

pretended husband. In all such suits it seems only just that Irish women should be placed in the same position as their English sisters, and that a discretionary power should be vested in the court to secure to them in proper cases maintenance and support. With one more suggestion, I have done. Decrees for alimony, *i.e.*, the provision for the wife decreed by the court, cannot be effectually registered as judgments against lands. There is frequently, rather invariably, great difficulty in enforcing the decree where the parties are of the farming class. A very great security for the recovery of alimony by the wife would be afforded were the decrees capable of being registered against the interest of the husband in lands, in the same way as judgments can be. The fact that alimony is subject to be varied in amount by orders of the court from time to time, need not present any great difficulty as this could be easily provided for by requiring re-registration within certain periods if the amount should be varied. There should also be a power of enforcing the decree for alimony as a judgment in any part of the United Kingdom.

The defective powers of the Irish divorce tribunal which I have alluded to, could be remedied without raising in any way the question of dissolution of marriage. A prompt, satisfactory, and final adjudication by the court, called upon to arbitrate upon the domestic relations of husband and wife, is above all things desirable. Such an adjudication, the court in this country cannot, owing to its narrow jurisdiction, give. It is to be hoped that at some not distant date the powers of the Probate and Matrimonial Division in Ireland may be extended, and that its suitors may be enabled to obtain in one cause the varied remedies their circumstances demand.

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### III.—*Continental Land Banks and Land Registers.* By Murrough O'Brien, Esq.

[Read, Tuesday, 7th June, 1887.]

THE Statistical Society allowed me on a former occasion to give an account of a Swiss State Land Credit Bank, from the operations of which it seemed to me some useful lessons might be learned. The question of making loans with safety on small parcels of land in Ireland is a matter of vital importance in the reformation of our land system. A large amount of public money is being lent to Irish farmers on the security of their holdings, and still larger advances are in contemplation. The lending of these large sums without loss to the taxpayer, and with advantage to landlords and tenants, is supposed by some persons to be fraught with danger; it has not yet passed beyond the experimental stage. The various measures which have been passed since 1870 with this object have been characterized by vacillation, timidity, obscurity, and want of any definite principle. No sooner have they been passed, than demands are made that they should be amended, and no settled principles seem to have

been arrived at as to the amount and terms of loans, or the means by which they are to be secured. Numerous continental land banks all work on the same general lines; the business of safe lending on land is just as well understood, its principles are as settled, as those of ordinary banking in this country.

*Land banks are not new institutions.*

This problem of lending small amounts on the security of land has been solved long ago in most of the northern states of Europe. At the end of the last century there were land credit banks in Denmark, and some of the German, Russian, and Austrian provinces. They increased in business and in numbers after the cessation of the Napoleonic wars, and at the present time there are a multitude of these institutions operating largely, successfully, and profitably—making small loans on the security of land, and in most instances conferring very great benefits on their customers.

The objects of these banks have been and still are very diverse. They have one general characteristic—they make loans on land for very long terms, repayment being by annuities comprising interest and sinking fund. They have lent:—(1) for improvement and development of landed estates; (2) to enable land owners to get rid of their incumbrances by small annual payments; (3) to enable peasants to redeem feudal dues, extinguish rent, and to become absolute owners of the land they cultivate.

*Different kinds of land banks.*

Land banks may be divided into two classes:—(1) those constituted for the special benefit of borrowers, usually supported or endowed by the state, which has in such cases a large share in the management, (2) those which, while conferring benefits on their customers, are worked on purely commercial principles in the interest of the proprietors or shareholders. It is by means of institutions of the first class that such landlordism as existed on the continent has been to a great extent got rid of. Banks endowed by or guaranteed by the state, furnished the means of enfranchising land from feudal dues and rents. Where there is no landlord class to be got rid of, such banks are often maintained by the state to enable the peasants to clear off their incumbrances, to provide them with capital at a low rate of interest, to facilitate sales of land, and to provide a safe investment for small earnings. The Vaudois land bank already described is an institution of this class. The bank taken as a text for this paper belongs to the second class.

*Where their funds come from.*

All these banks work on the same general principle: having a certain amount of paid up capital, they raise money by debentures, and with the funds so obtained they make loans for long terms upon real property, repayable by annuities.

