like Joan of Arc in our great French wars, but the general habit of the Highland mind. The heroic self-sacrifice of the Macleans at Inverkeithing, in conflict with Cromwell's forces under Lambert, will stand comparison with the most loudly vaunted exploits of patriotic Rome in her best days;<sup>1</sup> and as the Roman Catholics showed a pious reverence to the Popes, even when men of worthless personal character, in deference to their high official position as heads of the Church, so personal vices sometimes of a very gross kind in the person of their chiefs could not prevail to shake the fidelity of the clansmen to their chief, when they had once pledged their honour to his service.<sup>2</sup>

In these democratic times it is common to hold up to ridicule the aristocratic vanity which delights in the tracing of pedigrees and the details of family genealogy; but, though this ridicule, as a phase of moral reaction against the idolatry of mere heraldic pomp and glitter, dazzling the weak eyes of the multitude, has its ample justification, there can be no doubt, on the other hand, that there lies in old family tradition, such as it existed in the Highlands, a moral power which the short-lived memories which attach themselves to plutocratic distinction will fail to evoke. The ridicule with which Lowland Utilitarians and English witlings were

when she was laid out for burial."—Sheriff Nicolson, in lecture to the Philosophical Institution, January 19, 1833.

<sup>1</sup> 'Altavona,' p. 180.

<sup>2</sup> See the case of Lord Lovat in 'Stewart's Highlanders,' vol. i. p. 28.

forward to touch on Highland pride and Highland pedigrees was as thoughtless and superficial as judgments founded on ridicule are wont to be ; but, as a matter of fact, the tracing of these genealogies was not merely an innocent recreation in the long winter evenings to the lonely Highland fireside, but it was a moral education of the best kind ; for those who were skilled in the details of these family histories, instead of dwelling on trivial or disgusting details, as Suetonius does in some of his imperial biographies, never failed to bring into the foreground of their picture the best traits of the best characters in the family annals. And thus the tracing of pedigrees and rehearsing the glories of a noble ancestry became a school of hero-worship to all the children of the extensive clan family, and a nurse of that reverence for superior excellence which, as Goethe emphasizes so strongly, is the indispensable root of all true greatness.<sup>1</sup> And thus it was not only in the case of the Campbells, now represented by the noble house of Breadalbane, that the cry of FOLLOW ME! the motto of the family, was potent to rouse a host of devoted followers, eager to rival one another in deeds of manly endeavour and perilous achievement ; but everywhere, and in all circumstances, the recitals of the family genealogist, like leaves of heroism torn from wise old Plutarch, acted as a living appeal to the hearts of the hearers, saying with the potency of an Evangelical text, *Go thou and do likewise!* †

Of this pervasive practical influence of the Highland love

<sup>1</sup> 'Stewart's Highlanders,' vol. i. p. 24 ; and in the same vein the great Roman moralist : "Magnum est eadem habere monumenta majorum, eisdem uti sacris, sepulchra habere communia."—*Cicero de Officiis*, i. 17.



of pedigree on the character of the people, I may quote a notable instance from the *Life of Livingstone*. This distinguished African explorer, though born in the low country, belonged by extraction to the island of Ulva, where his father was a small farmer, and one of a class of men whose humble hearths Scotland has reason to look back on as the seminaries of much that is most noble in the annals of her national life. In the account of his youthful days he tells us that his grandfather could rehearse the traditions of the family for six generations before him. One of these poor hardy islanders on his death-bed called all his children around him, and said, "I have searched through all the traditions of our family, and I have not been able to discover a single example of a dishonest man among our forefathers. If, therefore, any of you or your children should take to dishonest ways, it will not be because it runs in your blood; it does not belong to you. I leave this precept with you: BE HONEST!"

This high-hearted reverence for what was noble in the character of his ancestors not only produced a similar nobility in his own character, but carried with it in the normal Highlander a social virtue of much esteem in the world, so essential indeed to the smooth movement of the wheels of society that it is systematically simulated in the outside trappings of not a few persons whose internal furnishings exhibit very scanty traces of its lodgement in their soul;—I mean politeness. The Highland peasant is naturally a gentleman,<sup>1</sup> the Lowlander comparatively a boor. Why? If

<sup>1</sup> "Condescending manners were necessary in every individual, of whatever rank; the meanest expected to be treated as a gentleman, almost as an equal."—'Selkirk,' p. 19.

a gentleman be a person in whose character a high and well-founded self-esteem stands harmoniously combined with an habitual nice and delicate regard to the rights and feelings of others, then it is impossible to imagine any form of social organization in which the virtues of true gentlemanship could grow up more grandly than they did under the clan system of the Highlands. Every Highlander knew that he was not merely the subject, but the blood-relation and the companion-in-arms of his chief. Here was the first half of the gentleman, a high and well-founded self-esteem. The other half of course lay in the mutual recognition of equality between brother and brother of the great clan family. The Highlander had no rights in himself which he was not forced by the blood which flowed in his veins to recognize in every member of the clan.

One virtue flowing directly from this ingrained gentlemanship of the Highlander deserves to be specially mentioned—his liberality and generosity, as displayed in the hospitable entertainment of strangers. Of this truly evangelic virtue (Heb. xiii. 2) not a few Saxon wanderers among the lone glens of Argyll and Invernesshire have even in the present days of depopulation and humiliation felt the benefit; and Dr. Johnson's whole tour is a continuous testimony to the kindly qualities and generous hospitalities of a people for the beauties of whose country he had no eye, and the value of whose traditions, with the natural haughtiness of a self-satisfied Englishman, he was unable to appreciate. By a free and self-regardless hospitality indeed it is to be feared that not a few of the noblest amongst the Highland proprietors hastened that transfer of their lands into the hands of strangers, at whose hard

and unsympathetic touch the life-blood of the Highland population was in so many cases chilled into death ; so true is it that it is more difficult in many cases for the best men to prune their virtues, than for the worst to extirpate their vices.

Another grand fruit of the clan system as it bourgeoned and blossomed in the Highlands, was a profound reverence for authority and unqualified obedience to the supreme command. This great virtue, which lies at the foundation of all civil order, even after the soul by which it was inspired has died out, still survives in the general orderly habits and law-abiding instincts of the Highland population ; for the submission which was naturally given to the father of the clan family, after the chief was shorn of his dignity, transferred itself to the law, of which the chief had been the embodiment ; so that it was only on very rare occasions, and, as we shall see, after long-continued provocations, that the Scottish Highlanders followed the example of their Irish brethren in opposing *propria manu* the execution of laws conceived without justice and enforced without humanity. And this loyal submission to constituted authority was not, as in the case of some Oriental peoples, founded on a general spirit of meanness and servility ; on the contrary, it was the natural outgrowth of the mildness with which the authority of the chief was exercised, and was perfectly consistent with a manly independence of character as far removed from abject subjection on the one hand as from impertinent self-assertion on the other.

In no circumstances can a son look upon himself as his father's hired servant, much less as his vassal ; the

obedience which he proffers is the free due of nature, and by the same natural right, if the father, which might happen in exceptional cases, assumed the unnatural attitude of a tyrant, the son by an equally exceptional privilege was entitled to rebel. But, as Stewart remarks,<sup>1</sup> the long unbroken line of their chiefs is a proof at once of the mildness of their sway, and the fidelity of their followers. Authority was exercised because it was natural, and obeyed because it was just.

Again, the manly virtues generated by the family principle, and which gave a flavour and a fragrance to social relations in time of peace, not otherwise attainable, found in the larger field of war a sphere of action in which its virtues blazed out with a splendour that eclipsed all lesser lights. If it is true generally, as Aristotle remarks, that the life of a soldier under good military discipline is the best school of virtue, such military excellence as history with one voice accords to the Scottish Celt, must be justly ascribed, along with favourable influences of race and character, to the peculiar manliness, as we have just described it, inherent in the clan system; for the soldier is the man by way of excellence, and his professional virtue, courage, is that which most specifically stamps him a man. A woman may be courageous by an honourable exception to the rule of her sex; a man cannot be cowardly without falling below the normal line of the moral excellence that naturally belongs to him. As a soldier the Highlander was gallant and daring, devoted to his cause, and ready for any noble act of self-sacrifice that honour demanded or circumstances imposed; he

<sup>1</sup> 'Highlanders,' vol. i. p. 28.

attacked with fervour, and endured with stoutness; he combined, in a wonderful fashion, the dash of the Celt, with the steadiness of the Saxon. His excellence as a soldier, rooted in the clan system, was fostered by the healthy life of a mountaineer, the habits of common action acquired by the family living in a certain bounded district, the regard to public opinion fostered by such a method of life,<sup>1</sup> and by the constant necessity of defending himself against the hostile attacks of neighbouring clans. As the country in which he dwelt was small, and arable land scanty, the Highlander naturally grew up into habits of hardihood and healthy energy, with a well-exercised capacity of shifting for himself under difficult circumstances. He was a healthy man, a sturdy peasant, a good workman, a natural gymnast, an intrepid fighter, a daring commander, and the best of colonists. It has been much the fashion, with the wholesale advocates of Highland depopulation, to inveigh against the climate of the Highlands, and denounce it as unfit for the habitation of human beings. The soft sons of luxury may use this language, but not the wise judge of human nature. A Neapolitan traveller one day on the deck of a steamboat, which happened to contain some splendid specimens of the untrousered, strong-legged Celt, was expatiating to a native of the Bens, on the grand physical presentation of his countrymen. "Fine fellows, no doubt," said the Celt, "and full' of brave deeds; it is only a pity that we have such a poor country, and such a wretched climate to live in." "Say nothing against your climate," hastily rejoined the Italian; "it is our climate that ruins us. Nature does

<sup>1</sup> Compare Homer, 'Iliad,' II. 362, and 'Earl Selkirk,' p. 63—69.

too much for us, we do nothing for ourselves." There is wisdom in these words; and therefore woe be to them, who by any habit of misprision, or system of mismanagement have given us fewer stout men, and fewer brave soldiers in, the Highlands, than we might naturally have had. I remember in this regard a striking passage with regard to the value of our Highland soldiers, from the eloquent pen of the late Dr. Patrick Dove, which I will here set down:—

“It is a grand thing for a nation to have a good infantry, men five feet ten inches in height, forty inches round the chest, twenty inches round the calf of the leg—fellows who could march fifty miles a day, and climb mountains, cross rivers, bivouac in snow, live on anything, as hard as oak, as swift as the deer, as strong as bulls, as brave as lions, incomparable at a rush, capital shots, steady in the camp, unsurpassed in the field, with the proud heritage of an invincible name—who, only let them go, and the proudest of the foes of Britain will recoil before the hurricane of steel. Such men might be only Scottish Highlanders, but there were such men, and fifty thousand of them were raised for the Peninsular war. They had been hounded out of their homes, and banished like wretches, but in the time of war they are worth more than military machines, horses, guns, fortifications, worth more than all else together, worth more than all the Bank of England and all the wealth of the aristocracy, landed and commercial. They are worth the one thing that valour alone can preserve—the great honour of their native country.”

Further; as a mountaineer, and holder or hereditary tenant of land in the glen where he was born, the High-

lander was distinguished by strong love of country, fervid patriotism, and a tenacious hold of the language and traditions of his native glen. The glen was in fact at once the home and the kingdom of the great family, or clan, in whose brotherhood he rejoiced. A grand element this to form the man who in the hour of danger gladly rises to fight *pro aris et focis* in the old Roman style; a grand element of healthy conservatism as contrasted with the fret and feverish discontent too often found among the crowded masses of our large towns.<sup>1</sup>

Yet again; as living in a world practically shut out from communication with the rest of the world, the Highlander learned in a remarkable degree to be self-dependent. He baked his own bread, fed his own mutton, killed his own salmon, spun and dyed his own cloth, and did everything with his own hands. He never despaired, and was never at a loss for an expedient; if an oar-pin was not to be found in the boat, he would draw a tooth out of a harrow and make it serve the purpose:<sup>2</sup> always carrying with him a good-humoured philosophy, with a quick eye and a ready hand for the need of the moment—the upshot of all that is best in Stoic or Epicurean wisdom. He was thus, in the dexterous adaptability to various cases and varying circumstances, a much more complete and more accomplished human being, than the thousands and tens of thousands of creatures who under the much-vaunted system of division of labour succeed in multiplying the product, only by

<sup>1</sup> The same connection between an independent yeomanry, patriotism, and good soldiership, is distinctly emphasized by Harrison in his topographical description of England, prefixed to Holinshed's Chronicle: "*These are the men that in times past made all France afraid.*"

<sup>2</sup> So MacCulloch found. Browne, p. 112.

dwarfing the producer ; and in this way, as already noticed, like Robinson Crusoe, the expatriated son of the Ben, when abroad, found himself the best man in the worst circumstances : he is the model colonist, because the settler in a wild country requires to make a world which the dweller in an old and cultured country finds ready made to his hands.

Finally, in an intellectual and moral point of view, as distinguished from the social education which the clan system carried in its bosom, the Highlander was by no means the semi-savage, ignorant, and uncultivated being that some prejudiced Lowland writers have represented him to be. This notion arises from a very natural feeling on their part that all valuable culture by which society is elevated must be got from books ; and that where a people is not a reading people, provided with libraries and other literary appliances, they cannot be an intelligent people. But this is a great mistake. It is not dead books but living men by which the great masses of men are educated ; and even those who have most to do with books, either as scholars or as literary producers, will be the first to confess that life is the only school of manhood, and that our opinions flow fundamentally more from what we do and suffer than from what we read.<sup>1</sup> The greatest of Epic poets, the Walter Scott of early Greece, in all probability could neither read nor write ; and most certainly in his days literary men did not write books, but wandering minstrels sung for the entertainment and instruction of the villagers whom they

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*“Es bildet  
Nur das Leben den Mann, und wenig bedeuten die Worte.”*

GOETHE.



visited. So it was also, and is still, among the Hindoos, who receive their instruction principally from village Pauraniks, reciters of historical ballads, or itinerant Brahmans ; some of whom are men of great eloquence and ability, and exercise, as occasion may serve, the functions of entertaining bard or elevating preacher.<sup>1</sup> How effective this living sort of teaching was in the Highlands at the time when they enjoyed the immense benefit of a resident middle class performing social duties, and spreading social joys amongst the masses, may be seen most strikingly from the following notable passage in the Life of Robert Mackay, commonly called Rob Donn, the Reay bard :—

“I have of late frequently heard strangers express their surprise at the marked intelligence evinced in the works of a man devoid of every degree of early cultivation. To this it may be answered, that the state of society was very different then from what it is now, progressively retrograding, as it has been for the last thirty years at least, in this country. *In the bard's time the lords, lairds, and gentlemen of this country, not only interested themselves in the welfare and happiness of their clan dependents, but they were always solicitous that their manners and intelligence should keep pace with their personal appearance.* I perfectly remember that my grandfather would every post-day evening go into the kitchen, where his servants and small tenants were assembled, and read the newspapers aloud to them ; and it seems incredible with what propriety and acuteness they made remarks, and drew conclusions from the politics of the day. In a certain degree this was practised all over the country ; the superiors regularly condescending to explain to their dependents whatever was going forward. The fact was, the chief knew his affinity to the different branches of his clan ; and it was deemed no inconsiderable part of duty in the higher classes of the community to elevate the minds as well as assist in exercising the means of their humbler relatives and clansmen.

“I am aware that many unacquainted with the dear ties of such a

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<sup>1</sup> ‘Examination of Religions,’ by Dr. John Muir, Part II. Calcutta, 1854. Preface IX.

system, argue largely that the distinctions of rank, appointed by God, could not be maintained amidst such indiscriminate intercourse. Still, the habits of that day never produced a contrary effect. The chiefs here for many generations had been men 'fearing God, and hating covetousness.' Iniquity was ashamed, and obliged to hide its face. A dishonourable action excluded the guilty person from the invaluable privilege enjoyed by his equals, in the kind notice and approbation of his superiors. Grievances of any kind were minutely inquired into and redressed, and the humblest orders of the community had a degree of external polish and a manly mildness of deportment in domestic life, which few of the present generation have attained to, much as has been said of modern improvements."<sup>1</sup>

These men certainly in their remote glens, without newspapers or reviews, or penny books for the people, grew up to a stature of stout healthy intelligence, practical sagacity, and social efficiency not often surpassed even in these days when periodical good words and bad words are flying about in all directions as thick as snow-drift.<sup>2</sup> A people's intellectual soundness, indeed, can no more be measured by the amount of reading it goes through, than a man's physical diathesis can be measured by his amount of eating. In estimating the intellectual and moral status of the Scottish Celt we must in no wise forget to mention that the Celt as an emotional man is by temperament a religious man; and that the emotion of reverence out of which religion springs found a more favourable atmosphere for luxurious growth in the bosom of the clan system than

<sup>1</sup> Pope's 'Life of Rob Donn,' prefixed to his works. London, 1829, p. 69; and 'Quarterly Review' for July 1831.

<sup>2</sup> Dr. MacLeod of Campsie, the father of the great Norman, was wise enough to recognize in the popular tales, and even in the dark and wild superstitions of the Highlanders, spiritual influences which had a happy tendency in forming the character of the Gael. See Life prefixed to *Caraid nan Gaidhael*. Edinburgh, 1867, p. 34.

in the dissociated individualism which is apt to grow up in large towns, under the action of purely commercial considerations. Nor must we omit to emphasize the elevating influences of Bible study and Evangelical preaching in a country happily distinguished from the population of the sister island by its sturdy Protestantism ; for whatever may be the advantages of Romanism, in dealing more tenderly with the hallowed traditions of the Past, and enlisting the love of the Beautiful in the service of the Sacred, it cannot be denied that the more intimate familiarity with the sacred volume, and the direct personal dealing of the creature with the Creator, fostered by Protestantism, tends to the formation of a more manly character and a more self-sustained intelligence in the great mass of the people. To this, as one amongst other causes, I think we may safely attribute the striking difference of social character now exhibited in the Irish and Scottish Celt, two branches of the same stock speaking a language either quite identical or not more apart than any one provincial dialect of English is from another. True, that under the adverse social circumstances of later days, the thoughtful piety of the Northern Celt seems sometimes to present itself shaded with a gloom as if borrowed from the mists of his native mountains ; but this admixture of awe instead of love in religion, is a vice which the extreme Calvinism of the Lowlands, and the Evangelism of the English Low Church Party, have in common with the Highlanders ; and we must ever bear in mind that in all social matters, political no less than religious, it is impossible to prevent the great majority from shooting out into some exaggeration or caricature of their pet virtue or special dogma ; and if, on the one

hand, the professors of a thoughtful, earnest religion are prone to fall into an excessive severity and gloom, the devotees of a faith, where all serious thinking is done by the priest, may as lightly degenerate into frivolity and superstition. It is quite certain, moreover, that the piety of the Highlanders did not exhaust itself either in long sermons, in Pharisaic observances of the Sabbath, or in a harsh emphasizing of the doctrines of an extreme Calvinism ; but showed itself in every feature of a well-conducted, honourable, orderly, and, in every relation of life, thoroughly reliable people. As amongst the ancient Scythians, so amongst the Scottish Highlanders, theft, as a sneaking and cowardly vice, was altogether unknown ;<sup>1</sup> and not two years have elapsed since the Sheriff of a Lowland county, delivering in Edinburgh a public lecture on the island of Skye, dropt the amusing phrase, that the criminal calendar in that part of Her Majesty's domains is "ridiculously small ;"<sup>2</sup> and even at the present day, when by a combination of misfortunes and mismanagement, the soul, so to speak, has been sucked out of the Scottish Celt, it is more surprising that he should be marked by so few vices, than that he should present a few human failings and local characteristics at which a shallow contradictor may sneer.

So much for the light side of Highland life, and the social virtues of the clan system. Fairness now demands that we look for a moment at the dark side ; for we may be assured that wherever there is a strong point in national character strongly pronounced, there is a weak point lodging next door to it. Nay, is it not rather true, that the affirmation

<sup>1</sup> Justin, II. 2, and Stewart in his introductory chapter.

<sup>2</sup> Sheriff Nicolson in 'Philosophical Institution,' 19th January, 1883.

of one excellence, according to the philosophical maxim of Spinoza—*omnis affirmatio negatio*—in the general case, necessitates the denial of another ; so that, even if this is not absolutely the case, our highest virtues, when fostered by preference, or handled without judgment, are sure to take the form of vices ? Let us endeavour, therefore, clearly to realize what were the natural weak points of the clan system, which tended in its conflict with the feudal and the commercial system, aided by a certain strong current of untoward events, to destroy its influence as a shaping and an inspiring force in the organism of modern society.

Among the vices of the clan system, if we are to follow the current representations of a prejudiced class of English writers, we should have to place in the first class the oppression and tyranny exercised by the chief over his vassals. But to make this a vice inherent in the clan system, it would require to be the systematic rule, not the occasional accident, of the system ; and, after what we have said, there is no need of repeating here that such an idea of the clan system is altogether contrary to the habitual principle to which it owed its prolonged vitality. That absolute power, in the hands of any individual man or any class of men, is likely to be abused—nay, rather is sure to be abused occasionally, when either temptation may be strong or character weak—is one of the known postulates of political science ; but as certainly as the power of the Crown in the hands of her gracious Majesty Queen Victoria, is a very different thing from the same power as it was wielded by the imperious Harry, the politic Elizabeth, or the shuffling Stuart, so certainly was the absolute power of the chieftain in the hands of a Highland chief, an altogether different

thing from the same power in the hands of a Turkish Pasha. Absolute power, tempered by the patriarchal principle, is as different from absolute power not so tempered, as limited monarchy is from absolute monarchy. The absolutism is theoretical—the limitation is fact. Such acts of heartless cruelty as were perpetrated by a brutal chief of the Macleans, when he exposed a noble lady, his wife, on a rock to be drowned by the inrushing tide of the Atlantic at Lismore, are happily as few in the annals of the clans as they are revolting to the common instincts of humanity; and those who wish to learn what human nature is capable of by drinking largely of the intoxicating draught of absolute power, will wisely betake themselves to imperial Rome, mediæval Italy, or Turkey, not to the Scottish Highlands. I for one feel morally certain that the Celtic people in the Trans-Grampian glens, in the few decades of the present century, have suffered a great deal more oppression from the one-sidedness of the feudal land laws, the habitual neglect of absentee landlords, and the sharp pressure of factorial management, than they ever did in the long centuries of the clan government, from the occasional outburst of passion or trick of favouritism in an inconsiderate thane.

The real weak point of the clan system lay not in the power of the father of the family over the members of the family, but in the fact that its kindly influence was not exercised beyond the clan; nay, rather, that outside the family ring, where love ceased to act, hatred was not slow to sow its seed, and a repulsion grew up between clan and clan often as strong as the attraction which bound the members of the separate clans together. As in history, and in common life, neighbours are often more apt to be enemies

than to be friends—occasions of collision being more frequent from proximity—so in the annals of the Highlands we often find the dwellers in one glen at deadly enmity with the dwellers in the neighbouring glen which opened out from the same plain ; and this hostility once commenced, by the very principle of the clan system, was perpetuated from father to son in a long succession of bitter enmities and pitiless outrages. At the same time we must bear in mind, that such inhuman ferocities as the smoking of the Macleans by the Macdonalds in the cave at Eigg, belonged as much to the general art of mediæval war as to any special savagery of the clan system. It is a fact that when war is declared, and the sword drawn, the moral law is suspended for the nonce ; the man becomes a tiger ; and the annals of modern warfare, from the French Revolution downward, I am afraid, are not free from atrocities of scarcely less sanguinary hue than the worst that stand recorded in the history of Highland feuds.

When the clans, in the exercise of their hereditary enmities, tore one another to pieces, no harm was done to the community ; nay, rather their petty wars were at once a good school of national soldiership, and a ready method of thinning a superfluous population ; but when the nation required to bring all its strength together to act in a common cause, these special enmities might come to be dangerous ; the members of the hostile clans being less powerfully moved by loyalty to the head of the nation than by hatred to the head of a hostile clan. With such feelings common action might often be difficult, sometimes impossible. If the head of the clan, for any personal or public reason, was disinclined to any public service which

the wisdom or the will of the monarch enjoined, the members of the clan might readily, either by open refusal or by stinted obedience, declare their preference of the wish of the chieftain to the will of the sovereign. A near god is always more likely to be worshipped in the hour of trial than a god far away ; and so deeply was the habit of a sort of local kingship engrained into the chief, that on a great public occasion—in the year 1590—when the Marquis of Huntly forgot to take off his bonnet in the presence of James VI., he came out naïvely with the true apology, that he was so much accustomed to people taking off their bonnets to him that he had omitted to express outwardly the homage which in his heart he felt to Majesty on that occasion.<sup>1</sup> Add to this, that partly from the clan habits and traditions, and partly from the remoteness and inaccessibility of his country, the Highlander, before the days of great military roads and steam-boats, lived in a separate world from the great body of the Lowlanders ; and was in fact, both in sentiment and in social condition, as distinct in social life as the Irishman of the extreme west of Ireland is from the Irishman of the old English pale. Accordingly, under the potent sway of the Macdonald of the Isles, they were in a fair way at one time to constitute themselves a regular kingdom ; but this threatened disintegration of so small a country as Scotland was happily checked by the vigour and decision of our Alexander III. ; and in fact, with all their internal divisions and occasional threats of rebellion, the Highlanders remained fundamentally loyal to the monarchy of Albion ; and whether in the solid achievement of Bannockburn,

<sup>1</sup> Stewart, p. 27.



the fruitless chivalry of Culloden, or in many a well-fought battle for Britain's glory on the banks of the Ganges, the Nile, or the St. Lawrence, they were ever found, as in the days of peaceful prosperity,<sup>1</sup> so in the hour of danger, the most loyal and the most devoted of Her Majesty's subjects.<sup>1</sup> And this loyalty without doubt was the result of the easy transference of the family relation, the soul of the clan, to the larger family of the State; so that in the body political, as in the most hallowed form of prayer in the Christian Church, "our Father" became the familiar charm to stir to action the noblest passions of which the human heart is capable.

Among the faults frequently laid at the door of the Highlanders by unfriendly critics is that of untruthfulness and cunning; and it is probable enough that, taking the Celtic people as a whole, the Welsh, the Irish, and the Caledonian Celt, their temperament is not so favourable to plain, direct, and unvarnished matter-of-fact, as that of the more slow and deliberate Teuton. It must be borne in mind also that the Highlander, as we now know him, lives in a very different social atmosphere from that in which his ancestors, before the unfortunate affair of the '45, grew up: the moral influence exercised over the better part of nature, by a numerous resident gentry of his own blood, was of a very different kind from that now exercised by a big Dumfries farmer monopolizing the braes, or the severe agency of an absentee landlord, who acknowledges no

<sup>1</sup> In the great American struggle their loyalty was notable. See 'Sketches of Highlanders,' by R. C. Macdonald, St. John, New Brunswick, 1843. And see the whole fair array of their military achievements in Sheriff Nicolson's famous marching song, in 'Altavona,' p. 70.

interest in his people but the market value of his croft ; such an atmosphere, it must be confessed, is no more favourable to the growth of manly outspokenness than a supercharge of nitrogen gas in the atmosphere is to the aeration of the blood ; and if, under the pressure of such an unhealthy atmosphere, and the threatful thunderclouds of eviction that may at any moment grow out of it, Donald has sometimes shown more of the cunning of the fox than the boldness of the lion, he is only doing what a moral necessity imposed upon him, as indeed it would upon any body of human beings associated together under like unfavourable influences. When fear of penal loss, and arbitrary treatment, becomes the dominant element in the feelings of a whole people, their only defence seems to lie in a retreat behind the shield of habitual untruthfulness and reservation. How deeply this has poisoned the blood of the Irish Celts in these latter days, their best friends have often had the deepest reason to deplore ; and, if a slight tinge of the same vice—and I believe it is only a tinge—has been noticed by unfriendly eyes, in the existing Highland character, it is to be traced to the same evil root of mismanagement and mal-administration. As a rule, the peasantry of a country are what their laws and their landlords make them. There is truth and love enough in the gallant sons and daughters of the glens, where there is any proper care to educe it. Let the stranger prove that he deserves their confidence, and he will have no difficulty in gaining it.

Another vice under which the Highland peasant is said to labour is laziness. But there is a great deal of injustice along with a slight amount of truth in this charge. No

reasonable person can demand that the farmer in a small agricultural village should exhibit the same amount of smartness that marks the movements of men of business in a bustling metropolis. As the Highland crofter passed his days quietly in the little world of his own glen, where there was no high pressure of business, and no hot competition to spur, he naturally got into the habit of taking things easily ; and why not ? Why should everybody everywhere live in a continual fret and fever of overstrained nerves ?<sup>1</sup> I consider it rather a blessing to the State, and a piece of good policy, to have a peasantry in the glens, as far as may be, removed from the unhealthy excitement of hurried life so prevalent in our large towns. But let it be that the Highland crofter is sometimes more slow to take up a new idea, and more backward to put it into execution, than a newly imported enterprising Lowland improver would desire ; is he the only person in the country of conservative habits who is slow to take up new ideas, and be spurred into new habits of life at the word of command ? It is admitted that the lazy Highlander works as well as any Saxon when he is out of the Highlands. This seems proof enough that the reason why he does not work when in the Highlands, is because he has no encouragement, and under the pressure of unequal laws, preserving the game, and not protecting the people, lives in the constant fear that the fruit of his labours may be suddenly seized or cunningly appropriated to enlarge the already

<sup>1</sup> "The true cause of the indolence of the Highlander is the ease with which a man in these regions can acquire subsistence." R. Brown, Sheriff of the Western district of Inverness-shire. Edinburgh, 1806, p. 105. Of course this applies principally to the old state of things.

overgrown domain of a south country sheep-farmer or an American deer-stalker. Here as in the other case of want of truthfulness, I say the fault lies with the fault-finder. The Highland Celt will work like other men, inside or outside the Bens, when habitually guided by a fair combination of justice directed by intelligence, and kindness backed when necessary by firmness.<sup>1</sup>

<sup>1</sup> The true state of the case about the laziness is well stated by Dugald Campbell, ex-provost of Greenock, in an admirable pamphlet entitled 'The Land Question in the Highlands and Islands.' Paisley, 1883.

#### CHARGE OF LAZINESS AGAINST HIGHLANDERS NOT TRUE.

There is no doubt that the Highlander is fond of his native hills, and, as a rule, averse to leave them for a foreign shore, if he gets any chance of maintaining himself at home. This strong feeling, and the fact that he is willing to live under circumstances in which he can receive no more than the barest living, and sometimes scarcely that, has been made a reason for levelling against him charges of laziness, which are for the most part undeserved. No people, as a rule, are more quick-sighted in discovering what is for their own interest, or more patient and persevering in its pursuit. If, indeed, when half-fed, and half-clothed, and with their spirit broken by oppression, they seem mean, thriftless, and spiritless, it is not to be wondered that they are inclined to indolence. But wherever the Highlanders enjoy the advantage of a good landlord and a settled home, and are not changed about at the caprice of landlords or factors, observation shows that they are quite as capable of applying themselves to exertion and industry as any of their countrymen. Their pluck and activity in the army and navy have often been the subject of well-merited eulogium; only give the Highland crofter sufficient land to maintain himself with anything like fixity of tenure, whether as a life leaseholder or a peasant proprietor, and he will show that he is in no ways behind any of his lowland countrymen in the exercise of all those qualities which are calculated to ensure success, and go to make up a good and a useful man.

Had the British Government, after the rebellions of 1715 and 1745,

Lastly, under this head, though not so much a vice as a great defect and a capital misfortune in the Highland character, we cannot omit to mention that partly from the remoteness of his situation, partly from the fond love with which he clung to his patriarchal ideal, the *Highlander was always behind the age*; not indeed that he was in any respect an inferior man to any men who lived in his age at any time; but he was behind the ideas by which the age was stirred. Outside the Grampians, from Paris to London, and from London to Edinburgh, great changes were taking place affecting the whole constitution of society, and tugging at the very roots of some of the social feelings most deeply rooted in the hearts of the Caledonian Celt. To these tremendous potencies the Highlander remained a stranger. He did not know the political time of day; he was out of his reckoning; and so blundered, brilliantly indeed, but still blundered, by fighting always for the losing cause, and sacrificing himself for principles which already were things of the past. So his whole chivalrous devotion to the Stuarts, from Cromwell's time down to the Pretender, arose from an amiable innocence of the fact that the divine right of kings, on which the Stuarts founded their

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boldly made the cultivators of the forfeited estates the owners, and thus given the people the same chance as was given by the Swiss Republic to the Swiss peasantry—a kindred race—there is no doubt the result would have been equally satisfactory. Unfortunately they did not do so, although their intentions were kindly, as the Act of 1752, which was passed to annex *inalienably* to the Crown the forfeited estates in Scotland, abundantly shows.

See also the valuable testimony to the working power of the Highlanders from the Reports of the Employment Committee at the time of the potato famine of 1846, in Professor Alison's 'Observations on the Famine of 1846—7.' Edinburgh, 1847, pp. 36, 37.

absolutism, was an altogether different thing from the clan right, in virtue of which their own chieftains claimed the homage which they so abundantly received. The world is governed by names, so long as names retain the virtue which gave them honour; but when names become masks out of which glass eyes look with no soul, woe be to them who are deceived by the glitter! And this brings me naturally to the second great business of this chapter, viz. to consider what happened to the Scottish Highlander when he ceased to possess, and to mould, so to speak, a world of his own; when the barriers were broken down that had for centuries kept him apart from the great body of the British nation, and an era of complete union, and in the end perhaps of absolute fusion, between the Celt of the mountains and the Saxon of the plains became unavoidable.

The barriers were broken down topographically, in the first place, as well as morally and politically. To keep the rebellious clans beyond the Grampians in order, the Government, after the first rebellion in 1715, made roads into the heart of the Highlands, and established military forts in certain commanding centres as avenues of approach, whence on a sudden alarm soldiers might easily be detached to quash revolt in the bud. Of this well-calculated and truly Roman procedure the names of Fort William, Fort Augustus, Fort George, and King's House—English names in the very heart of the country—remain speaking witnesses; the topographical nomenclature of a country being always, to those who care to read it, a fossilized record of the most notable tides of social change that have swept over it in the past. This was the beginning,

a century and a-half ago, of the opening up of the Highlands to the Sassenach, which has received its crowning accomplishment first in the steamboat, and then in the railway communication of the present age: an opening up, which, however necessary in a military point of view, and economically not without advantage, has been carried so far in some directions, as to make it a difficult thing in not a few cases to find a genuine Highlander, or a man with a stout Highland heart in his bosom, at the foot of a Highland Ben. But the moral and social changes that followed naturally as the sequence of a quashed rebellion did far more to suck the soul out of the Highlanders than any mere removal of physical barriers. The Disarming Act of 1746, following immediately on the disastrous day of Culloden, not only deprived the clansmen of their right to bear arms, which they had always regarded as essential to manhood, but with a politic glance into the significance of dress as a badge of nationality, launched a statutory interdict against the wearing of the kilt. Highlanders were no longer to show those bare legs and brawny calves which struck such mingled wonder and terror into the smooth civilians of Manchester and Derby. It is natural for us at this distance of time, when the danger of an overthrow of the Hanoverian dynasty is like the phantom of a sick dream, to consider this procedure as equally inhuman and impolitic. The forbidding of the national dress was, it has been said, "the act of a weak and jealous Government, vindictive because it felt itself insecure, and unable to master its terrors even after the season of danger had passed away."<sup>1</sup> And more natural still was

<sup>1</sup> Browne on Macculloch, p. 3.

it for the Ardnamurchan bard, who himself gave both sword and harp to Charlie, to exclaim, in a well-known song :

“ A coward was he, not a king, who did it,  
Barring with statutes the garb of the brave ;  
But the breast that wears the plaidie,  
Ne'er was a home to the heart of a slave.”<sup>1</sup>

Very true ; but equally true is it, that rebellion is a perilous game, which, if it does not ensure a brilliant success, will infallibly bring down a double damnation. A noble sentiment is the best inspiration for a good song, but, when it stands alone, the most perilous motive to dictate a policy. The historian of future centuries may take note of the noble motive, and it may live for ever in the songs which celebrate the picturesque movements of a chivalrous war, and the moving adventures of an unfortunate prince ; but the nobility which inspires a rebellion is not cognizable by the ruler against whom the rebellion was made. He has been insulted in his own house, and shaken from his own seat by the members of his own family ; he is a householder in the quiet watches of the night disturbed by a burglar ; and he is ruled by only two imperious instincts : to strike an effective blow for the present, and to guard against and prevent the occurrence of a like outrage in the future. To expect coolness in such an emergency is to ignore human nature : to look for generosity is to demand from the common type of man a virtue of which only men of the most exceptionable nobility, like Alexander the Great, are capable. The punishment therefore came down, neither more nor less severe than was to have been expected.

<sup>1</sup> ‘Language and Literature of the Highlands,’ p. 132.



The country had been disturbed the Government was alarmed; the one thing needful was to break the spirit of the contumacious clans; and the Disarming Act did that most effectually. It is in vain to say that a bishop is as good without his mitre as with it. A sage or a saint may profess indifference to externals; but to put a ban on the national garb of a whole people is the surest way to deprive them of their self-respect, and to cut the sinews of the healthy instinct of self-assertion. Every morning that the native of the Bens rose from his hardy lair, to put on the habiliments of the Lowlander, he felt himself insulted and degraded. Of this feeling as existing after the rebellion, a great novelist has left us a remarkable note: "They have been deprived of the national garb, which was both graceful and convenient, and compelled to wear breeches. And not only so, they have been debarred the use of their striped stuff called tartan, their own manufacture, and prized by them above all the velvets, brocades, and tissues of Europe and Asia. They now lounge about in coarse great-coats, equally mean and cumbersome; and betray manifold marks of dejection. Certain it is the Government could not have taken a more effectual method to break the national spirit."<sup>1</sup> But the breaking of the spirit of the people would have left the levelling policy of the victorious Government very incomplete, had not effective means been taken at the same time to deprive the chiefs of their local importance, and reduce them to nullities in the social machinery of the State. By the abolition of heritable jurisdiction, which followed immediately after the Disarming Act, the power under the

<sup>1</sup> 'Humphrey Clinker.' Sept. 3.

clan system exercised by the heads of the clan was transferred to lawyers picked up from the provincial towns, or sent down from Edinburgh; a change no doubt in the main beneficial, and which, even without the impulse of the rebellion, would have taken place naturally in the progress of judicial administration, but which, in the circumstances, and with a people smarting under the sores of a recent humiliation, could serve only to loosen the joints of the social organism in the Highlands, and to initiate a separation of feelings and a division of interests betwixt classes formerly bound together by the closest and most endearing ties.

From this altered state of the social organism, a double consequence of evil omen was not long in revealing itself. The people began to be disgusted with their country, and the chieftains to be indifferent to their people; and landlords began a course of conduct—acting on what was called the commercial system—which had a constant tendency to degrade them into land-merchants, and taught them, where native goodness might not prevent, to look upon their people as mere chattels to be sold or removed, with due form of law, at the pleasure of the proprietor.<sup>1</sup> Let us look at both these results in detail. The emigrations of the Highlanders, which we are now more familiar with under the name of clearances or violent evictions, took place about twenty years after the '45, so far as I can learn in a voluntary way. Amongst the

<sup>1</sup> See a sharp sermon on this greed and rapacity of landlords suddenly become merchants in the present conduct of the chieftains and proprietors of lands in the Highlands; by a Highlander. Second edition, 1773, dedicated to Sir James Adolphus Oughton, Lieutenant-General of His Majesty's Forces.

earliest of these migrations on record were those of Glen Dessary, celebrated in verse by the accomplished Professor of Poetry in Oxford,<sup>1</sup> and those on the estates of Lord Macdonald, Clanranald, and Glengarry. Besides the general temper of discontent and disaffection first mentioned, inclining men to the severe measure of self-expatriation, I have fallen upon the following interesting notice from a book published near the commencement of the present century from the pen of a gentleman whose position gave him the best opportunities of being well-informed.<sup>2</sup>

“Emigration began some time previous to the introduction of sheep-farming. It began some time previous to the commencement of the American war, on the estates of Lord Macdonald, Clanranald, and Glengarry. On the first of these it originated in a general combination among the tacksmen to obstruct certain measures which Lord Macdonald considered advantageous for himself and the body of his people. On the second, it was occasioned by certain ill-timed quarrels between the Protestants and Catholics on religious topics, which, showed more of zeal than Christian charity on the part of the former. On Glengarry’s estate it was caused by several of the cadets of his family attempting to out-rival each other in securing

<sup>1</sup> ‘Celtic Magazine,’ vol. ii., 1876-7.—The learned Principal seems to have supposed that the migration in this case was not voluntary; otherwise there could have been no sufficient motive for his tragic story. He says that he has endeavoured to reproduce facts heard and impressions received during the wanderings of several summers in those regions.

