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The Limits to Land Reform: The Land Acts in Ireland, 1870-1909

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CENTER DISCUSSION PAPER NO. 726

**THE LIMITS TO LAND REFORM:
THE LAND ACTS IN IRELAND, 1870-1909**

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Abstract

Land reform in Ireland came as a result of a long and heated political debate over landlord-tenant relations. While meeting some demands of Irish nationalists, the reforms did little to improve the efficiency of agriculture in Ireland. Tenant land purchase provided a transfer of wealth to Irish tenants but did not alter production incentives. Moreover, the reforms missed opportunities to improve the access to credit of small farmers that should have been opened by the creation of a class of present proprietors. Indeed, legal restrictions on mortgaging introduced by the Land Acts may well have damaged rural credit availability, decreasing productive investment and locking in a potentially inefficient allocation of land.

KEY WORDS: Land Tenure, Land Reform, Agricultural Credit

Ireland experienced two great waves of land reform during the late nineteenth and early twentieth centuries. Land reform was a central demand of Irish political factions of the time and by acceding to this demand successive British governments hoped to pacify Ireland. This paper reconsiders the economic significance of the several Irish land reform measures by examining them in the context of economic theory, and by comparing them to other land-reform episodes in currently developing countries and in European history. The Irish reforms contained little that could better the allocation of resources and so had little impact on economic efficiency, even though the end result was the creation of a class of peasant proprietors operating in a free market. The analysis focusses on the structure of the laws and their relation to Irish institutions, although we also discuss the aggregate evidence on the evolution of agricultural efficiency following the reforms. Moreover, the Irish legislation missed an important opportunity to improve smallholders' access to credit. Some facets of the land legislation, interacting with some unusual institutional features of land tenure in Ireland, made credit conditions *worse*. Land reform in Ireland was much more a wealth-redistribution program financed by Britain than a serious effort to improve the efficiency of agriculture.

Land tenure and land reform occupy central roles in both the history and historiography of the political struggles that culminated in the partition of Ireland in the 1920s. Successive waves of Irish politicians sought to harness essentially nationalist ambitions to the more mundane dissatisfactions of the Irish farmer, convincing the latter that economic prosperity required alterations to or complete abolition of an agrarian system whereby tenants paid rents to landlords. While Ireland's historians have closely analyzed the political dynamics of agrarian discontent before, during, and after the Land War of 1879-82, scholars have paid little attention to the economic content of the Land Acts *per se*. The exceptions, such as Solow [1971], have devoted their efforts to the first wave of those reforms. By analyzing the actual implications of the Irish land reform more generally, in a broader theoretical and comparative light, we

supplement the political historians' conclusions that the Land Acts were intended less as economic policy than as efforts to compromise with Irish political demands.

Recent studies of land tenure in developing countries provide a useful context for the Irish case. Comparison of nineteenth-century Ireland to developing countries today is neither novel nor far-fetched. Black [1972] noted in a neglected paper that economic policy in Ireland during the period of Westminster rule closely resembled, at least in intent, much development policy today in that it was an effort to secure peace and quiet through improving economic conditions for the populace. Alterations to property rights in land are a central feature of development policy today. Besley [1992] provides a useful classification of the implications of property rights in land under three headings: (1) *Security*: Occupiers who lack security of tenure in their holdings will not expend effort in investments, the fruits of which can be seized by another. An insecure tenant may not take any interest in the long-term productivity of a farm if he fears being ejected without compensation after the current season. (2) *Land as collateral*: Pledging land as collateral can dramatically reduce the costs of loans, since mortgage lenders are less likely to demand expensive risk premia or to engage in costly information-gathering activities. Yet such mortgage loans presuppose a lender's ability to seize the land in the case of default. (3) *Commoditization*: Some forms of tenure impede the buying and selling of land and so result in a suboptimal distribution of land. The more nearly is land like any other commodity, the more likely it is to be allocated to its highest-value user. As will be discussed below, the Irish land reforms may have had some positive effect on security in the early stages of reform, but created new problems both for collateral and commoditization.