The money raised by debentures is far more than the paid-up capital; the holders of the debentures are the real lenders through the agency of the bank, which usually charges one-half per cent. more

on its loans than what it pays on the debentures. The chief profit comes from this difference of one-half per cent.

*Conditions necessary for obtainal of funds.*

It is important for these banks to obtain money at a low rate. For this, two conditions are necessary. 1st, that their business shall be safe and profitable; 2nd, that the debentures shall be good marketable securities. The second condition depends on the first, and has almost invariably existed. Land debentures are a favorite investment; they have varied in price less than other securities in times of political disturbance. In 1848 the land debentures of the German banks remained much steadier and at a higher price than the funds and other securities in the same markets.\* About that time it was estimated that the various German land banks had about 21 millions sterling on loan, so that a large quantity of debentures must have been in circulation in a comparatively limited area. In 1849 the principal Hanoverian land bank had 19,716 debtors; and it may be remarked that in that year only 160 payers were fined for being unpunctual, and only 24 were prosecuted for recovery of the fines.†

As to the first condition, there is no doubt that in most European countries, with ordinary prudence, lending money on land, even in small amounts, is perfectly safe. Land debenture holders have all the security of well secured mortgagees in the United Kingdom, without any of their disadvantages and risks, which are many. The invariable rule with continental land banks has been that their loan shall be a first charge, and limited to from one-half to three-fourths the value of the land charged. The debenture holders have therefore not only such a margin of security as exists in carefully selected English mortgages, but they have the bank's capital in addition. Most important of all is the fact that each debenture is not secured on any special property, but on the consolidated value of all the property mortgaged to the bank; the debenture holder has not the mortgagee's anxiety about the subject of his loan, and its possible deterioration; he has not the expense and trouble of collecting his interest and recovering his capital; his security is marketable and easily transferable.

*Difference between mortgage and hypothèque.*

The difference between the English mortgage and the continental *hypothèque* must not be overlooked. In the case of *hypothèque* there is no assignment of the legal estate as security, it is simply a charge registered against the land.

Under the French civil code, which prevails so widely in Europe, if the owner of an hypothecated estate wishes to sell it, he can do so subject to the charge, the debt follows the land, the owner has the legal estate and can transfer it; no release or consent is required.‡

\* *Credit Foncier dans l'Europe*, J. B. Josseau, p. xxxiv.

† *Id.* p. 288.

‡ *Code Civil*, s. 2,114, &c.

*Why land banks have not existed in England.*

In 1851 the establishment of land credit institutions, which did not then exist in France, was under the consideration of the republican government. Reports on their working in other countries were obtained. After describing the English system of mortgage the reporter adds.\* "It is easy to understand that land credit institutions could not be established in a country where the conditions of land-ownership are as described." Even in France at that time the want of a public register for mortgages, and other defects in their system, had prevented the establishment of land banks.

*Mortgages in United Kingdom a bad security.*

The idea that mortgages on land in the United Kingdom are a sound and good investment has been a widely spread and popular error which the events of the last few years have somewhat dissipated. Even if they are good investments in the case of large sums lent by companies, corporations, or wealthy persons, having all the machinery of the law at their command, they certainly are not, and never have been, safe investments for small amounts; this is due evidently not to the nature of the security, but to our legal system. The Royal Commissioners on Title and Transfer in 1857 pointed this out, saying in their report :—

"The greatest condemnation of the existing system of lending money on land is the reluctance which bankers, the natural traders in loans, have to lend on mortgage. The security which they refuse, careless trustees, ignorant people who have savings, and widows and others who have some small provision, are advised to accept, and in this way the whole risk of bad security is thrown on the classes least able to bear it."

It is satisfactory to have this downright condemnation from such eminent lawyers, for the advice to invest on mortgage has usually come from the legal profession.

*The Credit Foncier of France.*

The land bank which I bring under your notice this evening is the Credit Foncier of France, † the largest institution, I believe, of the kind in Europe. It belongs to what I have described as the second class of these institutions, and is carried on as a purely commercial concern, in the interests of its shareholders, without endowment or guarantee from the state. Its paid-up capital is £6,200,000 in £20 shares, owned by 20,300 shareholders. It is authorized to issue debentures to the amount of twenty times its paid-up capital, provided always that the debentures do not exceed the value of the loans.

