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THE ECONOMIC RESULTS
OF THE DISESTABLISHMENT OF THE IRISH CHURCH

by

HUGH SHEARMAN

Second Volume

Beginning at Chapter Four, Page 470

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THESIS

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CHAPTER FOUR

Administration and Sales of Tithe Rentcharge

1. Intentions and legislation.

In moving for leave to introduce the Irish Church Bill, Gladstone said, "I attach great importance to the merging of the tithe rentcharge."¹ It was not his intention to allow the indefinite continuance of a charge on land which, whatever might be said for its justice or utility prior to the disestablishment, became totally irrational if it were to continue in disconnection from its original purpose of church maintenance.

The procedure which Gladstone proposed for the winding up of tithe rentcharge was outlined by him in the House of Commons; and, since there were many Irish landlords in the house, it evoked much interest. "I perceive by the buzz around me," he said, "that this portion of the subject, at any rate, is not without some interest to a great many honourable members."² His proposal gave a choice of simple alternatives to payers of tithe rentcharge.³

¹ 3 Hansard, xciv. 448.

² Ibid., 449.

³ I am using the word "payers" to denote persons liable to pay tithe rentcharge. A technical term used to describe such persons in various acts of parliament is "owners", a term liable to cause confusion in various contexts. E.g. 35 & 36 Vic., C.90, s. 7

On the one hand, they might buy the tithe rentcharge for cash, redeeming it at twenty-two and a half years' purchase of its current value. This was to facilitate those landowners who might wish to wind up their tithe rentcharge obligations once and for all and might have the means to do so.

Or, alternatively, the payer of tithe rentcharge might have the charge sold to him compulsorily in such a manner that he would continue paying the charge at the same annual rate as in the past for a certain number of years, after which it would lapse altogether. The theory upon which this transaction was to be accomplished was that the tithe rentcharge was to be counted as compulsorily sold to the landowner at twenty-two and a half years' purchase, and a debt to the amount of the purchase money would be written against him in the books of the commission or other body representing the government in the matter - £2,250 for every £100 of tithe rentcharge. That is to say, the tithe rentcharge was to be sold to the persons who used to pay it, at a rate which would give them $4\frac{1}{2}\%$ on their outlay. Then these purchasers would be credited with a loan at the rate of $3\frac{1}{2}\%$. The consequence would be that, as these purchasers of tithe rentcharge continued to pay the same annual charge as previously, they would be paying

the $3\frac{1}{2}\%$ interest on the loan, together with 1% towards a sinking fund to absorb the principal. The result would be that the annual payments, continuing for forty-five years at the usual rate, would extinguish the debt, and the transaction would be completely wound up. Gladstone used the word "compulsory" in referring to this operation.¹

Gladstone was emphatic that there must be no wasting of the Church estate through undue tenderness towards those who were under existing liabilities to provide its revenue, and that the winding-up arrangements must be based on the full actual extent of those liabilities. He stated quite frankly that, while the proposed rate of purchase for the complete buying out of tithe rentcharge was twenty-two and a half years, "the average rate at which that charge sells in the market is very little, if at all, more than sixteen or seventeen years' purchase." He also urged that, in the loan part of the operation, $3\frac{1}{2}\%$ was the proper rate for the public interest.²

The terms in which this plan was actually embodied in the bill, as it was first placed before the House of Commons, cannot be interpreted as giving the Commissioners of Church Temporalities

¹ Ibid., 448-449.

² Ibid., 449-450.

powers to effect a compulsory sale, although Gladstone spoke of such. The arrangement for purchase at an annual charge of 4½% on the purchase money at twenty-two and a half years' purchase appears in the bill, as Gladstone described it.¹ The modified form in which the section appeared in the act was given to it in committee.²

In the Irish Church Act, as finally passed, Gladstone's plan for the winding-up of tithe rentcharge is embodied practically as he had first explained it to the House of Commons; but with this vital difference - that the actual legislation was only permissive and did not make the plan compulsory.³ The property of the Ecclesiastical Commissioners and the Church property, including tithe rentcharge, vested in the Church Temporalities Commissioners.⁴ In all that concerned the centralising in the

¹ Bill to put an end to the establishment of the Church of Ireland, etc., p. 15, s. 32, H.C. 1868-69, 27, 111

² Bill to put an end to the establishment of the Church of Ireland, etc., (as amended in committee), pp. 15 & 16, s. 32, H.C. 1868-69, 112, 111

³ 32 & 33 Vic., c. 42, s. 32

⁴ Ibid., s. 11 & 12.

hands of the Church Temporalities Commissioners of the right to receive the whole tithe rentcharge of Ireland, the act gave complete and unqualified powers to those commissioners, with two exceptions which we shall note. But no powers were given to them to compel the final winding-up of the charge; and it was open to those who paid it to go on paying their annual dues for tithe rentcharge without either buying out their liability at once or entering into such an agreement as would procure its extinction after a period of years.

There were also, however, two flaws in the absolute power of the commissioners to take over the whole tithe rentcharge of the country. They were empowered to purchase the surrender or assignment of any subsisting lease of tithe rentcharge made by an ecclesiastical person or corporation, but only if the holder of the lease consented.¹ Secondly, there was no power given to them to take over tithe rentcharge which had not formed part of the Church estate - that is to say, impropriate tithe rentcharge which had been and was being paid to laymen.

By the terms of the act, the commissioners might at any time after 1st January, 1871, sell any rentcharge vested in them under

¹ Ibid., s. 32

the act to the owner of the land charged with it, at twenty-two and a half years' purchase. Upon sub^o a sale being made, the commissioners were to declare by order the merging of the rentcharge in the land. Also, upon the application of any such purchaser, the commissioners might by order declare his purchase money or any part of it to be payable by instalments, and the land out of which the rentcharge issued to be charged, as from a day to be mentioned in the order, for the ensuing fifty-two years, with an annual sum calculated at $4\frac{9}{10}\%$ on the purchase money. From this the average annual deduction for poor rate of the five years preceding the passing of the act was to be made, or a proportionate number of yearly payments was to be dropped. The annual sum so charged on the former payer of tithe rentcharge was to have priority over all charges and incumbrances except quit and crown rents and was recoverable in the same manner and subject to the same charges, if any, as was tithe rentcharge itself.¹ In the event, the annual charge was the same, whether the payer was contributing to the buying out of his liability or was merely meeting the old perpetuity charge on his lands; and the original identity of the amounts is well illustrated by the complaint of the Comptroller and Auditor

¹ Ibid., s. 32

General that the commissioners had inadvertently given several persons retrospective benefit of the loan and purchase facilities of the act.¹

The inevitable result of the permissive character of this legislation, combined with the apathy and the hopes for more advantageous terms which prevailed among many payers of tithe rentcharge, was that, while part of the tithe rentcharge was wound up and merged according to Gladstone's wishes, a large part remained payable as before and dragged out a protracted and complicating existence through many subsequent land transactions and many years of legislation.

2. The Church Temporalities Commissioners and tithe rentcharge.

The extent of the tithe rentcharge annually payable to various ecclesiastical persons and bodies in Ireland before the disestablishment was calculated by the royal commission of 1867-68 to be £364,224. 16. 11.² As was to be expected, the actual annual amount of income which the Church Temporalities Commissioners were able to obtain from this source of revenue was larger than this, their methods of collection and research into liabil-

¹ Accounts, 1874, pp. 24 & 25, H.C. 1875, (252), xx.

² Above, p. 152

ities being more effective than those of the clergymen who had formerly handled so much of the money. The Commissioners in 1874 calculated the annual value of the tithe rentcharge vesting in them by the Irish Church Act to have been £404,000, and later, in 1880, they calculated it as £409,689.¹ And even after the functions of the Church Temporalities Commissioners had been taken over by the Land Commission, a fresh and more drastic research into liabilities produced from this source a further addition of income which had been long in arrears or in complete suspension.²

By the Irish Church Act, the property of the Church did not vest in the Church Temporalities Commissioners until 1st January, 1871. But before that date they had already, from the commencement of the commission, on 26th July, 1869, entered upon the property and functions of the former Ecclesiastical Commissioners, and in their first accounts, which covered a period of seventeen months, up to December, 1870, they recorded receipt of tithe rentcharge amounting to £42,011. 0. 5.³

¹ Commissioners, 1869-74, p. 11 /C.1148/, H.C. 1875, xx; and Commissioners, 1869-80, p. 13 /C.2773/, H.C. 1881, xviii.

² Below, p. 519

³ Accounts, 1869-70, p. 2, H.C. 1871 (264), lv.

In August, 1870, before the passing of the major part of the tithe rentcharge of Ireland into the hands of the commissioners, there was passed the Apportionment Act, 1870,¹ which made an important change in the law and served to facilitate greatly the collection and recovery operations of the commissioners. This act regulated the apportionment of rent or tithe rentcharge due in a given period by laying down that it should be considered as accruing from day to day like interest on money.² It gave the same rights and remedies to persons with claims for recovery of portions as to those with claims to complete instalments,³ and it applied to tithes, rentcharge and all periodic payments of the same nature.⁴ For our present purpose we may regard this act as amounting to a pendant to the tithe rentcharge provisions of the Irish Church Act, though it was passed with a more general purpose.

The actual transfer of property at 1st January, 1871, placed upon the commissioners a burden of administrative problems and incoherent records which was not cleared up for many years; and this was particularly the case with the general transfer of tithe

¹ 33 & 34 Vic., c. 35.

² Ibid., s. 2.

³ Ibid., s. 4.

⁴ Ibid., s. 5.

rentcharge. The commissioners were able at first to obtain possession of some only of the tithe applotment books. The clergy, in applying for their annuities, had furnished rentals of their tithe rentcharge; but these proved to be very imperfect. They gave correctly enough the names of the persons from whom each clergyman had been in the habit of receiving tithe rentcharge and the sums of money which were usually paid to him. But the information as to the actual land subject to the charge was very inaccurate or not available at all, and sometimes the sum set down as payable was too large or much of what was actually legally due was omitted. So it was necessary to test the correctness of every item, both to verify the alleged liabilities and to ascertain the lands subject to the charge, in case legal proceedings for recovery should subsequently become necessary.¹ At first it was possible only to notify the individual payers of the amounts recorded against them in the rentals provided by the clergy and assume liability in the absence of denial. The preliminary checking of tithe rentcharge liabilities occupied the entire attention of twenty-four men for a year.² It will be

¹ Commissioners, 1869-80, pp. 5-6, /C.2773/ H.C. 1881, xxviii.

² Accounts, 1884-85, pp. 4-5, H.C. 1886, (53 fSess. 1.) xx.

Commissioners, 1869-80, p. 13, /C.2772/ H.C. 1881, xxviii.

understood that, once the declaration of annuities or the carrying out of commutation had taken place, any further tithe rentcharge liabilities discovered to exist, but not set out by the clergy in their claims, were a pure gain to the Church estate in the hands of the commissioners.

When the tithe rentcharge as a whole became the property of the commissioners, they were empowered by the act to dispose of it in one or the other of two ways, at the option of the purchaser. It might be sold for ready money at twenty-two and a half years' purchase, less a deduction for poor rates based on an average of the rate for the five years preceding the 26th July, 1869. Or it might be sold, if the purchaser wanted, on credit, at the same price and with the same deduction for poor rate, the price being paid off by annual instalments, extinguishing in fifty-two years the principal and interest of the credit given.

In 1880, the commissioners, as we have noted above, reported that the total annual amount of tithe rentcharge vested in them was £409,689.¹ At first, however, their income and transactions under the head of tithe rentcharge did not by any

¹ Commissioners, 1869-80, p. 13, /C.2773/, H.C. 1881, xxviii.

means reflect so large a transfer of property. In 1871 the total receipts from tithe rentcharge were £225,887. 0. 2., and the Comptroller and Auditor General had not yet been able to investigate the correctness of this from the documents then available.¹ The actual immediate receipts from sales of tithe rentcharge in that year amounted to £48,210. 8. 7.,² but the actual ultimate total sales effected in that year amounted to £1,030,595. 14. 10.; for the total amount paid and prospectively receivable in respect of sales on credit made in that year was £982,385. 6. 3.³

No even ratio can be established from year to year between sales for cash and sales on credit; and therefore the only reliable index to the true extent of sales of tithe rentcharge in any one year is not to be found in the records of either type of sale, cash or credit, nor, after 1872, in the records of both together, but in the record of the amount of income from tithe rentcharge which was extinguished each year by the total sales. The amount of income so extinguished in 1871 was £48,278. 19. 10.⁴ This

¹ Accounts, 1871, pp. 2 & 20, H.C. 1872, (373), xlvi.

² Ibid., p. 2

³ Commissioners, 1869-80, appendix p. 268 /C.2773-I/, H.C., 1881, xxviii.

⁴ Ibid.,

represents the gross annual value. It is therefore to be observed that this in turn stands in no steadily fixed ratio to the total amount of purchase money actually and prospectively receivable for the year, because the purchase money was calculated on the net value of the charge - that is to say, it was based on the charge less poor rate deductions. This relationship between the annual value of the tithe rentcharge extinguished and the money received and receivable in the various prescribed ways becomes still less predictable after the act of 1872,¹ which gave a greater range of possible contract terms for the extinguishing of the charge.

The extent of abatements of tithe rentcharge for poor rate in 1871 was £15,910. 4. 2. on the total tithe rentcharge receipt of £225,887. 0. 2.² In addition, for the clearing up of past liabilities in connection with tithe rentcharge, the commissioners had to refund to the clergy a sum of £4,256. 1. 6. for poor rate allowances made by the latter on tithe rentcharge but falling now as a liability upon the commissioners.³ This item of expenditure by the commissioners, naturally non-recurrent, was nearly all cleared up in the first year after the tithe rentcharge was

¹ 35 & 36 Vic., c. 90; see below, p. 497

² Accounts, 1871, p. 3, H.C., 1872, (373), xlvi.

³ Ibid., pp. 5 & 24.

taken over, the amount for the following year being only ~~clerks and~~ £133. 19. 6.¹ There was some confusion over this adjustment, for the commissioners had later to obtain refunds of some allowances which had been made twice over to payers of tithe rent-charge, ~~fixed~~^{first} by the clergymen and then by the commissioners themselves.² These compensation claims of the clergy for refund of poor rate allowances (brought under the 14th section of the Irish Church Act) first raised acutely the problem of discrepancies between the rentals presented by the claimants and those prepared by the commissioners. On comparison by the officials of the Comptroller and Auditor General's department, the two sets of rentals proved to differ in innumerable cases in detail but to agree in gross amount. This was due to subdivision of the property out of which the sums were payable, and the difficulty well illustrates the problems which the commissioners and their staff had to face on account of the obsolete character of the data with which they were supplied.³ The collection of the necessary information for making sales and preparing merging orders involved

¹ Accounts, 1873, p. 21, H.C., 1875, (42), xx.

² Ibid., p. 7

³ Accounts, 1871, p. 30, H.C., 1872 (373), xlvi., 1881, xxviii.

heavy and difficult work for the commissioners and their clerks and inspectors. With a view always to the possibility of legal proceedings of any kind, it was essential that the names of the lands charged with the payment of an instalment should in every case be accurately given in the merging order. Since the tithe applotment books, which must be the foundation of any such legal proceedings, were prepared, the names of the lands had in many cases been altered, and applicants for redemption of liability, either by cash or, more particularly, by conversion of tithe rentcharge into annual instalments, continually returned names for their lands, taken from the tenement valuation books, which were not to be found in the applotment books. Long correspondence and much investigation were often necessary before conflicting descriptions of land could be reconciled.¹

A further operation in connection with tithe rentcharge was the buying up by the commissioners of leases of tithe rentcharge. These leases had been made by ecclesiastical dignitaries and ecclesiastical corporations to persons other than ecclesiastical and were customarily renewable on the payment of a fine. Since, by the 33rd section of the Irish Church Act, the commissioners were authorised to purchase the surrender or transfer of any

¹ Commissioners, 1869-80, p. 11. /C.2773/, H.C., 1881, xxviii.

such lease at the option of the leaseholder, these were taken over where possible. Naturally such transactions involved neither gain nor loss to the estate of the Church Temporalities Commissioners. But they made available to the persons paying such tithe rentcharge the facilities for redeeming their liability which had already been made available by the Irish Church Act to those who had been paying their rentcharge directly to ecclesiastical persons and corporations. In their initial difficulties, the commissioners did not give much attention to these transactions which were in any case relatively small. The total expenditure on the purchase of such leases in 1871 was only £404. 18. 5.¹

Before going any further, brief mention may be made of a class of tithe rentcharge which did not come within the purview of the commissioners. This was the impropriate tithes, tithes which had passed into the hands of persons other than ecclesiastical and had no connection by lease or otherwise with the Church.

There is some confusion both in official returns and secondary authorities as to the meaning attached to the term "impropriate tithes", and to the terms "lay tithes" and "appropriate tithes." Some authorities use these terms as all meaning

¹ Accounts, 1871, pp. 3 & 24, H.C., 1872, (373), xlvi.

one and the same thing.¹ In certain cases, however, these terms are taken as meaning three different classes of tithe rentcharge. For example Erek, in the introduction to his Ecclesiastical register for 1830, makes a distinction between "appropriate tithes," by which he meant tithes payable to ecclesiastical corporations sole or aggregate, and "impropriate tithes," by which he meant tithes payable to laymen.²

A further distinction is made in "Stag^kpoole's Return" in 1864, in which the deputy diocesan registrar of Meath writes, "In the column for 'Inappropriate (sic) Tithes' I have included only lay tithes;"³ and several other persons making returns at the same time note that it is difficult or impossible to give returns of "impropriate tithes."⁴ A definite distinction is made between "impropriate tithes" and "lay tithes". In this case it seems clear that "lay tithes" meant rectorial tithes impropriated by laymen. "Impropriate tithes" were here taken

¹ E.g., D. G. Chaytor, The law and practice relating to the variation of tithe rentcharge in Ireland, 1897, passim.

² J. C. Erek, An account of the ecclesiastical establishment in Ireland, and ecclesiastical register, 1830, pp. lvi & lvii.

³ Return showing... revenue of the established Church in Ireland p. 16, H.C. 1864, (267), xliv.

⁴ E.g., *ibid*, Armagh, p.6; Down and Connor, p.17.

to be the tithes of wholly inappropriate parishes. In the cases where rectorial tithes alone were inappropriate, the vicarial tithes remained payable to the clergy; and, as the result of this parallel payment, it was naturally easier to trace the persons to whom these so-called "lay" tithes or rentcharges were payable than it was in cases where the whole of the tithes or rentcharges of a parish were inappropriate to a layman or laymen. Thus, a contemporary of the disestablishment controversy wrote, "T. and others of his stamp - he and many being possessors of lay tithes despoiled from the Church long ago; I pay him £21 a year as rector of Drumholm and Donegal - cry out: 'Spoliation! Thieving! Sacrilege!' etc., etc."¹ Now, although the rectorial tithes of Drumholm and Donegal were inappropriate and payable to Mr. "T", a layman, the two incumbents of these parishes held livings at the time of the disestablishment valued at £623 and £236 respectively a year, and their commutations can be traced in the several returns of the Church Temporalities Commissioners; and Mr. "T", moreover, was not the holder of an advowson.²

¹ J. Hamilton, Sixty years' experience as an Irish landlord, ed. H. C. White, (1894), p. 360.

² Commissioners, 1869-80, appendix, pp. 57 & 102 sq. /C.2773-I/, H.C. 1881, xviii.

We thus have three distinct classes of tithe or tithe rent-charge described by these three terms, "appropriate," "impropriate" and "lay"; but for the purpose of the present subject we must resolve them simply into two.

The "appropriate" tithe rentcharges - that is to say, tithe rentcharges payable to ecclesiastical corporations - a category which was stated to comprise in 1830 the whole tithes of 417 parishes and portions of the tithes in forty-three other parishes,¹ merged with the mass of other ecclesiastical tithe rentcharges taken over by the Church Temporalities Commissioners and lost any separate identity.

The tithe rentcharges of wholly impropriate parishes, of which there were stated to be 115 cases in 1830², and the tithe rentcharges payable as impropriate rectorial tithes ("lay tithes"), of which there were stated to be 560 cases of complete impropriation and forty-three cases of partial impropriation in 1830,³ must be classed together in the general category of impropriate tithe rentcharges, or, in other words, tithe rentcharges which

¹ J. C. Erck, An account of the ecclesiastical establishment in Ireland, and ecclesiastical register, 1830, p. lvii.

² Ibid., p. lvi.

³ Ibid., p. lvii. The law and practice relating to the variation in Ireland (1837), p. 8

were not payable to the Church Temporalities Commissioners or subsequently to the Land Commissioners because, long before the Temporalities Commission was set up, they had ceased to be the property of the Church of Ireland.

This last group was not affected by the passing of the Irish Church Act. People like Mr. "T", in spite of his alleged lamentations, continued to draw their tithe rentcharges in accordance with the Tithe Rentcharge (Ireland) Act, 1838.¹ These inappropriate tithe rentcharges also continued for many years to be subject to variation in accordance with the price of corn.² But such tithe rentcharges were, nevertheless, later liable to be bought out when the land out of which they were payable came under the operation of the Land Purchase Acts, and they were also subject to reduction by the various acts providing for general reductions in tithe rentcharge liabilities throughout Ireland.

In some cases, recipients of inappropriate tithe rentcharge were under a liability to pay stipends for ecclesiastical purposes. These naturally became the property of the Church Temporalities Commissioners who stated that in May, 1877, they were receiving

¹ 1 & 2 Vic., c. 109.

² D. G. Chaytor, The law and practice relating to the variation of tithe rentcharges in Ireland (1897), p. 2

stipends amounting to £1,775. 6. 6. a year from seventy-two lay impropriators.¹ These stipends were, in many cases, sold as land rents, being classified, for convenience rather than exactitude of description, with yearly and other unrenovable tenures in the commissioners returns of landed sales.²

Improprate tithe rentcharges were very like head rents. They issued from land and could be sold and had been sold.³ When the ecclesiastical tithe rentcharges vested in the Church Temporalities Commissioners, they also became simply rents issuing from land, without any special church purpose, and the distinction between tithe rentcharges and the ordinary rents from landed property became slight from a practical and contemporary as distinct from a historical and retrospective point of view.

¹ Return of aggregate amount of annual income vested in the Commissioners of Irish Church Temporalities, p. 6, H.C. 1877 (235), lxvi.

² Below, p. 570

³ Return of all tithe rentcharges sold in the Encumbered and Landed Estates Court, Ireland, etc., H. L. 1868-9, (47), xix; and Return of all sales of improprate tithe rentcharge in the Landed Estate Court (Ireland) for the last ten years, etc., in H.L. 1868-9, (127), xix.

3. Amending legislation.

Having seen the nature of the various kinds of operation which the commissioners had to undertake as the result of the first vesting in them of the tithe rentcharge, we may now pass on to the amending legislation which was soon passed, partly as the result of the commissioners' first experience of the problems of managing that part of their estate which consisted of tithe rentcharge.

The Irish Church Act, 1869, Amendment Act, 1872,¹ extended and revised all the provisions of the Irish Church Act with regard to sales and management of tithe rentcharge by the Commissioners of Church Temporalities. The new act was designed partly to clear up certain matters of doubtful interpretation but also to introduce certain new principles and a greater degree of elasticity into the existing facilities for sales agreements between the commissioners and the payers of rentcharge.

In one respect the new act caused confusion by attempting to impose a greater degree of definition of liability than was at the time possible. In the preamble to the 6th section there was inaccurate and misleading recital; for the preamble referred to

¹ 35 & 36 Vic., c. 90. s. 6 - 11.

"a statement under the seal of the Commissioners of the amounts of the annual tithe rentcharges, which accrued due in respect of each benefice, dignity or ecclesiastical corporation in Ireland" on 1st November, 1871, which had been "deposited in the Record Department of the said Commissioners." The difficulty and confusion caused by such a misrecital of fact, for such it was, were inevitable, because the mass of inadequate information and doubtful cases which came within the purview of the commissioners at the vesting in them of the tithe rentcharge had made it impossible for them to complete or deposit such a sealed statement, either at the time named or for a long time afterwards. The act, in fact, was improperly drawn up, and those who drafted it were misinformed as to the circumstances which were recited in it.¹

The act then laid down² that this sealed statement, except as otherwise provided, "shall be deemed to be and shall be conclusive evidence of the amount of tithe rentcharge chargeable upon the lands..." and shall "be binding upon the persons liable to the payment of the same."

¹ Commissioners, 1869-74, p. 23. /C.1148/, H.C. 1875, xx.

² 35 & 36 Vic., c. 90, s. 6, ss.1.

The Comptroller and Auditor General, in auditing the accounts for 1872, therefore called upon the commissioners for the production of the sealed statement. In a letter of 16th November, 1872, the commissioners informed him that "the statement of tithe rentcharges is not yet completed, and has not been deposited in the Record Office."¹

It had also been enacted that the commissioners should lodge a further statement, on each 31st March, of any further tithe rentcharge which might have become payable to them during the preceding year ended 31st December by purchase of leases or otherwise.² The Comptroller and Auditor General therefore later enquired whether such a statement for the year 1872 had been deposited. The reply from the commissioners was to the effect that they "do not think it necessary to supply the information asked for," thus claiming that the question was a legal and not a financial one.³ The Comptroller and Auditor General, not favouring such a view, therefore drew the attention of parliament to the matter and observed that the National Debt Commissioners had made large

¹ Accounts, 1872, pp. 3 & 9, H.C. 1874, (233), 11.

² 35 & 36 Vic., c. 90, s. 6, ss. 2

³ Accounts, 1872, p. 3, H.C. 1874, (233), 11.

advances to the Church Temporalities Commissioners and that the tithe rentcharge constituted the greater portion of the security on which the advance had been made.¹ In reporting on the accounts for the following year, he again complained of the slowness of the commissioners in depositing statements of tithe rentcharge in accordance with this 6th section of the amending act and of the fact that alterations and errors occurred in such documents.²

The commissioners in reply pointed out that the sealed statement was made conclusive evidence of the amount of tithe rentcharge payable out of the land, but was not conclusive as to the person liable to pay. This had been held in a recent case in the Court of Queen's Bench. In any case of contest, the applotment books and deeds regulating the rights of the payers must be referred to.³

The Comptroller and Auditor General complained of numerous erasures, errors and omissions in the statement, when his agents did get access to the completed document. The commissioners freely admitted this and stated that these were inevitable clerical errors in a document containing over 40,000 items, prepared

¹ Ibid.

² Accounts, 1873, pp. 3 & 4, H.C. 1875, (42), xx.

³ Commissioners, 1869-74, p. 23, /C.1148/, H.C. 1875, xx.

in great haste to fill the gap created by misrecital in the act.¹ The Comptroller and Auditor General, reporting on the accounts for 1874 and controverting the first report of the commissioners, then further argued that the sealed statement ultimately prepared was obviously not that mentioned in the act as having been prepared prior to its passing. He also argued that the sealed statement was intended to replace the applotment books which had become almost useless through age and other causes.² When, however, the many points of controversy between the Comptroller and Auditor General and the commissioners ultimately came up for investigation and arbitration before the Committee of Public Accounts, this view as to the total illegality of the statement or of its substitution for other evidence or records was not seriously advanced or upheld.³

Two further points may be noted with regard to the sealed statement controversy. First, the act itself made exceptions to the binding and conclusive character of the statement by providing for the payers the right to lodge objections to the

¹ Commissioners, 1875, supplemental report, pp. 4 & 5, /C/1200/, H.C. 1875, xx.

² Accounts, 1874, pp. 15 & 16, H.C. 1875, (252), xx.

³ Second report from the Committee of Public Accounts, 1875, pp. xi, 23, 30-32, H.C. 1875, (336), viii.

liabilities charged against them and for the commissioners the right to amend the statement of liabilities as they might see fit and having regard to the facts in each case.¹ Secondly, the Comptroller and Auditor General, in investigating the commissioners' accounts for 1871, tested the accuracy of their tithe rentcharge operations and found the result on the whole satisfactory.²

In practice it seems to have worked out that this sealed statement was a formality which had little effect upon the actual business operations. If the arrangement described in the act had been fully realised, it might have been made use of as a central standard of reference and as a virtual expression of finality. But such an arrangement was premature, for finality had not yet been reached. The commissioners, overburdened with their other operations at that time and still grappling with the incomplete records which had passed into their possession, were unable to fulfil the requirements of the act with rapidity and were, in particular, naturally unable to do so retrospectively. In so far as it was intended to produce early a standard of definition with regard to liability to pay tithe rentcharge, this act was a

¹ 35 & 36 Vic., c. 90, s. 6, ss.1.

² Accounts, 1872, p. 3, H.C. 1874, (233), 11.

failure and a cause of friction.

The other parts of the act which referred to tithe rentcharge may be regarded as falling into two categories, those which altered and facilitated the methods of making sales of tithe rentcharge to payers and those which revised, modified and defined the law according to experience and current convenience.

By the 7th section of the act of 1872, the 32nd section of the Irish Church Act was replaced by a new arrangement for the redemption of liability to pay tithe rentcharge. Whereas in the Irish Church Act redemption on credit at twenty-two and a half years' purchase might be made over a period of fifty-two years, it was now enacted that annual instalments of purchase money might be made over a shorter period of time, the annual sum being accordingly increased in size so as to discharge the principal and interest in a less number of years. This method of payment, on credit over a shorter period of time was also made available to those who had already begun to make purchase on credit under the terms of the 32nd section of the Irish Church Act on the basis of payments extending over fifty-two years. Such persons could negotiate a fresh agreement with the commissioners for the payment of their remaining debt in larger instalments over a shorter period of years.

Other parts of the act of 1872 provided for further regulation of the tithe rentcharge transactions of the commissioners and cleared up various special problems. Thus fresh proceedings for the varying, with reference to the average price of corn, of the tithe rentcharges payable to the commissioners,¹ were forbidden, without prejudice to any proceedings in action at the time of the passing of the act.² This did not affect impropriate tithe rentcharges which continued to be liable to variation. Powers were given to payers of the rentcharge or their representatives to apply for an order from the commissioners apportioning the rentcharge or annual instalments to a part of the lands out of which they were being paid, leaving the residue free of liability.³ It was enacted that duty payable on any order made by the commissioners upon the sale of tithe rentcharge was to be paid by the commissioners.⁴ The commissioners interpreted this as applying retro-

¹ By 1 & 2 Vic., c. 109, s. 32.

² 35 & 36 Vic., c. 90, s. 6, ss. 3.

³ Ibid., s. 6, ss. 4.

⁴ Ibid., s. 10.

spectively to merging orders,¹ a decision involving outlay of £5,478, challenged by the Comptroller and Auditor General but accepted by the Committee of Public Accounts.² The act of 1872 further permitted the commissioners to make purchasers an allowance for income tax on instalments for the purchase on credit of tithe rentcharge on land, according to a scale annexed to the act.³

The law with regard to purchase of surrender or assignment of leases of tithe rentcharge was also clarified by the provision that such leases, when renewable by custom, might be treated as renewable leases for valuation purposes;⁴ and the full arbitration facilities of the Irish Church Act were now placed at the disposal of any holder of such a lease who felt aggrieved at the valuation placed upon the lease or upon his interest in the lease.⁵

With this amendment, clarification and consolidation of the legal position, the various tithe rentcharge operations of the commissioners, although proceeding on the general lines already described, entered upon a new phase in size and complexity.

¹ Accounts, 1872, p. 7, H.C. 1874, (233), li.

² Second report from the Committee of Public Accounts, 1875, p. xi H.C. 1875, (336), viii.

³ 35 & 36 Vic., c. 90, s. 11.

⁴ Ibid., s. 8.

⁵ Ibid., s. 9.

4. Tithe rentcharge operations up to the end of the Church Temporalities Commission

The passing of the act of 1872 rendered necessary the making of fresh scales and calculations by the commissioners' staff to meet the requirements of the new varieties of transaction which it made possible.¹ Work was also increased in other respects. The general effect of the new legislation was to give a momentary stimulus to the redemption on credit of tithe rentcharge. Though there was a very fair relative simultaneous increase in cash sales, the applications for purchase by cash payment remained moderately close to their former volume, for the act did nothing to alter the terms for such transactions. But, in the case of credit purchases, the facilities offered for purchase by larger instalments over a shorter period of time evidently proved attractive to some; and the sales carried out within this category expanded considerably after the date of the passage of the act. The more limited but distinct increase in cash sales at the same time presumably occurred as an indirect result of the increase in credit sales, partly through the example and increased interest of the other class of purchaser and partly because the two types of purchase

¹ Accounts, 1873, pp. 6, 7 & 15, H.C. 1875, (42), xx.

about applying for purchase or were entertaining hopes of obtaining better terms than those laid down in the Irish Church Act.

were sometimes sought by the same person with reference to different portions of his tithe rentcharge obligations.

The act passed into law on 10th August, 1872, and the following figures give the amounts of sales of both types before and after its passing. It may be noted, however, that the periods are not equal for the purposes of comparison, the period before the act being nineteen months and that subsequent to the act being nine months; so, for just comparison, the figures for the earlier period ought to be halved or those for the later period doubled.

Applications for purchase by instalments	Number	Annual Value		
		£	s	d
1st January, 1871, to 10th August, 1872 ...	1,912	44,551	14	7
10th August, 1872, to 31st May, 1873 ...	2,283	53,665	10	1
	<u>4,195</u>	<u>98,217</u>	<u>4</u>	<u>8</u>

Applications for cash sales

1st January, 1871, to 10th August, 1872 ...	487	4,001	16	9
10th August, 1872, to 31st May, 1873 ...	381	5,338	3	3
	<u>868</u>	<u>9,340</u>	<u>0</u>	<u>0</u>

After this, however, there was a fresh slackening in purchases. The commissioners in their report for 1875 suggested that the matter was one for the attention of parliament and considered that the persons who were continuing to pay tithe rentcharge without taking any steps to redeem it were either apathetic

¹ Return of applications for tithe rentcharge purchase before and after act of 1872, p. 1, H.C. 1873, (264), 111.

about applying for purchase or were entertaining hopes of obtaining better terms than those laid down in the Irish Church Act.¹

The following table gives a regional impression of the state of the commissioners' income from this source and of the extent of redemptions at 2nd May, 1877. The progress of cash sales is not represented in this table.

	From sales on credit				From unsold rentcharge						
	Number of payers	Terminable annuities				Number of payers	Tithe rentcharge				
		£	s	d		£	s	d			
Armagh	485	14,043	3	3	3	1,360	9,600	16	1		
Clogher	333	6,701	16	2		1,348	7,761	4	2		
Meath	467	8,803	16	7		1,490	13,809	4	10		
Derry	422	12,798	5	11		1,606	7,467	0	6		
Raphee	110	3,137	19	4		516	4,080	14	3		
Down	151	5,479	1	11		647	4,670	1	4		
Conner	237	7,073	10	5		1,524	5,781	5	4		
Dromore	139	4,014	13	11		909	2,581	5	4		
Kilmore	233	3,065	17	11		676	4,102	4	4		
Elphin	183	1,967	17	8		699	4,871	17	9		
Ardagh	172	2,298	3	9		468	4,242	1	5		
Tusam	224	3,509	19	7		937	10,053	5	5		
Killala	87	1,552	18	7		272	2,904	19	11		
Achonry	68	1,236	9	9		232	1,852	8	1		
Dublin	535	9,230	13	4		1,715	11,314	8	2		
Kildare	194	4,206	3	0		565	4,565	15	10		
Ossory	358	7,220	18	7		846	11,209	3	5		
Ferns	378	10,060	3	1		669	7,796	11	6		
Leighlin	266	5,966	16	1		638	9,591	19	10		
Cashel	286	5,766	11	9		633	10,014	4	9		
Enly	131	2,725	13	0		276	3,781	8	0		
Waterford	69	1,401	17	3		95	1,268	13	6		
Lismore	266	7,126	17	4		508	6,045	1	10		
Cork	292	5,317	17	4		1,297	15,751	3	10		
Cloyne	328	10,463	8	0		1,385	21,226	7	2		
Ross	60	1,284	4	4		273	5,534	7	6		
Killaloe	421	5,263	14	10		1,357	10,681	3	6		
Kilfenora	55	766	11	8		97	657	0	1		
Clonfert	113	657	8	6		325	3,524	6	0		
Kilmacduagh	33	344	19	7		132	1,862	1	6		
Limerick	264	5,117	3	0		804	8,697	8	4		
Ardfert	173	3,839	13	9		522	6,130	4	7		
	7,558	162,444	9	2		24,821	223,429	18	12		

Total sales of both kinds, cash and credit, towards the close of the commission were as follows.

Year	Gross annual value	For cash		On credit		Total
		£ s d	£ s d	£ s d	£ s d	
1871	48,278 19 10	48,210 8 7	982,385 6 3	1,030,595 14 10		
1872	31,639 16 5	64,349 13 8	613,723 4 6	678,072 18 2		
1873	49,099 8 2	134,031 17 5	911,253 10 1	1,045,285 7 6		
1874	34,119 2 0	36,879 9 4	689,311 7 4	726,190 16 8		
1875	10,601 2 5	40,522 2 9	185,056 13 0	225,578 15 9		
1876	9,544 8 8	27,682 9 0	175,840 14 1	203,523 3 1		
1877	7,517 7 0	50,672 7 3	108,610 19 5	159,283 6 8		
1878	17,050 5 10	51,547 18 3	310,387 5 2	361,935 3 5		
1879	6,738 1 5	25,410 14 5	117,811 17 9	143,222 12 2		
1880	4,628 4 11	11,064 13 8	87,806 5 10	98,870 19 6		
Total	219,216 16 8	490,371 14 4	4,182,187 3 5	4,672,558 17 9		

1 Commissioners, 1869-80, appendix, p. 268, /O.2773-I/, H.C. 1881, xxviii.

From previous page:

1 Commissioners, 1875, p. 15, /C.1400/, H.C. 1876, xx.

2 Return of aggregate amount of annual income vested in the Commissioners of Irish Church Temporalities, p. 2, H.C. 1877, (235), lxvi.