<sup>2</sup> ‘Strictures on the Earl of Selkirk’s Observations on the present state of the Highlands of Scotland, with a view of the causes and probable consequences of Emigration,’ by Robert Brown, Sheriff of the Western district of Inverness-shire. Edinburgh, 1806.

beneficial leases of the best parts of that property. At that early period the tacksmen had considerable influence over their sub-tenants and dependents, and when they chose to embark in any business, they carried their people along with them, and thus laid the foundation of those colonies in the Gulf, or on the banks of the river St. Lawrence, and of one colony in North Carolina, which have since received considerable accessions from the numbers of their countrymen who have followed them.”<sup>1</sup>

The account here given shows that a serious disturbance in the old social relations of the Highlands had been produced by the sudden rupture of the old clan ties. The part played by the tacksmen in this account is peculiarly worthy of attention in connection with the present state of many parts of the Highlands; for it is by their desertion of the country, whether from inability or unwillingness to submit to the new conditions of social life, that we find the root of the great evil in many parts of the Highlands, the want of a middle class of small proprietors to fill up the gap that aristocracy and plutocracy, and anti-social land laws have combined to create between the great owners of the soil and the people who live upon it. These tacksmen were mostly the younger sons of the chief, or closely connected with the dominant house by the bonds of blood or affinity. Under the old system, when money was not the one thing needful, indeed hardly ever thought of, sometimes not even known, as rents and other dues were paid in services, these gentlemen had an easy time of it; and, if they only proved themselves valiant in war, might

<sup>1</sup> The best detailed account of this that I have stumbled on will be found in ‘Sketches of the Highlands,’ by Lieutenant-Colonel R. C. MacDonald. St. John, New Brunswick, 1843.

take their swing in peace without question. But after the '45, when the chief, disrobed of his social dignity, as at once judge in peace and commander in war, began to look to his possessions rather than to his people, rent paid in money became a valuable consideration ; and it was now to be raised on those commercial principles which were destined in due season to turn the lord of a clan into a mere dealer in land, and a brother in trade of the shop-keeper whom he had been accustomed to despise. The tacksmen, of course, like many of our shooting, hunting and pleasuring young gentlemen, were bad economists ; they had not been taught agriculture, and disdained to learn it ; they lived upon the contributions laid upon the sub-tenants of the clan, which probably were much heavier in proportion than the slight acknowledgment they paid to the chief. Under these circumstances, when suddenly called on to pay rent in commercial style they naturally resented it. According to the traditional idea of the clan system, they had as much right to hold a seat on the clan domains as the chief ; standing on this ground, they remonstrated, they protested, they disclaimed ; but the feudal law, which had gradually been smuggled into the country, ignored all clan consuetudes, and the commercial principles, now mounting in the horizon, were too strong for them ; and so in a fit of not altogether unwarrantable dudgeon they decamped. Very probably also in some cases their departure was an ease to their sub-tenants, who now held directly of the great lord ;<sup>1</sup> it depended no

<sup>1</sup> This is distinctly asserted by Sheriff Brown in the pamphlet above quoted. At page 45 he says : " Mr. Hume of Harris, on his return from India, found on his estate a numerous body of tacksmen who occupied

doubt mainly on their personal character, whether they might not press as hardly on the sub-tenants as the Irish middlemen did in the days when Irish landlords systematically disowned all territorial duties ; but one bad result was certain ; in the cases where the kindly instincts of the clan system prevailed over the tendency of sub-letting to press hard upon the tillers of the soil, society by their departure had its collar-bone, so to speak, broken, and the poor of the land lost their best friend and their most efficient educator. For it must never be forgotten that, though the mighty chiefs might easily be more lenient in their exactions than their immediate inferiors, they were by their position too far removed from the humbler classes to exercise any beneficial effect on their social culture. The intercourse in such cases is naturally rare, and the dignity of high rank detracts from the ease which is necessary to make the intercourse of the different classes of society pleasant and profitable. So much for the mass of the people. Let us now look more closely at the landlords in their changed position. And here we must bear in mind as the dominant fact, that we have to do with a class of persons whom the feudal law of Scotland endowed with absolute power, and who, when the kindly limitations of the clan system ceased to act, were restrained neither by

only small shares of their farms, living in affluence and splendour, and amassing considerable wealth on the labours of the sub-tenants and cottars. It occurred to him that by letting the farms to the sub-tenants and the cottars themselves, he might relieve his people from many vexatious burdens, and pocket the profits formerly intercepted by the tacksmen. He did so, and in a very few years raised the rental from £895 to upwards of £4000 per annum.—Compare Buchanan, ‘ Travels in the Hebrides, 1793,’ p. 49.

legal enactment nor by social forces of any kind from the abuse of that power ; in the Highlands especially, a remote, and in the conceit of the Lowlanders, a savage or semi-savage region, a selfish or thriftless chief might desert his people, and virtually sell them wholesale for what they would bring, without incurring any amount of public blame. No doubt, as we have seen in the case of Mr. Hume of Harris, referred to in the last note, he could, when wise and firm, improve the condition of the mass of the people, like Tarquin of old, by lopping the heads of the taller aristocracy, while at the same time he largely replenished his own coffers ; this has always been the beneficial side-action of absolute power ; the monarch becomes the natural friend of the people because he is the natural enemy of the aristocracy ; the people are too far beneath him to make their prosperity dangerous ; the nobility always near enough to excite his jealousy, and sometimes strong enough to lame his activity. But when he had no aristocracy to fear, and a people to whom, under the altered relations of the commercial system, he was only bound by a pecuniary bond, a Highland chief, if he happened to be a selfish man, might readily be led to treat his dependents in a way that, when narrowly looked at, combined the harshness of an Oriental despot with the meanness of a local attorney. To the chief of the clan the people were as indispensable as he was to them ; to the landowner, now become a land-merchant, the people were necessary only in so far as they were useful in paying his rents. And a proprietor whose importance is estimated by his rents will naturally seek to raise as much rent as possible, at as little expense as possible ; that is, at the cost of as

little human labour as possible ; and, if the presence of a certain amount of human population in any way tends to diminish his personal pecuniary profit from the land, he will, if he has small love for human beings in his heart, with much need and a strong desire for money, have little scruple in sacrificing his people, and becoming a willing agent in the depopulation of his estate.<sup>1</sup>

This is, in fact, the necessary consequence of making rent or money the measure of a man's social importance ; and, if it be an evil, as from the stand-point of ethical science it unquestionably is, it is only another illustration of the truth of St. Paul's great maxim, that "the love of money is the root of all evil." But, in order to judge this matter aright, we must beware of the cheap sophism of sweeping denunciation, and the insinuation that all landlords under the new system actually did do, what any one was free to do, and what some landlords certainly did. We must divide them into classes, and discriminate accordingly. The purely selfish or mercantile landlords, who had been taught by native greed or the doctrines of a heartless political economy, that pecuniary profit is the main object which a wise landlord should have in view, were, I believe, a small minority ; and in this regard, instead of blaming the great mass of the Highland proprietors as land merchants of sharp practice, we shall feel rather inclined, with the Earl of Selkirk, to "praise the great self-denial of that much-calumniated class of men ; who, to please their tenants, were

<sup>1</sup> So Latimer, with the true spirit of a Hebrew prophet, having the fear of God and not the fear of man before him, preaching before Edward VI., denounced the nobles as "enclosers, graziers, and rent-raisers."—The Honourable S. Brodrick on the 'Land Laws,' p. 28.



contented to accept a rent not half the value of the land a generosity of conduct to which it would be difficult to find a parallel in other parts of the kingdom.”<sup>1</sup>

Of that large majority whom the spirit of the old clan relationship restrained from suddenly raising the rents upon tenants accustomed to a kindly treatment, there were two classes, who, though actuated by the same generous motives, pursued a course that issued in an altogether different result. These two classes, as in the parable of the Ten Virgins, were the wise and the foolish. The wise—men of quiet habits, gentle dispositions, and moderate notions—went on pretty much in the old style, resided on their properties, and kept up a familiar intercourse of mutual love and esteem with their old clansmen; and, while gradually accommodating their means of living to the altered circumstances of the age, looked upon the happiness, comfort, and well-being of their people—not mere personal pecuniary profit—as the business of their stewardship. The foolish class were often as careless of their lives and their characters as they were of their rents; they were pleasant in their manners; easy in their habits; generous in their entertainments; lavish in their hospitalities; popular amongst all classes, but profitable to none, least of all to themselves; living from day to day thoughtlessly, with no clear balance in the banker's books; and in the management of their estates doing more harm by loose indulgence to the lazy, than a severe master might have done by occasional harsh exactions. The result of this sort of Celtic loose living in high places might easily be foreseen, and was not slow to reveal itself. These foolish landlords got

<sup>1</sup> Earl of Selkirk, as above, p. 128.

into debt ; debts must be paid, and Jews will have their interest ; and, when an estate comes to the hammer, all consideration for the consuetudinary rights of the people is out of the question. The ryots in British India, and the hereditary serfs in Prussia before the Baron von Stein's agrarian reforms, did possess rights that were duly recognized when the change came ; but the poor Highland crofters have none. They are sold with the property, and their future fate depends altogether on the character of the buyer.

There is one change in the habits of the great Highland chiefs after the '45, which requires special notice. They got into the habit of going up to London, and learning to live a sort of life anything but conducive to the conscientious discharge of their new duties as administrators of landed property. This visitation of the gay metropolis brought with it, in the first place, the custom of leaving the site of their stewardship for prolonged seasons, becoming, in fact, absentees, and "transferring the almost despotic authority of the landlord to underlings who had no permanent interest in the prosperity of the people."<sup>1</sup> Whatever sweetening of local life naturally flows from the residence of a kind, an intelligent, and an energetic proprietor, necessarily disappears with absenteeism ; a system under which a landed proprietor hands over his most sacred duties wholesale to a mandatary, an official who, even when not biassed by personal interest, as he may likely be, is forced by his position to be always strict, sometimes harsh, and only in exceptional cases generous.<sup>2</sup> The habitual

<sup>1</sup> Earl of Selkirk. Appendix, p. 54.

<sup>2</sup> "I am quite satisfied that nothing under the personal superintendence of the landlord will satisfy a Highland tenantry, and that

absentee is a stranger in his own family, demands homage from a people to whom he shows no kindness, and lightly slips from the odium which ungracious deeds provoke, by using his underlings as a scapegoat.<sup>1</sup> Again, this floating loosely in the pools of idleness and luxury which the world calls pleasure, led the stout old chiefs into habits of

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the substitution of factors, now becoming general, is one great cause of emigration.”—Sir Walter Scott, ‘Lockhart’s Life,’ 1837, vol. ii. p. 314.

<sup>1</sup> This dereliction of local duty on the part of the landlord, which went on from bad to worse, gradually assimilating the Highlands of Scotland to the worst-managed part of Ireland, was in full sway in Perthshire in the year 1802, when the Rev. Alexander Irvine, minister of Rannoch, published his ‘Inquiry into the Causes and Effects of Emigration from the Highlands;’ a work which will ever stand as one of the most important testimonies to the state of Highland economics at the commencement of the present century. This reverend gentleman was a co-operator with MacPherson in the translation of the fragments of Gaelic poetry, which afterwards appeared under the name of Ossian; and his intellectual vigour has been transmitted with undiminished force to his son, Dr. Irvine, a distinguished medical practitioner in Pitlochrie, from whom I got a sight of his father’s work, now very scarce. At p. 75, the evil habits of the habitual absentee in his district are thus described: “The highest class of society, excepting a few philosophical individuals, seldom visit the family residence above once a-year. They are generally as often seen as the great Mogul, or the Emperor of China; they converse with the people by their agents, and of course they are strangers to one another. Their rank and equipage have hardly any opportunity of gaining respect, or of supporting that sense of subordination which is so essential to any well-governed State.” In Latimer’s time absentee prelates were as common in the Church as absentee landlords now are in some parts of the Highlands. These prelates, the outspoken Bishop in his homely way calls “strawberry prelates,” because as strawberries come but once a-year, tarry not long, and are soon gone, so absentee prelates make a formal visitation of their districts once a-year for the sake of their tithe, as sporting landlords in the Highlands for the sake of the four-footed population.—Latimer’s ‘Sermon on the Plough.’

dissipation and display, which their purses could ill afford ; while it imposed upon them at the same time the duty of reciprocating the splendid hospitalities of the metropolis by, if possible, more splendid exhibitions of the virtue for which Highland landlords had always been celebrated. London friends came down in troops ; open house was kept in the glen ; and the road to ruin paved broadly with bills upon bills which were never paid. Nor was this all. Their greatest virtue thus developed rapidly into their greatest vice ; and even the pride of pedigree and the chivalry of chieftainship was seriously damaged by the associations of metropolitan life, the affectation of English manners, and the contagion of princely vices. Young Highland chiefs, instead of being brought up in the glens, with the language of the people pulsing in their ears, and their songs stirring their hearts, were sent to Eton and Harrow to play at cricket with idle sprigs of English nobility, to pretend to study Greek, and to get a quotation or two of Horace at their finger-ends, with which to garnish a possible Parliamentary oration. The soul was thus sucked out of the chieftainship ; it became a matter of kilts and bagpipes and autumnal parade. The kilts and the bagpipes were ostentatiously displayed ; the game was strictly preserved ; but the lord of the manor was in debt ; the property was sold ; and the people, left to the mercy of the land law and the strange laird, were dealt with by the chapter of chances for good or for evil as the case might be.<sup>1</sup>

<sup>1</sup> Just what took place in Ireland. "The real evil and curse of Ireland is neither religious nor political, but lies simply in so many of the landlords being bankrupt, and so many of those who are well off being absentees."—Count Strelitzski, *apud* Alison, 'Famine of 1846,'

For good or evil: let that be well noted. Here again in the case of the new, as in that of the old chiefs, we must beware of indiscriminate judgment. The purchasers of the bankrupt Highland properties were generally Lowlanders, mostly Englishmen; in this, as strangers, all alike; but very different in their character and conduct. Some bought land with the honest purpose of performing the duties of proprietorship to the people and to the soil; they were not merely capitalists wishing to invest, with a safe and reputable, if not with a large, return for their money; they were active, energetic persons, who having made a handsome fortune in trade or commerce, were now seriously bent on spending the capital honourably made in the most honourable way possible, by encouraging labour and executing works of beauty and utility in the district of which Providence had made them overseers. It would not be difficult for any person, with a very superficial knowledge of the Highlands in their present state, to put his finger on not a few properties where the noble function such a secular Episcopacy implies, has been exercised in the most beneficial way by the new race of landlords. They were as generous as the old landlords, and a great deal more intelligent; they had enterprise, and above all they had capital; and could afford even to lose money that they might delight their eyes with the sight of neglect growing up into culture, and torpor starting into activity. But all

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p. 66. Which judgment may be safely generalized into the economic proposition, that whenever there is widespread discontent and misery, it is because the landlords, or the Government, or both, either do not understand, or systematically neglect, their duty. It is the same in education. Not the schoolboy, but the schoolmaster, is the cause of habitual disorder in a school.

the new purchasers were not of this stamp. Some bought land merely for an investment, as the purchasers of land under the Irish Encumbered Estates Act did, careless of any consequence to the people or to the estate, provided only they had a good and a swift return; to such persons the purchase of a Highland property was merely a mercantile adventure, with which the idea of a stewardship over the people of the district had nothing at all to do; the idea of consulting in any respect the happiness of the people who resided on it, they would look on as a piece of sentimentalism, or worse, a fair-seeming device to swindle them out of their rightful dues. But no doubt this class of purely mercantile investors was much more rare in the Highlands than in the immense extent of rich grazing land in the centre of Ireland. In the Highlands, to the English lord or London brewer, the attraction was partly the rustic romance of having a picturesque Highland residence for a few months of the year, during the season when the mighty metropolis was abandoned by all those whose presence gave it dignity, and whose expenditure gave it splendour; partly, and principally, we may presume with the majority, the attraction was sport; the breezy delight and healthy excitement of bringing down the grouse on the moor, tracking the deer on the hill, and luring the salmon from the pool. Now this class of purchasers might, no doubt, show a great deal of kindness to the people, if they were inclined; but they had no direct interest to do so—rather the contrary. To foster the native population would be to increase the probability of poachers, and to make more expense necessary in fencing off and watching the haunts of the wild animals; disputes would be constantly arising between the game-

keepers, whose duty it was to preserve the game, and the hereditary peasantry whose interest it was to preserve their crofts and utilize the braes ; it might readily occur to the sporting proprietor, that the fewer people he had on his property the better ; best of all to get rid of them altogether, and send them wholesale to spin cotton in Glasgow or fell trees in Canadian forests. And let us note further, that the heartlessness and barbarity of this policy of desolation, wherever it was carried out, would not be apt to occur to the gentlemen directly concerned in it, who were for the most part "good fellows," as the phrase goes, and not meaning any harm. For not only they, but even the other class of English purchasers, who really meant to perform the duties of resident landlords, and improve their estates, had come to the Highlands with the idea that by their mere presence they were conferring a great benefit on the semi-barbarous people whose lands they had acquired ; a people speaking an antediluvian jargon that no man could understand, professing a religion that no man could enjoy, and feeding their miserable vanity with long scrolls of genealogical pedigree, equally visionary and unprofitable. In fact, it would not be too much to say, that a large section of this class had as great a contempt for the soul of the Highlands, and all its best moral and lyrical culture, as the Turks during their five hundred years in Europe have shown for the Greeks and other Christian peoples under their sway. And not only that section of the more insolent, but not a few even of the more intelligent and reasonable of the new landlords, were found to maintain that the Celts altogether in the Scottish Highlands were an inferior race, of whom no good could come till all their

characteristic features had been polished off, and a fresh current of Saxon civilization poured into their blood. From purchasers entertaining such sentiments no nice consideration for the kindly consuetudes of the glen were to be expected:—In their interpretation of the position, cruelty of the most apparent harshness might mean real kindness, and the most unqualified selfishness the only form that a considerate love could assume under the circumstances.

To the prevalence of such unsympathetic sentiment, ignorant prejudices, and insolent assumptions we have to attribute the next phenomenon that makes itself forwardly prominent in this sad history of Highland decadence. We allude to the forcible evictions of the old tenantry, called CLEARANCES, which have marked the rural economy of that neglected region for nearly a century, and which have stamped on the face of the country that aspect of dreary desolation which every human-hearted traveller has had occasion to lament. As this is a matter in regard to which no small bitterness of feeling exists between the dispossessed old tillers of the soil and the big farmers, mostly of southern extraction, who occupy their place, we must take special care at starting to state distinctly the separate issues involved, and not confound questions radically distinct. Let us willingly admit, in the first place, that the proprietors by whose authority these evictions were carried out, meant honestly the improvement of the property which God had committed to their charge. That the Highlands had been sadly neglected in past times, and that it was now called upon to adapt itself to a change of circumstances which imperatively demanded a reform of the old agricultural processes, no well-informed



person will deny ; as little can it be denied that these reforms, as they were conceived by the evicting parties, have been carried out not without certain material advantages to the district, and with a considerable outlay of money by the noble proprietor which deserve to be held in grateful memory by the present inhabitants.<sup>1</sup> But whether, in carrying out these improvements, and effecting these adaptations, it was either necessary or politic to sacrifice the whole native population of the strath for the aggrandizement of one or two intruded capitalists, is another question, and a question which will fall to be discussed in detail in the second chapter of this treatise ; meanwhile, we have to confine ourselves to a statement of the facts, and to show that these improvements as carried out were the occasion of a great amount of human suffering, and implied in their harsh details a most ungrateful treatment of a people, the sweat of whose brow had redeemed the soil from barrenness, and whose blood had been freely poured out for Britain's honour in many a battle-field of historical renown. Another false issue which has been sedulously mixed up with this question of agrarian economy, is whether any special criminality attached to any particular individual in connection with these evictions. This is an issue with which the public has nothing to do. A moral outrage is one matter, and a blunder in social economy is another ; with both these I purpose to deal in this book ; but of a third question, whether a criminal charge laid against any individual connected with the commission of that outrage was legally proved or legally provable, I

<sup>1</sup> For the details of these improvements, see Commissioner Loch's well-known Report. London, 1820.

know nothing. Questions of proof in matters of criminal law, are, as every one knows, matters of extreme difficulty and delicacy ; and, though juries have blundered, and even now in more open day and in more free times do blunder, in such matters, no man at this distance of time is entitled to bring criminal charges against any individual who at the date of those evictions was " honourably acquitted " of all guilt by a jury of his countrymen. But the acquittal of a person accused of an act of public violence cognizable by law, does not imply that there was no violence used. On the contrary, unless violence of some kind had been used, and that of an unprecedented description, the question of guilty or not guilty in reference to any individual mixed up with the business could never have been raised. Another point to be distinctly faced here is the character of the evidence by which the details of these violent proceedings are handed down to us. It is the best possible evidence ; the evidence of the sufferers themselves, or of those who were in the midst of them and shared in their privations. It is the same sort of evidence by which we prove the persecutions of the first Christians in the Roman provinces ; not the evidence of the proconsuls or other provincial officials, but the evidence of the Christian martyrs and their friends. It is quite true that this evidence may be regarded in a certain sense as a special pleading ; it is certainly an *ex parte* statement, but the evidence on the other side is liable to the same objection ; and, if the evidence of the Ducal Commissioner is to be accepted, as I for one willingly accept it, of the improvements which he carried out from his point of view, the evidence of those who suffered largely from his sweeping

style of agrarian reforms must be accepted as the proper evidence of their sufferings. Not the shoemaker but the shoewearer is the party who is entitled to say where the shoe pinches. In matters of this kind contraries are not contradictories. If I knock down a man with my right arm, and lift up another with my left, the kindness implied in the action of the left arm leaves unaffected the violence offered by the right. And, if I whitewash the front wall of my house for a fair show, and leave the back walls behind in their inherited blackness, no trick of logic or of grammar can transfer the virtue of the one tint to the vice of the other. Now for the facts.

The writer of the following statement is an intelligent and sensible gentlewoman, with whom I became acquainted two summers ago, when living at Pitlochrie in Perthshire. She is now in Edinburgh.

#### A TALE OF THE STRATHNAVER CLEARANCES.

MY great-grandfather, Roderick Mackay, rented the fertile farm of Mudale, at the head of Strathnaver. It was a beautiful spot by the side of the river, and the home was endeared to my ancestor by its being the place where his father and father's fathers had lived and died for generations. The house was comfortable and substantial, and it was famed far and near for its hospitality; no stranger having ever been turned from its door without having his wants supplied. Nor did this kindness overtax them, for they had food in abundance. They had flocks and herds, and lived in ease and comfort.

It used to be told of him that, instead of a regular stock-taking, he once a year gathered his sheep, cattle, and horses into a curve of the river, and, if the place was anything well filled, he was content that he had about the usual number, and did not trouble about figures. He went with his surplus stock occasionally to the southern markets, and was entrusted with buying and selling for his neighbours as well—not on the “commission agent” system of the present day, but as an act of goodwill and friendship.

My great-grandmother was a "help-meet" in all things to her husband. They had one son and two daughters, the youngest of whom was my grandfather. They were honest, God-fearing people, loved and respected by all who knew them, and leading a life of peace and contentment, expecting to end their lives among their friends, in their dear home, as their forefathers had done. But a small cloud, not bigger than a man's hand, was hanging, alas! over Strathnaver. Practical men from other lands were scouring hill and dale, and casting covetous eyes upon the beautiful and fertile valley, while accepting the hospitality of the noble people whose destruction they were planning. The small cloud spread with frightful rapidity, and a storm burst over Strathnaver that laid happy homes in ruins, extinguishing the light of joy for evermore in hundreds of human hearts. My great-grandfather, being a rather extensive landholder, was the first to suffer, and his death-warrant could not have caused him greater dismay than the notice to quit his home. His flocks were scattered, and had to be sold for whatever they could realize. His house—the home of his ancestors—was burned before his eyes. His effects were turned out to the roadside, and his wife and family left without shelter. By permission of the incoming tenant they were allowed to take possession of a small sheep-cot near their former happy home. My great-grandmother, a brave woman, did all she could to cheer her husband in his sorrow, and the son strove to save all he could from the wreck, but the old man would not be comforted. He went about in a dazed condition, which was most pitiful. He would neither eat nor drink, and continually asked if they thought he would get leave to be buried in Mudale, beside his people. Nothing could rally him, and in a short time he died. His wife then broke down completely, and did not survive him long. They both died in that small sheep-cot, or as I used to hear my grand-aunt, their daughter, put it, "Ann am bothan fail." They got their wish as to their last resting-place, for they sleep in peace with those who went before them, ere the inhuman laws of men made that beautiful valley what it now is—a wilderness.

My grandfather, Ian Bàn Mackay, lived in Rhiphail, about twelve miles further down the glen, and he also, like the rest of his kith and kin, was doomed. He had served in the Reay Fencibles, and for his good conduct was made confidential servant to the Colonel of the regiment, who was himself a Mackay. When my grandfather was evicted my mother was twelve years of age, and she vividly remembered the incidents as long as she lived. The family were shifted

from one place to another, until in two years they had no less than five removals. Ever as they went the black flood of eviction followed them, until at last they landed, or stranded rather, on the stony braes of Tongue. There they had to build some kind of abode and subsist as best they could. Their eight milk cows had dwindled down to one; for they had to part with them from time to time to obtain the bare necessities of life.

A short time after their settlement at Tongue the potato crop failed, and the grain crops as well, when the ever-to-be remembered famine set in with all its horrors. The disasters and miseries of that time have been described by several—foremost among them the great Hugh Miller. I only relate what concerned my own immediate relations, as I often heard it told, amidst tears, at our own fireside. My grandfather found it hard to provide for his family in these times, and at last it became impossible. It was reported that relief came, and that at Tongue House, a mile distant, there was food enough for all who required it. My grandfather was urged to go to the factor for assistance, but he was a Mackay and a soldier, and the bread of charity was to him a bitter morsel. One morning, however, things came to a crisis—the last spoonful of meal had been made into gruel for a sick child, the last fowl was killed and cooked for the family, and starvation stared them in the face.

My grandfather had then no alternative but to go to Tongue House. He found, however, that the corn there had more restrictions than that of Egypt. He found the factor did not believe in giving charity in a charitable manner. He was severely examined as to his character and conduct, as to his present ability or future prospects of paying for the meal. If he could not pay then, the factor demanded a guarantee that he would pay it in future. At last he consented to give one boll of meal to my grandfather, and in exchange he was to get the one milk cow of the family. The cow was named "Sobhrach" or "Primrose," from her yellow colour. Owing to the scarcity of food, she had to be milked many times in the day, and so one of the children, a precocious little girl of seven, called her "Shobhrag nam beannachd" (the Primrose of blessings). The name stuck to her, for she was dearly beloved by the family. She was a gentle creature, who did not run away or get into trouble, like other cows; and she was petted and made of by the children, whilst to the parents she was the one link that bound them to happier times. No wonder if the father's heart was heavy as he thought of his sad bargain, and wondered how he could break the

## THE SCOTTISH HIGHLANDERS.

news to the family. On his way home he met the Rev. Hugh Mackenzie, minister of the parish, who, on hearing the sad story, went and paid for the meal, and so "Sobhrach" was spared to them in their grief. Mr. Mackenzie sent also seed corn, and potatoes, and gave his own horses to plough their land, while he personally attended the family when afterwards stricken with fever—the sure concomitant of famine. Every member of the family hovered for a time between life and death. The good clergyman supplied wine and other articles of nourishment, and gave medicine, of which he had considerable knowledge. There did not seem much to live for; but then, as now, people were tenacious of life, and in course of time the family recovered. Better times came; but too late for the head of the house; he never recovered from the shock of his severe trials, and he died a comparatively young man.

I remember my grandmother, a sadly depressed woman, with a world of sorrow in her faded blue eyes, as if the shadow of the past was always upon her spirit. I never saw her smile, and when I asked my mother for the cause, she told me that that look of pain came upon my grandmother's face with the fires of Strathnaver. Strange to say, when even my mother was in her last illness in May 1882—when the present was fading from her memory—she appeared again as a girl of twelve in Strathnaver, continually asking, "Whose house is burning now?" and crying out, now and again, "Save the people."

*Edinburgh.*

ANNIE MACKAY.<sup>1</sup>

The next statement which I give, is by Mr. John Mackay, Hereford, a civil engineer of well-known talent and character through Wales and Central England.<sup>2</sup>

"While at Bettyhill in August last, during the sitting there of the Royal Commission, I had the pleasure of meeting several old men in

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<sup>1</sup> 'Celtic Magazine,' December 1883, pp. 57—60.

<sup>2</sup> 'Celtic Magazine' as above, pp. 60—64. A more detailed account of the Strathnaver Clearance will be found in the work of Donald Macleod, called 'Gloomy Memories of Scotland,' originally published in the Edinburgh 'Weekly Chronicle,' then in a separate pamphlet. Greenock, 1856, now rare; republished in an enlarged form in Nova Scotia, 1879; and finally reprinted by Mackenzie in his volume of 'Highland Clearances,' Inverness, 1883. See also 'Altavona,' Dialogue V., and Campbell's 'Raid of Albyn.' Glasgow, 1854.

the neighbourhood. On entering into conversation with them, upon the subject of the Strathnaver Clearances, I found their recollection of them so vivid, and their relations so truthful—none of them would say anything more than he himself saw—that I thought it was worth something to have them taken down there and then; but not having sufficient time at my disposal, and being informed that there were many more in the parish who had been eye-witnesses of those scenes, I got Mr. Angus Mackay, Divinity Student, Farr, to take down the evidence for me, and have it attested. The statements, in all cases, were carefully taken down in Gaelic, translated into English, read to the declarant again in Gaelic and English in the presence of the witnesses who attest them, and who understood both languages; the statements were then signed by the cross or name of each declarant in presence of the witnesses, who there and then attested each document on the date recorded upon it, in presence of the declarant. They are as follows :—

RODERICK MACLEOD, *78 years of age, crofter and fisherman,  
Skerray, Parish of Tongue.*

I was born at Grumb-mhor, where I lived for eight years, and now occupy a small croft near the edge of the cliffs at Skerray. I was working at a road that was being made on Strathnaver, a good few years after I was driven from the Strath myself, when I saw the following townships set on fire :—

Grumb-mhor, with 16 houses. | Achmhillidh, with 4 houses.

All the houses in these two places were burnt, with the exception of one barn, which was left to be used as a store by those working at the road.

Few, if any, of all those families burnt out knew where to turn their head, or from whom or where to get the next meal, after being thus expatriated from the homes to which their hearts so fondly clung.

It was sad to witness the heartrending scenes that followed the driving away of these people. The terrible remembrance of the burnings of Strathnaver will live as long as a root of the people remains in the country. The people when on Strathnaver were very comfortable.

I declare this statement of mine is true.

RORY MACLEOD.

Witnesses, { WILLIAM SUTHERLAND.  
30th Aug. 1883. { MURDO MACKAY.

WILLIAM MORRISON, 89 years of age, crofter, Dalacharn, Farr.

I was born at Rossal, on Strathnaver, and remember well of seeing the following townships on fire :—

Rossal, with about 20 houses.		Dalvina, with 2 houses.
Dalmalarn, with 2 houses.		Achphris, with 2 houses.

The people as a rule were, in these townships, expected to be away from their houses before those employed in burning came round. This was generally done ; but in a certain house in Rossal there lived an old woman who could not remove with the rest of the neighbours. She could not build another house were she to remove. To this poor person's house came the cruel burners in their turn, and set fire to it in two places, heeding not her pitiful cries. The burners, however, treated her kinder than was their wont, for they carried her out of the burning house, and placed her on the grass with some of her own blankets about her.

I cannot say what became of her afterwards, but surely it was cruel enough that she should be thus left exposed to wind and weather, deprived of all shelter and destitute of all means. For people to say that there was no cruelty or harshness shown the people when they were burnt off Strathnaver, is a glaring lie, which no amount of flowery language can hide.

I declare this statement of mine is true. WILLIAM MORRISON.

Witnesses, { DONALD MAKENZIE, Minister, Free Church, Farr.  
25th Aug. 1833. { ANGUS MACKAY, Divinity Student, Farr.

GRACE MACDONALD, 88 years of age, Armadale, Farr.

I was born on Strathnaver, in a place called Langall, and was nineteen years of age when we were evicted from the Strath. I remember well the burning of the houses. I saw the following five townships burnt :—

Langall, with 8 houses.		Ealan à Challaidh, with 2 houses.
Totachan, with 2 houses.		Sgall, with 4 houses.
Coile an Kian, with two houses.		

There was no mercy or pity shown to young or old—all had to clear away, and those who could not get their effects removed in time to a safe distance had it burnt before their eyes.



On one occasion, while the burning party were engaged in setting fire to a certain house in Langall, a cat belonging to the premises leapt out of the flames. Some one of the party seized the half-smothered cat and threw him back into the flames, where it was kept till it perished.

The evicted people had to go down to the bleak land skirting the sea-shore, and there trench and reclaim land for themselves.

They got no compensation or help from the proprietor, and some of them suffered very much from want of food the first winter. They were happy in Strathnaver, with plenty to take and give, but are all very poor now.

I declare this statement of mine is true. GRACE MACDONALD.

Witnesses,        } MURDO MACKAY.  
29th Aug. 1883. } MARY MACLEOD.

Widow BETSY MACKAY (Drover), 86 years of age, *Kirtomy, Parish of Farr.*

I am a native of Strathnaver, and saw some of the burnings that took place there. I was born at Sgall, a township with six houses, where I lived till I was sixteen years of age, when the people in the township were driven away and their houses burnt.

Our family was very reluctant to leave the place, and stayed for some time after the summons for evicting was delivered. But the burning party came round and set fire to our house at both ends, reducing to ashes whatever remained within the walls. The occupants had, of course, to escape for their lives, some of them losing all their clothes except what they had on their backs. The people then had plenty clothes (home spun), which they made from the wool of their sheep.

The people were told they could go where they liked, provided they did not encumber the land that was by rights their own. The people were driven away like dogs who deserved no better fate, and that, too, without any reason in the world.

Here is an incident that I remember in connection with the burning of Sgall. My sister, whose husband was from home, was delivered of a child at Grumb-mhor at this time. Her friends in Sgall, fearing lest her house should be burnt, and she perish in her helpless condition, went to Grumb-mhor and took her with them in very cold weather,

weak and feeble as she was. This sudden removal brought on a fever, which left its effects upon her till her dying day.

I declare this statement of mine is true.                      BETSY MACKAY.

Witnesses,                      { ALEXANDER MACKAY.  
29th Aug. 1883.                { MURDO MACKAY.

WIDOW DAVID MUNRO, *Strathy, regarding Ceann-na-Coille.*

I was seven years of age when this portion of Strathnaver was cleared. There were six families in the township:—Hugh Mackay, J. Campbell, Angus Mackay, John Mackay (Macrob), William Mackay, and my father, William Sutherland. I remember distinctly the position of the houses. Our family consisted of six girls and one boy. We received orders to quit our abode on term day. All the men of the village were away except my father, who had removed his furniture to an out-house before the burners arrived. He was an intelligent man, sometimes acting as teacher, and when the company arrived to set fire to the house, he requested that, in consideration of his services to the House of Sutherland, by going with the rents of the townships to Dunrobin, etc., etc., they would be good enough to spare the out-house, whither he might retire during the night; and that he himself would set fire to it next morning. This was ruthlessly refused; and we had to remain all night on a green hillock outside, and view our dwelling smouldering into ashes.

I declare this statement of mine is true.                      MRS. DAVID MUNRO.

Witnesses,                      { ADAM GUNN.  
18th Aug. 1883.                { ALEX. MUNRO, Strathy West.

BELL COOPER, *82 years of age, Crask, Farr.*

I was born at Achness on Strathnaver, where I lived till I was eleven years of age. All the people in the township were then removed and their houses burnt. Our family had to leave with the rest, but we were allowed to build a house on the other side of the river, at a place called Riloisgt. Here we were allowed to live for five more years, and then were evicted a second time.

For some days after the people were turned out, one could scarcely hear a word with the lowing of cattle and the screaming of children marching off in all directions. Everything was burnt that they could

lay their hands upon—in some cases the very hens in the byres were burnt. I shall never forget that awful day.

I declare this statement of mine is true.

BELL COOPER.

Witness,                    {  
29th Aug. 1883.        { MURDO MACKAY, Student.

GEORGE MACDONALD, 84 *years of age, crofter and mason, Airdneskich, Farr.*

I was born in Rossal on Strathnaver, and was about fifteen of age when that township was burnt. Every house was burnt to the ground. I cannot remember the number of houses in Rossal, but I would say there were about twenty. There were four other townships near this, each with' about the same number of houses, all of which were burnt on the same day; but I remember of seeing none of these houses actually on fire except one, for I was away driving the cattle at the time, though I saw the burnt ruins a few days after.

The house which I saw set on fire was that of one Chisholm, who lived in Badinloskin. The burning party approached this house and told Chisholm that, if he would not make off with his family and all that belonged to him, they would soon give them a hot bed. Chisholm refused to leave, and the house was set on fire. His orders were immediately obeyed, and in a few minutes the house was all ablaze. Chisholm's mother-in-law, a very old woman, was confined to bed through infirmity, and was unable to leave the burning house along with the other inmates. Although the men well knew that she could not move, they took no notice of the poor wretch, and had not some of her own friends rushed in and rescued her, when already the bed-clothes were on fire about her, she would have certainly perished on the spot. The woman never thoroughly recovered, and a few days thereafter died from the effects of the fire and the fright she took. My father, when his own house was set on fire, tried to save a few pieces of wood out of the burning house, which he carried to the river, about half-a-mile away, and there formed a raft of it. His intention was to float the wood down the stream, and build a kind of a hut somewhere to shelter his weak family; but the burning party came the way, and, seeing the timber, set fire to it, and soon reduced the whole to ashes.

When the people came down from the Strath to the sea-shore, where their descendants are living now, they suffered very much the first

winter from the want of houses. They hurriedly threw up earthen walls, stretching blankets over the top to shelter them, and, cooped up in a small place like this, four or five families spent the following winter. No compensation was given for the houses that were burnt, neither any help to build new ones. Having brought with them large flocks of cattle, and there being no food for them, they almost all died the first winter. Strathnaver was not all cleared the same year, but the people were burnt out from year to year, first the east side of the Strath, and then the west side. Some people were removed three or four times, always forced farther down, until at last the sea-shore prevented them from being sent any farther, unless they took ship for the Colonies, which many of them did. I was a neighbour of Donald Macleod, who wrote a book on the Strathnaver Clearances, and can conscientiously say that he was a truthful and honest man. His book, I am sure, contains the truth, having read some of it myself, most of which I could substantiate.

I declare this statement of mine is true.      GEORGE MACDONALD.

Witnesses, 25th Aug. 1883.	{	DONALD MACKENZIE, Minister, Free Church, Farr.
		DONALD M'DONALD, Aird.
		ANGUS MACKAY, Divinity Student, Cattlefield, Farr.

These descriptions are certainly more than sufficient to justify the strong language used by Sir Walter Scott when he talks of "the selfish and hard-hearted policy of the Highland landlords";<sup>1</sup> nor less of that noble evangelist, the late Dr. Norman Macleod, when he talked indignantly of "the reckless, and in many cases, unprincipled clearances perpetrated in the Highlands;"<sup>2</sup> or to use the milder language of his honoured father, "which for many years have been most extensively and most injudiciously

<sup>1</sup> 'Lockhart's Life,' 1837, vol. v. p. 191.

<sup>2</sup> *Caraid nan Gaidheal*. English preface, p. xxx.

carried on in the Highlands.”<sup>1</sup> But, as Strathnaver, though from various causes the most widely bruited, was by no means a solitary instance of rash reform and harsh procedure, we must give another example of the same ruthless process of extermination which took place some forty years later in a quite different region. We allude to the inhabitants of the district of Knoydart, who were cleared out of their native seats in the year 1853, in a fashion for which the Strathnaver procedure seemed to have formed the model, and of which an account is given by Donald Ross, an eye-witness, in the pamphlet quoted below.<sup>2</sup>

“The scene presented at Knoydart was most heartrending. As far as the eye could see, the face of the strath had its black spots, where the houses of the crofters were either levelled or burnt. The ruins of these habitations of men, and the silence and the solitude that prevailed, rendered it unnecessary for any tongue to tell me that here humanity was most cruelly sacrificed to the god of sheep-farming and expatriation. The blackened rafters lying scattered among the grass, the couple-trees cut through the middle and thrown far away, the walls broken down, the thatch and cabers mixed up together, and grass beginning to grow on the threshold and hearthstone, told a tale which required neither tongue nor pen to unfold. The scene was rendered more painful as the strath was dotted with stacks of corn, large plots of potatoes, and with grass that could be easily mowed down with the scythe. But the voice of man was gone—he was not to be found. The crop was there, but strangers owned it, cut, and carried it away in boats to a distant island; while most of the Highlanders of Knoydart were put on board the ‘Sillery’ at Isle Oransay, and packed off to North America like so many African slaves to the Cuban market.

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<sup>1</sup> *Caraid nan Gaidheal*, p. xiv.

<sup>2</sup> The ‘GLENGARRY EVICTIONS, or Scenes at KNOYDART in Inverness-shire,’ by Donald Ross. Glasgow, 1853. The author refers also to a less complete account of this eviction, but containing the most essential particulars, to be found in the ‘Scotsman’ newspaper for October of that year.

“There is something most melancholy in connection with the entire removal of a people from an inhabited and cultivated district. I can understand well how a landlord at times may have to resort to a judicious weeding—how to extend crofts he may occasionally have to remove refractory or useless tenants from one district to another; but when a whole country-side is at one fell swoop cleared of its population to make room for sheep; when all the ties, affections, and associations that bind the inhabitants to their country and homes are struck at and cut asunder by one unfeeling blow; when the march of improvement and cultivation is checked; and when the country is transformed into a wilderness, and the land to perpetual barrenness, not only are the best feelings of our common humanity violated, but the decree is tantamount to interdicting the command of the Most High, who said to man, ‘Go, replenish the earth, and subdue it.’

“Last spring all the crofters on the Glengarry estates in Knoydart were served with summonses of removal, accompanied with a verbal message from Mrs. M’Donell and her factor, that Sir John M’Neil, Chairman of the Board of Supervision, Edinburgh, had agreed to convey them all to Australia. It would seem from this that Mrs. M’Donell and her accomplice in this transaction, had not only determined on the removal of the people, but, without at all consulting their feelings or wishes, fixed their destination, and bargained with Sir John M’Neil respecting their deportation, just as if they had been a parcel of broken-down useless slaves she was desirous of getting rid of. The poor people had no alternative but to accept of any offer that might be made to them. The state of the neighbouring properties was such that they could not expect one inch of land thereon—no, not even one night’s shelter. And what could these poor Knoydart crofters do under such circumstances? Some of them were, to be sure, a few pounds in arrears of rent, owing to the failure of their crops a few years ago, but they were clearing off these arrears, and in a short time, had opportunity been afforded them, they would have wiped off the last farthing due by them. However, the warnings to quit were now served, and decrees of removal were obtained against them. Shortly after this, another intimation reached the tenants, viz. that their destination was North America, that a ship would be at Isle Oransay in Skye in a short time to receive them, and that they *must* go on board. The ship came to Isle Oransay, and Mrs. M’Donell and her factor came to Knoydart, and saw the most of the families carried across in boats, and put on board. The scene at this time was indescribable. The wail of

the poor women and children, as they were torn away from their homes and familiar scenery, would have melted a heart of stone. Some families refused to go to Canada, for reasons to be afterwards stated; and these, along with some others for whom there was no room on board, are still at Knoydart.

“After the ship sailed from Isle Oransay with her living cargo of Highland people, Mrs. M'Donell's factor, an old gentleman of the name of Grant, returned to Knoydart and commenced the work of destruction on the houses of the crofters and cottars. Not only the houses of those who had left the country, but the houses of those who refused to go, were pulled to the ground. The factor was accompanied by some servants and law officers who had axes, crowbars, iron levers, and picks. The uninhabited houses were levelled first, then the houses of those who refused to go on board the ship to Canada. There was no mercy shown, no delay given. The inmates were ordered out and their articles of furniture were thrown out after them; beds, chairs, tables, pots, stoneware, clothing, were all thrown topsy-turvy down the hill. The thatch was pulled off, the picks were stuck into the walls, the levers removed the foundation-stones, axes cut the couple-trees, and then roof, rafters, and walls fell in with a crash. Clouds of dust rose to the skies, while men, women, and children stood at a distance completely dismayed. What took them years to collect and erect was destroyed and scattered in a few minutes. From house to house, from hut to hut, and from barn to barn, the factor and his minions proceeded, carrying on the work of demolition until there was scarcely a human habitation left standing in the district. This was indeed a most lamentable day in Knoydart. Able-bodied men, who, if the matter would rest with a mere trial of physical force, would have bound the factor and his party hand and foot, and sent them out of the district, stood aside as dumb spectators. Women wrung their hands and cried aloud; children ran to and fro dreadfully frightened; and while all this work of demolition and destruction was going on, no opposition was offered by the inhabitants, *no hand was lifted, no stone cast, no angry word was spoken.* The few huts left standing are occupied by paupers who are on the poor's roll of the parish; but the factor before leaving the district warned these poor creatures that, if they allowed any one of the evicted people shelter for one moment, either by day or by night, that he would cause their huts immediately thereafter to be levelled to the ground. The scene at and after the levelling of the houses was most painful. In a

high and moist latitude, and in an exposed district, the sufferings of women and young children exposed all night in the open air, with no covering but the broad canopy of heaven, may be easily conceived; yet eleven families, comprising upwards of sixty individuals, were on this night with no other shelter in Knoydart!"

The summary proceedings and harrowing narratives contained in the above passages, which are only a few extracts from volumes of human misery, which these evictions have left on record, prove distinctly, that whatever might be the motives of the evictors, however honourable or however selfish, whether inspired by the fashion of a doctrinaire economy, or the haste to make rich, or by the desire to save trouble and shirk social duties, they were carried on and completed without the consuetudinary rights of the people, according to the old clan system, receiving the slightest consideration. In fact, the landholders here were merely betraying the people for the second time in the same way that they did centuries before, when they surrendered the clan lands into the hand of the monarch, and received back in return Crown charters, investing them with the rights of feudal proprietors, but without the slightest acknowledgment of the rights of the people, by whose services the lands had been won and maintained. On both occasions the people were assumed to have no rights at all; only the right to be kicked out in a summary fashion, whenever it might please a thriftless, or an insolent laird, or a heartless economic adventurer to do so. And while Law and Feudal Landlordism thus combined to sweep the brave Highlander from the roods which the sweat of his father's brow had redeemed from the waste, he had nothing to look to save him from utter annihilation,



but the accidental personal goodness of his superiors, the paternal care of the Government, and the chapter of accidents.

From the first of these sources he sometimes received a more kindly treatment than the heartrending precedents of the evicting process might lead him to expect; for Englishmen are not naturally harsh, but love fair play; and the landlords in not a few cases have proved a great deal better than the laws under which they hold their property. Among landed proprietors there is often no small amount of the state of feeling which has lent to an influential party the name of Conservative; a name which plainly implies, that however blind the party who adopt it may be to the changes of the future, they may as a rule be supposed to cherish with fervour, not only the effete forms, but the kindly humanities of the past. This character of county Conservatism will at once make plain the observation, which travellers in the Highlands cannot fail to have made, that the Tories in that quarter are often the best landlords; while not a few of the so-called Liberals, believing mainly in free, unlimited competition, market price, and other shibboleths of the so-called Manchester philosophy, had no traditions of human kindness in their blood by which they might temper the harshness of feudal law, and bind the classes of society together by a bond more gracious than the payment of hard cash.