The primary object of this bank is to make loans on real property for long terms, it does, however, engage to a smaller extent in other banking operations, it makes loans to municipalities, receives money at call, paying one-half per cent. on it, makes to a small extent short

\* *Credit Foncier dans l'Europe*, J. B. Josseau

† See *Statutes, Instructions, and Reports* of the Credit Foncier.

loans for terms of less than five years and takes charge of securities for its customers.

\*  
*Communal and departmental loans.*

During the last twenty-seven years it has lent to municipalities £64,781,273, of which over 27 millions have been repaid, the balance outstanding on these loans being about 37½ millions, on which the annuities in 1886 amounted to £2,059,578. I mention this item of the bank's business to show the magnitude of its operations; but my paper is intended to treat of its long loans upon land, which constitute the largest part of its business.

*Loans upon land.*

These loans are made for terms of from ten to seventy-five years, repayable by annuities varying with the term for which each loan is made. The borrower may pay off the whole or part of his loan at any time; but the bank cannot call it in. The long term is for and not against the borrower. The annuity in repayment of a loan for seventy-five years is at present, 49.8707 per cent. No commission is charged; but fees for valuations and examinations of title are charged at the following rates:—on loans up to £1,200 a fee of 24s.; on loans over £1,200, one per 1,000 for valuation, and one per 1,000 for examination of title.

During the past thirty-three years, and lending but a small amount in the earlier years of its existence, the Credit Foncier has lent on land £122,605,107, chiefly for terms of over fifty years; 44 millions have been repaid by the sinking fund comprised in the annuities and by prepayments; 78 millions sterling are now outstanding, the annuities on this account for collection in 1886 amounted to £4,234,348, and payments are reported to have been satisfactorily made. Penal interest at 5 per cent. is charged on all overdue payments, and as long as there is no danger of loss, proceedings for recovery are not taken. When a year's annuity is in arrear, a revaluation is made for the purpose of ascertaining if the loan is in danger; if it is, steps are taken at once to realize.

*Rule as to security.*

The rule for security is that loans are not to exceed one-half the selling value, and in the case of woods and vineyards, they must not exceed one-third; they must invariably be the first charge on the premises, and as there are no tithes, fee-farm rents, quit rents, or perpetual annuities in France, they are really so.

*Title and transfer in France.*

Applicants for loans must show title for thirty years, but this is not a very serious matter. In France both ownerships and charges must be registered, primarily in order that the transfer, land tax, and other dues may be paid, and incidentally for the public and useful purpose of having a register of ownerships and mortgages.

Transfer duties are very heavy in France, amounting on small lots to nearly 7 per cent., and the legal expenses of a sale are usually

nearly 3 per cent. in addition. Ten per cent. may seem a heavy charge, but the amount is certain, and at most it is very much less than the cost of sale of small lots of land in this country, where not only is the amount uncertain, but sometimes far more than the value of the land bought.

M. Yves Guyot, a high authority, says\* that the diminution and simplification of these heavy transfer duties, and the improvement of the system of transfer, are essential to the prosperity of France, whose chief source of wealth is her land, and whose principal industry is farming. These expenses on sales, trifling as they may seem to us, are of course a hindrance to land credit banks, which in Germany, Belgium, and Switzerland, have fewer legal and fiscal obstacles to encounter. In carrying on such a large business as the Credit Foncier does, it frequently becomes necessary to realize, or to compel their debtors to do so, and every obstacle to free sale tends to impede the operation of the bank.

*Great development of business in recent years.*

The following table shows the amount lent by the Credit Foncier in each year of the last seven.

Year	Number of loans made	Amount lent
1880	3,660	£8,758,732
1881	5,897	11,141,979
1882	7,398	13,208,528
1883	6,393	10,179,703
1884	4,970	8,843,144
1885	4,271	5,878,574
1886	4,322	6,752,384
	36,910	£64,763,044

The following is a classification of loans made since the foundation of the bank in 1853:—

	Number of loans.
Under £200,	13,917
From £200 to £400,	11,718
„ £400 „ £2,000,	24,810
„ £2,000 „ £4,000,	6,890
„ £4,000 „ £20,000,	5,546
Over £20,000,	426
	63,307

The business done during the last seven years is larger than that done during the first twenty-six years of the bank's existence. The financial position of the Credit Foncier is indicated by the price of its £20 shares, which are now worth about £57. Many of its debentures are quoted at a premium. The dividend in each of the last four years was 12 per cent. In 1884 the bank offered one

\* *L'Impôt sur le Revenu*, Yves Guyot.

million debentures of £20 nominal value, bearing 3 per cent. interest, at £17 8s. This loan of 20 millions, issued really at £3 9s. per £100, was subscribed for three times over by no less than 538,199 persons.