As time passed fresh efforts were made to clarify the problems of collection and of enforcing tithe rentcharge liabilities. In 1875, Fetherston, the head of the collection department developed a scheme for the consolidation of certain rentcharges. In many parishes the tithes had been divided between several ecclesiastical recipients, and when these tithe rentcharges vested in the commissioners, the collection was much complicated by the issue of three or four separate receivable orders to one payer, for rentcharge issuing out of the same land but formerly payable to three or four benefices or dignitaries. In some cases the smaller items due were allowed to fall into arrears. When time was available, however, the collection department consolidated these payments due from any one person into one amount and issued one receivable order for it. This operation saved the issue of about 5,000 receivable orders each year after it was completed, and in addition the scrutiny to which the records were submitted for this purpose revealed rentcharges of the capital value of about £3,000 which had not been declared by the clergy. These represented a clear gain to the funds of the commissioners, since there was no payment of annuities or commutation money against them; and they were almost all recovered. In one case a claim was made good

for a payment of tithe rentcharge which had lapsed for about thirty years.¹

The commissioners estimated that the total amount of tithe rentcharge annually payable, which became vested in them, was £409,689. Out of this, £22,577 a year was sold for £485,169 in cash; and £196,144 a year, of the capital value of £4,176,728 was sold on credit and converted into terminable annuities. This estimate is slightly earlier than that given in the table above,² but is almost the same. The remaining balance was £190,974 a year of unsold tithe rentcharge, having a capital value of £4,082,069, continuing as a permanent charge on land and a permanent revenue to the Church Temporalities Fund.³

Possible reasons why the tithe rentcharge payers did not more generally take advantage of the facilities offered for redemption of the charge appeared to be as follows.

First, in sales of tithe rentcharge, either for cash or on credit, the commissioners were to deduct from the price the average amount of poor rate for the five years preceding 1869.

¹ Accounts, 1875, pp. 3 & 11, H.C. 1876, (263), xx.

² Above, p. 503

³ Commissioners, 1869-80, p. 13, /C.2773/, H.C. 1881, xxviii.

The average poor rate for that period over all Ireland was one shilling in the pound. It gradually increased, so that, at the end of the commission, its average incidence was one and sixpence in the pound and it still showed a tendency to rise. Now, if payers of tithe rentcharge continued to pay the rentcharge without redeeming it, they could thus count on a gradual transfer of a portion of their liability from rentcharge to poor rate, through increasing deductions. If they were paying instalments on a credit purchase, they would not gain this advantage; and the increase in poor rate would not be offset by any further deduction from their annual instalments in lieu of tithe rentcharge. It is true that persons paying the instalments might look forward to the complete extinction of their liability after a period of years, whereas those who continued paying the ordinary tithe rentcharge might go on doing so indefinitely. But, by any of the longer-terms instalment arrangements, such as payments over a period of fifty-two years, no grown-up man could expect to derive much benefit from the merging of the charge in his own life-time.

Secondly, in the case of a possible cash purchase, there was often the objection that the application of funds to that purpose would involve sacrificing, to the interests of the landed

estate, which would be intended to be handed on intact to be the heritage of the eldest son, the estate in capital and securities which would otherwise be inherited by the other members of a family. Thirdly, there was always the hope that the passage of time would bring better terms. Fourthly, there was simple apathy, individuals not bothering themselves to fill up the form of application which would convert their annual payment of tithe rent-charge from being a payment in perpetuity to being an instalment towards the extinction of the liability in fifty-two years. In such a case the consideration which has already been mentioned - the fact that extinction of the liability was not likely to occur in time to benefit the present holder of the estate - was a strong support to the promptings of indolence.¹

In 1875 the commissioners had suggested that parliament might speed up sales of tithe rentcharge by putting a limit on the period during which sales on the loan system might be initiated, but this was never acted upon.²

A further class of sales operation remains to be mentioned, the purchase by the commissioners of leases of tithe rentcharge.

¹ Ibid.

² Commissioners, 1875, p. 15 /C.1400/, H.C. 1876, xx.

Commissioners, 1889-90, p. 13 /C.2773/, H.C. 1891, xxviii.

The following is a record of expenditure year by year for this purpose.

Year	Expenditure			Source
	£	s	d	
1871	404	18	5	Accounts, 1871, pp. 3 & 24
1872	1,208	18	1	Accounts, 1872, p. 25
1873	35,610	13	10	Accounts, 1873, p. 19
1874	21,972	3	0	Accounts, 1874, p. 35
1875	0	0	0	-
1876	13,007	14	0	Accounts, 1876, p. 15
1877	0	0	0	-
1878	7,767	7	2	Accounts, 1878, p. 7
1879	4,302	17	5	Accounts, 1879, p. 7
1880	908	10	9	Accounts, 1880, p. 7
Total	85,183	2	8	Accounts, 1880, p. 17

The commissioners stated that they spent £85,123 up to the end of 1880 on the purchase of twenty-seven of these leases. The accounts for that year however, and the correct addition of all annual expenditures on these purchases, give a total sixty pounds greater, as above.¹

Since such leases were renewable, appropriate occasion was likely to arise ultimately in most cases for the purchase of their assignment or surrender by the commissioners. But the protracted delay was clearly disadvantageous to those who paid tithe rentcharge to the holders of such leases. In their anxiety to secure for all payers of tithe rentcharge the right of

¹ Commissioners, 1869-80, p. 13, /C.2773/, H.C. 1881, xxviii.

redemption and in their desire to clear up all complications and anomalies connected with the church estate, the commissioners hoped for further legislation to give them powers to deal with such cases. They coupled this case of payers of tithe rentcharge to lease-holders with the case of tenants on the glebes of clergy who did not commute. Just as the benefits of the land-purchase provisions of the Irish Church Act were withheld from the latter, so the benefits of the provisions for buying out tithe rentcharge liability were withheld from the former. Twice, in 1879 and in 1880, the commissioners specifically urged the governments of the time to legislate so as to give these tithe payers the chance to redeem their charges and the glebe tenants the chance to purchase their holdings; but no action was taken.¹

Against the value of tithe rentcharge taken over by the commissioners from ecclesiastical persons and corporations, there was a total expenditure for refund to the clergy of poor rate deductions in respect of tithe rentcharge² amounting to £4,523. 2. 4.³

In describing sales or continued payment of tithe rentcharge,

¹ Ibid., p. 21.

² As described above, p. 482

³ Accounts, 1880, p. 19, H.C. 1881, (268), xxviii.

we have referred to the theoretical annual values extinguished, the total sums received and receivable and the capital value of the amounts remaining payable in perpetuity. It remains to note how these operations worked out in practical terms of annual revenue. The following table shows the commissioners' actual yearly receipts from the three sources of tithe rentcharge, annual instalments in lieu of tithe rentcharge and cash sales.

Year	Rentcharge			Instalments			Cash Sales		
	£	s	d	£	s	d	£	s	d
1870	42,011	0	5						
1871	225,887	0	2				48,210	8	7
1872	361,560	3	2	29,635	2	3	64,349	13	8
1873	294,803	16	11	112,542	3	9	134,031	17	5
1874	269,068	18	11	141,743	18	9	36,879	9	4
1875	239,994	14	1	153,046	13	8	40,522	2	9
1876	236,039	13	1	168,040	5	8	27,682	9	0
1877	224,462	16	8	171,656	9	7	50,672	7	3
1878	212,139	0	2	178,670	16	7	51,547	18	3
1879	192,142	19	0	189,429	13	11	25,410	14	5
1880	180,825	10	8	176,240	15	11	11,064	13	8
Totals	8,478,935	13	3	1,321,006	0	1	490,371	14	4

¹ The sources for first two columns are

Accounts, 1870, p. 2;
Accounts, 1871, pp. 2 & 20;
Accounts, 1872, pp. 26 & 28;
Accounts, 1873, pp. 20 & 22;
Accounts, 1874, pp. 36 & 38;
Accounts, 1875, pp. 18 & 20;
Accounts, 1876, pp. 14 & 16;
Accounts, 1877, pp. 6 & 8;
Accounts, 1878, pp. 4 & 6;
Accounts, 1879, pp. 6 & 8;
Accounts, 1880, pp. 6 & 8;
Accounts, 1880, pp. 18 & 20.

The source for the third column is Commissioners, 1869-80, appendix, p. 268, /C.2773-I/, H.C. 1881, xxviii.

Against these receipts there were abatements for poor rate on tithe rentcharge, which amounted over the whole period to £156,461. 15. 9.,¹ and a refund to purchasers, for the same reason, of £4,052. 17. 7.² There was also a small sum under the heading of tithe rentcharge receipts which was really a transfer, being a total over the whole period of £1,636. 19. 5. for tithe rentcharges paid by the commissioners to themselves in connection with their landed property transactions.³ There were various other overlappings of account of this kind, but they are not worth disentangling, for they were of relatively small size and have negligible importance in a general account of the transactions.

In the case of cash sales, there was no difference in a given year between receipts and the actual value of the transactions, because, naturally, no merging order was made in such cases without full payment of the sums due. But in the cases of rents and annual instalments there was a considerable overflow of arrears from year to year. This was due to late payment rather than to non-payment. The time which had been selected by the Comptroller

¹ Accounts, 1880, p. 19, H.C. 1881, (268), xxviii

² Ibid., p. 23

³ Ibid., p. 19

1872, p. 4, H.C. 1874, (288), II.

Accounts, 1875, p. 6, H.C. 1876, (42), xx.

and Auditor General for the close of the financial year in the accounts of the Church Temporalities Commissioners was very unfavourable for the purpose of rendering an account of revenue. The account was closed at 31st December. The poor rate returns for the month of October, without which the receivable orders for rent and rentcharge due on 1st November could not be prepared, were not furnished to the commissioners until as late as 1st December. It thus occurred that the account was struck at a date when the collection of tithe rentcharge and November rents was only properly begun.¹ Many small arrears were due also to the fact that the commissioners, in handling so much property, postponed legal proceedings in the case of debts under a pound.²

In many cases, however, no payment of tithe rentcharge had been made for some time prior to the vesting of the charge in the commissioners.³ Audit in 1873 disclosed that of the tithe rentcharges vesting in the commissioners since 1st January, 1871, there were about 2,800 rents (against which annuities had been granted) of a total value of nearly 24,000 upon which no collection had been made, and the arrears in respect of these rents were over £12,000.⁴

¹ Accounts, 1871, p. 15, H.C. 1872, (373), xlvi.

² Commissioners, 1874, p. 24, /C.1148/, H.C. 1875, xx.

³ Accounts, 1872, p. 4, H.C. 1874, (233), li.

⁴ Accounts, 1873, p. 6, H.C. 1875, (42), xx.

It will be evident that these were rents of small individual value, though not all, as the commissioners declared, under a pound.¹ Proceedings, however, were threatened, and in 1874 a considerable reduction in these 2,800 items was made; and in the receipts for 1873 there was a reduction of £22,000 in the total of tithe rentcharge arrears compared with that for 1871, while in 1874 there was a further reduction of £21,000.² The Comptroller and Auditor General, however, argued that the relative extent of arrears had actually risen during this period because the amount of tithe rentcharge payable had fallen owing to sales.³ A further improvement was brought about by the commissioners dismissing their solicitor in 1876 and appointing a younger and more competent and energetic man.⁴ This was followed by a very rapid decline in the number of cases in which no payment had been made since the rentcharges first vested in the commissioners. They have declined as follows.

2,800 in 1873

1,650 in 1875

2,200 in 1874

480 in 1876.⁵

¹ Commissioners, 1874, p. 24, /C.1148/, H.C. 1875, xx.

² Commissioners, 1875, supplemental report, p. 6, /C.1200/, H.C. 1875, xx.

³ Accounts, 1874, p. 25, H.C. 1875, (252), xx.

⁴ Commissioners, 1876, p. 6, /C.1648/, H.C. 1877, xxvi.

⁵ Accounts, 1876, p. 3, H.C. 1877, (233), xxvi

The extent to which these collection arrears were due to pressure of other work upon the commissioners' staff is shown by the fact that there were corresponding arrears in the work of preparing the merging orders in cases of sales of tithe rentcharge.¹

Arrears of payments of instalments in lieu of tithe rentcharge as well as in payments of the tithe rentcharge itself developed increasingly towards the end of the period of the commission and may be attributed to the general state of Ireland which made it difficult for land owners to collect their rents from their tenants and therefore made it hard for them to meet their liabilities.²

Of the arrears of tithe rentcharge collected, a considerable proportion went at first to the clergy under the 55th section of the Irish Church Act, which provided that any persons deprived of any rent, interest or other sum, by reason of property vesting in the commissioners, were to be paid such a proportionate part of such income as fell due between the last day when such rent or sum fell due for regular periodic payment to them and the day when the property vested in the commissioners, an arrangement facilitated by the Apportionment Act, 1870.³ The sum so payable in 1871 was

¹ Commissioners, 1875, supplemental report, p. 7, /C.1200/, H.C. 1875, xx.

² Accounts, 1879, p. 3, H.C. 1880, (204 - Sess. 2), xviii; and Accounts, 1880, p. 2, H.C. 1881, (268), xxviii. *Irish Church Temp-*

³ 33 & 34 Vic., c. 35, s. 2, 4 & 5.

was £69,269. 10. 7.,¹ and for the whole period of the commission was £108,094. 10. 8.²

5. Tithe rentcharge under the Land Commission.

When the Irish Land Commissioners took over the work of the Church Temporalities Commissioners in 1881, they took over, as a large part of the church temporalities revenue, the tithe rentcharge and the annuities in lieu of tithe rentcharge, liabilities which fell upon over thirty thousand persons scattered throughout Ireland. Much of the permanent tithe rentcharge, in particular, was paid by thousands of individuals owing very small annual amounts. The incidence of these sums in August, 1882, was as follows.

Size of payment	Tithe rentcharge	Tithe rentcharge annuities.
Under £1	6,492	527
£1 and under £2	3,260	756
£2 and under £3	2,134	709
£3 and under £5	2,641	1,110
£5 and under £10	3,439	1,853
£10 and under £15	1,729	1,143
£15 and under £20	975	699
£20 and upwards	2,262	2,470
Totals	22,932	9,267 3

¹ Accounts, 1871, pp. 3 & 24, H.C. 1872, (373), xlvi.

² Accounts, 1880, p. 19, H.C. 1881, (268), xxviii.

³ Statement of number of items payable to the Irish Church Temporalities Fund, p. 1, H.C. 1882, (345), 1.

The problem of non-payment and arrears remained much as it had been under the Church Temporalities Commissioners. In 1883 the Land Commissioners remitted or wrote off some arrears of tithe and land rents and mortgage interest amounting in all to £990.¹

In 1885, however, the Land Commissioners began a new survey of tithe rentcharge liabilities throughout Ireland. The first survey, made in 1871, had been most unsatisfactory. Almost 35,000 separate items of revenue had become collectible by the Church Temporalities Commissioners on rentals supplied by the clergy; and, for the most part, these rentals were very defective in indicating the lands liable to the tithe rentcharge. An investigation at that time, for the purpose of accurately determining the lands liable in every case would have taken many years and would have required a large staff. But years were not to be had; for the commissioners had been obliged by the Irish Church Act to declare almost immediately the amounts of the annuities of the clergy; and those annuities were founded to a great extent on the tithe rentcharge rentals. The commissioners had therefore adopted the only possible course of notifying each payer as to the sum for which he was returned as liable, and, if there was no

¹ Accounts, 1883, p. 3, H.C. 1884, (54), xxii.

denial of liability on his part, to assume that the sum returned in the rental as due from him was correct. Where there had been a difference of opinion between the incumbent and the payer as to the fact or extent of liability, there was much trouble and correspondence. The "sealed statement" made in accordance with the act of 1872 had done nothing to clarify the general position. In 1885, therefore, after long experience of the difficulty and loss occasioned by uncertainty as to the identity of the lands out of which the rentcharge issued, a new survey was begun for the purpose of getting precise information on this point.

The intention of taking this course was also accelerated by a decision given in the House of Lords in November, 1884, in the case of the Land Commission v. Grant. This decision, which extended the interpretation of the law with regard to limitation of time for recoveries and reversed decisions of lower courts in Ireland, had the effect of making tithe rentcharge altogether irrecoverable if no claim were established as to liability before the lapse of twelve years. The decision had nothing to do with the ordinary lapse of debts uncollected after six years. It referred, not to arrears, but to liability. It meant that tithe rentcharge for which no claim was established within the period of twelve years could never again be collected as a legal due.

A number of small charges, for the most part under one pound annually, which, being disputed, had not been established or collected for many years, were actually liable to be lost if the payers pleaded this new interpretation of the law; but, curiously enough, the ethical standards of these payers were so high that in certain cases they would not advance this plea, being convinced that, even if there was doubt as to the extent of their liability, that liability did exist and ought to be met.¹

The beginnings of the investigation promised well, and the Land Commissioners anticipated not merely a confirmation of existing tithe rentcharge income but a considerable accession to it from this operation.² During the financial year 1885-86 the investigation covered 123 parishes containing 1,900,000 acres and subject to £19,000 annual tithe rentcharge paid by 2,432 persons.³ This investigation went on systematically year after year, and, by 1890, 803 parishes, containing 8,279,379 acres and subject to £147,925 annual tithe rentcharge payable by 14,704 persons had been investigated,⁴ though it was a matter of complaint by the

¹ Accounts, 1884-85, p. 5, H.C. 1886, (53 - Sess. 1), xx.

² Commissioners, 1883-84, p. 4, /C.4231/, H.C. 1884-5, lxv.

³ Commissioners, 1885-86, p. 4, /C.4899/, H.C. 1886, xix

⁴ Commissioners, 1889-90, p. 8, /C.6233/, H.C. 1890-91, xxv.

Comptroller and Auditor General that the investigation proceeded very slowly.¹ By this process of wholesale investigation, tithe rentcharge liability throughout the country was defined, regularised and brought under full control of the collection department of the church property branch of the Land Commission.

The position and history of the tithe rentcharge portion of the church temporalities estate at this period can be summarised as follows from a statement issued for the close of the financial year in 1891.

Gross amount of tithe rentcharge vested in the commissioners by the Irish Church Act, 1869, (a) as originally ascertained £404,000 (b) additions by subsequent investigations and proceedings down to 31st March, 1891 £6,000.

Total £410,000. Number of separate accounts represented by total 57,200.

Gross annual amount of tithe rentcharge sold for cash between 1st January, 1871 and 31st March, 1891	£27,700
Number of separate rentcharges sold	3,450
Amount of purchase money received	£594,000
Amount deducted from gross annual amount of same for poor rate	£1,300

¹ Accounts, 1887-88, p. 4, H.C. 1889, (58), xxviii.

Net annual amount of tithe rentcharge sold for cash between 1st January, 1871 and 31st March 1891	£26,400
Gross annual amount of tithe rentcharge converted into term- inable annuities down to 31st March, 1891	£204,100
Gross annual rental of said annuities	£198,420
Number of separate annuities	9,620
Capital value or purchase of same	£4,353,328
Amount deducted from gross annual amount of same for poor rate	£10,620
Net annual amount of tithe rentcharge converted into term- inable annuities down to 31st March, 1891	£193,480
Gross annual amount of terminable annuities redeemed in full down to 31st March, 1891	£15,270
Total capital sum paid for redemption of same	£295,160
Number of separate annuities redeemed	681
Gross annual rental from tithe rentcharge at 31st March, 1891	£178,200
Gross annual rental from fixed instalments at 31st March, 1891	£179,240
Outstanding capital value calculated to 31st March, 1891, of all terminable annuities for tithe rentcharge on the books of the Land Commission at 31st March	£3,325,993

Original capital value on purchase money of same £3,793,161¹

These figures require little comment or interpretation, for they are for the most part similar to figures already given and show little alteration from the position ten years previously. There is one matter which is of importance. It will be observed that 681 terminable annuities had already been paid up in full and the capital value of the terminable annuities had begun to fall very appreciably. We can here see the beginning of the long decline of this part of the Church Temporalities Fund's terminable income, a decline which we shall presently chronicle in greater detail down to our own times when it has reached near to vanishing point.²

6. Further Legislation

Under the regime of the Land Commissioners, tithe rentcharge, together with the landed portion of the church temporalities estate, underwent a series of modifications in accordance with the successive Irish land acts of the period. In the case of tithe rentcharge, the principal modifications were produced by its redemption as the various land acts applied to the land out of which the

¹ Return relating to tithe rentcharge, 1891, H.C. 1892, (75-Sess.1), lxx.

² Below p. 533. 1886-87, p. 2. /0.3223/, S.C. 1887, xxv.

charge issued. There were also some provisions for its reduction.

By the Purchase of Land (Ireland) Act, 1885,¹ the permissory provision of the Landed Estates Court (Ireland) Act 1858² with regard to apportionment or redemption of charges on land was applied to land coming under the purview of the Land Commissioners under the new land purchase act. It became one of the usual conditions of the sale of an estate under the provisions of that act, that the tithe rentcharge or the remaining annual instalments in lieu of tithe rentcharge should be redeemed out of the purchase money advanced by the Land Commission. In the case of tithe rentcharge, the redemption money came into the church temporalities accounts under the head of sales; and, in the case of annual instalments, the money went immediately to swell the annual collection account of such instalments, accelerating the payment of income from this source and bringing nearer the time when the normal income from annuities would diminish and lapse.³

About the same time, the commissioners came to the conclusion that the redemption price of twenty-two and a half years' purchase

¹ 48 & 49 Vic., c. 73, s. 9, ss. 3

² 21 & 22 Vic., c. 72, s. 62

³ Commissioners, 1886-87, p. 6, /C.5223/, H.C. 1887, xxv.

was too high and ought to be reduced to twenty years' purchase. In this view they had the concurrence of the heads of their church property department; and they accordingly approached the Lords Commissioners of the Treasury with a recommendation that this reduction should be made. The matter, however, was one for the legislature and was almost immediately dealt with.¹

The two foregoing principles - of redemption of tithe rent-charge on land coming under the operation of the Land Purchase Acts and the reduction of the rate of purchase - were embodied in the Land Law (Ireland) Act, 1887.² The commissioners were given power to apportion tithe rentcharge to lands coming within their purview as might be expedient and to order the redemption of the charge or any apportioned part of it at a rate to be settled by them, subject always to the consent of the Treasury.³ Power was given them to transfer any apportioned charge, from being a charge upon the land, to the purchase money for the land.⁴ By the definitions of the act, the term "tithe rentcharge" was declared to include any annual sum payable to the commissioners under the

¹ Commissioners, 1887-88, pp. 9 & 10, /C.5586/, H.C. 1888, xxxiii

² 50 & 51 Vic., c. 33, s. 15, 16 & 34.

³ Ibid., s. 15.

⁴ Ibid., s. 16.

32nd section of the Irish Church Act, 1869, as amended by any further legislation.¹ This made the provisions of the act also cover the annual instalments in lieu of tithe rentcharge.

These powers were extended by the Land Law (Ireland) Act, 1896,² which enabled the commissioners to order redemption of tithe rentcharge in connection with sales of land, at not less than twenty years' purchase, without requiring the consent of the Treasury.³ This did not apply, however, to annual instalments in lieu of tithe rentcharge paid under the 32nd section of the Irish Church Act and amending acts; but the redemption of these might be ordered on the basis of the annual sum being for a term of forty-five instead of fifty-two years.⁴ The effect of arming the commissioners with these powers at a time when so large a portion of the land of the country was being affected by sales operations will be seen when we trace the state of the yearly income from tithe rentcharge and from instalments.

In addition, the Purchase of Land (Ireland) Act, 1891,⁵ had

¹ Ibid., s. 34.

² 59 & 60 Vic., s. 47, s. 37

³ Ibid., s. 37, ss. 1.

⁴ Ibid., s. 37, ss. 2

⁵ 54 & 55 Vic., c. 48, s. 17.

empowered the Land Commissioners in the course of any sales proceedings, on the application of the landlord, to order the redemption of any tithe rentcharge or other charge payable to them on account of the Irish Church Temporalities Fund and to effect this by transfer of Guaranteed Land Stock to the nominal amount payable in respect of the redemption. This stock was to go to the account of the Temporalities Fund, and the interest, until the redemption was completed, was to be paid to the commissioners on account of the Fund. The stock was to be bought up, on request, at its nominal value by the National Debt Commissioners out of money applicable under the act to the sinking fund worked in connection with the land purchase operations. Thus, no matter in what way land came within the operations of the Land Commissioners, it was unlikely to fail to have any tithe rentcharge liabilities which it carried cleared up.

By the Tithe Rentcharge (Ireland) Act, 1900,¹ those tithe rentcharges and yearly instalments which had remained unaffected by the preceding legislation were subjected to a scaling-down of rates and liabilities. Instalments in lieu of tithe rentcharge, due to be completed in fifty-two years from their commencement, were to stop at forty-five years.² In the case of larger instal-

¹ 63 & 64 Vic., c. 58.

² Ibid., s. 1, ss. 1.

ments covering a less number of years, arranged in accordance with the act of 1872, the payments were to cease at such time as would be the case if the rate of interest were $3\frac{1}{2}\%$.¹ The Land Commission were to publish a certificate, in the Dublin Gazette, of the average percentage variation in judicial rents;² and unredeemed tithe rentcharge was to be reduced on a corresponding scale.³ Regional reduction in proportion to poor rate was also provided for⁴ to meet certain difficulties arising out of the Local Government (Ireland) Act, 1898.⁵ The act, however, exempted from these benefits tithe rentcharges payable to the commissioners out of property which had been the subject of a bona fide sale after 10th August, 1872, and before 12th May, 1899, the former being the date of the Irish Church Act, 1869, Amendment Act, 1872, which had abolished the older system of variation of tithe rentcharge, and the latter the date at which a bill, in the sense of the subsequent Tithe Rentcharge Act, was introduced.⁶ By the Irish Land Act, 1903,⁷ the provision for variation, in accordance

¹ Ibid., s. 1, ss. 2.

² Ibid., s. 2.

³ Ibid., s. 3.

⁴ Ibid., s. 6.

⁵ 61 & 62 Vic., s. 37, Pt. III

⁶ 63 & 64 Vic., c. 58, s. 8; Commissioners, 1900-01, p. 8, /Ca.690/, H.C. 1901, xvii.

⁷ 3 Edw. 7, s. 37, s. 90

with judicial rent variation, was extended to any variable head in arrears was due to the great difficulty of the landowners in rent which had formerly been varied in accordance with the price of produce now no longer published and available for the purpose. With the discontinuance of the publication of corn averages and the passing of this act, even the inappropriate tithe rentcharges were now regulated by the practices prevailing with regard to those tithe rentcharges which had passed through the hands of the Church Temporalities Commissioners.¹

7. Decline of Tithe Rentcharge Income.

Having reviewed the principal alterations in the law relating to tithe rentcharge in the later nineteenth century, after the beginning of the Irish Land Commission, we resume the review of the administration and financial side of the management of this portion of the church temporalities estate.

In ten accounts, the large amount of arrears of tithe rentcharge and instalments was not evident except where expressly set forth; for the collection of dues was swelled by redemptions, in the first instance redemptions of annual instalments consequent

¹ The former complex variation procedure with regard to these inappropriate tithe rentcharges is outlined in D. G. Chaytor, The law and practice relating to the variation of tithe rentcharges in Ireland (1897).

upon sales under the Purchase of Land Act, 1885.¹ The increase in arrears was due to the great difficulty of the landowners in collecting their rents. The commissioners had reason to feel some tenderness towards such landowners, because they themselves, as landowners, were also suffering from some serious friction with tenants and from boycott.² In many cases, however, the commissioners had to obtain the appointment, by the Court of Chancery, of receivers over estates out of which large arrears of tithe rent-charge or annual instalments were due; but they did this only where they had reason to believe that their claims were not receiving their legal priority, tithe rentcharge being the first charge on land after quit and crown rent.³

The total arrears of income from tithe rentcharge and annual instalments were £123,546 on 31st March, 1886. They were £159,243 in 1887, and rose to £193,225 in 1888.⁴ While consideration was given to all claims for delay, receivers were appointed in thirty-three cases at the suit of the commissioners in 1888, and, in

¹ Commissioners, 1886-87, p. 6, /C.5223/, H.C. 1887, xxv.

² Below, p.596

³ Commissioners, 1886-87, p. 6, /C.5223/, H.C. 1887, xxv.

⁴ Commissioners, 1887-88, p. 9, /C.5586/, H.C. 1888, xxxiii.

Commissioners, 1888-89, p. 3, /C.5586/, H.C. 1888, xvii.

Commissioners, 1891-93, p. 16, /C.7054/, H.C. 1893-4, xxiv.

244 other cases, receivers appointed at the suit of other creditors were notified by the judges of the High Court to the commissioners' collection department under a rule made at the instance of the commissioners. While the commissioners were satisfied that some of the cases of arrears, with regard to which claims for lenient treatment were made to them, were genuinely to be attributed to the social unrest of the country and the difficulty or impossibility of collecting rents, they were satisfied that in others the reasons advanced for failures to meet liabilities were inadequate and that legal priority was not being observed.¹ A decrease in arrears of tithe rentcharge was achieved in 1889.² The number of items in arrears, however, continued to be large; for the rental (of £173,464 in 1893) contained items varying from less than a shilling to several hundred pounds, and the legal proof and proceedings were just as troublesome and the costs as large in recovering a small item as in recovering a large one; so that the small arrears tended to be held over in the hope of recovery at an ultimately smaller cost to the fund.³

¹ Ibid.

² Commissioners, 1888-89, p. 8, /C.5876/, H.C. 1889, xxvii.

³ Commissioners, 1891-93, p. 18, /C.7056/, H.C. 1893-4, xxiv.

After the end of the 1880's the trouble from arrears decreased. Total arrears in all sources of income, land as well as tithe rentcharge, were 33.8% at 31st March, 1889, as compared with 37.3% the previous year, which had been the peak year in arrears.¹ The commissioners continued to attempt to strike such a balance between decisive legal action and tolerance of delay as they estimated would be likely ultimately to be of greatest advantage to the Fund. The tolerance of delay, however, occasionally led to loss, and a curious problem arose from the lapse, after six years, under the Statute of Limitations, of arrears of annual payments for purchase of tithe rentcharge. This loss was felt by the Comptroller and Auditor General to have a special character different from that of the case of ordinary rentcharge or other perpetuity rent lost in the same way; for the instalments had a virtually contractual basis, and he suggested that it might be possible to revise the merging orders in such cases. But the commissioners showed that they had no authority to do this.²

The various redemption and reduction arrangements already described were successively put into operation. In the case of the Tithe Rentcharge Act of 1900,³ the certified reductions of

¹ Accounts, 1888-89, p. 3, H.C. 1890, (4), xxvi.

² Accounts, 1894-95, p. 3, H.C. 1896, (27), xxv.

³ 63 & 64 Vic., c. 58

judicial rents, by counties, were published in the Dublin Gazette. The reductions ranged from 28.9% in Kerry to 19.1% in Mayo. Since the corresponding variation of the tithe rentcharge was to apply only to cases in which sales of the land had not taken place during a certain period,² special declarations had to be made by applicants and examined by the commissioners. The majority of payers of tithe rentcharge applied in time to have their claims put in before the gale of rentcharge due on 1st May, 1901. Of these, 1,110 cases were disallowed under section 8 of the act. About 4,500 payers did not apply at this time, and the commissioners were not at first sure how far this was due to mere oversight or to knowledge that the act did not apply to them. It was therefore some years before the effect of this operation on the income of the fund could be calculated.³ By 1907, 15,036 cases covering an annual revenue of £136,966 were admitted under this act. The reductions amounted to £32,166, being an average of 23.5% on the income affected by the act. Claims in 1,193 cases, representing an annual income of £4,459 were excluded by section 8.

¹ Op. cit., 26th October, 1900.

² Above, p. 526 1916-18, p. 2. 1917-8, xv.

³ Commissioners, 1900-01, p. 8, /Cd.690/, H.C. 1901, xvii.

In 3,341 cases, covering a tithe rentcharge of £17,463, no declaration had been received, or the questions arising out of claims had not yet been disposed of.¹

In 1915, after a further period of fifteen years, a fresh certificate of reductions of judicial rents was published.² The reductions varied from 22% in Fermanagh to 12.5% in Meath.³ By 1918, the loss of income in the cases affected was 16.9%, a fall from £55,289 at 1st November, 1915, to £45,928 in 1918. These figures refer to that part of the income only which came under the actual operation of the act.⁴

The other earlier legislation, tending to reduce the tithe rentcharge income, by facilitating redemptions and otherwise, was less precise and immediate in its effects than these adjustments made under the Tithe Rentcharge (Ireland) Act, 1900; and we cannot trace the effects of this earlier legislation in a series of distinct downward undulations in the real or prospective income of the fund. The practical effect of that legislation showed itself

¹ Commissioners, 1906-07, p. 10, /Cd.3652/, H.C. 1907, xix.

² Dublin Gazette, 19th October, 1915.

³ Commissioners, 1915-16, p. x, /Cd.8481/, H.C. 1917-8, xv.

⁴ Commissioners, 1917-18, p. x, /Cmd.19/, H.C. 1919, xxiv.

in an increase in redemption - that is to say, in an increase of instalments in lieu of rentcharge, at the expense of the rentcharge itself and an abbreviation of the period during which existing instalments were prospectively due. The following figures at intervals of five years show the state of the income from tithe rentcharge sources. The figures are taken, not from the actual accounts, but from the yearly estimates of prospective receipts and expenditure - that is, they represent the amount due and not the amount received.

Year	Tithe rentcharge	Instalments	Source
1895-6	168,473	169,372	<u>Commissioners, 1894-95, p. 96</u>
1900-01	160,458	161,541	<u>Commissioners, 1899-1900, p. 113</u>
1905-06	143,562	145,665	<u>Commissioners, 1904-05, p. 143</u>
1910-11	94,780	112,313	<u>Commissioners, 1909-10, p. 147</u>
1915-16	69,556	75,037	<u>Commissioners, 1914-15, p. 118</u>
1920-21	50,972	19,677	<u>Commissioners, 1919-20, p. 69</u>

It will be seen that the tendency was for instalments to increase for a while, relative to tithe rentcharge, owing to redemptions stimulated by sales under the Land Purchase Acts. A decline in actual income from annuities took place at the same time because of the falling in of payments in lieu of tithe rent-

¹ Accounts, 1922-23, pp. B-13, R.O. 1924, (22), xiii.

charge which had been started on account of sales at an earlier period or because of the completion of redemptions in connection with sales of land. Later redemptions, being in most cases backed by the loan facilities of the Land Purchase Acts, did not produce instalment payments over a long period, as had been the case with most credit purchases of tithe rentcharge made only under the provisions of the Irish Church Act or of that act as amended by the act of 1872 and involving instalments running for as long as fifty-two or, as was later arranged, forty-five years. Towards the end of the period, therefore, there was a very rapid decline in income from instalments, particularly after forty-five years from the passing into operation of the tithe rentcharge provisions of the Irish Church Act.

The grand totals of transactions in connection with tithe rentcharge, from the passing of the Irish Church Act to 31st March, 1923, were as follows.¹ In the right-hand column are the transactions for the year ended 31st March, 1923. The income in the last few years of the period was, however, abnormal on account of big arrears due to the troubled state of the country, total arrears for Southern Ireland rising from 29.8% in 1922 to

¹ Accounts, 1922-23, pp. 2-13, H.C. 1924, (22), xiii.

3. 46.7% in March, 1923.¹

Receipts	1869-1923			1922-23		
	£	s	d	£	s	d
Tithe rentcharge	7,929,544	10	14	29,636	4	2
Tithe annuities (loan account)	6,895,439	13	9	7,404	2	3
Tithe rentcharge sold	2,172,739	7	3	27,169	13	10
Same, received in stock by Purchase of Land (Ireland) Act, 1891	168,034	12	0	-	-	-
Tithe annuities redeemed	1,265,721	12	11	2,740	4	3
Same, received in stock	160,506	4	4	-	-	-
<u>Expenditure</u>						
Purchases of leases of tithe rentcharge	100,004	13	4	-	-	-
Tithe rentcharges paid	1,893	19	11	-	-	-
Poor rate allowed	413,734	5	5	6	5	11
Refund to clergy of poor rate	4,523	2	4	-	-	-
Stamp duty on merging orders	28,975	16	6	0	1	6
Tithe rentcharges repaid in respect of arrears of rent remitted under Arrears of Rent (Ireland) Act, 1882. ²	3,792	15	4	-	-	-

¹ Ibid., p. 17

² See below p. 651 sq.

Above, p. 526

8. Tithe rentcharge income in the Irish Free State and Northern Ireland.

Under the continued operation of the Land Purchase Acts, the revenue from tithe rentcharge went on shrinking through redemptions on sales of estates after the apportionment of the fund between the Irish Free State and Northern Ireland. And, at the same time, the fixed annuities, from previously made credit sales of tithe rentcharge, rapidly expired.¹ The state of tithe rentcharge receipts in the Irish Free State may be seen from the following figures of actual receipts.

Year	Tithe rentcharge			Annuities			Source
	£	s	d	£	s	d	
1924-25	44,189	14	10	9,623	8	0	<u>Accounts, 1924-25</u>
1929-30	31,748	16	7	1,687	0	8	<u>Accounts, 1929-30</u>
1934-35	14,807	8	2	273	2	1	<u>Accounts, 1934-35</u>
1939-40	11,205	18	7	130	2	10	<u>Accounts, 1939-40</u>

This fall in revenue was accelerated by the operation of further legislation for the reduction of tithe rentcharge. Under the Land Act, 1931,² the provisions of the Tithe Rentcharge (Ireland) Act, 1900, with reference to variation of tithe rentcharge³

¹ Commissioners, 1928-28, p. 30, S.E. 1928

² S.E. Act No. 11 of 1931, s. 49

³ Above, p. 526

were set aside, and, instead, a reduction of 8% was made in all tithe rentcharges and annuities which would have come within the scope of that act. The change was made at this time, since a further certificate of variation of judicial rents and a scaling down of tithe rentcharge would have been once more due, another period of fifteen years having elapsed. The annual reduction of tithe rentcharges so affected amounted to £1,757. 7. 6.¹ The provisions of the Land Act, 1933,² for revision of rents payable to the Church Temporalities Fund and for the funding of arrears, also served to reduce the tithe rentcharge income.³

In Northern Ireland the same process of falling income can be traced, but was not accelerated by special legislation. The payments of tithe rentcharge and of annuities go directly into the finance accounts of the Ministry of Finance as items of public revenue together with other items formerly payable into the Church Temporalities Fund. The following figures refer to the rental and not to collection; but, since arrears have been very small, the difference between rental and receipts has been negligible.