The first section below reviews land tenure and the Land Acts in Ireland. Section two analyzes the economic effects of these reforms as anticipated by simple economic theory. Section three discusses the implications of land tenure and its reforms for rural credit.

1. Land Tenure and its Reform

Prior to the Land Acts a majority of all Irish farmers were tenants, and most of them were either yearly tenants or tenants-at-will, lacking formal leases. Table 1 summarizes the results of the first national statistical study of tenancy, from 1870. Tenancy-at-will was most common in the northern and western provinces of Ulster and Connaught and on holdings valued at less than £15, but tenancy-at-will and yearly tenancy accounted for the majority of farmers everywhere in Ireland.* Table 1 also suggests an important point to which we return later: a large majority of the more extensive farms in Ireland were *not* tenancies-at-will.

A tenant-at-will had no legal guarantee of continuing occupation; his landlord could, in theory, eject him any year. This supposed insecurity lies at the heart of what Mokyr calls the "Land Tenure Hypothesis" of Irish poverty. Without leases landlords could always raise rents or eject a sitting tenant, giving tenants no incentive to invest in their holdings as the landlord could appropriate the value of any investment the tenant might make (Mokyr [1985:chapter 4]). Nor did tenants have any incentive to protect his landlord's investments in the holding. Thus, the argument goes, neither party made the long-term investments necessary to increase agricultural productivity. As Crotty [1966:51] notes, this alleged inability to recover the value of improvements formed a central feature of the argument for tenant-right, discussed below. The idea of insecure tenancy informs much of the older historical research on Ireland. For example, Connell's account of demographic patterns prior to the Famine is based on the notion that peasants wanted to invest in people rather than land. Any evidence of increased prosperity, Connell claimed, would be immediately soaked up by a landlord (or middleman) in the form of a rent increase. This behaviour, if it actually occurred, seems unlikely to have been in the long-term interest of landlords,

* Evidence from earlier in the century is more sketchy, but shows the same pattern of a predominance of tenancy-at-will among smaller farmers. Strictly speaking, tenancy-at-will and yearly tenancy were different (Solow [1971:7]). Yet the distinction is usually not maintained in the Irish historiography, and the term tenancy-at-will is used throughout this essay.

who would have benefited from a more cooperative solution. Nonetheless, according to Connell, "elastic rent" deterred even effort devoted to the *current year's* output; "... if a man worked harder he was more likely to enrich his landlord than himself" (Connell [1962:521]).*

Tenancies-at-will notwithstanding, Irish farmers occupied their holdings for surprisingly long times. Long occupation without a lease often reflected the landlord's recognition of tenant-right, or the "Ulster Custom." This practice has vexed Ireland's historians for generations and there is no consensus on how or why it emerged. Although most common in Ulster, the institution was widespread throughout Ireland. Three central features of the Ulster Custom, sometimes referred to as the "three F's," were "fixity of tenure" or the right to remain on a holding so long as rent was paid; the right to pay a "fair" rent; and the right to "free sale" of the tenant's interest or tenant-right when a tenancy changed hands. Fixity of tenure amounted to an informal, perpetual lease. Fair rent meant to Irish peasants a rent less than the "rack" rent: the rent at which a holding would let should the landlord solicit bids on an open market. Solow [1971] and Vaughan [1994] interpret the rack rent as the Ricardian rent. With rent below the Ricardian rent, the sitting tenant could find incoming tenants willing to pay a lump sum for the right to rent the land at the "fair rent"; this sum, or the practice of paying it, constituted much of tenant-right.** As contemporaries noted, tenant-right implied an awkward co-proprietorship in land. For tenant-right to have any meaning, the landlord had to concede certain rights — such as setting rents at competitive levels — normally associated with the ownership of land.