Looking to the second of these sources of possible amelioration to the falling fortunes of the stout Highland mountaineer—the paternal care of the Government—we must keep in view steadily what the Government means in this country, and specially what it meant before the Middle

Class Reform Bill of 1832, and the Democratic Bill of 1867-8. We have long ceased to have any conception in Great Britain of what is meant by a strong Government, that is, a Government independent of party, and able to carry out measures for the public good, simply because they are plainly and manifestly just; a Government holding the position that Solon arrogates to himself in the well-known verses where he claims to have held the balance evenly between the few and the many, the rich and the poor. So far from any such lofty ideal, our Government even now is rather a struggle of interests represented by parties, than a power to arbitrate between parties, and compel them to sacrifice their private interests to the public good; and in the days of the unreformed Parliament, it was purely the dominance of one party before which the other party had not yet proved strong enough to show its face and assert its position. It was a Government of lords and landlords; and so what the Highlanders had to look for in this quarter, was simply the repetition on a higher platform, and in a larger arena, of whatever moral forces might be at work on the lower platform of territorial authority. One piece of good fortune they had no doubt had in the Act of 1752, annexing *inalienably* to the Crown the lands of the Highland chiefs who had taken part in the rebellion.<sup>1</sup> The preamble of this Bill bears that the clear rents and produce of the lands and estates annexed to the Crown shall be applied "to the purposes of *civilizing* the inhabitants upon the said estates and other parts of the Highlands and Islands of Scotland, the promoting amongst them the Protestant religion, good government, and manufactures,

<sup>1</sup> 25 Geo. II. cap. 41.

and the principles of duty and loyalty to His Majesty, *and to no other use and purpose whatsoever.*" This sounds very brave; and so far as the words are concerned, in no wise tainted with the common vice of all British land legislation, that it is conceived in the spirit of landlords, and tends to their aggrandizement only; but there were no landlords directly concerned in this case; and so the course was clear for Government doing something in the interest of the people. How far the civilization of the supposed savages of those regions was actually realized by the Trustees acting under this Act, I have no means of showing in detail; some account of it will be found in Provost Campbell's valuable pamphlet above quoted; from which, among other things, it appears that not the Highland glens, or the Highland crofters, got the benefit of the raised rents of the confiscated estates, but the Edinburgh lawyers, in the shape of £27,000 applied to the building of the Register House in Edinburgh. But however this Periclean policy of adorning the metropolis at the expense of the provinces might or might not be justifiable, it is clear that there was, and could be, no intention in the mind of the British Government at that time of using the happy accident of a large domain falling to the Crown, as an occasion for planting and cherishing a race of independent and manly mountaineers in the Highland glens. Absolute dependence of the tillers upon the lords of the soil was the stereotyped idea of British statesmanship, an idea which is not even now departed from, except inch by inch when a determined inroad is made upon it by a great statesman like Gladstone, in whom the instinct of justice is strong, and whom a happy concurrence of popular sympathy, and the necessities

of party warfare, have placed in a position that enables him to lead the parties to conclusions, which with their own halting inspirations they never could have reached. We need not be surprised, therefore, that the forfeited estates were not long in finding their way back into the hands of their old masters ; whatever might happen to the people, the Government was always alive to the rights of property, and the predominance of the landed interest. So in the year 1783, Henry Dundas, afterwards Lord Melville, at that time Lord Advocate of Scotland, got a Bill passed (24 Geo. III. 57), by which the forfeited estates were restored to their original owners, of course under all the old conditions, and with the complete prostration of the people before the absolutism of the feudal Parliament. There was no doubt a certain generosity in this case which commended it to the public feeling ; but it was a generosity from a Government of landlords in favour of the absolute rights of landlords, and with an utter ignoring of those professions of the Crown for "the civilization" of the Highlanders, which had been put forth so grandiloquently and so peremptorily in the Act of 1752.

The next public act of the Government, illustrative of their paternal care for the people of the glens, had the same negative result, though much more interesting in the play of motives by which it appears to have been actuated. This was no other than the Act of 1803, intended to regulate and restrict Highland emigrations, and which originated in a petition of the Highland Society, which will be found in their Transactions, Vol. II. p. vii. The Highland Society, of course, is merely the landlords, on a stage intermediate between the remote provinces and

the House of Landlords, called the House of Commons ; and it is a nice study in class morality to consider the process of reasoning and the drift of sentiment by which they were led on that occasion to make proposals which induced the Government to put certain restrictions on emigration from the Highlands. They seem to have been perfectly aware of the pecuniary benefit accruing to the landlords from the engrossing of farms by the substitution of one big tenant for a number of small ones ; but they were at the same time alarmed at the strange aspect of the depopulation of vast regions of their domains, which the summary process of "improvement" necessitated. We must suppose that the majority of them had not, even after fifty years of the loosening of the old ties, altogether lost the feeling that it is more in accordance with their position as a local aristocracy, to foster than to discourage the population of their domain ; they retained somewhat of the old Homeric pride of being "kings of men," and walking with fatherly satisfaction among the groups of happy peasants whom their presence enlivened and their example encouraged. They were not yet as a body thoroughly inoculated with the principles of the science which teaches that the greatest evil to be apprehended by a landed proprietor is an increase of population, and the greatest good an increase of rent. Many of these gentlemen, besides, were soldiers, or had been soldiers, and inspired by the noble, generous, and manly sentiments which belong to that profession ; they knew the services which the sons of the stout crofters had performed to Great Britain in the hours of her severe trial in America, and on the continent ; they knew also, as soldiers, that an army required men as well as commanders ;

and they knew that these patriotic considerations which inclined them to keep the people at home, would not lose their weight when presented with due pomp and circumstance before the representatives of the whole nation in a London Parliament.

So far noble in motive. But there was, as Lord Selkirk indicates, an under-current in the stream of motives to which the epithet disinterested can in no wise be applied. Some of the most influential of the proprietors in the West Highlands were at that precise time making a large income from the manufacture of kelp; a manufacture which for some months in the year necessitates the employment of a greater population on the estate than for agricultural or pastoral purposes the land would bear. These proprietors, seeing vast troops of people leaving the country, under the sweeping desolation of the big farm system, took the alarm; if the people went away at this rate, they would soon be left without any labourers to burn the seaweed from which the kelp was prepared; and the kelp to these gentlemen was of more pecuniary value than either sheep or black cattle. From such a complex play of noble and base motives, the recommendation of the Highland Society arose, which took shape in the Act of Parliament for restricting emigration quoted; an Act which looked at the time both politic and benevolent, but which nevertheless was wrong. The Highlanders were perfectly entitled to leave the country, if they thought themselves ill-treated, as in fact they had been now for two generations; besides, as the Earl of Selkirk, on Malthusian principles, explained, there was no real danger of the country being systematically emptied of its population. So far his lordship's

book did good service, in bringing sober views to bear against unguarded apprehensions. In other respects his book can hardly be said to have exercised any beneficial influence: he looks upon social questions with the cold eye of a mere economist; puts pecuniary profit before the landed aristocracy as the cynosure of all their aspirations; and contemplates with serene satisfaction the speedy approach of a commercial millennium, when the whole population of Scotland benorth the Tay shall be told in the units of a few shepherds and their dogs! The mind of the aristocracy had at that time not yet caught a glimpse of the higher intuition of deer-forests and gamekeepers.

In the chapter of accidents from which the fortunes of the Highlander have suffered since the '45, and up to the middle of the present century, the most important certainly were the kelp manufacture, to which allusion has just been made, and the potato famine. The affair of the sea-wrack, with the riches and the ruin of which it was the cause, is in the highest degree instructive, as showing how for want of a wise administration the blessing that lay in a natural gift was turned into a curse. The gift of the sea from which the kelp was made, by natural law belonged to nobody; and when, to avoid a scramble, the law stepped in, as in Jersey, to regulate its distribution, the course was clear; let it fall as a God-sent manure to the tillers of the soil; but, if, for purposes of trade, it could be utilized further with any pecuniary profit, the profit thence resulting should be apportioned amongst a race of sturdy independent peasants, according to the measure of their lots. But there was no Moses, or Lycurgus, or Solon, in Great Britain at that time to think of the dues of the people in this matter.

So long as the clan system lasted, whose strength lay in men not in money, the lords of the soil would naturally allow the sea-wrack to be appropriated by their tenants on the coast, as the bounty of Providence intended ; but when the commercial system came in, and all kindly consideration for the poor man vanished before the fashionable eagerness to increase the wealth of nations by grasping at a pecuniary profit, the maxim of the law, QUOD MEUM EST MEUM EST A COELO USQUE AD CENTRUM, stretched beyond the range of its natural equity, handed over the spume of the sea as a pendicle to the possession of the land ; and it was only by the accidental grace of the lord, not by the mercy of the law, that the poor crofter did not pay rent for the gleaning of the salt water, as he did for the delving of the dry land.<sup>1</sup> But so soon as it was discovered that certain alkaline products were contained in the sea-drift, which, by an easy process of burning could be turned out in a condition to be used largely in our rising manufacturing towns, forthwith the lord of the soil stepped in, and with a legal maxim at his back, claimed the sea-gift as his private property, to be used for his own personal aggrandisement. This discovery took place about the year 1750 ; very opportunely as the West coast landlords thought at the time ; for it enabled them to keep a great number of people on their land, who paid their rents out of the wages of their labour in burning the kelp, and from the fruits of that labour presented the landlord with a surplus of some thousands a year in addi-

<sup>1</sup> It would seem, from the account given by Mackenzie in his 'Highland Clearances,' p. 418, that it was the custom in some parts of Skye to apportion to the crofters a certain quantity of sea-ware, as the natural pendicle of their croft. But he goes on to tell us by what cunning factorial devices they were juggled out of it.



tion to his proper rent from the produce of the soil. While thus enriched by the labour of his poor crofters, he had the secondary advantage of being saved from the disagreeable process of eviction, and a certain amount of public odium naturally attaching to this process. But neither the hard-working crofter nor the easy-living lord of the coast was benefited in the long run. The crofter suffered by the slippery nature of all wages dependent on the migratory character of trade supply; and the landlord from the habits of thriftlessness which he had brought with him as an inheritance from his fathers, and from the habits of extravagance which he had learned

“Up amid the swells in London,  
Mid the pomp of purple sinners,  
Where many a kilted thane was undone,  
With dice, debauchery, and dinners.”

After the great French wars, the duties on Spanish barilla and on salt were repealed; kelp-burning would no longer pay; and in a year or two the incomes of the kelp-burning lairds fell from £15,000 to £500 a-year.<sup>1</sup> The lairds who had not stored up any reserves against the fickle favours of trade were ruined, and their property was sold to strangers; and the people who had been neglected and

<sup>1</sup> An excellent idea of the value of the kelp may be taken from the fact that in Tiree, towards the close of the last century, and on to 1810-12, the produce of the island in kelp very often exceeded the whole agricultural rental. So the Duke of Argyle, in his interesting and instructive pamphlet on ‘Crofts and Farms in the Hebrides.’ Edinburgh, 1883, p. 11. At page 44, the same wise lord gives a detailed account of the operations of the Seaweed Company which, by his Grace’s intelligent stimulus was started in the island some twenty years ago for the purpose of obtaining iodine and other valuable products from the seaweed.

allowed to herd in the Irish fashion, to subdivide their already small crofts, and neglect the culture of the land for the wages of the sea, were left in a state of destitution truly pitiable ; the necessary result, however, of a redundant population, artificially fostered by land laws, which leave the mass of the people at the mercy of a careless, a thriftless, an improvident, or an over-indulgent, landlord. Wise agrarian laws, if enacted in the great transition epoch of the '45, with fixity of tenure, encouragement for an agricultural career, and strict provisions, as in the island of Sark, against subdivision of small crofts, though they could not have prevented altogether the catastrophe which followed on the sudden declension of the kelp trade, would have alleviated the evil very considerably, both as respects the people and the proprietors. Had the seaweed belonged to the people and not to the landlord, and had the gain from its conversion into kelp belonged to a well-conditioned army of small Highland farmers, there can be little doubt that, with the thrifty habits of that class of people, part of that extraordinary profit would have been stored up as a reserve against evil days ; certainly it would have been better used than it was by not a few of their masters, squandering it as they did on foreign luxuries and metropolitan dissipations. As it was, after a season of artificial prosperity, they were as an unweeded garden, where useful herbs could find no nourishment from a soil exhausted by the superabundant suction of the useless. When by the operation of unequal laws, combined with maladministration and unforeseen accidents, things have been allowed to come to this pass, emigration, which seems the natural cure, is already too late ; famine and disease and death appear to clear the

fields of the weeds which the gardener's sloth had allowed to shoot into rankness. The chapter of accidents, after the decay of the kelp-trade, in the year 1846 brought the potato-famine; and it was not only the superabundant population of certain of the islands fostered by the kelp-burning landlords that the terrible messenger had to deal with.

“The chronic poverty of the people, made so prominent by this severe scourge, did not arise from any marked increase in the population. It was intensified by the emigration of the able-bodied, and by the slow absorption of small farms into great sheep-walks and deer-forests, and by the cottars being thereby deprived of their small stock, and of work also, or driven into unproductive sea villages.”<sup>1</sup> So wrote one who was well entitled to speak—a Highlander, and the son of a Highlander—the Rev. Dr. Norman Macleod. The intelligent reader will please to observe on this passage, so far as the point of population is concerned, that there is no real contradiction between the reverend gentleman's statement and the fact of superabundant population, induced by the kelp in Tiree and the other islands. The depopulation in one part caused the over-population in another; and had the general population in the Highlands been distributed fairly, with a due regard to the maintenance of a sturdy race of mountain farmers and shepherds, the gaunt fiend *Famine*, when it strode over the land in 1846, would have found its victims much fewer in number, and much more difficult to digest. “As the case actually was, the potato famine, while it brought out in splendid relief the magnificent generosity

<sup>1</sup> *Caraid nan Gaidheal*, xxxviii.

that wealthy England is always found to display in the cause of suffering humanity both at home and abroad, was not without an accidental evil to intensify the direct action of the famine. It furnished selfish proprietors with an excuse, for which they had long been waiting, to get rid of the people altogether. They were weeds and cumberers of the ground, and had only to be plucked out and flung into the fire. And thus the potato famine, instead of operating, as it ought to have done, towards a better distribution of the soil among those who survived the scythe of the destroyer, in the hands of some persons only served as a spur to the wasting process of depopulation produced by the mania for large farms, and the haste to be rich; it encouraged a rash and reckless depopulation of the country, and was the cause of much needless and covetous oppression.”<sup>1</sup> These again are the words of Dr. Norman Macleod.

So far we see the chapter of accidents has done nothing, or less than nothing, in the long run, to redeem the Highlanders from the natural consequences of the brilliant blunder of the '45. We now come to the splendid vice with which partial laws, and a combination of aristocratic and plutocratic forces, has combined to override, to crush, and to annihilate in great part, a brave, a loyal, a true-hearted, and a generous people, of whom any nation might have been proud. We allude of course to DEER-FORESTS and DEER-STALKING. No man who knows anything of human nature, and especially of English nature, would think of saying anything in disparagement of the so-called field-sports of England; our hunting and our shooting, our

<sup>1</sup> *Caraid nan Gaidheal*, xl.

driving and our angling, are not the least prominent part of our peculiar national type; and there cannot be the slightest doubt that these open air energetic recreations, in which we so largely indulge, contribute in no small degree both to the moral fibre and the physical beauty of the race. But the more strong the impulse which leads to any favourite indulgence, the greater the need of a rein; intense enjoyment is ever apt to run into excess. The excess in field sports is well marked by Prince Albert, when he says, "I don't understand making a business of shooting, and going out the whole day. I like it as an amusement for a few hours. *Die Leute hier wollen ein Geschäft daraus machen.*"<sup>1</sup> No test could state more scientifically the point in field sports where the vice begins and the virtue ends. Taken as an adjunct of property, and as a recreation, by a resident proprietor, shooting, or fishing, or deer-stalking, when it exists, is a virtue; taken as a serious business, and altogether divorced from any local duties or moral responsibilities, it is a vice. Now the question is whether this boundary betwixt virtue and vice in field sports, not only in the special case of deer-stalking, but in the general habit and fashionable tone of the English mind, has not latterly been largely overstepped. I remember one day when crossing the hills from Drumna-drochit in Glen Urquhart to Invercannich in Strathglass, the driver of the waggonette, pointing to a certain property, told me that the gentleman who owned this property had distinguished himself in the district by spending a great deal of money on the improvement of his property, and thus giving useful and remunerative employment to the

<sup>1</sup> 'Life,' by Sir Theodore Martin, vol. i. p. 9.

people. This was quite to my taste ; and I said *Amen!* with hearty good-will ;—whereupon the lad continued : “ But, sir, you look on these matters very differently from a gentleman whom I drove across the hill the other day ; for when I pointed out the same thing to him he replied contemptuously, ‘ *I know him ; he is a poor creature : he is no sportsman : he could not bring down a rabbit.*’ ” This expression of opinion is, I am afraid, only a too true utterance of the feelings with which a certain class of idle and self-indulgent young gentlemen of the present day look on the function of a landed proprietor in the Highlands ; he is to be estimated in the aristocratic world only by his proficiency in those arts of the chase which man has in common with the lower animals, with the most savage tribes of humanity, and with the earliest stages of civilization. Nay, even below this, for whereas the chase of the deer, and other field sports in early times, implied an amount of energy and enterprise, shifty adventure and perilous encounter, which both formed a manly character and braced the muscular nerve of the hunter ; now-a-days, again to use Prince Albert’s words, the recreation has become a business, and the natural adjunct of a mountain property has become an independent article of merchandise. The practice of deer-stalking, or deer-driving rather in this case we ought to say, is an exercise which can foster no excellence either physical or moral of which our aristocracy has reason to be proud ; rather has a tendency, unless carefully watched, to produce in the breasts of our young sprigs of aristocracy and plutocracy, an insensibility to the reckless infliction of pain on innocent creatures, more pardonable in an old heathen Roman

familiar with gladiator shows, than in a modern Christian gentleman.<sup>1</sup>

But this is not the point on which the drift of this treatise calls on me specially to insist here. I have to do with the undoubted antagonism between the carrying on of a thriving merchandise in deer-stalking by Highland proprietors, and the existence of a prosperous population of native mountaineers in the glens. The modern mountain chief, who cultivates the four-footed people as his clan, is the natural enemy to the human biped. The soft green bosom of the remote glen, which in the palmy days of the Highlands reared many a stalwart son of the mountains, who was proud to be a citizen of Great Britain, and gladly laid down his life for its honour, is just the very banqueting-ground on which the cherished quadruped delights to descend in the cheerless days of the winter solstice; and here arises the dilemma, either the men must go, or the deer must starve; and the deer-stalker, who, like all English landlords, "has a right to do what he chooses with his own," can have no doubt as to the alternative. Accordingly, wherever this modern Avatar of the genus sportsman appears in force, the people vanish, sometimes, as in the recent case of Wynans, by a public act of forcible clearance; sometimes by a gradual weeding out of the most obnoxious bipeds who are always complaining of the gamekeepers, as the gamekeepers are always complaining of them; which process is in general preferable, because it makes little noise, and does not get into the newspapers;

<sup>1</sup> See what Horatio Ross says about the reckless use of the long range express breachloaders in his introduction to Macrae's 'Hand-book of Deer-stalking.' Edinburgh, Blackwood, 1880.

at other times, by allowing the people while deprived of their old holdings to remain on the estate, either huddled into some unhealthy village, squatted upon some bare corner, or domiciled in the capacity of menial servants in some tasteless unlovely lodgment, at a safe distance from the deer. Or again, these monstrous deer-forests have arisen out of the sheep-walks, into which large tracts of the mountain country, as has been seen, some three or four generations ago, had been violently converted; the transformation of sheep into deer, in preference to a human tenantry, having been effected either because the large farm system had, under the influence of bad seasons and free trade, begun to exhibit its weak side; or because the landed proprietors, on the anti-social principles of the commercial system, which means money, were willing to sacrifice their people to their purse, and greedily seized on the larger rent which the English or American deer-stalker was ready to pay for the free and unhindered range of the Bens; and this he could do, if he had any lingering love for the people, with a perfectly good conscience; for the deer-stalkers have always boasted, and not without reason, that, though the enmity of the hairy to the fleecy people has forced them to stint somewhat the supply of savoury hill mutton to fatten the Glasgow baillies, they do more than the big farmers to keep up the local population; the deer demanding more tendance in the shape of gillies and gamekeepers, than the sheep in the shape of shepherds with their dogs.

No doubt this was something to say; and the deer-stalker, whose selfish and anti-social proclivities were beginning to stink in the nostrils of the public, was



naturally forward to give it all due publicity;<sup>1</sup> but when contrasted with the natural capabilities of the glen for supporting a healthy human population, it was only the assertion that black is a shade lighter than jet black; and the Highlander who had been brought up in a happy sheltered nook of the bonnie grass glen, in the days when men were preferred to sheep and deer, could derive little comfort from the difference of darkness in the hue. Whether two native Highlanders, or half-a-dozen, might be allowed to remain as the remnant of a once numerous and happy population, they remained only to hold by the skirts of an intrusive stranger monopolist; their personal independence and their social status were gone.

One other remark I have to notice in reference to this modern social enormity of systematically sacrificing the occupation of the poor to the pleasures of the rich, viz. that we have reached a pitch of aristocratic pampering in

<sup>1</sup> See the comparison between the big farmer—not seldom like the big laird, an absentee—and the deer-stalker, in the ‘Population, Crofts, Sheep-walks, and Deer-Forests,’ by George Malcolm, factor, Inverary. Edinburgh, 1883, p. 25. It is also quite true—as stated in the concluding paragraph of the article on a Ross-shire deer forest in ‘Blackwood’s Magazine’ for February 1884, that, when the proprietor is an absentee, as he generally is in these regions, there is no more welcome visitor to the small remnant of the population than the deer-stalker and his following. To the poor mountain people, deserted by their natural protectors, and who see the face of their landlord by a special grace perhaps only once in their life-time, the raid of a few lusty English lordlings, for a month or two annually, through their glens, must be a pleasant variety, especially when they drop shillings in their path. Very pretty! Beggars will always be glad to pick up a penny; but who is to blame for converting a race of sturdy mountaineers into beggars, glad to gather the crumbs that fall from the pocket of the rich stranger that at certain seasons—when he has no better way of employing his leisure—passes through their wilderness?

this fashion, to which even maladministered and maltreated Ireland has been a stranger. At least with regard to a district of the South-Western region of that unhappy country with which he happened to be familiar, Mr. Froude, in a lecture delivered to the Philosophical Institution of Edinburgh in October 1876, expressed himself as follows :

“A noble lord whom he knew of had a mountain home in Kerry, which would make one of the finest deer-forests in the country. He had the same temptation as others to make it such ; but the deer were not there, and the families were in their farms. (Applause.) The same noble lord spent four-fifths of his income on the property, and in improving the condition of the people.”

Let the Irish—not too much given to grateful expression—thank Heaven for that ! We too—though we are not so well cared for generally as our Celtic brethren across the channel—we, too, in Celtic Scotland may indulge the faith that we possess not a few good landlords who have not yet bowed the knee to the monetary Baal, and with whom St. Hubert is not the only saint worthy of recognition in the Caledonian calendar.

So far so ill. Let us look about now in conclusion whether we may not be able to light upon something in the chapter of accidents, or some acts of wise legislation on the part of our rulers in these latest years, which seem to throw a ray of comfort over the darkness, which it has been our sorrow to depict ; and here in the front line we encounter two which wear a peculiar grace of benevolence on their face. We mean the Poor Law Act of 1845 and the Education Act of 1872. Now, to take

the Poor Law first, it is manifest that the kindly expression of human love and Christian charity which it wears on its face is a sort of benevolence that affects only the fate of a few individuals, and can have no effect in improving the character of a nation; rather the contrary. Personal charity spontaneously given has the double virtue of softening the heart and harmonising the character of the bountiful giver, while at the same time it relieves the distress of the sufferings of the party on whom the bounty is conferred; but State aid, or compulsory charity, while it saves a certain number of persons from starvation, has the double bad consequence of robbing personal charity of its soul by changing it into a public tax, and by the same act insuring reckless and careless individuals against the consequences of their own folly; not to mention the loss of moral dignity to a whole population taught to look upon a pauper penny as their natural due. If necessary at all, it is certainly a necessary evil; an evil in Scotland, induced, so far as I can see, by the dissolution of all social ties caused by the sudden and monstrous growth of large towns, followed up by the rupture of territorial Church agency caused by the, Free Church Disruption. That Poor Laws were necessary seems quite certain on the evidence led, seconded as it was by the powerful pleading of Professor Pulteny Alison, so soon as we assume the duty of the State to save people systematically from starvation; but that is a matter which can never be altogether clear of doubt. The agency of the State, in my opinion, ought to be confined to the prevention of violated rights, and the encouragement of feeble energies, not to compel the performance of occasional virtues—and charity is always occasional—which

the moment they are made compulsory cease to be virtues. Anyhow, the nation that compels charity cannot become better in character, may become worse; as in the case of that noble institution, the Royal Infirmary of Edinburgh, now supported principally by private contributions, if it were to become, by compulsory support, a necessary limb of the State, not only would the regular fountains of personal charity be suddenly stopped, but extraordinary supplies from accidental donations would altogether cease.

In fact the amount of State action necessary in any State is always in the inverse ratio of the amount of moral force in the individuals of whom the State is composed. And in this view, so far as the Highlands of Scotland are concerned, we may safely say, that had the clan system, with its moral interdependence of class and class not been shaken and disrupted by the brilliant blunder of the '45, a measure so utterly devoid of all social virtue as a compulsory poor-rate never would have been dreamt of; but, when great landlords, acting on purely commercial and selfish principles, began first to desert, and then to sell, their people wholesale to persons bent only on making a profitable money adventure, then of course either the poor pinched people, huddled into remote corners, must die of starvation, or the absentee landlord must be taxed for their support. Observe further, not only would the introduction of cold legalism in the form of a compulsory Poor Law tend to quench the warmth of whatever might yet be found of the kindly old clan feeling in the bosom of the glens, but in the special circumstances of the Highlands, the evil of depopulation, which had already gone too far, would receive an evil stimulant; for it might well happen here and there, if

not universally, that landholders moved by, and from sporting or economical reasons nothing anxious to have any independent population on their grounds, might see in the Poor Law an additional reason for their extrusion ; for, where the glens were properly cleared, of course there could be no poor people to clamour for rates, and no poacher to disturb the deer.<sup>1</sup>

That the EDUCATION ACT of 1872, passed under the auspices of Lord Young, was a great boon to the Highlands as to the whole of Scotland is not to be doubted. It is impossible for the most hasty tourist to shoot through the Highland glens, as many thousands do every year, without being struck by the appearance of the tasteful new erections that have been put up in all quarters for educational purposes ; a benefit in itself only secondary to the appointment of good masters, and the encouragement of good methods. The bare, grey, and cold aspect, and the general unfurnished, unfriendly, and uninviting appearance of even our Burgh schools under the old system, was a disgrace to the Scottish people ; and in some of the Highland glens, where landlords cared more for preserving the four-footed than for training the biped population, it was not uncommon to see school-rooms as unwholesome and unsound as they were tasteless and bald. Good ventilation, and a certain gay aspect, have now been substituted for those stone records of our negligence and our shame : though, as was to be expected from the utilitarian character of the Scottish mind, anything like the suggestive decoration

<sup>1</sup> See on the ruinous effects of depopulating the rural districts, and forcing the great mass of rural paupers into the towns, ' Scot Skirving,' p. 29 of the pamphlet to be referred to further on.

with which Plato would have us clothe the walls of our school-rooms, is not to be expected. The æsthetical element in education, so ably advocated by Inspector Jolly, has up to this moment been significantly absent from the intellectual ideal of the normal Scot: his engrossing zeal for saving grace—which no doubt is the best—has left no room in his inner shrine for the worship of the other Graces, from whom, as being of Greek descent, in the severity of his ethical temperament he is rather apt to turn away as from something heathenish and idolatrous. But let that pass. We have to do in this place more particularly with the special action of the Education Act on the young generation of Highlanders; and here, on the threshold, we find ourselves confronted with one very lamentable defect. It seems never to have occurred for a moment to the authorities who set themselves to stimulate the energy of schoolmasters, by inspectorial visits, payment according to results, valuation of graduated standards, and so forth, that the Highlanders are a peculiar people, having peculiar traditions, a peculiar local inspiration, a peculiar language, and a peculiar literature. They seem to have regarded the trans-Grampian mind, according to Locke's unhappy simile, as a sheet of blank paper, on which gentlemen sitting round a green-covered board, and measuring red tape in London, might write any character they pleased. It was the old presumption of ignorance and insolence, which led the Londoners to imagine that the high-minded soldiers who risked the brilliant blunder of 1745, were a set of half-naked savages, of whom no good could come till they were dressed in the red coats, and smoothed with the pipe-clay of the orthodox military uniform. It was a matter of intellectual

drill and dress and apparatus ; an array of well marshalled forces inoculated from without ; but altogether incognisant of a soul within, which it was the business of the educator, acting on the true principle long ago set forth by Socrates, to stimulate and to educe. Three influences were here at work to produce the strange result of a Highland school, without a single distinctively Highland element in its constitution. First, there was, as we have just been indicating, the natural ignorance and occasional insolence of Englishmen in regard to Scotland and Scotsmen ; they think we just require to be licked smooth into their likeness, and then we shall be perfect ; add to this the perfectly parallel ignorance and insolence in the mind of the Scottish Lowlander with regard to his Celtic cousins benorth of the Clyde and the Forth. Justice to Scotland, in his conception, means justice to Edinburgh and Glasgow, not justice to the Highlands ; and so it is no less common in his mouth, than in the mouth of the most shallow Cockney within the chime of the Bow Bells, to say, that the first and indispensable step in the education of the Highlanders, is to stamp out the Gaelic language, and to stamp in the English in its place. This conclusion of vulgar ignorance and insolence, was unhappily strengthened in this case by that tendency to ignore local peculiarities and provincial types which is the besetting sin of all bureaucratic administration. Of centralisation always and everywhere, uniformity is the law, mechanism the method, and monotony the product. It is a thing of essentially Chinese, and thoroughly anti-English, character. Whatever can be done in the way of drilling human souls without moral inspiration, and without vital freshness, education by a

metropolitan board and yards of red tape may achieve : beyond that it is powerless. Then in addition to these two influences, tending to deprive Highland schools of the specially Highland element that belongs to them, we have to take into account the prejudices and pedantries that are apt to possess the souls of university men, who may be sent as Inspectors of Schools into the Highland glens. Even when born Highlanders, these men will not seldom be found to enter on their Highland mission so beset with the worship of what Bacon calls the idol of the den and of the tribe, that they never dream of working their souls into a living sympathy with the souls of the people whose education they are to control. Their own academical drill had been, perhaps, of a nature calculated not so much to enlarge their human sympathies as to perfect them in the performance of certain technical, and it might be artificial, dexterities ; and, instead of a ready faculty of catholic appreciation which ought to be the result of culture, we find them walking out of the university, cased in a narrow conceit of the importance of certain pet studies, and a high-nosed contempt for every intellectual product not stamped with the *imprimatur* of an academical degree. With men of this class, who mistake narrow bookish scholarship for broad human culture, of course Highland education in its characteristic features had no meaning ; ~~their idea was not~~ to make Highlanders better Highlanders, but to make them forget that they were Highlanders. Add to all this that the common people themselves, however Highland at heart, yet pressed by necessity, as poor people always are, were inclined to look to the immediately useful rather than to the permanently ennobling element in school drill ; and



of course the common notion that "far birds have fair feathers" could not be less potent in their case than in the case of so many of their social superiors. The consequence of all this has been, that the characteristically Highland and truly elevating element in the education of young Highlanders, has been left out of account altogether in the official estimation of the work of Highland schools; and this important work has been left either to the voluntary enthusiasm of individual teachers, or to the exertions of local associations, created with the special object of supplementing the deficiencies of the Government system.<sup>1</sup> Now if any one wishes to know in detail what a characteristically Highland education for Highlanders ought to contain in all places where the majority of the scholars are the children of Gaelic-speaking parents, and where Gaelic sermons are preached on Sundays, this can be easily stated:—(1) A grammatical and practical knowledge of the Gaelic language as written and read, to go *pari passu* with the study of English, the one to assist, as when well-managed they always do, and not to exclude, the other. (2) A Gaelic reading-book, containing selections from the inspiring, picturesque, and patriotic poetry of the Highland bards, from Ossian down to Evan Maccoll and Mary Makellar; accompanied with memorial exercises and recitations from these poets. (3) A careful culture of Highland music, with the daily singing of the most popular and most inspiring Highland airs. (4) A special Highland Plutarch—Gaelic where Gaelic is spoken, and English in low border districts—containing

<sup>1</sup> Of these Associations the Rogart Educational Association, Sutherland, instituted in 1876, principally by the exertions of John Mackay, Esq., C.E., Hereford, may serve as a model.

stirring and picturesque sketches of the most famous men of Celtic extraction who have made the name of Highlander famous in the fields of geographical exploration, mercantile adventure, or military exploit. (5) A thorough knowledge and familiar acquaintance with the sacred Scriptures in Gaelic, as at once the best introduction to the knowledge of the language, and as opening the fountains of moral emotion in the soul of the Highlanders more freely and more powerfully than is possible by any other application. To exclude the Gaelic Bible from a Highland school is as plainly unreasonable as it would have been to exclude Homer, according to Plato's idea, from an Athenian school. Plato had his reasons, no doubt, and so have our modern secularists; but the reasons in both cases owe their fatherhood to the dominance of a narrow doctrinaire notion rather than to the sympathy of a large human philosophy.

The next important force that has acted powerfully on the social condition of the Highlanders, from the commencement of the present century, is the rapid growth of our large towns, the necessary accompaniment of the enormous development of manufacturing industry and commercial enterprise during the same period; and closely connected with this the increased facilities of communication afforded by steam conveyance, between the remote mountains of the North, and the champaign districts of the South. In a normal state of society, nothing could be more natural and more beneficial than this overflow of the superfluous lustiness of the mountaineers into the great industrial channels of the plain; it may be compared to the good effects of periodical blood-letting in persons of a plethoric habit;

but as blood-letting is not advisable in all cases, and may readily be overdone, so we must not allow ourselves to be deceived by the notion that the vicinity of large manufacturing towns, the want of which has been so much felt in Ireland, should in Scotland have acted altogether as a preventative of the evils from which the sister island has so grievously suffered. Had the only evil under which the social system of the Highlands suffered, been, as some people ignorantly or sophistically represent, over population, then certainly the overflow of the redundant population of the glens would have been, if not a pure blessing, at least a natural and necessary process of relief; but in large districts of the Highlands, handed over wholesale, as we have seen, to absentee south country sheep speculators, not plethora but depletion was the disease under which the population laboured; and so the absorbing force calculated to act as an efficient remedy for the one disease, became an aggravation of the malady in the other. The plain duty of a landed proprietor possessing a property whose population is liable to be drained away by the higher wages and other seductions offered by the near neighbourhood of industrial centres, is to keep as many of them on their native ground as he can, consistently with a wise economy and a generous fatherhood; for it is quite plain that to transfer a country population, especially a population of mountaineers, from the airy lightness and breezy freedom of the Bens, to the dust and the smoke and the filth of our overcrowded great towns, was not to make a change favourable to the higher development of the race.<sup>1</sup> A good landlord would consider further, that

<sup>1</sup> That in some parts of the Highlands the natives may be remarkable

mountain-bred youths, when transplanted to the low country, not only lose their health and the joy of their existence, but often fall into vicious courses from the contagion of vices from which no great capital is free. Furthermore, he would say that trade is a fluctuating affair, and manufacturing industry, especially under the overproductive action of machinery, liable to gluts; and therefore he would use all his moral influence, and by kindly treatment and every sort of encouragement exert himself to prevent any unnecessary emigration of the country population into the towns. But when, as we have seen, the landholders of the country had been very generally demoralized by the notion that property in land is a property essentially of the same nature as property in any mercantile commodity, involving no social duties to the tillers of the soil, in persons so demoralized, no considerations of a social nature could act as an inducement to lead them to retain on their property a single person beyond what was absolutely necessary for the service of the few shepherds or gillies that their monetary calculations required; and thus a system of inhuman depopulation, which commenced with a doctrinaire mania for large farms, grew to its perfect state by the law of economic gravitation to large towns. And to such an excess was this anti-social policy of thinning the rural population carried, that the very persons who had allowed themselves to be carried away by such purely selfish considerations, were found by-and-by complaining that they could not get

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for "squalid misery, tendency to indolence, chronic poverty, cheerless prospects, and a predisposition to disease" ('Malcolm,' p. 42), may be perfectly true; but this is the consequence of the neglect and maladministration of generations, and not to be taken as a true account of the stuff of which Highlanders are made, when well treated.

labourers to do necessary work in the country, without bringing them from Glasgow at great expense and high wages. If they had kept but a fair proportion of crofters and small cottars on their properties, they would have had no lack of labourers at moderate wages, and many a kindly service to boot without wages at all, if they had known how to value them.<sup>1</sup>

<sup>1</sup> The whole matter of the relation of landlords to labourers, has been discussed in a most manly and masterly style, by a man who knows what he is talking about, and does not fear to speak the truth; Robert Scot Skirving ('Blackwood,' 1862). From this admirable little tract it plainly appears that the great landowners of East Lothian, having no opportunity of getting rid of the people by the desolation of glens, fell upon an equally effective way of doing the same short-sighted and selfish sort of work by a wholesale destruction of cottages, assuming the form of a mania, quite analogous to the madness of creating Titanic sheep-walks in the Highland glens. The following extract, p. 17, from the tract, is sorrowfully instructive:—

“Because some old cottages had to make way for the plough of the improver, it seems, unfortunately, to have got into the heads of most of the owners of the soil, that all old houses should be pulled down; and it does not seem to have occurred to them that at least an equal number of new ones should have arisen in their stead. The work of demolition, which was at first confined to houses which were not required or which were absolutely in the way, has been continued, and houses which *were* required, and which were *not* in the way, have been pulled down. The systematic destruction of cottages having once fairly begun, it has been ruthlessly carried on, the motives for so doing being entirely changed. Formerly a house was pulled down because it was a useless obstruction; it is now levelled for the avowed purpose of driving away the inhabitants. That which is scarcest is most sought after, and so just as the old thatched-roofed cot becomes more and more rare, it seems to be the more fiercely hunted out and destroyed. With some men, fortunately a small minority, this cottage destruction becomes almost a mania. Increase of appetite has grown with what it fed on; and after such proprietors have levelled every old house they could lay their hands on within their own possessions, they have actually

The increased facilities of intercourse between the Highlands and the Lowlands which steam communication and railroads now so amply afford, has no doubt proved of no small pecuniary advantage to certain classes in certain districts, and must be a matter of congratulation. But there are serious drawbacks to this sort of Celtic prosperity which must not be concealed. If by the annual influx of legion upon legion of tourists and sportsmen into the remote regions of the Celtic seas, innkeepers and shopkeepers in Oban and Portree have learned to drive a profitable trade for two months and a half in the year, it is no less true that the class of Highlanders who hang upon the skirts of professional tourists in the Highlands, as in other countries, is both morally and physically an inferior type to the sturdy rural population whom the big farm mania has displaced. Furthermore, turning from these displaced crofters to the upper classes, it is quite plain that the rapid style of shooting from London to Fort William, will on the one hand encourage absentee habits in the native proprietors, and on the other hand tend to cherish in English aristocrats and plutocratic Lowlanders, the favourite idea, that the only

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purchased houses, petty hamlets, and portions of villages, situated in their neighbourhood, and immediately on getting possession have warned out the occupants and pulled down the dwellings. The Rev. Dr. Colin Smith, chairman at a recent dinner given to the Duke of Argyle by his tenantry, was enabled to congratulate them on the fact that his Grace was not a 'devastator.' The word is an expressive one, and I gladly borrow it. The large landed proprietor, who acts as I have just described, is really a 'devastator;' and the greater the wealth which providence has intrusted to his care, the greater the misfortune to the neighbourhood in which his property is placed."

proper use of the Highlands of Scotland is to appropriate it in a summary fashion as a recreation-ground for autumnal tourists, and a hunting-field for aristocratic deerstalkers. As for another fruit of the frequent steam communication between the 'Lowlands and the Highlands, viz. the supplying of Highland districts with the various useful and fancy products of Lowland industry, I cannot but think that it is Glasgow rather than Tobermory that profits by this business ; and that it is much better for the Highlanders when encouraged, as at Harris, Killin, and elsewhere, to manufacture their own substantial stuffs, than to be led to spend their hard-earned gains on Coventry ribbons or Glasgow muslins. A lusty Highland lass never can be improved by being taught to dress herself like a dainty lady's-maid.

The acceleration of ocean transit, and the utter dispersion of those apprehensions of excessive emigration which prevailed at the end of the last century, naturally brought emigration into the front as the great cure for the chronic evils of the Highlands ; and the literature of the Highlands both in prose and verse has left us not a few classical memorials of the heart-rending scenes with which these expatriations were accompanied. The attention of our legislators was naturally directed to those tragic proceedings ; but, as on previous occasions, of which we have given an account (p. 76, *supra*), so now, in the year 1841, a committee of the House of Commons' appointed to report on the causes of this extraordinary outflow of the mountain population, found itself extremely divided in opinion between the natural wish to retain the native population, and the apparent necessity of parting with them. It is

interesting to observe the two opinions between which the committee was equally divided. To a motion made by Mr. Cumming Bruce, that the committee should confine itself to taking evidence on the single point of emigration, with a view to transporting the alleged redundant population to Canada, Mr. Edward Ellice made the amendment, that "it is expedient to take further evidence on other points, and specially (1) To ascertain what attempts, if any, have been made by the local proprietors to improve the condition of the people, by affording them employment, by encouraging their industry, or promoting their education. (2) How far the system of creating large farms, and dispossessing the small tenants of their holdings, has acted prejudicially on the state of the population. (3) As to the resources offered by agricultural improvements for supporting a large part of what is now termed the redundant population of the Highlands."<sup>1</sup>

This extremely reasonable proposition was negatived only by the casting vote of Mr. Henry Baillie, the chairman of the committee; and there can be no great breach of charity in believing that the negation was influenced, partly by the aversion of a powerful landed aristocracy to have their high-handed proceedings looked into by Government; and partly from the anti-social habit into which not a few of the landed aristocracy had fallen, of neglecting their social duties, and handing the people over to the tender mercies of Edinburgh factors and south country sheep-speculators. With such landholders it had become an

<sup>1</sup> See the Report, 3 May, 1841, and also 'Inquiry into the Duties of the Landholders of Scotland to the Peasantry,' by W. S. Yorstoun, Esq. Edinburgh, 1842, reprinted from the 'Agricultural Journal,' March, 1842.



accepted maxim that the only way to manage the Highlanders was to get rid of them as quickly as possible ; and this desire on their part to get rid of their tenantry naturally created in the minds of these neglected people a desire to cut all connection with masters whose superintendence did not always mean protection, and whose protection rarely rose into encouragement. No other result could have been expected from the open disownment of all moral tie, between the holder of land and the tiller of the soil, which, following evil Irish precedents, had now begun extensively to be practised in Scotland. The rotten state of the relation betwixt landlord and tenant in the remote Highlands, however glossed over by interested and servile parties, did not escape the glance of that great and good Scotsman, Sir Walter Scott, who writes as follows : "I am quite satisfied that nothing less than the personal attention of the landlord himself will satisfy a Highland tenantry, and that the substitution of FACTORS, which is now become general, is one great cause of emigration."<sup>1</sup> Not of course that emigration is in any way to be discouraged, much less artificially hindered, as it had been on previous occasions ; but simply that, when a patriotic people are found leaving their native soil in large numbers, the cause of this transference shall be plainly shown to be not the desire to escape from harsh masters at home, but the instinct of nature to supply the deficiencies of one district of the globe by the superfluities of another.