#### *Debentures.*

The debentures have been issued in different series, for different terms, and at different rates of interest, and in amounts of from £4 upwards. The bank can now, as has been seen, borrow at 3.45 per cent. ; some of the debentures are for terms as long as ninety-eight years; but drawings are made for earlier repayment of these and some other series.

The amount of land debentures current at the end of 1886 was £78,162,425.

As loans are limited to half the value of the premises on which they are charged, and the bank's capital is worth in the market three times its nominal amount, the security for each £100 lent to the bank on debentures is worth about £215.

#### *Management.*

The management of the bank is vested in a governor who receives a salary of £1,600 a year, two assistants at £800, a council of twenty, who are paid by attendance fees, and three censors. A general meeting is held once a year, but it is confined to two hundred of the largest shareholders.

The bank has sixty-nine branches, and operates to a small extent in Algeria. The total cost of management in 1886 was £149,000.

#### *Distribution of land in France.*

One of the advantages claimed for land credit banks is that they facilitate the distribution of land. In countries where equal division of property on death is obligatory, the partition of a small holding may reduce the size of the parcels to such dimensions that they are incapable of being properly worked. Facilities for the obtainal of funds to purchase land come into play in enabling one of the heirs to buy up the shares of the others, and so preserve the farm and homestead in one holding, or in enabling the neighbouring occupiers to add to their holdings by the purchase of the shares of that which is divided.

The idea that the division of land in France is excessive, that it has been carried to such an extent that farming sometimes ceases to be remunerative, is a fallacy or misrepresentation partly based on Arthur Young's authority, partly on the novels of Balzac, and latterly developed by Lady Verney. Arthur Young, full of prejudices in favour of the English system, fell into the mistake of applying to the whole of France the result of his observations in a few districts. Complete statistics were not obtainable in his day.

The most competent French writers differ altogether from Lady Verney. De Foville says\* that she shows more talent than impari-

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\* *Le Morcellement de Foville*, p. 248.

ality in her indictment of the French system. M. H. Baudrillart, who is engaged on a series of reports\* on the condition of rural France, speaks of Lady Verney as eccentric, partial, and incorrect. †

De Foville shows that the great increase of landowners in France has arisen not from excessive division of small properties, but from the sale of large estates to the peasantry. The great landowners have themselves been voluntarily the instruments of what they affect to deplore as a national evil, for they have sold at high prices properties they could not profitably manage. Small proprietorship in France has proved, if not more profitable, at any rate more capable of withstanding periods of agricultural trial and depression, than the system of large estates. Like the reed in the fable, it bends to the storm, while the oak of large proprietorship has been broken. The great number of very small estates in France are not the debris of pulverized farms, but the hearths, homes, and gardens of the people. That division of the soil, says De Foville, which enables men to sleep under their own roof-tree, makes life easier, sweeter, and healthier. The more of it the better.

*Classification of properties in France.*

The terms large and small, as applied to land properties, are not only relative but ambiguous. The following classification is given by De Foville :—

Class.	Area.	Proportion of France so occupied.
Very large properties,	Over 500 acres	16 23
Large            ,,	125 to 500   ,,	19.04
Medium         ,,	15 to 125   ,,	38 94
Small           ,,	5 to 15     ,,	15 26
Very small     ,,	Under 5     ,,	10.53

This classification shows the kind of business which is open to land banks in France. Ownership is absolute; there are neither tithes, quit, crown, or fee-farm rents. The creation of limited and partial estates being forbidden, title cannot become obscured, the ownership of any single plot cannot be pulverized into a number of different degrees or estates. It is therefore a comparatively simple matter to make title. There are public registers of ownership and of mortgages, and there is not the presumption of antecedent adverse rights that there is against a vendor in the United Kingdom.