* Connell's view of pre-Land Act tenures echoes a long line of Irish economic historians, the most notable of which was George O'Brien, whose *The Economic History of Ireland from the Union to the Famine* (1921) was quite influential. "Elastic rent" and its deterrent to property-accumulation were the centerpiece of Connell's explanation of pre-Famine population growth.

** Solow [1971] and Vaughan [1994] discuss the basic institution. Guinnane and Miller [1992] argue that tenant-right, was, from the landlord's viewpoint, a workable alternative to security deposits, thus helping to explain why some landlords were willing to tolerate the practice. Historians have rightly insisted that the Three Fs do not exhaust the significance of tenant-right. See, for example, Vaughan [1984:20, 1994].

Reform of Tenancy

Parliament regulated tenancy in several major steps. The Land Act of 1870 required compensation for improvements to all outgoing tenants as well as compensation for disturbance to any tenants who were ejected. In a more confusing set of clauses the Act of 1870 also legalized the Ulster Custom where it had existed before. Legalization of the Ulster Custom had ambiguous implications, since the Act never defined the Ulster Custom nor did the Act prevent the rent increases that would reduce the value of the tenant's interest. In 1881 Parliament altered the basis of landlord-tenant relations more fundamentally. The 1881 Act extended the three F's to all of Ireland and established a system to determine and enforce "fair" rents. Land courts had the authority to fix judicial rents for 15-year terms. Rent regulation in effect guaranteed the value of tenant-right.* The 1881 Fair Rent Act gave a statutory basis to what amounted to a co-proprietorship in Irish agricultural land: landlords had the right to draw an income from land, but tenants had limited property rights in the same land.

Table 2 shows the impact of the rent regulation on tenancy in Ireland up through 1919. The 1911 census of Ireland estimates the area of agricultural land in Ireland at nearly 19 million acres; by this estimate, about 60 percent of the agricultural land of Ireland was let at a rate fixed by a first judicial tenancy. First and second judicial terms implied rent reductions on the order of twenty percent, while the comparatively rare third judicial terms, much smaller reductions. For a farmer paying £20 annually in rent, a rent reduction of twenty percent implies an increase in tenant-right of some £130.** The true impact of rent reduction on tenant-right values was at least somewhat less; with price declines in the 1880s and 1890s, Ricardian rents also fell.

* Guinnane and Miller [1992] argue that it would generally not be in the landlord's interest to raise rents to the Ricardian level even in the absence of rent control. The judicial rents might have been lower than was optimal from the landlord's viewpoint, however.

** That is, £4 capitalized at 3 percent is £133.

Tenant Purchase

Tenant ownership of the land had been a demand of some Irish parties from the start, although only a few leaders (such as Michael Davitt) advocated outright nationalization. Several late nineteenth-century land acts concerned primarily with the regulation of tenancy had also included provisions aimed at encouraging landlords to sell tenants their holdings. These early provisions had relatively modest effects, as the terms on which land was to be sold were not terribly attractive to landlord or to tenant. Organized somewhat differently was the Congested Districts Board which had been established in 1891 with the goal of creating holdings sufficient to support families in the poorest areas of the northwest and west of Ireland, and so engaged in considerable amalgamation and restructuring of holdings.* The Board acquired the power to *compel* landlords to sell their land in 1909, but before that had succeeded in acquiring and selling a large number of holdings.

The Wyndham Act of 1903 produced a large increase in the number of tenant purchases, not least because it established much better terms for tenants and gave hefty bonuses to landlords who sold their estates. Under this Act landlords and tenants negotiated a sale price. Once the sale was arranged, the government paid the landlord in cash and advanced the tenant the cost of the land with repayment in the form of an annuity at 3.25 percent interest. Landlords received both a cash bonus upon completion of the sale and the right to sell their own demesne to the State and purchase it back under the same terms as their tenants purchased farms. This second provision permitted many landlords to exchange costly mortgages for low cost State annuities (Hooker [1938:80]). The immediate effect of this arrangement was salutary for most tenants: the purchase price was legally required to be such as to make the annuity payments between ten and thirty percent below rents fixed in the second judicial term. The 1909 Birrell Act revised land purchase to contend with the initiative's unexpected popularity, replacing cash payments