Among the benefits accruing to the Highlands from the acceleration of all sorts of locomotion, we may only mention in a single sentence the multiplication of country

<sup>1</sup> 'Life by Lockhart,' edition 1837, vol. ii. p. 314.

residences all along the now accessible parts of the western coast. The occupation of these residenters, though only for a few months in the summer, no doubt may act beneficially in some cases to supply the want of the resident tacksmen, or small proprietors under the old kindly system ; but it is not the Highlander proper that is benefited by these rustivating settlements so much as the rusticators themselves, who not unfrequently bring even their provisions with them from the large towns ; and beyond paying rent for a month or two, contribute little to the prosperity of the district where they reside. The little army of rustivating towns, in fact, which fringe the entrance of the Clyde and adjacent waters from Dunoon to Tighnabruagh and Ardrishaig, must be looked upon rather as outskirts of Glasgow than as centres of Highland life. As certainly as Cologne in the days of the Cæsars was not Germany but Rome, so certainly is Oban in this year of grace, not the Highlands, but Glasgow. As for rustivating settlements in more remote quarters, the presence of a stranger with a gun and a game-bag is more likely to tend to the exclusion of the natives than to their preservation. All sorts of sportsmen, when they do not find, are very apt to create a solitude.

Finally, among the events in the great chapter of accidents which have acted unfavourably on the social condition of the Highlanders, it gives me no small pain to mention the great Disruption of the National Church in the year 1843. No doubt the moral nobility, the soul of the movement, in the Highlands no less than in the Lowlands, tended to brace and to elevate the parties concerned in it ; and no doubt also the habit of self-support, which Dissent implies, has a root of manhood in it that under

favourable influences may grow to great results. But the misfortune of the Disruption movement in the Highlands is, that whereas in the Lowlands—especially in the great cities—it acts as a sharp spur to a strong Establishment, where both Establishment and Dissent may live together beneficially, “provoking one another to love, and to good work;” in the Highlands it has acted like the eruption of a great volcanic mountain, displacing altogether the original territory, and leaving only a few meagre wrecks of it peeping out from the great sea of lava.

More plainly; in not a few of the most Highland of Highland parishes there is not one man belonging to the Established Church for a hundred that belong to the Dissent; and, as the Established Church was almost the one only link that remained, in the absence of a middle class, binding the great landed proprietor to the mass of the people, it follows that the effect of the Disruption was the snapping asunder of one of the firmest of social bonds in a district where hardly another social bond remained to be snapped. One of the greatest social misfortunes that can happen to a country, is when a wide gap has been constituted between the high and the low: a gap which makes communication difficult, and sympathy shallow; and the one effective bridge to cross this gap, where it unfortunately exists, is simply the Christian Church with its broad humanity, and unrespective fraternity. But now, by this unhappy divorce between the Church of the people in those parts, and the Church to which the land-owners naturally belong, not only has a common arena of social action disappeared, but the tendency of the aristocratic classes to fraternize with Episcopacy and flirt with

Popery, has received an impulse not without perilous consequences to be faced perhaps in the near future.

In the Highlands of Scotland, it is impossible that a proprietor not bound to the people by the strong socialising force of a common Church, should walk into their hearts in the same easy way that a landlord does who drinks of the same spiritual drink, and eats of the same spiritual food. To rule a people wisely we must know them well; to know them well we must love them warmly; and the most powerful key to love in any social organization is identity of religious communion.

## CHAPTER II.

## THE LAND LAWS.

IT will have been obvious to the intelligent reader of the previous pages, that, though the recent maltreatment and misfortunes of the Scottish Highlanders are to be traced historically in the first place to their own blunder in making a war of sentiment in the '45, and again to economical changes going on in the great body of British society with which the Land Laws had nothing to do; nevertheless it seems quite certain that the high-handed inhuman and impolitic proceedings, by which that noble peasantry has been ejected from its native seats, never could have taken place but for the absolute power with which the Land Laws had armed the owners in their social relations with the occupiers of the soil. To use a language frequently to be found in the mouth of the House of Lords, while the rights of property, that is as used by them, the rights of the landowners were held to be "sacred,"<sup>1</sup> the rights of the tillers of the soil were neither sacred nor secular: they were practically null; and growing up in the

<sup>1</sup> Duke of Richmond in passing the delusive Permissive Land Bill of 1876.

nurture of these unjust laws, it was the most natural thing in the world, that under such influences as acted in Ireland and the trans-Grampian Highlands, a class of landlords should have grown up who acted on the assumption that they had the same natural and divine right to ride on the back of the land occupier, that they had to ride on the back of the horse fed by their corn ; forgetting only in their haughty haste, that, while the horseman always feeds the horse, and often, as Tennyson says, treats it as kindly as his wife, it is the tenant in most cases that feeds the landlord from his toil. On the other hand, any man with a historical eye may see at a glance that, had England at the critical moment of 1746, when the germ of a new order of things was shooting up, possessed a statesman of the far-seeing purpose and practical sagacity of the Prussian Minister, who after the battle of Jena carried through the signal agrarian reforms that braced the nerves and purified the blood of the great German people, in this case an agrarian ordinance would certainly have been passed, defining and regulating the rights of the peasantry and the tacksmen on the basis of the traditional clan system. But such a statesman did not appear ; and the middle and lower classes of the land of the Bens, the very pith and marrow of the population, were left to drift into ruin, as they best might under the double sway of feudal laws originally made for military purposes, and the selfishness of a commercial spirit, which never scrupled to sacrifice the happiness of the many to the aggrandizement of the few. In order, therefore, to understand, both how the present decadent condition of the Highlands took place, and by what agency a protection to their remaining interests, or even a revival of their local

prosperity, may be attained, we must go to the root of the evil, and not content ourselves with external applications on the parts to a few local symptoms, which it is quite plain are only the signs of a deep-seated malady, tainting the blood and bringing rottenness to the bones of the whole social system. It is indeed not to the settlement of any petty dispute between factors and crofters in a corner of Skye that the great body of Highlanders must look for the amelioration of their social condition; they must bear in mind that the whole Highlands are only a very small matter in the imagination of metropolitan legislators, not a few of whom are only too apt to look upon the whole region of trans-Grampian Scotland as only one grand playground and hunting-field for the idle nobility of England and the purse-proud plutocracy of our large towns; and that it is mainly as a pendant to the great national question of Land Law Reform on a large scale, that they have to look for any eventual righting of their territorial wrongs. Such a policy of common action with the great body of Land Law Reformers, gaining in strength every day through the land, will, in my opinion, alone be sufficient to save them from the neglect in which their grievances may be allowed to sleep on the overburdened tables of the House of Commons; a neglect under which even the rudely enforced claims of the great Irish nation lay smothered for generations, till they were planted on the platform of general recognition by the disinterested patriotism of Mr. Bright, and the fine sense of justice and large statesmanship of Mr. Gladstone. These considerations will make it intelligible to the reader why, in a work mainly intended to vindicate my suffering fellow-countrymen

in the Highlands from the misrepresentations of their enemies, I have found it necessary to enter into a formal exposition of the origin, nature, character, and social operation of the laws that regulate landed property, as the most important factor in that great branch of moral philosophy which it has become of late years customary to call sociology or social science. The scientific shape which this part of our subject must assume, seemed to make it expedient that I should set down the fundamental heads of the doctrine in a series of propositions.

*Proposition I.*—The world, as we know it, is a system of co-operative forces, working cunningly and harmoniously towards a grand cosmical result, manifested or exhibited in an array of cosmical types or forms. These forms are of two kinds, the physical and the moral ; the physical acting in the material world by certain invariable methods of operation which we call physical laws, and producing by their action that form of material things which we call Nature or the world, or more comprehensively, the universe, the cosmos ; the moral forces acting in the spiritual world by certain invariable methods of operation which we call moral laws, and producing by their action that form of regulated life among associated moral beings which we call SOCIETY. The moral forces which create society, conceived in their regulative results, as assigning to each member of the social organism his appropriate sphere of action, are subsumed under the general name of Justice, the *δικαιοσύνη* of Plato, and when looked at more specially as the power which dictates the regulation—the steam, so to speak, of the moral engine—they have their root in that sympathy of each part for the other, and with the whole, which in Christian ethics



is called Love or Charity, ἀγάπη ;<sup>1</sup> and which stands in the same relation to Justice that the mother does to her sons ; for it is impossible to conceive that Justice, or fair distribution of functions in a social organism, should exist except from the sympathy which one part feels for the other, and with the whole. These moral forces and laws which regulate the social world, are derived from the same source, and have the same sanction and absolute imperial right that the physical laws have ; they are equally of divine origin, and equally of divine right ; proceeding directly from the great source of uncreated excellence, the plastic, energizing, self-existent, self-assertive REASON of the universe, which the Greeks with St. John wisely called λόγος, and we call GOD ; the social system being in fact only one of the three great cognate fields in which the Divine excellence, from eternity to eternity, reveals itself triumphantly—the true, the beautiful, and the good.

*Proposition II.*—Political economy, as we somewhat vaguely call it, or pecuniary science, χρηματιστική as it is appropriately called by Aristotle and Plato, is a subsidiary science, taking account of the inorganic materials, and material machinery, which the moral forces require and use up in the sphere of their action. All material products, such as food, buildings, tools, and engines of all kinds, machines for making and machines for transmission, the dress which we wear, the gardens which we plant, the palace which we pile ; all these things, and

<sup>1</sup> This word, which in classical Greek simply means *liking or kindly preference*, seems to have been adopted by the Hellenistic Hebrews, to avoid the sexual associations indissolubly connected with the Greek ἔρωσ. This seems pretty plain from the only two passages, Proverbs vii. 18, and xxx. 16, where the word ἔρωσ occurs in the Septuagint.

as a necessary corollary, the labour by which they are produced, belong to the sphere of pecuniary science; because they are all produced by a material necessity, or for a material convenience, not by the action of any moral forces, or for the attainment of any moral end, except in so far as moral sentiments by the constitution of human nature, may sometimes, or as in the case of family feelings do generally, co-operate with the acquisitive energy in the production of wealth; they all have their value in money, as the conventional medium of exchange, for such material substructures, instruments, machinery, and ornamentation as can be produced by physical labour, or mental labour directed to physical ends. The most general term for the contents of political economy is what is familiarly called WEALTH; a term which, as utterly devoid of any moral contents, sufficiently indicates the unspiritual, ancillary, and servile nature of the science. It is, in fact, a mere science of materials and tools; and, as mathematics, though the measure of all things is the substance of nothing, so pecuniary science, though in some sense necessary for all things, and profitable for many things, has in itself neither reason, nor purpose, nor significance of any kind. It is like the foundation of a house, very necessary for a house to have, but of no meaning in itself at all; a laborious absurdity, if there is no house on it; like the easel of a picture, of little or no value as a piece of wood, but of incalculable worth when a Raphael or a Michael Angelo has stamped his genius on its surface. So money, as an element in a healthy social organism, owes its value to the dignity which may be stamped on it from the imperial region of the moral forces. Not how much in respect of

amount, but how and for what ends in respect of its application, is the criterion of value to wealth in any healthy-minded community. Or, take another example, money is necessary to build a church, a magnificent edifice of curiously ornate stone and lime—a cathedral; and, as the mere material product of physical labour, or mental labour ending in a purely material result, it has a definite money value; some hundred thousand pounds it may be; but there is no money value for the gospel which is preached in it. Money never created a religion, and never can pay it. It can buy the baby's cradle, and make the baby's clothes, but it never made the baby.<sup>1</sup>

<sup>1</sup> I am perfectly aware that the arguments by which certain social problems are attempted to be solved by not a few organs of public opinion in this country, are drawn from political economy, as if it were a dominant and dictatorial science on all matters of most important social concernment. But this position given to the doctrine of money is a plain usurpation of the throne of moral science, naturally enough growing up in a commercial country, and “a nation of shopkeepers;” but not the less false scientifically, and not the less pernicious socially, as pandering to the lowest, instead of stimulating the highest, inspirations of modern society. Happily these narrow and ignoble views are now met both at home and abroad, with ample contradiction. Human nature is a great deal better, even in New York, and in the brain chambers of a certain class of vulgar-minded utilitarian Scotsmen, than those pedantic money-mongers would lead us to suppose. My view as to the proper sphere of political economy, I find ably supported by Ingram in his ‘Present Position and Prospects of Political Economy,’ London, 1878, and by Cliff Leslie in his ‘Essays on Moral and Political Philosophy,’ London, 1879; and the ancient philosophers, no less emphatically than St. Paul, denounced that love of money, which is the besetting sin of all commercial nations, and which has done no little harm in our aristocratic circles, by turning our landlords into land-merchants. “*Nihil est enim,*” says Cicero, “*tam angusti animi tamque parvi quam amare divitias; nihil honestius magnificentiusque*

*Proposition III.*—Law is a body of regulations framed by the authorized heads of a social organism designed to prevent confusion in the spheres of action of the members, and to throw effective checks in the way of any irregular interference of one man's sphere with another, whether proceeding from carelessness, stupidity, or rapacity. For it must never be forgotten that liberty, though a very pretty thing, and a potent watchword, wherever the social problem is to give full scope to individual energy, is not the term under which the principal movements in the history of civilization can most aptly be subsumed. The savage, or the wandering gipsy, is in all respects a more free man than the civilized man; and the great steps in civilization are those limitations of natural freedom which we call laws. To achieve freedom from any repressive force is always only the first, and not always the most difficult step in the march of social progress; how to use liberty, when you have it, is generally the greater and the more abiding difficulty; and this use of the machinery of the social organism, is always marked by certain regulations, customs, and laws, which are in every case curtailments of the natural liberty of the individual. And much need is there, truly, that these curtailments shall take place, and on no small scale. For, as the primary motive of each individual composing a miscellaneous congregation of free agents with antagonistic tendencies must evidently be self-assertion and self-aggrandisement in some form, it follows that, if this egoistic force is not counterpoised and controlled

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*quam pecuniam contemnere, si eam habeas, si habeas ad beneficentiam liberalitatemque conferre.*"—Office, I. 20.

by some powerful social force, social organism will be impossible; and any attempted association of human beings will resolve itself with speed into a bear-garden of mutually exterminating interests. To prevent this catastrophe, where love and insight fail, as they often will do, law must interpose; and with law, authority; for, without authority to enforce it, law would be obeyed only by the good, the very persons for whom it is least necessary. So conceived, law dominates the whole domain of social life, but only in so far as it may be wise to restrict the free action of the individual for the benefit of the whole body social, and in so far as its enactments admit of being effectively enforced. Its EXCELLENCE consists in the degree in which its enactments are inspired by the divinely implanted forces of the moral organism, by justice and love, and in so far as these enactments are put forth with simplicity, clearness, and decision; its vices proceed either from the feebleness with which the moral forces express themselves, or from the usurpation of the moral throne by anti-social forces, under various forms of selfishness, by which artificial privileges are unworthily conferred on the powerful few, to the neglect and misprision of the great mass of the people. Laws in this case become the very opposite of what they were originally meant to be; and the administrators of such laws become the mark for the severest denunciations of the prophet (Luke xi. 45-6). However vulgarly mistaken for right, especially with whole classes whose interest may be bound up with their practice, such laws not only are not synonymous with RIGHT, but they give to WRONG an aspect, an attitude, a station, and an authority that allow it without offence, or rather with all the parade of propriety,

to take the place of right ; and not only so, but, as it is of the nature of law when once made to have a certain permanence, unjust laws become stereotypes of wrong, and are used as engines of the most grievous and grinding oppression without any possibility of redress ; for in such cases the historic development of the social organism, has often found the makers the administrators and the interpreters of the law—without knowing it, perhaps—banded in an unholy alliance to deprive the weaker members of the community of their natural right. Laws also are bad, when, instead of being plain, direct, and intelligible to men of average understanding, they are confused, complicated, and entangled, to such a degree as to be intelligible only to experts in the law, and with difficulty sometimes even to them.<sup>1</sup> In this case the interest of the lawyer becomes antagonistic to the good of the public ; he is paid for curing a disease which was induced by the blunders of those who made the laws, and fostered by the subtlety of those who interpret them.

So far I have endeavoured to mark out the distinctive character and operation that belong to Morals, Economics, and Law, as they affect all questions connected with landed property and land laws. Before proceeding to set forth in detail those special principles of the moral law which stamp the land laws of a country with moral nobility, and impregnate them with the seeds of beneficent social results, I will ask assent to two propositions of such general

<sup>1</sup> Hence the evangelic denunciation against lawyers, as “taking away the key of knowledge.”—Luke xi. 52, with which compare Brodrick, “English Land, English Landlords,” London, 1881, p. 75, on the complexity of English settlements as preventing the introduction of a general system of registration of the titles of landed property.

application that it is difficult to conceive any domain of science, whether physical or moral, that can be withdrawn from their influence.

*Proposition IV.*—So far as from our limited point of view we may be allowed to lay down the primary principle of the Divine action in the constitution of the universe, and of the social world, it seems to have been formulated wisely enough, in harmony with the utterance of the great Hebrew legislator (Gen. i. 28), by the familiar Benthamite maxim, the greatest happiness of the greatest number. And this general maxim, as a very slight observation of nature will teach us, must be explained further to mean the greatest happiness of the greatest number in the greatest variety of types. Nature above all things everywhere avoids monotony, just as she revolts from scantiness and meagreness. And again Nature not only wishes as many creatures to exist in as great variety as possible, but always with a fixed subordination of the inferior to the superior, according to a law of a well calculated gradation. Absolute equality is a thing as unknown in nature as absolute monotony.

*Proposition V.*—The other fundamental principle of moral science, and which, without doubt, acts with innate divine harmonies, through the whole constitution of the universe, may stand shortly, in the words of Aristotle: "All extremes are wrong;" in morals, politics, social science, and indeed in all matters of practice, the right thing is the mean term between too much and too little. Too much of a good thing is always a bad thing; and too little of a good thing is never so good as it might be.

In now bringing distinctly into the foreground those forms of the ethical ideal that work plastically towards the

formation of an equitable system of land laws, it is of no consequence theoretically whether we take our ethical norm from Socrates, the father of moral philosophy among the Greeks, from Plato or Aristotle or Zeno in ancient times, or from Adam Smith or Bentham in latter days ; or again if, leaving the school and the philosophic cathedra, we take our ideal from the sacred book of the Brahmins, the Buddhists, or from our own Christianity. For these moral systems and the morality of these religions differ only in the prominence which they give to certain favourite virtues, not in the general table and imperative sanction of all the virtues ; for the essential nature of virtue, as the organizing power in the social world, can no more be changed than the laws of attraction in the physical world, or the relations of space and number in the world of mathematical assumptions. It is no more possible to imagine a social world in which selfishness should be the dominating principle, than to conceive that atoms could come together into ordered shapes without some law of definite attraction in certain lines, or that two and two could possibly make five. The varieties in morals, on which shallow sophists, lawless libertines, and meagre scientists are fond of enlarging, are merely the variations which naturally attach to any ideal in the process of concrete realization. False moral judgments, where they occur, from the influence of passion, fashion, or habit, are in fact of no more consequence in the absolute estimate of right and wrong, than the variations in the magnet from the vicinity of disturbing forces affect the existence of telluric polarity, or the jarring notes of a blundering musician the



mathematical intervals of the scale. The concords are there, but he fails to bring them out.

For our present purpose, however, and with a view to practical efficiency, I shall confine myself to the formulas of the ethical ideal, as they are found in the Christian Scriptures, and that for two substantial reasons. With the great majority of those for whom this work is written, no authority could be appealed to at once more familiar and more weighty than the text of the gospel; and, even with that notable troop of sages or sophists, who at the present hour are not forward to pay any special homage to the great religion which has headed the civilization of the world for nearly 2000 years, it will be found on examination that their objections are directed rather to the historical groundwork, theological doctrine, and ecclesiastical form of the religion than to its ethical tendency. Only a few libertines or creatures of a sensuous reaction against an overstrained spiritualism will be found hardy enough to refuse the homage of a reverential assent to the ethical ideal of the gospel of Christ, as it is set forth in the Sermon on the Mount; in 1 Cor. xiii., Rom. xii., and not a few other passages of the New Testament, characterized in every line no less by practical sagacity and shrewdness than by purity and moral dignity.

My other reason for starting with Christianity is, that, as Goethe has pointed out in his admirable chapter on the three religions, the religion of Christ is that one in which the possibilities of reverence have culminated, not in the common acknowledgment of the Divine in what is above us, but in the much more rare recognition of the Divine

in what is below us ;<sup>1</sup> a function of the reverential faculty, which, when fairly exercised, must manifestly put forth its virtue with special potency in moulding the social relations between the lords of the land and the tillers of the soil.

*Proposition VI.*—As an ethical force, Christianity is distinguished from other ethical systems (1) By its thorough interfusion of morality with religion, and religion with morality ; (2) by its preaching God prominently under the aspect of fatherhood ; (3) by the fervency and prominence with which it employs Love as the great moving power of social life ; (4) by its looking on our present earthly existence as an arena for the formation of a pure and noble character in preparation for higher destinies in an after stage of existence.

More particularly, and with special reference to our present subject, Christianity—

(1) Puts a value on man both individually and socially ; not by what he HAS, but by what he IS. In common with all true philosophy it fixes its eye on the essentially good, not on accidental good ; which essential good is five-fold : health, strength, beauty, truth, and goodness ; and of these five Christianity insists pre-eminently on the latter two ; as the first three were attended to by the Greeks, and may be allowed in the general case to take care of themselves. Therefore all laws, consuetudes, or social habits of mind, that tend to give a personal value and a social significance to what a man has rather than what he is ; to what he possesses rather than what he does ; to wealth rather than to character ; to property, independently

<sup>1</sup> 'Wisdom of Goethe.' Edinburgh, 1883, p. 57.

of the use made of property—are anti-Christian, and ought to vanish from every society professing to be regulated by Christian principles.

(2) The idea of humanity as a common family under a Divine fatherhood, and the emotion of love as an attractive and co-operative force binding together the members of that family into a common society acting harmoniously for the common good, establishes brotherhood, or fraternity, as the characteristic feature of a community of Christians. Every Christian Church is in this way a moral democracy, all the members *quâ* members being equal. There is no priesthood in Christianity, as there was characteristically in all heathen religions, especially in the Egyptian, the Jewish, and the Brahmanic religions. And all forms of Christianity, as Romanism and a certain extreme section of the Anglican Church which set forth a sacerdotal caste as a Divinely-instituted part of the Christian system, must be absolutely denounced as departures from the pure Evangelical type, and as diametrically opposed to the whole spirit and tendency of the teaching of the Saviour. Though not a political body, and often rather eschewing than courting connection with political parties, the Christian Church carries in its soul, its atmosphere, and its constitution, a democratic element, as strongly pronounced as the rights of humanity in Burns' famous song, "A man's a man for a' that." Therefore all laws, consuetudes, and social habits of mind, that tend to weaken or to destroy this feeling of fraternity among the members of society; all laws and habits that tend to separate class from class; all arbitrary preferences, artificial distinctions, oligarchic combinations, or selfish lordships of whatever kind, are in their nature

essentially anti-Christian. Kindly communication and free distribution of all good things, as much may be, not exclusive possession, is and must be the most distinctive feature of a society pervaded by a Christian spirit. A reverential regard of each member for the rights of the other members of the family ; especially a tender concern of the strong for the weaker members, and an honourable preference one to another, instead of a lawless ignoring one of another, or an insolent over-riding one by another, will be as prominent in the large conduct of such a society, as they are seen in the petty forms of drawing-room politeness. The texts, "In honour preferring one another" (Rom. xii. 10) ; and "Look not every man on his own things, but every man also on the things of others" (Phil. iv. 4), if systematically applied to the adjustment of the conflicting claims of the different members of a social organism, would produce results in the relations of class to class, very different from some which now exist with no small share of reputable recognition.

(3) But this democratic fraternity so characteristic of Christianity, does not imply an absolute equality, much less an identity of function in all the members of a Christian community. In a common family all are brothers and sisters, and as such all are equal ; but they are not equal either in natural endowments or in acquired distinctions, or in the functions which they perform in the family. So in the larger social family, variety of position creates diversity of classes, and subordination of one class to another for the effective action of the body social, as beautifully stated in a classical passage by St. Paul (1 Cor. xii. 12—26). Here the practical sagacity, shrewdness, and common

sense of the great original preachers of the gospel, stand out in a broad line, marking them off from communists, socialists, and all dreamers about the possibility or the desirability of an absolute equality in all persons and things belonging to the constitution of society. These persons belong to a class who, whether goaded by necessity or blown with conceit, would be wiser than God, and more powerful than Nature ; and whosoever sets himself seriously to do battle against these is mad. Any imagined ground for Communism, from Acts ii. 45, labour under the paralogism of making an extraordinary burst of self-renunciation and self-sacrifice on a great occasion a rule for common conduct in ordinary circumstances. This and other nonsensical conclusions, which certain persons are forward to draw from Scripture, have no other origin than their own want of common sense, and the prosaic literalness with which they forget the text which says, "The letter killeth, but the spirit maketh alive."

(4) The Christian family is a working family, and tolerates no idleness (John v. 17 ; 2 Thess. iii. 10). Every member of the body social, as belonging to the body, is incapable of isolation, and must study to perform his function steadily and harmoniously. A so-called fine gentleman who does nothing but live on money which he did not make, and spends it on unreasonable or sensual excitements, what he calls pleasure, is not recognized in a Christian community, nor indeed in any rational community. (See what Socrates says in 'Xen.' Mem. i. 2, 59.) Cheerful expenditure of toil, each with each, and each for all, and occasional self-sacrifice of a part for the good of the whole, will be found dominant in every society where Christianity is more than a form.

Our basis of operation being thus secured on the unchangeable principles of Divine right and human brotherhood we may now proceed with safety to consider in detail the laws affecting land, as they naturally flow from these principles; and then we shall inquire how far the existing land laws in this country approximate to, or decline from, the Divine ideal which it is their function to realize.

*Proposition VII.*—Property in land is the most original, the most fundamental, and the most permanent of the elements out of which the structure of society grows; it is, moreover, the stock from which patriotic sentiment, so necessary to the well-being of a State, most luxuriantly spreads itself. It is at the same time the natural and most healthy nursery of not the least important class of the body social, a sturdy, laborious, thrifty, well-braced, and not over-stimulated rural population. It is property, further, in a commodity of which there is only a limited quantity in any State; and for all these reasons it is an element of social well-being which naturally claims, and always has obtained, a special regard from the law-makers of every well-constituted community.<sup>1</sup>

*Proposition VIII.*—By the law of nature the land belongs to nobody, or to anybody, like the water or the air; but, though it naturally belongs to everybody, it may be appropriated by anybody just as food is appropriated by eating, or water by drinking. The natural organ of appropriation in the case of land is labour, the work of a man's hands belonging to him as necessarily as his nails to his fingers; and by the law of nature a man is entitled to seize and

<sup>1</sup> On the superior importance of the agricultural population in a State, see the last paragraph of 'Adam Smith,' Book iii. ch. 4.

appropriate as much land as he can turn to good account by labour. Beyond this, in the first stage of society, he has no right to an inch.

*Proposition IX.*—It must be noted here particularly that the above proposition belongs purely to the original state of nature before nomad societies—for nomads have certain laws—or village communities were constituted. In England at present there is no land which belongs to nobody, and which therefore may be appropriated by anybody; neither does Britain or Ireland possess now any property analogous to the *ager publicus* of the Romans, or the unappropriated land in our colonies; that is, land belonging to the State, and which may be apportioned to the citizens under certain regulations, and in certain proportions. The notion recently vented that all property in land properly belongs to the State, so far as history helps us, has not a shadow of proof. Land was appropriated by labour, before the State was heard of; and all that the State could do was to regulate its possession, and afford facilities for its transfer.

If any congregation, or class of people—nomads, gipsies, or such like, in the early stages of society—choose to settle on any particular spot, and to mark out a territory which they do not cultivate, and yet think it expedient, in the view of expansion, or of protection, to claim as belonging to the tribe, they may fairly be entitled to do so; but they must be prepared to fight for it; for no fear of danger from possible encroachment, nor expectation of probable expansion, can confer on them an absolute right to claim land on which they have spent no labour, or deprive other persons of the original universally human

right to appropriate land on which no labour has been spent.

*Proposition X.*—As society advances, and regular states and kingdoms have grown into a firmly compacted unity, land may be acquired indirectly and independently of any occupancy of the soil, or any labour directly spent upon it, in the way of exchange, thus—A man may be appointed by the society to keep watch at the borders of the appropriated land, and keep it free from the incursions of marauders and wild beasts ; and for this service done to the whole community, he may fairly, in the way of exchange for his services and reward, be esteemed worthy of a plot of land which he does not cultivate ; and it may be in all likelihood a much larger plot than the generality of the society possess, in consideration of the importance of his services, and the danger to which he is exposed in the performance of his duty. Of this we have a familiar example in the case of Bellerophon ('Homer,' II. vi.), and recently of Prince Bismarck in Prussia. And there can be little doubt that the position and privileges of the lords of the manor in England and the Channel Islands arose somewhat in this way.

The plot thus possessed, but not cultivated, by a member of the society whose avocations prevent him from doing direct duty to the soil, as the land may not remain unoccupied without any profit to society, will naturally lead to the phenomenon of vicarious occupancy, what we call tenancy, the occupation and expenditure of labour on land by a person not the owner, and who holds it in the owner's name and for the owner's benefit. We see here also one natural origin of inequality in property ; and the absurdity of sup-



posing that an absolute equality among occupants of the soil can be maintained, when from various causes there exists so much inequality in the value of the labour which is expended directly or indirectly in obtaining its possession. If the proprietors of the village communities on which so much has been lately written, were originally constituted on principles of absolute equality—say an acre to each member of the community—they could remain so only on the supposition of a general state of torpor and inactivity of the tillers of the soil hostile to all progress ; for progress certainly means inequality, just as certainly as a race means priority, when the racers arrive at the goal.

*Proposition XI.*—In the history of all nations, especially in that stage which may fitly be compared to the young man's period in the life of individuals, the spontaneous drift or calculated movement of great masses of men in contrary directions, and with contrary tendencies and conflicting interests, gives rise to WAR ; and the upshot of war, so far as land is concerned, is that sort of aggressive seizure and forcible appropriation which we call conquest. By right of war, or more correctly by the necessity of his position, the conqueror is legally master of the conquered land, and will make such use of his masterdom as will at once secure him in his possession, and conciliate the affections and gain the loyalty of the conquered people. And this he does (1) by interfering as little as possible with the usages of land ownership and occupation that prevailed in the conquered country ; (2) by so planting himself with an armed force at various strong points all over the country that he will be able to nip in the bud any uprising against his sovereignty among a people who will naturally be

inclined, for some generations, to kick against the foreign yoke. In order to do this he will find it in the general case necessary to reward his foremost champions and most zealous supporters, by assigning them large tracts of land of which they shall exercise the lordship. And here we have the origin of those immense properties in land possessed in various countries by the nobility or aristocracy, out of all proportion sometimes to any labour they ever spent on the soil, or any service for labour. The direct object of their vast ownership was MILITARY. The lordship of these immense tracts of land was given not only as a reward for past military services, but on the condition that the holder, as the military head of the district, should be able to command, at any sudden call, the greatest possible amount of effective military force for the defence of the kingdom. Similar to the grants of land conferred by conquerors on their great captains for military service, are the grants of land made by kings or powerful ministers to individuals who assisted them in the political or religious struggles in which they were engaged. In this way, as is well known, the foundation was laid for the great landed influence of the Cavendish and Russell family, by the confiscation and secularization of Church lands in the time of Henry VIII. and Edward VI.

*Proposition XII.*—But even in those warlike times, when wars were more an amusement and an occupation than a trouble and an expense, as they are now, men were not, and could not indeed be always fighting; then as now *Bellum pacis causâ* was the necessary postulate of the situation. Wars were made that the people might have leisure to live in peace, cultivate the ground, and enjoy their existence, when

the quarrel was settled. The great lord of the land then became the steward of the king and the servant of the State, for the protection, guidance, encouragement, and advancement of the industrious people in his district ; and his social function was to keep as many people on the soil as could live comfortably together for economical purposes in time of peace, as for military purposes in time of war. In no case, therefore, could he be entitled to say that he held his property for his private pleasure alone, and not for the good of the community. He was a member of a body social, of which the limbs were as necessary to effective action as the head. He was, as it were, a bishop or overseer (*ἐπί-σκοπος*) in secular affairs, not for his own aggrandisement, but for the prosperity of his flock. In every way he was made to feel and to act on the principle that OWNERSHIP IN LAND EXISTS for the SAKE OF THE PEOPLE ; NOT THE PEOPLE FOR THE SAKE OF THE OWNERSHIP. He could never dream of holding his land on any other terms than the monarch whose local representative he was ; and the monarch, according to all theories, whether by Divine right, or by the right of the sword, or by the suffrage of the people, sits on the throne not for his own pleasure or the glory of his family, but for the good of the people whom he governs.

The position and functions of the owners of the land in the body social, as here indicated, stand out so prominently, are of such vital importance to the prosperity of the State, and contribute so much to the smooth working of the machine of society, that it will be wise to look a little more narrowly into the principles on which they stand and the special sphere of their action. The military duties in

terms of which the great landowners originally held their property, were sufficiently precise and sufficiently imperative to ensure their regular performance. But when peaceful times came, not by pleasant intervals only, and between long wars, but as the normal state of an orderly society, the owners of the soil were left to themselves in respect of local duties, which, if well performed, earned no special recognition from the State, and if ill performed or neglected altogether, incurred no penalty. It was not in human nature to expect that public duties, of which the measure was left altogether to the good-will of the individual, could in all cases be faithfully performed; and in a country of emphatically aristocratic character, where the crown was daily becoming weaker, and the mass of the people not strong enough to maintain or even to know their rights, and where the makers as well as the interpreters of the law in the general case were owners of the soil, in such circumstances it could not but be that the class of men whose position called upon them specially to protect, cherish, and encourage the growth of a manly and well-conditioned local population, were found by the corporate instinct well-known to moralists, making and maintaining enactments, the direct tendency of which was to strengthen their own position rather than to elevate that of their dependents. Being left by the State to assume and exercise as much power as they pleased, they would not be slow to use it; and this total want of responsibility in the exercise of their social functions, puts them in a condition which must blunt the edge of our censure, when they commit great social offences, and presents them to our regard more as objects of pity than of blame. I can point

to no other class of vital importance to the health of the body social, that enjoys this unhappy immunity from the beneficial effects of a compulsory spur to the performance of public duty. The judge must sit on the bench with a certainty of brain toil, very far often from being pleasant or profitable, otherwise he gets no salary and forfeits his social position; the educator must spend many dull and dreary hours in the inculcation of doctrines not always willingly received, and often lightly forgotten; the member of Parliament, if the most important person in a democratic State, is certainly not the most idle; the Speaker of the House of Commons pays for his representative throne with an amount of pachydermatous insensibility to the factious wranglings and unreasoned babblings of a disorderly assembly, for which the official dignity of his position can appear scarcely an adequate compensation; and the Prime Minister for the time in such a country as ours, though he may sometimes rejoice in the attitude of an Olympian Jupiter controlling the storm, at other times, more truly than even the Pope, is the servant of the servants of whom he is officially the head; in both cases he holds a place and maintains a position where the strength of Hercules, and the patience of Job combined, will not be too much for the need. All these men, and all other public servants, *must* perform the duty that belongs to their position, in the eye of the public, whether easy or difficult, pleasant or disagreeable; only the landowner has duties to perform which he may neglect, and which he frequently does neglect, without blame. A man may be the worst possible landlord, and yet be as socially respectable as he is legally unimpeachable.

With all the kindly feeling which this particular position of the landholder is calculated to evoke, we now ask articulately what are the duties which the principles of social ethics, especially as inspired by Christian sentiment, impose on all that class of citizens? Now, no doubt here, to begin with what is lowest, a strong economical basis must be laid for the proper management of an estate; for, though a landowner is not a land merchant, and it is not his business in any sense to make money, and many things must be done by all good citizens in the conscientious performance of public duty, in which a pecuniary loss must be suffered as the condition of a social gain; nevertheless, as a general rule, the wise administration of property will pay in the long run, and a fair regard for profitable returns will prevent a proprietor from wasting his means on schemes which are more magnificent in the project than beneficial in the results. Christianity, in particular, while it does not give the slightest encouragement to the accumulation of wealth in any shape as a sovereign motive for exertion, and a final end of social activity, does not prevent, but rather encourages, that growth in wealth or property which arises naturally from well-directed industry or well-employed capital. But Christianity, as a religion of essentially unselfish motives, and more inclined to fraternal distribution than personal appropriation, must add an additional sanction to those dictates of sound policy which, as we have seen, prescribe to the holder of land the functions of a secular episcopacy, of which the prime duty is not to fleece but to feed the sheep which pasture under the crook. Christianity, in the name of the great Father of the human family, wherever it

is vital, must insist that the land, the common gift of God to all the human family, shall either be tilled personally by the holder, or held for the encouragement, direction, guidance, and furtherance of those who do till it. And this encouragement, guidance, and furtherance the proprietor can adequately give only by his personal presence, superintendence, and co-operation. A landed proprietor, in the Christian estimate of social duty, has no more right to be absent from his property than a bishop in spiritual matters from his diocese. Therefore, in the first place, absenteeism, or systematic absence from the theatre of local duty, without excuse of public duty, is un-Christian. Again, the maxim that "a man can do what he likes with his own," so often heard in the mouths of British landed proprietors, is essentially un-Christian. No member of a body social, much less a Christian body social, can say absolutely that he can do what he likes with his own. No doubt he can exercise a greater liberty over some things than others without being called to account ; he may choose his clothes, or his furniture, or allow his little plot of garden-ground to be choked with weeds ; but, though the public has no right to call him to account for that, his family reasonably may ; all waste in one direction is the prevention of gain in another ; and no master of a family has a right to fling recklessly away the possibilities of family gain. In the same way the landowner, as one of the most important members of the great State family, is not entitled to use his property for his own personal pleasure ; he holds his land as a steward for the people ; and, if he uses it for any other purpose, such as expelling the inhabitants to save himself trouble, or to people it with wild animals, the

public in a well-governed community is entitled to call him to account for this abuse of his position. Furthermore; though, as we have seen, a natural and moderate accumulation of landed property, as of other wealth, cannot be said to be opposed to Christian principles, at the same time an immense and disproportionate accumulation of landed property in the hands of a few persons withdrawing on a large scale from the common stock a commodity of which there is only a limited supply, and for which there is naturally in a populous country a great demand; such abnormal accumulation, especially when assisted by artificial laws, fostering the lust of accumulation, locking up the land for generations in the hands of a few, and counteracting the natural process of redistribution, is essentially as un-Christian as it is impolitic; anti-Christian because the lust of immense possession, and the craving after territorial power, or immense pecuniary returns which follow possession, are of the nature of the self-regarding pursuit of externalities, which a philosophical religion discourages; impolitic because the multiplication of immense properties in the hands of a few tends to separate class from class, and to dissociate great masses of the people from the soil to which it is their pride to belong, and their duty to defend. The evils which these large accumulations of land brought upon ancient Italy were deeply felt in the days when Pliny wrote the famous sentence, *LATIFUNDIA PERDIDERE ITALIAM*; and their consequences in the desolate face of the Campagna remain to vex the eye of the human-hearted traveller even now. The spirit of Hebrew legislation, as well as the express utterances of the prophets, place before us no less distinctly the finger of Divine



disapprobation pointed against those who, by abnormal accumulations of land, sacrifice the well-being of the many to the aggrandisement of the few ;<sup>1</sup> and in large tracts of Ireland and the Highlands of Scotland the bad effects of large properties are patent to the most superficial observer, as giving a direct encouragement to absenteeism and factorial management, and, through these, to the withdrawal from the local life of the community of that moral element of kindly intercourse and friendly help which makes rich the blood of the people, and is the only firm cement of the social architecture.

If it be true, as has been said (Nicolson, 'Tenants' Gain and Landlords' Loss,' p. 29), that, in the relations of landlord and tenant, "a lord is, as a rule, in all respects better than a laird ;" that is, partly because he is a *lord*, and not because he is a large owner of property ; partly, also, it must not be supposed that because a lord, who is owner of half a county, can afford to be a kind landlord, he would therefore be doubly kind if he were owner of a whole county. The word *laird* also requires definition ; a small laird with a rental of £500, and a moderate laird with a rental of £2000, and a large laird with a rental of £5000 a-year, neither socially nor economically fall exactly under the same category. I have not the least doubt also that, as Norman Macleod says (*Caraid nan Gaidhael* xx.), "the large landlords, *when they are resident and really manage their estates*, are often more generous than small ones"—of which the reasons are not far to seek ; but they afford no

<sup>1</sup> Isaiah v. 8 ; and see on this text an excellent discourse by Dr. Walter Smith, Edinburgh, 1884, entitled *The people's portion and what became of it* ; also *Kildrostan*, a poem by the same.

argument for an artificial encouragement of monstrous accumulation, and the evils of absenteeism that naturally flow from it.<sup>1</sup>

*Proposition XII.*—We now come to close quarters with a very difficult and delicate matter, and a matter of special concernment in this country—the relation of landlord and tenant as a matter of legal contract, and the phenomenon of rent. But when we talk of legal contract in this matter we must avoid the fallacy of assuming, as for certain purposes it is so convenient to do, that legal contract in matters of lease means absolutely free contract.<sup>2</sup> Absolute freedom of contract between any two parties implies perfect equality of social position, and perfect independence as to the consequences of accepting or rejecting the offered conditions of the contract; but how little this is the case as between a small Irish or Highland tenant and a big landlord need not be stated. An English barrister of authority in this matter asks: “How can that be called freedom of contract when one of the parties acts with a multitude of legal presumptions in his favour?”<sup>3</sup> And, if this can be said in cases where the party to whose prejudice the legal presumption acts is an agriculturist of some substance in Lincolnshire or Haddingtonshire, to talk of freedom of contract between an omnipotent Hebridean Chamberlain and a poor Highland crofter is a trick of verbal legerdemain with which only those will be puzzled

<sup>1</sup> Sir WALTER SCOTT'S opinion on the evils of factorial administration, and on the necessity of direct personal intercourse between a Highland landlord and his people, will be found above, p. 48.

<sup>2</sup> “Practically the law of landlord and tenant has never been a law of free contract.”—Frederick Pollock.

<sup>3</sup> ‘Leadam,’ ii. p. 14.

who wish to be deceived. Some men possessed by the one idea of free trade wish to break down all distinctions between landed property and movables ; but, however good a thing free trade may be under equitable conditions, the constitution of things forbids that the watch in a man's pocket, and the land on which he builds a house or tills the soil should be exactly in the same condition in questions of legal transfer. A purchaser in a large town may go from shop to shop, choosing and cheapening at his will, till buyer and seller are pleased to agree on a fixed price of transfer ; but the poor Highland crofter, whose situation has been made uncomfortable by a factorial ordinance in favour of a big farmer or a deer-stalker, has no resource ; he must accept the unfavourable conditions, or wander into another glen, where he will quite possibly find the fences of another deer-forest barring his way, or drift in despair into the back slums of some smoky Glasgow, with loss of health and character, and everything that makes life enjoyable to a man accustomed to breathe the mountain air.