*The Continental cadastre.*

The register of ownership, which is connected with official maps,

\* *Populations Agricoles de la France.*

† *Contemp. Review*, May, 1886



was instituted and maintained primarily for purposes of taxation ;\* it is also evidence of ownership. It is not a record of title in the same meaning as under the Torrens' system, for in France the deed passes the estate, not the entry on the record, the deed, however, is not of full validity until duly inscribed on the register. The use of these public registers is thus described by M. de Laveleye,† who contrasts therewith the English system of transfer.

“In England, the insecurity existing with respect to title deeds, the difficulties connected with mortgages and settlements, and the absolute necessity of carefully preserving all deeds, have created a dark forest around the possession of property in England, into which anyone may well dread to enter. One dare not purchase the smallest bit of property without consulting one's lawyer at considerable cost as to the security, and this even he can never guarantee. There does not exist in the entire world such another complicated and shadowy system, nor one so well organized for making the fortunes of legal men, at the cost of their clients, the holders of land and of mortgages, and for effectually preventing the possession of property by small capitalists.

“What a good thing it would be for England, if the agrarian system which Austria has established in the space of four years in Bosnia could be adopted here. A public register of land has been drawn up, giving the size of each piece of land, its nature, how much it brings in, and the name of its owner. Sales and exchanges are easily effected. The name of the buyer is inscribed in the public register, and he runs no risk. All mortgages are also public, so that every guarantee is given to creditors, and to those willing to purchase, or to advance money on the property. This very simple and yet perfect system, has now been adopted in all civilized countries with complete success.”

If land transfer is costly in some European states it is because a large revenue is raised from the transfer duties ; not because their transfer systems are cumbrous and antiquated.

#### *Insecurity of loans upon land in Ireland.*

It is unnecessary in a meeting of this society to enlarge on the necessity for, and the merits of, a simple method of transferring and charging land. But I may repeat what has often been said before, that it is a political crime and a financial error to confer proprietary rights on the peasantry of this country, without at the same time providing a cheap and simple method of transferring those rights, and liberating all land that passes under the Purchase Acts from the legal fetters and enormous expenses that real estate is subject to, and under the weight of which no system of small proprietorship could endure.

In other civilized countries small amounts of money may be, and are lent with safety on land. Here, no prudent person, no financial association, would make loans, as continental land banks do, of from £8 to £10 on landed estates. Even for comparatively large amounts lent on mortgage, the effect of a mortgagee taking proceedings to recover his debt or interest is simply to damage his own security ; he either incurs expenses out of all proportion to the value of his

\* The land taxes in France produce over 7 millions ; the duties on transfer of land from 7 to 10 millions

† *A Great People Under Bad Laws*, E. de Laveleye.

debt, or if the costs fall on the estate there is not enough remaining out of the proceeds of realization to pay the debt. This will be the position of the state if it continues to lend small amounts all over Ireland, without at the same time enacting measures, as it might easily do, to make the security for its loans marketable and easily realised.

No matter how prudently loans may be made, farmers are not exempt from the changes and chances that befall other classes, and it is to be expected that borrowers under the Purchase Acts will from time to time fail, even in favorable and prosperous years.

The incumbered peasant proprietor will hesitate to sell and pay his debts, for the difficulties, costs, and delays before him are uncertain and fearful. Others will hesitate to buy, for this among other reasons, that having bought they may not be able to sell again. An unmarketable article is not a desirable possession. There can be no such thing as an active retail land market under the present system; peasants and labourers buy land, not as an investment, but because they want it to employ their labour and capital upon; to secure personal freedom and a home; for daily enjoyment, and probable profit. Immediate possession is one of the objects of the purchase; but under our system "the seller does not receive his money, nor the buyer his land until the advantage or the pleasure of the bargain has passed away."