* Of the 588 thousand acres of land resold by the Congested Districts Board as of 1919, approximately half had been either improved, enlarged or reorganized significantly by the Board. This is a relatively small fraction of the total land affected by the Acts (Great Britain [1920c:61]).

to landlords with stock paying three percent. This made land sale less popular as landlords were unreceptive toward the securities and tenants were required to pay a slightly higher interest rate (Hooker [1938:90]).*

Tenant purchase was well under way when the outbreak of World War I led the government to stop making the advances required for the program to work (Hooker [1938:92]). The importance of the 1903 and 1909 Acts can be seen in the relative proportions of tenancies purchased under those, as opposed to the earlier, Acts. By early 1913 about 250,000 holdings comprising eight million acres, had been sold.** Of these, only about one-third had taken place under provisions prior to the 1903 Act. By March 1919 the Congested Districts Board had resold some 23 thousand holdings (of some 585 thousand acres) in its area of operation, and together with the Land Commissioners and Estates Commissioners had sold 285,000 holdings totaling 9.3 million acres (Great Britain [1920b:vi], [1920a:iv]). This amounted to about half of the agricultural land in Ireland. After the partition of Ireland, landlords were eventually compelled to sell out in both parts of Ireland; by the second World War, landlords in Ireland were a memory.

2. Land Reform and Economic Efficiency

Revisionist interpretations of Irish tenancy and land reform agree that earlier accounts exaggerated the inefficiency of pre-reform land-tenure practices and by implication argue that little should have been expected of the two land reforms. Land purchase itself has received so little attention that historians seem to have viewed it as an afterthought. Were the economic changes implicit in the land legislation so meager? We first consider the impact of land reform on security of tenure (leaving its implications for

* The 1903 Act required tenants to pay at 3.25 percent; the 1909 Act raised the interest rate to 3.5 percent.

** These figures exclude sales to tenants of the Church of Ireland, which were relatively few and did not come under the legal definitions of the Land Acts. Data from Great Britain [1913].

collateral and commoditization to the next section), and then outline the Land Acts' effects on distribution of both land and wealth.

Security

If pre-reform tenants had been as insecure in their holdings as the older historiography had argued, then the "fixity of tenure" provisions of the 1870 and 1881 Land Acts would have improved the incentives to invest in and to care for the land. Connell was not alone among an older generation of Irish historians in accepting that pre-1870 tenure was generally precarious. The insecurity hypothesis is, however, incompatible with several important features of what we now know about Irish tenancy. First, as Table 1 shows, by 1870 most of the largest farms in Ireland (and most of the land) *were* held on leases. The insecurity hypothesis could only explain under-investment on the smaller holdings, and these accounted for relatively little agricultural land. Second, tenants without leases were *not* necessarily insecure in their holdings. Both Solow and Mokyr emphasized that many formal tenants-at-will remained on their holdings for life, and that when asked tenants-at-will were not very enthusiastic about leases. Some of these tenants appeared to have tenant-right, but some did not. Irish tenant farmers engaged in several practices that made sense only if the participants thought a holding was secure. For example, tenants often wrote wills that bequeathed a farm to a son on the condition that he make some settlement with siblings (Great Britain [1870a]). Third, Vaughan has shown that rent was not so "elastic" as Connell and others thought. From 1850 to the mid-1870s, a period of great prosperity in Irish agriculture, the value of output increased much more rapidly than the value of rent (Vaughan [1984:22, 1994]). Most of these Irish farmers kept the fruits of their labors.

This discussion suggests that there was no *economic* reason to advocate tenant purchase. Whatever insecurity might have existed was almost entirely extinguished by the 1870 and 1881 Acts.