¹ Accounts, 1931-32, p. 8, S.E. No. 1099.

² S.E. Act No. 38 of 1933, s. 19

³ Accounts, 1934-35, p. 8, S.E., P. No. 2598

Year	Tithe rentcharge			Annuities		
	£	s	d	£	s	d
1924-25	7,560	18	11	1,286	10	0
1929-30	6,822	18	10	253	0	1
1934-35	3,090	15	9	67	12	9
1941-42	2,742	0	5	28	7	3 ¹

On one occasion, at least, the problem arose of land, out of which tithe rentcharge was payable, lying partly across the frontier and the fact for a time escaping observation. During Irish Free State sales proceedings in 1929-30, such a case was discovered and an apportionment was made by the Land Commission of a tithe rentcharge and a perpetuity rent issuing from that part of an estate found to lie across the frontier in Northern Ireland. Sums of £9. 7. 6. and £61. 13. 9. collected since the apportionment of the Church Temporalities Fund between the two governments, were accordingly transferred by the Land Commission to the Ministry of Finance, Northern Ireland.²

¹ The sources for the table are Northern Ireland finance accounts, 1924-25, p. 15, H.C. 1925, (91), (N.I.); the same, 1929-30, p. 13, H.C. 1930, (214), (N.I.); the same, 1935-36, p. 13, H.C. 1936, (350), (N.I.); the same, 1941-42, p. 14, H.C. 1942, (575), (N.I.).

² Accounts, 1929-30, p. 8, S.E., P. No. 678.

CHAPTER FIVE

Administration and Sale of Church Lands

1. Intentions and legislation.

The work of the Church Temporalities Commissioners which was perhaps to have the greatest significance for the future was the part of their property operations concerned with land. Reference has already been made to the place which the Irish Church Act had in the realisation of John Bright's policy and hopes for the reform of Irish land ownership and to its cardinal significance in the history of Gladstone's conversion to that policy.¹ When the Church Temporalities Commission came to an end, its work was taken over by a new body, the Irish Land Commission, destined to work a revolutionary change in the whole system of land ownership throughout Ireland; but, in the event, the Irish Land Commission was virtually the Church Temporalities Commission working on under a new name and performing new functions. In staffing, place of work, organisation and methods, the new body was to a very considerable extent a continuation and development of the old. As has already been stated, the success of the work of the Church Temporalities Commissioners in dealing with the

¹ Above, pp. 512q. and 11

landed property of the Church of Ireland led to their organisation being adopted as the nucleus for an administrative mechanism to deal with the adjustment of land ownership throughout all Ireland.¹

Such more remote intentions were naturally not in the mind of Gladstone when he moved for leave to introduce the Irish Church Bill. Indeed, although he had referred at an earlier stage to the occasion of the disestablishment as a very appropriate one for making a limited trial of Bright's proposals,² Gladstone did not refer more than lightly, when speaking on the bill, to this experimental aspect of the proposed operations. He spoke at no time during the disestablishment debates as if the principle of state-aided purchase by the tenants was one which was very seriously to be considered as desirable to have extended to other land as well as the church property. He introduced his proposals about land as a simple matter of business expediency. He said,

"The committee will... agree with me that it is not desirable either that this commission which we now propose to appoint³ or any state authority in its place, should continue permanently to hold the church land which will necessarily come into its possession. Such a commission is not, and cannot be permanently a good landlord, and it is far better that it

¹ Above, p. 227

² Above, p. 11

³ I.e., the Church Temporalities Commission.

should discharge itself, as soon as may be, of duties it cannot properly fulfil. What we propose, then, is that in selling the proprietary rights of these estates, the power of pre-emption should be provided for the tenants, and, what is more - indeed, without this addition I do not think I could claim for this provision credit for anything more than good intentions - we further propose that in such sales three-fourths of the purchase money be left upon the security of the land, and that the charge so remaining shall be liquidated by instalments, upon the principle adopted in the Drainage Act,¹ by which we make the whole repayable in twenty-two years. Now, the nature of this proposal the committee thoroughly comprehend, and I trust it will meet with their approval. It does not place the land in the market in an anomalous character; it does not make the state responsible for duties that it cannot fulfil and the permanent retention of which is alien from its nature. And it will have the economical effect of materially improving the price that we shall get for the land; and by this means we shall try the experiment, on a limited scale, of breaking up properties in a manner which I believe to be perfectly safe, perfectly easy, and perfectly unexceptionable."²

Thus, apart from Gladstone's first reference to them when declaring in favour of disestablishment, the tenant purchase provisions of the Irish Church Act were not placed before the House of Commons or the public as a means to economic or social reform, but simply as a means of "breaking up properties." In both houses of parliament, where many members were Irish landlords, that part of the bill aroused little interest.³ A member who

¹ The Public Money Drainage Act, 1850, 13 & 14 Vic., c. 31.

² 3 Hansard, cxcliv, 450-451.

³ 3 Hansard, cxcvi, 62 sq.; and *ibid.*, cxcvii, 1158.

property¹ is to be found practically unchanged in the act.² raised a question of principle in the Commons was sharply rebuked by Disraeli for insincerity and wasting time,¹ and the amendments came from lawyers and were directed solely towards slight improvements in security for the tenants and better definition of form.²

Gladstone referred in addition to one other aspect of operations in landed property. He drew attention to the reasonable equity of respecting for a limited period of three years

after 1st January, 1871, the vested interests of those who had the right to purchase perpetuity leases in place of renewable leases, under the Irish Church Temporalities Act, 1833.³ This arrangement, however, could not be carried on beyond a limited period if the essential principles of disendowment and dispersal of property were to be regarded.⁴

The part of the bill which dealt with disposal of landed

¹ Ibid., exxvi, 62 sq. and 66. to him. Perpetuity rents were

² Cf. Bill to put an end to the establishment of the Church of Ireland, etc., s. 33, pp. 15-16, H.C. 1868-9, (27), 111; and 32 & 33 Vic., c. 42, s. 34. S. 1868-9, (27), 111.

³ 3 & 4 Wm. 4, c. 37 s. 34. The section in the act ("Power to commissioners to sell property vested in them by this act") has

⁴ 3 Hansard, exxiv, 450. counterpart in the bill.

property¹ is to be found practically unchanged in the act.²
The changes, also, were made from the point of view of better definition and more explicit expression of intentions. Thus, the passage in the act guarding all existing tenants' rights of renewal in lands sold by the commissioners was a later addition to the bill, as was also the 35th section providing that such orders of the commissioners as operated as conveyances or mortgages of property should be liable to stamp duty.

The 34th section of the act gave the Church Temporalities Commissioners power, after 1st January, 1871, to sell by public auction or private contract, or otherwise convert into money, any real or personal property vested in them by the act; but certain conditions were attached to this provision. They were not to sell any perpetual rent issuing out of land, or any right to mines or quarries, where the fee simple was vested in some person other than the commissioners, until they had given notice to the owner that they were willing to sell it to him. Perpetuity rents were

¹ Bill to put an end to the establishment of the Church of Ireland, etc., pp. 15-16, s. 33, H.C. 1868-9, (27), 111.

² 32 & 33 Vic., c. 42, s. 34. The section in the act ("Power to commissioners to sell property vested in them by this act") has a different number from its counterpart in the bill. A period when standards of legal and parliamentary draftsmanship were high, this reference and recital was a lapse.

to be offered to the owner of the land out of which they issued, at a capital sum equal to twenty-five times their annual amount. The price of rights to mines and quarries was to be settled by the commissioners. No land was to be sold which was still subject to the life interest of an ecclesiastical person. No sale of fee simple of any land was to be made to the public until the lessee or tenants had declined to purchase; and no land held immediately from or under the commissioners by a lease for twenty-one years or for three lives, for twenty-one years, or for forty years, or for three lives, was to be offered to the public until three years after 1st January, 1871. An offer of sale was to be made to the owner¹ by post where he was known or by press advertisement where he was not known. He was to be deemed to have declined the offer if he did not accept in writing and pay or secure the purchase

¹ The term "owner of land" was defined as including "a limited owner as defined by the Landed Property (Ireland) Improvement Act, 1860." But this would appear to have been very bad drawing if not actual misrecital; for that act (23 Vic., c. 19) is not the Landed Property Improvement Act which contains the definition referred to, nor does it refer back directly and clearly to the act which actually contains the definition. The reference to the act of 1860 would appear to have been intended to cover the whole group of preceding Landed Property Improvement Acts (10 & 11 Vic., c. 32; 12 & 13 Vic., c. 23; and 13 & 14 Vic., c. 31), to which the act of 1860 is merely a minor addition. The actual definition is in the act of 1847 (10 & 11 Vic., c. 32, s. 7.) In a period when standards of legal and parliamentary draftsmanship were high, this reference and recital was a lapse.

² As provided in 3 & 4 Wm. 4, c. 37.

money to the commissioners within three months after the giving of notice of the offer. The "limited owner" of property, the holder under a variety of short or medium term leases, might raise purchase money or any part of it by mortgage of the land at not more than five per cent interest. The provisions of the 34th section were supplemented, and, as Gladstone considered, transferred, so far as the interests of tenants were concerned, from the realm of mere good intentions to that of practical utility, by the 52nd section. This section empowered the commissioners to credit the purchaser of any land or interest in land sold under the act with so much of the purchase money, not exceeding three-quarters, as they thought proper, on having the payment with interest at four per cent secured to their satisfaction. This purchase money was to be payable by half-yearly instalments not exceeding sixty-four in number.

By the 54th section, the commissioners were empowered to effect sales in the Landed Estates Court, rights of pre-emption elsewhere given in the act being nevertheless reserved. The 31st section guarded for three years the rights of tenants by renewable leases to convert their tenures into perpetuities.¹

¹ As provided in 3 & 4 Wm. 4, c. 37.

Other parts of the act dealing with land may be regarded as of merely routine business significance and covered only normal contingencies arising out of the transfer of landed property to the commissioners. Section 55 saved the rights of persons with claims for arrears of rent out of any land vested in the commissioners. The 56th section made similar provision for saving the interests of persons under disability and for the appointing of guardians by the Court of Chancery to act for lunatics and others.

By the Irish Church Act, 1869, Amendment Act, 1872,¹ the commissioners were permitted to make purchases ^r an allowance for income tax, on instalments for the purchase of land on credit, according to a scale annexed to the act.² The royal commission

2. Sales of renewable leaseholds and perpetuity rents.

On 1st January, 1871, the former landed property of the Church of Ireland became vested in the Church Temporalities Commissioners.² Already they had become possessed of the property of the former Ecclesiastical Commissioners.³ 1873, xx.

This landed property consisted of three main classes; first, the established church in Ireland, &c. xxv. / 1873, xxv. 1873, xxv.

¹ 35 & 36 Vic., c. 90, s. 11
² 32 & 33 Vic., c. 42, s. 12.
³ Ibid., s. 11.

ecclesiastical buildings and graveyards attached to or connected with them; secondly, ecclesiastical residences and mensal lands attached to them; thirdly, lands let to tenants either in perpetuity or for limited tenures. For the most part, the disposal of the first two classes of landed property is described in other parts of this thesis.¹ The first class does not here concern us at all; and the only properties to be considered in the second class are those residences and lands which were not disposed of in sales to the Representative Church Body or the residues of the diminished glebes which were sold to that body.

The total annual value of the landed property of the commissioners was estimated by them as £225,622.² The royal commission report of 1868 had estimated the annual value of lands let to tenants as £204,932. 19. 7., including £54,239 of revenue from this source vested in the Ecclesiastical Commissioners.³ Of the lands

¹ Above, ch. III, pp. 347-364

² Commissioners, 1874, p. 11, /C.1148/, H.C. 1875, xx.

³ Report of H.M. commissioners on the revenues and condition of the established church in Ireland, p. xxv, /4082/, H.C. 1867-68, xxiv, and above, p. 152

Commissioners, 1874, p. 8, /C.1148/, H.C. 1875, xx.

⁴ Accounts, 1870, pp. 2 & 10, H.C. 1871, (1864), iv.

⁵ IBID.

let to tenants there were three main classes; first, those held in perpetuity; secondly, those held by leases which were renewable at intervals on payment of fines; and, thirdly, those held from year to year or for other terminable periods. The number of separate holdings at the time when sales of land were undertaken on a full scale was as follows:-

Perpetuity tenures	1,712
Renewable "	419
Yearly and other tenures	8,432 1
	<u>10,563</u>

In 1870, or rather in the period of seventeen months ending 31st December, 1870, receipts from land rents amounted to £92,251. 1. 10., coming mainly from the lands formerly held by the Ecclesiastical Commissioners.² The receipts from conversion of renewable leaseholds into perpetuities were £6,819. 19. 0.³ But it would be out of place to describe the fluctuations of the commissioners' land rent receipts before describing the sales operations which largely governed the size of their rental from year to year.

The sales of land did not begin at once, the commissioners being under no obligation to make offers to tenants immediately,

¹ Commissioners, 1874, p. 9, /C.1148/, H.C. 1875, xx.

² Accounts, 1870, pp. 2 & 10, H.C. 1871, (264), lv.

³ Ibid., Return of the number of tenants on the books of the Irish Church Commissioners, etc., p. 2, H.C. 1872, (183), li.

As was also the case with the office work though they might not offer the lands to the public without first making offers to the tenants. The other duties which the Irish Church Act imposed upon the Commissioners occupied their staff too fully to enable an early start to be made with these offers; and also much of the land could not properly come into the full control of the commissioners until after commutation had been effected, even though technically vested in them on 1st January, 1871. In the case of renewable leaseholds, no sales could be made until after 1st January, 1874, on account of the saving provisions inserted in the act to guard for three years the rights of such tenants to convert their tenures into perpetuities.¹

The sales of yearly and other unrenovable tenures began relatively early in the period of the commission, and the sales of renewable leaseholds and perpetuity rents belong on the whole to a later period in the sales operations. Thus, up to 11th May, 1874, 3,703 yearly and other tenures had been offered for sale to the tenants, while only 211 perpetuity rents had been offered, and, although the renewable leaseholds had become saleable on 1st January of that year, none had yet been offered.²

¹ 32 & 33 Vic., c. 42, s. 31.

² Return of the number of tenants on the books of the Irish Church Commissioners, etc., p. 2, H.C. 1874, (195), 11.

As was also the case with tithe rentcharge, the office work of the commissioners in connection with landed property was at first hurried and sometimes inaccurate on account of the pressure of other duties. Delay in executing mortgage deeds was a cause of complaint by the Comptroller and Auditor General, who also complained that the gale days inserted in the mortgage deeds were often incorrect or did not correspond to those entered on the books of the commissioners.¹ The commissioners indignantly denied the first complaint on the grounds that it implied that they were conveying public property without getting security,² an interpretation which the Comptroller and Auditor General himself repudiated.³ The commissioners explained that the procedure of a sale by mortgage necessarily required that the mortgage should not be prepared until a conveyance was furnished by the purchaser for approval by the solicitor to the commissioners. In many cases, it would seem, these conveyances were actually prepared by John

¹ Accounts, 1872, p. 3, H.C. 1874, (333), 11.

² Commissioners, 1869-74, p. 24, /C.1148/, H.C. 1875, xx.

³ Accounts, 1874, p. 17, H.C. 1875, (252), xx.

⁴ Commissioners, 1875, supplemental report, p. 6, /C.1260/, H.C. 1875, xx.

⁵ Accounts, 1889-90, p. 2, H.C. 1890-91, (43), xxvi.

Ball, the commissioners' solicitor himself,¹ but in many cases, also, they were prepared by other solicitors and in some cases they were very much delayed. Without the conveyance the mortgage could not be prepared, for the mortgage took the form of a conveyance back to the commissioners of the estate vested by the deed of conveyance. Where a purchaser paid his one-fourth of the purchase money, he became equitable owner, but until he took his conveyance he was at law only a tenant at will.² Owing to this difficulty twenty-six mortgages, relating to sales in the period between 1871 and the close of the commission, were still unexecuted in 1890.³

The commissioners and their staff appear, for the most part, to have carried out their intricate sales operations with considerable efficiency. As has been mentioned, they had to dispose of about 10,563 holdings. The amount of land and the number of holdings which were in the hands of the commissioners at any given time varied a good deal. On the one hand, some sales were always proceeding; and, on the other, fresh holdings were falling into

¹ Above, p. 213

² Commissioners, 1875, supplemental report, p. 6, /C.1200/, H.C. 1875, xx.

³ Accounts, 1889-90, p. 3, H.C. 1890-91, (43), xxvi.

their possession from time to time, as certain protected life interests expired or as they were able definitely to take possession of residues of glebes remaining after sales to the Representative Church Body. It is unfortunately impossible to give an estimate of the distribution of this land by acreage to the various dioceses or counties of Ireland. The Church Temporalities Commissioners had no motive for keeping their books in such a manner as would show this, and, although the data are available, they are only in such a form as could not be added up or given significant shape by one person.¹ The land was held by three main categories of tenure, by perpetuity leaseholds, by tenures renewable at intervals on payment of fines, and by yearly and other unrenovable tenures. It is with the last of these three categories that we are most concerned; for it was in the case of these numerous holdings by yearly and other short tenures that the commissioners made a particularly conscientious and successful effort to promote

¹ Return of aggregate amount of annual income vested in the Commissioners of Church Temporalities in Ireland, 1877, p. 6, H.C. 1877, (235), lxvi. As has been described above, p. 155, returns of church lands made before the disestablishment do not give adequate totals. It would be quite possible from these returns, from the returns of sales by the Church Temporalities Commissioners, from the records of the Church Property Department of the Irish Land Commission and from the registry of deeds, to get details of all pieces of church land as they were held in the nineteenth century; but the compiling of totals from these individual items is beyond the capacities of one person.

the conversion of small tenant farms into peasant proprietorships. As will be seen from figures to be given later, these were the smallest holdings and as a whole class were not as valuable as the other two classes which consisted mostly of large holdings, often sublet. It was in the case of the yearly and other tenures, also, that the commissioners gave most information in their reports, regarding their conversion into peasant proprietorships as a special trust and duty which was hardly so important in the case of the other larger holdings. For the purpose of the present study, it is most convenient to describe first how the commissioners dealt with the less numerous, and socially and historically less interesting, sales of the renewable leaseholds and the perpetuity tenures. carried out by a 25 mortgage. The 1869-80 Act. The 2,131 holdings which fell into these two classes had an annual value, including renewal fines, of about £131,000.¹ The two classes tended to merge as the renewable leaseholds were converted into perpetuities, a process which went on till there were only 192 renewable leaseholds remaining unconverted.² The commissioners were rather anxious to favour this process of conversion where possible, as being in the best interests of the

¹ Commissioners, 1869-80, p. 16, /C.2773/, H.C. 1881, xxviii.

² Ibid., p. 17., c. 37, s. 105.

tenants. The condition of the lands let by renewable leasehold was complicated by a custom which had grown up of sub-letting them, with an engagement to renew the sub-lease on each renewal of the head lease. Such an engagement was known as a toties quoties covenant. The system was attended by much insecurity of tenure and was from many points of view highly unsatisfactory.¹ The problems arising from it provided a further motive to the commissioners for doing all in their power to eliminate this antiquated and peculiar type of tenure.

In order to favour conversions of renewable leaseholds, the commissioners adopted a peculiar interpretation of the law. The process of conversion of renewable leaseholds into perpetuities was previously carried out by a 5% mortgage.² The Irish Church Act, by its 31st section, permitted such conversions to continue until three years after 1st January, 1871, and at first the commissioners seemed to be satisfied to carry on the old arrangement of the 5% mortgage. Theⁿ, realising that their mortgage transactions with other purchasers of land and of interests in land were conducted by mortgages at 4%, they adopted the policy

¹ Report of H.M. commissioners on the revenues and condition of the Established Church in Ireland, s.50 & 51, /4082/, H.C. 1867-8, xxiv.

² By 3 & 4 Wm. 4, c. 37, s. 155.

of reducing the interest charged on mortgages for converted leaseholds to 4% also. They did this allegedly in pursuance of the 52nd section of the Irish Church Act which regulated the mortgage sale of "any land or interest in land" made in pursuance of the act and laid down the rate of 4% interest. This section was held by Mr. Justice Lawson to apply to these mortgage conversions of leaseholds made in accordance with the act of William IV, of which the operation was continued for three years by the 31st section of the Irish Church Act. This arrangement was also stated by the commissioners to be only equitable in view of the 4% mortgage arrangements made with other classes of purchasers, and the reduction of this interest had been advised by the royal commission report of 1868.¹

This whole interpretation of the law which had been adopted by the Church Temporalities Commissioners was sharply challenged by the Comptroller and Auditor General who further showed that in other more recently drawn mortgage agreements for conversion of leaseholds, a rate of 5% interest was reserved subject to a reduction to 4% if paid within forty-one days after the gale day, a scheme of variation for which there seemed to be no justification

¹ Report of H.M. commissioners on the revenues and condition of the established church in Ireland, p. xiv, /4082/, H.C. 1867-68, xxiv.

in the various acts governing the case, particularly the two main ones, that of William IV and the Irish Church Act.¹ The arrangement, however, was legalised both actually and retrospectively by the Irish Church Act, 1869, Amendment Act, 1872,² and in 1873 the Comptroller and Auditor General reported that the deeds made out in respect of these conversions in preceding years were satisfactory.³

The commissioners, however, in their first report, feeling perhaps a certain uneasiness about the whole episode, took up a rather clumsy retrospective defence of their policy, declaring that the arrangement made a clear gain to the fund because the reduction in interest, together with an alteration in the method of calculating the value of the perpetuity, had greatly stimulated these conversions. They stated that transactions to the value of £308,678 had been made up to 31st December, 1874, from the beginning of the Commission, as against £168,000 received by the Ecclesiastical Commissioners under the same head in the preceding twenty-

¹ Accounts, 1871, p. 22, H.C. 1872, (373), xlvi.

² 35 & 36 Vic., c. 90, s. 13.

³ Accounts, 1873, p. 6, H.C. 1875, (42), xx.

Accounts, 1875, p. 6, H.C. 1878, (42), xx.

Commissioners, 1869-80, p. 17, /O. 2773/, H.C. 1881, xxviii.

four years. The fact that conversions should be made was, they argued, advantageous to the fund, since the public sale in the open market of the landlord's reversion in a renewable leasehold was not likely to fetch so high a sum as the sale of a perpetuity head rent to the tenant.¹ The Comptroller and Auditor General went far towards deflating this argument by observing that the imposition of the three years' time limit must have had a great deal to do with the speeding up of these conversions.²

The 192 renewable leaseholds which remained unconverted were an embarrassing piece of property on account of the peculiar and intricate tenure by which they were held; and the commissioners had been particularly eager to encourage the substitution of the simple perpetuity tenure for it with a view to the ultimate disposal of the property. These remaining renewable leaseholds were first offered to the tenants, and then, when the tenants refused offers of purchase, the properties were sold to the public for what they would fetch.³ The rate of purchase of renewable leaseholds sold to the public cannot be judged in the ordinary way from the relation between annual value and price paid, for the purchase

¹ Commissioners, 1869-74, p. 20, /C.1148/, H.C. 1875, xx.

² Accounts, 1873, p. 6, H.C. 1875, (42), xx.

³ Commissioners, 1869-80, p. 17, /C.2773/, H.C. 1881, xxviii.

money included in many cases the arrears of fines due. The rate of purchase was stated by the commissioners to be actually about 28½ years' purchase of the annual rents and fines.¹

The following table gives the annual extent of sales of renewable leaseholds. No distinction can be made between sales to tenants and sales to the public.

Year	Annual Value		Sales									
			For cash			secured by mortgage			Total			
	£	s	d	£	s	d	£	s	d	£	s	d
1874	169	18	5	13,248	13	4	-	-	-	13,248	13	4
1875	140	10	7	1,842	13	5	2,132	0	0	3,974	13	5
1876	1,452	15	4	22,538	12	11	25,763	13	8	48,302	6	7
1877	600	0	0	8,366	2	11	14,101	17	1	22,468	0	0
1878	1,837	0	0	25,103	3	7	27,192	16	5	52,296	0	0
1879	775	7	3	6,425	5	11	15,473	14	1	21,899	0	0
1880	11	2	9	258	0	0	-	-	-	258	0	0
Total	4,986	14	4	77,782	12	1	84,664	1	3	162,446	13	4 ²

The amount credited and secured by mortgage represents 52.47% of the total purchase money, the percentage being calculated on the amounts reduced to the nearest thousand pounds.

¹ Commissioners, 1878, p. 4, /C.2288/, H.C. 1878-9, xx.

² Commissioners, 1869-80, appendix, p. 269 /C.2773-I/ H.C. 1881, xxviii.

In the case of perpetuity rents, the commissioners were authorised to offer to the tenants the right of buying the head rents at twenty-five years' purchase. The burden of other duties which had to be completed quickly in the early part of their period of office caused them to delay for some years in making offers of the sale of these rents to tenants. They did, however, make a preliminary trial offer in a couple of dioceses, and, finding that only twenty-eight out of 124 offers were accepted, they did not feel encouraged to press on with the operation. They calculated that there was no financial advantage in hastening these sales, since, although the cash realised might have been used to meet their obligations to the Representative Church Body, they were paying the latter only 3 $\frac{1}{2}$ % on the money due to them, whereas the perpetuity rents amounted to 4% on the principal that would be realised by their sale at the rate fixed in the act. The general preliminary offer of sale to tenants of perpetuity holdings was made in December, 1874, save in about sixty exceptional cases.¹

Of the perpetuity rents, swelled by conversions of renewable

¹ Commissioners, 1862-80, p. 9, /C.1148/, H.C. 1875, xx. xxviii.

leaseholds, 1,002 were sold to the tenants in accordance with the act at twenty-five times their annual amount. These rents had an annual value of £60,892. 18. 10¹ and were sold to the owners for £1,522,332. 7. 9. The unsold rents were then offered to the public, but the commissioners refused to lower their price for them, considering that they were a thoroughly good investment and a form of security which it was no harm to retain for the fund if it could not be disposed of at a good price. Fifty-two perpetuity rents, of the annual value of £3,583. 2. 9., were sold to the public for £89,588. 18. 8., and 863 perpetuity rents of the annual value of £61,244. 1. 4. remained on the books unsold.¹

The following table shows the progress and full extent of sales of perpetuity rents up to 1880, no distinction being made between sales to tenants and sales to the public. The percentage of the purchase money which was advanced on credit was 46.00%, calculated on the amounts reduced to the nearest thousand pounds.

¹ Commissioners, 1869-80, Report, p. 17. /G.2773/, H.C. 1881, xxviii.

There are also elsewhere, in the time at which the various totals were made by the staff of the commissioners.

class of tenures as also of the reasonable households, the Irish Church Act placed a difficulty in the way of the commissioners.

Year	Annual rents purchased			For cash			Secured by mortgage			Total purchase money		
	£	s	d	£	s	d	£	s	d	£	s	d
1871	1,068	11	7	12,462	11	1	10,970	12	5	23,433	3	6
1872	513	1	0	12,826	5	6	3,288	5	0	16,107	10	6
1873	4,786	8	10	76,388	6	4	43,285	5	4	119,673	11	8
1874	2,480	7	11	58,366	17	2	1,095	12	0	59,462	9	2
1875	33,130	19	9	396,560	7	10	428,860	2	6	825,420	10	4
1876	6,296	14	2	80,024	0	4	79,277	8	1	159,301	8	5
1877	1,317	0	7	28,354	17	7	8,085	3	9	36,440	1	4
1878	12,077	4	5	145,717	7	5	156,223	2	5	301,940	9	10
1879	2,677	2	1	56,312	0	3	10,616	0	2	66,928	0	5
1880	200	17	7	3,674	18	7	1,347	1	0	5,021	19	7
Total	64,548	7	11	870,687	12	1	743,041	12	8	1,613,729	4	9

3. Sales of yearly and other short unrenovable tenures, and other land transactions.

The third class of land, that held by yearly and other unrenovable tenures, was by ^{far} the largest and most troublesome to handle. It is also the class of tenure with regard to which we get examples of tenant purchase operations which have a truly close resemblance to those conducted under later land purchase acts. In respect of this

¹ Commissioners, 1869-80, appendix, p. 269, /C.2773-I/, H.C. 1881, xxviii. Small inconsistencies in the statements of amounts, given here and elsewhere, are due to small differences in the time at which the various totals were made by the staff of the commissioners.

Year	Offers	Acceptances	Annual value
1871	927	330	8,315
1872	896	618	11,059
1873	8,885	1,656	48,284

class of tenures as also of the renewable leaseholds, the Irish Church Act placed a difficult responsibility on the commissioners. Before offering these lands for sale to the public, they were to give notice to the tenant that they were prepared to sell him the fee simple of the lands "for a price to be named by the commissioners in the said notice."¹ This differed from the case of the perpetuity leaseholds which had to be sold at twenty-five years' purchase. In order to carry this enactment into effect, it was necessary to have a careful examination and valuation made of every holding, lest, on the one hand, the public property entrusted to the commissioners should be injured by sale at too low a price and lest, on the other hand, the policy of the act should be defeated by offers of sale to tenants at a price too discouragingly high. Since there were over eight thousand of these holdings by yearly and other ^{un}renewable tenures scattered all over Ireland, the work of examining them was very heavy. As the heavy preliminary work on compensations and commutations was completed, increasing attention was given to sales of land. The following table shows the rising total of offers of pre-emption made to tenants of all classes of land in accordance with the 34th section of the Irish Church Act up to the end of 1875.

¹ 32 & 33 Vic., c. 42, s. 34.

Year	Offers	Acceptances	Annual rents of land sold			Purchase money		
			£	s	d	£	s	d
1871	927	330	5,316	0	6	96,504	4	8
1872	140	248	2,154	2	9	68,977	19	5
1873	996	516	11,068	13	2	269,002	6	11
1874	4,392	1,068	15,836	1	9	367,938	15	7
1875	2,895	1,656	48,284	7	7	1,171,074	18	6
Total	9,350	3,818	82,659	5	9	1,973,498	5	1¹

Of the tenants by yearly and other unrenovable tenures to whom offers were made, 2,267 accepted the offers up to 31st December, 1874, at which date a couple of thousand offers were still open.²

The form of acceptance of offer of pre-emption of holding, which the tenant had to fill in if he desired to purchase, was very brief, clear and simple. The main statement which the tenant signed, or against which he made his mark, ran as follows

"I hereby accept the offer of the Commissioners of Church Temporalities in Ireland made in the notice above referred to, and I undertake to pay or secure the purchase money to the said Commissioners within three months from the date of the said notice, as required by the Irish Church Act, 1869, and I propose to complete my purchase in the manner hereinafter indicated."

¹ Commissioners, 1875, p. 14, /C.1400/, H.C. 1876, xx.

² Commissioners, 1874, p. 9, /C.1148/, H.C. 1875, xx.

Commissioners, 1869-70, p. 47, /C.273-1/, H.C. 1881.

There followed a set of queries which the tenant could answer according to the data furnished in the commissioners' offer, indicating what terms he chose to purchase on. The queries were:-

"1. Amount proposed to be paid in cash

2. Amount proposed to be secured by mortgage

(1) Is it desired to give a simple mortgage at 4 per cent?

(2) A mortgage paying off principal and interest in 64 half-yearly instalments?

3. (3) Or a mortgage paying off principal and interest

in 10 half-yearly instalments?

" 20 " " "

" 30 " " "

" 40 " " "

" 50 " " "

By the end of 1875 the sales of land to tenants were making very marked progress which was particularly indicated by a greatly increased proportion of acceptances in relation to the number of offers made. During that year, 2,770 offers of sale were made. Of these, 1,420 were accepted before the end of the year, 400 were declined, and about 900 cases remained pending, the time

¹ Commissioners, 1869-80, appendix, p. 47, /C.2773-I/, H.C. 1881, xxviii.

Ibid.

² Commissioners, 1871, p. 13, /C.2773-I/, H.C. 1871, xxviii.

limit for receipt of answers not having yet expired.¹

When the commissioners first began to offer the church lands for sale to the tenants under the 34th section of the Irish Church Act, the tenants were not generally prepared to take advantage of the offers. Few of them rightly understood the opportunities offered by the act. As a class they were poor and ignorant, and offers of sale were in many cases misunderstood. Many of the tenants were under the impression that the purchase money demanded would secure to them only a lease for ever and that the rent would remain payable. In 1875, however, the commissioners reported,

"The intention and effect of the Irish Church Act is now fully appreciated. The agricultural tenants are almost universally anxious to purchase their farms, and when they do not accept the offer of sale it is generally from inability to pay in cash even one-fourth of the purchase money, as required by the act. We think that they are very seldom deterred from buying by the price being in their opinion too high. They would buy their farms on the terms proposed by us if they had the means of doing so. We have reason for believing that many tenants who were unable to buy, or who misunderstood the offer of sale when first made, will now be glad to purchase. In other cases farms have passed into the hands of persons who would buy them, if they had an opportunity, on the same terms as those offered to their predecessors."²

Accordingly the commissioners decided to make a second offer

¹ Commissioners, 1875, p. 12, /C.1400/, H.C. 1876, xx.

² Commissioners, 1875, p. 13, /C.1400/, H.C. 1876, xx.

of pre-emption to all tenants. The policy also commended itself as being advantageous to the public property, for better prices were obtained by treating direct with the tenants than by any other mode of sale.¹

At the end of 1875 there remained apart from some property in the Landed Estates Court, about 500 holdings in respect of which first offers of pre-emption had not yet been made. The delay in these cases arose from a variety of causes, mainly defective or doubtful title, difficulty of identification and difficulties with regard to procuring the leases in a few cases of leasehold property.²

The commissioners gave two examples of types of difficult property with which they had to cope. One was the glebe of Balkinrobe, in Mayo. On about three and a half acres of land were 20 cabins, many consisting of only one room, eight or nine feet square. They were in a ruinous condition, each propped up by the neighbouring houses and standing only because there was no room to fall. The annual rental of the property was £167. Most of the rents had been paid weekly and monthly to the clergy-

¹ Ibid.

² Ibid.

man, and the tenants were people of the poorest class, some of them speaking no English. The commissioners had the mode and terms of purchase carefully explained to the tenants personally, and ultimately the whole property was sold to them, much of the purchase money being sent across by relatives in America. In this way an almost worthless piece of property was profitably sold.

The second case of difficult property was that of the glebe lands of Killeavy, in Armagh, an area of 720 acres divided up among seventy-two tenants who paid an average annual rent of £5. 9. 0. each. Many of the tenants left at intervals to do work in England or Scotland during part of the year, yet they had improved their land by reclaiming bog and in some cases had built slated houses. The peculiar difficulty about this piece of property was not merely that the tenants were too poor to accept the offer of pre-emption - though thirty of them managed to purchase by the close of 1875 - but that the farms of individual tenants consisted of small separate fields scattered here and there and unconnected by any defined right of way. The commissioners provided a map in their report showing the allocation of the land to different tenants on part of this property and they instanced one farm of five acres, with a rent of £2. 17. 0., consisting of six fields of various sizes all un-

connected with one another.¹

A difficulty which also arose on pieces of property of this kind was the complex nature of rights of turbary and commonage. In many cases of small farms the value of these rights was included in and formed a large part of the rent. It was frequently found that, on land held by one tenant, other tenants had rights of cutting turf, drawing away turf mould or cutting rushes or sedge. Or a number of tenants held land in common in addition to their individual farms, each having a right to graze a different number of cattle on the common.² Bogland in most cases presented special difficulties. Bogland formerly in the occupation of the clergy and unlet to tenants was a difficult property to manage when it came into the hands of the commissioners, and they had to appoint a number of bog bailiffs and arrange for the letting of strips of bog for turf cutting in many parts of the country, details of management which occupied much time and attention. Where possible they allotted a piece of bogland for fuel supply with the glebe houses as they were handed over.³ Some bogs were

¹ Ibid., pp. 13 & 14.

² Ibid., p. 14.

³ Commissioners, 1869-80, p. 12, /C.2773/, H.C. 1881, xxviii.

so undefined that it was found necessary to throw them in for what they would fetch with sales of adjacent holdings to tenants or the public.¹ It will be obvious that the problems of management, valuation and sale presented by such properties were very grave.

Among the sales of property classified as yearly and other tenures, the commissioners included certain small properties of a miscellaneous character, including copyholds, chief rents, stipends and undefined glebes. The sales of these were for the most part carried out during the second half of the period of the commission.

The number of copyholds was not large, because there was only one copyhold estate in the whole of Ireland, the Manor of Kilmoon, which came into the hands of the commissioners with the land attached to the see of Armagh. The manor had been granted to the archbishop by the Crown in 1614. The tenants held their lands at a small quit rent, payable half-yearly. On every change of tenancy, whether by death or transfer, it was necessary to surrender the lands to the steward of the manor, who was the servant of the lord. The incoming tenant paid a fine amounting

¹ Accounts, 1880, p. 3. H.C. 1881. (268), xxviii.

to double the full annual value of the holding vacated, and on payment was formally admitted as tenant by the steward, who recorded the admission on the court roll, a copy of which roll was the tenant's title to his land.¹ There were sixteen copyholders on the manor. Fifteen of these bought their holdings for a total of £7,806 and the tenure of one holding was converted into a perpetuity by the Copyhold Commission at an increased rent, thus passing into another category of holding.²

In addition there were chief rents, stipends and undefined glebes. The circumstances of these were all similar. In all cases rents had been paid to ecclesiastical persons - whose successors the commissioners were - from time immemorial, and in many cases the lands which were liable to the charges could not be clearly identified. This difficulty in identifying the lands made these rents unsaleable to the public, but the commissioners succeeded in selling a considerable number of them to the persons who had been liable for payment and whose liability was undoubted. The number of chief rents, stipends and undefined glebes which came upon the books of the commissioners was 146, having an annual

¹ Commissioners, 1877, p. 4, /C.1960/, H.C. 1878, xxiv.

² Commissioners, 1869-80, p. 17, /C.2773/, H.C. 1881, xxviii.