With this understanding we may now proceed to consider the peculiarities of the different cases, that, in the varieties of practice, fall under the common name of location or lease in land. A lease, as commercially speaking a bargain between two parties in reference to the use of land, makes it necessary that they shall contribute each his apportioned part towards the due utilization of the soil ; the one party supplying the material, the other the peculiar kind of labour necessary to give that material a commercial value. In practice the following very different cases may occur :—

(1) The land possessed by the owner, though acquired

by him in right of conquest, or as a reward for public services, or in exchange for the form of stored labour called capital, may in itself, as he has received it, be utterly without actual value, the only worth that belongs to it being the prospective value of possible utilization from the labour of some future occupant. An example of this lowest stage of value in the material of the economical bargain we have in many of the unreclaimed Irish bogs and Scottish moors. Now in this case, supposing that a certain acreage of the waste land has been reclaimed by the unassisted labour of the industrious occupant, without the slightest contribution from the owner of the waste, what would equity prescribe as the measure of the rent or acknowledgment to be paid to the lord for the use of his land? To answer this question we must inquire what policy the State should adopt as to the comparative place of occupier and lord in the social system? And here, of course, the rule will be that big men and small men are equally necessary to the body social; but, as the small always lie very much at the mercy of the big men, it will be the duty of the State to consider, in the first place, how the poor man may get the full value of his labour, and be encouraged to proceed in the great social work of redeeming land from the waste. It will come forward emphatically as the protector of the small against the great; and in the case of the tillers of the soil, will make such regulations, and establish such rates, as will enable the labouring man to live with some degree of decent comfort on the soil; and over and above the gross profits of his tillage to be able to lay by a certain amount of annual net profits, as a provision for old age, a dowry to his daughter, or an oblation to the priest. After these

necessary demands of a sound moral economy are supplied, what remains will go for rent to the lord of the soil—small in this case necessarily, and very small justly, in proportion to the smallness of his contribution towards the economical result. For it is not in this case as, for example, in the case of a partnership, where one partner contributes say £2000 to start the business, and the other £1000; for in this case the party who contributes the smaller sum, not only gives a thing which is immediately profitable to the other party, but which, if he choose to withhold it, and retire from the joint concern, is immediately profitable to himself; whereas what the landlord in the supposed case contributes to the common work is neither useful to himself if retained, nor useful to the tenant, till by the sweat of his brow he has made it usable. Let us therefore say that in such a case of occupancy of waste lands, the tenant shall hold the ground rent free, or at a merely nominal rent for a certain number of years, and that after the lapse of that period a tenth part of the net profits of the agricultural labour, or in extreme cases a twentieth, or a thirtieth, shall in equity fall to the owner of the soil. But more than this; as it must be the object of every sound system of national economy to give special encouragement to the class of people whose labour is habitually employed in redeeming the land from savagery, no reward for well applied labour of this kind will seem so equitable as giving the occupant a firm hold of the soil which he has created, against the possibility of arbitrary ejection by the lord; his tenure, as in the well-known case of the Roman *emphyteusis*, will thus become absolute, and under the burden of a slight acknowledgment he will become virtually the owner of the

soil. Somewhat in this fashion, so far as we can learn from early history, the tenure known in English law under the name of copyhold, arose out of the villainage of the early village communities ; and proceeding a step further in the same direction plainly indicated by equity, the State at an early period might have enacted, what it did only the other day, that every holder of such originally waste land in perpetuity, which had received its marketable value altogether from the labour of the holder, or his predecessors, might, after the lapse of a certain period, and the accumulation of a certain number of periodical payments, be held in equity to have more than paid the lord for the use of the soil, and entitled the occupier to be treated in law as absolute owner.

Now suppose the reverse of these equities to exist in the practice, and be sanctioned by the law, of any country ; what would take place ? In the first place, the selfish landlord whom no law prevented from doing what he liked with his own, and who was entitled as a dealer in land to screw as much money value out of his customer as he could get, might impose on the poor cultivator such a rent as would cut off the possibility of all profits from his labour, and leave him only enough for bare existence ; and not only this, but might turn him off whenever it suited his convenience ; nay more, with a maxim of the civil law in his mouth, *quicquid plantatur solo solo cedit*, he might appropriate all the fruits of the continuous labour of generation after generation on the soil, and let the land at a high rent, of which not a penny could ever have seen the light but for the thrifty industry of the man whom he thus ungraciously extrudes.

This is a supposition : would it were nothing more ; but unfortunately, here in Great Britain and Ireland it has been for centuries a fact, a most ungentlemanly and unjust procedure in every view, and yet maintained persistently by noble lords till quite recently, when an act of simple justice was wrenched from them as one of those “ sacred rights of property ” with which it was sacrilege to interfere.

In illustration of the manner in which, under bad laws, or careless action of the Government, or both, an industrious free population may be extruded from the soil which they had cultivated, and their place supplied by the dependents of a rapacious aristocracy, we cannot do better here than insert the famous chapter of Appian, on the *ager publicus* of the Romans, the fruit of conquest, and as such falling legally under the direct ownership of the State.

“ The Romans when they subdued Italy, piece by piece either took part of the land into their own possession, and built cities on it ; or, if cities already existed, they told off settlers from their own body to possess them, and to save the expense and trouble of keeping up garrisons in the conquered country, made the following arrangement :—The cultivated land they divided among the settlers, either on sale or on lease ; but the waste land of which, especially after a long period of war, there was a great quantity, not caring to make a formal division of it, they made free by public proclamation for any persons to occupy who might choose to expend labour upon it, on condition of their paying a tithe of the produce in cereals, and a fifth of orchard trees and other fruits not grown from seed. There was also a certain rent paid by those who used the land for grazing sheep or oxen. And this policy they adopted with

a view to encourage the local population of Italian yeomen, who were a most industrious race, and admirably fitted for doing good service in war. But the result was very different. For the rich men, laying hold of the undivided land, and being undisturbed in their possession, became confident that they might defy the State claims, and went on, partly by purchase, partly by extension, appropriating the properties of the smaller men, till they became owners not only of their own original manors, but of whole districts; and in the cultivation of this land they employed not free men, who were often absent in the war, but hired labourers and shepherds, reaping at the same time a rich harvest from the prolificness of the slaves whom they maintained on the soil, and whose children were a source of wealth. And in this way a few proprietors acquired monstrous wealth, and the slave population increased, while the free Italians were reduced more and more in number, besides being ground down by taxes and continuous campaigns; and, when the wars were over, they found their old crofts in the hands of the lords of the soil, whom it suited better to have serfs than free men for their cultivators."

The application of this account to certain passages in the economical history of the Highlands is obvious; the small rent paid to the State, the sovereignty of the State in Rome represented by the guardianship of the head of the clan in the Highlands, and the usurpation of the public lands by the patricians, corresponding to the usurpation of clan-rights by commercial-minded landlords, clothed with absolute power by feudal charters; and the sacrifice of the people in the one case to a population of slaves, and in the other case to south country shepherds, gillies, game-



keepers, and menial dependents, are points of striking parallelism, from which those only will fail to learn who are determined not to learn. So strongly does the unpruned power of the rich in all ages gravitate towards the humiliation and degradation of the poor.

(2) On a slightly higher stage of occupancy, the land, we shall suppose, though far from fit for agricultural purposes, is in a less wild state and of somewhat better quality ; and the landowner supplies at his own expense the dwelling-house and steadings which belong to a well-conditioned rural economy, meagrely, however, and shabbily, as landlords when left to themselves will often be found to do ; in this case the landlord may consider himself handsomely paid if he receives a fifth, or it may be a sixth of the net profits of the tenant.

(3) Again ; if the soil is of any average value, and well cleared from rocky and boggy impediments to culture, and if, moreover, the owner of the land, with a kindly regard for the comfort of the tenant, shall have provided him with a dwelling-house and steadings on a liberal scale, in this case equity will seem to demand that while two-thirds of the net profits remain with the expender of labour on the land, one-third shall go to the landlord, in name of rent, or by way of interest for the outlay which he has made in the domiciliary furnishing of the farm.

(4) On a higher scale, and nearer to the actual condition of farm management in England, Tuscany, and other countries of highly advanced rural economy, the land may either be of great value in itself, or may have been made so by artificial labour expended on it, in the shape not only of necessary farm steadings, but of drainings, manures,

fences, and other feedings and furnishings of the soil. It is easy to see how a zealous and intelligent landlord may, in various ways, put the occupant upon a plan of utilizing the soil that could never have occurred, and, if it had occurred, could never have assumed a practical shape under the hand of the tenant. Of this we have a notable example in the Duke of Argyle's interesting pamphlet on the economics of his island of Tiree. With the spirit of intelligent enterprise which belongs to the scientific mind, his Grace had perceived that the sea-weed so plentifully cast on the shores of that island might be profitably utilized by establishing a manufacture of iodine in the island; a manufacture which, of course, implied the employment of labour on the island, and a certain commercial gain arising from causes to which, as his Grace says, the occupants of the coast had contributed nothing. Now in this case, if we start with the supposition that the sea-weed, by the law of the land, had been held as a natural increment of the tenants' beneficial occupancy, on such a supposition—unfortunately unknown to our landlord-made law—the landlord, if he wished to manufacture iodine from the surplus of the sea-weed, would have been obliged to pay rent to the crofters, just as they pay him rent for the land; and in this way a state of things would start into existence, the very reverse of the case first put, p. 138; viz. as the material supplied by the tenant was in itself a material utterly worthless, and incapable of being used for any profitable purpose without the aid of scientific skill to be supplied from another quarter, the person who contributed the skill necessary to give the material its marketable value, should be the principal person to profit by the operation; and

accordingly, here we shall say, that as the lowest style of tenant paid the landlord one-tenth part of the net profits for labour expended on the land, so in this case the landlord would in equity be called upon to pay no more than one-tenth of his mercantile gains from iodine to the poor crofters on the shore. The obvious justice of the principle involved in this relation of the parties led to the sharp line of distinction drawn in Mr. Gladstone's Irish Bill of 1881, between those estates in Ireland where the holding has been maintained and improved by the landlord, and those other estates farmed on the characteristically Irish system, where the landlord did nothing, and pocketed as much or as little as he could get.<sup>1</sup> In fact, we may say, in opposition to Mr. George's notion that the land as the free gift of God should belong to all men, and be held by the State for the benefit of every citizen, that the land in many parts of England is as much a manufacture, when compared with its original state at the time of the Conquest, as the silk gown of a judge in Westminster is a manufacture from the spinning of the worms that feed on mulberry leaves in Tuscany; and the soil thus created has been, in not a few cases, a free contribution from the extraneous wealth of the landlord as much as the result of tenants' labour expended on the soil. In this case, therefore, if we wish to be just, we might fairly adopt that apportionment of the profits which is familiarly practised in the publishing trade, viz. that the author of the book and the publisher, after paying all expenses, shall divide profit and loss on the business.

(5) Ascending yet higher in the scale, the landowner

<sup>1</sup> Speech, p. 23.

may be a gentleman who not only provides most liberally in the way of feeding and furnishing the soil for the occupation of the tenant, but he may be a person who, from considerations of amenity, or patriotism, or merely in the way of finding a vent for his energy and enterprise, becomes what is called an improving landlord ; that is, a landlord who makes a business of improving the land above what the utilities of a profitable occupancy demand, for the pure pleasure and luxury of spending his strength and his capital in this way ; or it may be for the solace of his soul with the consciousness of an approximated ideal above the righteousness of the economical Scribes and Pharisees of the day. In this case the landlord has no right to expect that the occupant will pay him a rent in any adequate proportion to the capital which he has expended on the ground ; for the occupant did not require it, and cannot afford it. In all matters of supererogatory decoration, such as ornamental cottages, the landowner is paid not in rent but in beauty, and the pleasure of a beneficent energy which, to a good landlord, one of Nature's nobility, is better payment than anything that money can procure. In every station of life, indeed, and in the exercise of every most important function, a proper man will understand that the best things he can do for the benefit of society, in the position which he occupies, are precisely those for which he can receive no pecuniary return ; and in not a few cases he must make up his mind at the expense of a considerable pecuniary loss to achieve a great moral gain.<sup>1</sup>

<sup>1</sup> Among improving landlords in Ireland, none is more notable than Mr. Malony of Dunmore, Kenmare, whose valuable letter addressed to Mr. Forster (Dublin, 1880) deserves to be carefully weighed by all

(6) Lastly ; the land, though of little value in itself, may be valuable to the owner by reason of some accidental circumstance, as the sudden rise of a small village in the neighbourhood into the dimensions of a large town, as at Galashiels, or some pleasurable amenity that may be connected with it when preserved in its natural state. In such a case, if a tenant is extremely desirous of holding such a piece of ground, he must be content to pay what may be called a fancy price for the occupancy. He cannot force the owner to sacrifice a great prospective advantage for a petty profit in the present. Only by special Act of Parliament, and some urgent social necessity, could a landowner be forced to accept a moderate rent in cases of this description.

In the arrangement as to pecuniary profit made between the lord and the occupant of land, I have talked only of lease as the general name for that relation, and of rent as the form of the acknowledgment made by the occupier to

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students of the Land Question. Nothing was more natural than that the best landlords should sometimes, as in this case, have come forward as the most decided opponents of Mr. Gladstone's Act, because they were precisely the sort of persons for whom no legislation was necessary ; but in this case we must bear in mind that human laws are made in the first place not to reward those who do their duty, but to punish those who neglect it ; and in the limitations often necessary to be made, whether to punish this neglect of duty or to prevent it, it can in many cases not be avoided that the many good must suffer for the few bad. The landlords in Ireland have been divided into three classes by Judge McCarthy, sitting as a Land Act Commissioner in Kenmare, in October, 1883, when I happened to be present, viz. the improving landlord, the careless landlord, and the selfish landlord ; a classification with regard to which it may be safely said, that if the third class had not existed, no Land Act would have been called for.

the owner of the soil, because, whether in the form of tenant at will, or tenant for a definite period, or perpetual tenant as in the Roman *emphyteusis*—the Scottish feu farm—the contract between the parties is substantially a contract of letting—*locatio*. But it is not at all necessary that the relationship shall take this form ; it may as readily take the form of an agreement for common conduct and common risk, as in the case of a mercantile partnership ; and this is actually the state of the agreement in the familiar instance of the metayer system (Ital. *mezzerie*), of which the valley of the Arno in Tuscany presents a blooming spectacle to the eye of the tourist. On this system a few remarks may be useful here by way of comparison or contrast ; especially as economists generally in this country, looking at the matter from a narrow English, not from a large human, point of view, have shown a tendency rather to magnify the defects than to appreciate the excellences which undoubtedly belong to this system of rural economy. Sir John Bowring in a report presented to the British Government in the year 1837, on the statistics of Tuscany, Lucca, and other Italian States, contains an account of the *mezzeria* system, as now practised in Tuscany, from the pen of an intelligent Tuscan proprietor, the Marquis Capponi, which we cannot do better than transcribe here.

“ The *mezzeria* differs in the various places in which it prevails ; it is not the same in Tuscany as in France ; nor does it accord with that of Lucca. In Tuscany it is very favourable to the peasantry, and it may in this country be regarded as the *beau ideal* of the system. Two causes may be assigned as having mainly contributed to this :

“ 1st. A highly democratical form of government during a period of three centuries, which has left its traces in the customs of this country.

“2nd. The competition of manufacturing industry which formerly flourished highly in Tuscany.

“Our *mezzeria* system, therefore, is such as custom has rendered it : no written contract exists between landlord and peasant. One part of the understanding, such, for example, as the trade in cattle, is liable to some degree of uncertainty in practice. The contract is in force for one year only ; the proprietor may discharge his cultivator every year at a fixed period, but a good tenant will hold by the estate from generation to generation.

“In the partnership the proprietor supplies all the capital, and the cultivator the labour and the utensils : the produce is equally divided between them, even as regards the profits arising from the sale of cattle. The cultivator is only obliged to supply the labour required in the ordinary cultivation. Should the proprietor be desirous of making new plantations, or to reclaim waste lands, the expense falls wholly upon him, and he is obliged to pay the cultivator wages for extra work, and also to keep up his new adventures at his own expense, should their produce prove insufficient.

“The seed for sowing is also supplied at joint expense : that required for the support of the cultivator the proprietor is in general bound to supply him with : should he not do so a good labourer would quit his employ, which would be the worst thing that could happen, for the system wholly depends on mutual good faith, and a good labourer is indispensable to the well-doing of the landlord.

“The proprietor derives his advantages from the surplus produce, should there be any, from the work performed for him by the labourer or cultivator, and from the profits arising from the sale of the cattle ; it is the master or proprietor on all occasions who pays and receives the money arising out of this branch of business. This occasions long accounts to arise with every proprietor, which are adjusted yearly. A cultivator who should prove a debtor at this settlement would be held in bad repute. He dreads getting into debt, as it would end in dismissal : but in case of dismissal the proprietor loses his claim upon him. In the poorer situations the cultivators are all in debt for large sums, which at the end have to be deducted from the produce which is assigned to them out of the estate.

“The cultivators reside in isolated dwellings in the centre of the estate ; the villages are not occupied by cultivators. They dwell in the midst of their families, never see their neighbours except at holiday times, at church, or occasionally at market, where they are not often

obliged to go, for they buy and sell but little. A good cultivator rarely goes to market : the great recommendation of the *mezzeria* system in this country is that the farmer neither buys nor sells ; his land should supply all his wants.

“Every family possesses a head, who is known to, and approved by, the proprietor ; to him belongs the government of the family, and the direction of the agricultural labours ; he negotiates with the proprietor or his agent. There is also a female head, who has the direction of the household economy. It frequently happens that two families are resident in the same dwelling and under one head. Families are generally very numerous : some reckoning twenty or twenty-five individuals ; seldom less than six or eight.”

M. Ridolfi has described the manner in which this system took its rise, in an excellent article in the ‘Giornale Agricolo.’

“It has sprung up by degrees ; the wants and the industry of the labourer have gradually contributed to the increase of the capital and labour devoted to the land. These have undergone a prodigious augmentation during the last sixty years. The tendency of the government reforms of Leopold I. was to divert everything to this channel. Estates were divided and rendered free : impediments were destroyed : full freedom of commerce allowed—all these things rendered agriculture so much in vogue that it became a source of luxury. The Tuscans, besides, have no other occupations, no sort of manufactures, no political existence. Possessed of home feelings, agriculture for them was all in all. High prices followed : a fresh division of property took place by the sale of the convent estates, and every one became a cultivator right or wrong. Agriculture became a passion—a mania.

“Tuscany was formerly celebrated for its high state of cultivation ; it was an Eden, an oasis, the model country. The beneficial laws of Leopold I., whose reputation even exceeded their real merits, occasioned property in Tuscany to be much sought after, and attracted large masses both of home and foreign capital.

“In fact Tuscany is highly cultivated. If the quality of labour supplied to land, if diligence, aptitude, readiness, willing labour, and love to the soil, on the part of the peasantry, bring with them good culture, Tuscany has nothing to desire in these respects. A small extent of land, of very moderate fertility, suffices for the support of a family of



ten or fifteen individuals. No other system, it is conceived, could draw from the land so large a mass of produce. The evil lies not here, but in the enormous capital swallowed up by the land. Assuredly the cultivation is by no means scientific. In the first place, it is no easy matter for science to influence the *mezzeria* system, in which the colonist or labourer is a joint proprietor, who acts on his own opinion, and generally opposes himself to improvements which he does not comprehend. Besides, in what way could science operate? It would begin by changing the entire system: it would not admit of the same land, the same field, being under cultivation for wheat, vines, and olives, at one and the same time, and frequently for fruit, herbage for cattle, and all the different varieties of produce that may be required, not according to the condition of the land, but to the wants of the family; and this state of things forms the basis of the *mezzeria* system. The important results which science affords are, therefore, utterly out of the question in this system; in hill cultivation, especially, it appears very doubtful if science could succeed in developing a greater absolute production than is now the consequence of a most careful and persevering industry."

To this testimony—as two witnesses are always better than one—I will add that of another Italian, from a tract by an intelligent economical writer, which I picked up when in Florence some years ago, when taking ocular cognizance of the condition of land tenure in Italy.<sup>1</sup>

"The objections generally made to the *mezzeria* system are five: (1) that it does not allow the use of machinery in agriculture; (2) that it yields a less net profit than the lease system, or the system of cultivation by the owner of the land by means of hired labourers; (3) that it renders difficult, and often impossible, the application of improved methods of culture to the land; (4) that it is opposed to the principle of the division of labour; and (5) that it does not afford sufficient security to the landlord for an adequate rent. To this it may be replied: (1) that the *mezzeria* system is not opposed to the use of any such machinery as is adapted for the field of agriculture which belongs to it; on the contrary, thrashing machines and others

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<sup>1</sup> 'La Mezzeria in Toscana,' per Sydney Sonnino. Firenze, 1875.

have been introduced into Tuscany, and rural furnishing of all kinds is daily improving. Of course in large farms, or combinations of farms managed by a land agent, the introduction of expensive machinery is more easy, partly because the proprietor in such cases can act at once on his own responsibility, partly because he has a larger field of action from which to recoup his expenses; but this particular advantage can be neutralized by associations or clubs amongst the small farmers. In fact, it is in no case the *mezzeria*, but rather the small properties, that stand in the way of machinery. To the second objection, the obvious reply is, that too often the net profits which under other systems go into the pockets of the landowner, are only so much abstracted from the necessities of the producers; that wealth is not an end but a means, the final end of all wealth being the well-being of all classes of the community; that in agriculture all the difference between the net profits and the gross profits goes to the maintenance and the comfort of so many more human beings; that for the State it is anything but a matter of indifference whether it contains, or does not contain, a numerous, contented, and well-fed class of peasant cultivators; and, finally, the real question is not about the lesser or greater wealth from agricultural industry, but about the distribution of the wealth among the different classes of the community. In the third objection, it must be admitted that there is a certain amount of truth. No one can fail to observe that a capitalist with his whole capital at command, and the whole fruits of its wise expenditure in view, will be more likely to embark in schemes of agricultural improvement, than a proprietor who is merely partner in a common concern, and who must divide the profits equally with his partner, while the greater part of the expenditure has come from him. On the other hand, it would be a false accusation to say that a *mezzeria* cultivator, as he now exists in Tuscany, is opposed to all ameliorations. When once the peasant cultivator is firmly persuaded of the superiority of any new method, he is the first to be willing to change. Only he takes things quietly; he wishes to finger a certainty before he speculates on the faith of a change. But this conservatism of his is on the whole a good rather than an evil; it prevents no small number of crude and inconsiderate experiments which theorists and young proprietors are too much inclined to their own great loss and discomfort to make. The peasant is not opposed to instruction in agricultural improvements; but you must give yourself some trouble to instruct him; and perhaps also, in many cases, before speculating

persons entered upon a new domain with their head full of novel schemes borrowed from abroad, it would be well for them to take some practical instruction from the local cultivator in matters which only he can understand.

“As to the fourth objection, that the *mezzeria* system is opposed to division of labour in agriculture, it must be admitted that a division of labour is not so practicable in the present system as in cultivation by hired labour on a large scale ; but within its own sphere there is a very notable division of labour, apportioned as it is among the various members of an agricultural family, according to the diversity of culture comprehended in the farm ; a diversity which is essential to its nature and to its prosperity. The life of our *mezzaiuolo* peasants is patriarchal ; they are quite secure in the possession of their domains, and unless they give cause of dissatisfaction to the proprietor, they remain on the property for what is practically a perpetuity. I know peasant families who have been on the property from time immemorial, and others who have documentary evidence to prove that their family has been on the same ground for more than three centuries. These people cultivate their few acres of ground with all the love of a proprietor, and with all the practical knowledge that a long course of experience only can give. In the words of Sismondi :<sup>1</sup> ‘There is not a foot of ground the capabilities of which have not got a study from the peasant proprietor. Here he will say the land is dry, there cold and wet ; on this side when you stir the soil you will find it deep, on the other side a mere thin rind or crust covering the rock ; this plot again is well adapted for the growth of maize, that for other cereals, while on a third plot beans and lupins will grow more luxuriantly. In one part of his small domain flax makes a marvellous display, while on the banks of the streamlet hemp grows better ; and the like—so that one stands in astonishment to see such a variety of soil and of products in a small property of a few roods, as could not be equalled by a large tacksman with a farm of five hundred acres. In fact only by personal inspection and familiar knowledge can a man form an adequate idea of the amount of intelligent labour spent on their native soil by these stout little proprietors. The irrigation of the slopes alone, accompanied as it so often is in our climate with sudden floods, demands a constant attention, and an amount of care which no tacksman holding on lease

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<sup>1</sup> ‘Études sur l’Economie Politique, Essai VI. de la condition des Agriculteurs en Toscane.’

could bestow, anxious as he is only for the profit of the hour. In harvest time specially the persistent industry of our peasants excites admiration, continued as it is not only through the day, but in the night also, by keeping strict watch on the tramps and other marauders who might rob the vines.' In Tuscany the property is in general neither very small nor very large; but by means of the *mezzeria* even a very large property can work comfortably along with small crofts, obviating, as the presence of a large property does, many of the disadvantages which belong to the small farms, where they either accompany, or are the effect of, very limited ownership.

"The last of the objections made to the *mezzeria* system is that the landlord is never sure of his rent, being often obliged to advance money to the occupant to help him through bad seasons, and thus impoverish himself beyond the hope of recovery. It is objected further, that the proprietors, as active partners in the concern, are bound to live at no great distance from their estates, so as to keep a sharp eye over the management, and are thus forced to reside in small provincial towns, where they have little to do, and so fall easily into bad habits. As a matter of fact, in the actual condition of Tuscany, there can be no doubt that these allegations are substantially true, that the large proprietors are generally very much in debt, while the smaller ones constitute a class not specially to be praised either for their industry or for their manners. But this state of things has its origin not in the essential nature of the *mezzeria*, but in the state of education and other conditions of civilized life in the countries where this tenure exists. It is unquestionably in the power of every proprietor, whether great or small, with a little providence to arm himself against any inroads that bad seasons, directly or indirectly, may make on his income; certainly he has himself to blame if he cannot stand an untoward event of this kind much more easily than the poor hard-worked tiller of the ground. The real fault here lies not in the nature of the tenure, but in the character of the men who will not trouble themselves to use its opportunities, or to acknowledge its restraints, to a want of personal dignity, self-control, and a willing acceptance of the circumstances in which they have been placed by the possession of property; a deficiency in those sentiments without which neither wealth, nor institutions, nor conditions of soil or climate can avail to maintain the civilization of any country; sentiments which are the true basis of the greatness of every country. It ought to be considered also, in the interest of proprietors, that the fact of having an

industrious partner in the occupancy of the soil has often acted as a help to a landlord in difficulties, and enabled him to retain in his family a patrimony which otherwise would have been loaded with debt, and left the estate without the advantage of an old family residenter. As for the objection that the *mezzeria* system has driven the proprietor to more close residence on his estate, this is quite true.<sup>1</sup> But in this I see not a vice, but one of the greatest excellences of the tenure; inasmuch as the absenteeism of the proprietors is always and everywhere one of the greatest evils in agricultural economy. The proprietor who sees and knows his own estate learns to love it and care for it as a part of himself, and, instead of grudging, delights to lavish on it an expenditure which has no relation to mere commercial gains.

“But the social benefits of the *mezzeria* system are so great that even of themselves, giving the fullest weight to objections from the merely economical side, they turn the scales greatly in its favour. . . . What strikes one in the very vestibule of the tenure is the excellent condition, not only morally but economically, in which it places the agricultural labourer. The Tuscan peasant is in no sense a day labourer; he has a firm hold of his position, being in the eye of the law the equal of the owner of the soil, and the true partner of his industry. He does not, like the hired labourer, work only with his arms, but he contributes his intelligence to confer with the owner on the proper management of the estate. And whether with head or hand he has the grand satisfaction that he is labouring for himself; and thus, instead of that envy and jealousy of the upper classes which exists under less advantageous tenures, there prevails the most perfect harmony betwixt class and class—the proprietor and the cultivator having a thousand interests in common, and in the play of social forces representing only one common interest. They share the same pleasures, and suffer the same sorrows; and let the price of corn or of olives be high or low, accept equal gains with the same thankfulness, and bear equal losses with the same patience.

“Let it be noted also in the interest of good government that there is

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<sup>1</sup> But of course the *mezzeria* system does not *absolutely* exclude the superintendence of a land agent, or *fattore*, as the Italians call it, the *executor operi* of Pliny in the epistle ix. 37, in which, curiously enough, he declares his preference as a landowner of a share in the produce to a money rent.

no class of people more conservative than such independent occupiers of the soil, no class more opposed to unnecessary change, and more strictly watchful over the public peace. To the praise of our Tuscan peasantry, it must also be mentioned that the emigration returns show proportionably less from this district where the *meszeria* prospers than from other provinces under a less favourable tenure; a result to be attributed to the prudential habits and 'moral restraint' practised by these good people, who consider marriage far too serious a thing to be entered on rashly; and in this trait of their character stand favourably contrasted with the poorest classes in large towns and the rural population, where the comfort of the tenant class has been sacrificed to the cupidity of the landowners. Finally, as I am putting down these notes for foreigners,<sup>1</sup> I take the liberty of advising the visitor of our fair Florence to go a little out of the beaten track, and to leave for a day or two the sculptures and the paintings of the galleries, and take a ramble through the vineyards and the corn-fields in the neighbourhood. There he will find in the midst, no doubt of considerable administrative disorder, and grievances of various kinds, a general and widespread prosperity, a people honest, industrious, and contented; and, if he will enter into any of the commodious and well-aired dwellings of our peasants, and enter into conversation with them, he will in all likelihood be surprised at their quickness of apprehension, their good sense, and their great amount of practical knowledge, and a native urbanity and politeness of manner that shines gracefully through a rough exterior. And perhaps it will occur to him to think that in this blessed region there are no social questions tending to make people sit uncomfortably on their easy chairs—no strikes, no trades unions, no communistic theories, or international leagues of sour-blooded labourers."

I have allowed myself willingly to expatiate on this subject somewhat largely, partly from the fact that it is in the legal relation of landlord and tenant that the injustice and impolicy of our English land laws stands most plainly revealed; as it is certainly in a great measure to the operation of similar or more iniquitous land laws in Scotland

<sup>1</sup> Signor Sonnino's paper was written originally for translation, to be inserted in a German review.

that the miseries of the long-suffering mountaineers of our heather braes are to be traced ; partly also, because, I have reason to believe, that however familiar the details of the metayer system may be to professional economists, the dim and vague notions which many of my readers connect with that term, may advantageously borrow a firm outline and a living colour from the extracts here presented. I also think it not unprofitable, whether by way of explaining our past blunders, or by suggesting future improvements in the economical conduct of the Highlands, to take the statements of these two intelligent Tuscans in detailed review, so as to extract from them the useful lessons they are so obviously fitted to impart. Not of course that any sane man would dream of changing a Sutherland strath into an Italian Val d'Arno by Act of Parliament ; irreconcilable differences of climate and soil, natural habit and hereditary consuetude, combine to enter a protest against all wholesale transplantations in such matters ; but as the historical and political antagonism between Episcopacy in England and Presbyterianism in Scotland has not prevented the latter country from adopting, from the sister polity, whatever charm of æsthetic grace or pleasant variety could be introduced consistently with the preservation of her own distinctive features, so there is nothing to prevent the reformers of British land laws from borrowing suggestive hints from a foreign system which it would be madness to attempt to naturalize. Let us then essay to learn what fertile seed of thought the contemplation of the paradise of Italian peasant life may bring to the friend of the poor Highland crofter. In the first place, we shall certainly not be wrong in concluding, with the Italian

Marquis, that the highly democratic form of government in the Florentine republic of the middle ages was favourable to the maintenance of the consuetudinary rights of the *mezzeria* tenants in that prosperous district. Let us imagine for a moment that the government in Florence, instead of being democratic, had been like ours in Great Britain, highly aristocratic; in that case there would have been nothing to hinder a powerful nobility from following the practice of the old Roman patricians as described by Appian in the passage above translated, and handing over their property to be tilled at low wages by gangs of hired labourers, while they were squandering immense incomes in the luxury and dissipation of the metropolis. For it is in the nature of a powerful landed aristocracy to believe that full citizenship shall practically be confined to themselves, and that to favour the growth of a sturdy and independent peasantry would be to lay the axe to the root of the exclusive privilege in the social system which is their glory and their boast.<sup>1</sup> Again, it is plain that if, after the unfortunate affair of 1745, we had possessed a Government wise enough to appreciate the spirit of democratic equality which was so finely mixed with the paternal despotism of the clan system, and to prove with Leopold of Tuscany, who flourished about the same time, that it is always safer for the State when property is well distributed than when it is monstrosly accumulated, the consuetudinary rights of the tacksmen and tenants on the soil would have been legally

<sup>1</sup> The natural tendency of the landed aristocracy in Scotland to "trouble the puir people that labours on the ground" exhibited itself in such a glaringly iniquitous fashion, that special Acts of Parliament were necessary to restrain it.—'Scottish Acts,' 1449, c. 18, and 1489, c. 21.



acknowledged ; and neither middle class nor lower class would have failed in those desolate districts of our beloved Highlands, which now pine so blankly for the lack of both. Further, it is profitable to note in all these five objections to the *mezzeria* system enumerated by Signor Sonnino, that the happiness of human beings forms no element in the calculation of those who make them any more than it does in the patrons of our gigantic consolidations at home ; the accumulation of wealth in the hands of a few, not the distribution of health and happiness, intelligence and virtue, among the great mass of the people, being in their view the proper object of a wise social economy. And yet again, the prosperity of the Tuscan peasant, as the Italian observes, depends in a great measure on the fact that every member of the family has at all seasons of the year something to do which contributes to its wealth and to its comfort, and that apart from the variety of culture which the climate and the soil allow, the *mezzeria* either could not exist at all, or not put forth its full virtue. Now, of course, the conditions of a small Italian *podere* in the Val d'Arno and those of a large Highland estate are as different as possible ; but the Highland crofters have existed for generations comfortably, and can exist, wherever the natural adjuncts which belong to their prosperity are secured to them as they are to the Tuscans. The crofter has, of course, one advantage above the big farmer in common with the Tuscan *contadino* ; his family also can work at a number of small and profitable details of which the big farmer will take no account ; but besides that, he has the fishing season in Wick, the harvest season in Roxburgshire, and above all the pastures on the

braes, the natural pendicles of his croft. Take away that pasture—as it has been systematically done for the benefit of a speculative intruder—and you do the same injustice to the Highland crofter as a Tuscan *padrone* would do who should keep the vines and fruit trees of the farm to himself, and leave the bare cereal crop to the peasant. The peasant in such case would dwindle and starve, or emigrate; squeezed out, or kicked out, or burnt out, by Scottish precedent, little matter which, if he only be quickly got rid of.

So much in favour of the metayer system of Italian agriculture, which in my opinion has received but scanty justice from economists in this country. Though in legal form it is a partnership on the foundation of *communio bonorum*, it is virtually, and acts in practice, as a lease with fixity of tenure, during good conduct, and on a rent varying in a fixed ratio with the produce. It is difficult to argue against what is called the progress of civilization; but civilization in some respects curiously seems to progress the wrong way; and whether on considerations of what may be called a fair bargain, or on the no less important question of the balance of classes in a social organism, to me who am not troubled at all with any prejudices, or hampered by any traditions on one side of the question or the other, it does rather appear that the metayer system is the better of the two. In a contract about a subject which involves the risk of a great uncertainty—in this case the unreliability of the seasons—it seems more equitable to apportion the loss and gain annually between both the contracting parties than to insure the one party for a term of years against any risk, while the other, socially the

weaker party of the two, and who does the lion's share of the labour, may at any moment see his stake in the business lost, by a late spring, an autumnal flood, or an over-riding of the native market with foreign produce. Add to this, that by the metayer system, the landlord is obliged to take a more active and personal interest in the management of the property, an interest beneficial alike to proprietor and cultivator, and to society at large. But, as we are dealing with practical matters, we must take the existing contract of lease as our basis, and proceed to answer the important question, how is an equitable rent to be fixed, and by what laws or influences are unjust rents to be prevented?—for it is manifest that between parties so unequally matched as a dominant landlord and a dependent cultivator, rents might easily be exacted which are perfectly legal but altogether unfair. No doubt in the face of a substantial independent party of farmers with plenty of land to compete for, a selfish landowner might find it difficult to impose a rent much above the fair market value of the land; such tenants, to use the Duke of Argyle's words, "make their own estimate of value, and have sufficient knowledge and capital to work it out."<sup>1</sup> But there is a large class of tenants in all countries to whom this description would not apply; and, as we shall immediately see, when we come to discuss the law of distress, even among the best class of farmers, putting up farms to auction, as auctioneers do articles at a sale, is a practice more honoured in the breach than in the observance. Competition, in fact, is a commercial idea, which in a commercial country is apt to run riot; and not only in the earliest stages of society, as

<sup>1</sup> On 'Highland Crofts,' p. 60.

Ingram remarks, but "to this day in several countries of Europe, in large departments of human transactions, custom not competition is the arbiter."<sup>1</sup>

As remarked above, the land in which the community has an interest exists only in a certain limited quantity in a country, and as population increases there may and there will be an increasing demand for this limited quantity; the consequence of which must be that, if the holders of this limited commodity should conspire, or to use a milder phrase, should be led by a common instinct, to let the land so limited to occupants at a competition price, the competitors for the occupancy would be induced to bid against one another in such fashion, that, while the landholder would be unduly aggrandised by prices artificially raised, the tenants would be deprived of their natural share in the products of their own labour, and be obliged to go on cultivating another man's ground from year to year, with no profit to the cultivator, but a great increment of value to the owner, beyond what in fairness would accrue to him. The social status and condition of the occupants of the soil would thus be materially sunk, and rural society might be led to consist of a few large proprietors artificially rich without labour, and a large number of small occupants unable by the severest labour to rise above the low level at which they started. A society composed of such extremes is by the Aristotelian axiom (p. 117, *supra*) necessarily wrong. Therefore, as a general rule, a fair or just rent should not be left to the discretion of the landowner, as if he were a mere shopkeeper putting a price on his wares,

<sup>1</sup> 'Present Position and Prospects of Political Economy.' London, Longmans, 1878, p. 27.

or an auctioneer getting what price he can for a rare article, but it must be fixed either by kindly tradition and equitable usage as it generally has been in England, or by the State in some such way as is now done in Ireland, by an impartial court composed of lawyers and land valuers.

*Proposition XIII.* — This restriction on the landlord's power of fixing the rent will appear the more necessary if we consider the superior social functions and high moral dignity which belong to the landowner, as laid down above in Proposition X. That superior social function and that high moral dignity which is the glory of a country gentleman as distinguished from a mere money-maker on 'Change, or a trader in the bazaar, departs from him the moment he puts up his land to auction in mercantile fashion, and holds it practically as an investment, utterly careless of his position and duty as the guide and protector of the local population, and, so to speak, the social head of the district in which his property is situated. The return which a landlord has to look for from money invested in land, is not, as in a mercantile speculation, or in a stock-jobber's balance-book, such and such a pecuniary percentage; but he finds himself repaid in a much worthier style, by the amenity of his surroundings, by the dignity of his social position, by his large opportunities of public usefulness, and above all by the love and respect of a numerous and wisely distributed tenantry.

In the case of Ireland, the gross iniquity and injustice of giving landlords the power of continually raising rent at a competition price has been publicly admitted: the Duke of Richmond, in his report on the Irish Land Laws, stated that such a power in practice amounted to "a confiscation of the

fruits of the tenant's labour by the landlord, an evil which can be prevented only by legislative interference." <sup>1</sup> But the case of Ireland on this side of the Channel has generally been regarded as exceptional, so exceptional indeed that, as is well known, the wise Duke of Argyle, whom all men must respect, thought it necessary to secede from the Gladstone Ministry on the sole ground of this exceptionality; but with all deference to his Grace, I would ask exceptional to what?—exceptional to natural equity and fair play, or only to the traditions and current notions of the Conservative Englishman and the utilitarian Scot? I have in vain sought to see any natural equity, or any social advantage, in clothing the landlord with an absolute power in matters of this kind; and sure I am that I can point to half-a-dozen of other cases, in which freedom of contract has been denied, and rate of wages prescribed to various parties, on grounds of public policy and general comfort, as opposed to the pecuniary interest of individuals, or special professional classes. Why, for instance, should cabmen, a most useful and indispensable class of public servants, be obliged to have their fares regulated by Act of Parliament, and to accept a shilling as legal payment for a drive for which they might reasonably have charged eighteenpence?—or why are professors in Universities and teachers in burgh schools, obliged—speaking commercially—to sell their knowledge for some sorry two or three guineas a quarter, when they might well have considered their intellectual services worth five or ten? Simply because the public good requires that people shall be protected against the arbitrary charges of cabmen, and that education as an

<sup>1</sup> Speech of Gladstone, 7th April, 1881, p. 9.

article of necessary consumption to the poor as well as to the rich, shall be put within the reach of all classes at low fixed rates. In the matter of rent men talk of the sacred rights of property ; and yet, strangely enough, the public has a much greater interest at stake in the good treatment of the cultivator by the proprietor of the soil than it has in the protection of the drifting race of street tourists from the overcharges of cabmen. Why, again, let us ask, are the fares of passengers on the railways fixed by Act of Parliament, and why are railway companies obliged to run so and so many trains on specified days and hours ? Simply because the public convenience demands it. And is there any reason why great landowners, deer-stalkers, and others should consider themselves so superior to the rest of the community, that they alone are entitled to plead the inviolability of property rights, and to place their own personal profit or pleasure in the balance to outweigh the health, and the prosperity, and the general normal well-being of the body social ? The fact of the matter is, that habit rules in these relations more than reason, and that landlords would object to having their rents fixed by an impartial court, not because it is unjust, but because having so long exercised an absolute power in this matter, they seem, in losing it, to lose an important part of themselves. This of course is natural ; but let them consider that what under new conditions they would lose in legal power, they would gain in moral dignity and in social security. I had an opportunity last autumn of conferring with an experienced and extensive land agent in Ireland, on the working of the late Irish Land Act ; and he said to me most emphatically that, though he had originally been, as most

men in his profession naturally would be, opposed to the principle of the Bill, he had now come to see that he was wrong. The fixing of the rent was always a disagreeable business, requiring a combination of gentleness and firmness rarely to be found, and from which both landowner and land agent should be thankful to have been relieved.

The next point of importance in the contract of lease is its duration; not at all a simple matter to settle by an absolute rule applicable to all cases, but nevertheless regulated by certain principles and presumptions, which with a little common sense and good feeling between the parties may be easily modified to suit particular circumstances. Originally there can be little doubt the tiller of the soil was rather an occupant of land in return for labour rendered to the proprietor, than a lessee properly so called.<sup>1</sup> But the continuity of such a laborious position, and the familiar recognition that would arise betwixt him and the owner of the soil, would naturally lead into the more dignified relation of tenancy with certain well-marked consuetudinary rights distinguishing his social function from that of the hired labourer. A labourer proper is hired by the landlord to do a piece of work; a tenant hires the land to work it for his own and the proprietor's profit. But in either case there can be no doubt, before consuetude or statute stepped in to regulate the relation between the parties, the lord of the property would consider himself entitled to resume his property when it might be convenient for him, or necessary; that is, all tenants in the early stages of society were what we call tenants at will. But, though they might be dismissed at

<sup>1</sup> Hunter, 'Landlord and Tenant;' historical introduction, ch. i.



the pleasure of the lord, it does not by any means follow that they generally were so: on the contrary, the tenant at will system had a tendency to grow into a perpetuity, as it actually has done at the present day in Tuscany, in England, and in those parts of the Highlands where the landowner has not sold his people for gold to South country sheep-speculators or aristocratic deer-stalkers. The reason of this is obvious. The landlord, especially in the troubled mediæval times, would soon discover that his people were more necessary to him than he to them; that by cultivating the same ground year after year they would acquire a practical knowledge of its capacities, in which no new occupant could rival them; and that to allow them to retain a permanent hereditary hold of the soil, was to engage their self-love in doing a work, which was more profitable to the proprietor in proportion as it was more agreeable to the cultivator.<sup>1</sup> A moral element, too, entered into this practical perpetuity of tenancy, which the Roman agriculturists, who understand these matters better than our modern economical doctrinaires, knew how to estimate at its value. Columella tells us that "he had often heard Volusius, a very wealthy man of consular dignity, declare that that was the best property in which the crofters were native to the soil, and had grown up from their cradle,

<sup>1</sup> In reference to our own times we may state specially in the words of Hope of Fentonbarns (Leadam, ii. 11), that leases must be long because time is necessary in order to allow large expenditure in manure to produce its full effect on the soil. And, from another point of view, Gladstone in his speech at Dalkeith, March 1880, says: "My wish is to give all possible freedom to the cultivators of the soil, in order that the agriculture of England may have full and fair play in competition with the agriculture of the world."

so to speak, as members of the landlord's family." <sup>1</sup> Now this is precisely the sort of relation which existed in the Highlands universally before the commercial spirit, which disowns all moral considerations, plunged so many landlords into that career of selfish and inhuman conduct, which Sir Walter Scott, Sismondi, and Dr. Norman Macleod so emphatically condemn. This practical perpetuity of tenancy at will is the sufficient reason why not a few crofters in the Highlands at the present hour will not accept leases when they are offered to them; because they look upon them as creating a legal limitation of what without them is an inherited perpetuity. And from this same practical perpetuity of tenure, by the law of consuetude which society acknowledges in so many departments, the English right of copyhold tenure, and the independent tenure of the small proprietors in the Channel Islands naturally arose. Fixity of tenure, therefore, we shall say, is the natural, not the exceptional, condition of agricultural holdings, and arbitrary evictions, from commercial motives, as we have seen it practised in Ireland and in the Highlands, the most abnormal and the most impolitic. Nevertheless, there are reasons why leases should not always and everywhere be granted absolutely and in perpetuity. By the law of nature no man can be called upon absolutely to denude himself of his own property; besides, all tenants are not equally deserving of kindly consideration from their landlord; and crofters, like schoolboys, may be spoiled more readily sometimes by loose indulgence than by a wise severity. With regard to corporate property, specially, the allowance of long leases

<sup>1</sup> Columella, 'De re rustica,' i. 7.

may often lead to the perpetration of jobs by one generation, accompanied by some petty personal gain, for which the sons and grandsons of the lessor shall pine in severe loss for centuries; and thus we read in Scottish history that ecclesiastical leases were not allowed to be granted for a longer period than five years;<sup>1</sup> and there may be a class of tenants so lazy and so profitless, that the greatest benefit that can be done to them is to threaten them with removal, if they don't improve their manners. Besides, even with good tenants it is plain that the rent which is moderate and fair to-day may ten or twenty years after this fall far below the market value of the land; and in this case the landowner may equitably claim a rise of rent, from which equity, of course, a perpetual lease would exclude him. Not an easy problem it is assuredly that here presents itself—how to reconcile the security and independence to which the industrious tenant is entitled with the salutary dependence in which it is fittest that the lazy and unprofitable crofter should be kept. Starting from the principle that stability of tenure is to be the presumption of law in all cases, a principle in which in one form or another all the most prominent land law reformers seem to be agreed,<sup>2</sup> we might say that the rents should be subject to revision by an equitable Court every ten or fifteen years; in this case, if a rise of rent took place, a lazy and unprofitable tenant, not able or willing to undertake the additional rent, might voluntarily fall off, or might be easily induced by a moderate bribe to decamp

<sup>1</sup> Council of Perth.