Even Connell acknowledges that late nineteenth-century Irish tenants were, "in essentials," owners (Connell [1962:522]). A land purchase program that converted *insecure* tenants to owners could be expected to improve incentives to make long-term investments in the land. From this viewpoint, however, Ireland's purchase program was superfluous: Ireland's tenants were already quite secure in their holdings. In some other contexts one of the principal gains of land reform is the elimination of inefficient land tenure arrangements. Sharecropping, for example, has been criticized for not giving occupiers the right incentives to work their land since the sharecropper retains only a fraction of the marginal product of his labor.* But as Ó Gráda has pointed out, Irish tenants had *always* been the residual claimants of output: in terms of incentives, secure tenants have all the virtues of owners (Ó Gráda [1990:165]).

The Allocation of Land

Many land reforms, historical and modern, have involved considerable reorganization of the units of agricultural production. Neither phase of Ireland's reform had significant implications for the productive distribution of land, in contrast to the English enclosures of the late eighteenth century which were, among other things, a land reform effort that resulted in the amalgamation of holdings.** Neither the regulation of tenancy nor the Land Purchase Acts altered the distribution of *land* to any great extent. Most rents fixed under the 1881 Act pertained to farms that had been in the same hands for years, while most tenant purchasers bought a holding they or their families had been operating for an equally long

* Marshall [1979:535-6] outlines the basic objection to sharecropping. Marshall exaggerated sharecropping's undesirable effects; for a more recent discussion of the institution, see Stiglitz [1988] and the literature he discusses.

** In Ireland the Land Purchase Acts forbade the subdivision of holdings bought with State aid. But, given that the tendency after the Famine had been for the average farm to become larger, it seems unlikely that these provisions had much effect on the distribution of land. Some Irish tenants did lose common rights, such as access to turf, as part of the land purchase arrangements.

time. (The only exceptions were some provisions of the purchase acts designed to break up untenanted grasslands and distribute them as new farms to those lacking any holding. These redistribution provisions accounted for few of the total tenant purchases.)* For most new proprietors, tenant purchase meant neither the break up of large farms into holdings run by families for the first time, nor the amalgamation of tiny plots into larger, more viable holdings. Further, in contrast with many Continental reforms, the Irish land reform did not dispossess any smallholders. Irish land purchase was mostly a redefinition of property rights for those already occupying the land.**

In Ireland's reforms, the combination of rental agreements rather than share tenancy, prior to reform, with the lack of substantial changes in the distribution of land make it somewhat unusual. Land reform in former colonial lands such as Latin America have typically involved major changes in the distribution of land as large latifundia are broken up with the aim of creating a new class of peasant proprietors. Such redistribution necessarily leads to important changes in agricultural practice whether for good or ill. Historic reforms in Continental Europe also changed the distribution of land: revolutionary France confiscated Church and *emigré* lands, selling them to the highest bidders (Blum [1978:394]) while under the Stein-Hardenburg reorganization of Prussian tenures in the early nineteenth century, nearly 2.5 million acres of land were transferred from small peasant to large estate owners in East Elbia alone (Dickler [1975:277]), eventually creating a large class of landless peasants. Most Asian reforms have begun from land tenure systems largely based on share tenancies as in India and Taiwan.

* Under the provisions of the 1903 Act some untenanted lands were sold by direct purchase: in value these amounted to about one-half of one percent of the land sold by direct purchase through the Estates Commissioners. After the 1909 act untenanted land had to be purchased initially by the Estates Commissioners, repackaged and resold. As of 1919 this amounted to less than 200 thousand acres, of which some fraction was accounted for by wastes, mountains and turbary lands [Great Britain 1920a:xi].

** An older Irish historiography sometimes claimed that the regulation of tenancy discouraged subdivision because only with the Three Fs did Irish tenants care enough about a holding to resist subdivision. This view is central Connell's explanation of post-Famine changes in marriage practices, for example.

The Japanese post-war reform is one case with both rental contracts before reform accompanied by limited changes in agricultural structure and the allocation of land, and thus is similar to the reforms in Ireland.* As in the case of Ireland, the primary goal of reform was the pacification of rural areas, with anti-communism being the key objective in Japan.**

What Did Land Reform Accomplish?