Commissioners, 1876, p. 4, /C.1848/, H.C. 1877, xxvi.

value of £2,362. Of these 97 were sold for £26,000. There remained unsold forty-nine with an annual value of £1,036, and the commissioners left these to be collected with unsold perpetuity rents.¹ Many of the stipends were payable by lay improPRIATORS of tithes; but some stipends proved to have been free gifts and not in any way legally enforceable. In such cases the persons who had previously been paying them for the benefit of a parish clergyman naturally refrained from paying them to the commissioners.² In some cases commutation had been effected in respect of payments of this nature.³

In 1876 the commissioners continued to make first offers of purchase to those tenants to whom such offers had not yet been made. During the year they made 241 first offers, bringing the total of first offers up to 7,843. They also made 726 sales to tenants, mainly in connection with offers made during 1875, the average rate of purchase being $23\frac{1}{4}$ times the rent.⁴

These transactions practically completed the obligatory sales under the 34th section of the Irish Church Act to persons

¹ Ibid., p. 17.

² Accounts, 1872, p. 4, H.C. (233) 1874, 11.

³ Above, p. 328

⁴ Commissioners, 1876, p. 4, /C.1648/, H.C. 1877, xxvi.

holding by yearly and other unrenovable tenures. The general result of the first offers was that out of 8,433 persons who were on the commissioners' books as tenants when the property vested, 4,114 became, in response to first offers of pre-emption, absolute proprietors of their holdings.¹

As a prefatory move towards making second offers, the commissioners now caused a complete revision of the valuation and acreage of the remaining unsold property to be made, feeling that the great pressure of work which had been thrown upon their staff at the beginning, by commutation and compensation operations, had caused the earlier valuation to be conducted with a dispatch which might have been prejudicial to the interests of some tenants. The result of the revision, however, proved very satisfactory, the alterations made in the valuation being immaterial, and the more exact information obtained about the extent and circumstances of farms being of great importance in facilitating subsequent sales to the public. According to the progress of this work of revision, second offers of sales were made to tenants. Offers were sent out in 1,979 cases during the year, and there were numerous acceptances, though not quite so many as the commissioners had expected. Sales

¹ Ibid. Commissioners, 1869-80, p. 15. /O.2773/, H.M. 1861, xxviii.

were completed in 422 cases and sales were pending in others.¹ These processes continued until the close of the commission when a total of 8,432 holdings had been offered for sale to tenants and 6,057 such offers had been accepted. The annual value of the holdings purchased in this way was £73,759 out of a total of £98,105 annual value of all such holdings vested in the commissioners. The total purchase money received or secured was £1,674,841, representing an average of $22\frac{2}{3}$ years' purchase of the annual value.² It will be seen on comparison with the total extent of other sales of land, that the actual value of these sales to tenants by yearly and other unrenowable tenures was not proportionately great, and that the holdings sold in that way, though numerous, were on the average small ones.

Thus the plan of creating peasant proprietors out of the former tenant farmers of the church lands was a considerable success. The extent and success of the scheme were due very largely to the sound business methods of the commissioners. The tenants were people of small education, many of the glebe tenants being quite illiterate.³ The commissioners were careful to devise

¹ Ibid. p. 563.

² Commissioners, 1869-80, p. 15. /C.2773/, H.C. 1881, xxviii.

³ Ibid. p. 564.

such a system as would save these tenants from having to take any initiative, write any letter or do anything which would have seemed disturbing or formidable to a person of these limitations. Everything was made easy for the tenant. A fair price for his holding was notified to him and everything was, where necessary, explained to him in his own native language. All he had to do was to write or get written about six words of acceptance on the form which is quoted above,¹ and sign his name or affix his mark; and, with the payment of a quarter of his purchase money and the taking out of his conveyance, the transaction was completed. Simple forms of conveyance and mortgage were provided for his use by the commissioners.²

The commissioners also took care to exercise such a limiting control over the use made of mortgage facilities as would prevent the tenants from making unwise use of them. There were two types of mortgage agreement made, as shown on the application form already quoted,³ either a simple mortgage securing the payment of the interest only, at the rate of 4%, or an instalment mortgage which secured the payment of both principal and interest in half-

¹ Above, p. 563 sq. 1869-80, p. 15, /C.2773/, H.C. 1881, xxviii.

² Commissioners, 1869-80, p. 15, /C.2773/, H.C. 1881, xxviii.

³ Above, p. 564

yearly instalments over thirty-two or a less number of years. In every case the commissioners had to require one-fourth of the total purchase money to be paid in cash; but, in cases where the whole purchase money did not exceed £50, they insisted on the whole being paid in cash.¹ Some tenants were very hard pressed to obtain the money, being even prepared in some cases to sell their stock of cattle.² The preliminary requirements for payment in cash were fairly high, and there was nothing in the scheme which might tempt tenants to undertake any of the available types of agreement rashly. In a number of cases farmers asked to have the conveyances made out in the name of another person.³ It is not easy to be sure of the general significance of this; but in some cases this arrangement must indicate the negotiation of a loan or a further mortgage arrangement with some third party.

The subsequent history of the tenant purchasers, as recorded by the Church Temporalities Commissioners and the Land Commissioners, gave a reassuring impression of the good results of the scheme, at least during its earlier period. The Church Temporalities Commissioners received reports that, quite soon after purchases were

¹ Commissioners, 1869-80, p. 15, /C.2773/, H.C. 1881, xxviii.

² Commissioners, 1877, p. 3, /C.1960/, H.C. 1878, xxiv.

³ Below, p. 584.

completed, the new peasant proprietors had made considerable improvements on their properties. New houses had been built, and fencing, draining and reclamation of bogland were proceeding in many places, which was agreeably surprising to the commissioners in cases where they had had evidence of serious difficulty in raising the preliminary purchase money.¹ At first the tenant purchasers of church lands met their obligations well, and there was little trouble with arrears; but later, when the Land Purchase Acts and the falling price of land were giving superior advantages to other tenants and tenant purchasers, they did not make such a good showing.²

A further important aspect of the business methods of the commissioners and the freedom allowed them by the act, which made for the success of their whole sales operations, was the method of making conveyance. Being faced with the choice of making conveyances of land by map or by description, they chose to do it by description. This more practicable and elastic way of working contrasts with the methods laid down in the Landlord and Tenant (Ireland) Act, 1870.³ The commissioners pointed out

¹ Commissioners, 1877, p. 3, /C.1960/, H.C. 1878, xxiv.

² Below, p. 593.

³ 33 & 34 Vic., c. 46.

in their report of 1880 that one reason why they did not feel inclined to adopt the method of description by map was because they had not the powers of the Landed Estates Court to make such maps binding in case of disputes respecting boundaries.¹ There is a certain irony in this comment upon the superior powers conferred upon the Landed Estates Court by the act of 1870, for it was those very powers that did much to defeat the success of the so-called Bright clauses of that act² which were intended to facilitate tenant purchase. The binding nature of the conveyance, the extensive and costly preliminary enquiries and safeguards and the elaborate precautions for clearing up encumbrances did much to stultify the operation of the tenant purchase sections of the land act of 1870, to nullify any attraction they might have had for landlords and tenants and to make them distinctly a failure in contrast to the tenant purchase provisions of the Irish Church Act.³

In 1876 the Church Temporalities Commissioners began to sell land, particularly the residues of the yearly and other tenures, on a large scale to the general public. On the refusal of the

¹ Commissioners, 1869-80, p. 14, /C.2773/, H.C. 1882, xxviii.

² 33 & 34 Vic., c. 46, s. 32-41.

³ A. G. Richey, The Irish land laws, (1880), pp. 81-89.

tenants to avail themselves of the second offer made to them, their lands were advertised for sale as soon as possible. Tenders were invited for any amount of land from one holding upwards, and the highest tender, if it came up to a reserved price, was accepted after a fortnight's delay.¹ These sales to the public enabled the commissioners for the first time to judge by comparison the fairness of the prices which they themselves had placed on the tenants' holdings; and the result, although not at first quite meeting their expectation that a higher price would be obtained from the tenants than from the public, was very satisfactory. Lands purchased by the public at the rate of 22½ years' purchase of the annual rent had been on an average offered to the tenants at 22½ years' purchase, chiefly on the reports and valuations of Marrough O'Brien, the commissioners' principal valuator. This result showed that the commissioners had succeeded to a high degree in fixing prices at a level which was both just to the tenant and advantageous to the public fund which they administered.² In subsequent years the rate of purchase by the public tended, as the commissioners had anticipated, to be slightly

¹ Commissioners, 1876, p. 5, /C.1648/, H.C. 1877, xxvi.

² Ibid.
Commissioners, 1878, p. 4, /C.2286/, H.C. 1878-9, xx.

lower than that of sales to tenants. Thus, in 1877 the rate of sales to the public was just over 22 times the annual rent,¹ and in 1878 it was $21\frac{1}{2}$ times the rent.² The rate for tenant purchases had been $22\frac{2}{3}$. This decline in the rate of purchase in sales to the public was presumably due to the fact that the least valuable and least saleable properties lingered on in the hands of the commissioners to be sold ultimately at a rate which lowered the general average.

The remnants of lands held by yearly and other tenures which remained after the sales to tenants were a very difficult part of the property to dispose of. They had every appearance of being thoroughly bad investments from the point of view of anybody wishing to put money into landed property. It was the most thriving farmers who had bought out their farms, leaving a residue of holdings separated from each other, scattered here and there among the bought holdings, and, as a rule, the smallest and worst cultivated on each particular area of church property. Since it seemed clear that buyers would be hard to find for so unpromising a kind of property, the commissioners held out to buyers the special

¹ Commissioners, 1877, p. 4. /C.1960/ H.C. 1878, xxiv. xviii.

² Commissioners, 1878, p. 4. /C.2288/, H.C. 1878-9, xx.

inducement of the full benefit of the mortgage purchase terms available to the tenants, though not quite such good conditions with regard to length of time allowed for paying up instalment mortgages. In all moderately large transactions the commissioners required only the minimum quarter of the purchase money to be paid in cash. In this way they managed, after much advertising, many sales by auction in their own office and in the country and numerous visits of their officers to remote localities in efforts perhaps to dispose of "a cabin or two so miserable as to be hardly acceptable as a gift," succeeded in selling the whole residue of the property coming within the category of "yearly and other tenures."¹

The sales of the yearly and other unrenovable tenures to the public involved 2,326 holdings of an annual value of £23,310. The purchase money received or secured was £524,813, and the average number of years' purchase of the annual value was $22\frac{1}{2}$.²

The following table gives the details of the yearly progress and extent of sales of yearly and other tenures, including copyholds, chief rents, stipends, etc., up to 1860. There is no distinction between sales to tenants and sales to the public. The

¹ Commissioners, 1869-80, p. 15, /C.2773/, H.C. 1881, xxviii.

² Ibid., p. 16.

¹ Commissioners, 1825-80, p. 229, /C.2773-1/, H.C. 1881, xxviii

² Ibid., p. 267

respective total extent of these has already been indicated, but it is impossible to discover the relative extent of the credit given in each case. The percentage of the purchase money which was credited and secured by mortgage, when calculated on the total amounts of all types of sales of yearly and other tenures reduced to the nearest thousand pounds, was 48.59%.

Year	Annual value			For cash			Sales			Total		
							Secured by mortgage					
	£	s	d	£	s	d	£	s	d	£	s	d
1871	4,247	9	2	40,322	8	11	32,748	12	3	73,071	1	2
1872	1,641	0	9	12,562	2	0	40,308	6	11	52,870	8	11
1873	5,105	9	3	71,022	18	1	78,305	17	2	149,328	15	3
1874	14,362	1	2	145,138	0	3	150,089	12	10	295,227	13	1
1875	15,095	13	5	155,655	14	1	186,024	0	8	341,679	14	9
1876	23,709	1	10	269,200	9	1	226,867	2	1	496,067	11	2
1877	17,935	10	2	217,312	17	10	196,770	0	8	412,082	18	6
1878	7,746	11	10	102,570	6	4	82,405	9	11	184,975	16	2
1879	5,356	7	7	63,244	4	5	45,526	6	8	108,770	11	1
1880	1,815	12	5	36,412	6	7	16,169	7	5	52,581	14	0
Total	97,014	17	7	1,113,441	7	7	1,053,214	16	7	2,166,656	4	8

Sales of rights to mines and quarries realised a total amount of £23,700. 10. 0., of which £23,255. 19. 6. was received in cash and £444. 10. 6. secured on credit.²

¹ Commissioners, 1869-80, appendix, p. 269, /C.2773-I/, H.C. 1881, xxviii

² Ibid. p. 267

The special importance which was attached to the sales of yearly and other tenures to tenants was demonstrated by the publication of schedules giving details of every sale of this nature which was carried out by the commissioners. While these are some proof that the tenant purchase scheme embodied in the Irish Church Act was watched with interest in some quarters, it has been felt to be beyond the possible scope of the present study to enter into an investigation of the extent to which the success of that scheme influenced future land purchase legislation.¹

¹ The following is a list of all the schedules of sales made by the Church Temporalities Commissioners. The first to appear was a House of Lords sessional paper, Return showing the name of each purchaser of lands sold by the Commissioners of Church Temporalities in Ireland, the denomination of land sold, etc., etc., H.L. 1876, (203), x. This dealt with sales of yearly and other tenures up to 1st July, 1876, and it was continued in Commissioners, 1877, p. 28 sq., /C.1960/, H.C. 1878, xxiv, which brought the list up to 31st December, 1877. About the same time there was produced another schedule, published separately from the reports of the commissioners, Return up to 31st December, 1877, of holdings exceeding three acres in extent sold by the Commissioners of Church Temporalities in Ireland, etc., H.C. 1878, (380), lx. The list of sales made in 1878 appeared in Commissioners, 1878, p. 48 sq., /C.2288/, H.C. 1878-9, xx. In the appendix to the final report of the Commissioners of Church Temporalities there was given a complete schedule of sales of 8,639 holdings up to 31st December, 1880; Commissioners, 1869-80, appendix, pp. 151-252, /C. 2773-I/, H.C. 1881, xxviii. Two returns were also published separately about the same time; Returns of holdings purchased by tenants from the Church Temporalities (Ireland) Commissioners and of all holdings purchased by tenants in the Landed Estates Court since the passing of the Land Act of 1870, etc., H.C. 1880, (408-Sess. 2), lvi, running up to 31st August, 1880, and Return by dioceses of the total number of holdings sold by the Commis-

Sales to the public

Sales to tenants

Diocese	Sales to the public		Sales to tenants			
	For cash	On mortgage	Conveyed by their consent to others		Conveyed to themselves	
	For cash	On mortgage	For cash	On mortgage	For cash	On mortgage
Armagh	302	354	28	44	268	529
Clogher	29	21	80	72	121	285
Meath	94	14	15	4	170	108
Derry	39	88	49	56	221	647
Raphoe	117	185	99	35	103	101
Down	6	-	-	-	6	5
Conner	-	161	-	1	17	39
Dromore	34	89	-	-	108	201
Kilmore	80	279	159	113	115	353
Elphin	10	172	1	2	45	28
Ardagh	90	203	20	2	50	77
Tuas	5	7	2	3	138	37
Killala	4	18	1	-	4	12
Achonry	1	-	-	-	3	2
Dublin	83	46	12	1	152	88
Kildare	17	-	12	6	55	38
Ossory	20	26	53	4	80	131
Ferns	30	-	17	2	45	17
Leighlin	-	5	5	-	13	5
Cashel	13	3	6	4	47	36
Emly	3	-	3	-	28	19
Waterford	18	4	11	1	44	26
Idismore	12	1	1	-	43	13
Cork	10	6	6	-	35	37
Cloyne	7	2	4	1	32	30
Ross	4	2	-	2	6	5
Killaloe	6	2	4	-	75	25
Kilfenora	-	-	3	-	10	11
Clonfert	1	7	1	1	20	9
Kilmaedduagh	-	26	2	-	10	2
Imerick	13	7	-	1	36	43
Ardfert	7	1	14	1	132	40
Totals	1,055	1,389	608	356	2,232	2,999
				964		5,231
	2,444			6,195		
			8,639			

Totals 8 39 852 1,602 624 216 1,182,008 95 5,231 (Footnote on following page)

The second table shows the number of holdings conveyed to tenants, classified according to acreable contents.

Diocese	Agricultural holdings						Town & house property	Chief rents, stipends & miscellaneous holdings	Total
	Under 5 acres	5 to 10 acres	10 to 25 acres	25 to 50 acres	50 to 100 acres	100 acres and over			
Armagh	139	164	296	96	33	12	55	2	797
Clogher	63	37	171	79	28	11	17	-	406
Meath	60	42	49	39	19	9	59	1	278
Derry	112	174	341	149	51	13	27	1	868
Raphoe	30	34	60	36	19	11	11	3	204
Down	1	1	5	2	-	-	2	-	11
Connor	6	13	16	-	-	-	18	3	56
Dromore	66	86	91	22	4	2	31	7	309
Kilmore	60	75	205	88	21	5	14	-	73
Elphin	8	6	10	1	2	4	37	5	127
Ardagh	17	20	46	18	5	10	10	1	127
Tuam	3	8	7	4	4	6	143	-	175
Killala	2	3	2	-	1	5	2	1	16
Achonry	-	2	1	-	1	-	-	1	5
Dublin	39	19	16	10	2	4	114	36	240
Kildare	22	17	24	3	1	3	23	-	93
Ossory	46	33	46	21	11	10	37	7	211
Ferns	15	5	7	6	1	1	25	2	62
Leighlin	7	2	2	-	-	1	6	-	18
Cashel	24	9	13	8	2	1	22	4	83
Enly	21	9	5	1	-	-	9	2	47
Waterford	4	6	6	7	2	-	43	2	70
Lismore	12	7	7	2	-	-	26	2	56
Cork	12	12	5	4	1	4	34	-	72
Cloyne	8	13	8	2	-	1	29	1	62
Ross	1	4	3	-	-	-	2	1	11
Killaloe	22	9	9	2	-	-	56	2	100
Kilfenora	5	1	6	7	1	-	1	-	21
Clonfert	11	2	6	2	-	1	4	3	29
Kilmaednagh	2	2	1	-	-	-	7	-	12
Limerick	18	5	24	10	2	1	11	8	79
Ardfert	3	12	14	5	5	-	133	-	172
Totals	8 39	832	1,502	624	216	115	1,008	95	5,231

(Footnote on following page)

The residues of home farms or mensal glebes excluded from sales to the Representative Church Body, being entirely under the control of the commissioners, with no conditions of price attached to them, were sold at a good rate. They were offered in the first instance to the clergy who were in occupation of the glebe house at a price fixed by the commissioners, and if the clergyman declined to purchase in any instance, the land was put up for public auction. The rate of sale was more than twenty-six times the annual value.¹

The sales of the residues of mensal lands excluded from sales to the Representative Church Body were as follows.

Annual value of land sold	£11,840.	17.	11
Sales for cash	£184,304.	5	1
" secured by mortgage	£125,865.	14.	7
" total	£310,169.	19.	8 ²

(from preceding page) The source for these two foregoing tables is Commissioners, 1869-80, appendix, pp. 243-4, /C.2773-I/, H.C. 1881, xxviii. These tables do not provide a contradiction to the statement that acreages and distribution of land by dioceses cannot be given. They refer only to a limited portion of the church land and the classification by acreage could be quickly constructed from returns without totals. The observation already made with regard to slight inconsistencies in the figures on account of small variations in time of assessment may be repeated here. The strict date of 31st December was bound in some cases to be rather theoretical.

¹ Commissioners, 1869-80, p. 12, /C.2773/, H.C. 1881, xxviii

² Commissioners, 1869-80, appendix, p. 270, /C.2773-I/, H.C. 1881, xxviii, and above, p. 357.

The glebes of those clergy who chose to accept annuities from the commissioners rather than commute could not fall into the hands of the commissioners until these annuitants died. Thirty-eight such glebes remained in 1880, and the commissioners twice urged the government to bring in legislation to enable them to take possession of such glebes as well as of unsurrendered leases of tithes, but the government did not interfere with the life use of these properties by the non-commuting clergy.¹

Sales to the public also included some house property. Eighty-nine lots of house property were sold at 22 years' purchase in 1876, the rents at which they were leased having been in most cases below real value and the prices obtained having been paid in consideration of the reversionary profit.²

A very few sales were made in the Landed Estates Court, and the great bulk of the land was offered for sale direct from the office of the commissioners.³ Sales through the Landed Estates Court proved to be slow and unsatisfactory, a delay of years supervening between the initiation of sales and the receipt of

¹ Commissioners, 1869-80, p. 21, /C.2773/, H.C. 1881, xxviii.

² Commissioners, 1876, p. 5, /C.1648/, H.C. 1877, xxvi

³ Ibid., p. 12

the purchase money.¹ In certain cases the commissioners finally withdrew sales which had been put into the Landed Estates Court and dealt with them in their own office.²

As well as the financial receipts from sales, the commissioners were drawing a varying income of rent from the different classes of land which passed into their control. This rent was an uncertain interim income which came to the commissioners while the land lay between the two episodes of vesting in them and sale to tenants or to the public. When rent was extinguished by sale, the income of the commissioners was then temporarily increased by a cash payment at the time of sale, followed in most cases by a terminable series of half-yearly payments to clear off a mortgage. The size and duration of such payments varied according as the purchaser chose to meet his obligations quickly in large instalments or to pay over a longer period by smaller instalments. It follows, therefore, that there is little useful information to be gained by tracing the annual receipts from land rents, particularly during the period of the Church Temporalities

¹ Accounts, 1875, p. 2, H.C. 1876, (263), xx.

² Commissioners, 1876, p. 4, /C.1648/, H.C. 1877, xxvi.

³ Ibid., pp. 16 and 18.

Commission, which was essentially a transition period. Relative to the total receipts from sales and from half-yearly payments, the income which the commissioners drew from actual rents was small. Thus the total receipts from land rents from 1869 to 1880 were as follows:-

	£	s	d
Perpetuity rents	799,543	17	1
Renewable leaseholds (including fines) and other tenures	627,157	10	1
Mineral rents and royalties	7,081	12	5
	<u>1,433,782</u>	<u>19</u>	<u>7</u>

Half-yearly instalments in connection with land mortgages for the same period amounted to £471,370. 17. 2., and mortgage moneys received amounted to £71,922. 5. 10.² Interest on simple land mortgages was £125,369. 4. 9.³

The receipts from conversions of renewable leaseholds into perpetuities during the same period were, in cash, £137,432. 14. 0., and, secured by mortgage, £214,436. 9. 6., and interest received was £71,809. 1. 8.⁴

Arrears of rent were fairly steady through the period, there being no special circumstances connected with the state of the

¹ Accounts, 1880, p. 18, H.C. 1881 (268), xxviii.

² Ibid., p. 20

³ Ibid., p. 18

⁴ Ibid., pp. 16 and 18.

Items

Amount	Under £1	£1 to £2	£2 to £5	£5 to £10	£10 to £15	£15 to £20	Over £20	Total
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country which might have led to difficulties. In a few cases the commissioners thought it desirable, like other landlords, to remit portions of land rents.¹ The commissioners mentioned that the tenants of glebe lands in particular were in many cases very poor, and to adopt legal proceedings immediately in every case of default would have been harsh and unprofitable.²

4. The church lands under the Land Commission.

The powers and property of the Commissioners of Church Temporalities were transferred by the Irish Church Act Amendment Act, 1881,³ to the Irish Land Commission set up by the Land Law (Ireland) Act, 1881.⁴

The character of the landed portion of the income which the Irish Land Commissioners administered for the purposes of the Church Temporalities Fund may be summarised as follows:-

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- ¹ Accounts, 1879, p. 3, H.C. (204- Sess. 2), 1880, xviii
- ² Commissioners, 1875, supplemental report, p. 7, /C.1200/, H.C. 1875, xx.
- ³ 44 & 45 Vic., c. 71.
- ⁴ 44 & 45 Vic., c. 49; Commissioners, 1881-82, p. 1, /C.3413/, H.C. 1882, xx.

Statement of the number of items payable to the Irish Church Temporalities Fund, H.C. 1882, (245), 1.

Items

Title of Account	Under £1	£1 to £2	£2 to £3	£3 to £5	£5 to £10	£10 to £15	£15 to £20	Over £20	Total
Perpetuity rents	17	29	33	54	90	66	42	553	884
Yearly & other rents & stipends	6	8	9	12	18	9	6	20	88
Interest on simple mortgages	8	247	59	377	390	132	71	234	1,518
Land annuities (instalments on instalment mortgages)		3	8	36	253	519	297	933	2,049
Interest on mortgages, converted leaseholds			5	8	28	26	25	131	233 ¹

The landed estate was administered by the newly constituted body in a manner very similar to that in which it had been administered by the Church Temporalities Commissioners; but the more strenuous pressing forward of sales was at an end. The number of items payable as rents had become relatively small and came predominantly from perpetuities. The largest group of items of receipt was the annuities payable on sales which had already been made, a source of income necessarily terminable. The facilities for making further sales to tenants under the terms of the Irish Church Act were still open, but the main part of the task

Statement of the number of items payable to the Irish Church Temporalities Fund, H.C. 1882, (245), 1.

of converting the church's former smaller tenants into proprietors of their holdings had been achieved by the sales of all the yearly and other short tenures under the preceding commissioners. The additional holdings in this category which now fell into the hands of the Land Commissioners from time to time came to them at the deaths of annuitants who did not commute. Efforts by the Church Temporalities Commissioners to procure legislation to bring such holdings into their hands more speedily had failed.¹

New developments were heralded by a noticeable increase in arrears. In the year ending March, 1883, a few small sums of arrears from land rents and from interest due on mortgages for conversions of leaseholds were remitted.² Later, the same had to be done on a more considerable scale in the case of the half-yearly instalments on mortgages.³ In 1883 the Land Commissioners had to report that, while there was a diminution in arrears due to them at the close of the financial year as compared with the amount due on 31st March, 1882, this was not the case with the

¹ Above, p. 509
² Accounts, 1882-3, p. 3, H.C. 1884, (54), xxii.
³ Accounts, 1887-8, p. 3, H.C. 1889, (58), xxviii.
⁴ Commissioners, 1882-3, p. 3, /C.3897/, H.C. 1884, lxi.

buyers of residues of church property. These purchasers had been very much embarrassed both by having the rents of their tenants in many instances lowered by the land courts, and also by the difficulty which they experienced, on account of the state of the country, in collecting rents at all. The result was that they had fallen considerably into arrears in the payment of their annual instalments. The small tenants who had purchased their own holdings which were not sublet, on the other hand, for the most part met their engagements regularly, but some of them had begun to complain of their position as purchasers who had bought at a time when the price of land was high and on terms which compared unfavourably with those enjoyed by such of their neighbours as had availed themselves of the land act of 1881. A couple of rather unfavourable seasons had also caused an increase in applications for the postponement of payments of instalments.¹

Easement of terms and the assimilation of the position of the church tenant purchasers to that of other purchasers under the Irish land legislation of the later nineteenth century was slow; but as that legislation came into force, the relatively small landed property in the actual possession of the Land

¹ Commissioners, 1882-3, p. 5, /C.3897/, H.C. 1884, lxiv.

Commissioners on account of the Church Temporalities Fund came to be affected by it, and that part of the church temporalities income which consisted of annuities or mortgage interest from sales at all periods was also modified.

The first legislation which may be mentioned was the Purchase of Land (Ireland) Act, 1885.¹ This act reduced the rate of interest payable under the Irish Church Act by those purchasers of land, the balance of whose outstanding purchase money was secured by simple mortgage. Interest was to be reduced on such mortgages from 4%, the rate fixed by the Irish Church Act, to 3½%, on condition of all arrears of interest being paid up.² There was to be a like reduction in the rate of interest payable by those whose remaining purchase money was secured by instalment mortgages, with the further advantage for this class of purchaser that their payments might be rearranged to extend over a period of forty-nine years from the date of the commencement of their existing annuities. The maximum period fixed by the Irish Church Act for such an annuity had been thirty-two years. The condition as to discharge of arrears applied to the reduction of interest

¹ 48 & 49 Vic., c. 73

² Ibid., s. 23, ss. 2 (a).

on instalment mortgages as well as on simple mortgages.¹ It may be noted that these advantages and reductions did not extend in any respect to payers of perpetuity rents.²

A considerable number of tenant purchasers under the Irish Church Act took advantage of the provisions of this section of the 1865 land act. Seven hundred and forty applications were made by instalment mortgagors for relief. Of these, eighty-five were held up on account of arrears. A few applications were also withdrawn, those who had advanced them having decided that they would prefer to continue paying instalments calculated over the period of thirty-two years. In 1,132 cases, interest on simple mortgages was reduced from 4% to 3½%. In 362 cases the reduction of interest was postponed on account of arrears. The loss of annual revenue to the Church Temporalities Fund by these readjustments was approximately £4,330 on instalment mortgages and £1,780 on simple mortgages. But, since the periods of the payments were extended in many cases, the loss on the instalment mortgages was not absolute except in so far as it arose from loss of interest.³

¹ Ibid., s. 23, ss. 2 (b) & (c).

² Ibid., s. 23, ss. 2 (d).

³ Commissioners, 1885-86, p. 4, /C.4699/, H.C. 1886, xix.

The adjustment in cases of altered periods of payment involved the drawing of new deeds.¹

Nevertheless, although the tenant purchasers under the Irish Church Act had been discharging their liabilities fairly well as a class, considering their circumstances, arrears were steadily on the increase.² Where the commissioners felt bound to take proceedings to close on the mortgaged property of tenant purchasers who were much behind in payments, they found themselves confronted by the same difficulties which confronted other landlords at the time. In hardly a single instance were they able to effect the sale of a purchaser's interest against his will. In the case of a desirable piece of land near Ardee, Co. Louth, from which a purchaser who owed twelve half-yearly instalments was evicted after all attempts at compromise had failed, the farm was set up for sale and the sale was rigorously boycotted. The property therefore remained on the hands of the commissioners, who, after having incurred heavy expenses, had now also to instal a caretaker. This incident, and the certainty that a similar

¹ Accounts, 1865-86, p. 3, H.C. 1867 (16), xxvii.

² Commissioners, 1865-86, p. 4, /C.4899/, H.C. 1886, xix.

result would follow on any attempt to dispossess a purchaser who was in arrears, compelled the Land Commissioners to be extremely tolerant to such purchasers.¹

Further legislation for reduction of payments due under the Irish Church Act was made in the Land Law (Ireland) Act, 1887.² By this act all payments of interest on mortgages were reduced to 3½%.³ In addition, provision was made for the payment of arrears by instalment, with interest at 3½%.⁴ This act came into force on 27th August, 1887, and the Land Commissioners reduced the interest on payments due on 1st November, 1887. Since this was partially retrospective, a special clause was inserted in the Public Works Loans Act, 1886,⁵ legalising the proceeding.⁶ The Land Law (Ireland) Act, 1887, also allowed all the mortgage payments to be spread out over longer periods of time with variations accordingly in the amount due in each year, as the commissioners might see fit, so long as the extended period in no case went

¹ Commissioners, 1886-87, p. 6; /C.5223/, H.C. 1887, xxv.

² 50 & 51 Vic., c. 33.

³ Ibid., s. 25, ss. 1.

⁴ Ibid., s. 25, ss. 5.

⁵ 51 & 52 Vic., c. 39, s. 4

⁶ Accounts, 1887-88, p. 3, H.C. 1889, (58), xxviii.

¹ 50 & 51 Vic., c. 33, s. 25, ss. 1 & 4.

² Ibid., s. 25, ss. 5.

beyond the forty-nine years from the commencement of payments.¹ Purchasers of perpetuity rents were excepted from the operation of these provisions.² £1,800 represented a permanent loss, being the position when the property was affected by this legislation was as follows. The capital amount due in respect of simple mortgages on 31st March, 1886, was £683,850. The annual receivable interest on simple mortgages amounted to £27,452. The annual instalments receivable in respect of instalment mortgages was £62,904, making a total annual income from mortgaged land for the time being of £90,356. Arrears unpaid on each class of security on 31st March, 1888, were, on simple mortgages £13,025, and on instalment mortgages £41,290, a total of £54,315. Of this total, £47,912 was due by purchasers of perpetuities and of perpetuity rents and by purchasers of residues, and only £6,403 was due by former tenants of yearly and other terminable tenures, the important class of small tenant purchasers under the Irish Church Act. As the result of the act of 1887, the annual payments of 923 purchasers of church land were reduced; and arrears to the amount of £18,461 were capitalised. In 114 cases which were considerably in arrears, however, the purchasers in default did

¹ 50 & 51 Vic., c. 33, s. 25, ss. 1 & 4.

² Ibid., s. 25, ss. 8.

not take advantage of the provisions of the act. The decrease of annual income caused by the whole operation amounted to £8,100 a year, of which only £1,800 represented a permanent loss, being the result of reduction of interest, and the rest being the result only of extending the period of payments and reducing the annual liability accordingly to a smaller sum.¹ The commissioners attributed the extent of arrears to the social unrest in the country, and in particular cases of difficulty they gave extended time for payment, but in other cases they felt that landowners were applying their rents to meeting other charges over which their liabilities for mortgage payments ought to have been given precedence. In a number of cases application was made for the appointment of receivers. It will be seen that the arrears were due mainly by purchasers of tenanted land and not by the small tenant purchasers.² There were 2,592 purchasers under the 24th section

The carrying into effect of the provisions of the 23rd section of the act of 1885 and the 25th section of the act of 1887, by extending the terms of some three thousand mortgages, recalculating the new instalments and placing them on the charge

¹ Commissioners, 1887-88, p. 10, /C.5586/, H.C. 1888, xxxiii.

² Ibid., p. 9.

³ 38 & 39 Vic., c. 42, s. 26, ss. 5

books, involved considerable extra labour for the staff of the Church Property Department of the Land Commission; and the duty had to be performed to some extent at the expense of the collection of perpetuity rents and interests on converted leaseholds, which accordingly showed some increase in arrears.¹ The obligations of these purchasers of church land, to whom relief was given by these two acts, were found to be on the whole punctually discharged during the year 1888-89.²

These two acts of 1865 and 1867 overlapped to some extent, the second being a more extended application of the principles of the first. The second act tended to affect a smaller number of cases but larger holdings. The general extent of the application of the two acts may be summarised as follows, by reference to the sections of the original act under which the purchases were made. There were 2,599 purchasers under the 34th section of the Irish Church Act,³ the section particularly designed to facilitate tenant purchases, who had outstanding mortgage debts due to the Land Commissioners at the date of the passing of the Purchase of Land (Ireland) Act, 1865. Of these, 600 purchasers

¹ Commissioners, 1888-89, p. 8, /C.5876/, H.C. 1889, xxvii. 1dings.

² Ibid., p. 9. holdings, and carrying a larger burden of arrears.

³ 32 & 33 Vic., c. 42, s. 34, ss. 5

⁴ Return relating to globe forests in Ireland, etc., H.C. 1888, (370), lxviii.

by instalment mortgage obtained relief under the 23rd section of that act, and 1,076 purchasers by simple mortgage obtained relief under it. The Land Law (Ireland) Act, 1887, mainly affected purchasers under the 52nd section of the Irish Church Act alone - not necessarily purchasers under the special provisions of the 34th section to enable and encourage tenants to purchase, but those purchasing under the general provision to cover any mortgage sale of land. Of the purchasers under that section of the Irish Church Act, 766 purchasers by instalment mortgage and 260 by simple mortgage obtained relief under the 25th section of the act of 1887. In addition, 382 purchasers under that 52nd section of the Irish Church Act obtained relief under the 5th subsection of the 25th section of the act of 1887 for the funding of arrears, these arrears so dealt with amounting to £31,000. The distinction between the two acts of 1885 and 1887 as they affected purchasers of church property lay in the first dealing with the tenant purchasers under the 34th section of the Irish Church Act, a large class with small holdings and only moderate arrears, and the second dealing mainly with the purchasers under the 52nd section alone of the Irish Church Act, a smaller class with larger holdings, often tenanted holdings, and carrying a larger burden of arrears.¹

¹ Return relating to glebe tenants in Ireland, etc., H.C. 1888, (370), lxxviii.

The number of unsold holdings of church land remaining in the hands of the Land Commissioners was not large; and a new stage in the history of the church property was reached with the passing of the Purchase of Land (Ireland) Act, 1891.¹ This act laid down that notwithstanding anything in section 52 of the Irish Church Act (the section enabling the commissioners to accept mortgages as security for three-fourths of the purchase money of any land sold under that act), the Land Commissioners might now carry out any such further sales of church land under the provisions of the Land Purchase Acts.² This caused the church land held by the commissioners to lose its special character as being liable to terms of purchase different from those applying to any other land which came into their hands; and the commissioners could now make advances to the tenants of former church land in the form of guaranteed land stock to the extent of their requirements for purchase money. The number of tenants who availed themselves of these extended facilities was not very large, but they made a steady inroad on the extent of the church temporalities land rental. Up to the close of the year 1892-93, twenty-one tenants occupying holdings on the church property estate availed themselves of the

¹ 54 & 55 Vic., c. 48. ² *Ibid.*, s. 10. 1901. xvii.

provisions of the Land Purchase Acts to get advances in guaranteed land stock for the purchase of their holdings.¹ In the year 1893-94, fifty-two tenants took advantage of these opportunities and received advances of guaranteed land stock to the amount of £17,288.² Advances for about the same amount were made the following year to fifty-seven tenants.³ The number increased to fifty-nine in 1895-96, and the advance amounted to £24,207.⁴ Sixty-five tenants obtained advances amounting to £25,927 in 1900-01.⁵ The general effect was to assimilate the remaining unsold church land in all respects to any other land that happened to be in the hands of the Land Commissioners, with the difference that all financial receipts from the sale of church land went into the Church Temporalities Fund. Soon after this, provision was made for the repeal of so much of the Irish Church Act as had become obsolete, including parts of the 34th section dealing with tenant purchase. The repeal was effected by the Statute Law

¹ Commissioners, 1891-93, p. 18, /C.7056/, H.C. 1893-4, xxiv.

² Commissioners, 1893-94, p. 14, /C.7380/, H.C. 1894, xxvii.

³ Commissioners, 1894-95, p. 14, /C.7803/, H.C. 1895, xxv.

⁴ Commissioners, 1895-96, p. 14, /C.8140/, H.C. 1896, xxiv.

⁵ Commissioners, 1900-01, p. 9, /Cd.690/, H.C. 1901, xvii.

² Return giving the number of tenants occupying glebe lands, etc. H.C. 1894-5, (1897), lxxv.

³ Commissioners, 1891-93, p. 18, /C.7056/, H.C. 1893-4, xxiv.