<sup>2</sup> See Leadam, 'Agriculture and the Land Laws,' ii. p. 11, for the opinions of Barclay, Caird, Howard, and Lord Tollemache.

and leave his croft to a better man ; further, an Act of Parliament might prescribe reasonable conditions to every lease, the neglect of which would subject the tenant to eviction on the complaint of the proprietor before the Sheriff and two sworn valuator's ; on the other hand, the high-handed insolence with which English and Scottish landlords have too often dismissed good tenants for purely personal or political reasons, would be effectually checked.<sup>1</sup> No man could be turned off his land, at the mere arbitrary will of a local despot, who was willing to pay a fair rent ; as long as he paid that rent in England, as in Tuscany, he could feel himself the master of his position, and would have no reason to fret, as is done in this country, against a law which gives all privileges to the strong man and no rights to the weak.

The next matter that deserves remark in the regulation of leases, is the law of hypothec, or, as they call it in England, distress ; and here we have special occasion to note the truth of Mr. Pollock's remark (p. 144), that it is only from the middle of the present century that we have had the pleasure to observe a notable change in the tendency of English legislation from the side of the landlord to the side of the tenant. The fact is, the despotic rights exercised by the landlord, though sanctioned by the

<sup>1</sup> Mr. Pollock ('Land Laws,' p. 151) does not hesitate to say that in the case of holdings from year to year, being of the landlord's political party is often a tacit condition of the tenancy. A similar ungentlemanly lordship over the conscience of a social inferior is sometimes practised in Scotland, where the social blood is poisoned by religious virus, of even greater intensity than the political ; landlords having been known systematically to extrude from their domain all tenants who do not belong to the Established Church !

practice of centuries, were so glaringly partial, that they could not face the breath of free discussion ; they were made in the dark when men were asleep ; and the moment the light of day came in upon them, they appeared in their naturally hateful light as legalized robbery, which it was in vain to justify. Yet doubtless this bad thing, like most other bad things, had a root in history which gave it a right to exist, at least as compared with something worse : for the privilege of seizing the produce of the soil in security of rent as a substitute for some form of personal violence, unquestionably represented an advance in civilization, but an advance which, with change of circumstances, has long since ceased to be compatible with the equities of modern society ; for when the landlord by an action of distress recovers his land from an insolvent tenant, he recovers it improved by the tenant's capital. The land is the landlord's capital, the rent is his interest ; it is the seed-merchant, the manure-merchant, and the implement-maker, who constitute the body of the tenant's creditors.<sup>1</sup> The simple reference to this iniquitous state of things, which allowed the proprietor to arrest even other people's cattle when grazing on his tenant's ground, is sufficient to show the wisdom of the House of Lords, under the direction of Lord Cairns and other great lawyers, in relinquishing such, and other such, untenable outposts of feudalism ; though in truth their abandonment was rather a necessity for their own safety than a virtue for which they deserve credit. Inch by inch, as in their Irish policy, they conceded to the clamour of agitation what should have been suggested by the claims of Justice ; and, if they earned little gratitude

<sup>1</sup> 'Leadam,' ii. 23.

for their concessions, they ought to be conscious that they got just what they deserved. An extorted favour will always be looked upon more as a victory of the grantee than as a grace from the granter.

Having laid the foundations of an equitable relation of proprietor and cultivator thus broadly, the superstructure follows as naturally as the corollaries from a mathematical proposition. The legal relation of landlord and tenant, as we have them in our law-books, all flowed out of the one idea, that the landlord was absolute master, and the tenant absolute servant; an idea that might have had its justification under mediæval villainage, but at the present hour is the grossest anachronism. The lords who exercised the powers in these times were as firmly convinced of their natural right to hold the peasantry in absolute social dependence, as the slave-dealers in the Soudan at the present moment believe in their right to kidnap a certain class of their fellow-men. And as a legacy of this state of feeling even now, nothing is more hateful to a certain class of landlords than the growing up of an independent and manly-minded peasantry under their eye. To cover this selfish desire to play the Oriental despot so far as allowable, over the members of a free community, the old legal phrase of *delectus personæ*, of course, and the right to do what they please with their own, is always at hand. We shall, therefore, make short work of all the remaining articles of a well-conditioned contract of lease, by simply setting down the exact contrary of the old orthodox Scottish law, thus:—

If the holder shall at any time during the currency of his lease be desirous to acquit himself of his occupancy,

it shall be in his power to assign his interest in the occupancy to any person who may be willing to purchase it ; always, however, with a right of pre-emption on the part of the landlord, at a fair price to be settled by the same court in whose hands the fixing of a fair rent shall be placed. The right of transmission of leases from the dead to the living by testament, or other deed of legal validity, shall be the same as that which is enjoyed by the landowners in the settlement of their properties, and all legacy duties, land taxes, and other public burdens, that may affect the one, shall affect the other proportionately.

If, at the termination of a lease, or the arrival of a fixed term in the duration of the lease at which a new taxation of the rent is to take place, it shall be found that the market price of the lease has risen in value, in this case the Court or the Board of Taxation, as the law may be, shall take account, at the witness of experts in such matters, to what causes the rise in the rent has been attributable,—whether to the capital of the landlord sunk in the soil, or to the capital of the tenant, or to extraneous causes, such as the improvement in the means of communication, the growth of manufactures in the neighbourhood, with which neither landlord nor tenant have had anything to do. Let us suppose that the original rent was £100, and that the landlord has obtained the sanction from the Court of Taxation to raise it to £120. Let it be also supposed that of this additional £20, the half, that is £10, is adjudged to be attributable to the diligence and wise management of the tenant ; and the other half to the operation of extraneous causes such as we have mentioned ; in this case equity demands that the landlord, who profits permanently by this good stewardship

of his tenant, should refund to him the capital of which the fruits at the expiry of the lease are transferred to the proprietor;<sup>1</sup> that is to say, in the language of recent legislation, he will be entitled to compensation for improvements if he gives up his lease.<sup>2</sup> Suppose, however, he is minded to

<sup>1</sup> Note here that as we learn from 'Leadam,' ii. 13, this equitable claim is actually English Law by the special custom of Lincolnshire.

<sup>2</sup> Nothing can display in a more hateful light the demoralization caused by unjust laws in the minds of persons who in other matters have the feelings of gentlemen, than the public fact that, while by the Agricultural Holdings Act of 1875, a graduated scale of compensation to tenants for such claims was laid down, the same Act contained a clause allowing the tenants to covenant themselves out of the benefit of the Act! (Pollock, p. 146.) This ungentlemanly trick, under the specious name of "a Permissive Act," practically allowed the landowners to make a law that looks like kindness, and in the same breath to put what they well knew in practice must turn out to be an effective bar on its operation. The iniquitous practice of confiscating the tenant's improvements, now condemned by the awakened sense of social justice in the public mind, is a remarkable instance of the longevity of which injustice, sanctioned by law and custom, can generally boast. I am indebted to Mr. W. G. Bear's tract on the relations of landlord and tenant (London, 1876) for the following interesting extract from an agricultural work of the 17th century, entitled 'The English Improver, or a New Theory of Husbandry,' by Walter Blithe, London, 1649:—

"The first prejudice is, that if a Tenant be at never so great pains or cost for the improvement of his land, he doth thereby but occasion a greater rack upon himself, or else invests his Landlord with his cost and labor gratis; or at best lyes at his Landlord's mercy for requitall; which occasions a neglect of all good Husbandry, to his own, the Land, the Landlord's and the Kingdome's suffering. Now this, I humbly conceive, may be removed, if there were a law enacted, whereby every Landlord should be obliged, either to give him reasonable allowance for his cleare improvements, or else suffer him or his to enjoy it so much longer as till he hath made a proportionable requitall; of which the Tenant being secured, he would act ingenuity with violence, as upon his own, and draw forth the earth to yield her utmost fruitfulness: which once being wrought into perfection, will easily be maintained and kept up at the height of fruitfulness, which will be the Kingdome's



continue his lease, and is entitled to do so by the presumption of perpetuity which should rule all holdings, then the question will arise what rent he is to pay for the next legal period of the currency of the lease. For improvements of course in this case he has no claim for compensation, as, by continuing in his holding, he is himself to reap the fruits of his own expended capital; as little has the landlord any claim for increased value of the soil made altogether at the tenant's expense; but is the benefit of the other £10, derived from extraneous and accidental causes, to go altogether to the proprietor of the ground? Certainly not; only the iniquity of the old legal maxim which thought it no robbery to confiscate the tenant's improvements, might borrow a look of fair play when applied to an accidental accretion of this kind. But in fact, under a system of fair play such as has never hitherto been dreamt of by our class-legislation, the occupant has as much right to draw a benefit from such windfall as the proprietor; and the shape which the benefit will take in this case, is simply one-half of the accidental increment produced by the extraneous influence: that is, instead of £120, the advanced rent actually payable to the landlord will be fixed at £105.

If the tenant shall at any time during the currency of the lease fail to pay his rent, the owner shall be entitled to eject him by process of law; always under the condition that a warning of at least a year shall be given him, and also a period of grace beyond the legal term of payment,

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great advantage. Some Tenants have advanced land from £20 to £40, and depending upon the Landlord's favor, have been wip'd of all; and many farmers by this uncertainty have bin impoverished and kept under great disgrace, which might as well have been advanced."

in which he may, by the help of friends or otherwise, be enabled to recover his position.

In offering these remarks on the economical condition of the cultivators of the ground, I have proceeded on the supposition that the subordinate relation of the two parties, indicated by the words landlord and tenant, is to remain the normal condition of agricultural economics in this country. This supposition excludes, of course, the idea of introducing into the agricultural economy of Great Britain, as a prominent feature, the system of peasant proprietorship as it exists in France, Flanders, Germany, and other parts of the Continent: whatever the name be, and however different technically the small proprietor is from the small farmer, socially there is no difference between an Italian *contadino* under the *mezzeria* system of tenancy and a small French proprietor; the Italian or English tenant may rather in many cases be the more advantageously situated of the two. I have therefore no special preference for peasant proprietors as opposed to tenants, where tenant laws are fair and equitable. The success of such small ownerships depends very much on the character of the people, and on conditions of soil, and climate, and social usages which cannot be transplanted. At the same time I have no insular British prejudice against them, and should rather like to see them fairly tried under favourable circumstances and cautious consideration on English and Scottish ground. To elevate a tenant, when it is not merely a nominal elevation, into the status of a proprietor, ought always to be an object of a far-sighted economy; and a principle laid down by Mr. Gladstone, in his speech so often quoted, with regard to Ireland, holds in regard to all

countries, and in a peculiar degree with regard to Scotland. "We feel the necessity there is," said the noble-minded Premier, "the great necessity there is, of a serious effort on the part of Parliament to enlarge the circle of proprietorship of land in Ireland, and to insist upon a more considerable portion of the community belonging to the body which possesses the traditions, associated and connected with the ownership of land." In order to promote this desirable end, a wise Legislature might take a leaf from the conduct of an intelligent and high-minded member of the Scottish aristocracy in the North,<sup>1</sup> and make that elevation of the tenant-holding into the status of ownership which now flows as a favour from the wisdom of the proprietor, attainable as a right by the industry and the enterprise of the tenant. This could easily be done by payment to the owner of a certain number of years' purchase, rateable by statute-law or by a Court of Equity. In this way the citizenship of the country would be gradually increased by a considerable number of small and middle class proprietors, without any pecuniary loss, or rather with a decided pecuniary gain, to the proprietor, who would thus

<sup>1</sup> The following notice I took from the 'Scotsman' newspaper, at some date during the present year, 1884 :—"SALE OF FARMS TO TENANTS. —The Earl of Fife has sold to the tenants four farms on his small outlying estate of Gask, in Aberdeenshire. Mr. John Hay, Millmoss, and Mr. John Hutcheon, Upperton (the well-known Chief Magistrate of Turriff), purchase these farms. The trustees of the late Mr. William Florence, Silverwells, who hold that farm, have purchased it. Craigie-tocher and Marywell have been purchased by Mr. James Milne, Turriff. To Mr. Hutcheon, his purchase must be a peculiar gratification, as he was born on the farm of which he is now the proprietor. The average rent of the four farms is about £100, and the tenants have given thirty-two years' purchase, a proof that the farms had been held by them on favourable terms."

get ready money forced upon him, without the necessity of drawing on the banker or bargaining with the Jew. Any evil that might result from this impropriation of leases in certain exceptional cases from the disturbance of residential amenity, or otherwise, might be settled by an amicable trial before a jury, or a simple judgment of the Sheriff.

*Proposition XIV.*—Next to the chapter of ownership and occupancy, the most important matter that remains for us to consider is the natural laws and statutable enactments that regulate the accumulation and distribution of landed property in a State, whether in ownership or occupancy. Of the accumulation of lands we have already said all that requires to be said. All extremes are bad; and the extremes which err on the side of excess are, by reason of the bounty of Providence, more frequent perhaps, certainly more fretful, than those which spring from defect; for the meagreness that accompanies a scanty supply can be looked upon in all cases with more complacency than the abuse of superfluity. If religion, and love, and learning, and laws have driven people mad, it is better to be charged a little under the mark with such potent explosives, than to be loaded so as to burst the gun. Against the manifest evils of large properties above enumerated, the encouragement to absenteeism, the increase of factorial management, the separation of class from class by defect of the middle link,<sup>1</sup> and the severance of the great mass of the people from a patriotic interest in

<sup>1</sup> In the Clifton Union in Galway, where Mr. Tate has lately passed several months, he informed me that he was not aware of a single resident exercising any influence for good amongst his poorer neighbours.—Hall, p. 104, 'Gleanings in Ireland.' London, 1883.

the soil of their native country, no argument except that arising from the accidental virtue of individual wealthy and enterprising proprietors can be brought. Of such beneficent local administration, the estates of his Grace of Sutherland, Mr. Matheson of Ardross, and Sir Kenneth Mackenzie of Gairloch in the North-eastern Highlands, are happily not solitary examples. Nevertheless, as a rule, we must say that in a well-ordered State, such abnormal accumulations of vast tracts of land in the hands of a few are to be discouraged ; but discouraged only in such fashion as not to interfere with that free action of individual enterprise which is the pulsing life-blood of the body social ; that is to say, we are not directly to prevent excess or accumulation of any kind in the persons of those whose free action constitutes the energetic display of the social functions ; but we may make such regulations as will indirectly, or by a reflex consideration of consequences, tend to check the excess, and mitigate the evils of the hypertrophy that supervenes.

Thus marriage, and the laws relating to the family compact, act as a salutary check to the evils that might arise from the excessive vehemence that belongs to the passion of love ; and in the same way laws may be made regulating the possession of property, which, while they give fair scope to the natural love of acquisition, may, like the drag applied to a coach when going down hill, act as a restraining force beneficial equally to the individual and to society. Of such restraining forces the most obvious and direct certainly would be to lay a tax upon land, calculated upon such an increasing ratio as would make the accumulator feel a sensible pinch. If on doubling his property containing

a certain acreage, his rate of taxation were increased by a half more, so that instead of paying ten per cent. he would have to pay fifteen per cent. on his rental; such a disproportionate apportionment of public burdens, not to mention the tone of public sentiment which such a rate of taxation would imply, except in the case of a few millionaires, would tend to throw a salutary chill on the fever of unprofitable accumulation. On the other hand, there can be no doubt that it is equally the duty of a wise national economy to resist with a firm hand that tendency to extreme subdivision of small properties, of which we have seen such a lamentable crop in the sister island and in some parts of the Highlands. Such minute subdivision has a tendency both to perpetuate poverty and to retard the progress of agricultural economy; for extremely poor occupants of land are, on the one hand, not restrained from early marriages by the same prudential considerations which influence the higher classes, and such a well-regulated peasantry as the Tuscan *contadini*; and, on the other hand, with all the thrift which, under favourable conditions, they may possess, they cannot be expected to command those resources of various kinds by which in certain circumstances agriculture may be most prosperously carried on. Now to discourage this pernicious subdivision of the soil, and perpetuation of poverty, the landlord has always had a weapon in his hand which it is his own fault if he does not use. The famous case of Lord Palmerston's farm of 200 acres, reverting to him at the end of the term with about 150 sub-tenants, proves either the culpable apathy of the landlord, or the hopelessness of the agrarian cachexy under which Ireland has so long laboured: an English

landlord would have put a stop to the sub-letting at once.<sup>1</sup> A wise landlord in the Highlands, for instance, will endeavour in the first place so to distribute his land among the crofters as that they may have no cause to complain of having their natural portions curtailed to aggrandize some favoured intruder, and then to insist firmly on the law of the estate, that no greater number of persons shall be harboured on it than it is decently able to bear. In districts also where farms of more substance can afford a regular supply of work to hired labourers, care must be taken to connect with the cultivable ground a sufficient number of labourers' cottages with a little ground attached to enable the labourers to live comfortably, and rear a family in a decent and Christian fashion.<sup>2</sup> It must not be supposed, however, that these remarks are to be construed as in the most remote degree favourable to the monstrous consolidation of farms, the lamentable consequences of which have been described in the first chapter of this book. Farms like properties are better, in wise conformity to the constitution of the universe, to be of all sizes; the large require the help of the small in many ways which only practical men can fully understand.<sup>3</sup> There is no need of

<sup>1</sup> Hall, as above, p. 79.

<sup>2</sup> See an admirable model of how this can be done in 'Statement as to the mode of erection and tenure of cottages for labourers on the estate of T. T. Hope Johnstone of Annandale,' in the 'Quarterly Journal of Agriculture' for March 1844 and July 1859; also against the bothie system, 'Landlords and Labourers,' by Robert Scott Skirving. Edinburgh, Blackwood, 1862.

<sup>3</sup> "In the recent agricultural distress farms of moderate size, from 100 to 150 acres, bore the strain with most success."—'Leadam,' ii. p. 20; and with regard to small crofts in Skye to the same effect see the important evidence of MacDonal of Skeabost, and the late

supposing that all crofts should be self-supporting. In Ulster, we read that the holdings in general are of very small dimensions: 72,000 occupiers, whose valuation is under £4; arising from the local demand for labour in the flax industry.<sup>1</sup> And in the admirable report by the late William Mackenzie on the improvements on the property of Ardross, printed in the 'Transactions of the Highland Society' for January 1858, we find a passage, as notable for sound philosophy as for practical sagacity.

"The principle of gradation in all its relations commands our admiration, and it loses none of its beauty, when exemplified in the well-laid out farms of an extensive estate. It is surely very desirable that our well-to-do labourers should cherish the hope of one day being farmers on their own account; but to inspire them with such a hope, small farms must exist not in the undefined and unshapely state in which they are generally seen, but regularly and permanently laid out with their houses and steadings. They should be there as part of the permanent improvements and arrangements of the property. The farmer of from 200 to 400 acres will work in a scientific manner; and not only will he be able to afford, but possess the will, if he is a man of the right stamp, to test whatever improvements the agricultural chemist may suggest, and to keep stock of the first quality. These, all found successful with him, will be adopted as far as circumstances permit, by his neighbour of twenty or 100 acres. The crofter, a

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Macleod of Grishornish in 'My Lays of the Highlands and Islands,' pp. 40—44. I may mention also that certain accessories of farming, such as fruit and vegetable growing, bee and poultry husbandry, butter-making, &c., so wisely urged by Mr. Gladstone on the English farmer, are much more likely to be attended to in many cases by the small farmer than by the big. The case of the Tuscan *mezzajuolo*, above detailed, is to the point here. In fact the big farmer and large proprietor often put me in mind of the big writer, of universal history, who thinks it as inconsistent with his dignity, as it is incompatible with his space, to record those small details of local civilization, in which the dramatic and moral interest of history so often reside.

<sup>1</sup> Hall, p. 96.



small farmer, can never afford to give sixty or a hundred guineas for a bull-calf, but if upon amicable terms with his big friend, he too will reap the advantage of so costly a purchase. Neither is it to be expected that he can purchase for seed the prize samples, but he will be gladly furnished with any quantity of its produce in the course of a year or two when grown by a large farmer and found profitable. On the other hand, the crofters are those who supply the best class of young ploughmen and farm labourers. There is thus a great mutual advantage in having a due proportion of large and small farms in a country; it cannot, however, be expected that a large farmer of the class we have instanced, will or should be so generous in his leaning toward his brethren of the other class as the proprietor himself, when he is interested in their welfare. It is when he himself is the leading agriculturist of his property that his small tenantry may reasonably expect to reap the greatest advantages in the manner we have indicated. It is when he introduces the first quality of stock and seeds to his own farm or farms that both will naturally spread over his whole estate."

And in the same report we find a distinct note, in its significant shortness amply refuting the statement so frequently made by ignorant or interested parties that the evictions which have left so ugly a scar on the brow of Highland landlordism, though, like the surgeon's cut, severe for the moment, were necessary for the permanent improvement of the estate.

"It was not the wish of Mr. Matheson that any one of the old tenants should leave the property; he was anxious and willing to provide them all with good farms and far better houses than ever they had, but that these should of course be within the general scope of our plan of improvements. Indeed, upon the whole of Mr. Matheson's extensive possessions there has been no clearing of the old inhabitants to make room for improvements or sheep-walks. It has been found perfectly compatible to carry out the most extensive improvements without removing a single tenant, or attempting to expatriate a peasantry of which any country might be proud. All that was found necessary was simply to adjust matters, and none can be more easily

managed than our Highland crofters in this way, if they are kindly and fairly dealt with."

From this, if from no other quarter, those who wish to learn may learn, how to increase wealth without inhumanity, and to make improvements without desolation.

*Proposition XV.*—We now come to consider specially the great remedy which divine Providence has provided for counteracting the process of excessive accumulation to which all active enterprise has a natural tendency by an equally natural process of redistribution. This remedy lies simply in the death of the individual. For by the law of nature, the moment a person possessed of property dies, his property either falls to be distributed to his family in equal shares, or the whole falls to the State or community to which the deceased proprietor belonged, to be disposed of according to the social consuetude or law. For be it remarked, that by the law of nature there is neither any preference marked out between first-born and second-born, nor any right on the part of a dying individual to determine with legal validity in what form, or in what condition, his property shall be possessed by his children, relatives, or friends. He may no doubt express his wish: and his children may either carry out his wish, or, what is equally possible, quarrel about it, and countermine it; but in all cases, a testament or will disposing of property after death, with assured validity, is the creature of statute. In order, therefore, to avoid confusion and unseemly quarrels amongst families and kinship, it has seemed good in every well governed country to declare with the old Roman law, in the twelve tables:

· UTI QUISQUE LEGASSIT SUAE REI ITA JUS ESTO.<sup>1</sup>

But this right of testament of course does not apply to those cases in which a man dies intestate ; and for these cases, as well as for a certain wise restriction in the right of testamentary distribution, the statute law of every country has to provide. What then in the case of landed property ought to be the law of *post mortem* distribution when the proprietor dies intestate ? And this question necessitates the answering of a previous one—should there be any difference in the law of landed property or movable property in the distribution after death ? Is not the whole distinction between heritable and movable property, a distinction bearing the mark of the feudal system on its front, and utterly out of harmony with the character of property in modern times ?<sup>2</sup> And, if so, why should we not adopt one simple rule for the division of all property after death, that simple rule which already guides the Scottish law of succession in movables, and which follows the equitable principles both of the Roman law and the old Saxon law, the obvious principle of an equal division among equals ? My answer is, that while no charge of injustice or unfairness can possibly lie against such an equal distribution, there seem to be certain social and economical reasons which justify the preference shown to an eldest son, not only in the feudal law, but in the Hebrew

<sup>1</sup> Institut : Justin ii. 22, de lege Falcidiâ. Baldwin de leg. xii. tab. ch. xxiv.

<sup>2</sup> Primogeniture in England, as a part of the feudal law, was strictly military in its character and origin. Therefore it did not apply to lands held in free soccage ; and the reason was *quia jus gladii dividi non potest*.—Pollock, p. 56, and note D, p. 207.

law and elsewhere. The eldest son, by his position, both represents and acts for the family in many social situations, even before the decease of his father. He does so because he is the first to arrive at maturity, and in cases where some preference is naturally shown, he is the man to receive it. Again, I do not think that the natural desire of a father to leave his principal estate to his family, within moderate limits, ought to be discouraged. The knowledge that his estate will descend certainly to his family will encourage the proprietor to spend money upon it, and improve it in various ways, both useful and ornamental; and, as a landed estate cannot, like so much money, be divided and cut up among several persons without destroying it, it follows that if it is to remain in the family, it must remain with one of the sons, and of the sons with that one who during the life of his father has most naturally been called upon to perform by anticipation the functions of a local overseer.<sup>1</sup> I am therefore in favour of a

<sup>1</sup> Brodrick, who is a very fair and philosophical writer ('Land Laws,' p. 109), justly remarks that the most kindly and pleasant type of the *dominus terra*, the English country gentleman, is in a great measure the product of the law of primogeniture; and yet he is, as we shall see, decidedly in favour of its abolition in cases of intestacy. It is interesting to remark that this preference of the eldest son, which appears so natural, in some copyhold tenures in the South of England, especially in Sussex, as I am informed by Pollock, yields to a preference in favour of the youngest son, a custom known in law-books by the name of *Borough English*. The motive that lay at the bottom of this custom perhaps was, that, as the first-born was likely before the father's death to have made his fortune, and to be able to stand firmly on his own legs, the youngest member of the family not yet started in life was the one who stood in most need of help from his father's property; and there is no doubt, in certain cases, no small amount of kindly wisdom in this idea.

certain primogeniture, not only as a venerable old tradition, but on independent grounds, social and economical ; but

*Proposition XVI.*—observe, primogeniture not absolute and uncontrolled, as it exists in our English and Scottish laws, but limited and restricted, as it existed in the old Norman law, and as it still exists fair and flourishing in the territorial law of the Channel Islands.<sup>1</sup> This limited primogeniture consists in the right of the eldest son to choose any one of the manors in possession of his father that he may prefer ; and the rest standing on separate titles, to fall to the other members in a regulated sequence. With the details of such a sequence I do not care here particularly to intermeddle : I may only say in passing, that, after the unity of the family has been preserved, by the selection given to the eldest son, I see no reason why daughters should be postponed to sons in the assignment of the manors.<sup>2</sup>

<sup>1</sup> On this subject by far the best authority is 'The Land Question of the United Kingdom,' by Henry Tupper, of the Royal Court of Justiciary, Guernsey, 1868, and the 'Ancienne Coutume de Normandie,' by de Gruchy, Justiciary of the Court Royal of Jersey, January 1881 ; a subject with which our legislators for the next generation should take some pains seriously to acquaint themselves. See my article in 'Mac Millan,' November 1883.

<sup>2</sup> On the general impolicy of the unlimited right of primogeniture, as it has existed in this country, I see no necessity of enlarging ; as it is manifest that such a law tends directly to accumulate vast tracts of country under one lordship, the evils of which have been amply set forth, or significantly indicated in various parts of this treatise. But as there are no doubt some of my readers who are not inclined to assume this point so axiomatically as I do on the grounds of social ethics, I shall do myself the pleasure here to quote at length the Honourable George Brodrick's summation of his arguments against primogeniture in the admirable work on 'English Land and English Landlords,' ch. i.—

*Proposition XVII.*—Finally, it will be observed, following out the ruling principle of Aristotle, all extremes are wrong, that the incentive to improvement furnished to the owner of land by the right of limited primogeniture, will be sufficiently strong if the continuance of the estate in the family is secured to the eldest son, his immediate successor, or to his son's son if the eldest son predecease, it being of the

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“From every point of view we are led to an adverse judgment on the extreme development of primogeniture established in England by the joint operation of law and custom. It must be condemned, politically, as aggravating the perilous dualism of town and country; as affording the very minimum of constitutional stability to be derived from the conservative instincts of proprietorship; and as giving a very limited body of landlords a preponderance in the State none the less unreasonable and obnoxious because it is defended on the untenable ground that it is bound up with the existence of the Upper House. It must be condemned, socially, because it helps to stereotype the caste-like organization of English classes ‘in horizontal layers, setting up in thousands of country parishes a territorial autocracy which, however benevolently exercised, keeps the farming and labouring population in an abnormal state of dependence on a single landowner often non-resident, while the rural districts have gradually been deserted by the lesser gentry who helped to bridge over the chasm between rich and poor in ancient times. It must be condemned economically, because it cramps the free play of economical laws in dealings with land, multiplies the difficulties and cost of transfer, and discourages a far-sighted application of capital to agriculture, either by the landlord, who is usually a mere lifeowner, or by the tenant, who seldom holds a lease. It must be condemned morally, because it holds out to almost every eldest son, in what must still be regarded as the governing class, the assurance of wealth and power, whether he be worthy of it or not, and subject to no condition but that of surviving his father. Lastly, it must be condemned in the interest of family government, because it fatally weakens the authority of parents over eldest sons, and introduces a degree of inequality into the relations of children brought up together which often mars the cordiality of their intercourse in after life.”

utmost consequence in an economical point of view, that whoever holds the property shall hold it absolutely unshackled and unburdened, and that in no case shall the DEAD, by statutory entail as in Scotland, or by renewed settlements of any kind as in England, be allowed to exercise a monstrous lordship over the free economical action of the living possessors in favour of persons yet unborn.<sup>1</sup>

*Proposition XVIII.*—With regard to the right of the landed proprietor to disinherit his natural heir, and to dispose of his property in any way to defeat the general operation of the law of landed succession, I am of opinion, in conformity with the law of the Channel Islands, that no such liberty ought to be allowed; and that for two reasons:— (1) It would tend very much to create jealousies, and break the peace of families, if it were known that the father, out of mere favouritism, or unreasonable partiality, had the power of materially altering the consuetudinary destiny of the estate. (2) The lawyers might easily work the general right of testamentary disposition in such a fashion that monstrous accumulations would in various ways be favoured, and the great purpose of the general law of succession be altogether defeated; and the less the lawyers have to do with family settlements in the English style, so much the better for the peace of the families whom they are called in to advise. Besides, if the father of a family has any very strong reasons for disinheriting his eldest son, it will always be in

<sup>1</sup> By the operation of the English law of settlements, the landowner becomes practically a tenant for life; so that, as Mr. Wren Hoskyns has it, the present system is “a game of beggar my neighbour between tenant for life and tenant at six months’ notice, each trying to strip the land by least investment in it.”—‘Leadam,’ ii. p. 4.

his power to give over the principal estate to any of the younger members of the family, or other favoured person, by a deed *inter vivos*: over and above the right that will always be conceded to him of free testamentary disposition, of a third or it may be two-thirds of the movable estate.



## CHAPTER III.

## THE CROFTERS' COMMISSION.

THE account which we have given of the British land-right, in the previous chapter, will have led every reasonable reader to expect that the poor inhabitants of the remote Highland glens could not have lived very much at their ease under the pressure of such an unfair and one-sided system of laws. It would in fact have amounted to a moral miracle, if such absolute power entrusted to a few irresponsible individuals, under no control of a watchful public, had not frequently been abused. The Highland landlords, partly from the good moral element inherited from the clan system, partly perhaps from the example of liberality in many landowners besouth the Tweed, were often a great deal better than the laws under which they acted ; and besides the Highland people were, by the double influence of tradition and religion, by far the most loyal and law-abiding of Her Majesty's subjects. For these two reasons, the Highlanders suffered much less than their Celtic brothers, under similar circumstances, across the Channel ; and, when suffering, as they frequently did severely, gave much less sensible indications of their discontent than their Irish fellow-sufferers. Sometimes, however, they did kick ; and recent experience has amply proved

that they might have been better treated, if they had at an earlier period, and with greater observance, applied to a Government accustomed to act only on compulsion from below the highly stimulant recalcitration of a Kenmare or Killarney squatter. "About the beginning of the present century an attempt was made to evict the crofters at Coigeach, near Loch Broom. Here the people made a stout resistance, the women disarming about twenty policemen and sheriff officers, burning the summonses in a heap, throwing their batons into the sea, and ducking the representatives of the law in a neighbouring pool. The men formed a second line of defence, in case the women should receive any ill-treatment. They, however, never put a finger on the officers of the law, all of whom returned home without serving a single summons, or evicting a single crofter. These proceedings, as will be the case frequently under factorial management, seem to have taken place without the knowledge of the noble proprietrix, who, as soon as the true state of the case was laid before her, disallowed the violent proceedings of her underlings, with the result that the Coigeach tenants are still where they were, and are to-day amongst the most comfortable crofters in the North of Scotland."<sup>1</sup>

But the most notable instance of this successful recalcitration under the tyranny of factorial management is the very recent one of the Bernera rioters, of which as a significant and expressive overture to the recent outbreak of indignant nature on the part of the Skye crofters, it will be instructive to give a short account here. One case such as this is worth a thousand abstract arguments about

<sup>1</sup> 'Highland Clearances,' by A. Mackenzie, p. 308.

land laws; here the devil does not remain behind the scenes, as he generally finds it easier for him to do, but walks forth in visible incarnation, dressed as a gentleman (*see* 'Faust'), and followed by a convoy of lawyers, who, next to the priests, are his chosen instruments for making his most effective manifestations. He is wise enough to know that what is according to law will be taken without inquiry for right, and that, if the name of God is stamped on his bill by the priest, the most flagrant acts of treachery and violence may pass into history as sacred. But in some cases—the besetting sin of very clever people—he outwits himself; and so it happened here. The poor crofters were acquitted; and the mighty chamberlain publicly snubbed, as chamberlains rarely are. The facts are these:—Bernera is an outlying islet between the Lewis and N. Uist, belonging to the Mathesons, who are mighty in those parts. On the first day of March 1874 some fifty or sixty summonses were served on certain crofters in the island, ordering them to “remove from feus, grass and houses, with their respective shares of moor-grazing thereto attached, and from their respective shares in the summer grazings, or sheiling ground on the farm of Earshadder in the parish of Uig”—and on the 17th July of the same year certain Bernera crofters were tried before the sheriff at Stornoway on the criminal charge of deforcing the officers, who were sent to serve the summonses. The terms of the summons are important to be observed, as they present to us a significant step in the process by which those honest people are extruded from their native soil to make way for a few idle gentlemen to have a shot at the moor-bird of the heather,

or a run after the mountain deer. When the trial commenced, Mr. Charles Innes, a reputable Inverness lawyer, engaged for the defence, on cross-examination of Mr. Munro, the chamberlain, at whose instance the summons had been served, brought out a fact which will vividly place before the Southern reader the sort of omnipotence which the mandataries of large properties are clad withal in those parts. The chamberlain or land agent of Mr. Matheson in this case was both factor and fiscal ; both agent for the landlord and prosecutor for the Crown. He was besides, chairman of the parochial board of four parishes, chairman of four school boards, and vice-chairman of the harbour trustees. He was also a Justice of the Peace and Commissioner of Supply, and town bailie of the Lewis ; and various other things, either personally or through the clerks in his office. Such an amount of power is enough to intoxicate any common mortal ; and so this chamberlain seems to have been intoxicated with the wine of insolence ; and was not at all ashamed, when made to confess publicly that he had proceeded violently to evict fifty-six crofters on his own responsibility, without receiving any instructions to that effect from his principal ; he was “ not in the habit of consulting Sir James about every little detail connected with the management of the estate ”—“ little details ! ” by which between two and three hundred human beings, not chargeable with any crime, and perfectly willing to pay their rents, were to be summarily ejected from the ground which their fathers had cultivated with their spades, and defended with their swords for long centuries, at the will of an arbitrary hireling clad in a little brief authority, and exercising that authority with a haughty disregard of the

happiness of those persons of whom by Divine and human law he was bound to act as patron and protector.<sup>1</sup> It is a representative case, and should be well noted. *Ex uno disce omnes*. It is always the factor that does the dirty business; the landlord is always a good gentleman; and the land laws are always and everywhere on the side of the strong. Observe next how this eviction came about. The details are equally typical, and may serve for scores of cases, of which the public know nothing, and never will know. Deer-stalkers are by the necessity of their position, as we stated in Chapter I., the natural enemies of the rural population. Before they come into possession they make a condition that the people shall be cleared off, and the comfort and happiness of the industrious natives of the soil sacrificed to the amusements of a few idle young lordlings. So it is in Wynan's case, the great American Nimrod; so also here. The fifty-six crofters who were now to be summarily cleared off from the soil, had for generations, from father to son, beyond the memory of living man, possessed grazings on the Cuillin hill in Lewis. These grazings, as everybody knows not altogether ignorant of

<sup>1</sup> This great power of the factor must not be regarded as a usurpation, but lies so naturally in his position that even with regard to well-gardened Tuscany, Sonnino writes: "*Posti in una situazione da far quel che vogliono, e molto piu padroni del fondo che lo stesso proprietario*" (p. 183); so much the more does the abuse of such an office require to be prevented by laws and consuetudes tending to protect the people, and by the conscientious selection on the part of the proprietor of an agent whose sympathies are warmly with them, or by the watchful eye of the principal over the doings of his agent. When doing his duty fully, the landlord is the natural protector of the tenants against the factor; exactly as in government the monarch is the natural protector of the rights of the people against the insolence of the aristocracy.

rural economy in the Highlands, are an essential pertinent of a crofter's holding ; this the factor knew perfectly well ; and so when the lessees of the deer forest adjacent to these grazings came with their usual representation that the continuance of a rural population in the vicinity could not be tolerated because it would disturb the deer ; the factor with that facile subserviency to the upper classes, which is the besetting sin of his order, forthwith entered into an agreement with the crofters that they should give up their old ancestral grazings on the Cuillin hill in exchange for grazings less obnoxious to the jealous sensibilities of the deer-stalkers. This agreement they entered into ; not, of course, very willingly, nor without a well-grounded suspicion that removal from their ancestral holdings might be the beginning, as it had been in Strathnaver, Knoydart, and elsewhere, of a process of gradual decline and ultimate extermination. Still they must submit ; freedom of contract in all such cases being only a name to juggle fools and justify knaves ; the law was all on the side of the deer-stalkers ; and the factor was omnipotent. They accordingly surrendered the Cuillin holdings, and received in exchange the grazings of Earshadder, also on the mainland, on the distinct condition, however, that they should be allowed to retain these new grazings as long as they held their crofts and houses, which they were led to believe they might continue to possess, so long as they paid the rent with regularity, and behaved themselves with propriety. Now observe another gross iniquity perpetrated on these poor people. Had there been any generosity in the factor, or any fair play in the laws, every man leasing a deer forest, the four-footed inhabitants of

which might be an annoyance and an injury to the industry of the poor people adjacent, would have been forced, either at his own expense or at that of the landowner, to build a fence to protect the tillers of the soil from such unlicensed depredations. But as we have seen again and again, to our national shame, in the course of these inquiries, there was no law in the Highland hills for the poor man—all law for the rich. So we find it given in evidence before the Sheriff, in the trial by one of the township constables in Bernera, that the crofters were compelled to keep in repair a dyke between themselves and the proprietor's forests; "the proprietor paid no part of the expense, though his deer broke down the dyke as much as our sheep. When any of our sheep trespassed on the forest, as much as 2*s.* 6*d.* and 3*s.* a head was charged as a fine." The witness does not say whether, if any of the wild animals trespassed on the grazings of the tame animals, a proportionate fine was paid to the crofters; but though I was told, when residing near Ballinasloe in Ireland, that the hunting gentlemen of the county had a fund expressly for the compensation of damage done to farmers by the chase, I never heard of any such kindly consideration in the Highlands; nor do I believe that the Game Laws contain any such equitable clause. But to continue: the poor crofters had not to wait long before they found their suspicions about their removal from their old ancestral holdings on the Cuillin more than justified. After being in possession for a year and a-half, they were told, in the style that policemen use to ragged boys in a crowded metropolitan district, to "move on"—which in their case meant also to move off. It had been determined by the factorial omnipotence that there

should be no toleration more for them on the mainland of the Lewis : they were to confine themselves, cattle and all, wholesale within the sea line of the Bernera, as in a sort of Botany Bay. For this second transference no reason appears in the report of the trial ; in all probability it was the pressure of the deer-stalker, who, like a certain deleterious fungus, has a native instinct of spreading desolation, in wider and wider rings, wherever he appears. But, be this as it may ; if there was no sufficient reason for expelling them this second time from their grazings, there were two very good reasons for allowing them to remain ; there was the reason of that politeness which ought on all occasions to mark the conduct of a Christian gentleman in his transactions with his inferiors in social position ; and again, there was the fact that they were charged with no offence, and had paid their rents punctually, and moreover that they had raised a new dyke at Earshadder to protect their crofts from the depredations of the deer, as in the former case, at their own expense, and for which no compensation was either offered or promised. Of course being human they could not be very well pleased at this most iniquitous and most ungentlemanly procedure ; but being crofters they had no redress ; and the innocuous displeasure from below was forthwith commenced by an effective display of high-handed displeasure from above ; the crofters were ordered peremptorily not only to give up their grazings in the Lewis, which they had twice fenced with a dyke at their own expense, but to decamp wholesale, father and mother and children and young babes, from their houses and homes ! The officer who served the summonses got a few hard words, and a little



rough handling which, however, did not seem to have reached his skin, but only rent his coat ; so that in an action for deforcement brought, as was his duty, by the law officer of the Crown against the crofters, the assault was held not proven, and a verdict of not guilty returned in favour of the crofters. This, however, was in the circumstances of the case merely a happy accident, and an additional proof of the forbearance and long-suffering of that most exemplary class of people, the Highland crofters ; had they, as might lightly have chanced in the heat of a most natural indignation, allowed themselves to be led into a treatment of the law officer which a jury would have been justified in deciding to be an assault, who could have wondered ? The trodden worm may sting ; and honest people earning their bread with the sweat of their brow, cannot always be expected to offer their backs to be flayed by their social superiors, and not kick.<sup>1</sup>

This Bernera case we called an overture to the more widely bruited one of the Skye rioters, the most recent act in the long drama of neglected duty and mal-administration in the Highlands. We should more fitly have called it a prophecy. The fact is, all who take the trouble to look narrowly into these matters, not trusting to the glosses of interested parties, will have no difficulty in discovering, that with the single exception of the alarm about emigration above detailed (p. 74), the whole history

<sup>1</sup> The above account is taken in all details from ' Report of the Trial of the Bernera Rioters.' Edinburgh, Blackwood, 1874. As I write this I am happy to learn that Munro, as a consequence of these proceedings, was deprived of his polyonymous omnipotence, and that the honest crofters are still in possession of their holdings.

of the social discontent in the Highlands is simply the result, I shall not say of a conspiracy, but of a rude, inconsiderate, and imperious instinct on the part of the landowners or their underlings, to get rid of the great mass of the people of whom they had been constituted the protectors and guardians, for the benefit of a favoured few, whom the love of lordship, or the lust of money, the madness of sport, or the crotchets of a doctrinaire economy, had brought into the front of the arena. And the process, which under various modifications, sometimes more inhumanly violent, sometimes more furtively gentle, was simply this: to deprive the industrious tillers of the soil of their ancestral portions on the braes which were necessary for the prosperity of their crofts; to hand them over to the speculative farmers from the South, or it might be to the local factor himself or his nephew; or finally to London brewers or American millionnaires laden with bullion; and then to shovel off the original shepherds of the braes into some unkindly corner where they could not comfortably exist; and finally to raise a cry of over-population and chronic poverty, for which emigration was the only cure.