How did the measured efficiency of agriculture evolve following the Land Acts? In the absence of detailed microeconomic data from the period before land purchase became general, comparing the performance of owner-occupied farms to those which were still tenanted, no certain answer is possible. Nonetheless, given the generality of the reforms, if there were any important effects on agricultural efficiency one would expect a significant upward shift in the trend of aggregate productivity. There is no evidence of such a shift. Real agricultural output per acre was stagnant over the period in question: it increased by less than seven percent from the 1870's to the 1910's.*** If insecurity of tenure had been the cause of low rates of investment before the reforms, then capital formation should have accelerated afterwards. Instead, the capital stock grew more slowly in the 1890's than over the 1850's-1870's. However, labor input fell quite rapidly over the post-reform period so that output per capita and total factor productivity rose sharply. In Great Britain there was no comparable rise in output per member of the agricultural workforce.**** But this rise was already well under way at the time of the land

* See King [1977] for one description of the Japanese reforms.

** McArthur himself wrote in 1964 that the main thrust of the reform was anti-communism. (cited in Putzel [1992])

*** The productivity numbers are derived from Table 5.4 in Turner [1994] based on the "non-standard", changing weight, agricultural price index. The capital growth figures that follow are from the second panel of the same table.

**** Again the source is Turner [1994] but from Table 5.2.

reforms, with the rate of increase in output per worker *greater* over 1851-1881 than in 1881-1911.* There is nothing in the aggregate evidence to suggest that the Land Acts had any positive effect on agricultural efficiency: if anything the data indicate a small negative effect.

The empirical evidence is consistent with our argument that the Irish Land Acts had little effect on the distribution of productive resources, and so at most minor effects on agricultural efficiency. Yet the land reform program was certainly not insignificant: it redistributed wealth among landlords, tenants, and British taxpayers. The distinction between redistributing wealth and reallocating resources has caused some confusion in the Irish historiography. One historian, for example, claims that by reducing rents the 1881 Act lowered the price of land relative to other inputs, thereby inducing farmers to shift from labor-intensive tillage to the more land-intensive grazing (Huttman [1972:355]). Huttman's analysis is flawed; a reduction in the rent paid to the landlord would be fully capitalized in the tenant-right and so have no effect whatsoever on the opportunity cost of using land. Any new tenant would pay for the reduced rent paid to the landlord in the form of an increased tenant-right payment to the current tenant. Nor did the purchase acts improve resource allocation. The United Kingdom's taxpayers simply subsidized the transformation of the landlord's right to receive a rent into a terminable annuity.

Revisionist analysis of Ireland's land reforms has, then, correctly argued that these initiatives had little direct impact on incentives to work and to invest. According to this view, Parliament could have achieved the same ends by a program of non-distortionary taxes that made landlords poorer and their tenants wealthier. Yet the revisionists have failed to appreciate that changing the distribution of wealth *by itself* can have important economic effects. There are two channels through which changes in wealth brought about by a land reform might affect production.

Standard economic theory shows that a lump-sum increase in wealth will decrease labor supply so long as leisure is a normal good. Tenants whose rent is reduced (or whose rents are converted to the

* From calculation based on Turner [1994] Table 5.3, panel B, column 2.

smaller purchase annuity payments) would be less inclined to take on additional work off their own farms, as had been the widespread practice. This effect may actually reduce agricultural output though it will necessarily leave the farmer better off. The reduction in the labor supply of former tenants will increase the demand for farm labor from others, and so increase agricultural wages.* Less likely, the increase in farmers' wealth may improve nutritional intake and thus the quality of farm labor. Models of this effect of land reform can be found in Dasgupta and Ray [1987] and Moene [1992]. While some were certainly very poor, few Irish tenants were likely to have been chronically malnourished by 1881: changes in nutrition could not have been important in Ireland's land reform.**

Changing the distribution of wealth can also affect investment if credit markets are less than perfect. Wealthier farmers both have less need of credit sources and are better borrowers under conditions of imperfect information. Efforts to improve rural credit were a staple of late nineteenth-century reform legislation in much of Continental Europe. We turn to this aspect of Ireland's land reform next.