#### *Revision of land registers.*

The land register or *cadastre* of continental states is a very important part of their political, financial, and social organization. The cadastre is a register of ownerships; an assessment of the taxable value of every separate parcel of land in the country, a description of each parcel, and of every building. Extracts from it are supplied and used in all successions, sales, and other dealings with land. In some states an extract from this register, endorsed with a certificate from the registrar of mortgages constitutes the title to land. Good maps or plans are essential parts or accompaniments of a perfect cadastre. As a register of ownership it is usually kept up to date; as an assessment it is often very imperfect. The French cadastre was commenced in 1808, and completed in 1847. Owing to changes in value and other causes, the assessment is, like our government valuation, so unequal, that in proportion to the real value of their holdings some persons pay nearly twenty times as much land tax as others, and taxation is said to vary from 9.07 to 3.74 per cent. in different departments from this cause\*. The revision of the map and the registers is a matter of no small expense. In Belgium, whose area is about one-third of Ireland, the "*conservation du cadastre*" cost in 1873 nearly £27,000; † 230 surveyors were employed; they visit every township twice a year; and a good surveyor is said to know the land parcels in his district just as a shepherd knows his sheep. In France "a general annual tour of

\* *Traité des Impôts*, E. Vignes.

† *Annales de l'École Libre des Sciences Politiques*, July, 1886.

inspection, as well as special tours, are made by officials employed by the *Department des Contributions Directes*, for the purposes of revision."\*

*The State Land Bank of Fribourg.*

It is to be remarked that the loans of the Credit Foncier are large. The average amount of 36,910 loans in the seven years ending 1886 was £1,754. This is characteristic of a commercial bank, which is of course run in the interests of the shareholders. It is interesting to contrast with it the loans of a bank of the other class, viz, one run in the interests of borrowers. The State Land Bank of Fribourg was established in 1853, with a capital of £40,000, 5 per cent. of the capital being owned by the state, and interest at 4 per cent. being guaranteed on the shares. This bank has also prospered; its capital has been increased to £120,000, and it has about £800,000 of debentures in circulation. At first it paid  $4\frac{1}{2}$  per cent. on its debentures; it can now obtain money at  $3\frac{1}{2}$  per cent. The expressly stated objects of establishing this bank were: (1) to enable landowners to pay off their incumbrances, (2) to provide a convenient investment for small sums. Debentures of £4 are issued, and loans of £8 are made. The sphere of the bank's operations is small, the population of Fribourg being only 117,037, and the area of the Canton 408,000 acres. This bank has about £1,000,000 out on loans for long terms, the average amount of the loans being £130; it lends for fifty-three years at 4 per cent. interest, the sinking fund in case of a loan for this term being one-half per cent. The rate of interest on loans is limited by its charter to one-half per cent. in excess of the rate at which it borrows. After providing for its fixed charges and expenses, the balance of profit is divided as follows:—

25	per cent.	to the reserve fund
50	" "	shareholders.
15	" "	director and cashier.
10	" "	other bank officers.

In 1885 the shareholders received a dividend of 5.4 per cent. This little state spends a large amount on its *cadastre*, a revision of which, completed in 1885, took ten years to make, and cost £57,151. The assessment, which is of the capital value of real property, is made designedly at 25 per cent. less than the actual value, in order that there may be no overloading of money on the faith of the government valuation.†

This bank is an example of the financial soundness and utility of these land credit institutions. Operating solely in a district not as large as the Co. Cavan, drawing its funds from an agricultural population, not from the great money markets of Europe, it can obtain money at  $3\frac{1}{2}$ , can lend at 4 per cent., and earns a fair dividend for its shareholders.

\* *Papers Respecting Taxation*, presented to the House of Lords [c.4909].

† *Compte Rendu de l'Etat de Fribourg*, 1885.

*Contrast between conditions of land bank loans and state loans in Ireland.*

If the operations of the land credit banks are contrasted with those under the Land Purchase Acts, and the provisions under which loans are made to occupiers in Ireland for land improvement, the following observations suggest themselves.

The loans of land credit banks (1) are invariably a first charge; (2) are secured by a considerable margin of value, (3) are made on a marketable security; and (4) with funds chiefly derived from the districts in which the loans are made; (5) they are made for very long terms, but great facilities exist for earlier payment; (6) penal interest is invariably charged on overdue payments.

(1) Irish loans on land are not necessarily the first charge; tithes, lay and ecclesiastical, quit rents, head rents, may have priority. In the case of land improvement loans, the state's charge may be *puisse* to the landlord's rent. Even if the lands are not actually subject to such charges, they are often only free by indemnification, and thus a liability, remote but still tarnishing the security, exists. All such charges should be treated as incumbrances, and paid off compulsorily, so that the state loans should be really the first charge.