In the Bernera case these characteristic features of Highland economy come out in all their native deformity. The Skye cases were perhaps a little more entangled in details, but in principle and in general character entirely identical. The two small points of difference were, that the accused parties were, in the Bernera case, tried in a remote corner of the outer Hebrides, while the Skye offenders had the benefit of a more public battle-field at Inverness and Edinburgh; and again, while the Bernera rioters were triumphantly acquitted, in the case of the

Skye men, the law, the lawyers, and the landlords gained the day. It would serve no purpose to go into details here about the understandings or misunderstandings of the conflicting parties as to the use rent free, or with rent paid of certain hill pastures in the vicinity of their crofts; the whole course of the transaction indicates a fixed purpose on the part of the governing powers to subserve the convenience or gratify the greed of the big farmer, while the interests and the comforts of the industrious tillers of the soil were habitually subordinated. The Skye cases came from two different quarters, both under the lordship of Lord MacDonald, the one known as the Braes in the parish of Portree, and the other Glendale, some thirty miles from Portree, and about ten or twelve from Dunvegan.

The tenants of the Braes, up to the year 1865, had the grazings of Ben Lee, a hill in their neighbourhood, at which time, in the usual course of factorial policy, it was taken from them, and let to a sheep farmer as a separate holding. The tenants, feeling the pinch, as they could not but do in such circumstances, and having no more hope in the generosity of the omnipotent factor<sup>1</sup> than the poor

<sup>1</sup> On cross-examination at the trial which afterwards took place, Mr. Kenneth MacDonald, Town Clerk of Inverness, counsel for the accused, brought out from Lord MacDonald's factor, that he was an omnivorous devourer of offices, in the same style as Mr. Matheson's chamberlain in the Lewis, and that he was entitled to consider himself king of Skye—the uncrowned king of the island, the virtual lord of the isles—an "absolute monarch who punishes a murmur by transportation to the mainland" (Mackenzie, p. 69); and that "as a rule, the factor was sole judge of any little dispute that may arise among the crofters; and that he decides all these disputes according to his own notions of right and wrong; and that the general manner in which he deals with them is arrogant and dictatorial."

bastinadoed fellahs in the Upper Nile have in the justice of the Cairo government, thought they might follow the example of their triumphant brethren in Bernera, and kick. Accordingly, when early in April, 1882, summonses of removing, and small debt summonses for payment of rent for the disputed hill pastures, were served upon them, they took counsel together, met the officer on the road about a mile from the scene of his intended labours, and when the documents were held forth in his hand, asked him to light a fire. He did so, and a fish-liver being placed upon it a roaring fire straightway blazed up. The officer was then ordered to consign the summonses to the flames; which he did. An auspicious beginning the honest mountaineers no doubt thought. What water did at Coigeach fire shall do in Skye; a deluge there drowned the law; a blaze of cod-liver oil here shall burn its beard! But it might not so be. The Braes are much nearer to Portree than Coigeach was to Dingwall; and Lord MacDonald's factor was not made of the same stuff as the good Countess of Cromarty. On the 17th of the month, an imposing legal force came down upon the recalcitrant crofters—two sheriffs, two fiscals, a captain of police, forty-seven members of the Glasgow police, and a number of the county constabulary, not to mention the constant camp-followers of such a business—two newspaper-reporters. They were evidently prepared for a warm reception, and received it. With a loud artillery of whistling, and cheering, and screaming, the defensive force met the invaders, the women, as at Coigeach, in the van. Then a scene followed comparable to that which Napoleon's captains had to experience when they forced their way through the passes of the Tyrol in 1809. Sticks

and flails were flourished with tremendous energy and unflinching effect; a perfect fusillade of stones came pelting from the heights; gashed brows and bleeding noses were displayed; and, though the pass was forced, the sheriffs and the fiscals, like the great Napoleon at Waterloo, were forced to forget their dignity, and seek safety in inglorious flight. Of course the matter could not rest here.<sup>1</sup> On the 11th May of the same year, five persons engaged in the tumult were tried before the Sheriff in the Castle at Inverness, on a criminal charge of assault, and having been found guilty, were fined, two of them in a penalty of £2 10s., and the other three to the amount of 20s.

The Glendale affair was much less dramatic, and much shorter, but in its ultimate results vastly more important. The crofters in that district were served with an interdict from the Court of Session, charging them not to feed their sheep on certain braes, to which they claimed a right, having been deprived of their old grazing ground in favour of the big farmer; and being forced to retire into their already overcrowded townships the crofters who had been ejected gave free range to the land-hunger of the wealthy men and favourites of the place. But, though their grievances were the same, the issue of the recent affair at the Braes taught them a wiser, if not a more dramatic, procedure. They submitted with perfect willingness to receive the interdict; and, after the imposing apparition of a gun-boat in the Bay of Poltiel, opposite

<sup>1</sup> The whole affair, known in the district under the name of "The march of the dismal brigade!" was celebrated in verse by a clever writer, subscribing himself Alfred Tennyson, junior, in the 'Daily Mail' of April 26, and inserted by Mackenzie in his 'Isle of Skye' in 1882-3. Inverness, 1883, p. 34.

their crofts, and a conference having taken place between themselves and Sir John Macleod's trustees, three of the crofters voluntarily offered themselves to go up to Edinburgh for trial; and this they did forthwith, not in the gun-boat, however, but in the common steamboat of passage—the 'Dunara Castle'—for "they would not have it said that Glendale men had to be taken from their homes in a man-of-war." In Edinburgh they could not expect much sympathy; for they had long been accustomed to keen blasts of a legal east wind from that quarter; but they were sure to find what to them, confident in the radical rectitude of their claims, was of more consequence—publicity; and even in Edinburgh, outside the range of legal formalists, economical doctrinaires, and very proper persons of all descriptions, their presence could not fail in quickening the pulses of unbribed human brotherhood in many a manly breast. On the 9th of March, 1883, the three men were tried before Lord Shand, for breach of interdict, and sentenced to two months' imprisonment. The details of this trial, as decided upon a point of mere formal legality, have no interest for the public. Of course the law was, as it always has been, in questions between landlord and tenant, on the side of the stronger; but the unfortunate men, whom the law regarded and could not treat otherwise than as malefactors, were honoured as martyrs by a large party of thinking men throughout the kingdom, who know that in all such cases the men in power who maintain bad laws and create artificial crimes are more to blame than those who break them. Whatever Edinburgh people with the narrowness of a merely local opinion might think, the crofters were

not ignorant that there are men in London who live in a region far above the reach of party partialities and provincial frets, and who, in a matter of contention between the most loyal and the most well-behaved section of Her Majesty's poor people and the mighty lords of the soil, would not be forward to conclude that the poor people were chiefly in the wrong. They knew also that the stout champions of popular rights, after years of noble struggle had at length wrung from the unwilling landlordism of Ireland some equitable concessions to the claims of a long-neglected and systematically misgoverned population; and they could not err in their expectation that the great statesman who had taken such bold steps to give to the Irish a legal footing on their native soil, would not turn a deaf ear to the more unobtrusive, but not the less legitimate, complaints of their Celtic brethren beyond the Bens. JUSTICE was the powerful war-cry which marked the beginning and end of his great Irish campaign; and the signal acts of justice which had been largely conceded to the disaffection of the Hibernians, could not with any fitness be denied to the loyalty of the Highlanders.<sup>1</sup>

And the good people were not to be disappointed. On

<sup>1</sup> "JUSTICE, Sir, is to be our guide. And as it has been said, that love is stronger than death, even so justice is stronger than popular excitement, stronger than the passions of the moment, stronger even than the grudges, the excitements, and the sad traditions of the past. Walking in that path we cannot err, guided by that light—that Divine Light—we are safe. Every step that we take upon this road is a step that brings us nearer to the goal, and every obstacle, even though it may seem for the moment insurmountable, can only for a little while retard, and never can defeat, the final triumph."—Speech of the Right Honourable W. E. Gladstone in the House of Commons in his motion introducing the Irish Land Bill, 7th April, 1881.

the 17th day of March, 1883, in the 46th year of the reign of her present gracious Majesty, a Royal Commission was named to proceed to the North, and inquire into their grievances. This was a very different thing from the biting east wind that had blown on them persistently from Edinburgh. At last their cries had reached the ear of a man who knew what justice meant; and that dear lady, the Queen, they were well assured loved them. It was no small reward after two months' martyrdom in prison, for a neglected, and down-trodden, and systematically misprised generation of honest men and women, to be considered worthy of a searching glance from the Government, and a kindly look from the Crown, and not to be consigned, without a tear, to the mercies of their traditional taskmasters. The Commissioners were the Honorable Baron Napier of Ettrick; Sir Kenneth MacKenzie of Gairloch, Baronet; Donald Cameron of Lochiel, Esquire; Charles Fraser Macintosh, Esquire; Alexander Nicolson, Sheriff of Kircudbright; Donald Mackinnon, Esquire, Professor of Celtic in the University of Edinburgh: and they forthwith set forth on their mission of agrarian inquiry from the harbour of Oban, on the 5th May of the same year. They held meetings at various important centres in Inverness-shire, Ross-shire, and the outer Hebrides; also in Orkney and Shetland, to which, in an accessory way, their commission was extended; finally, in Glasgow and Edinburgh, in which latter city they brought their laborious investigations to a close in the last week in October. The Report, with four volumes of evidence, was laid before the House of Commons early in the session of 1884. As a repertory of facts with regard



to this much neglected and sadly mismanaged part of Her Majesty's dominions, and as a summation of economic counsel, by a body of men distinguished alike for kindly humanity, practical intelligence and fine discrimination; it richly deserves, as it widely received, the thanks of all Scotsmen who felt warmly for the sufferings of their Celtic brethren in the Bens. From this Report we now proceed to lay a few extracts before the intelligent reader, which may enable him, without using our eyes, to shape for himself an independent opinion on one of the most interesting social questions of the day. These extracts may for the sake of clearness and succinctness, be conveniently classed under the following heads:

#### I. NATURE AND CHARACTER OF THE EVIDENCE.

"The history of the economical transformation which a great portion of the Highlands and Islands has during the past century undergone does not repose on the loose and legendary tales that pass from mouth to mouth; it rests on the solid basis of contemporary records, and if these were wanting, it is written in indelible characters on the surface of the soil. Changes of this nature, going to the very foundation of social and domestic life, are not anywhere accomplished without some constraint, resistance, distress, and if the instances produced for our information are not specifically and literally true, they are akin to truth."

#### II. ECONOMIC CONDITION OF THE HIGHLANDS IN PRESENT AND PAST TIMES COMPARED AND CONTRASTED.

"In past times the sub-tenant had often the benefit of more room; in this case he held a larger arable area, by

which cultivation could be suspended, and the productive properties of the soil, in consequence, to some extent preserved. On the vast unappropriated waste he could pasture a greater number of live stock; he possessed the potato in a more prolific and reliable condition as a main source of sustenance; in the manufacture of kelp he found the means of paying his money rent. He had a greater freedom in regard to the natural produce of the river and the moor. The intervals of leisure were passed with greater cheerfulness among a primitive people, to whom hardships were familiar, who enjoyed their own traditional forms of physical and intellectual recreation, and whose minds were not embittered by an intelligent envy of the welfare of others, or by the belief in rights from which they were debarred. The various orders of society were more fully represented in the resident community; the natural leaders of the people lived among them. These benefits were greatly outweighed by definite or unlimited services, often relentlessly exacted from men and cattle in seasons when labour was most valuable to the people for their own subsistence; by Government regulations onerous to industry, like the taxes on salt and coals; by restrictions on foreign importation, oppressive to those who did not produce provisions enough for their own support; by impediments to movement and traffic, which left the cultivator a prey to the cupidity of a local monopolist; by ignorance and indigence, which attached him to the soil and rendered him the helpless vassal of a local master; by the delays, sufferings, and terrors incidental to distant voyages and a change of country. We may add to these causes of distress, that in the absence of a benevolent proprietor, or impartial

factor, justice was in the remoter parts unattainable; the complaints of the poor were unheard, their wrongs unredressed.

“The crofter of the present time has through past evictions been confined within narrow limits, sometimes on inferior and exhausted soil. He is subject to arbitrary augmentations of money rent, he is without security of tenure, and has only recently received the concession of compensation for improvements. His habitation is usually of a character which would almost imply physical and moral degradation in the eyes of those who do not know how much decency, courtesy, virtue, and even mental refinement, survive amidst the sordid surroundings of a Highland hovel. The crofter belongs to that class of tenants who have received the smallest share of proprietary favour or benefaction, and who are by virtue of power, position, or covenants, least protected against inconsiderate treatment. On the other hand, the crofter has been brought into direct relations with the landlord, which by common assent is preferable to sub-tenancy; he has got higher prices, higher wages, greater facilities of local intercourse, better access to external labour. Except in very rare cases, he is exonerated from unpaid services, and where such survive, they are for the most part in the interest of the holding or the township. All burdens on native industry and foreign importation have been long since removed. The shackles of local dependency are falling away. If the crofter and crofting fishermen are not entirely emancipated from compulsory custom, truck, barter, and payment in kind, these trammels are being removed by the altered conditions of society. Provisions have been made for

popular education which, when better appreciated and further aided, will eventually lay open the whole world with all its resources and attractions to the sight of the most secluded inhabitant of the glens. Steam and telegraphic communication have already done much to connect the British and even the continental markets with the remotest seats of production, and the same means may be rendered more effectual for the same purposes. The material risks and difficulties connected with emigration are daily diminishing. The benefits of public justice have been extended. Sanitary regulations, medical assistance, and poor law relief have been introduced, and the people of the Highlands and Islands, far from being regarded with indifference, attract a large share of public solicitude, and are surrounded by the active sympathies of their countrymen settled in the great marts of industry in this country, or dispersed over the whole colonial Empire of Great Britain.

“On the whole, we cannot entertain a doubt that the small occupiers of the Highlands and Islands have participated in no small degree in the benefits which modern legislation and commerce, and the prevalence of philanthropic principles in government and individual action, have conferred on other classes of their countrymen. We remain under the impression that while in the whole community there was a larger proportionate number of persons living in rude comfort in former times, there was also a larger number in a condition of precarious indigence. The average amount of moral and material welfare is as great now as at any previous period, and the poorest class were never so well protected against the extremities of human suffering. We cannot flatter ourselves that this statement

of opinion will fully satisfy those whom it concerns. The tendency to paint the past in attractive colours will not easily be abandoned, nor is it likely to be obliterated by contemporary education or political training. A comparison of the present with the past is a favourite and effective instrument in stirring popular aspiration for enlarged rights. We shall, we trust, draw nearer to the prevailing sentiments of our countrymen when we add that, whatever has been the progress in the condition of the Highland and Island population, we have not reached a point which should satisfy their just expectations. There are still wants to be supplied and abuses to be corrected in the Highlands, as elsewhere."

### III. EVIL AND IMPOLITIC DISTRIBUTION OF OCCUPANCY AS ILLUSTRATED IN THE PARISHES OF FARR IN SUTHERLAND, AND UIG IN LEWIS.

#### FARR, SUTHERLAND.

'Gross Rental .. .. .	£10,337	8	7
Deduct—			
For 5 Manses and glebes ..	£106	0	0
1 School .. .. .	5	0	0
3 Inns with land .. .. .	129	6	0
1 House with land .. .. .	10	0	0
4 Shooting tenants .. .. .	2,500	0	0
6 Fishing tenants .. .. .	1,095	0	0
		<u>3845</u>	<u>6 0</u>
Rent of land proper .. .. .	£6492	2	7
Of which 7 tenants pay .. .. .	5810	8	11
		<u>£681</u>	<u>13 8</u>
Leaving for 293 Crofters and Cottars (as per Valuation Roll)			
Of these 293 there pay over £10 and under £30 .. .. .			0
Between £6 and £10 .. .. .			5
Between £2 and £6 .. .. .			160
Under £2 .. .. .			128
			<u>293</u>
Total .. .. .			293

While the highest croft pays £7 16s., the lowest farm stands for £290; and while 293 small occupiers represent an aggregate rental of £681, a single pastoral farmer who is not resident holds lands of the aggregate annual value of £1688, in addition to which he has a shooting tenancy of £200 per annum and an angling tenancy of £100. The repartition of occupancy thus represents the extremes of subdivision and consolidation; there is a striking absence of intermediate positions; the small farmer and substantial crofter disappear entirely; there is not one single holding which can afford a competent occupation and support to a small tenant labouring his land and living by it; there is a complete extinction of those graduated stations which offer an encouragement to the development of individual intelligence and industry.

## UIG, LEWIS.

Gross Rental	..	..	..	..	£5229	15	0
Deduct—							
For 2 Manses and glebes	..	..	..	£106	0	0	
7 Schools	..	..	..	42	0	0	
1 Inn and land	..	..	..	124	0	0	
3 Houses and land	..	..	..	69	15	0	
1 Mill and land	..	..	..	40	0	0	
				<u>£381</u>	<u>15</u>	<u>0</u>	
For 3 Shooting and Fishing tenants				1150	0	0	
							<u>1537 15 0</u>
Rent of land proper	..	..	..	..	£3698	0	0
Of which 2 Deer Forests pay	..	..	..	£1120	0	0	
4 Tenants over £100 pay	..	..	..	887	0	0	
2 do. between £30 and 100	..	..	..	170	0	0	
							<u>2177 0 0</u>
Leaving for 420 Crofters and Cottars (as per Valuation Roll)					<u>£1521</u>	<u>0</u>	<u>0</u>
Of these 420 there pay over £10 and under 30	..	..	..	..	5		
Between £6 and £10	..	..	..	..	22		
Under £6	..	..	..	..	393		
							<u>420</u>
Total	..	..	..	..	420		

In this case the extremes do not stand so widely apart, and there is some indication of intermediate positions ; but two small farms below £100 in annual rent, and five crofters' holdings between £10 and £30, out of an aggregate number of 426 agricultural tenancies, is a miserable representation of that system of substantial and graduated tenancy so desirable in a community of which the vast numerical majority are associated with the cultivation of the land."

Numerical details are then given with regard to the distribution of the population in two other parishes, Durinnish in Skye, and South Uist in the Long Island ; and from all these four as a general induction the conclusion is inevitable "in a population of whom the mass must be regarded as small agricultural tenants it is deplorable that out of 3091 families there are only six who are occupiers of that class of small farms which are the prizes to which an industrious or fortunate crofter might naturally aspire ; while only 312, or little more than one-tenth of the whole number, are provided with holdings which can in some measure afford substantial occupation and sustenance to a labouring family. Below these, 1778 are in possession of tenancies which imply a divided and desultory form of occupation unfavourable to the development of settled and progressive exertion ; and at the bottom of the social scale 825 families, comprising more than one-fourth of the population, are without land and without regular access to local wages, most of them, it may be assumed, scattered among the poorest sort of occupiers, to whom they are a heavy burden. Side by side with this mingled multitude, so slenderly furnished with the means of life, we find 30

occupiers, forming less than one per cent. of the whole community, in the occupancy of nearly two-thirds of the land. These 30 include a factor, a few proprietors, and some non-resident tenants.

“Taking the four parishes together, we believe that the conditions of tenancy which they reveal may be regarded as fairly representative of the state of the seaboard on the mainland, and of all the islands, from Ardnamurchan in Argyllshire, on the south, to the borders of Caithness on the north. A similar repartition of tenancy exists in some districts of the central Highlands, in Ross, and Inverness, and it prevails over nearly the whole of Sutherland. The evils attached to excessive subdivision and consolidation are less felt in the Southern Hebrides, in certain parts of Argyllshire, on the eastern seaboard generally, and in Orkney, in all of which the small holdings are, as a rule, of greater dimensions, are more graduated, and are associated in some degree with small farms not inaccessible to the crofting class.”

And in the parish of Bracadale, in Skye, the Report says specially, that “we have here an example in which the system of small tenancy under the proprietor has had no existence, where the whole area has been appropriated to six tenancies, where the inhabitants still of no insignificant number have had no permanent footing in the country, no avenue open to a better condition in connection with the land.”

IV. THE BIG FARM MANIA AND ITS DISASTROUS RESULTS.—“The chief incentives to multiplication of small tenancies in past times were the desire of the proprietor to unite large tracts in sheep farms, and to settle the mass



of the population along the coast, either for the lucrative industry of making kelp or the prosecution of fishing, it being rashly deemed that a ready and reliable source of local prosperity and national wealth and strength would thus be opened. The processes by which the comminution of crofters' holdings and the displacement of the people were effected are too familiar to require detailed description. The reduction or withdrawal of common pasture, the diminution of arable ground, the obliteration of townships, and the transfer of the inhabitants to the moor, the shore, or the cultivated area of other communities, were the methods by which a revolution in the rural economy of the country was effected. Very different are now the definitive results from those which were expected. Foreign competition and scientific discovery have long since extinguished the returns from kelp which afforded for a season to the proprietor a dangerous opulence, and to the labourer a ready subsistence. The intended fisherman has remained an indigent cultivator with an exhausted croft, while the sheep farm, which long supplied a respectable rental, is passing in many cases from the condition of farm to the condition of forest. Eviction and repartition have done their lamented work and passed away for ever."

V. DETERIORATION OF HILL PASTURE BY THE BIG FARM SYSTEM.—“In regard to the green lands formerly tilled as infield or outfield by the crofting communities, it may be admitted that the definite abandonment of tillage and removal of cattle will after a time cause the gradual impoverishment of the surface; for on the poor soils in the rough climate and at the high elevations presented by the Highlands, the heather and coarse vegetation will

eventually gain the upper hand ; and this result may be attributed justly to the pastoral tenant, whose method of farming demands a less proportion of tillage and cattle than would be used by a moderate number of small occupiers on the same space. It appears consistent with reason and evidence that the substitution of the large sheep farm for township cultivation and common grazing has, over limited areas, contributed to render the pasture worse."

VI. CHARACTER AND CONDUCT OF THE PEOPLE.—

"In no part of Her Majesty's dominions are there to be found, among the humbler ranks of society, more intelligence, better manners, purer morals, than in the remotest parts of the Highlands and Islands, from the Mull of Kintyre in Argyllshire to the Skaw of Unst in Shetland."

And again, further on :—"The crofter and other population of the Highlands and Islands, small though it be, is a nursery of good workers and good citizens for the whole empire. In this respect the stock is exceptionally valuable. By sound physical constitution, native intelligence, and good moral training, it is particularly fitted to recruit the people of our industrial centres, who without such help from wholesome sources in rural districts would degenerate under the influences of bad lodging, unhealthy occupations, and enervating habits. It cannot be indifferent to the whole nation, constituted as the nation now is, to possess within its borders a people, hardy, skilful, intelligent, and prolific, as an ever-flowing fountain of renovating life."

VII. ON FISHERIES AND COMMUNICATION they report striking deficiencies in harbours, in roads, and in postal communication, putting the remote Highlanders at a great disadvantage in competition with their more favourably

situated brethren in the south-west angle of the mainland, and on the east coast.

VIII. EDUCATION.—On this important subject they report (1) that “the school-rate in some insular parishes, as compared with other parts of Scotland, is exorbitant,” and that “a burden is laid on the people far above their strength, with the sad result of rendering that which they are naturally disposed to appreciate highly, not only distasteful but grievous;” (2) that the compulsory clauses of the Education Bill are from various causes practically inoperative; (3) that the disfavour shown by the central metropolitan authorities to the cultivation of the native language and lyrical poetry of the Highlands operates perniciously, not only on the normal and natural culture of the people, but on the thorough knowledge of the English language.

IX. JUSTICE. The principal point touched on here is that the concentration of offices in the hands of legal functionaries, too common in the remote Highlands, tends to poison the well-heads of justice with personal partialities, and to weaken the faith of the people in the legal tribunals to which they must appeal.

X. ON DEER FORESTS AND GAME they report that, while there has been no little exaggeration as to the evils of this sort of property, and great ignoring of the benefits with which they are occasionally accompanied, it is by no means desirable to encourage the afforesting of good pasture land, to the extent that under the present laws and with the present fashion is possible; and that in order to prevent the conversion of whole districts of good pasture land into hunting-fields, and making Scotland a wilderness,

it is expedient that certain legal restrictions should be placed on the immoderate afforesting of land.

XI. ON EMIGRATION they report with a detailed array of figures, that the area of cultivable land in some parts of the Highlands is altogether inadequate to the agricultural support of the claimants to the soil; and that even under the best system of redistribution, or restoration, a large surplus would remain, for whom emigration is the obvious natural remedy; and that Government might reasonably be called upon to assist in any local organization that might be made for this purpose.

So much for the verdict of the Commissioners on the evil state of matters in the Highlands, for which we are indebted to the one or two patriotic members of the House of Commons, who, in the face of general ignorance, indifference, and selfishness, prevailed to have the truth in this important domain of economic inquiry placed before the public. But the verdict of the Commissioners, however honest in its contents, and however kindly in its tone, instructive in its details, and in every way highly honourable to the character and insight of its members, could not in the nature of things be so constructed as to impress on the public mind either the enormity of the evils under which that part of Her Majesty's dominions had for more than a century and a half so suffered, or the imperiousness of the call for a bold and drastic procedure in the case of a social cachexy so long allowed to eat into the bones of trans-Grampian economics. There was unavoidably something of the nature of a compromise in the wording of a report, composed of persons trained to look at such matters from different points of view, and not altogether free, it may be

reasonably supposed, from the prejudices that party views and personal interests are so apt to engender ; the result of which was a certain amiable mildness of tone in cases where sharp reprobation would have been more proper, and a certain wavering in the poise of the arm, when, if a blow was to be given at all it ought to have been given with decision. In order to remove as far as possible, in the interest of the readers of these pages, this unavoidably inherent weakness in the report, I will supplement the above extracts with a few passages from the four volumes of evidence bearing on the facts of the case, and the views of rural economy in the Highlands, as set forth in the text. In selecting these passages, I will be guided by a desire to place before the reader the evidence only of men who have had a long-continued practical knowledge of the subject, and who do not indulge in violent language, but express their views with moderation and judgment. In the roll of such witnesses, the first place may well be accorded to Mr. John Barclay (Report, p. 342), accountant in Inverness, who was thirty-five years manager of the parishes of Tongue, Durness, and Ederachilles, acquired by the noble family of Sutherland from Lord Reay in 1829, and in that capacity "having had through his hands the accounts of some sixteen sheep and corn farmers, and having also had close and minute dealings with the general estate arrangements, with the numerous small tenantry, and others belonging to the district in which he was placed." This gentleman in a statement laid before the late Duke of Sutherland, and Mr. George Loch, his Commissioner, in the year 1855, undertook to show from documents, and by living testimony, and from inspection of the grounds, the following points :—

“1. That the large sheep farm system did not produce a gradual improvement of the soil, but tended rather, in Sutherland, the opposite way; that from leaving almost all the operations to the work of nature, the fund of home industry was reduced to a minimum; and that, by locking up the more improvable parts from cultivation, the losses to the estate and to the people were manifold.

“2. That about *one-tenth* of the *productive* acreage on his Grace's estates then occupied in permanent pasture was capable of profitable cultivation; that ground in cultivation, at a ratio of one acre in tillage to every nine in pasture, afforded nearly ten times as much home labour as when exclusively in pasture; that the union of culture with pasture farming increased the productive powers of both the cultivated and pasture lands vastly, supplying, what is otherwise not the case, a continuous and unstinted quantity of food to the stock throughout the year; and that by this combination results were obtainable of the highest benefit, to the landlord and the tenant in enhanced rents and profits, and to the artisan and labourer in full home employment.

“3. That, by breaking up the large farms into a gradation of sizes, the pressure upon the small tenants would be at once relaxed, by affording them extended means for improving the soil, and for obtaining labour at home to sustain their families—so much so, that the result would be a progressively increasing rental from the lands newly brought under cultivation, and also an increased rental, immediately, from the old cultivated lands then held by the small tenants, since they, under such a system, would (what they then could not) be in a position to pay a fair

rent for their lands, out of the surplus value of produce, after the due maintenance of their families.

“4. That under such a system of subdivision a great number of the labouring population, not directly engaged in agriculture, would be absorbed in the various trades and employments connected with, and contingent upon, farming operations; and that claimants for parochial relief would necessarily be greatly reduced, in point of numbers, from the higher level to which the general body of the community would be raised in their means for supporting themselves and their relatives.

“5. That *many* of his Grace's small tenants had, under circumstances much less advantageous than those assumed in the system above suggested, doubled, and in some cases tripled, the value of their lots, by improvements, within the last twenty-five years; and that, as a general rule, the native people over his Grace's whole domains had, whenever any extra means came into their hands, thrown the greater part of it unreservedly into buildings and improvements of the soil.

“6. That were his Grace to see it proper to adopt a well-considered system of division, the great body of his people would hail his resolve as one which would afford them the means for enabling them to work out a comfortable home for themselves and their families, with an increased revenue to his Grace; and that they would earnestly exert themselves until they had, as a general rule, accomplished their object; and that the fruits of such a system would be soon apparent to all, in the great benefits that would arise from it to his Grace and to his people, and to the country at large.

“And, as regards *game*, I now beg leave to add this further averment, which extended opportunities since I left his Grace’s service have afforded me of being able to affirm—namely, that wherever cultivation and cover, particularly wooded cover, co-exist most extensively in the Highlands, there do game and deer most abound, both in *numbers* and *varicity*, as well as in *prolonged and easier* opportunities for sport.”

So much from a practical man in refutation of the mania for large farms, whose vaunted virtues, when narrowly looked into, were to pamper the few at the expense of the many, and to save absentee landlords from the duty, and lazy factors from the trouble, of attending to the people whom Providence had placed under their charge. In favour of the “little folk” so contemptuously looked down upon by the big farmer, this intelligent gentleman brings into the foreground the fact that the small people, at no expense for labour, and merely by using the machinery round their own fireside, can make a profitable trade in matters which the overgrown bishop of many sheep has neither leisure, nor inclination, nor hands to attend to.

“The tending of poultry is a domestic concern in which the child of four and the grandam of eighty years can take a part ; that the capital invested is only about *one-twentieth* of that required for sheep of equal producing capacity ; that such stock by good management produces much more than any other live stock on the farm, and that a well-conducted henery could be made to produce largely in increasing the means of the crofter, and that the work of tending is family home work, and the extra saleable food, as corn, &c., given, this sort of stock yields a better and



easier return than when sold off the croft. Further, that the people are already trained to the business; that Orkney shipped to Leith, fifty years ago, £2500 worth annually of eggs, and that very recently I saw a statement (which I regret it is not in my power to lay before you) showing a prodigious increase on the above amount for exported eggs last year from that place. Again, I have read that some eight years ago France sent annually to Britain upwards of six hundred millions of eggs, yielding some two millions of British money; and that, having ate French eggs, I can avouch that we of the north could send them to the English market larger, better, and fresher than those that come from France. Still further, it may be taken as within the mark to say that *three* hens fairly well tended will return as much profit as *two* sheep; and that by the time the ewe lamb has come to have a lamb of her own a single hen will have laid as many eggs as, if hatched, would produce and reproduce, I shall say, to be on sure ground, 300 fowls! This seemingly small affair has much in it in connection with the economy of small farming, and on that ground I respectfully submit my views for your consideration.

“Sutherland (and I take that county as an example for the whole Highlands) contains at least 1600 square miles of pasture lands presently under sheep; divided into half-mile farms or crofts these would yield 3200 homes with 320 acres hill and dale attached to each. Highland families average as high in number as six; under such a division her vales and slopes are capable, as I have shown, of maintaining well and as comfortably, in a generation's time, as a high-waged artisan, a population of 19,200, depending

all but solely on agriculture: that is a people more numerous than her present rural population who inhabit her borders, and that besides the various other families, from those of the learned professions down to the humblest son of toil, which the equipment of a well-conditioned agricultural community requires. I very humbly conceive that every deserving clansman and every son of the 'broad bonneted' men of Scotland has a claim to a position in his country such as I have been indicating, and that not for the purpose of subduing and improving her soil to be engrossed in larger possessions, but as a *settled* and *permanent* member of an order of workers in our State which I firmly believe can, under proper light and encouragement, educe *better results* from their labours than any other class of farmers in our land. The region of our Highlands properly so called, has within its border means for maintaining a population well nigh double the number of its present inhabitants."<sup>1</sup>

In a letter which I wrote to an influential Scottish newspaper, I maintained that the law-breakers in the Highlands were less to blame for recent disturbances than the law-makers; and that with such land laws as we live under, framed by the strong to make the strong stronger, no despotism exercised by a Turkish Pasha over the fellahs is more oppressive and more grinding than that which may be exercised by a Highland factor in remote districts, acting for an absentee landlord. This plain truth, known by sore experience to hundreds of honest Highland crofters,

<sup>1</sup> The thoughtful reader will not omit here to notice the close parallelism of this evidence with the testimony of Sonnino on the *mezzeria* system in Tuscany, given in the text, p. 153 *supra*.

of course gave offence to the parties whose habitual method of heartless procedure it touched on the raw ; but how true my statement was appears from not a few passages of the evidence, as for example in the following statement of the Rev. T. M. Davidson, minister of the Established Church, Stenscholl, in the north-east corner of Skye :—

“ The tendency has developed from time to time, to a far greater extent than is at all desirable, to increase the large holdings and crowd the crofters upon inferior soil which has contributed considerably to the present distress. Again, the crofter has no protection from the large tacksman ; if he makes a complaint he can get no redress. ‘ There is no law in Skye.’ Might is the only right, and that too in the last decade of the 19th century. One great evil that sadly needs reform, is the state of terrorism under which the small tenantry live, through the insolent threats of subordinate officials, whose impudence increases in proportion to the smallness of their authority. This vicious system has been found by selfish and unscrupulous individuals to work well for their own aggrandisement in the past, but is such as no right-minded man can justify nor spirited people tolerate. Against that dread terrorism some remedial measures are absolutely necessary, as I have reason to believe that this feeling of insecurity prevents, in many instances, considerable improvements upon the holdings. The nature or extent of these measures is not for me to say, only the painful fact is too glaring to be ignored.

“ One thing greatly to be desiderated in the West Highlands, which is well worth the special attention of landed

proprietors, is the formation of a middle class tenantry, paying rent varying from £20, £30, £50, £70, or £100. These are always the backbone of a country, and help more than any other class to develop its agricultural resources."

This from a minister of the Established Church, a body naturally in more close alliance with the landlords than with the crofters, must be considered particularly cogent evidence.

With the evils arising from the excess of the gentlemanly recreation of DEER-STALKING, now so fashionable, the Commissioners deal with marked tenderness; as indeed it cannot be denied that a great deal of vituperation was vented against this stout-thewed exercise by persons who found a sweeping condemnation easier than a discriminating judgment. A very little local knowledge might have taught these persons that a great part of the Highlands is just as much the natural home of the deer as the sea-lochs are of the herring; and they might lightly have known that in the palmy days of the Highlands, before the axe had been laid to the root of the clan system, Duncan Ban, the Robert Burns of the glens, was a game-keeper, and the composer of a poem on deer-stalking, rivalling in merit the best idyllic compositions of classical antiquity.<sup>1</sup> Besides, the complainers were fairly reminded that all deer-stalkers are not of the type of the Titanic American, whose ferine domain stretches with colossal stride across the whole breadth of Ross-shire from the German Sea to the Atlantic Ocean; some deer-stalkers there may be, and I know well are, who not only hunt the wild animal at

<sup>1</sup> Ben Doran. 'Language and Literature of the Highlands,' p. 162.

the top of the glen, but cherish the human creature at the bottom of it, in the shape of a home farm, and spend upon it habitually a wealth of care and kindness which the lord of the soil, left to his own resources, had sighed for in vain. Most of the deer-stalkers have money in their pockets; and, if they only bring with them love to human beings in their hearts, they may no doubt do a great deal of good to the sons of the daughters of the glens where they disport. Nevertheless, there is good cause for the public odium which this aristocratic sport has recently excited. It did seem a very hard thing that for the amusement of a few idle young gentlemen, all the glens that lead up to the breezy braes of our Highland hills should be barricaded; an interdict placed on the enjoyment of that sublime panorama of nature from the summit of our lofty mountains, which gives health to so many adventurous young limbs, and inspiration to so many noble souls; and that a jealous watch should be set on the Bens, where an amiable botanist might be picking a fern, or a curious geologist splitting a rock. It was this sort of thing that roused the indignant Muse of Professor Maclagan into the composition of that classical song, enshrined in the legal annals of the country, called 'The Battle of Glen Tilt'—

“ It's justice and it's public right,  
 We'll pass Glen Tilt afore the nicht;  
 For Dukes shall we  
 Care a bawbee?  
 The road's as free to you and me,  
 As to his Grace himsel' man!”<sup>1</sup>

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<sup>1</sup> *Nugae Canorea Medicae*. Edinburgh, 1873. It is not for me to attempt rivalry with the learned son of Æsculapius in the inimitable

But besides these odious and anti-social obstructions in the way of public recreation and exercise, the crofters

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grace with which he handles the humorous Scottish song ; but the following verses struck off by me on the railway a few summers ago, as I rattled across the high ground that separates the domain of the Spey from that of the Tay, may serve as a useful indication to this class of sportsmen, of the feelings which the exclusive prosecution of their favourite recreation is apt to excite in the public mind :—

### A SONG OF JOLLY DEER-STALKERS.

(*Air*—‘The British Grenadiers.’)

COME, all ye jolly deer-stalkers, who hold the Highland hills,  
And count your honours by the heads each stout-legged hero kills,  
Who gather gold by digging coals, or else by brewing beer,  
And scour with me the Highland glens in the season of the year.

For we bought the hills with English gold,  
And what we bought we'll keep ;  
The hills 'tis clear were meant for deer,  
And not for men or sheep.

These scurvy Scots at Bannockburn, they made a sturdy fight,  
When our good Edward turned his back to Bruce and Wallace  
wight ;

In savage times the savage steel the land could stoutly hold,  
But times are changed, and John Bull now buys Scotland with his  
gold.

For we bought, &c.

They talk of right and liberty ; the bird to fly is free ;  
But when my rifle brings him down, the bird belongs to me ;  
For might makes right, and he must quit his own who cannot hold ;  
All rights must yield to mights, and all the mights must yield to  
gold !

For we bought, &c.

Then come and scour the hills with me, ye jolly hunters all !  
Draw fences round the Bens, and have the keepers at your call ;  
And, if a rambling lawless loon, ye find approaching near,  
Just turn him back upon his track, for he'll disturb the deer !

For we bought, &c.

complained, and complained justly, that the natural limit of their haunts had been overstepped in favour of the wild beast, and in prejudice of the human being : in fact that

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And if you find a lanky lad, with hammer in his hand,  
 Clinking the stones beneath the crag, you'll bid the vagrant stand,  
 And know his bounds; and if he lists a load of stones to carry,  
 He'll find more than he wants below, in the old granite quarry !

For we bought, &c.

And if you find a Cockney come, his wondering gaze to fill  
 With something higher than St. Paul's or famous Richmond Hill,  
 Tell him to take his station on the valley lower down ;  
 No man can view the mountain well who stands upon its crown.

For we bought, &c.

And if you find a peeping boy, slow creeping up the slope,  
 With tin box on his back and in his hand a microscope,  
 Just take the blinkard by the neck, and souse him in the mere,  
 And let him swim for lilies there, and not disturb the deer.

For we bought, &c.

And if you find a rhyming loon, a gaping lad, a poet ;  
 If he has right to range the hills, 'tis law not rhyme can show it ;  
 Tell him in fancies poets deal, we deal in facts ; and here  
 The fact that rules all facts is this—*Let none disturb the deer !*

For we bought, &c.

And if you find old feckless dames, that make their fingers free  
 To pluck blaeberrys on the hill, or berries aught that be,  
 Tell them the hills are for the deer, that hold their antlers high,  
 Not for such yellow-wrinkled hags—were better far to die !

For we bought, &c.

Then come and scour the Bens with me, ye jolly stalkers all,  
 With lawyers to defend your right, and gillies at your call !  
 These crofter carles may cross the sea, but we are masters here,  
 And say to all, both great and small—*Let none disturb the deer !*

For we bought the Bens with English gold,  
 And what we bought we'll keep ;  
 The Bens 'tis clear were made for deer,  
 And not for men or sheep !

the people whom it was the duty of the lord of the soil to protect had been displaced by wild animals which it was his pastime to pursue, introduced violently or by a cunningly creeping absorption into the green loams where his young foot had loved to stray, and the brown braes which his father's cattle had cropt. Imagine a stout old Highlander, before the desolations of these latter times had done their fearful work, after some thirty or forty years' absence in the colonies, returning to his native glen and finding there, instead of a settlement of contented cottagers bearing the familiar name and warm with the blood of the clan, only a gamekeeper, and one or two London flunkies looking out from trimly-decorated shooting-lodges, with the powdered inanity peculiar to that generation. Would not his blood boil, and his eyes become fountains of tears at such a spectacle? And is there a man of independent judgment at the present hour, who will have the hardihood to deny that such a perversion of the natural appropriation of the soil was as impolitic as it was inhuman? Let us hear in this connection the evidence of Mr. Colin Chisholm, a retired custom house officer, Inverness, who, after forty-one years abroad, returned to his native strath, and found a desolation of the kind which we are here picturing:—

“I was born and brought up at Lutin, Glencannich, county of Inverness. Glencannich is about fourteen miles in length, and will probably average about three miles in breadth. The whole of this glen, except one small farm rented by a widow and her son, is at present a deer forest. But in my early recollection there were thirty-three tenant farmers in easy circumstances residing in Glencannich; there were also twelve families of cottars in the said glen, making a total of forty-five families, all of whom I was personally acquainted with. The glen was



divided into seven club farms, and nine single farms. That these people were as comfortable as the generality of the Highlanders were, about the first five decades of the present century, seems to admit of no doubt. They have educated their sons tolerably well. In my own time there were seventeen Glencannich men who held commissions in Her Majesty's army. There were also in my time nine Glencannich men in holy orders ; they were clergymen in the Catholic Church."

Then he goes on to say :—

"However, the crude management of factors and former proprietors cleared out every one of the forty-five families whom I have seen formerly in Glencannich. The farm occupied by the widow alluded to was not an exception. The factor on the estate for that time took possession and added it to four other extensive farms and grazings he had in Glencannich. It was when the present proprietor came home from America and succeeded to the estate, that he restored her husband to the farm from which he had been evicted nineteen years previously. The same proprietor, the present Chisholm, brought other farmers back to his estate, and placed some of them in farms which were formerly occupied by their forefathers, and to his credit be it stated, he assisted such of them as required assistance in placing stock in the holdings to which he restored them. I remember the time when a former proprietor of Strathglass requested his tenantry to meet him at Cannich Bridge Inn, to enter on arrangements for new leases of their buildings. The men gladly assembled at the appointed time and place, but the proprietor did not come to the meeting. Towards the afternoon his factor came, and stated that he had no orders to enter on any arrangement with them. I was present at the time and heard the message delivered. The men were greatly disappointed, and justly surmised that some under-current was operating against their interest. In a few days after this fruitless meeting, it transpired that the very best farms in Strathglass were let on lease to strangers. The native tenantry would have been too glad to give as much, if not more, rent for the land. They were not one penny piece in arrears at the time. They were anxious to keep their holdings, and I will prove that they were able to pay for them."