3. Tenancy Reform, Land Purchase, and Rural Credit

The availability of credit for farmers, particularly smallholders, was an important concern of reformers in much of western Europe during the nineteenth century. In Ireland that concern led Horace Plunkett and his Irish Agricultural Organization Society (IAOS) to introduce German-style credit

* This mechanism is described by Gersovitz [1976] and Rosenzweig [1978]. In the more general model presented by Rosenzweig the effect of land reform on the rural wage is indeterminate; but a negative effect would require that landlords be insufficiently compensated for the land and for landlords or their families to supply significant amounts of farm labor, circumstances which do not apply to the Irish case. Changes in labor supply have nothing, of course, to do with agricultural efficiency.

** Periodic harvest shortfalls did occur throughout the late nineteenth century, but are not strictly relevant to the mechanism we are discussing. If the Land Acts did improve nutrition in economically meaningful ways, the improvements would have been concentrated among the very poor landholders of the Atlantic fringe.

cooperatives in 1894. Rural credit became an especially important concern in Ireland when difficulties with the IAOS and concerns about the capitalization of tenant purchasers led to a full-scale critique of rural credit facilities in 1914.* Yet, paradoxically, land reform in Ireland did not take some rather obvious steps to improve rural credit facilities. Why not?

Tenancy and Credit

As we have seen, few farm operators owned their land in nineteenth century Ireland and many smallholders had no guarantees of continued occupation before the Land Acts of the 1870s and 1880s. Yet these tenants frequently borrowed money on the "security" of the land they did not own, a fact both puzzling and irritating to observers. Before the Famine, the Devon Commission heard many complaints that tenant-right robbed incoming tenants of capital. Several of the Poor Law inspectors remarked in their 1870 report that debts associated with the acquisition of tenant-right sometimes proved burdensome for the new occupier (Great Britain [1870a]). One landlord, a later, bitter opponent of tenant-right practice said " . . . the fatal objection to the Ulster tenant-right is that it absorbs, in buying it, all or a great part of whatever capital an incoming tenant has, and leaves him often without the means of farming well . . . " (Jones [1880:182]). Even landlords who tolerated tenant-right sometimes tried to regulate the amounts paid to prevent the incoming tenant from being burdened with large debts.** Tenant-right *could* be extremely expensive. Contemporaries figured tenant-right values in "years purchase," or the number of years of the rent paid to the landlord that would equal the purchase price; informants testifying before

* Guinnane [1993] argues that although the Raiffeisen system of credit cooperatives did not work well in Ireland, the collapse of the credit cooperatives does not suggest that loans were not needed. The Departmental Committee report on agricultural credit (1914) is surely a polemical document, but many of the faults they point to in Ireland's system were both admitted by representatives of the banks, and common to other European countries.

** Maguire [1972:145] gives this concern as one reason why Lord Downshire, who acceded to tenant-right on his northern estates, tried nonetheless to regulate the practice.

the Devon Commission stated that tenant-right of 4 to 6 years purchase was ordinary, a substantial sum for a poor family. Between 1850 and the mid-1870s large increases in agricultural prices were not matched by rent increases, leading to substantial increases in tenant-right values. Systematic surveys do not exist, but it was not unknown for a farm to sell for 10 to 20 years of the rent.

How did purchasers of tenant-right acquire these large sums? Many simply inherited from parents or other relatives. An Irish tenant who inherited his father's farm was inheriting, in fact, the farm's tenant-right. Other accounts mention village usurers and other informal sources of cash for tenant-right. More surprisingly, tenants very clearly could and did borrow using tenant-right as collateral. Several of the Devon Commission's informants stated that tenants raised what amounted to mortgages on their tenant-right, and the Commission itself concluded that "debts are contracted on the security of the tenant-right" (Devon Commission [1847:290]).* O'Neill refers to the same practice in County Cavan (O'Neill [1984:67]).