(2) Instead of requiring loans to be secured by a margin of value, the guarantee deposit system exists, the danger and unfairness of this have often been pointed out. If the interest of the tenant is of such value as to constitute a sufficient margin of value, it is unreasonable to retain a deposit, if there is no such interest, and the price is so high as to leave none, public money is lent on insufficient security. The deposit is not a guarantee as between the state and the borrower, who, if he has no marketable interest in his holding subject to the forty-nine year annuity, may fail at any time; having no interest to lose or sell, he will be difficult to oust, and is very likely to rely on the guarantee deposit as a fund meant to help him in a time of distress. In enacting the guarantee deposit, Parliament seems to have contemplated lending on bad security\*.

(3) Irish loans are not made on a marketable security; no interest in land is or can be marketable under the present system; but it would be easy, pending wider reforms, to seize on the estate vested in the tenant, examined and cleared for the purpose of the loan, to record the title in the Land Commission books, and make all such land subject to a simple code of transfer and inheritance. It would be no more unreasonable to forbid the creation of all lesser estates than that taken by the purchaser, than to forbid, as is done, sub-letting or division. For such land a *cadastre*, a register such as is

\* Even the House of Lords' Committee of 1882 did not contemplate the lending of the whole purchase money, except with a good margin of security. In paragraph 22 of their report they said "The tribunal should be satisfied that the sum to be advanced is not in excess of the interest sold. The state would obtain a further and very substantial security, namely, the interest of the tenant. This interest would in most cases be more than the margin which is deemed adequate in the most carefully selected mortgages."

required, already exists in the collection rental of the Land Commission.

(4) No proposal has been made, except in Mr. Trevelyan's land bill, to raise funds in Ireland, consequently the annual payments of tenant purchasers constitute a large absentee drain—compensated, it is true, in those cases where the purchase-money is paid over to residents in Ireland. It is probable that a considerable sum might be raised in Ireland by guaranteed debentures, bearing 3 per cent interest.

(6) The safeguard and compensation of charging penal interest on overdue payments is evident. Unpunctuality in payment means a loss to the public, and costs incurred in correspondence. There will always be hesitation in setting the law in motion for the recovery of very small amounts. If repayments be badly made, if there is a difficulty in recovering these charges, which ought to be thoroughly well secured, neither public or private money will be lent upon land.

Many reformers have thought that it would be well to prohibit the mortgaging of land altogether, *i.e.*, to abolish the power to assign land as a security for a special debt. But landed as well as other property represents accumulated savings; and one use of such savings is the provision they afford for times of trial, distress, and misfortune. It is hard to see why land should not be made a means of raising money, as well as other property which may be specially pledged for debt. The object, which those who would abolish the power of mortgaging aim at, might be better accomplished by permitting, or perhaps better, requiring family residences, with a certain amount of land to be registered, as homesteads are, in most American states. The reports on the American homestead laws, lately published as a parliamentary paper\* give much interesting information on this subject.

#### *Need of a cadastre in Ireland.*

Whether Irish farmers become owners under the Purchase Acts, or remain tenants under a landlord class, or hold from the state under a land nationalization scheme, occupation will be in future the largest and most important interest in land. The need of a perfect register of occupations, for statistical, financial, and transfer purposes, is evident. Tenants' interests, since they have been exalted into a legal estate, have become nearly as difficult to transfer and make title to, as the estates of landlords. They are the subject of costly deeds, mortgages, settlements, etc.; they may become modified into different degrees of ownership. This is one counterbalancing disadvantage of recent reforms, before which transfers of occupation might be made, and questions of title settled by a simple entry in the landlords' rental. The material and framework of such a register exists in the ordnance survey and tenement valuation, but for the purposes of transfer of, and title to occupation, such a register needs to be locally kept, and all transfers and changes recorded without delay as they occur. It would require changes in the law, and a larger expenditure than at present, to make the tenement valuation

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\* *Parliamentary Paper* [c. 4396], 1887.

available as a central registry ; it is now far from complete, correct, or kept up to date. For transfer purposes it would be essential to have these registries local, the union being the local centre which would seem most convenient.