On being asked specially by one of the Commissioners—  
"Are there parts of Glen Strathfarran capable of supporting

men in comfort?" he replied, "Yes, why not?—large fields of arable land are laid waste there." Again the Commissioner puts the question, "Is the country of Strathglass, Kintail, Glenshiel, and so on, practically one deer forest, or forests?" To which he answers, "I am sorry to say they are." And to the further question: "Are you able to state what the effect upon the soil is of this conversion into a forest?" he replies: "I hear men who know the country say that it is turning the country back into a state of nature. I dare say I would go there myself, if I were allowed to go through the forests, but you dare not go through one of them. If you pass off the bridle-path, you are in danger of being collared, and I don't know what after that." On being questioned by the Chairman, the same witness declared that the regular practice of the mighty Nimrod in those parts, is "to gather the poor animals together, and drive them before the muzzle of the gun"; and that this man keeps such a number of persons in this slaughtering business that you cannot go within half a quarter of a mile without meeting a watcher, watching whether you go off the road. "I was cautioned going off the road a little distance to some good springs to take a drink of cold water."<sup>1</sup>

Incidents of this kind might be culled from the evidence of the poor crofters, enough to make the fortune of a sensation novelist, or take the run of the season in one of Mr. Gilbert's musical dramas. I shall satisfy myself on the present occasion with placing one witness more on the platform of public sympathy; a witness of the most respectable type, belonging to an order of men who are too often

<sup>1</sup> Evidence, Inverness, p. 2775.

now the solitary friends of a people abandoned by their landlords, and unprotected by the law. I mean the Free Church clergymen. The witness is the Rev. Gustavus Aird, of Creich, Bonar Bridge, a man universally respected no less for his good fellowship and good sense than for his evangelical zeal and pastoral effectiveness.

“The people in this part of the Highlands are extremely industrious. I do not know a lazy man in my congregation. They are expert at farming operations, and adopt a regular rotation of cropping, however small their allotments. Most of them have limed the land, use artificial manure, and all these at their own expense. There is much waste land in the parish; some of it might be reclaimed. So far as known to me during the last forty years not one of the three proprietors has advanced a shilling from their own pockets for the reclamation of an acre of muir ground; and, if example is more powerful than precept in this connection, the people have not had the most edifying example set before them. Is it good policy for the rulers of this nation, that such a class of people should be treated as if they were serfs?” Again: “The great evil is that the people have a feeling that they are insecure, as they have seen so many removals. That being the case it paralyzes their efforts in the way of trenching and reclaiming the land; whereas, if they had a security, or a feeling that advantage would not be taken of it, that they would not be turned out, I verily believe that a great deal of land might be reclaimed.”

On the depredations committed on the fruits of the poor man's labour by wild animals, protected and cherished as a luxury for the rich, the same writer speaks significantly enough thus :

“Do the people generally complain of the ravage of game in this country? Is there any considerable complaint?”—“Well, there are some of them who do complain—those on the heights. It depends very much upon this. If it is an early harvest there is no complaint, but if it is late, as it is pretty late this year in the north end of the parish, they must be awake all night in order to watch. And then a good many of them near the woods complain very much now of the deer

coming out and destroying the turnips, not eating them, but destroying them with their horns. One man was mentioning last week a place where he found a deer, and I was quite astonished. It was several miles from the wood, and they were becoming more bold than they used to be. I know there are several of the tenants who complain very much of the depredations they commit on potatoes and turnips."

Lastly, being interrogated as to the general prosperity and progress of the people, he says:—

"Well, as far as the condition of the people is concerned, they had formerly the hill <sup>3</sup>ground, and had sheep and cattle there. Their clothes may be of finer cloth to-day than they were then—they were all home-made then; but as far as other things are concerned, I suspect in former days they were better off, and stronger men than they are now. I suspect that their physical strength is not what it was."—"Do you consider that the possession of hill pasture, or common pasture, by the crofting population, leads them to trust to the hill pasture, and to neglect their arable ground, or do you think that the one kind benefits the other?"—"As to the hill pasture I would prefer having what called a club farm, and having a club farm, there are certain regulations laid down for the carrying of it on that must be kept. There must be a regularly-appointed shepherd, as in the case of Ardross, where the tenants got the hill ground, and they got stock; and I understand it has been of the greatest benefit to them. One is not to be ruler over the other. There are regulations laid down, and there is a regular shepherd, and an account kept of everything, and the whole profits are divided."—"But whether it is a club farm, or whether it is a common pasture, do you think the possession of stock upon the wild ground leads the people to trust to the sale of stock and neglect the cultivation of the arable, or do you think not?"—"If it is a club farm there are shepherds that have the charge of the sheep, and the people themselves must be at home to look after their agricultural occupations, and I am perfectly clear it would not be detrimental to the agricultural work when it is in the form of a club farm."—"But when it is in the form of an ordinary common pasture, do you think the time of the people is taken up with rambling after their stock, and that they neglect cultivation?"—"Well, as far as I am aware, I am not acquainted with any case of the kind."

So much for the facts of the case, both as stated with a

certain air of mild dignity in the official report, and with more distinctness, emphasis, and incisive effect in the evidence of the witnesses; and on these facts the verdict can be no other than GUILTY against the parties brought to the bar of the national conscience, by the issuing of the Commission; guilty who, and of what? The guilty parties were those who were directly concerned in the management and administration of the country; that is the landlords, whom the laws of the country had invested with absolute power in all that concerns the wise distribution and the material prosperity of the population. Of course, when we use the word *guilty*, we do not use it in any strongly criminal sense; it is human to err; we only mean that these parties are found guilty of great blunders: blunders affecting individual happiness, social well-being, and national prosperity in no ordinary degree. It has been proved by the most ample evidence—as indeed it stands visibly written on the face of the country—that they have exercised their territorial stewardship not only loosely, and carelessly, and indifferently; but in many cases to the systematic ignoring, abandonment, deterioration, impoverishment, and extirpation of the very people whom it was their special function in the State to cherish and to guide; a people, too, confessedly of the most industrious habits, the most stout fibre, the most sound moral tone, the most law-abiding conduct, the most loyal sentiments, and the most patriotic achievements. Such a people they have either driven down, or allowed to drift down, from a condition of comparative social health and well-being, into an abnormal state, or cachexy—to use medical language—combining all the evils that arise from the co-existence of

the two extremes of depletion and congestion. For such a disease the remedy indicated is of course a treatment tending by careful superintendence to restore the balance, and induce a healthful flow of blood from the congested to the depleted parts of the system—a restoration in fact of the native population to the land from which they have been extruded, and a redistribution of the soil on principles commended no less by purely economical than by social and political considerations. Let us see how the Commission proposes that the State shall deal with a social disease so fretful in its symptoms, and induced by such a glaring neglect of the most sacred of social duties. The Commissioners propose :—

I. To give a legal recognition and independent rights of property and self-government to the existing TOWNSHIP, occupied by the crofters in various districts of the Highlands, protecting them against further alienation of their pasture lands, and generally securing to them a social position, and conferring on them a power to enforce certain improvements for the common good of the proprietor and occupant. Also, that any existing township shall have the right to claim from the proprietor an enlargement of arable ground and common pasture in virtue of a resolution adopted by not less than two-thirds of the occupiers. Further, that in districts where no contiguous land exists adapted for the enlargement of townships, new townships shall be formed at the instance of the crofters under an award of the Sheriff, and with the co-operation of the proprietor, who shall in this case be entitled to demand an aid from Government not exceeding £100 for £10 of annual value in each new holding. In

the case of the existing townships no Government aid is to be looked for; as "the proposal of enlargement translated into practice would simply mean a moderate restoration of the hill pasture which the grandfathers of the existing hamlet enjoyed sixty years ago." Finally, the holdings created in a new township shall in no case be less than £10 in annual value, nor more than £30; and they shall not be subject to subletting or subdivision in any form.

II. While FIXITY of TENURE in the case of the great mass of the poor tenants in the Highlands and Islands is disallowed as tending "to perpetuate social evils of a dangerous character," the Commissioners are of opinion that "the proper basis for agricultural improvements lies in the right of a respectable and competent occupier—that is, as they define it, an occupant paying not less than £6 annual rent—to be entitled to claim at a fair rent to be settled by valuers, an improving lease for thirty years under certain conditions of culture; and that at the termination of the lease he shall be entitled to claim compensation for improvements; and he shall also be entitled, if he choose to remain, to claim a new official improving lease under the same conditions as the first.

III. All subdivisions of small holdings to be absolutely and strictly prohibited, and consolidation of very small holdings to be constantly kept in view, and firmly carried out.

IV. Facilities should be afforded the crofter for the purchase of his holding, and to the crofter fisherman for the purchase of his dwelling. Under this head they say with equal humanity and wisdom:—"It may at first sight appear strange to recommend the acquisition of small parcels of

poor land at a high price by industrious and intelligent men who would be able to invest their savings or the surplus product of their daily toil with far greater advantage in the vacant tracts of America and Australia. Yet habit and local affection bear so great a sway in the actions of mankind, that Highlanders will be found who would rather be proprietors in the mountains of Skye or the wastes of Lewis than in the fertile plains of Manitoba, and for no other purpose would they be more likely to receive assistance from without. In the mainland of Orkney a living example of small landowners is still extant in the 'Lairds of Harray,' who practise good husbandry, who rarely admit subdivision of the soil among their issue, and who buy and sell their miniature estates at from thirty to forty years' purchase. The possession of real property ought to be a powerful agent in forming habits of industry and self-respect, and in supplying sources of rational enjoyment. An opportunity of embracing this alternative condition of life and labour should be offered to the Highland people, and Government might lend its co-operation with manifest advantage and little risk."

V. By the appropriation of a special training-ship, and otherwise, inducements should be held out to young Highlanders to enter Her Majesty's Service in the Royal Navy.

VI. By the construction of piers and harbours, in certain convenient situations, and by the enlargement of postal and telegraphic arrangements, the fishing power of the Hebridean seas should be made to bear more effectually on the traffic of the great centres of trade and commerce.



VII. In regard to education they propose—(1) That in consideration of the peculiar circumstances of the people, and the extreme pressure of the school-rates upon a specially poor and sparse population, a grant in aid from the Treasury should be given to all Highland families, in which a rate of two shillings in the pound along with fees and grants is insufficient to cover the educational expenditure of the parish. (2) That the Gaelic language should be taught in the schools, both for its own sake, and as the most effective means of enabling the natives of the glens to get a firm hold of the English tongue. On this subject they expatiate with a breadth of educational view, and a warmth of human sympathy, favourably contrasted with the centralising practice in this matter commented on (p. 93) in the text.

“We are further of opinion that the Gaelic language, in virtue alike of its being the vernacular tongue of so considerable a population, and of its now recognized place among ancient languages, is entitled to something more than permissive recognition, and a place in a footnote along with drill and cookery. It seems to us not less entitled to a place among specific subjects, with special grants allowed for them, than any of the languages so classed. Its literature is of limited quantity, and not to be compared with that of the great nations whose languages are exclusively recognized. But it is and ought to be of greater interest to the natives of the country in which it sprung, and a due acquaintance with it ought to be encouraged rather than despised. This has been done in Ireland, where the native language is classed among specific subjects, along with Latin and Greek, and a grant

of ten shillings is given for passes in any of these languages. We recommend that the same grant as is allowed under the Scottish Code for other languages should be given for Gaelic, where the teacher has proved his ability to give suitable instruction, and the pupil has been presented for examination in English Literature.

“We think it very desirable that all children whose mother-tongue is Gaelic should be taught to read that language; and the rule of the ‘Society for Propagating Christian Knowledge,’ that Gaelic should be taught first and English afterwards, seems founded on reason. There are practical difficulties in the way at present, such as the want of suitable lesson-books, and the want of a sufficient number of teachers for the purpose. We believe, however, that these difficulties are not insurmountable; and we think that in the mean time pupil teachers duly qualified might be profitably employed in teaching the younger scholars to read their native language; and that a small additional grant for those so qualified and employed would be a beneficial expenditure.

“We also recommend that teachers should be encouraged by inspectors to submit some Gaelic songs among those to be sung by the children on the examination day, in order to obtain the music grant.

“We think that the discouragement and neglect of the native language in the education of Gaelic-speaking children, which have hitherto so largely influenced the system practised in the Highlands, ought to cease, and that a knowledge of that language ought to be considered one of the primary qualifications of every person engaged in the carrying out of the national system of education in

Gaelic-speaking districts, whether as school-inspectors, teachers, or compulsory officers."

VIII. Under the head of JUSTICE they are of opinion that the concentration of public offices in the hands of a single person is to be deprecated; that legal officials ought to be familiar with the language of the natives; and that provision should be made for their promotion from less central to more favourable localities.

IX. With regard to DEER FORESTS they report that while existing legal rights in deer forests should not be interfered with, provision should be made to prevent all further afforesting of Highland lands, and to secure to the crofting class legal guarantees against the further diminution of the arable and pasture land now in their possession.

X. They recommend EMIGRATION as the best resource in overcrowded districts to a considerable class of crofters for whom it has proved impossible to find a place under any of the general provisions with regard to land tenure.

Such is a short summary of the remedies proposed by Her Majesty's Commissioners for the social cachexy which it has been our sorrowful task in these pages faithfully to diagnose; and that they are in the main in the right direction, are in fact a necessary conclusion from the facts set forth in their own Report, every reader of common intelligence will at once perceive. A more sympathetic appreciation of their position, and a more forward desire to redress their grievances, I feel convinced, the warmest friends of that noble people, considering the prejudices that haunt the public mind on this subject, could scarcely have been expected. It was not therefore with surprise, but only as a quite natural phenomenon in the circumstances,

that they found appended to such a friendly Report, the dissent of two of its members, not the least influential, and not the least held in esteem by all who love the Highlanders. These two members are Donald Cameron, Esq., of Lochiel, and Sir Kenneth Mackenzie of Gairloch, Bart.; both Highland landlords of good repute, the one a representative of the kindly Tory type, and the other a representative of the progressive Liberal. The views stated by these two spokesmen of adverse political sentiments and of social tendencies it may be presumed not altogether identical, will be inquired after with interest by all who love the Highlanders, and listened to with respect.

After expressing his general disapproval of the proposed "legal recognition of townships" for the reasons to be presently stated, set forth by Sir Kenneth, Mr. Cameron proceeds to make some special objections to the scheme—(1) Because "the principle of giving tenants absolute power to occupy land held by the proprietor or by other tenants, on the expressed will of a majority of their number, is novel, and inconsistent with the rights of property as hitherto understood." (2) Because, in the carrying out of this scheme it will be found that the lowest class of crofters, that is those who have been most neglected and most mismanaged, on account of their poverty and utter inability to stock enlarged crofts, would under the provision of enlargement as laid down in the Report, receive no benefit from the change; while (3) the better class of crofters, whose good condition arose from the devotion and self-sacrifice of their landlords, would appropriate all the enlargement for which they had the

least need, and thus punish the proprietor for his goodness in having put them into a position to make such a claim ; and again (4) because those proprietors who had done most harm by the wholesale depopulation of their glens, as not having any crofters to claim additional land, would escape scot free. He then goes on to propose a plan by which "a gradual redistribution of land may be effected without doing violence to proprietary rights. Instead of the principle of compulsion towards the proprietor, the principle adopted in the proposals of the Commissioners, the essence of my recommendation," he goes on to say, "is to be found in his co-operation. I would submit that not only is the proprietor likely to be a better judge than any other authority as to whether a township is overcrowded, but he is in a far better position to form an opinion as to the chances of success in an attempt to increase the area of the township, or to relieve the congestion of the population by the removal of individual tenants to other suitable places on his property. No one can have the same opportunities of ascertaining the inclinations of his crofters, their means or character. No one is better able to judge which of the crofters would be most capable of profitably occupying land which he might be in a position to offer them, while he alone possesses the requisite information to enable him to dispose satisfactorily of the crofts just vacated. He would not be restricted, as is proposed in the Report, to the allotment of land contiguous to the overcrowded township. He might transplant half-a-dozen carefully-selected industrious families to some vacant sheep farm, perhaps ten miles distant from their former homes, and redistribute

their crofts among the most deserving of those who remain, thus giving encouragement and hope to all on his estate, that by industry and perseverance they may in their turn rise from the lamentable condition in which many of them now are to that of small but independent land-holding families. In this way alone, so far as I can see, would the danger of perpetuating very small holdings with common grazing rights, described in the Memorandum by one of my colleagues, be removed, and a new system introduced, alike pleasing to the people and founded on true economical principles."

Lochiel then goes on to suggest that, in order to carry out his scheme, the Government should be called on to advance loans to the proprietor so as to enable him to assist intending occupants to stock their new holdings. On some minor points, his dissent, whether right or wrong, is, in reference to the argument of this book, of little significance; so we may pass on to Sir Kenneth, with whom, as we have just stated in the matter of the townships, the head of the noble clan Cameron agrees. Sir Kenneth's Memorandum of dissent runs as follows:—

"Past experience seems to me to indicate that the recognition of township units, conferring a legal status on village communities, would go far to confirm and perpetuate the poverty which, as has been pointed out in the Report, forms the burden of contemporary literature devoted to the social condition of the Highlands and Islands at all periods. It must indeed be acknowledged that, in the present crowded state of the population, there can be no allocation to individuals of the common pasture, and that the time cannot even be very precisely foreseen when

circumstances will permit it ; but I hold none the less strongly that legislation which might tend to protract the existence of joint-tenures would be of a baneful character.

“ An excessive subdivision of holdings, a ruinous system of cultivation, recurrent destitution which calls for State aid or public benevolence, and lethargy in the people, are perhaps the most prominent of the evils which attract attention in the Highlands ; and it is of significance that they are to be found chiefly, if not solely, side by side with the common pastures. Where these exist, the first money which a lad can save from his earnings is invested in a sheep or a cow, instead of going into the savings' bank. The young man with cattle on the hill must have wintering for them ; he gets a corner of his parent's croft or a share of his crop, and thus lays the foundation for future subdivision on his marriage.

“ The arable land of a township is individually held, but the hill stock winters over it indiscriminately, as has been repeatedly mentioned in the evidence (Q. 8793—5, 9133, 16767, 19686—8, &c.). It may as a whole be sufficiently fenced off from the hill pasture, but public opinion in the township prohibits an occupier from enclosing his individual croft and monopolising the wintering ; so the early sowing of the crop becomes impossible, there is no inducement to introduce sown grasses, and little encouragement to grow turnips. In short, improved agriculture becomes to some extent forbidden, and hence the increased sterility complained of in the soil, the miserable crops, and the poverty of the cultivators so far as they are dependent on them. It was indeed frequently contended by the crofters that continuous cropping was a necessity

arising from the smallness of their holdings ; but it came under our notice (Q. 1667--9, 1917, and 2013) that tenants of ten acres or more of arable land adopted the same system, and it is a matter of notoriety among those in the Highlands who understand the value of improved agriculture, that these common grazing rights form the real obstacle to improvement. Again, the township system offers little or no opportunity of social advancement, for nowhere is there more jealousy of social inequalities than among communities possessed of common rights of which a rich member might be in a position to take unequal advantage, and the existence of such rights is therefore inimical to a gradation in the size of tenancies.

“ If exceptional privileges were to be conferred, if it were only as the subjects of special favour that it was possible to contemplate Highlanders as thriving, the grant of such privileges, while it might patch up existing evils for the moment, could hardly fail also to protract artificially the existence of the causes which had produced them, and to ensure their recurrence. In my opinion, the faulty tenure under which they have arisen should rather be brought to an end as speedily as proper consideration for the crofters will permit, and encouragement should be given to the gradual replacement of the crofting system by one of small farms, to which the land law reforms desirable for the rest of the country would be applicable. I have come to believe that those recommendations of the Report to which I have not taken exception need not at least discourage such a consummation.”

This dissent, as will be evident, contains three distinct grounds of reprobation—(1) Because the evils of poverty



and destitution inherent in the township system can only be perpetuated by their recognition ; (2) because in its best state the township system is unfavourable to agricultural improvement ; (3) because any reforms which the tenants of lands in the Highlands may require, will more wisely be made as a part of the general reform of the land laws of the country, which Sir Kenneth, as a progressive Liberal, seems to consider imminent, than by any special course of exceptional legislation.

Before making any comments on these objections, we must not omit to note that there is another member of the Commission also a landlord, a Highlander, and an M.P., who has appended to the Report a separate memorandum of dissent, but in a direction directly antagonistic to the two preceding ones. As the opinion of a gentleman, who not only knows the Highlanders officially, but who loves them personally and speaks their language, and who, moreover, was one of the noble two or three, who from the first, in the face of an apathetic House of Commons, stood up publicly to demand justice and fair play on behalf of our poor fellow-countrymen in the glens, the following words need no recommendation from me to insure their serious consideration by every serious student of trans-Grampian economics :—

“ I. On the land question I cannot agree to the figure of £6 being the proper minimum rent under which a crofter cannot apply for an improving lease, or benefit by the steps proposed for ameliorating his condition. I do not wish to perpetuate small crofts, but at the same time there is no use in at once insisting upon poor people doing instantly what is practically impossible. The figure of

£4 would in my opinion be, though high enough, a fair one, and having been recognized by the Valuation Act of 1854, has a distinct significance. The fixing of £6 will cut out so many deserving crofters that I cannot be a party to their exclusion from the humane proposals in the Report.

“II. Emigration. The Report on this head must be qualified, so far as I am concerned, in these two respects, as follows, viz. :—

“1. No State help should be given to individuals, but only to the entire family resident on the croft proposing to emigrate.

“2. The localities designated, viz. ‘The Northern Hebrides, and, to some extent, the adjacent coasts of Ross, and perhaps Sutherland,’ are too wide; and no necessity for State interference as regards emigration has been established, except in the case of the Lews, and some of the minor islands of the Hebrides. Re-occupation by, and redistribution among, crofters and cottars of much land now used as large farms will be beneficial to the State, to the owner, and to the occupier. Until this is done, much as I deplore the present position of congested districts, I must view with jealousy State-aided emigration.”

On a review of these objections to the Report, the first thing that strikes us is the important admission by all parties that there is something rotten in the state of the Highlands which common measures cannot be expected to cure; and not only so, but they frankly make the confession that the large sheep farm system, hyperbolically lauded by interested parties, was a great mistake, and that somehow or other—unless indeed the hill country is to

sink back into its antediluvian wildness—a redistribution of crofts must take place, and the land restored to the people who have been unjustly expelled from their inherited seats. This is satisfactory. Those who were forward to quash inquiry into this matter, and to drown the cries of a suffering people with a wash of unfeeling phrases, will now wisely hold their tongue. A cause there was verily for loud complaint; and unless the ears of justice are to be stopped, a remedy must be provided. But what remedy? Here what must strike every one in the statement of Lochiel is the proposal to hand over the therapeutic treatment of the poor crofter to the very persons whose gross misconduct and inhuman policy has caused his disease—the landlords!—and that without the slightest hint of any such change in the land laws as would enable the tiller of the soil to keep his ground against an insolent, greedy, or regardless proprietor. A proposal more utterly inadequate to the situation, more directly in the teeth of the conclusion to which the whole evidence leads, could hardly be imagined; but the explanation is not far to seek. Lochiel is a landlord: landlords are human; and it is the most natural thing in the world that he should feel a certain bias in favour of the class to which he belongs; but he is more than a landlord; he is a Tory landlord, and he is a good and a kindly landlord; and for both these reasons, is drawn only the more strongly to a full faith in the capacity of the lords of the soil to cure the disease which they have caused. As a Tory, he must be presumed to subscribe to the most distinctive article of the creed of his party, that they by Divine right exercise the natural

lordship of the soil, and as clothed with this function have prominently planted themselves before the country as the farmers' friends ; and as a good landlord, he will naturally be inclined to believe that other landlords are as good as himself ; and that they ought not to be interfered with in their honest endeavours to improve and to elevate the people. Of this natural attitude assumed by good landlords we have a notable example in a well-known case already mentioned ; and all honour must be given from a gentlemanly and Christian point of view to the motives which inspire such attitude. It is an attitude, however, in the face of a clamant demand for reform quite untenable ; for even supposing that the majority of landlords are as well-intentioned and as intelligent as Lochiel—a supposition which the most favourable view of human nature would not lead us to make—we must bear in mind what St. Paul says in the Epistle to Timothy about LAW : that it is made not for the righteous man, but for the lawless and disobedient ; that all law in fact historically is a limitation placed on the natural liberty of the many good to prevent the licence of the bad few ; and that no landlord, however well-intentioned and however intelligent, as a member of a social organism, has a right to complain if any of his natural rights have been abridged, or his hereditary privileges curtailed, so long as that abridgment and that curtailment are necessary to protect the weak people against the over-riding tendencies of the strong. Had wise limitations of this kind on the absolute power of the landholders been imposed a hundred and fifty years ago, there never would have been any desolate glens for a benevolent Lochiel to re-people, or

any rankling discontent in the minds of Her Majesty's loyal subjects, on which a Royal Commission might be called upon to pour balm.

The objections to the Report by Sir Kenneth MacKenzie are in a different strain: the key naturally struck by an intelligent Liberal landlord, who is convinced, as every thinking man must be, that a thorough reform of our one-sided land laws is imminent, and that a large redistribution of the ownership of the soil, no less in the true interest of the landed aristocracy, than as a matter of right to the great mass of the people, must take place, and is in very deed at the present moment, an *articulus stantis aut cadentis reipublicæ*. He does not, therefore, like the Tory, rely simply on the presumed impeccability of regenerate landlordism in this fourth quarter of the nineteenth century; but he trusts to that landlordism with the popular checks which a comprehensive measure of land law reform will impose alike on Highland and Lowland proprietors. Here of course I agree with him so far, as the whole motive and course of the argument in the second chapter of this treatise sufficiently indicate. But I cannot agree with him in his refusal to deal with the case of the Highland crofters as an exceptional case. Had it not been an exceptional case, and that in very well-marked lines, there would have been no occasion for a special Commission, and no Report in its every page accentuating so strongly the special grounds of the complaint which called for the Commission. The case of the Highlands is in fact economically the case of Ireland over again, with certain local variations, and the important difference, that whereas in the Hibernian isle congestion

was the only evil dealt with, in the Caledonian glens the complex action of congestion in one part and depletion in another, indicates to the skill of the State physician a double and a more difficult treatment. Another notable point of difference also should be stated, that, whereas Ireland has been living for generations in a fever of economic disaffection, displaying itself in a succession of crimes of the most startling enormity: the general conduct of the Highlander, under long-continued neglect and oppression, has been patient and submissive in a remarkable degree, with only a few boils and blotches, so to speak, here and there, indicative of a distempered blood of which the cause was only too manifest; and it will be a sad thing indeed, if the historian of a future generation, in his chapter on the economic condition of the British Islands, shall have to record, that, while in the case of Ireland the English Government was goaded into a great act of justice by crime, in the case of the Scottish Highlands it stood confirmed as a long career of injustice by the comparative want of crime. That the economic condition of the Highlands and Islands, therefore, is a matter which loudly cries for exceptional legislation I hold to be indubitable. To the special proposal to which the Commissioners give prominence—the matter of the townships—the objections raised by the Liberal Baronet, considering his local knowledge and agrarian experience, undoubtedly claim serious consideration; but we must beware of allowing ourselves to be carried away in this matter by the pleasing conceit, so natural to the modern mind, that communities of peasants, working together as an organic social unit, are to be looked on with suspicion, simply because they are of

mediæval origin, and because it is the fashion of the hour to believe in an unlimited and unfraternizing individualism, rather than in a system of common action.

Before venturing to reject the ripe conclusions of the Commissioners on this point, the Government should seriously weigh the testimony of one of the most distinguished economists of the day with regard to such townships<sup>1</sup>; and they should inquire specially into the details of their action at the present day, in whatever parts of the world they may have managed to maintain a prosperous continuity of existence. For my own part, I see nothing

<sup>1</sup> Laveleye, in the 'Pall Mall Gazette,' 10th June, 1884; where in an article entitled 'A Great People under Bad Laws,' the following emphatic passage occurs:—"The worst of all is that the one primeval institution to be found in the whole world, from India and Russia to France and the United States, viz., the Commune, which is the organic cell of the social body, a natural association everywhere indestructible, and which survived the invasion of the barbarians in the fifth century, and even that of the Turks in the fifteenth, is no longer to be found in England. The word designating it has even fallen into disuse in the English language. *De Gemeente, die Gemeinde*—admirable word! in which the spirit of Christianity and the instinct of the Germanic races meet. The thing common to all!—*Res communis, Communio*. As sole memory of former days there exists the House of 'Commons,' but there are no more Communes; they have been swallowed up by the manors. The Crofters' Commission proposes the reconstitution of townships in certain remote corners of Scotland; but they ought to exist all over the British Isles, and form, as in the ancient plantations and settlements of New England (see the Baltimore John Hopkins' University Studies in Political Science), the basis of the social edifice. Tocqueville admirably calls the Commune the infant school for political life. It is sad to think that England no longer possesses so admirable an institution, this alveole of the human beehive, where the humblest individual can take part in the direction of business of common interest to all. Nothing can replace this powerful bond, which attaches the individual to his native village, and to the alma mater, the soil."

to prevent such townships as now exist in the Highlands, under wise regulations, from becoming a nursery of sturdy peasant manhood, and raising an effectual bar to the excessive aggrandisement of the few who know how to improve a country only by crushing out the people who inhabit it. . . . At the same time it is sufficiently plain that the special proposals of the Commissioners with regard to the legal recognition of townships, may be rejected, without in any wise trenching on the general principle which led them to prefer the distribution of hill property among the native peasantry, to the vaunted system of heaping it up in large masses for the pampering of a favoured few ; dismissing the township idea altogether as a legally recognized unit, the township will still stand in the foreground as a fact ; and its organization, with its natural adjunct of hill pasture, in the form of a club-farm under legislative authority, will still remain as an efficient machinery for carrying out the enlightened and patriotic policy of the Commissioners.

The Memorandum of dissent by Mr. Fraser MacIntosh, being in the positive rather than in the negative direction, need not detain us. Of course, all sensible men will see that with regard to fixity of tenure, improving leases, and other kindred matters, some fixed line of demarcation must be laid down, beneath which the privileges conferred by any legislative enactment, would for obvious reasons not be expedient ; but whether that line shall be fixed at £10, or £6, or £4 as proposed by Mr. MacIntosh, and recognized by the Valuation Act of 1854, it would be impertinence in a person not minutely acquainted with local details to determine. Only, one cannot help observing, that whereas Mr. MacIntosh evidently follows out the



benevolent intention of Her Majesty's Government, by wishing to retain and to cherish as many of the valuable mountain population as possible, the chief of the noble Clan Cameron seems to ignore the mass of the people altogether, and makes provision only for a select number of a select body of the higher class of crofters. So far, of course, so well: the middle class is always the best; but the poor will always be in the land; and the smallest and least prosperous men are not without their place and their use in the complex social organism of the universe. As to emigration, again, Mr. MacIntosh and all true friends of the Highlanders will agree, that, till the rampant ambition of large farming be pruned, and redistribution among crofters and cottars of the abused land shall be honestly and authoritatively carried out, all wholesale transportation of the people from the land which they love, and in which they can be profitably maintained, must be looked on with jealousy. Weeding the garden is wise; but we have lived to see a class of persons, boasting the honourable name of a landed aristocracy, who have pulled up the flowers along with the weeds, and have been commended for doing so. We must keep jealous eyes upon landlordism of this type.

Such being the dissents of not the least influential members of the Commission on what cannot be called secondary points for any purposed legislation, the present writer cannot but feel himself relieved from the charge of conceit to which he might seem liable, in presuming to differ in some important features of the case, not only from the two protesting members of the Commission, who think its recommendations go too far, but from the body

of the Report itself. My objection is, that the Report does not go far enough; 'that there is a certain air of uncertainty and indecision, or say rather compromise, about it, where a bold and emphatic treatment was alone adequate to the obstinate inveteracy of the disease. And no doubt this air of compromise lay in the very nature of their situation; the members of a Board differing widely both in political and in social philosophy, could not be made to present an aspect of unity without a considerable sacrifice of what wisdom might dictate and policy demand. But, however useful or necessary in some cases compromise may be in order to get over a difficulty; on critical occasions, half measures can never produce whole results; and when a blow is to be given at all, where a blow is necessary, it must be given with a whole force. The compromise which the Report has attempted to make with the landed interest in the matter of the townships, has only served to call forth an array of special objections calculated to take the soul out of the whole' proposal; and the only business-like way to meet these objections, is to propose a more comprehensive and a more effective plan to deal with the whole matter of the redistribution of ill-apportioned and mal-administered lands in the Highlands. Some "redistribution," as even Lochiel admits, must be made; the landlord class, as we have already said, cannot be trusted with it; it remains, therefore, that the State, which stands the supreme mediator between class and class, should interfere, and help the people to do what, from the discordant elements at work, they are not in a condition to do for themselves. The Tory objection to this course, that it is novel and startling, and subversive of the rights of property

as hitherto recognized in this country, carries its own refutation on its face ; for it is precisely from a practical usurpation by a local oligarchy of the supreme function of the State in the ultimate regulation of the land that all the present agrarian discontent has flowed. The notion that the landholders, as a class, have any peculiar right to withdraw themselves from the supervision of the watchful eye that, in the interest of the public, notes the movements and regulates the action of all other classes, must in these days be given up as outside the pale of legislative consideration.

We conclude, therefore, that the Government, as the supreme arbiter between contending classes, should, on the basis of the Report, march in to adjust the claims between landlords and tenants, with details of a necessary redistribution of the soil on equitable grounds ; and this can best be done by the institution of a Land Court or Board of Land Tenure in the Highlands, which shall be empowered in the first place to enter into amicable arrangements with the proprietors for the apportionment of the land amongst larger and smaller farmers, crofters, and cotters, according to local circumstances, and a due consideration of existing agreements ; and, in the second place, if the proprietors shall refuse to enter into any such arrangements, in this case the Land Court shall be entitled to proceed in the redistribution of the soil in the following way :—An order shall be issued from the Land Court inviting the inhabitants of any district professing to have been aggrieved by the past administration of the land, and claiming redress, to petition the Court to send a sub-commissioner to inquire into the state of matters as between

them and the landlord ; and if they can show that, within a circumscribed area formerly cultivated and pastured, they are in a condition to divide and to stock the lands, so that each family may have a sufficient lot to live on, the extent to be settled by the Court, according to the peculiar situation and capabilities of the district, as fitted for self-supporting crofts, or crofts with accessory means of livelihood, for separate farms or for club-farms ; on satisfactory proof to this effect, the Court shall proceed to mark off the lands to be acquired by the State at a compulsory valuation from the proprietor. The redistributed land shall then be held as permanent State property with a rent or tax preferable to all other burdens.<sup>1</sup> The Land Court would also be empowered in districts where, in consequence of evictions on a large scale, there were no resident crofters, to enter into terms with the proprietors for the re-peopling of the land with crofters transferred from the congested districts, whether by amicable arrangements, or by compulsory sale, as the proprietor might elect. . . . Some such scheme, of which the essential feature is that the Government shall be authorized to compel proprietors to use their land for the general benefit of the people, comes plainly recommended to adoption not only from its getting rid of the special objections made to the legal recognition of townships, but from its making no exception in favour of lands usurped by the deer-stalkers to the prejudice of the natural occupants of the fringes of the Bens. Such a Land Court would at once put a stop to the indiscriminate

<sup>1</sup> I have here used almost the exact words of the statement laid before the Commissioners by an intelligent East Ross-shire farmer, Mr. Ross of Teaninich, Alness, Ross-shire.

clamour against deer-forests, where deer-forests have always been, and satisfy the reasonable demands of the crofters by restoring to the legitimate occupancy of the natives that portion of the soil which has been abusively appropriated to the culture of wild beasts.

Authoritative provision having been thus made for a *bonâ fide* redistribution of the land amongst the people, the conditions under which it will hereafter be held in the Highlands, as flowing from equitable principles and social considerations, will be shortly as follows:—

1. Leases of land, not below a fixed minimum acreage, for a life or two lives, or for a fixed period long enough to encourage expenditure of labour on the soil, to be granted to all applicants, at a fair rent to be fixed by valuers, as the Land Court may direct.

2. If the tenant prefer a holding from year to year, he shall be allowed that alternative, with fair rent and a free sale, and compensation for disturbance, if ejected.

3. Leases to be renewable at the discretion of the tenant, or his assignees, on a rent to be fixed by impartial valuers or a jury of experts.

4. If the tenant chooses to give up his holding, either during the tenancy of the lease, or at its termination, he may sell his tenant-right to a third party, but always with a right of pre-emption to the landlord at a fair value to be fixed by assistant-commissioners of the Land Court, or by the custom of the country. Compensation for fixtures and unexhausted improvements to be awarded according to the general reformed, and to be reformed, Agricultural Holdings' Acts of the realm.

5. That in all land appropriated by the Land Court,

no crofts shall be allowed of a size beyond a certain maximum, and below a certain minimum; and that all subdivision of crofts within the range of the minimum shall be strictly prohibited.

6. All holders of lease property of a statutory size, and under statutory conditions, to be entitled to purchase the fee-simple of their lease or feu, on payment of so many years' rent, and to acquire the status of absolute ownership, of course always subject to such general estate regulations as might be settled by a joint committee of landlords and crofters with a right of appeal to the Land Court.

7. That on all property, whether held under compulsory sale by the Crown or left in the hands of the original owners, suitable houses and gardens for labourers shall be provided at the expense of proprietors. The statute must determine a minimum of cottages for pastoral and for arable lands respectively. Also an Artizans' Dwellings' Act must be passed for the country.

8. That in all DEER-FORESTS, as marked off by the Land Court, it shall not be permitted to block up the natural avenues of approach from one district of the country to another; that no gamekeeper or other paid servant of the lords of the soil shall be entitled to stop any of Her Majesty's lieges, when taking breezy recreation, or making scientific studies on the uncultivated land of the hills; and that deer or other wild animals encroaching upon, or in any way disturbing, the arable land on the fringes of the Bens, or the pasture land on the braes, shall be deemed the property of the person on whose ground they have trespassed.<sup>1</sup>

<sup>1</sup> A parallel case to the free use of the Bens for public recreation here claimed, will be found in the claim for the free use of the forests which has recently been made the subject of legislative discussion in

In conclusion, after the full discussion in the text, it will not seem necessary to enter here on a formal refutation of the host of objections which legal and political conservatives will be ready to launch against the reforms in Highland economics here sketched out. They are, in fact, only the recommendation of the Commissioners, carried out in a more decided and comprehensive style; and, what is of more consequence, their only practical effect will be to compel ignorant, obstinate, and unreasonable proprietors to do, what the well-informed proprietors are willing to do, and have, in fact, been doing, not since yesterday, in their own well-administered districts. Those who require to be informed on this point are referred to the late W. Mackenzie's report on the improvements at Ardross (p. 182, *supra*), and to the scheme for improving leases laid before a committee of the Highland Association, Edinburgh, by Mr. Greig, the intelligent Improvement-Commissioner of his Grace the Duke of Sutherland.<sup>1</sup> There is not a single item

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Germany. See 'A Neglected Aspect of the Land Question,' by S. C. Thompson. London, 1883.

<sup>1</sup> The following is from the 'Scotsman' newspaper, June 25, 1884:—"THE SUTHERLANDSHIRE CROFTERS.—A special meeting of the Committee of the Highland Association was held yesterday at 34, St. Andrew Square, Edinburgh, to confer with Mr. Greig, late Improvements Commissioner for the Duke of Sutherland, upon the basis of a practical scheme for granting improving leases to the crofters. There was a full attendance, and the meeting was a protracted one. It was stated that between 200 and 300 crofters had sent in applications to the Association, asking them to approach the Duke of Sutherland with the request that he would grant them thirty years' leases on the cultivable waste lands of the county, where not less than twenty acres could be brought under cultivation. Along with this they asked for hill pasture sufficient for at least one sheep for every acre of arable land; and, further, that the rent should be fixed by parties mutually chosen by proprietor and tenant; and that the proprietor should advance money for improvements, at a rate of interest to be agreed upon.

proposed in the Report of the Commission, or in the present discourse, that is not as much for the ultimate benefit of the proprietor as of the crofter. St. Paul's simile holds good here as everywhere else: what is good for the head is good for the feet, and what is good for the feet is good for the head. No visionary dreams of compulsory equality and monotonous fraternity with regard to land or anything else, are contemplated by the leading reformers of the land laws in this country. Only the wings of those who have been allowed to run riot in the notion that the heads of the body social can thrive by stinting and starving the lower limbs, must be clipped. And for the sake of bringing these unreasonable persons to reason, the reasonable land-owners, who require no interference and can suffer neither

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Mr. Greig made a statement of the conclusions which he had been led to form, detailing at length his experiences in perfecting the extensive reclamations which the Duke had carried out. He was not present with any special authority to represent the Duke, but believed that no one would rejoice more heartily than his Grace to see the whole county covered with a gradation of holdings, rising from the small croft to the extensive sheep farm. He knew it was the desire of the Duke that the land should be held by the people of the county, and he looked forward to the time when the valleys and straths of Sutherland would be dotted with small farms cultivated by Sutherland men. From the nature of the soil and climate, the county was better adapted for pastoral than for agricultural farms. The great point to be aimed at was that every man should have land sufficient to require the undivided energies of himself and his family the whole year round. If men could be found ready to take small pastoral farms, with from 20 to 40 acres of tilled land and up to 1000 acres of hill pasture, he felt sure that they would prove successful, and that money would be readily provided to meet the necessary outlay. Small crofts would gather round these larger holdings, the occupiers of which would find work on the larger farms in their neighbourhood. A vote of thanks was accorded to Mr. Greig for his valuable suggestions, and it was agreed that another meeting should be held with him a fortnight hence to elaborate a scheme for carrying out the proposed ameliorations."



pecuniary nor social loss from the stamp of law being set on a sound social economy, will wisely submit themselves to a few salutary limitations necessary for the public good. As to the difficulty planted in the foreground by many, that there would be no use in giving farms to people so poor that they could not afford to stock them, the obvious answer is that they are not all poor, but that they all are a thrifty, industrious, and thoroughly well-principled people, and may be depended upon to do effective work, and to stand by their engagements whenever they are fairly treated. Besides the question is not whether this or that crofter is in a condition individually to stock a larger farm for himself, but whether a certain number of crofters under certain appropriate conditions are able to manage a club farm in such fashion as experience has proved, under wise administration, to be practicable and profitable in Highland districts; and where a little public aid might be necessary, if the Government has seen its way to advance money for public purposes in Ireland where security is slippery and temper fretful, much more could they afford to deal on terms of the most perfect safety with such a people as the Scottish Highlanders. They who doubt this may apply to the Savings' Banks and Bank Agencies in the Highlands, and learn what sort of people make their deposits there. They may at the same time ask those good and wise Highland and Orkney landlords who have advanced money to their tenants, and have been paid as good a per-centage, and less liable to variation, than they could have derived from many other investments. Let them further ask those landlords who have received money from Government in order to assist them in reclaiming waste lands, and let these gentlemen

show why State aid should not be granted occasionally to those who till the soil under exceptional circumstances, as well as to those who possess it? Difficulties no doubt there are in this grand work of the rehabilitation of the dwellers in the glens. The disease which has been eating into the bones of the social system in that quarter for more than a century is not to be cured in a day. It is more easy of course always to pull down than to build up; to drive away than to bring back; to ruin a noble peasantry than to restore them. Nevertheless, if only a WILL be found at the helm of State determined to do what is just, simply because injustice is a thing hateful both to God and man, insight will not be wanting in leading minds, friendly aid will start up from unexpected quarters, and patience under the sure blessing of Providence will rejoice to do her perfect work. The most glorious opportunity is now offered to a wise Government to achieve a reform in the condition of a most deserving and a most unworthily treated class of the community; an opportunity, which, if boldly seized, will encircle the brow of British statesmanship with a halo far more bright and far more enduring than any glory that may be reaped from the triumphs of party warfare; but, which, if allowed to pass, will leave a blot on the scutcheon of Great Britain that no military successes or commercial gains in distant lands will be able to efface.

THE END.

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