Revision (No.2) Act, 1893.¹ The terminal or winding-up character of this legislation coincided with the beginning of a steady fall in the landed income of the Church Temporalities Fund. A return for payment of half-yearly instalments of interest remained dis-advantageous compared with those tenants of the church estate and other estates who bought out under later acts. The contrast had been £90,356 in 1886.

Another result of obtaining for the church estate tenants the general purchase facilities of the Land Purchase Acts was to introduce a likelihood of some loss in connection with sales of perpetuity rents. The price of these had been fixed under the Irish Church Act at twenty-five years' purchase, and the rents were variable at seven year intervals according to the price of wheat and oats. Recent adjustments of the rents had caused a slight loss to the church estate. Under the Land Purchase Acts, payers of these perpetuity rents who sold to their tenants were entitled to have the redemption price of their own interest fixed by arbitration, and in such cases the statutory price of twenty-five years' purchase

might not as a general rule be realised.

Although the remaining church tenants were enabled by the act of 1891 to enjoy the advantages of the Land Purchase Acts, the

¹ Accounts, 1890-91, p. 3, H.C. 1892, (29 - Sess. 1), xxvii.
56 & 57 Vic., c. 54

² 58 & 59 Vic., c. 47.
² Return giving the number of tenants occupying glebe lands, etc. H.C. 1893-4, (229), lxxv.

³ Commissioners, 1891-93, p. 18, /C.7056/, H.C. 1893-4, xxiv.

position of those tenants who had bought out their holdings under the earlier arrangements of the Irish Church Act and were liable for payment of half-yearly instalments of interest remained disadvantageous compared with those tenants of the church estate and other estates who bought out under later acts. The contrast between the extent of their arrears and those of other purchasers was very marked. In 1890-91 the percentage arrears on the whole collection rentals of the church property (tithe rentcharge as well as land) increased, from 29.1% in the previous year, to 31.9%. There was a large increase of arrears under the heads of renewable leaseholds (including fines) and other tenures and the mortgage account in connection with interest for converted leaseholds. The arrears due from borrowers under the Land Purchase Acts for 1890-91 had been an average of only 3.7% of the total collectible within the year, and the Comptroller and Auditor General drew special attention to the unfavourable contrast.¹

An attempt was made to adjust this inequitable position by the Land Law (Ireland) Act, 1896.² Just as this act ~~was~~ made a reduction in the duration of annuities in lieu of tithe rentcharge,³

¹ Accounts, 1890-91, p. 3, H.C. 1892, (29 - Sess. 1), xxvii.

² 59 & 60 Vic., c. 47. p. 10, /C. 8638/, H.C. 1897, xxiii.

³ Above, p. 524

it also reduced payments in respect of mortgage purchases of land under the Irish Church Act. Under the 25th section of the Land Law (Ireland) Act, 1896, provision was made for scaling down the extent of annuities under the Land Purchase Acts at intervals of ten years. Thus for the first ten years the annuity was calculated upon the total advance made to the purchaser; but in the second and third decades it was calculated upon so much of the advance as remained unpaid at the close of the preceding decade. This provision was extended to apply to payments of mortgage money under the Irish Church Act and amending acts.¹ In the majority of the cases to which this provision was applied, two or more decades had passed from the date when the annuities had commenced up to the gale day next succeeding the passing of the act. Consequently the reduction made in such annuities was proportionately larger than in other classes of land purchase annuities affected by the act. The extent of the advantage to the purchasers can be seen by the fact that readjustment of 509 annuities in 1896-97 brought down their total annual amount from £14,315. 14. 4. to £8,987. 13. 4.² And in the following year the readjustment of 1,206 annuities

¹ 59 & 60 Vic., c. 47, s. 26, ss. 2.

² Commissioners, 1896-97, p. 10, /C.8638/, H.C. 1897, xxiii.

reduced their annual value from £30,326. 19. 7. to £19,534. 9. 10.¹

In addition, the act of 1896 gave further facilities for the funding of arrears and debts of any kind.² Advantage was taken of this by a certain number of purchasers for several succeeding years. In 1897-98, for instance, 300 purchasers, who were paying interest on simple mortgages, applied to have their outstanding debts, in respect of which the annual interest payable was £5,600, converted into terminable annuities. This was done, and the annuities payable amounted to £7,200. This act had thus the effect of winding up many transactions with purchasers by simple mortgage.³

The general effect of this legislation on arrears of all kinds on the collection rentals of the Church Property Department of the Land Commission appeared in the more favourable reports of the Comptroller and Auditor General in subsequent years. On 31st March, 1908, the arrears fell to £46,751. 8. 8. which was 12.9% of the total sum receivable in the year, as compared with 33.8% in 1888-89, 15.7% in 1898-99 and 13.4% in 1906-07.⁴

¹ Commissioners, 1897-98, p. 8, H.C. 1898, (331), xx.

² Ibid., s. 26, ss. 1.

³ Accounts, 1897-98, p. 3, H.C. 1899, (66), xix.

⁴ Accounts, 1907-08, p. 18, H.C. 1909, (51), 1.

It will be observed that, from the point of view of those in charge of the Church Temporalities Fund, the distinction between tithe rentcharge or tithe rentcharge annuities and the payments due from purchasers of church land was not as sharp as may appear to those who have approached this subject rather from the point of view of the historical origins of these two classes of payment. Both were charges on land, often payable by much the same class of person. Arrears in one were accompanied by arrears in the other and were the product of similar social or economic circumstances. The legislation which was designed to modify the terms incumbent upon the payers of one class of charge usually included or was associated with legislation for the benefit of those who paid the other. The percentage condition of arrears for both sources of income together seems at most periods to have accurately reflected the position with regard to arrears in either.

The last important legislative change which was made in the landed property of the church estate by the land acts of that period was the reduction of perpetuity rents under the Irish Land Act, 1903.¹ This act extended the provision of the Tithe Rentcharge (Ireland) Act, 1900,² to payments of any variable rents.

¹ 3 Edw. 7, c. 37, s. 90.

² 63 & 64 Vic., c. 58.

The provisions of that act have already been described.¹ It had provided for the publication of a certificate in the Dublin Gazette setting forth the average percentage variation in judicial rents and for the reduction of liability for payment of unredeemed tithe rentcharge in a similar proportion. This was now applied to perpetuity rents payable to the Land Commissioners out of the former church estate. There were 779 of these rents, amounting to £49,626. 14. 0. in annual value; and they were reduced from 1st November, 1903, by £11,347. 15. 2. or 22.86%.² Similarly, in 1917, a reduction of 17.1% was made in accordance with a new certificate, and a rental of perpetuities which had amounted to £22,590. 19. 0. was reduced to £18,729. 6. 2.³

With the coming into operation of the Land Purchase Acts, it ought to be possible to make some comparison between the extent and financial success of the land purchase provisions of the Irish Church Act and the similar provisions of other acts. An adequate basis for such a comparison is, however, lacking on account of the fact that it is impossible to distinguish in the

¹ Above, p. 526

² Commissioners, 1903-04, p. 10, /Cd.2168/, H.C. 1904, xvii.

³ Commissioners, 1916-17, p.xi, /Cd.8742/, H.C. 1917-18, xv.

case of the Irish Church Act, how much of the credit advanced was in aid of tenant purchases and how much of it was in aid of purchases by the public. There is also the added difficulty that, unlike most later sales under the Land Purchase Acts, the church land was in some cases sold in large holdings, sometimes extensively sublet; and a transaction figuring nominally as a purchase by the tenant, might be, from a certain practical point of view, a sale over the heads of the tenants, in as much as the benefits of purchase were not passed on to the subtenants. Adequate material for such a comparison with the workings of other acts is also not to be had without further research than can be devoted to it in the present connection. Parallel returns made by the Land Commission are not as helpful for the purpose as might be expected; for the Irish Church Act came so long before most of the other acts that there is little overlapping in the time during which the operations under that act and others took place. The most convenient and comprehensive survey of the position with regard to all current land purchase legislation, which included the Irish Church Act, was produced by the Land Commissioners in 1890. It showed clearly that the Irish Church Act was the largest tenant purchase operation until the Purchase of Land (Ireland) Act, 1885; but the figures given for the Irish

Church Act advances included advances to all purchasers, the commissioners being unable to distinguish them.¹

An attempt made by Montgomery, who seems to have been the first British authority to stress the importance of the land purchase provisions of the Irish Church Act, to compare its results with those of later acts² gives the following figures:-

Act	Number of Purchasers	Amount advanced ²
Irish Church Act, 1869	6,000	1,674,000
Land Act, 1870	824	516,716
Land Act, 1881	731	240,554
Lord Ashbourne's Act, 1855	8632	5,986,000

The figures for the act of 1855 are advanced to represent the extent of transactions pending, which could have been carried out up to the time of writing if the financial limit of £5,000,000 imposed by that act had been then extended to meet them. The figures for the Irish Church Act give the total purchase money.

¹ Return of advances and repayments under the Irish Church Act, 1869, and the several land acts of 1870, 1881, 1885 and 1888. H.C. 1890, (125), lx.

² Basing his figures on a statement made by D. H. Madden, Solicitor General for Ireland, 19th November, 1888; 3 Hansard, cccxxx. 1520 sq.

¹ G. S. Montgomery, The history of land tenure in Ireland (1889) p. 175.

and the writer argued that the true amount would be about three-quarters of this.¹ The figures undoubtedly have significance, but the comparison which they enable us to make is a very rough one indeed, which would have to be qualified by consideration of such matters as the size of the holdings, the percentage of interest charged on advances and the actual purpose and conditions of the advances.

The general effect of the various legislative changes which have been described, upon the church estate income from land, together with the general processes of continued sales of land, the consequent transfer of income from the category of rent to that of instalments, and the lapsing of some of the instalments begun in connection with earlier mortgage sales of church land, had a complex influence; but the general result was a steady fall in the income. The following table of landed income at intervals of five years is constructed from the annual estimates of the Land Commission. The figures therefore represent, not actual^x income, but expected income. The difference is slight, and this source gives the most convenient set of round figures for the purpose of illustrating the general tendencies of the landed income of the Church Temporal.

¹ W. E. Montgomery, The history of land tenure in Ireland (1889) p. 175.

alities Fund during the later years of the Land Commission, up to the time of the apportionment of the Church Temporalities Fund between the Irish Free State and Northern Ireland.

Land or converted	1895-6	1900-1	1905-6	1910-1	1915-6	1920-1
	£	£	£	£	£	£
Perpetuity rents	55,547	51,328	37,893	31,025	23,392	16,054
Renewable leaseholds, yearly and other tenures	1,264	1,924	1,877	860	439	421
Interest, land mortgages	15,725	7,845	7,681	7,248	5,495	5,209
Interest, converted leasehold mortgages	6,556	6,266	5,708	3,962	2,771	2,062
Terminable land annuities	42,454	32,715	28,681	20,496	17,457	15,520 ¹

In this table, the terminable annuities represented the only part of the income which was definitely terminable. The rest could theoretically be counted as permanent. But the perpetuity rents and the renewable and other leaseholds were steadily diminished by

¹ The sources for these figures are respectively Commissioners, 1894-95, p. 96, /C.7803/, H.C. 1895, xxv; Commissioners, 1899-1900, p. 113, /Cd.294/, H.C. 1900, xvii; Commissioners, 1904-05, p. 143, /Cd.2648/, H.C. 1905, xxii; Commissioners, 1909-10, p. 147, /Cd.5321/, H.C. 1910, xxxi; Commissioners, 1914-15, p. 116, /Cd.8042/, H.C. 1914-16, xxiv; Commissioners, 1919-20, p. 69, /Cmd.1064/, H.C. 1920, xix.

² Accounts, 1922-23, p. 17, H.C. 1924, (22), xiii.

Interest
 sales; and the interest on simple mortgages in connection with sales of land or conversions of renewable leaseholds was liable to and through the mortgages being cleared up on further sale of the land or converted into an instalment payment by the facilities made available by the land acts for the funding of debts.

During the end of the period before the apportionment of the fund, arrears began to mount up rapidly on account of the disturbed state of Ireland. The increase of arrears for the collected income of the fund as a whole had already been noted with reference to tithe rentcharge. The rise in the percentage of arrears for Southern Ireland was from 29.8% in 1922 to 46.7% in March, 1923. The totals of financial transactions connected with land for the whole period, from the passing of the Irish Church Act in 1869, to 1923, and for 1922-23, were as follows.

<u>Receipts</u>	1869-1923	1922-1923
<u>Rents</u>		
Perpetuity rents	£2,605,480 11 5	£10,168 13 9
Renewable leaseholds (including fines) & other tenures	674,331 0 4	276 11 1
Mineral rents and royalties	7,091 12 5	0 0 0

Accounts, 1922-23, p. 17, H.C. 1924, (22), xiii.

<u>Interest</u>	1869-1923			1922-23		
	£	s	d	£	s	d
Mortgages, landed property	599,543	10	10	2,843	15	1
Mortgages, converted leaseholds	307,420	13	1	781	0	2
<u>Land annuities</u>	6,895,439	13	9	7,404	2	3
<u>Sales</u>						
Perpetuity rents	1,510,267	11	10	6,112	2	4
Perpetuity rents, received in stock (Purchase of Land (Ireland) Act, 1891)	66,203	12	9	162	0	0
Renewable leaseholds and other tenures	1,232,059	14	11	391	1	0
The same, received in stock	23,874	0	0	0	0	0
Rights to mines and quarries	3,393	19	6	0	0	0
The same received in stock	5	5	0	0	0	0
Mortgage moneys, landed property	234,174	19	11	125	0	0
Mortgage moneys, converted leaseholds	202,946	7	11	4,628	14	10
<u>Redemptions</u>						
Land annuities	403,701	4	9	1,261	3	5
Conversion of renewable leaseholds	137,432	14	0	0	0	0

Accounts, 1922-23, p. 8 and H.C. 1924, (22), xlii.
 Accounts, 1921-22, p. 17, H.C. 1922, (11-Session), lii.

<u>Expenditure</u>	1869-1923			1922-1923		
	£	s	d	£	s	d
Charges and encumbrances affecting property	106,731	3	4	1	1	2
Expenses attendant on sales of property	9,722	1	9	0	0	0
Allowances to tenants (improvements, repairs, etc.)	415	1	0	0	0	0
Quit and crown rents paid	2,430	14	9	0	0	0
Rent abatements, poor rate, remissions, etc.	78,641	10	5	9	19	6 ¹

5. The church lands under the governments of the Irish Free State and Northern Ireland.

The principle observed in the apportionment of the Church Temporalities Fund between the Irish Free State and Northern Ireland was that all revenues derived from land or interest in land were apportioned to the government within whose territories the land was situated.²

The Irish Land Commission was transferred to the government of the Irish Free State on 31st March, 1923, and its powers, duties

¹ Accounts, 1922-23, p. 2 sq., H.C. 1924, (22), xiii.

² Accounts, 1921-22, p. 17, H.C. 1922, (11-Sess.2), 111.

and jurisdiction were confirmed by the Land Law (Commission) Act, 1923.¹ By the Ministers and Secretaries Act, 1924,² the Department of Lands and Agriculture, the Department of Fisheries and other state departments were established, and the Land Commission was assigned to the department of the Minister for Lands and Agriculture.³ By the Irish Land Commission (Redistribution of Public Services) Order, 1927,⁴ however, the commission was transferred to the Minister for Fisheries, who, by the Ministers and Secretaries (Amendment) Act, 1928,⁵ became known as the Minister for Lands and Fisheries.

Under the new arrangement, the annual income from landed property continued to fall, owing to expiration of annuities and some sales.⁶ The property in the Free State was also affected by some further legislation. The Land Act, 1931,⁷ made alterations

¹ S.E., Act No. 27 of 1923 ² S.E., Act No. 16 of 1924

³ Ibid., schedule, part 5.

⁴ S.E., S.R. & O. No. 55 of 1927

⁵ S.E., Act No. 6 of 1928

⁶ Commissioners, 1923-28, p. 30, Saorstát Éireann.

⁷ S.E. Act No. 11 of 1931, s. 36, ss. 4.

⁸ Accounts, 1925-26, p. 8, S.E., P. No. 2678

⁹ Accounts, 1924-25, p. 8, S.E., P. No. 2678

in land purchase finance which slightly affected the church property, and the same act¹ provided for the reduction of variable rents by 8%, thus slightly reducing receipts from perpetuity rents.² The Land Act, 1933³ provided for revision of rents and funding of arrears, and the resulting revision reduced the permanent and terminable revenue of the Church Temporalities Fund by over £4,000.⁴ A quantity of arrears was also funded and some was written off.⁵

The general effect of the lapse of annuities, the effecting of further sales and the introduction of this legislation is shown in the following table. The figures refer to actual

Revenue.

	1924-25	1929-30	1934-35	1939-40
Perpetuity rents	15,285 2 1	9,520 6 10	4,645 7 8	3,684 4 7
Renewable leaseholds & other tenures	225 12 1	106 10 3	98 19 0	134 6 1
Mortgages, land	2,092 12 4	2,153 16 7	291 11 2	209 0 1

¹ The Land Purchase Acts in a modified form in Northern Ireland, *Ibid.*, s. 49

² dealing or amending many important provisions of them and tending Accounts, 1931-32, p. 8, S.E. P. No. 1099

³ S.E. Act No. 36 of 1933, s. 18 is made are the appropriate entries in Accounts, 1934-35, p. 8, S.E., P. No. 2678

⁴ Accounts, 1935-36, p. 8, S.E., P. No. 2678

⁵ Accounts, 1934-35, p. 8, S.E., P. No. 2598

S.E. & C. No. 615 of 1925, s. 5. 12 & 13 Sec. 5, c. 13 (N.I.)
15 & 16 s. 5, c. 34

in its general character to point forward to the time when the

Mortgages converted leaseholds	716 6 7	573 18 8	215 5 9	96 16 1
Land annuities	8,728 2 6	7,338 16 9	3,192 15 8	5,232 5 2 ¹

Ireland and caused the remaining functions of the Northern Ireland Land Purchase Commission, Northern Ireland" was established by the Land Purchase (Northern Ireland) Order, 1923;² but the whole of the apportioned church property was taken over by the Ministry of Finance, Northern Ireland, and to the Judge of the Northern Ireland High Court. The provisions of the Fund Act (Northern Ireland), 1922.³ The passage of time had much the same effect on the landed income of the church temporalities with in due course.

estate in Northern Ireland as in the Free State, but there was no legislation parallel to that which passed in Dublin. On the contrary, the activities of the Northern Land Commission were steadily closed down, tenant purchase and the splitting up of property had and the Ministry of Finance. The following table shows the tenet-state assistance withdrawn, and the opposite tendency towards the engrossing of small properties was allowed to take its course.

The Northern Ireland Land Act, 1925,⁴ continued the operation of the Land Purchase Acts in a modified form in Northern Ireland, repealing or amending many important provisions of them and tending

¹ The sources upon which the table is made are the appropriate entries in Accounts, 1924-25; Accounts, 1929-30, S.E., P. No. 678; Accounts, 1934-35, S.E., P. No. 2598; and Accounts, 1939-40, Bire, P. No. 4704.

² S.R. & O. No. 615 of 1923, s. 3. ³ 12 & 13 Geo. 5, c. 13 (N.I.)

⁴ 15 & 16 Geo. 5, c. 34

1924-25 1929-30 1935-36 1941-42

in its general character to point forward to the time when the land purchase facilities in Northern Ireland would be brought to a close. The Northern Ireland Land Purchase (Winding Up) Act, 1935,¹ ended the operation of the Land Purchase Acts in Northern Ireland and caused the remaining functions of the Northern Ireland Land Purchase Commission to pass to other departments, principally to the Ministry of Finance, Northern Ireland, and to the Chancery Judge of the Northern Ireland High Court. The provisions of the act were directed to be brought into operation at times to be appointed by an order or orders in Council, and were proceeded with in due course.

The result was that further purchases of the remaining church property or adjustments of payments can be made, not under the land acts, but by direct agreement between the tenant or purchaser and the Ministry of Finance. The following table shows the tendency of the income from former church land under the government of Northern Ireland.

¹ 25 & 26 Geo. 5, c. 21.

1924-25, (N.I.); the same, 1929-30, p. 15, H.C. 1930, (181); the same, 1935-36, p. 13, H.C. 1936, (350), (N.I.); the same, 1941-42, p. 14, H.C. 1942, (375), (N.I.).

² Above, p. 538

CHAPTER SIX

	1924-25	1929-30	1935-36	1941-42
Perpetuity rents	2,778 4 6	2,580 15 11	799 6 7	720 13 4
Renewable leaseholds, & other tenures	72 6 2	62 8 0	13 9 8	12 10 2
Mortgages, land	2,478 16 9	2,411 7 9	2,610 13 2	2,351 4 2
Mortgages, converted leaseholds	792 18 3	749 19 10		
Land annuities	6,563 7 10	6,123 17 0	5,707 9 4	5,590 18 8 ¹

One case of land falling across the frontier between the Irish Free State and Northern Ireland has already been mentioned.²

¹ The sources for the table are Northern Ireland finance accounts, 1924-25, p. 15, H.C. 1925, (91), (N.I.); the same, 1929-30, p. 13, H.C. 1930, (214), (N.I.); the same, 1935-36, p. 13, H.C. 1936, (350), (N.I.); the same, 1941-42, p. 14, H.C. 1942, (575), (N.I.).

² Above, p. 538

CHAPTER SIX

The Use of the Residue of Church Property

1. Intentions

The use which was made of such portion of the Church's property as was not required for compensating vested interests shows a deviation from the expressed intentions of the original authors and sponsors of the Irish Church Act. This deviation is due in part to the fact that the disposal of the property was carried out in accordance with enactments brought into being long after the passing of the Irish Church Act by various new governments which were out of touch with the ideas prevailing when the disendowment of the Irish Church was being planned. The particular and detailed hopes and intentions of the original legislators with regard to this matter were not specifically embodied in the Irish Church Act, but their more general intentions, on the other hand, were expressed in the text of the act. Their more detailed intentions and hopes were also clearly expressed in the parliamentary statements of Gladstone. But neither the text of the act nor the views of Gladstone seem to have been felt by subsequent legislators to be a necessary standard of reference to be used when providing for the use of the surplus of the

It may be of interest in this connection to recollect that the Comptroller and Auditor General as a document of some interpretative authority. Above, p. 373

property.¹ to be defined by them at all.

Another probable reason why there was a deviation may perhaps be found in a misconceived idea of the form which the residue of the property would take. Gladstone tended, in his speech introducing the Irish Church Bill in parliament and on other occasions, to translate every statement relating to the Church's property into terms of finance. And, while he himself cannot have had any illusions about the real nature of the operation which he was explaining, many who followed his explanation must have failed to realise the fact that the disendowment of the Church would not mean the simple realisation of a huge lump sum in^a/relatively short time but must be followed by a long process of adjustment which would make the financial gain only gradually available over a period of more than half a century. Thus the various groups and interests, which may have desired that particular allocations of this money should be made, may have regarded the question of spending the residue as one which would arise in their own political lifetime and come under their own influence, and not as one which would require legislative definition for many years ahead,

¹ It may be of interest in this connection to recollect that Gladstone's speech introducing the bill was actually cited by the Comptroller and Auditor General as a document of some interpretative authority. Above, p. 373

if it were to be defined by them at all.

Gladstone estimated that the total value of the Church's property was £16,000,000. He estimated that the compensations and other charges on the property as defined in the original bill would cost between £8,000,000 and £9,000,000 and, therefore, that "the sum at the disposal of parliament for other purposes will not be less than between £7,000,000 and £8,000,000."¹ It will be noted that he referred to this residue as a "sum", probably creating in many quarters, as I have suggested, by this and other such financial phrases, the vague impression of a quantity of money readily available for spending.

"How," he asked, "are we to dispose of the residue? I will first state the conditions which appear to me necessary to be combined in a good plan for the disposal of such a fund. The first two are already fixed - written, I may say, in letters of iron. It is written that the money is to be applied to Irish purposes; and it is written that it is to be applied to purposes not ecclesiastical - not for any church, not for any clergy, not for any teaching of religion."²

"Its application should, if possible," he continued, "bear upon it some of those legible marks of Christian character which would be, as it were, a witness to its first origin and its long

¹ 3 Hansard, cxiv, 454.

² Ibid., 455.

continued use." And he added that "it must not drag us from one controversy to another."

He then passed in review certain possible objects upon which the fund might be spent, considered them and rejected them. These rejected schemes were, first, division among the churches, any version of the old idea of concurrent endowment, secondly, allocation for the purposes of education, thirdly, expenditure on public works, and, fourthly, expenditure on the construction of railways.¹

He proceeded next to outline a scheme of his own, prefacing it by reading the preamble which he proposed to put at the head of the bill. The preamble said that

"after satisfying, so far as possible, upon principles of equality as between the several religious denominations in Ireland, all just and equitable claims, the property of the said Church of Ireland, or the proceeds thereof, should be held and applied for the advantage of the Irish people, but not for the maintenance of any church or clergy or other ministry, nor for the teaching of religion; and it is further expedient that the said property, or the proceeds thereof, should be appropriated mainly to the relief of unavoidable calamity and suffering, yet so as not to cancel or impair the obligations now attached to property under the acts for the relief of the poor."²

The mode of expenditure which he then suggested may be summarised as follows:-

¹ Ibid., 456-457.

² Ibid., 458.

act, "further enacted, that the said proceeds shall be applied accordingly in the manner parliament shall hereafter direct."¹

Any specific scheme for expenditure was laid aside so that there might be no added difficulty or material for controversy in a

situation which already severely tried the capacities of the administration.

It will be observed that, in the outcome, Gladstone's two principles, that the property must be used for Irish purposes only and that it must not be used to subsidise religion in any way, were observed. But the property was otherwise used in ways which involved an almost complete disregard for his proposals and for the general statement of intention embodied in the act. It was used for education and for what were virtually public works. In spite of the letter of the act it was not used specifically or mainly for "the relief of unavoidable calamity and suffering" either as Gladstone had been inclined to understand those terms - for the relief and service of persons unavoidably suffering from mental, physical or moral deficiency or deterioration - or in accordance with any other reasonably conceivable sense of those terms. And it was used in ways which tended, indirectly and contrary to the spirit if not the letter of the

¹ Ibid., s. 68.

act, "to cancel or impair the obligations ... attached to property for the relief of the poor" - that is to say, to give a certain amount of relief to rate-payers.

It is not possible within the scope of the present thesis to trace the intentions which led to the passing of each successive piece of legislation which provided for the spending or lending of the residue of the property for different objects, nor to enter into details of the results of the spending of these various advances which were made from the Church Temporalities Fund. It might be arguable that the results of these various issues from the fund derived from the Church's former property are "economic results of the disestablishment of the Irish Church"; but they obviously could not conveniently be made the subject of a detailed study in the present thesis. All that will be attempted is a brief account of the parliamentary enactments which governed each of these issues from the Church Temporalities Fund and of the extent and character of each issue. A general account of the history of the fund itself during the years while the issues from it have been made will be more clearly, easily and appropriately given separately from the account of these individual operations of loan or expenditure.

2. Intermediate Education.

The necessary margin of finance which would enable the Commissioners of Church Temporalities to meet the obligations imposed by the Irish Church Act had been obtained by borrowing from the Commissioners for the Reduction of the National Debt.¹ As the special expenditure under the act itself began to diminish, owing to the completion of a large part of the commutation transaction, the payment of compensation for the cessation of the Regium Donum and of compensation to the trustees of Maynooth College for the cessation of parliamentary grants, the Commissioners began to repay the loan of £9,000,000 which had been advanced to them by the Commissioners for the Reduction of the National Debt. When evident progress was being made in this, it was decided to place a fresh liability on the fund.

The discharge of liabilities to the Commissioners for the Reduction of the National Debt had made good progress by 1878. The amount of the debt had been reduced by the end of that year to £6,500,000², the Commissioners of Church Temporalities having been able during the year to hand over £700,000 in repayment of advances.

¹ Above, p. 182 sq.

² Report of the Commissioners of Church Temporalities in Ireland, 1878, /c.2288/, H.C. (1878-9), xx. p.5.

together with £238,025 for interest, a total of £938,025. They had estimated in the previous year that the complete extinction of the debt would be accomplished in 1893. The large sums which they were able to devote to debt extinction in this early period were made available by the fact that income from sales of property was at its highest in those years.

In the summer of 1878, however, the Intermediate Education (Ireland) Act, 1878,¹ passed into law. It established the Intermediate Education Board for Ireland, consisting of seven members to be appointed by the Lord Lieutenant and imposed upon them various duties in connection with the administration of secondary education in Ireland. For the financing of the work of the Board,

it was enacted that "the Commissioners of Church Temporalities in Ireland shall, out of the property accruing to the Commissioners under the Irish Church Act, 1869, when and as required by the Board, provide for the use of the Board, either in cash or in securities or rentcharges of an equivalent value, such amount, not exceeding in the whole one million of pounds sterling, as the Board shall estimate to be required for the purposes of this act."²

It was further enacted in the same section that the Board were to use, not this amount itself, but the income accruing from it,

¹ 41 & 42 Vic., c. 42, s. 59-64.

² Ibid., s. 8.

and were to invest in government securities any surplus of this income which they might have in any year.

In accordance with the expectation that the Commissioners might have to borrow this sum of up to £1,000,000 in order to make the necessary payment to the Intermediate Education Board, the provisions of the Irish Church Act, 1869, with respect to the raising of money by the Commissioners, the giving of security, the paying of interest, the making of advances by the Commissioners for the Reduction of the National Debt and the special powers of the Treasury,¹ were extended to apply to the purposes of this new act as they had applied to those of the Irish Church Act.²

In a letter of 25th November, 1878, the Commissioners of Intermediate Education applied to the Church Temporalities Commissioners for the full amount of £1,000,000. To meet their requirements, the Church Temporalities Commissioners did not make use of their extended borrowing powers, nor did they hand over any rentcharges, this latter method of payment being obviously not in keeping with their own hopes and opinions in favour of a government policy which would lead to the early winding up of all tithe

¹ 32 & 33 Vic., c. 42, s. 59-64.

² S.9 of the Intermediate Education Act.

rentcharges¹ and their zeal for the promotion of sales of land. They chose to make the advance to the Intermediate Education Board in the form of ten debentures for £100,000 each, carrying the guarantee of the Lords Commissioners of the Treasury.² The debentures were to bear interest at 3½%, providing the Intermediate Education Board with an income of £32,500 a year; and they were redeemable in eighteen years. The Church Temporalities Commissioners estimated that the added liability to pay interest of £32,500 a year to the Board would delay the final discharge of their liability to the Commissioners for the Reduction of the National Debt till 1894, in which year, according to their estimate, if no further burdens were laid on the Church Temporalities Fund in the meantime, that fund would be worth £10,500,000, subject to the debt of £1,000,000 to the Intermediate Education Board.³ The liabilities upon the fund at the close of 1878 amounted to £8,200,000.⁴

These debentures or bonds for £1,000,000 matured for payment on 21st February, 1897. With the approval of the Treasury, new

¹ Above, p. 509

² Accounts, 1878, p. 3, H.C. 1878-9, (217), xx.

³ Commissioners, 1878, p. 5, /C.2288/, H.C. 1878-9, xx, xxiii.

⁴ Accounts, 1878, p. 9, H.C. 1878-9, (217), xx.

Accounts, 1897, p. 23, H.C. 1898, (23), lxi.

bonds were then issued to the Intermediate Education Board by the Land Commission which was now performing the functions of the former Church Temporalities Commissioners. The new bonds were issued for ten years and bore interest at $2\frac{3}{4}\%$. By this arrangement an annual saving of £5,000 to the fund was effected.¹

This revised arrangement continued until the new $2\frac{3}{4}\%$ bonds matured for payment in 1907, when, by arrangement with the Treasury, the National Debt Commissioners paid the debt of £1,000,000 and received bonds from the Land Commission for the amount, bearing interest at 3% and maturing in six years.²

This outstanding debt was paid off within the six years in a series of instalments to the National Debt Commissioners, just as other liabilities to those Commissioners had been paid in the past, the instalments varying according to the available surplus of income over the usual annual charges. The other liabilities on the fund had by that time been in many cases eliminated or reduced, and the regular statutory charges on the fund, for annuities and other purposes connected with the Irish Church Act, had become very small. Thus in 1910 the Land Commissioners, in

¹ Commissioners, 1896-97, p. 10, /c.8638/, H.C. 1897, xxiii.

² Commissioners, 1906-07, p. 10, /Cd.3652/, H.C. 1907, xix; and Accounts, 1906-07, p. 22, H.C. 1908, (29), lxi.

making payments for charges on the fund totalling in all £555,616, were able to include in that amount the sum of £350,000 in part discharge of this debt which was originally incurred under the provisions of the Intermediate Education (Ireland) Act, 1878. In that year, 1910, the Land Commissioners estimated their remaining capital liabilities under this particular head at £450,000, upon which there was also an annual charge for interest at 3%, estimated for the following year as £13,500.¹

When this liability had been terminated, the expenditure from the fund made over the whole period in accordance with the provisions of the Intermediate Education (Ireland) Act, 1878, was £1,000,000 for payment of principal and £962,028. 18. 1. for interest of debentures, making a total of £1,962,028. 18. 1. under this general head of expenditure.²

3. National School Teachers.

In the year 1879 another liability was placed upon the funds of the Commissioners of Church Temporalities in Ireland. The method of accounting employed was somewhat different in this case, and, unlike the liability for intermediate education, this second

¹ Commissioners, 1909-10, p. 9, and appendix, p.148, table 169, /Cd.5321/, H.C. 1910, xxxi.

² Accounts, 1922-23, p. 7, H.C. 1924, (22), xiii

The added liability for £1,300,000 was accordingly written charge placed upon the fund has continued to the present time.

The National School Teachers (Ireland) Act, 1879,¹ was passed for the purpose of providing a pension fund for teachers in the National Schools. In order to finance the scheme, it was enacted that the Commissioners of Church Temporalities in Ireland should, out of the property accruing to them under the Irish Church Act, provide, either in cash or in securities or rentcharges of a similar value, such sums, not exceeding £1,300,000 as the Commissioners for the Reduction of the National

Debt should from time to time certify to be required for the purposes of the new act. So long as the capital sum of £1,300,000, or any part of it, remained outstanding in the hands of the Church Temporalities Commissioners, they were to pay interest, on the sum or on any unpaid balance of it, at the rate of 3%, to the Commissioners for the Reduction of the National Debt.²

The act further extended the borrowing powers of the Church Temporalities Commissioners so as to apply to the operation of

this act as they had applied for the purposes of the Irish Church Act.³

¹ 42 & 43 Vic., c. 74.

² Ibid., s. 3.

³ Ibid., s. 8.

The added liability for £1,300,000 was accordingly written against the fund, and in 1880 payments of interest began at the rate of £39,000 a year.¹ This position continued unchanged so long as the fund was administered by the Irish Land Commission under the government of the United Kingdom of Great Britain and Ireland, a capital charge of £1,300,000 remaining against the fund and a sum of £39,000 being paid on it each year as interest at 3%. In 1920 the unaltered liability was still being annually acknowledged by the Land Commissioners in their estimate and the interest was being paid.²

Soon afterwards, however, the fund had to be divided between the two governments of the Irish Free State and of Northern Ireland respectively. The Irish Land Commission came under the control of the government of the Irish Free State on 31st March, 1923, and its powers, duties and jurisdiction were confirmed and defined by the Land Law (Commission) Act, 1923,³ which became law on 24th July, 1923. The Land Commission continued to exercise its

¹ Accounts, 1880, p. 11, H.C. 1881, (268), xxviii.

² Commissioners, 1919-20, p. 69, table 76, /Cmd.1064/, 1920, xix.

³ S.E., Act No. 27 of 1923.

Commissioners, 1941-42, p. 24, H.C. P. No. 5720.

former functions with respect to the temporalities of the late established Church; but part of the property and part of the liabilities of the fund were apportioned to the government of Northern Ireland. The capital liabilities remaining apportioned to the Irish Free State included a liability of £886,000 for the National School Teachers' Pension Fund.¹ The interest of this liability is met by an annual charge of £26,598,² which has continued unaltered to the present time.³

This stationary level of payments from the Irish Church Temporalities Fund in Eire, in respect of the National School Teachers' Pension Fund and other liabilities may be said to be artificially maintained; for only a fairly small portion of the fund now comes from sources that had any connection with the former temporalities of the Church of Ireland. The principal property of the fund is in the form of government stock and other securities; and when, owing to revision of annual payments and funding of arrears, the fund was not sufficient to meet its standing liabilities, the slight deficiency came to be made up annually

¹ Commissioners, 1923-1928, p. 30, S.E.
² Commissioners, 1931-32, p. 35, S.E., P. No. 764.
³ Commissioners, 1941-42, p. 24, Eire, P. No. 5710.

out of the Vote for Lands.¹

The fate of that part of this liability which was apportioned to the government of Northern Ireland cannot be traced, for it became merged in a different system of public accounts. The arrangement will be described in the section dealing with the general history of the Church Temporalities Fund.² For the purpose of the present subject of the Teachers' Pension Fund, it will be sufficient to observe that by the Church Temporalities Fund Act (Northern Ireland), 1922,³ all the properties, securities and assets of all kinds belonging to the Church Temporalities Fund were taken over, in so far as they were apportioned to the government of Northern Ireland, and administered by the Ministry of Finance, Northern Ireland; and the income from them was paid into the Northern Ireland Exchequer. All liabilities on the fund were to be voted direct and thereafter accounted for in the appropriation accounts. Separate items of expenditure formerly made from the fund cannot therefore be regarded as falling within the scope of a description of the Northern Ireland Church Temporalities Fund itself after that time, although they continued to be made in the

¹ Under the Land Act, 1933; S.E., Act No.38 of 1933 s.18, ss.9

² Below, p. 705 sq. Appropriation accounts, Government of Northern Ireland, 1922. W. J. P. O'Connell, Compt. and Aud. Gen., p.43 H.C. 1922, (21), (W.F.)

³ 12 & 13 Geo. 5. c.13 (N.I.) s.2(e).