A good map is an essential part of a cadastral register. It has been suggested in connection with impending reforms that it would be desirable to complete and publish the survey of Ireland on the  $\frac{1}{25000}$  scale. The example of foreign nations is held up for us to follow. But what is the use of copying their scales unless we make the same use of our improved map that they do of theirs. Comparatively little use has been made of the 6" map, although it is quite large enough to show estates of the size usually sold, and most of the separate occupations in Ireland.

Some idea may be formed of the use of the Belgian and French maps from the numbers of separate parcels shown on them and described in the register. In Belgium (which contains  $7\frac{3}{4}$  million acres) there were in 1882 6,464,330 "*parcelles cadastrales*."\* In France, M. De Foville says, there are from 140 to 150 million parcels averaging about  $\frac{2}{3}$ ths of an acre. Land thus registered in small parcels, capable of being still further divided, is mobilized, made current, and capable of being retailed in very small quantities. Consequently there is a brisk trade in land ; in 1883 there were 977,000 sales of land in France ; in 1884, 947,000 ; † besides successions, family partitions, etc.

The large scale maps are suitable for the land registers of these countries ; but unless we adopt their system such maps would be of comparatively little use in Ireland for transfer purposes. Under the present system, the use that is made of the Ordnance map is to transcribe a copy on to the deed. Unless the map so transcribed has some binding effect, the object of putting it on the deed is not clear. It appears that even in conveyances from the Land Judges, to avoid making the map, obtained after special and careful survey, binding, the words "*and described*" instead of "*as described*" are used in conveyances. ‡ The Land Commission do not convey by map. § The Church lands were not conveyed by map.

For transcription on to a parchment deed the 6" map is for ordinary holdings sufficiently large ; the  $\frac{1}{25000}$  map would in many cases be inconvenient, for on the page of an ordinary deed there is not room for more than 100 acres, and if the plot be long and narrow, for a much smaller area.

The larger map, when placed on a deed, would in most cases be of no more use in identifying the land than the 6" map—nor would the delineation of the boundaries, and their verbal description as being "six feet from root of hedge," or "centre of stream," be more effective to prevent disputes between quarrelsome neighbours than the delineation of the boundaries by a line on the 6" map. The objection to maps on deeds has not been on account of this or that scale,

\* *Le Morcellement*, p. 149.

† *L'Impôt sur le Revenu*, p. 277, Yves Guyot.

‡ *Evidence to Cowper Commission*, Q. 1794

§ *Id.* 1972.

but has been an objection to any map at all. Sir Thomas Larcom was most anxious to introduce the use of maps; but a memorandum in the library of the Statistical Society gives us his experience:—

“Map registry will never be introduced by lawyers; barristers seldom understand maps, solicitors hate them, because they prevent litigation and diminish scrivenerly. A map is the only safe foundation for land registry.”\*

Incorrect maps may serve the purpose of promoting litigation even better than no maps, and in the copying of them on to deeds, there are many chances of error, that cannot occur when the description of the land is the original authentic map, and referred to in its accompanying register. In the latter case it would be impossible, for instance, that the same plot should be assigned to more than one person, whereas this might easily be done in transcribing plots from the maps on to deeds.

Sir Charles Wilson in recommending† the survey of Ireland on the large scale, evidently contemplates a system of registry like the continental cadastres. From the point of view of a geodesist the large scale would be infinitely preferable to the smaller, for reductions can be made more correctly than enlargements, and the 6" map might be published from the survey on the  $\frac{1}{25000}$  scale.

The question, however, is a financial one, viz.: whether, having the 6" map, it would be worth while to incur the expense of publishing the larger map; that I maintain is a question which cannot be answered until it is settled what use is to be made of the new map. If only to be used to the same extent and in the same way as the existing map has been, the publication on the enlarged scale should be confined to those portions of the country comprising but a small area, where the occupations are so small that they cannot be shown on the 6" scale. A number of towns have already been surveyed on the large scale, but the plans have not been published, probably because it is seen that there is so small a demand for them. It would evidently be an unjustifiable expense to publish the whole of Ireland on the large scale, unless it can be shown that the maps will be extensively used for public or private purposes, and particularly for an effective register of ownership, or better still of occupation.

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\* Sir T. Larcom's collection, Statistical Society's library.

† Cowper Commission Evidence, Appendix F.