⁴ Accounts, 1922-23, p.7, H.C. 1924, (22), xlii

appropriation accounts.¹ A special subsection of the act, however, secured for the Northern Ireland Teachers' Pension Fund a new annual income proportionate to that which had formerly been paid into the National School Teachers' Pension Fund from the Church Temporalities Fund before the fund was divided. It was enacted that

"there shall, in respect of each financial year, be paid into the Teachers' Pension Fund (Northern Ireland) out of moneys provided by parliament a sum equal to three pounds per cent. of such sum as may be certified by the Ministry to bear to a sum of one million three hundred thousand pounds the same proportion as the apportioned part of the Church Temporalities Fund bears to the whole of the Irish Church Temporalities Fund."²

The further history of this special parliamentary grant to the Teachers' Pension Fund (Northern Ireland) cannot be regarded as falling within the scope of this thesis.

At the time of the apportionment of the fund between the governments of the Irish Free State and Northern Ireland, the total amount of interest which had been paid by the Land Commissioners to the Commissioners for the Reduction of the National Debt under the National School Teachers (Ireland) Act, 1878, was £1,638,000.³ This sum does not, of course, include the still

¹ Appropriation accounts, Government of Northern Ireland, 1922, with reports of Compt. and Aud. Gen., p.43 H.C. 1922,(21), (N.I.)

² 12 & 13 Geo.5. c.13 (N.I.). s.2(2).

³ Accounts, 1922-23, p.7, H.C. 1924,(22), x111

unpaid capital of £1,300,000.

This account of the history of the liability on the Church Temporalities Fund for financial provision for a pension fund for national school teachers gives good illustration of the use of the Church Temporalities Fund as a simple source of revenue for public purposes. This allocation from the surplus of the Church's former property, like the preceding one for intermediate education, was purely a revenue-producing expedient. In an age when social and educational services were perhaps still regarded as something of a charity, this allocation may have been felt to "bear upon it some of those legible marks of Christian character," which Gladstone had advocated; but, like nearly all the allocations from the fund, it certainly cannot be said to have served mainly "the relief of unavoidable calamity and suffering." As we trace the history of this particular liability, we pass gradually away from the former temporalities of the Church of Ireland, and find ourselves contemplating their remote reflections in the slightly eccentric accountancy methods of several departments of two modern governments. This is very characteristic of the general impression which we get of the process by which the residue of Church property became dissipated, converted and merged in the financing of various

public services. It is perhaps impossible to discover just how closely this process reflected the expectations and hopes and the impressions as to method which were in the minds of Gladstone or other contemporaries of the disestablishment controversy; but it seems impossible to believe that even these early allocations, and the others to which we now pass, accurately reproduce the picture which was in Gladstone's mind when he addressed the House of Commons in 1869. Certainly they do not reproduce the picture conveyed by his words.

4. Relief of Distress.

While the Church Temporalities Commissioners were nearing the end of their period of office, there was placed upon their property a third charge which finally compelled them to resume borrowing from the Commissioners for the Reduction of the National Debt. The Relief of Distress (Ireland) Act, 1880,¹ directed that the Church Temporalities Commissioners should advance to the Commissioners of Public Works (Ireland) "out of any moneys at their disposal, or which they may raise on the security of their annual income" a sum or sums not exceeding £750,000, as the Commissioners

¹ 43 Vic., c.4. s.17

of the Treasury might from time to time direct. This issue from the Church Temporalities Fund was for the purpose of making good certain advances from the Commissioners of Public Works, made by the authority of the Treasury, to owners of land, to sanitary authorities and to county officers and for various special purposes; and the issue from the Church Temporalities Fund was made also with the intention of extending the credit of the Commissioners of Public Works to make such further advances of the same kind as the condition of the country might require. The sum of money advanced to those commissioners was to take the form of a loan. The powers of the Church Temporalities Commissioners to borrow were once more extended,¹ and it was also enacted that any advance made by the Commissioners for the Reduction of the National Debt to the Church Temporalities Commissioners for the purposes of this act, should be payable as if it was part of the debt raised for the purposes of the Irish Church Act and should be repaid in priority of all other debts due from the Church Temporalities Commissioners under any statutes except the Irish Church Act. The loan was to be repaid by the Commissioners of Public Works to the Church Temporalities Commissioners, subject to direction by the Commiss-

¹ Ibid., s. 18. c. 14

ioners of the Treasury, as amounts due to the Commissioners of Public Works from the various individuals and local bodies should be repaid.

It will be seen that this arrangement brings us a long way from the idea of simple donations of money to various worthy objects from the surplus of the Church's former property; for here we have the Church Temporalities Commissioners, and subsequently the Land Commissioners, borrowing money from the Commissioners for the Reduction of the National Debt on the security of the church property, under the supervision of the Commissioners of the Treasury, in order to lend it to the Commissioners of Public Works, to enable the latter to lend it for further purposes, partly under the supervision, as was subsequently arranged, of the Local Government Board.

The main act had been passed only a few months when it became necessary to amend it by the Relief of Distress (Ireland) Amendment Act, 1880.¹ This amending act doubled the possible size of the advance from £750,000 to £1,500,000 and gave to the Commissioners for the Reduction of the National Debt and to the Church Temporalities Commissioners power to vary the terms for the repayment

¹ 43 & 44 Vic., c. 14

² Under s. 2 of the main act.

to the former commissioners of any loan "made or to be made" by them to the latter.¹ The amending act also gave a certain foreshadowment of a further charge which was presently to fall upon the Church Temporalities Fund - the charge for relief of distressed unions - by empowering the Commissioners of Public Works to devote part (£200,000) of the £1,500,000 to giving a grant, on the recommendation of the Local Government Board to the boards of guardians in any union authorised to give out-door relief,² to aid in giving such relief, having regard to the financial conditions of the union and the pressure of distress within its limits. The conditions of the main act applying to other advances by the Commissioners of Public Works were extended to any such advance as might be made to boards of guardians.

The advances to the Commissioners of Public Works were to be without interest for two years and afterwards were to bear interest at the rate of one per cent. The Church Temporalities Commissioners had to meet this expenditure by borrowing at the rate of 3½% from the Commissioners for the Reduction of the National Debt. They estimated the ultimate loss to the Church estate by these transactions, assuming that the capital would not

¹ Ibid., s. 2. 1894-95, p. 95. /O. 2803/, H.C. 1895, xxv

² Under s. 3 of the main act. 113. /O. 294/, H.C. 1900, xvii

all be repaid for thirty-seven years, as £543,345.¹

In the outcome, the transaction was not carried out quite in accordance with these expectations. The actual amount borrowed by the Commissioners of Public Works was £1,271,500. When the original debt of £9,000,000, incurred for the purposes of the Irish Church Act, was finally closed during the financial year 1900-1901,² the arrangement was then made with the Treasury and the National Debt Commissioners to use the surplus income of the Church Temporalities Fund from time to time in payment of debt by meeting in the first instance the bonds issued under the Arrears of Rent (Ireland) Act, 1882.³ The loans for the purpose of the Relief of Distress Acts were paid subsequently.

For many years the Relief of Distress liability remained as a capital charge of £1,271,500 with an annual charge of £43,845.⁴ But, in the financial year 1899-1900, although the capital charge remained the same, the interest was reduced to 3% on £200,000 of the debt.⁵ The balance of the loan under the Arrears of Rent

¹ Commissioners, 1869-80, p. 19, /c.2773/, H.C. 1881, xxviii.

² Commissioners, 1900-01, p. 9, /Cd.690/, H.C. 1901, xvii.

³ Ibid., p. 8. 1908-09, p. 9, /Cd.4809/, H.C. 1909, xviii.

⁴ Commissioners, 1894-95, p. 96, /C.7803/, H.C. 1895, xxv, xxiv.

⁵ Commissioners, 1899-1900, p. 113, /Cd.294/, H.C. 1900, xvii

(Ireland) Act, 1882, was paid off in the year 1904-05 and the first repayment under the Relief of Distress Act was made in the same year.¹ In that financial year the capital charge had been reduced by repayments to £1,121,500 and the interest was reduced by arrangement to 3% on £500,000 of the debt.² During the period which immediately followed, the repayment of the liability advanced rapidly towards completion. In 1907-08, the payment in discharge of the liability was £350,000,³ and in the following year the balance of the capital debt, the last £150,000, was paid.⁴

This, however, did not mean that the transaction disappeared entirely from the accounts of the Land Commission; for the repayments from the Commissioners of Public Works continued to be made year after year, at first at the rate of about £20,000 a year.⁵ They dropped in the course of time to inconsiderable amounts - £426. 16. 2. in repayment of advances, together with £34. 18. 11. interest, in 1922-23.⁶ Small repayments continued in the Irish

¹ Accounts, 1904-05, p. 22, H.C. 1906, (60), xxvi.

² Commissioners, 1904-05, p. 143, /Cd.2648/, H.C. 1905, xxii.

³ Commissioners, 1907-08, p. 9, /Cd.4242/, H.C. 1908, xxiii.

⁴ Commissioners, 1908-09, p. 9, /Cd.4809/, H.C. 1909, xxiii.

⁵ Commissioners, 1914-15, p. 118, /Cd.8042/, H.C. 1914-16, xxiv.

⁶ Accounts, 1922-23, p. 8, H.C. 1924, (22), xiii.

Expenditure

Free State accounts of the Church Temporalities Fund. Early in the history of this liability, it was foreseen that part of the balance due from the Commissioners of Public Works would be irrecoverable on account of the insolvency of various persons or bodies to whom advances had been made by them. In 1899 the Comptroller and Auditor General reported that £6,122. 16. 10. was at that time regarded as irrecoverable.¹

At the time when the fund was divided between the two governments of the Irish Free State and Northern Ireland, when the greater part of this transaction had been closed, the position with regard to total receipts and expenditure in connection with the Relief of Distress Acts was as follows:-

Receipts

National Debt Commissioners, Advances	1,271,500	0	0
Public Works Commissioners, repayments	1,207,367	10	0
" " " interest	187,907	17	2
Total	22,666,775	7	2

¹ Accounts, 1898-99, p. 3, H.C. 1900, (33), xviii.

¹ Accounts, 1925-26, pp. 8 & 9, H.C. 1926, (20), xlii.

² 44 & 45 Vic., c. 52, s. 1.

Expenditure

			£	s	d
National Debt Commissioners, repayments ...	...	1,271,500	0	0	
" " " " interest ...	...	1,130,406	4	5	
Public Works Commissioners, advances ...	...	1,269,932	15	7	
		Total	£3,671,838	19	10

It will be seen that the loss to the fund was about a million pounds.

5. Irish Universities.

The next charge on the Church Temporalities Fund was of a different character from the foregoing, for it took the form of an annuity and not of a capital charge. In the Royal University of Ireland Act, 1881,² it was enacted that the Church Temporalities Commissioners or, as it actually happened, the Irish Land Commissioners, should pay to the Royal University of Ireland the sum of £25,000 within a month after the passing of the act, and a further sum of £25,000 on 1st January, 1882, and thereafter the annual sum of £20,000 in two equal half-yearly instalments on 1st July and 1st January in each year, commencing on 1st July after the passing of the act.

¹ Accounts, 1922-23, pp. 8 & 9, H.C. 1924, (22), xiii.

² 44 & 45 Vic., c. 52, s. 1.

The annual payment of £20,000 continued until 1st July, 1909, when it ceased to be payable on account of the passing of the Irish Universities Act, 1908.¹ From that date one moiety was paid to the National University at Dublin and the other to the Queen's University of Belfast.² The total payments made up to 31st March, 1923, were as follows:- to the Royal University of Ireland, £560,000; to the National University of Ireland, £135,000; to the Queen's University of Belfast, £130,000.³

After the apportionment of the fund between the governments of the Irish Free State and Northern Ireland, the annuity of £10,000 continued to be paid to the National University.⁴ The only deviation from this was in the year ending 31st March, 1934, during which a 3% reduction in the annuity was made by direction of the Minister for Finance in pursuance of the Public Services (Temporary Economics) Act, 1933.⁵ This reduction was not imposed in succeeding years.⁵

¹ 8 Edw. 7, c. 38.

² Commissioners, 1909-10, p. 10, 2/0a.5321/, H.C. 1910, xxxi

³ Accounts, 1922-23, p. 9, H.C. 1924, (22), xiii

⁴ S.E., Act No. 37 of 1933, s. 13

⁵ Accounts, 1933-34, p. 8, S.E., P. No. 1792.

In Northern Ireland, the separate items of expenditure from the Church Temporalities Fund, whose existence as a separate public account in Northern Ireland was abolished by law,¹ cannot be followed as such. The Queen's University continued to be financed as previously, and in 1928 an act of the parliament of Northern Ireland, the Queen's University of Belfast Act (Northern Ireland) 1928,² raised the university's annuity from this source by £4,000 a year. It was directed that the money was "to be provided according to 10 & 11 Geo. 5., c.67, and 12 & 13 Geo. 5, c.13, s.2, ss.1."³ The acts referred to are the Government of Ireland Act, 1920, and the Church Temporalities Fund Act (Northern Ireland), 1922. The position of this and other similar remnants of Church Temporalities Fund transactions in Northern Ireland will be better understood when we turn to the general history of the fund as distinct from that of separate items.

6. Arrears of Rent.

The Arrears of Rent (Ireland) Act, 1882,⁴ made further use of

¹ 13 Geo. 5, (N.I.) c. 74, s.8, ss.3.

³ Ibid., s. 1.

⁴ 45 & 46 Vic., c.47, s.8.

218 & 19 Geo. 5, c.21 (N.I.)

the financial capacities of the Irish Church Temporalities Fund.¹ This rather complex piece of legislation, designed to limit and control various abuses and hardships arising for both landlord and tenant from rent falling into arrears and from evictions, laid down that "any liabilities incurred by the Land Commission on account of payments to landlords in respect of arrears of rent under this act shall be primarily a charge on the Irish Church Temporalities Fund, and, subject thereto, on the Consolidated Fund in such manner as may hereafter be provided by parliament." This left the details to be arranged in further legislation.

Another section of the Arrears of Rent Act also resulted in a charge falling upon the Church Temporalities Fund, or what the Land Commissioners chose to regard as a charge upon the fund. It was enacted² that, where arrears of rent were extinguished under the provisions of the act, the owner of the land, if he could prove that he had received no rent or less than the full rent

¹ It is the first of the acts for the use of the residue which employs and defines the words "Irish Church Temporalities Fund" as meaning "the fund under the control of the Land Commission under the provisions of the Irish Church Act Amendment Act, 1881." (44 & 45 Vic., c. 71.)

² 45 & 46 Vic., c.47, s.17. Land Commissioners were permitted to

during any period through the operation of the act, was relieved of liability to pay "any public charge or tax" due from him in consequence of his being the owner of the holding, or an amount of such charge or tax proportionate to the amount of rent which he failed to receive. He was also entitled to deduct from future payments the past payments or portions of payments of any such charge or tax which had been retrospectively remitted. The words "public charges or taxes" were defined as including tithe rentcharge. This arrangement might have been regarded as merely effecting a reduction in the Land Commissioners' income from tithe rentcharge, a depreciation of income rather similar to that which was later to result from time to time from various subsequent acts of parliament relating to tithe rentcharge. The Commissioners chose, however, to record it in their accounts as a special charge placed upon the fund under the Arrears of Rent Act and not to leave it merely as an adverse item on the tithe rentcharge collection account.

The actual details as to the method by which advances of money were to be made from the Church Temporalities Fund for the purposes of the Arrears of Rent Act were defined by the Public Works Loans Act, 1882.¹ The Land Commissioners were permitted to

¹ 45 & 46 Vic., c.62, s.6.

borrow sums not exceeding £2,600,000 from the National Debt Commissioners for the purposes of the Arrears of Rent Act. Power was further given to the Treasury to guarantee the payment of the principal and interest of all or any part of the money - to give effect to the charge on the Consolidated Fund - and to make issues out of the Consolidated Fund for the payment of principal and interest, all of which issues, however, would ultimately have to be made good from the Church Temporalities Fund.

The first transfer of £250,000 from the Church Temporalities Fund for the purposes of this act was made in the financial year ended 31st March, 1883.¹ The capital liability did not increase beyond £950,000, on which there was an annual charge at $3\frac{1}{4}\%$, of £30,875.² Subsequently, by arrangement with the National Debt Commissioners, the interest, was reduced to $2\frac{1}{2}\%$ in 1897, bringing the annual charge down to £26,125.³ When, during the financial year 1900-01, the debt of £9,000,000 for advances under the Irish Church Act was finally completely repaid, the Land Commissioners, by arrangement with the Treasury and the National

¹ Accounts, 1882-83, p. 6, H.C. 1884, (54), xxii

² Commissioners, 1894-95, p. 96, /C.7803/. H.C. 1895, xxv

³ Accounts, 1897-98, p. 3, H.C. 1899, (66), xix; and Commissioners 1899-1900, p. 113, /Cd.294/. H.C. 1900, xvii.

Act, 1883¹, which enabled the Commissioners of Public Works in Debt Commissioners, began to employ the surplus income of the Ireland, on the recommendation of the Local Government Board for fund for payment of other debts, dealing first with their issue of bonds under the Arrears of Rent Act. Once the repayment began, aid in providing for the administration of relief for the destitute poor in the union. Grants were not to be paid¹ after March, 1884, £200,000 being paid off in the year 1904-05.

The total payment of capital was £950,000 and the total interest during the whole period was £590,720. 16s. 6d. The amount of funds to be raised on the security of their annual income from the Church Temporalities Fund. The borrowing powers of the² commissioners were extended accordingly. Against this was a transfer of £26,417. 5s. 4d. principal and

£18,497. 12s. 10d. interest from the Irish Land Commission account under the 16th section of the act, which provided for repayment repaid, like the Irish Church Act loan, by annual sinking fund charges. Payment was completed by 1900, the total capital being there was also on the credit side a refund of unexpended balance amounting to £8,497. 1s. 7d.⁴

7. Relief of Distressed Unions.

In 1883 was passed the Relief of Distressed Unions (Ireland) Accounts, 1883-84, p. 6, H.C. 1884-5, (3), xli.

¹ Accounts, 1904-05, p. 22, H.C. 1906, (60), xxvi. of the Church Temporalities Fund, p. 4, H.C. 1874, (2), ii; and Commission By s. 17-18, s. 26, (1874-75), H.C. 1874, xxv.

³ Accounts, 1922-23, p. 9, H.C. 1924, (22), xlii. 1900, xvii.

⁴ Ibid., p. 8.

Act, 1883¹, which enabled the Commissioners of Public Works in Ireland, on the recommendation of the Local Government Board for Ireland, to make grants to the boards of guardians of any union to aid in providing for the administration of relief for the destitute poor in the union. Grants were not to be made after March, 1884, and the total amount to be granted was not to exceed £50,000. The money so granted was to be provided by the Land Commissioners out of funds to be raised on the security of their annual income from the Church Temporalities Fund.² The borrowing powers of the commissioners were extended accordingly.³

Payments under this act began in 1883-84,⁴ but the transaction was a small one and soon closed. The loan, at 3½%, was repaid, like the Irish Church Act loan, by annual sinking fund charges.⁵ Payment was completed by 1900,⁶ the total capital being

¹ 46 & 47 Vic., c. 24.

² Ibid., s. 1.

³ Ibid., s. 2.

⁴ Accounts, 1883-84, p. 6, H.C. 1884-5, (9), xxi.

⁵ Statement respecting the present financial position of the Church Temporalities Fund, p. 4, H.C. 1894, (91), li; and Commissioners, 1894-95, p. 96, /C.7803/. H.C. 1895, xxv.

⁶ Commissioners, 1899-1900, p. 8, /Cd. 294/. H.C. 1900, xvii.

⁷ Commissioners, 1899-1900, pp. 8 & 113, /Cd. 294/. H.C. 1900, xvii.

£30,365. 15. 0., with a total of £5,821. 19. 2. for interest over the whole period.¹

8. Sea Fisheries.

The Sea Fisheries (Ireland) Act, 1883,² directed that the Irish Land Commissioners should pay to the Commissioners of Public Works out of funds which they might raise on the security of their annual income under the Irish Church Act Amendment Act, 1881, sums not exceeding £250,000 for the purpose of improving and encouraging Irish fisheries by work on piers and harbours. The sums so ^{were} paid to constitute the Sea Fisheries Fund. The usual extension of the borrowing powers of the commissioners was provided for.

This transaction, very similar to the preceding one, was treated in exactly the same way, the debt and interest at $3\frac{1}{2}\%$ being paid off by a sinking fund. The other sinking fund charges, except the debt under the Irish Church Act itself, were finally paid off in 1900, the operation of these sinking funds having been accelerated by the application of surplus revenue to payment of capital debts.³ The liability for the Sea Fisheries Fund

¹ Accounts, 1922-23, p. 9, H.C. 1924, (22), xiii.

² 46 & 47 Vic., c. 26, s. 3.

³ Commissioners, 1899-1900, pp. 8 & 113, /Cd. 294/. H.C. 1900, xvii.

preceded the other sinking fund charges by being cleared in 1898.¹

The total capital charge paid was £250,000, and the total interest for the whole period was £48,124. 5. 3.²

9. Poor Relief.

The Poor Relief (Ireland) Act, 1886,³ set up the Piers and Roads Commission and directed that the Irish Land Commission should, out of funds which they might raise on the security of their annual income from the Church Temporalities Fund, pay to that commission a sum not exceeding £20,000. This is another of these small sinking fund transactions at 3½% and was paid off in the same period as the liability in favour of the Relief of Distressed Unions.⁴ The total capital paid was £20,000, with interest of £3,850. 2. 8. over the whole period.⁵

10. Seed Potatoes Supply.

A series of acts from 1890 to 1898 created certain relatively small liabilities upon the Church Temporalities Fund for purposes

¹ Accounts, 1898-9, p. 3, H.C. 1900, (33) xviii.

² Accounts, 1922-23, p. 11, H.C. 1924, (22), xiii.

³ 49 Vic., c. 17, Pt. II.

⁴ Commissioners, 1899-1900, pp. 8 & 113, /Cd.294/, H.C. 1900, xvii

⁵ Accounts, 1922-23, p. 11, H.C. 1924, (22), xiii.

connected with securing the adequate cultivation of potatoes. By the Seed Potatoes Supply (Ireland) Act, 1890,¹ the guardians of any poor law union might apply to the Local Government Board for a loan for the use of any electoral division of their union, if they could satisfy the Board that the occupiers of land in that division were unable, through poverty or failure of the potato crop, to procure an adequate supply of seed potatoes. The loan was to be made by the Board of Works with the approval of the Treasury. The interest on such a loan, or on any part of it which was not for the time being repaid, was to be at the lowest rate fixed by the Treasury for interest on local loans in Ireland and was to be paid by equal half-yearly payments to the Board of Works out of the Irish Church Temporalities Fund. The poor rates of the particular division requiring the loan were charged with the repayment of the principal of the loan.² The Irish Church Temporalities Fund was also held liable for making good any loss incurred through the concession to purchasers of potatoes of an abatement, for cash payment, of a fifth of the price.³ All instalments payable from or to any guardians under the act might be

¹ 54 Vic., c. 1.

² Ibid., s. 3. ss. 2.

³ Ibid., s. 5. ss. 2(e).

postponed no later than 1895.¹

In 1895 a further act, the Seed Potatoes Supply (Ireland) Act, 1895,² was passed in terms almost identical with those of the act of 1890. This act charged the same liabilities upon the Irish Church Temporalities Fund,³ as the preceding act, and allowed postponement of instalments till August 1899.

In 1898 there was passed a third act of very similar kind, the Seed Supply and Potato Spraying (Ireland) Act, 1898.⁴ The purpose of this act was to provide loans for the supply of seed potatoes, seed oats, spraying machines or spraying material under conditions very similar to those described with regard to the preceding acts for seed potatoes supply. The interest on the loan, at the rate of 2½% was charged upon the Church Temporalities Fund⁵ as were also price abatements on cash sales.⁶ The expenses of the execution of the act by the guardians were to be defrayed out of the poor rate of the electoral divisions until 31st March, 1899, and, after that, from the unions.⁷ The loans were repay-

¹ Ibid., s. 7.

² 58 Vic., c. 2.

³ Ibid., s. 2, ss. 2; and s. 5, ss. 2(e).

⁴ 61 & 62 Vic., c. 50.

⁵ Ibid., s. 2, ss. 2.

⁶ Ibid., s. 4, ss. 8.

⁷ Ibid., s. 1, ss. 2.

able to the Board of Works by September, 1900.¹ The Local Government Board had special powers to enforce payment if necessary.²

The transactions under these acts were relatively small, but they occasioned some trouble owing to the failure of certain boards of guardians to make repayments of loans within the period specified. Whereas all loans under the Seed Potatoes Supply (Ireland) Act, 1890, should have been repaid by 1st August, 1895, according to the act,³ a sum of over £50 had to be charged in the Church Temporalities Fund account for 1896-97 for interest in respect of outstanding balances of loans made to Belmullet and Glenties unions, these unions being in such a condition financially as to be unable to meet their obligations within the period.⁴ Although these payments of interest were met from the Church Temporalities Fund, the position was somewhat irregular. The difficulty was one very likely to arise when the Church Temporalities Fund was used to facilitate borrowing by bodies over whose activities the Land Commissioners had no control, and it was obviously the intention in the drawing of the various acts for the use of the Church

¹ Ibid., s. 2, ss. 2.

³ 54 Vic., c. 1, s. 7.)

⁴ Accounts, 1896-97, p. 3, H.C. 1898, (36), xxi.

² Ibid., s. 2, ss. 5.

Temporalities surplus not to apply the fund for purposes where this might occur on a large or uncontrollable scale. Similar difficulties arising out of these acts continued till 1903-04.¹

The totals of expenditures from the Church Temporalities Fund under these three acts were as follows:-

	£	s	d
Seed Potatoes Supply Act, 1890, Commissioners of Public Works			
Interest on loans	16,559	15	7
Abatements on cash sales ...	1,004	3	11
Seed Potatoes Supply Act, 1895 Commissioners of Public Works			
Interest on loans	3,499	7	9
Abatements on cash sales ...	238	15	6
Seed Supply & Potato Spraying Act, 1898, Commissioners of Public Works			
Interest on loans	3,881	1	8
Abatements on cash sales ...	627	4	9
Local Government Board			
Abatements on cash sales ...	261	12	3
Total	226,072	1	5²

¹ Accounts, 1903-04, p. 22, H.C. 1905, (75), xxiii.
² Accounts, 1922-23, pp. 11 & 13, H.C. 1924, (22), xiii.

¹ 54 & 55 Vic., c. 48, s. 33.
² 3 Act, c. 72, ss. 2.

11. Congested Districts.

Under the Purchase of Land (Ireland) Act, 1891,¹ a further and this time a heavier liability was placed upon the Church Temporalities Fund. A sum of £1,500,000, to be called the Church Surplus Grant, with interest at the rate of 2 $\frac{3}{4}$ % per annum, was charged on the fund, and the interest was to be placed at the disposal of the Congested Districts Board. The annual charge for interest was £41,250. Out of this money, however, certain deductions were liable to be made for annuities payable to the Guarantee Fund of the Land Commission against advances made by the Congested Districts Board. This latter allocation made no difference of expenditure from the Temporalities Fund, though the difference of object is noted in the accounts, since this provision involved payments of varying size to two different bodies, the interest going to the Congested Districts Board and the annuities on advances being transferred to another account of the Land Commission.

By the Irish Land Act, 1903,² this payment of annuities was further regulated. The detailed finances and legal intricacies

¹ 54 & 55 Vic., c. 48, s. 35.

² 3 Edw. 7, s. 72, ss. 2.

of the transactions do not concern us here. From the point of view of liabilities on the Church Temporalities Fund, the operation simply involved an annual charge of £41,250. The total payments over the whole period up to 1923 were:- for interest, £867,488. 9. 5.; for deductions for annuities on advances, £82,737. 3. 11. under the Purchase of Land (Ireland) Act, 1891, and £345,114. 0. 3. under the Irish Land Act, 1903. Payments were still being made in 1923 at the rate of £41,250 a year, now divided equally between the accounting heads of interest and of deductions for annuities on advances.¹ Like the liability under the National School Teachers (Ireland) Act, 1879, this charge continued after the fund was apportioned between the governments of the Irish Free State and Northern Ireland, and the capital remained unpaid.

Under the Land Law (Commission) Act, 1923,² the Congested Districts Board was dissolved and its functions and property were taken over by the Land Commission. The Church Surplus Grant, being for the benefit of areas falling within the frontiers of the Irish Free State, was taken over in its entirety as part of

¹ Accounts, 1922-23, p. 11, H.C. 1924, (22), xiii.

² S.E., Act No. 27 of 1923, s. 5-10.

the liabilities on the Church Temporalities Fund apportioned to the Free State government, and the capital liability of £1,500,000, with the annual charge of £41,250, continue to appear on the Church Temporalities Fund accounts in Eire.¹

12. Agricultural and Technical Instruction.

By a section of the Agriculture and Technical Instruction (Ireland) Act, 1899,² an annuity out of the Irish Church Temporalities Fund was placed at the disposal of the newly established "Department of Agriculture and other Industries and Technical Instruction for Ireland." The annuity was to be paid for a period of fifteen years from the commencement of the act and was to consist of an annual sum of £70,000; and in each subsequent period of fifteen years it was to consist of such an annual sum as in the opinion of the Treasury could be paid without impairing the security for any liabilities imposed upon the fund prior to the act. This meant that the size of the grant might be revised at the discretion of the Treasury at intervals of fifteen years. At the same time, however, powers were reserved to the Treasury to make a revision at the end of the financial year 1900-01.

¹ Commissioners, 1923-28, pp. 4 & 30, S.E.; and Accounts, 1940-41, p. 3, Eire, P. No. 5400.

² 62 & 63 Vic., c.50, s. 15(b).

In its character and history, this annuity closely resembles the annuities granted to the Irish universities from the fund.

In 1915 the charge, at the same rate of £70,000 a year, was continued with the approval of the Treasury for a further period of fifteen years.¹

By 1922-23 the payments under this head had totalled already £1,589,000.²

In the accounts of the fund as apportioned to the government of the Irish Free State, this charge was reduced and modified to two annuities of £14,000 and £42,000 in favour of the Department of Agriculture and the Department of Education respectively, to continue till 1930 when they again came up for their periodic revision at the close of a fifteen-year interval.³

In 1930 the Minister of Finance declared that in his opinion

¹ Commissioners, 1915-16, p. x, /Cd.8481/. H.C. 1917-18, xv.

² Accounts, 1922-23, p. 13, H.C. 1924, (22), xiii.

³ Commissioners, 1923-28, p. 30, S.E. The arrangement of the change was brought about by the Irish Church Temporalities Fund (Apportionment of Grant) Order, 1924, (Saorstát Éireann, S.R. & O., No. 22 of 1924); the Endowment Fund (First Apportionment and Winding-up) Order, 1925, (Saorstát Éireann, S.R. & O., No. 12 of 1925); and the Endowment Fund (Final Winding-up) Order, 1925, (Saorstát Éireann, S.R. & O., No. 20 of 1925)

the Irish Church Temporalities Fund would be in a position to bear, during the period of fifteen years ensuing after 1st April, 1930, an annual charge of £40,000. The payments of £14,000 and £42,000 to the Departments of Agriculture and Education were accordingly revised to £10,000 and £30,000.¹ The Northern Ireland part of the liability cannot be traced as such, as has already been explained with reference to other liabilities which survived the apportionment.

13. Summary of Results.

The spending of the church property was thus equivalent to its progressive embodiment in the finances of public services of various kinds. The methods by which this embodiment was achieved may be roughly distinguished as five. First, a capital sum left inside the Church Temporalities Fund was apportioned to a particular public service and interest from that sum was applied to purposes of the service. This occurred in the cases of the liabilities in favour of the National Teachers' Pension Fund and of the Congested Districts Board. Secondly, a capital sum was apportioned to a particular service from the Church Temporalities

¹ Accounts, 1930-31, p. 8, S.E., P.No.679.

Fund and was ultimately paid over to that service, interest being paid to the service until payment of the capital could be made. This occurred in the case of the intermediate education liability. Thirdly, a capital sum was apportioned and paid over to a particular service, the sum being raised as a loan from the National Debt Commissioners on behalf of the Church Temporalities Fund, interest being paid on it to those commissioners until the loan was paid up. This occurred in the cases of liabilities for arrears of rent, relief of distressed areas, the Sea Fisheries Fund and the Piers and Roads Commission under the Poor Relief Act. Fourthly, the Church Temporalities Fund was made liable for the interest or part of the interest on a loan advanced by another department or commission. This was done in the case of the Seed Potatoes Supply Acts and may be considered as being virtually the case also in the loans for relief of distress, in which the Land Commissioners borrowed on behalf of the fund at one rate of interest to lend at another and lower rate. Fifthly, annuities for regular amounts were made chargeable on the fund, as was the case of liabilities in favour of the Irish universities and of agricultural and technical instruction.

W. A. Phillips (ed.), *History of the Church of Ireland*,
 111. Various estimates have been made as to the extent of the

spending of the surplus of church temporalities. They have usually been based on allocations of capital only. The following is from the "official" history of the Church of Ireland:-

				£
Intermediate Education	...	...	...	1,000,000
National School Teachers' Fund	...	...	...	1,300,000
Royal University of Ireland...	...	...	...	600,000
Congested Districts Fund	...	...	...	1,500,000
Distress Works	...	...	...	1,271,500
Arrears of Rent Account	...	...	...	950,000
Sea Fisheries	...	...	...	250,000
Miscellaneous Appropriations	...	...	...	86,169
Maynooth	...	...	...	372,231
Regium Donum	...	...	...	749,799
Total				8,079,799 ¹

It is not clear how some of these figures are reached. The large expenditure on agricultural and technical instruction would appear, for instance, to have been omitted; and no distinction is made between grants, annuities and loans, nor are the varying periods of time for which liabilities extended, a naturally important factor in deciding the amount of interest payable on capital liabilities, mentioned or indicated in any way. The estimate, of course, comes flatteringly close to that of Gladstone, but this result is obtained by what would appear to be a

¹ W. Alison Phillips (ed.), History of the Church of Ireland, 111, 373.

spurious method and by the inclusion of the Maynooth and Regium Donum compensations as a make-weight. Since the expenditure of the residue of the Church funds involved essentially their incorporation in public service accounts of various kinds, it would seem difficult to distinguish logically between payments made as principal and payments made as interest, when they were both made into public accounts. The following is an attempt to set out roughly all expenditure from the Church Temporalities Fund, up to March, 1923, which seems to come fairly within the category of expenditure of residue. Items are to the nearest thousand pounds.

		£	£
Intermediate Education	Principal	1,000,000	
	Interest	<u>962,000</u>	
			1,962,000
National School Teachers	Principal	1,300,000	
	Interest	<u>1,638,000</u>	
			2,938,000
Relief of Distress	Ultimate deficit		1,000,000
Irish Universities	Royal	560,000	
	National	135,000	
	Queen's	<u>130,000</u>	
			825,000
Arrears of Rent	Principal	950,000	
	Interest	<u>591,000</u>	
		1,541,000	
	Less transfers	<u>53,000</u>	
			1,488,000
Distressed Unions	Principal	30,000	
	Interest	<u>6,000</u>	
			36,000

making a total of £5,407,000.
 Paid to the National Debt Commissioners out of the Church's
 Temporalities Fund.

Sea Fisheries	Principal	250,000	£
	Interest	<u>48,000</u>	
			298,000
Poor Relief	Principal	20,000	
	Interest	<u>4,000</u>	
			24,000
Seed Potatoes Supply	Total Payments		26,000
Congested Districts	Principal	1,500,000	
	Interest	867,000	
	Annuities on advances	<u>428,000</u>	
			2,795,000
Agricultural and Technical Instruction			1,589,000
			<hr/>
	Total		£12,981,000

It may be noted that of the payments which come under the head of interest, a considerable proportion went directly to the Commissioners for the Reduction of the National Debt. Expenditure as interest in favour of the National Debt Commissioners may be summarised as follows:-

Relief of Distress...	...	...	...	...	£	1,130,000
Arrears of Rent	...	...	...	...		591,000
Distressed Unions	...	...	...	...		6,000
Sea Fisheries	...	...	...	...		48,000
Poor Relief	...	...	...	...		4,000
Congested Districts	...	...	...	...		867,000
						<hr/>
						2,646,000

to which may be added as interest on the conclusion of the intermediate education liability a sum of over 100,000 and, as interest on the Church Loan 4,346,000 making a total of £7,092,000 paid to the National Debt Commissioners out of the Church Temporalities Fund.

and if we observe that at least over £7,000,000 from the Church estate went as a direct contribution to supporting that system then we find ourselves faced with the question of how far the system of credit and the class which it helped to support were a relief to Irish suffering and calamity. These are not questions which can be touched upon in the present thesis; but the transactions which have been described in the present chapter would appear to afford a valid ground for considerable adverse criticism and reasonable dissatisfaction with the manner in which the solemn trust was carried out by the hands of the legislators and of the Irish Church Act.

We have already seen in the early part of this chapter that the expenditure of the residue of the Church estate did not take place in a manner which at all expressed the apparent intentions of the legislators. The details of individual allocations show us appropriations of a character which were not "mainly to the relief of unavoidable calamity and suffering" but rather to the relief of the taxpayer.

With the details before us, we now come to a further consideration about adherence to original intentions. It may be asked how far the use of the fund may truly be said to have been for purely Irish purposes. The question cannot be satisfactorily answered, but two observations may be made. First, if the allocations from the fund tended to the relief of the taxpayer and if we accept, to however moderate a degree, the opinion of the Childers Commission - that Ireland, as a part of the United Kingdom, was proportionately over-taxed in the nineteenth century - then it would follow that any relief of taxation coming on the whole taxable area was inadequately allocated to Ireland. Secondly, if we hold that the system of public credit and national debt in Great Britain in the nineteenth century afforded disproportionate gains to a relatively small capitalist class,

CHAPTER SEVEN

and if we observe that at least over £7,000,000 from the Church estate went as a direct contribution to supporting that system, then we find ourselves faced with the question of how far the system of credit and the class which it helped to support were a relief to Irish suffering and calamity.

These are not questions which can be touched upon in the present thesis; but the transactions which have been described in the present chapter would appear to afford valid ground for considerable adverse criticism and retrospective dissatisfaction with the manner in which the solemn trust implied by the words of Gladstone and of the Irish Church Act was carried out.

The residue of the former church property, however, is still proceeding, and there is nothing entirely terminal in the most recent phase that has been described. The proper final aspect of the whole subject with which to conclude this thesis is the Church Temporalities Fund, the one continuous element which has linked all the operations connected with the church property since the disestablishment and which is the basis of all such operations to come.

The Church Temporalities Fund is the reservoir through which, in the course of years, about £50,000,000 has been

CHAPTER SEVEN

The Irish Church Temporalities Fund have been large

and rapid; latterly they have been relatively small, and at all times it has been the concern of governments to see that the

1. Expectations, legislation and preliminary loan arrangements. Much information has already been given about the purely financial aspect of the work of the Church Temporalities Commissioners and their successors. In particular, the foregoing chapter on the spending of the residue has shown how the realised property of the church was made available for various purposes. Indeed, with an account of the spending of the residue, it might

be felt that the subject of the economic results of disestablishment had been traced to its proper conclusion. The spending of the residue of the former church property, however, is still proceeding, and there is nothing entirely terminal in the most recent phase that has been described. The proper final aspect of the whole subject with which to conclude this thesis is the Church Temporalities Fund, the one continuous element which has linked all the operations connected with the church property since the disestablishment and which is the basis of all such operations to come.

The Church Temporalities Fund is the reservoir through which, in the course of years, about £50,000,000 has been

¹ Accounts, 1922-23, p. 13, H.C. 1924, (28), xiii.

² Above, p. 26 and p. 70.

passed.¹ Sometimes the inflow and the outflow have been large and rapid; latterly they have been relatively small; and at all times it has been the concern of governments to see that the reservoir was not allowed to become completely empty. The fund, of course, has in one sense existed only on paper and as a symbolic relationship between income and expenditure; and the transactions which have hitherto been recorded are all that give it significance. There are, however, some details about the fund which still require to be described.

To Bright and also to Gladstone, with his essentially exchequer mind, the whole operation in connection with the church property presented itself in terms of finance.² In particular, Gladstone, in his speech explaining the disestablishment measure in the House of Commons, gave an account of the anticipated results of the legislation in terms of capital, estimating that so much capital would be required for the purpose of compensating the interests disturbed by the disestablishment legislation and that a special fund of between £7,000,000 and £8,000,000 would remain. He then mentioned a series of possible allocations out of this capital for various purposes, in such a way as to dissi-

¹ Accounts, 1922-23, p. 13, H.C. 1924, (22), xiii.

² Above, p. 46. and p. 70^{sq.}

pate the residue.¹ As we have seen in the preceding chapter, the spending of the residue of the church property was accomplished in a manner and for objects by no means identical with those envisaged by Gladstone. With the differences of object between the allocations planned by Gladstone and those actually made, we are no longer concerned; but, in considering the history of the actual fund, we are concerned with certain differences between the manner in which Gladstone seemed to envisage the church property being made financially available and the manner in which it actually was made available.

There is nothing absolutely definite to which one can point to prove that Gladstone's expectations about the manner of the operation were different from what actually occurred; but there was a certain kind of emphasis in his statements which makes it hard to believe that there was not a very considerable difference. His emphasis was on capital value and not on the possibility of annual income, which, in the event, proved to be the decisive factor in all plans for making allocations from the fund. There was also a certain impression of finality in his description of the allocations; and it is noticeable that, although he mentioned

¹ 3 Hansard, cxciv, 454 sq.

of the residue. On 29th November, 1870, the secretary of the Church Temporalities Commissioners wrote on their behalf to the Lords Commissioners of the Treasury asking the possibility of getting an advance from the resources of the Post Office Savings Bank to meet the need for a very large expenditure in a relatively short time for the purpose of paying commutation money, he did not refer to it as a possible arrangement in connection with any other expenditure to be made out of the church property. Even in connection with commutation, he mentioned only lightly this need to back up payments from the church property with loans, omitting it altogether from his survey at first, "through infirmity of memory", as he said.¹ There is, therefore, a good deal of reason for thinking that Gladstone did not clearly envisage the residue of the church property as an annual income used largely to meet loan charges or consider that the allocations from it might involve long continued payments of interest on debentures and the meeting of protracted sinking fund charges.

The facilities made available to the Church Temporalities Commissioners for raising loans for the purpose of carrying out the Irish Church Act have already been described² as also the extension of the same arrangements for purposes connected with the spending

¹ Ibid., cxci, 454. ² Above, p. 182 sq.
 without comment in the report of the Committee of Public Accounts in 1876; Second Report from the Committee of Public Accounts, 1876 P. xii, H.C. 1875, [1886], viii

of the residue.¹ On 29th November, 1870, the secretary of the Church Temporalities Commissioners wrote on their behalf to the Lords Commissioners of the Treasury describing the expected outlay in connection with the carrying out of the Irish Church Act. The letter referred to Gladstone's estimate that the various payments for compensation would require a total outlay of £8,450,000 (sic).² Part of this outlay had already been made by the commissioners, for the sum of £185,942 had already been paid out of funds in hand, in compensation for the Regium Donum; and, since the Regium Donum grant was withdrawn from the government estimates for the current financial year, the funds to meet a further payment to the extent of £462,000 were immediately required. The letter also stated that, although, by the 53rd section of the Irish Church Act, the commissioners, instead of paying commutation money at once to the Representative Church Body, might elect to pay it by half-yearly instalments, not exceeding eight in number, with interest at the rate of $3\frac{1}{2}\%$, the commissioners would prefer to pay it over at once, if the money could be borrowed at the same rate of interest. The commissioners were in some doubt as to the prospective extent of commutation but urged that loan facilities ought

¹ Above, p. 631, etc. ² The letter was incorrect here. The actual estimate had been £8,650,000. The error was noted without comment in the report of the Committee of Public Accounts in 1875; Second report from the Committee of Public Accounts, 1875 p. xii, H.C. 1875, (336), viii

to be made available to them at once to meet, if necessary, the entire financial requirements of a general adoption of the principle of commutation by the clergy.

The commissioners therefore asked to be placed in a position to meet their full liabilities, requiring an advance of £500,000 at once for the purpose of the Regium Donum compensation and provision for further advances to a possible grand total of not less than £8,219,000, and that repayment might begin, on the principles

The letter then discussed the position with regard to repayments of advances. The commissioners expressed doubt as to whether the tithe rentcharge would be redeemed by cash payments, expecting rather that it would be done on the loan system, and they expressed the belief that the credit facilities in connection with sales of land would be fairly fully used. They therefore chose conservatively to estimate their capacities for meeting repayments of advances on the assumption that all the tithe rentcharge would be converted into loan and that all the land would be sold with three-quarters of the purchase money remaining to be paid in sixty-four half-yearly instalments with interest at 4%. Such a position, they thought, would leave them a surplus of over £700,000 a year to meet repayment of a loan of £8,219,000; and they considered that a loan of £8,219,000

¹ Accounts, 1870, pp. 18-19, H.C. 1871, (864), 2v.

² Ibid., p. 11

of the commissioners for advances became very considerable; and might most conveniently be paid off with interest at 3½% by a fixed annual payment of £713,615 for fifteen years, in fact by a Debt Commissioners. Interest on advances began also to be a large rapid sinking fund.

The commissioners therefore asked that arrangements should be made to supply them with advances of up to £8,219,000; though they thought that so large a sum might not be required. They

suggested that it should be available in lump sums of not less than £500,000 and that repayment might begin, on the principles which they had described, in 1872; by which time they believed that considerable sales of property would have been effected. It will be seen from this that full repayment of the loan by 1887 was hoped for.

In December, 1870, the first advance of £500,000 from the Commissioners for the Reduction of the National Debt was made to the Church Temporalities Commissioners; and an optimistic expectation of the latter commissioners that advances to an amount less than £8,000,000 would probably be sufficient was quoted by the Comptroller and Auditor General.

2. The Church Temporalities Fund to the end of the Church Loan.

With the beginning of the commutation operations, the needs

¹ Accounts, 1870, pp. 18-19, H.C. 1871, (264), lv.

² Ibid., p. 11

of the commissioners for advances became very considerable; and in 1871 they secured an advance of £2,500,000 from the National Debt Commissioners.¹ Interest on advances began also to be a large item in the expenditure of the commissioners, reaching £18,650.13.6. in 1871.² In 1872 a further £2,500,000 was advanced, and the interest and loan charges jumped to £118,662. 13. 1.³

As well as the incurring of this debt for repayment of the advances, the liabilities of the commissioners were rapidly raised by the extent of their debt to the Representative Church Body for commutation capital. At the same time, as we have seen in earlier chapters, there was no early or rapid sale of land or of tithe rentcharge to bring in a large sum to offset the outlay. The scheme of paying debts to the Representative Church Body at once was not realised, the commissioners taking advances in amounts of £2,500,000 or more a year from the National Debt Commissioners and incurring debts to the Representative Church Body at the same time. In 1872 the total liabilities upon the fund had reached £11,098,573. 14. 6.⁴ The further advances subsequently required

¹ Accounts, 1871, p. 4, H.C. 1872, (373), xlvi.

² Ibid., p. 7.

³ Accounts, 1872, pp. 28 & 27, H.C. 1874, (233), 11.

⁴ Ibid., p. 27.

by the commissioners represented, not altogether an increase in liabilities, but to a large extent a transfer of liabilities to the account of another creditor - that is to say, a transfer of their debt from the Representative Church Body to the National Debt Commissioners. A schedule of commutation and other compensations up to the end of 1873 gave a total of £10,367,594. 6. 4 paid or owed,¹ and the advance for that year reached £2,700,000,² interest and charges reaching £204,138.1.10.³

It is of some interest to notice the balances at the end of 1875, for they partly represent the state of the expectations and liabilities at the stage when the commissioners had at first hoped to begin repayment of advances. The total liabilities had reached £12,351,744. 19. 9. Against this, the mortgage and loan account stood at 26,089,307. 6. 7., including the aggregate amount of the fixed instalments payable in redemption of purchase money with interest for the entire period of each debt. The cash balance is of little importance in the present connection; but it may be mentioned that there was a stock balance of

¹ Accounts, 1873, p. 9, H.C. 1875, (42), xx.

² Ibid., p. 22. P. 27 & 28, H.C. 1875, (232), xx.

³ Ibid., p. 21.

⁴ Ibid., p. 27

£194,112. 19. 11. The fund always had a certain fluctuating balance of stock of various kinds.¹

In 1874 the commissioners had still to get an advance of £600,000, and the interest and charges had reached £428,427. 7. 7.² There was no prospect of an immediate beginning of repayments on anything like the scale that the commissioners had anticipated. They were still occupied in paying off commutation capital credited to the Representative Church Body, handing over an instalment of £1,066,875. 13. 6. that year, together with £52,585. 5. 2. interest.³ The operations of that year, however, represent the crossing of the highest peak of the commissioners' indebtedness. Their total liabilities at the close of 1874 had fallen to £10,498,965. 14. 11. and the mortgage and loan account had risen to £7,795,713. 3. 3.⁴

Early in 1875 the commissioners stated that the total extent of their capital indebtedness was £360,000 to the Representative Church Body and £9,000,000 to the Commissioners for the Reduction of the National Debt.⁵ Reporting on their pro-

¹ Ibid., p. 23.

² Accounts, 1874, p. 37 & 38, H.C. 1875, (252), xx.

³ Ibid., p. 35.

⁴ Ibid., p. 37

⁵ Commissioners, 1869-74, p. 10, /C.1148/, H.C. 1875, xx.

ceedings for the first time, the commissioners began the rather vain but subsequently recurring effort to foretell what the size of the surplus of the fund would be. They had discovered that the compensatory parts of the Irish Church Act and the other outlay for the carrying out of the act had involved a grand total of payments and liabilities of £11,560,000 in contrast to the alleged estimate of £8,450,000 made when the bill was introduced in parliament. Since they now believed the total capital value of the church property to be not less than £16,740,000, they estimated a probable surplus of £5,180,000.¹ Summarising the condition of their income and assets from tithe rentcharge and land, for loan and mortgage instalments and rents, they expressed the expectation that they would be in a position at the beginning of the following year to begin repayment of the advances at the rate of at least £800,000 a year.²

They were still too optimistic. With regard to the character and capacities of the surplus, they seem indeed to have been unduly pessimistic, but in their hopes of a speedy repayment of the advances they were not justified.

1 Ibid., p. 11.
 2 Ibid., p. 10.
 Accounts, 1875, pp. 19-21, H.C. 1875, (1883), xx.

The examination of the position of the commissioners by the Committee of Public Accounts in 1875 was followed by a further report from them in which they raised their expectations for the surplus to £5,622,000,¹ and they were able to report that their entire debt to the Representative Church Body had been paid off and that £300,000 had been paid towards the elimination of their debt of £9,000,000 to the National Debt Commissioners.² They arranged to pay instalments to the National Debt Commissioners in January and September of each year; and also, as a further economy, they arranged to leave on deposit with the bank any balance beyond a certain sum, not immediately required for reduction of debt, so as to receive interest on it.³ The liabilities at the end of 1875 amounted to £9,632,000 and the mortgage account had reached £8,876,910. 1. 1. The interest paid for the year was £312,399. 0. 9. It may be noticed that although £300,000 of re-payment were made in 1875, the last advance of £200,000 from the National Debt Commissioners, making up the total of £9,000,000 actually fell within that year.⁴

¹ Commissioners, 1875, p. 12, /C.1400/, H.C. 1876, xx.

² Ibid., p. 16.

³ Commissioners, 1876, p. 7, /C.1446/, H.C. 1877, xxvi.

⁴ Accounts, 1875, pp. 19-21, H.C. 1876, (263), xx.

In the following year the commissioners began to see more clearly the nature of the transactions with which they were coping. They realised how, that an estimate of the surplus remaining from the property could not properly be expressed as a capital sum. In 1876 they reported

"It must be borne in mind when the 'surplus' is mentioned, that the provisions of the Irish Church Act are such that the surplus cannot consist of a capital sum lying to our credit in a bank. It must necessarily be an annual revenue composed of terminable annuities and also, as will be seen, of a considerable sum payable annually for ever."¹

They noted that rates of sales of lands had been higher than was expected and that, since there had been a greater delay than had been anticipated in disposing of the property, capital liabilities had been met more largely out of income, thus conserving the capital of the surplus. They calculated a future net annual revenue of £593,000 which could extinguish the debt in 1893 if fully applied to that purpose. The gross income was estimated as £618,000. Capitalising the gross income, they got a total capital value of £12,493,000 for the fund for 1871, against which they placed a liability of £6,425,000, leaving a residue of £6,068,000.² But actually, since it was hoped that the payment

¹ Commissioners, 1876, p. 7, /C.1648/, H.C. 1877, xxvi.

² Ibid., p. 8.

of debt would be effected mainly out of income, the estimated fall in the value of the capital which would have taken place by 1893, the year when it was hoped to complete the payment of the loan, reduced the estimated capital only to £10,494,100, the diminution being due mainly to the lapsing of terminable annuities.¹ The further calculations of the commissioners as to the state of the surplus at advanced dates into the twentieth century have little interest. The importance of the report of 1876 lay in the fact that it marked the realisation by the commissioners that the property would be realised as a continuous fund arising from income and not as a "surplus", a capital lump sum such as seemed to have been envisaged by some of the legislators.

Calculations as to the future state of the fund were rendered vain by the placing of further charges upon it, for intermediate education, teachers' pensions and relief of distress. The financial transactions up to the close of the Church Temporalities Commission can be tabulated as follows.

(over)

¹ Ibid., p. 9.

Year	Total cash receipts	Total cash expenditure	Total mortgage sales	Capital liabilities Debt incurred	Debt paid off	Observations
1869-70	991,366	604,995	1,254	500,000	-	
1871	3,073,156	3,392,217	80,054	2,500,000	-	
1872	3,260,612	3,214,923	1,680,249	2,500,000	-	
1873	3,862,332	3,762,397	1,124,362	2,700,000	-	
1874	1,716,792	1,846,953	869,107	600,000	-	
1875	1,618,440	1,395,418	826,277	200,000	300,000	Church Loan total £9,000,000
1876	1,234,686	1,027,379	556,943	-	600,000	
1877	1,076,602	1,313,154	350,799	-	900,000	
1878	1,082,182	1,032,756	591,223	1,000,000	700,000	Debt for intermediate education
1879	847,049	935,502	197,820	1,300,000	600,000	Debt for National Teachers' Pension Fund.
1880	1,348,506	1,423,779	105,767	700,000	200,000	Debt for relief of distress. ¹
Total	20,111,925	19,949,473	6,403,855	12,000,000	3,300,000	

¹ Commissioners, 1869-80, appendix, p. 266, /O.2773-I/, H.C. 1881, xxviii.

Several further comments on this table are necessary. It does not include the whole extent of the indebtedness of the commissioners during the period which it covers, for the debt to the Representative Church Body is not included. The total liabilities incurred during the period were actually £18,134,553. 17. 2.¹ The debt repayments only refer to the capital debt to the National Debt Commissioners and do not include interest or incidental charges. The heading "total mortgage sales" covers loan as well as mortgage transactions but does not include the amount of interest and instalments prospectively receivable. The actual balance to the credit of the mortgage and loan account was £10,670,550. 8. 4.²

It is unnecessary to recapitulate the various charges which were successively placed upon the Church Temporalities Fund during the early years of its administration by the Land Commission. They rendered necessary the slowing down of the payments allocated to meet the initial liability on the fund for the Church Loan, the remainder being paid off in annuities of £295,704. The burden of the extra charges placed upon the fund led to

¹ Accounts, 1880, p. 25, H.C. 1881, (268), xxviii.

² Commissioners, 1891-93, p. 17, /C.7056/, H.C. 1893-4, xxiv. Ibid., p. 11.

Accounts, 1888-89, p. 3, H.C. 1890, (41), xxvi.

annual liabilities exceeding income. Thus in 1892-93 the total amount receivable from regular sources of income was £534,427, while liabilities with cost of administration amounted to £583,427. The effect of this was to speed up sales and redemptions so as to meet the deficiency, the total receipts from that source during 1892-93 being £128,692.¹ This process, regularly carried on, naturally reduced the capital value of the fund.

Any balance, over from sales and redemptions, after meeting the regular charges was allocated to debt reduction. Indeed every adjustment which would promote the reduction of the debts upon the fund was carried out. It is perhaps of interest to notice that, where it was possible and advantageous, the Commissioners devoted stock and securities to debt reduction. In 1888-89, £37,833. 11. 2 of the amount paid to the Commissioners for the Reduction of the National Debt represented the cash value of £37,645. 6. 8. New Three Per Cent Annuities. In this case, securities actually invested at 2 $\frac{3}{4}$ % were applied to redeem a debt which bore interest at 3 $\frac{1}{2}$ %.² Again, in 1893, £60,000 Guaranteed Land Stock which had been transferred to the account of the Church Temporalities

¹ Commissioners, 1891-93, p. 17, /C.7056/, H.C. 1893-4, xxiv.

² Accounts, 1888-89, p. 3, H.C. 1890, (41), xxvi.

³ Accounts, 1893-94, p. 3, H.C. 1895, (18), xxvi.

Fund in connection with redemption of tithe rentcharge under the Purchase of Land (Ireland) Act, 1891,¹ was sold to the National Debt Commissioners at the average price for the day of Consols and realised £58,200. This sum was applied to the reduction of the Church Loan, on which interest was being paid at the rate of 3½%, whereas the dividends on Guaranteed Land Stock were at the rate of 2½% only.²

The following figures are from the annual estimate of the Land Commission and show the state of the fund at the time when the liabilities placed upon it by various acts were near their maximum extent. It is the forecast of receipts and expenditure for 1895-96.

Receipts

I Permanent Church Revenue

Tithe rentcharge	...	...	...	...	168,473
Perpetuity rents	...	...	...	...	55,547
Renewable leaseholds, yearly and other tenures	...	...	...	...	1,264
Interest, land mortgages	...	...	...	...	15,725
Converted leaseholds	...	...	...	...	6,556
					<u>247,565</u>

II Terminable Revenue

Tithe annuities	...	...	...	...	169,372
Land annuities	...	...	...	...	42,454
					<u>211,826</u>

¹ 54 & 55 Vic., c. 48, s. 17

² Accounts, 1893-94, p.3, H.C. 1895, (18), xxvi

III Miscellaneous

Relief of distress, loans, repayments ...	57,000
Interest on stocks, etc.	4,000
	<u>61,000</u>
Total estimated income	520,391

<u>Liabilities</u>	Capital charge £	Rate per cent	Annual charge £	Sinking fund £	
Irish Church Loan	1,991,696	3½	295,704	229,112	The sinking fund charges are included in the annual charges
Relief of Distress	1,271,500	3½	43,845	-	
Arrears of Rent	950,000	3½	30,875	-	
Distressed Unions	7,000	3½	3,300	3,036	
Sea Fishery Loans	80,000	3½	27,000	25,000	
Poor Relief Loans	6,000	3½	2,200	2,000	
Intermediate Education	1,000,000	3¼	32,500	-	
National School Teachers	1,300,000	3	39,000	-	
Royal University	-	-	20,000	-	
Congested Districts	1,500,000	2¾	41,250	-	
Total Capital Charges	8,106,196				

£202,000 in 1827-28, and to £223,000 in 1845-46, after which

¹ Commissioners, 1894-95, p. 96, /0.7803/, S. 9. 1896, xxv.

Other Charges	Annual charge	Sinking fund
Seed Supply Acts, 1890 and 1895, interest, etc.	£ 1,400	-
Annuity & superannuation	5,000	-
Poor rate and taxes	15,000	-
Expenses of collection and management	17,700	-
Income tax (net)	2,000	-
Total obligatory expenditure	576,774	259,148

There was thus a debit balance of £56,383 to be made up by sales and redemptions.¹

During the period in which new charges were being placed upon the fund, a number of special returns were made to show the state of the fund and how particular charges which were contemplated would affect it. Some of these returns not only described the normal receipts and expenditures but went into elaborate estimates as to the condition of the fund at an advanced period in the twentieth century. In 1894, a statement from the Treasury estimated that, apart from capitalisations, the income of the fund would fall very gradually "to £398,000 in 1924-25, to £302,000 in 1927-28, and to £253,000 in 1945-46, after which

¹ Commissioners, 1894-95, p.96, /C.7803/, H.C. 1895, xxv.

date it would, again apart from capitalisations, remain stationary."¹ The qualification excepting the factor of capitalisation showed the futility of such an estimate; for capitalisation was steadily proceeding, partly to offset the excess of regular liabilities over regular income, and still more through the normal operation of the land acts which practically required the redemption of charges issuing out of land which was affected by these acts.

A Treasury memorandum of a somewhat later date stressed the now fully recognised futility of trying to estimate a "surplus" as a capital sum, pointing out that, in considering the state of the Church Temporalities Fund, "it is necessary at the outset to abandon any attempt to estimate the capital value of either its assets or its liabilities" and the need for treating it "on the basis of annual receipts and outgoings over a series of years." It was also quite incorrectly stated that this principle had been fully recognised ever since the time of the disestablishment.²

¹ Statement respecting the present financial position of the Irish Church Temporalities Fund, p. 3, H.C. 1894, (91), 11.

² Treasury memorandum dated 14th July 1899, on the financial position and prospects of the Irish Church Temporalities Fund, p. 2, H.C. 1899, (293), 11.

The fact, however, is now apparent that the attempt to estimate and forecast the state of the Church Temporalities Fund even in terms of annual receipts and outgoings, quite apart from capital value, was futile. The Land Commissioners had already practically expressed this view in 1894, when they pointed out that it was extremely difficult to make statements on the condition of the fund, because a portion of the income was subject to variation by corn averages, because redemption rates were uncertain on account of the land acts, and because the capitalised value of particular items was hard to assess. The Comptroller and Auditor General agreed with this in general principle.¹ The first and third reasons presented by the commissioners for the difficulty in making such estimates were obvious and rather minor ones; but the second cause of difficulty - the uncertain rate of redemptions, the possibility of transfer from permanent to term-inable revenue through these redemptions, the varying periods and rates of annuities and the possibility of change or extension

¹ Accounts, 1893-94, pp. 3 & 5, H.C. 1895, (18), xxvi

in the land acts - was insuperable.¹

In 1900-01 the balance of £252,089. 15. 1. outstanding on account of the £9,000,000 originally borrowed from the National Debt Commissioners was paid off and the Church Loan account was closed.² Of the loan, £3,899,380. 0. 7. was paid off by annuity and £5,100,619. 19. 5. by other repayments. The interest amounted to £4,346, 491. 13. 0.³

¹ As well as the annual reports of the Land Commissioners and their annual accounts in respect of church temporalities, the following special returns were made on the condition of the Church Temporalities Fund. Return of particulars of the aggregate amount of the annual income vested in the Commissioners of Irish Church Temporalities and of the number of persons by whom in each case payable, and of all lands remaining unsold, etc. H.C. 1877, (235), lxvi; Return showing the financial position of the Irish Church Commission in the event of the Relief of Distress Bill becoming law, H.C. 1880, (292-Sess.2), liv; Return showing the financial position of the Irish Church Temporalities Commission, now represented by the Irish Land Commission, H.C. 1882, (153), 1; Return showing the financial position of the Irish Church Temporalities Fund in the event of the Purchase of Land and Congested Districts (Ireland) Bill becoming law, H.C. 1890, (130), xli; Statement respecting the present financial position of the Irish Church Temporalities Fund, H.C. 1894, (91), li; Treasury memorandum dated 14th July, 1899, on the financial position and prospects of the Irish Church Temporalities Fund, H.C. 1899, (293), li.

² Accounts, 1900-01, p. 3, H.C. 1902, (105), xxii

³ Accounts, 1922-23, p. 7, H.C. 1924, (22), xlii.

transactions, and it does not therefore record sales and re-
ceptions.

1920-1
2
74,913
35,197
74,681
106,526
100,491
5,060

With this payment, the first phase of the history of the Church Temporalities Fund ended. Apart from a few annuities still payable to individuals, the fund had become completely dissociated from the episode of the disestablishment. In methods and administration as well as purpose, the fund entered a new period in its history. With the ending of the Church Loan annuities, the ending of other liabilities, the shrinkage of income and the approach of a period when the fund could be expected to become a smaller but practically stationary annual income, certain changes in the management of it began to be made.

3. Shrinkage, apportionment and assimilation to state finances.

With the ending of the payments for the Church Loan, the liabilities on the Church Temporalities Fund steadily shrank, the income thus set free being used to clear up other liabilities. At the same time there was a steady decline in income which has already been traced in connection with tithe rentcharge and land. The following table shows the general tendency. It is based on the estimates of the Land Commissioners and not on the actual transactions, and it does not therefore record sales and redemptions.

	1895-6	1900-1	1905-6	1910-1	1915-6	1920-1
Permanent revenue	247,565	227,821	166,751	137,895	101,653	74,718
Terminable "	211,826	194,256	174,246	132,809	92,494	35,197
Miscellaneous receipts	61,000	30,887	27,055	21,726	60,000	74,621
Total estimated income	520,391	452,964	368,152	292,430	254,147	184,536
Charges and outgoings	576,774	494,258	252,767	197,702	180,489	180,491
Credit balance	-	-	115,385	94,728	73,658	4,045
Debit balance	56,774	41,294	-	-	-	-

1

1 The sources are Commissioners, 1894-95, p. 96, /C. 7803/, H.C. 1895, xxv; Commissioners, 1899-1900, p. 113, /Cd. 294/, H.C. 1900, xvii; Commissioners, 1904-05, p. 143, /Cd. 2648/, H.C. 1905, xxi; Commissioners, 1909-10, p. 147, /Cd. 5321/, H.C. 1910, xxxi; Commissioners, 1914-15, p. 118, /Cd. 8042/, H.C. 1914-16, xxiv; Commissioners, 1919-20, p. 69, /Cmd. 1064/, H.C. 1920, xix.

The tendency towards decline in permanent revenue, owing to sales and redemptions, in terminable revenue, owing to lapsing of annuities, and in charges and outgoings, owing to ending of liabilities, have all already been the subject of comment. The change from a debit balance to a credit balance represents the fact that, after the ending of payments for the Church Loan, income overtook expenditure for a couple of decades. The way in which expenditure was used by the Land Commissioners is expressed in the rising totals given opposite the heading "miscellaneous receipts." The main item in these miscellaneous receipts came to be interest on securities; for the commissioners adopted the regular policy of investing the surplus of the fund to offset falling income from permanent and terminable revenue.

It was clear that, under the existing arrangements, the credit balances could not be expected to continue indefinitely. In 1908 the commissioners reported that

"the effect of the redemptions of the church income under the Land Purchase Acts and the cesser of the receipt of terminable annuities, it is estimated, will, in about ten years hence, reduce the income below the estimated expenditure."¹

They repeated this information in later reports, though with

¹ Commissioners, 1907-08, p. 9, /Cd.4242/, H.C. 1908, xxiii.

² Commissioners, 1912-13, p. 13, /Cd.572/, H.C. 1913, xix.
³ Commissioners, 1913-14, p. 13, /Cd.572/, H.C. 1914, (22), xiii

less precision as to the period which would elapse before expenditure would exceed income.¹ Against this event they invested their surplus from regular income and from sales and redemptions at intervals and as funds accumulated. Thus in 1912-13 they invested £500,000² and in 1913-14 £350,000.³ In 1918-19 the commissioners for the first time estimated that regular revenue would fall short of necessary expenditure, by over £10,000, though this would be covered by sales and redemptions.⁴

The character of the investments of the commissioners is shown by the following list of their holdings at 31st March, 1923.

	£	s	d
Guaranteed Land Stock	5,131	0	0
Guaranteed 2½% Stock	912,987	12	9
Guaranteed 3% Stock	283,868	3	2
War Loan 5% (1929-47)	370,487	11	4
4% Funding Loan (1960-90)	212,500	0	0
Registered 5½% Exchequer Bonds (1925)	21,250	0	0
5-15 year Treasury Bonds, (1935)	42,500	0	0
5½% Treasury Bonds (1929)	51,000	0	0 ⁵

¹ Commissioners, 1911-12, p. x, /Cd. 6334/, H.C. 1912-13, xxxiv.

² Commissioners, 1912-13, p. x, /Cd. 6979/, H.C. 1913, xxx

³ Commissioners, 1913-14, p. x, /Cd. 7575/, H.C. 1914, lxxv.

⁴ Commissioners, 1918-19, p. x, /Cmd. 572/, H.C. 1920, xix.

⁵ Accounts, 1922-23, p. 13, H.C. 1924, (22), xiii

Purchases of stock up to that time, excluding receipts of Guaranteed Land Stock in connection with various sales, amounted in total cash outlay to £2,049,168. 10. 1. Against this, sales of stock, excluding sales of Guaranteed Land Stock to the National Debt Commissioners, amounted to £774,934. 18. 10.¹

When the division of Ireland into the two areas of the Irish Free State and Northern Ireland took place in 1922, the arrangements already made in the Government of Ireland Act, 1920,² for the apportionment of the Irish Church Temporalities Fund between the two governments were given effect. That apportionment was originally introduced to apply to the two similarly constituted governments of "Southern Ireland" and Northern Ireland. The section in the Government of Ireland Act, 1920, providing for the apportionment, directed that it should be carried out in such manner as might be determined by the Joint Exchequer Board set up by the act;³ and the parts apportioned to the two governments were to be administered and disposed of as directed by any act of the appropriate parliament, north or south. Any

¹ Ibid., pp. 12-13 & 11 Geo.5, c.67, s.32, amended by 15 Geo.5,

² 10 & 11 Geo.5, c.67, s.31

³ Ibid., s. 32, 1921-22, p. 17, H.C. 1922, (1922-23), 111.

existing charges on the fund, however, if not met out of the apportioned parts of the fund under the new arrangements which might be made by the two governments, were to fall as liabilities on the Irish residuary share of reserved taxes according to regulations to be made by the Treasury.

As the result of the setting up of the Irish Free State, this provision for apportionment was made to apply in general principle to the altered position, by the Irish Free State (Consequential Provisions) Act, 1922.¹ A provisional apportionment was made by an order of the Joint Exchequer Board² on 24th May, 1922, deemed to have had effect from 22nd November, 1921. The order apportioned 15% of the securities and assets of the fund, other than landed revenue, to the government of Northern Ireland and also apportioned to that government the revenues derived from land or interest in land situated in Northern Ireland.³

The transfer of the 15% of all securities, with the exception of £5,131 Guaranteed Land Stock, was made by the Irish

¹ 13 Geo.5, c.2, first schedule.

² Established by 10 & 11 Geo.5, c.67, s.32, amended by 13 Geo.5, c.2, first schedule, s.5.

³ Accounts, 1921-22, p. 17, H.C. 1922, (11-Sess.2), 111.

⁴ I could get no information from the Irish Land Commission as to the principles or the ultimate proportions by which the more detailed allocations of sums were made.

Land Commission in August, 1922. From that time onwards, until the completed transfer of stock, the Land Commission acted as agents for the government of Northern Ireland and paid an annual sum from the apportioned securities, the payment in 1922 being £22,314. 6. 7.¹ The following year, the arrears on the collection rental were transferred to the government of Northern Ireland.² The allocation of various charges to the government of Northern Ireland was also carried out, a provisional 31.8% of the liability for the National School Teachers' Pension Fund and also the £10,000 grant to Queen's University, Belfast, and a proportion of the liability for agricultural and technical instruction being placed upon the northern government.³

Continued minor adjustments were subsequently made, and sums of money were transferred to Northern Ireland each year until the financial year 1927-28 when the final apportionment of the fund was completed and the last sums handed over.⁴ When this was done, a portion of the fund, consisting of 5% War stock

¹ Ibid.

² Accounts, 1922-23, p. 17, H.C. 1924, (22), x111

³ Ibid., p. 16.

⁴ I could get no information from the Irish Land Commission as to the principles or the ultimate proportions by which the more detailed allocations of sums were made.

to the nominal value of £200,000 which had been provisionally withheld from the Irish Free State as a guarantee that the liabilities to the government of Northern Ireland would be honoured, was released by the Treasury.¹ This precautionary stay on the stock was to some extent a means of producing a control by the Treasury similar to that embodied in the act of 1920 which allowed for the provisional charging of liabilities, due out of the Church Temporalities Fund and not otherwise met, against the Irish residuary share of reserved taxes,² a provision which had ceased to be operative when southern Ireland acquired dominion status and ceased to share in the general British taxation system which still applied to Northern Ireland.

The main features of income and expenditure of the fund in the Irish Free State have already been described in connection with tithe rentcharge, land and the spending of the residue of the church property. The income fell steadily and the expenditure remained stationary. The policy of continued investment in government securities was carried on, and the falling income from other sources was somewhat offset by a rising income from

¹ Accounts, 1927-28, p. 8. Saorstát Éireann.

² 10 & 11 Geo.5, c.67, s.31. *Iris, P.No. 2710.*

³ Accounts, 1924-25, p.3, s.2., P.No. 2598

⁴ Accounts, 1925-26, p.2, s.1., P.No. 2698

interest. The following table shows the state of this income at intervals of five years.

1924-25			1929-30			1934-35			1939-40		
£	s	d	£	s	d	£	s	d	£	s	d
68,065.	11.	1	76,828.	8.	2	83,836.	18.	10	89,533.	2.	6

In 1941-42, the securities which represented the invested portion of the Church Temporalities Fund in Eire amounted in nominal value to £2,652,980. The income from these securities, together with that from tithe rentcharge and land, had to meet annual charges to the amount of £117,848.² As the falling income became insufficient to carry these charges, provision was made for augmenting the income of the fund from the public revenue. At first, when charges were in excess of income, in 1934-35, there were considerable sales of government securities, to the value of £85,836. 18. 10.³ Afterwards, however, the deficiency was annually made good out of the Vote of Lands, the first payment amounting to £3,421. 4. 0. and being made in 1935-36.⁴ The total of such votes of money to augment the falling income of the Church Temporalities Fund in Eire up to 31st March, 1941, was

¹ Appropriate entries in Accounts, 1924-25; Accounts, 1929-30, S.E., P. No. 678; Accounts, 1934-35, S.E., P. No. 2598; Accounts, 1939-40, Eire, P. No. 4704.

² Commissioners, 1941-42, p. 24, Eire, P. No. 5710.

³ Accounts, 1934-35, p. 8, S.E., P. No. 2598

⁴ Accounts, 1935-36, p. 2, S.E., P. No. 2678

222,759. 14. 10.¹ Some of the liabilities, however, may be subject to alteration or reduction, in particular the sum of £41,250 due for interest to the former Congested Districts Board.²

In Northern Ireland a procedure was adopted with regard to the Church Temporalities Fund which, if not very different in fundamental principle from that used in Dublin, was very dissimilar from it in external details of accountancy. By the Church Temporalities Fund Act (Northern Ireland) 1922,³ the apportioned part of the Church Temporalities Fund was placed under the charge of the Ministry of Finance. A subsequent amendment to this act, embodied in the Exchequer and Financial Provisions Act (Northern Ireland), 1923,⁴ relieved the ministry of all obligation to keep a separate account for the Church Temporalities Fund. In fact the fund ceased to exist as such. The cost of services formerly met from it was met directly by vote and accounted for in the appropriation accounts.⁵ Church temporalities appeared as a

¹ Accounts, 1940-41, p.2, Eire, P.No.5400.
² Commissioners, 1941-42, p. 24, Eire, P.No.5710.
³ 12 & 13 Geo.5, c.13 (N.I.)
⁴ 15 Geo.5, c.4, s.8, ss.3, (N.I.)
⁵ Northern Ireland appropriation accounts, 1922, p. 43, H.C. 1922, (21), (N.I.)

simple revenue item for the first time in 1922-23, £26,010. 16. 2. being paid to the Northern Ireland Exchequer.¹ Thus the fund in Northern Ireland lost its identity as a separate fund and became merged in the general finances of the government. In so far as charges, formerly placed upon the fund and continued under the northern government, had any distinguishable existence, they appeared as items in appropriation and Consolidated Fund services accounts. The income from land and tithe rentcharge appeared as a collection account in the annual finance accounts. The following table gives figures at intervals for the total revenue from collection of amounts due from former church temporalities and the payments made to the exchequer.

	1924-25			1929-30			1934-35			1941-42		
Total revenue	£	s	d	£	s	d	£	s	d	£	s	d
Total revenue	21,431	6	10	19,030	16	7	12,219	18	3	11,445	4	0
Payments to exchequer	18,000	0	0	20,000	0	0	13,000	0	0	11,500	0	0

The payment in 1929-30 included repayment of over £14,000 income tax for 1922-26.²

¹ Northern Ireland finance accounts, to 1923, pp. 6 & 7, H.C. 1923, (36), (N.I.).

² Northern Ireland finance accounts, 1924-25, p.15, H.C. 1925 (91), (N.I.); Ibid., 1929-30, p.13, H.C. 1930, (214), (N.I.); Ibid., 1934-35, p.13, H.C. 1935, (350), (N.I.); Ibid., 1941-42 p.14, H.C. 1942, (575), (N.I.).

To meet the falling income from these sources, there was founded a sinking fund, known as the Church Temporalities Sinking Fund. Although founded early and receiving issues from the Northern Ireland Consolidated Fund from 1922-23,¹ the sinking fund was regulated by rules ultimately issued in 1933.² Payments from the Church Temporalities Sinking Fund have been made regularly in recent years and accounted for in the finance accounts.³ The payment from the fund into general revenue in that year was £27,500. The following account of the Church Temporalities Sinking Fund for 1940-41 gives an example of a characteristic year's working.

	£	s	d		£	s	d
Balance at bank	288	4	7				
Sales & redemptions	116	4	1	Transferred to exchequer	7,500	0	0
Securities sold or redeemed	18,085	0	0	Securities pur- chased	21,335	0	0
Interest received	11,086	17	7	Balance at bank	741	6	3
	<u>29,576</u>	<u>6</u>	<u>3</u>		<u>29,576</u>	<u>6</u>	<u>34</u>

¹ Northern Ireland, capital receipts and payments, to 1923, p.8. H.C. 1924, (47), (N.I.)

² Church Temporalities Sinking Fund regulations, (Northern Ireland) 1933, S.R. & O. No. 39, 1933, (N.I.)

³ Northern Ireland finance accounts, 1941-42, p.11, H.C. 1942, (575), (N.I.)

⁴ Northern Ireland capital receipts and payments, 1940-41, p.12 H.C. 1942, (551), (N.I.)

CHAPTER EIGHT

Conclusion

The Church Temporalities Sinking Fund, apart from payments into it from sales and redemptions and allocations to it of stock and securities equivalent to stock and securities received as appropriated portions of the Church Temporalities Fund, has no connection whatsoever with the former temporalities of the Church of Ireland. It is the equivalent in Northern Ireland of the augmentation to the Church Temporalities Fund in Eire from the annual Vote of Lands. In such a fashion the financial transactions originating in the disposal of the property of the Church of Ireland have developed away from practical connection with that property. In both Eire and Northern Ireland the remnants of the Church Temporalities Fund draw an income which consists increasingly of interest on securities.

The disestablishment is a great landmark in the history of the attitude of British statesmen, first, to the church and, secondly, to property in general.

The changes which the experience of the disestablishment effected in the attitude of statesmen and the public towards the general policy of dissociating church from state can be seen partly in the radically altered attitude towards

CHAPTER EIGHT

Conclusion

In the foregoing chapters we have seen the processes by which the Church of Ireland was removed from its dependence upon state aid and was sent on its future course as a free and unprivileged church, while a large part of its former property was diverted to other purposes. It is hard for us to realise now how formidable and how profoundly disturbing to the minds of thinking men that operation in all its details seemed at the time. The episode is passed over quickly enough now in biographies of Gladstone or in general histories; but it was a great crisis at the time, a great loosing of ancient inhibitions and solemn covenants, a deeply moving event for those who were closely concerned in it.

The disestablishment is a great landmark in the history of the attitude of British statesmen, first, to the church and, secondly, to property in general.

The changes which the experience of the Irish disestablishment effected in the attitude of statesmen and the public towards the general policy of dissociating church from state can be seen partly in the radically altered attitude towards

the project of disestablishing the Church of England. But a more tangible demonstration of how the Irish experience was made use of has been provided by the measures, in 1914 and subsequently, for the disestablishment and disendowment of the Church of Wales.¹ We shall record here very briefly the way in which the Welsh disestablishment process differed from the Irish.

The Welsh disestablishment was a slower process so far as preliminary business arrangements were concerned, the date of disestablishment being postponed till after the war of 1914-18. When the actual time of disestablishment came, however, the arrangements were much less elaborate and finical than in the case of the Irish Church. Many types of property, directly in use by ecclesiastical persons were vested immediately in the representative body, including all churches, residences, funds and endowments connected with church maintenance and "private benefactions" made since 1662, the date of the Act of Uniformity, and a number of other properties and sources of income which the

¹ The Welsh Church Act, 1914, (4 & 5 Geo. 5, c. 91) amended and confirmed by the Welsh Church (Temporalities) Act, 1919, (9 & 10 Geo. 5, c. 65)

Welsh Church had customarily enjoyed. The remainder of the property was alienated either to county councils or to the University of Wales, subject to existing life interests, without any of the complications of tenant purchase, tithe purchase or the elaborate financial procedure of the Irish Church Temporalities Fund.¹ Computation of life interests was calculated at the rate of 3 $\frac{1}{2}$ % per annum by tables of mortality of government annuitants issued in 1912, there being no question or controversy about extra allowances for the longevity of clergymen or special inducements to commute.² The terms in this respect were not as favourable as those made with the Irish clergy. The payment of commutation capital was assisted, not merely by loan facilities for the commissioners in charge of the operation, but also by a direct vote of £1,000,000 from the Exchequer.³ The total amount paid to the representative body of the Church of Wales by 1938, by the commissioners, was £3,684,561, which completed the pay-

¹ First report of the Commissioners of Church Temporalities in Wales, 1914-15, p. 2, /Cd. 8166/, H.C. 1914-16, xxxvii.

² 4 & 5 Geo. 5, c. 91, fourth schedule.

³ Sixth report of the Commissioners of Church Temporalities in Wales, 1920, p. 5, /Cmd. 1302/, H.C. 1921, ix.

ments due; and the completed repayment of loans to the National Debt Commissioners amounted to £2, 350,000.¹

Many of the complications which we noted in connection with the Irish Church transactions were obviated in the case of the Welsh Church by the simple and immediate transfer of endowments back to the church and of properties to county councils and the university. The whole Welsh transaction was also very much smaller than the Irish one. Partly this was due to the fact that the amount of property was smaller; but, in addition, when so much property was simply handed back immediately to the Church of Wales without special valuation and so much of the remainder was handed to public bodies in the same way, a relatively smaller value of cash transactions was a natural result. The cost of the Irish operation was indeed early pointed to by Gladstone as presenting a most embarrassing precedent if a demand should be made for a disestablishment of the Church of England on similar terms. He estimated that such an operation in England would require the raising and handing over of a sum of £90,000,000 to

¹ Accounts of the Commissioners of Church Temporalities in Wales, 1938, pp. 2-3, H.C. 1938-39, (199), xvi.

the newly disestablished church, which, he said, was "a very staggering kind of arrangement to make in supplying the young lady with a fortune and turning her out to begin the world."¹ The circumstances and public attitude, however, were much altered in the case of the Welsh Church. Comparison with the Welsh disestablishment reveals a curious paradox in the case of the Irish operation. The extent of financial compensations to the Irish Church was evidently increased, not merely by the demands of those favourable to the church, but also by the demands of those who were opposed to it and were eager for its particularly ruthless disendowment. Neither the defenders nor the supporters of the Welsh establishment were as vehement as were their predecessors at the time of the Irish disestablishment, and there was therefore much less need to adopt for Wales the arrangements which were made to placate each party in the case of the Irish Church. Thus, on the one hand, the terms of the Welsh compensation and commutation had not to be as generous as they were in the case of the Irish Church and, on the other hand, the preliminary disendowment had not to be so scrupulously complete and thus required a

¹ John Viscount Morley, The life of William Ewart Gladstone, 11, 458, f.n.

correspondingly smaller compensation. So, reduced in two directions, the actual cash transaction in Wales was proportionately all the smaller.

The Irish disestablishment was also a great event in the history of property in Ireland. As we have seen, the disendowment of the Church of Ireland provided the opportunity for the first large experiment in state-aided tenant purchase of land in Ireland. It might nearly be said that the Church of Ireland was the first Irish Protestant landlord to be affected by the policy of the Land Acts. The later history of the church has a certain general resemblance to that of many landlords who were bought out by tenant purchase. It ceased to draw its principal revenue from landed property - tithe rentcharge was a rent from land just as much as the ordinary rent paid by tenants for the use of land - and it came to draw revenue instead from investments in stocks and shares. Being confined to trustee investments and being competently and conservatively advised in the management of its property, the church has not, like so many formerly landed families, let its new kind of property be lost through wilful expenditure or ill-advised purchases and transfers of securities; though it has had to run the risks that are experienced by any

institution or individual drawing revenue from investments scattered throughout the world in an age of world wars, revolutions and instability, and it has had its losses from time to time, particularly as the result of the revolution in Russia.

There is another respect, however, in which the Church of Ireland has had a fate resembling that of the bought-out landed proprietor. At first, in southern Ireland, the old landed proprietor often continued to live in his big house in the midst of the land that had once been his. Then gradually the whole country became increasingly uncongenial. People of a different tradition and a different creed were gradually encroaching upon him. Very often he went away in the end, or his children went away, sometimes in quiet discouragement, sometimes through the demands of poverty or a career, sometimes on account of terrorism at a time of political disturbance. In some few cases the old landed family became absorbed, by marriage or other sympathetic connection, in the newly predominant tradition. In the same way, there has been a steady withdrawal of Church of Ireland population from southern Ireland. We shall quote some figures presently.

In one way the shrinkage of the Church of Ireland population

presented economic problems which have not usually arisen in the case of the departing landed gentry. The former/proprietor or his heir, departing from the site of his former possessions, need leave nothing behind him but a few sentiments. The re-endowment of the Church of Ireland, however, took place in such a fashion that, as we have seen, many endowments were attached to particular localities, particular churches and special needs. With the big shrinkage of church population, many of these local trusts and funds have become inappropriate to present circumstances; and it would undoubtedly be of value to the Church of Ireland if the Representative Church Body could receive powers from the legislature to release some of the income attached by these trusts to localities where it has ceased to be of use. Since this problem did not arise from the fact of disestablishment but from subsequent economic and social changes in Ireland, it cannot be more than mentioned here.

The fortunes of the Church of Ireland were indeed at first very strongly linked to those of the landed gentry just after the disestablishment; but, when the first difficulties of re-organisation and the first efforts towards re-endowment were over, the degree of dependence decreased. An observer in 1905 wrote,

"Certain social changes have been in progress in Ireland for many years. The successive land acts... tended, one after another, to weaken the social class in Ireland from which in its earlier years of disestablishment the church had received by far the larger part of its financial support, and to create or strengthen another class from which, in perhaps five-sixths of Ireland, no help could be obtained. A policy of which the object was to transfer by degrees the soil of Ireland from the hands of Protestant landowners to those of Roman Catholic tenants could not be consistently pursued for a quarter of a century without exercising a crippling influence on the church's funds."

But he added,

"That which is lost in the declining subscriptions of the many landowners was rather more than made up by the increased gifts of other classes."¹

A point which this writer perhaps missed was that the last generous aid which the landed class was able to give to the Church of Ireland came at the very best possible time, when the commutation scheme enabled the greatest use to be made of all subscriptions and donations with a view to future endowment in a way that could not have been the case at a later time. After that initial period which immediately succeeded disestablishment, the urgent and exceptional need for aid was much less, and the church's requirements could be met more successfully than

¹ Anonymous article on "Church of Ireland finance" in Church quarterly review, lx, 313 (July, 1905)

formerly by the more limited capacities of another and less wealthy class.

In the larger historical context of the land acts and of the political movement which led to the setting up of an independent and predominantly Roman Catholic state in southern Ireland, the policy of the Irish Church Act has a vital and initiatory significance. It was the first acutely conscious and deliberate move towards breaking down the economic, social and denominational predominance of the Anglo-Irish Protestant community in its "Ascendancy" form. The Irish Church Act and its implications involved a very grave threat to that old and sturdy entity which had the Church of Ireland for its heart, Trinity College for its brain and a very able and, in later years, generally not unattractive Protestant Junker class for its backbone. But, although that social entity has now been practically destroyed, the Church of Ireland community has not been destroyed but has gone through a very curious change. One might almost say that it has undergone a process of re-incarnation.

In 1861 the Church of Ireland population was 693,357,

being 11.96% of the total population of Ireland; and in 1937 it was 490,504, being 11.55% of the population.¹ The proportionate number of members of the Church of Ireland in the whole of Ireland has thus not shrunk very much since before the disestablishment, but there has been a great change in its geographical and social distribution. The process of change is shown in the following table.

Church of Ireland membership

Year	Northern Ireland	Irish
	six counties	twenty-six counties
1861	320,634 (46.2%)	372,732 (53.8%)
1871	329,279	338,719
1881	321,998	317,576
1891	313,299	286,804
1901	316,825	264,264
1911	327,076	249,535
1926	338,724	164,215
1937	345,474 (70.4%)	145,066 (29.6%)

The shift in Church of Ireland in Ireland as a whole has been paralleled by a corresponding change in geographical distribution

¹ The population figures quoted in this chapter, and also to some extent the interpretation of them, have been taken from a valuable and lucid article signed "Colyn" under the heading "From a northern window" in the Church of Ireland gazette, lxxxix, 41 (28th January, 1944). During many years this regular feature-title and pseudonym in the Church of Ireland gazette have covered articles on many subjects from a variety of Ulster contributors, but I am informed that the writer in the present case was the Rev. R. P. McDermott.

inside the six counties of Northern Ireland. This process is shown in the following table.

Year	Church of Ireland population in Northern Ireland	
	Antrim and Down with Belfast two counties	The rest of Northern Ireland four counties
1861	137,833 (43%)	182,801 (57%)
1901	191,109 (63%)	125,721 (37%)
1937	235,262 (68%)	110,212 (32%) ¹

In 1937 the Church of Ireland population throughout Ireland was distributed approximately 40.6% in rural areas and small towns and 59.4% in cities and large towns.

These figures which have been quoted demonstrate, as briefly and clearly as anything could, how the character of the Church of Ireland membership has changed with those great economic, social and political changes to which the Irish Church Act served as preface and forwarning. At the time of the disestablishment, and for long before it, the Church of Ireland had the characteristics of a church dependent upon a landed income and supported by a class of landed proprietors fairly widely scattered throughout

¹ I have not thought it necessary to investigate the discrepancy of 5 persons in the figures given for 1901.

Ireland. At the present time we find it to be a church dependent on an income drawn from stocks and shares and supported by a middle-class urban population living mainly in the industrial area of the "city state" of Belfast and Northern Ireland. In the city of Belfast, the Church of Ireland has become, by a slight margin, the largest religious denomination. In proportion to the aggregate population of the whole island, the membership of the Church of Ireland has not greatly shrunk in spite of the severe shocks and changes which it has had to pass through; but it has, as it were, in losing its "Ascendancy" characteristics, achieved a re-incarnation in a different geographical and class distribution and in a form more serviceable to a modern world and more capable of coping with altered conditions.

The part of our present subject which is concerned with the Church of Ireland itself and with the breaking up of its former landed income is, however, not the whole story; and much of this thesis has been devoted to showing the nature of the subsequent financial operations by which the confiscated property of the church was made available for other purposes. About this less remains to be said by way of conclusion.

Just as the history of the church and its landed property forms a characteristic part of the general economic and social history of the age, so also the financial operations were very typical of the financial history of the later nineteenth and earlier twentieth centuries. But, whereas in the case of the church and its land we can trace a large part of the cycle of Irish history in which the events described took place, we cannot yet see the nature of the cycle of the history of finance and credit in which the financial transactions have their place. It is not a cycle of Irish history alone but of the history of finance and public credit throughout the British Empire and the world.

That the type of financial adjustment and relations between public departments, exemplified by the methods used in spending the residue of church property, is not likely to remain quite the same in the future is shown to be probable by many symptoms of modern times. The destruction of national institutions throughout the world, changes in banking and credit, the exceptional methods of exchange adopted in wartime, the lowered rates of interest on British public loans, and the long-threatened

but still unprecipitated crisis in connection with the huge indebtedness of British municipalities and local authorities are all symptoms of change in the motives, facts and ideas which are so clearly expressed in the financial transactions connected with the creation and spending of the Irish Church Temporalities Fund. But, at the time of writing, it would be too soon to say more than this in the present context.

Moreover, unlike the events connected with the church and its landed income, which formed a striking and significant part of a cycle of quick movement, the financial transactions, even if they can one day be seen as having a characteristic place in the history of finance, will almost certainly be seen as an episode devoid of significance. They will be seen as falling in the middle of a more or less static period in the history of finance and credit, a period which can display innumerable other examples of transactions equally typical and equally unexceptional. If the events connected with church and land came significantly at the beginning of a period of revolutionary change in Irish social and economic history in which they had a considerable importance, the purely financial transactions came quite

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The following list of works cited or used in the preparation of this thesis represents a critical account. In the forward reading has been insignificantly in a period of stability in British and Irish financial history and have been brought near to an undistinguished and uninteresting close before any new developments could affect them.

the Council of the North, the Disestablishment, in particular the Disestablishment of the Church of Ireland, the Irish Land Commission, the Ministry of Finance for Northern Ireland and the Representative Council.

These reports, however, deal with a vast quantity of material and are of such a nature that they cannot be considered without much care and attention. It was, moreover, necessary to study these reports in detail as they cover a long period of years.

and the various reports and documents which were necessary for the solution of particular problems. This work was relatively easy and did not require much research or study, since the reports themselves contained the material and the method of reporting.

The information had to be collected from many sources and the reports of the Church Commissioners themselves which give a detailed and interesting account of work done by the commission during a period of years. These were the first report, for the period 1886-90, and the second, for the period 1890-94.

In each of these the commission gives a general description of the whole scope and progress of their work.

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The following list of works cited or used in the preparation of this thesis requires little critical comment. In the foreword something has been said of the general neglect of the present subject in secondary authorities on Irish history, law and economics of the period, and even in works by contemporaries. The main source of information has inevitably been the reports and accounts of bodies which administered the former property of the Church of Ireland after disestablishment, in particular those of the Commissioners of Church Temporalities in Ireland, the Irish Land Commissioners, the Ministry of Finance for Northern Ireland and the Representative Church Body.

These reports and accounts, however, deal with a vast quantity of confusing and detailed transactions and cannot be understood without much study, comparison and interpretation. It was, moreover, necessary to examine them, not only individually, but as complete series over a long period of years, and much retracing and referring backwards and forwards was necessary for the elucidation of particular problems. This rich and relatively narrow range of sources did not render research rapid or easy, giving rise, as it did, to the embarrassment of too much information and to problems of selection.

While much information had to be collected from many scattered references, there were two reports of the Church Temporalities Commissioners which gave useful and enlightening summaries of work done by the commissioners during a preceding period. These were the first report, for the period 1869-74, and the final report, for the period 1869-80. In each of these the commissioners gave a short general description of the whole scope and progress of their

work. With the second of these two reports they published an appendix giving very extensive summaries of information.

In the accounts of the Church Temporalities, or in those of the Land ^{Commissioners} Commissioners in respect of church temporalities, the practice was adopted from the beginning of giving an account of receipt and expenditure from 1869 as well as that for the particular year to which the accounts specially referred. This has led to frequent use being made of the accounts for 1880, which gave complete details of total receipts and expenditure under all heads during the existence of the Church Temporalities Commissioners, and the accounts for 1922-23, which were the last to give entries for the whole period from 1869 and also the last before the division of the Church Temporalities Fund between the governments of the Irish Free State and Northern Ireland. The earliest accounts of the Church Temporalities Commissioners give a considerable amount of unco-ordinated information about details of receipt and expenditure in the comments of the Comptroller and Auditor General, and much information was elicited by his searching criticisms and the acrimonious controversies which he conducted with the commissioners. The effects of the severe character of the audit and the ill defined relations of the auditors to the commissioners have indeed been very helpful to the historian in giving rise to the publication of more ample explanations and returns. With these reports and accounts may be classed a considerable number of "white papers" and "blue books" giving returns of various kinds relating to the former church property. This mass of serviceable material contained in the parliamentary papers of the United Kingdom, the Irish Free State (Éire) and Northern Ireland, has been the principal and almost the only source of information about so much

of the church property as was not used for compensations after the disestablishment.

With regard to the part of the property used for compensation of disturbed interests, there are, in addition to the foregoing, sources of information originating from the side of the recipients of the compensations, particularly the annual reports of the Representative Church Body. In the case of the smaller and simpler compensations to religious bodies other than the Church of Ireland, secondary authorities have been followed to a considerable extent.

Generally it has been found that the transactions described in the present thesis were so extensive and so highly technical in their nature that comments upon them, other than in the reports of those who were themselves conducting the business, tend to be inaccurate or at least to display inadequate information and understanding. In other cases, such as the comments of George Salmon, where this would not be true, interest had been concentrated upon the constitutional and theological rather than the economic and financial implications of disestablishment. Of the law books written on the subject of the Irish Church Act, the most valuable were those of W. L. Bernard, who was an official of the Church Temporalities Commission.

Pamphlet and controversial literature yielded very little material of value, since that literature was concerned mainly with the principles involved in disestablishment, or with the constitutional and theological issues, and not with economic results, or was concerned with economic conditions before and not after the disestablishment. The same might be said of parliamentary debates and articles in periodicals. A search through newspapers promised no return for the labour involved; and the reports of the commissioners contained many adequate illustrative descriptions of individual experiences under the

Irish Church Act, such as might otherwise have had to be sought in newspapers.

Biographies, collections of speeches, diaries and memoirs, as well as parliamentary debates, served to provide information on the intentions and hopes of the legislators.

The various commissions of enquiry of the period prior to the disestablishment gave useful information on the state of the church property before the operations described in this thesis took place; but it was a matter of constant regret that the present study of the effects of the Irish Church Act could not have been preceded and aided by an adequate and scholarly study of the temporalities of the Church of Ireland in the early nineteenth century, before disestablishment, and of the effects of the Church Temporalities Acts. No such work, however, appears to have been undertaken yet in an adequate and complete fashion, and much attention had to be given to seeking explanations of various survivals from the preceding period. For this reason, as well as by the very nature of the subject, very extensive reference had to be made to the actual texts of statutes.

Since some of the works cited are rather rare, it may be mentioned that access to them all was obtained at the National Library, Dublin, at the library of Trinity College, Dublin, or at the library of the Representative Church Body, Dublin. There are two exceptions to this. First, information about the contents of a few House of ^{Lords} ~~Commons~~ papers of minor importance, which were not available in any Irish library, was obtained through the agency of the Institute of Historical Research, London. Secondly, in two cases where there were gaps in the set of Commons papers in the National Library, Dublin, access was given to the parliamentary papers in the Dáil library, where the former Chief Secretary's set of Commons papers is kept.

Some of the classifications in the following list of works cannot be final or exclusive with regard to every particular work. For example, a work classified as a secondary authority on history might, in some connection, be equally well classified as contemporary comment. In any case of doubt, the classification adopted is based on the apparent intentions of the author, whether to record history or to comment on contemporary events, or whatever the case might be.

The following is the classification used.

I. Bibliographies and works of reference

II. Secondary authorities

1. Works and writings on history and economic history

2. Works and writings on law

III. Biographies, memoirs, speeches, diaries, letters and political writings

IV. Contemporary comment

V. Parliamentary papers

1. British House of Commons papers

a. Reports of the Commissioners of Church Temporalities in Ireland

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Same, 1876, C.1648/, H.C. 1877, xxvi, 195

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Same, 1878, C.2288/, H.C. 1878-9, xx, 55

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Same, for the year ended 31st December, 1871, H.C. 1872, (373), xlvi, 259

Same, 1872, H.C. 1874, (233), li, 63

Same, 1873, H.C. 1875, (42), xx, 97

Same, 1874, H.C. 1875, (252), xx, 133

Same, 1875, H.C. 1876, (263), xx, 83

Same, 1876, H.C. 1877, (233), xxvi, 217

- Same, 1877, H.C. 1878, (217), xxiv, 107
- Same, 1878, H.C. 1878-9, (217), xx, 119
- Same, 1879, H.C. 1880, (204- Sess. 2), xviii, 123
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Report of the Irish Land Commissioners for the period from 22nd August, 1881, to 22nd August, 1882, C.3413/, H.C. 1882, xx, 265

- Same, 1882-83, C.3897/, H.C. 1884, lxiv, 41
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- Same, 1884-85, C.4625/, H.C. 1886, xix, 467
- Same, 1885-86, C.4899/, H.C. 1886, xix, 503
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- Same, 1887-88, C.5586/, H.C. 1888, xxxiii, 239
- Same, 1888-89, C.5876/, H.C. 1889, xxvii, 409
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- Same, 1897-98, H.C. 1898, (331), xx, 211
- Same, 1898-99, C.9407/, H.C. 1899, xviii, 151
- Same, 1899-1900, Cd.294/, H.C. 1900, xvii, 143
- Same, 1902-03, H.C. 1904, (194), xxii, 333

- Same, 1900-01, [Cd.690], H.C. 1901, xvii, 215
- Same, 1901-02, [Cd.1186], H.C. 1902, xxi, 325
- Same, 1902-03, [Cd.1673], H.C. 1903, xviii, 1
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- Same, 1909-10, [Cd.5321], H.C. 1910, xxxi, 681
- Same, 1910-11, [Cd.5795], H.C. 1911, xxix, pt. 1, 331
- Same, 1911-12, [Cd.6354], H.C. 1912-3, xxxiv, 41
- Same, 1912-13, [Cd.6979], H.C. 1913, xxx, 253
- Same, 1913-14, [Cd.7575], H.C. 1914, lxv, 581
- Same, 1914-15, [Cd.8042], H.C. 1914-16, xxiv, 225
- Same, 1915-16, [Cd.8481], H.C. 1917-8, xv, 421
- Same, 1916-17, [Cd.8742], H.C. 1917-8, xv, 533
- Same, 1917-18, [Cmd.19], H.C. 1919, xxiv, 219
- Same, 1918-19, [Cmd. 572], H.C. 1920, xix, 1043
- Same, 1919-20, [Cmd.1064], H.C. 1920, xix, 1149

Same, 1903-04, H.C. 1903, (73), xxiii, 69

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Same, 1882-83, H.C. 1884, (34), xxii, 393

- Same, 1883-84, H.C. 1884-5, (9), xxi, 553
- Same, 1884-85, H.C. 1886, (53 - Sess.1), xx, 65
- Same, 1885-86, H.C. 1887, (16), xxvii, 71
- Same, 1886-87, H.C. 1888, (48), xxxiv, 77
- Same, 1887-88, H.C. 1889, (58), xxviii, 121
- Same, 1888-89, H.C. 1890, (41), xxvi, 151
- Same, 1889-90, H.C. 1890-1, (48), xxvi, 83
- Same, 1890-91, H.C. 1892, (29 - Sess.1), xxvii, 271
- Same, 1891-92, H.C. 1893-4, (23), xxv, 205
- Same, 1892-93, H.C. 1893-4, (503), xxv, 229
- Same, 1893-94, H.C. 1895, (18), xxvi, 207
- Same, 1894-95, H.C. 1896, (27), xxv, 111
- Same, 1895-96, H.C. 1897, (52), xxiv, 117
- Same, 1896-97, H.C. 1898, (36), xxi, 101
- Same, 1897-98, H.C. 1899, (66), xix, 103
- Same, 1898-99, H.C. 1900, (33), xviii, 125
- Same, 1899-1900, H.C. 1901, (55), xviii, 107
- Same, 1900-01, H.C. 1902, (105), xxii, 101
- Same, 1901-02, H.C. 1903, (64), xix, 93
- Same, 1902-03, H.C. 1904, (90), xviii, 89
- Same, 1903-04, H.C. 1905, (75), xxiii, 89
- Same, 1904-05, H.C. 1906, (60), xxvi, 89
- Same, 1905-06, H.C. 1907, (56), xx, 115
- Same, 1906-07, H.C. 1908, (29), lxii, 115
- Same, 1907-08, H.C. 1909, (51), l, 113
- Same, 1908-09, H.C. 1910, (23), lix, 125

- Same, 1909-10, H.C. 1910, (303), lix, 143
- Same, 1910-11, H.C. 1911, (324), xlv, 113
- Same, 1911-12, H.C. 1912-3, (464), xlix, 141
- Same, 1912-13, H.C. 1914, (78), l. 113
- Same, 1913-14, H.C. 1914-16, (23), xxxviii, 123
- Same, 1914-15, H.C. 1914-5, (356), xxxviii, 163
- Same, 1915-16, H.C. 1916, (127), xvii, 95
- Same, 1916-17, H.C. 1917-8, (147), xix, 125
- Same, 1917-18, H.C. 1918, (125), xv, 93
- Same, 1918-19, H.C. 1919, (190), xxxii, 103
- Same, 1919-20, H.C. 1920, (199), xxvii, 105
- Same, 1920-21, H.C. 1921, (240), xix, 107
- Same, 1921-22, H.C. 1922, (11 - Sess.2), iii, 1
- Same, 1922-23, H.C. 1924, (22), xiii, 113

e. Other British House of Commons papers

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H.C. 1831, (93), ix, 73
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of Ireland, H.C. 1833, (265), xxvii, 351
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Ireland, 1833, H.C. 1833, (762), xxi, 201
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in Ireland, H.C. 1833, (263), xxvii, 449
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Ireland, 1834, H.C. 1834, (589), xxiii, 9
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- Same, as amended in committee, H.C. 1868-9, (112), iii, 117
- Same, as amended in committee and on consideration as amended, H.C. 1868-9, (123), iii, 153
- Same, as amended by the Lords, H.C. 1868-9, (209), iii, 191
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- Same, Commons' ^{en} amendments to Lords' amendments and the reasons for disagreeing to several of the Lords' amendments, H.C. 1868-9, (232), iii, 237
- Returns of number and amount of yearly income declared by the Church Commissioners to be payable to curates under 15th section of the Act 32 & 33 Vic., c. 42, distinguishing those appointed prior to the passing of the said act and subsequent thereto, H.C. 1871, (493), lv, 267

- Return of the number and amount of the applications made under the Irish Church Act of 1869 to enable owners of land charged with payment of tithe rentcharge to purchase the same by instalments extending over a period of fifty-two years, and of the number and amount of similar applications made since the act of 1872 enabling the average poor rates and stamp duty to be deducted from the purchase money, H.C. 1873, (264), lii, 45
- Return of the number of tenants on the books of the Irish Church Commissioners, character and nature of their holdings and rents of same, number who have been offered the rights of pre-emption, purchase money demanded, amount paid, etc., H.C. 1874, (193), li, 113
- Report of the Comptroller and Auditor General in reference to the account of the Commissioners of Church Temporalities in Ireland from 1st January to 31st December, 1872, H.C. 1874, (333), li, 59
- Same, 1873, H.C. 1874, (340), li, 105
- Return of number, names and residences of clergymen and ecclesiastics who, up to the end of July, 1874, have, under the Irish Church Act, commuted, stating annual value of their livings, and the amount of commutation agreed on, H.C. 1875, (52), lvii, 417
- Second report from the Committee of Public Accounts, together with the proceedings of the committee, minutes of evidence and appendix, 1875, H.C. 1875, (336), viii, 89
- Return of the officers and persons in the employment of the Commissioners of Irish Church Temporalities, with a statement of the salary, duties and date of appointment of each, and the days in 1876 in which the court of appeal sat and the number of appeals disposed of, H.C. 1877, (122), lxvi, 715
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- Return of particulars of the aggregated amount of the annual income vested in the Commissioners of Irish Church Temporalities and of the number of persons by whom in each case payable, and of all lands remaining unsold, specifying in each case the acreage, etc., H.C. 1877, (235), lxvi, 681
- Return up to 31st December, 1877, of holdings exceeding three acres in extent sold by the Commissioners of Church Temporalities in Ireland, giving in each case the name of the purchaser, the denomination of lands sold, the purchase money, the date of sale, etc., H.C. 1878, (380), lx, 43
- Return of the total amount payable during the year 1879 of instalments and of interest of money due in respect of purchases of land under the Irish Church Act, 1869, etc., H.C. 1880, (247 - Sess.2), liv, 59

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Return of the total amount payable during the year 1880 of instalments and of interest of money due in respect of purchase of land under the Irish Church Act, 1869, and the Land Acts of 1870 and 1872, also of the total amount by counties of arrears on 31st December, 1880 (in continuation of paper no. 247 of 1880), H.C. 1881, (66), lxxii, 145

Return by dioceses of the total number of holdings sold by the Commissioners of Church Temporalities in Ireland up to 31st December, 1880, etc., H.C. 1881, (193), lxxii, 149

Return showing the financial position of the Irish Church Temporalities Commission, now represented by the Irish Land Commission, H.C. 1882, (153), 1, 499

First report from the select committee of the House of Lords on Land Law (Ireland), H.C. 1882, (249), xi, 1

Statement of the number of items payable to the Irish Church Temporalities Fund classified according to their amount, H.C. 1882, (345), 1, 505

Return relating to glebe tenants in Ireland, showing number of purchasers under the Irish Church Act, 1869, who had outstanding mortgage debts due to the Land Commission at the date of the passing of the Purchase of Land (Ireland) Act, 1885, number of purchasers under the 23rd section of the land act of 1885, number of purchasers by instalment mortgage and simple mortgage under the 52nd section, Irish Church Act, who have obtained relief under the 25th section of the Land Act of 1867, number of purchasers under this section who have obtained relief under the fifth subsection dealing with arrears, amount of arrears so dealt with, H.C. 1888, (370), lxxviii, 25

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- Return showing the financial position of the Irish Church Temporalities Fund in the event of the Purchase of Land and Congested Districts (Ireland) Bill becoming law, H.C. 1890, (130), xli, 281
- Return relating to tithe rentcharge on the books of the Irish Land Commission to 31st March, 1891, etc., H.C. 1892, (75 - Sess.1), lxxv, 727
- Return of the names, titles and salaries of officers and clerks in the Land Commission, Ireland, on the 31st day of December, 1891, etc., H.C. 1892, (248 - Sess.1), lxxv, 719
- Return of the names of clergymen and ecclesiastics of whatever grade in the Irish Church who commuted under the Irish Church Act, 1869, stating the annual value of their livings and the amount of commutation agreed on, including the 12 per cent. bonus, with summaries (in continuation of paper no. 52 of 1875), H.C. 1893-4, (172), lxxvii, 737
- Return giving number of tenants occupying glebe lands which have up to the present vested under the Irish Church Act, 1869, etc., H.C. 1893-4, (229), lxxv, 67
- Report from the select committee on Land Acts (Ireland), 1894, H.C. 1894, (310), xiii, 1
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- Treasury memorandum dated 14th July, 1899, on the financial position and prospects of the Irish Church Temporalities Fund, H.C. 1899, (293), li, 251
- First report of the Commissioners of Church Temporalities in Wales, 1914-15, [Cmd.8166], H.C. 1914-16, xxxvii, 535
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2. British House of Lords papers (Note, in this section of the bibliography one long paper, no. 127 of 1868-9, has, for clarity and convenience, been given separate entries for its component parts.)
- Return of all sales in the Landed Estates Court (Ireland) of tithe rentcharges, etc., H.L. 1868-9, (47), xix, 327

Return of all sales in the Landed Estates Court (Ireland) of advowsons for the last ten years, etc., H.L. 1868-9, (in 127), xix, 153

Return of the amount paid in each of the last five years to the Royal College of Maynooth from the Consolidated Fund, distinguishing the amounts paid to professors from those paid to students or for the establishment, also of any expenditure incurred or loans made by the Board of Works in Ireland for maintenance of the buildings in each year since 1845, H.L. 1868-9, (in 127), xix, 153

Return of the names of the Presbyterian and non-conforming and other Protestant dissenting churches and chapels in Ireland, the clergymen of which in the year 1868 received aid from the Regium Donum, together with the amount paid to each, H.L. 1868-9, (in 127), xix, 153

Return of all sales of impropriate tithe rentcharge in the Landed Estates Court (Ireland) for the last ten years, etc., H.L. 1868-9, (in 127), xix, 153

Return of the number of petitions and of the signatures thereto for and against the Irish Church Bill up to and including 15th June, 1869, H.L. 1868-9, (133), xix, 163

Further return of same, H.L. 1868-9, (135), xix, 163

Return of the name of each purchaser of lands sold by the Commissioners of Church Temporalities in Ireland, denomination of land sold, with names of benefice, county and barony, purchase money in each case, distinguishing between amount paid in cash and secured by mortgage, date of sale, amount of rent formerly paid, H.L. 1876, (205), x, 129

Return of the amount of arrears of tithe rentcharge, rent and interest due to the Church Temporalities Commissioners, H.L. 1882, (182), x, 77

3. Irish Free State (Éire) parliamentary papers

Report of the Irish Land Commissioners for the period from 1st April, 1920, to 31st March, 1921, Dublin, 1922 (S.E. stationery office publication) (cited in footnotes as Commissioners.)

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VII. Public general statutes and statutory rules and orders

1. United Kingdom statutes

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Maynooth College Act, 1800; 40 Geo. 3, c. 85

The Act of Union, 1800; 39 & 40 Geo. 3, c. 67

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Tithe Rentecharge (Ireland) Act, 1838; 1 & 2 Vic., c. 109

Income Tax Act, 1842; 5 & 6 Vic., c. 35

Railway Clauses Consolidation Act, 1845; 8 & 9 Vic., c. 20

Maynooth College Act, 1845; 8 & 9 Vic., c. 25

Landed Property (Ireland) Improvement Act, 1847; 10 & 11 Vic., c. 32

Landed Property (Ireland) Improvement Act, 1849; 12 & 13 Vic., c. 23

Public Money Drainage Act, 1850; 13 & 14 Vic., c. 31

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Income Tax Act, 1853; 16 & 17 Vic., c. 34

An act to amend the laws relating to Ministers' Money and the Church Temporalities (Ireland) Act, 1854; 17 & 18 Vic., c. 11

Leasing Powers Act for Religious Worship in Ireland, 1855; 18 & 19 Vic., c. 39

Burial Grounds (Ireland) Act, 1856; 19 & 20 Vic., c. 98

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- Irish Presbyterian Church Act, 1871; 34 & 35 Vic., c. 24
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- Glebe Loan (Ireland) Amendment Act, 1875; 38 & 39 Vic., c. 30
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- National School Teachers (Ireland) Act, 1879; 42 & 43 Vic., c. 74
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b. Northern Ireland statutory rules and orders

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