Tenant-right also expanded the possibility of implicit loans from a landlord. Guinnane and Miller [1992] argue that landlords tolerated tenant-right because they had first claim against arrears on payment received by an outgoing tenant. Moreover, tenant-right gave tenants better incentives to pay their rent as they knew that any arrears would eventually be deducted from the tenant-right. Tenant-right also made landlords less concerned about small arrears, and so more willing to extend small loans in the form of overdue rent.** Tenant purchasers lost this implicit credit channel. W.F. Bailey, an official of the Land Commission, undertook a brief study of the conditions of tenants who had purchased holdings under the Acts prior to 1903. He reports that "Here and there a purchaser complained that he must pay on the moment, and had to sell cattle at an inconvenient period; that under the landlord system the tenants

* For additional discussion of tenant-right mortgages, see Maguire [1972] or O'Neill [1984].

** The landlord would not make large loans to the tenant because that would eliminate the incentive effects that were the motivation for tenant-right.

would have got time . . . " (Great Britain [1903b:19]). While it is true that the lower annuity payments would have reduced the need to go into arrears, it is difficult to believe that many purchasers did not regret at one time or another the passing of a landlord who would accept the rent a few months late.

Mortgage Credit and Land Purchase

Bailey identified lack of access to credit as one of the most important problems for tenant purchasers: "On a large number of estates we found that the purchasers are greatly hampered by the absence of working capital, and that they are frequently prevented from making desirable improvements from this cause" (Great Britain [1903b:24]). Bailey went on to worry that if some provision were not made to meet these needs, new purchasers would turn to informal credit sources such as usurers. Although we have little direct evidence concerning the uses to which loans were put, in testimony before the 1914 Departmental Committee (Great Britain [1914; Q9152]) one advocate of an Agricultural Bank wanted to provide loans for purchase of land, machinery, implements, seed and fertilizer among other purposes. The Departmental Committee also found that loans from banks and other formal sources were expensive for Irish smallholders.*

One way to improve credit facilities would have been to emulate the several Continental countries that had established land banks to provide long-term finance to farmers on the security of their holdings. Most modern land reforms have included expansions of rural credit facilities with varying degrees of success. To the contrary, the Land Purchase Acts contained clauses that restricted the ability of former tenants to obtain credit on the security of land they now owned. The 1903 Act limited mortgage debt to ten times the annual Land Commission payment on any holding bought with State aid (Great Britain [1903a:54(3)]). While the statute is somewhat unclear as to whether debt to the State is to be considered

* The Royal Commission on Congestion heard similar evidence and came to similar conclusions. Kennedy [1977] shares their view of rural credit conditions at the turn of the century.

within the limit it is evident from the Departmental Committee report of 1914 that it applies only to second mortgages.* For some tenant purchasers this limit reduced the availability of credit. Before land purchase the tenant effectively owned a fairly large portion of the land's value via tenant-right and was able to raise loans on this portion of the land without legal restriction. After purchase, the farmer could borrow only ten times the annual annuity payment, or approximately one third of the purchase price. But this was the purchase price of the *remaining* value of the land, the part not already owned by the farmer through tenant-right. This meant that so long as the value of tenant-right was greater than one third of the land purchase price, the farmer could borrow *less* money after purchasing his holding than he could before. That is, tenant-right had established a co-proprietorship in land, and before purchase tenants could borrow on the security of the part of the land they owned. The rules of tenant purchase, however, forbade them to take full advantage of these older property rights.

Consider the hypothetical example, presented in Table 3, of a farm that would rent for £10 in an unregulated market. If the farm was under a second-term judicial rent, and if both the first and second terms reduced the rent by 21 percent then the rent paid in 1900 would be £6.40. The value of the tenant right would be about £111, assuming 3.25 percent interest and that the Ricardian rent would still be £10. As we have seen, the tenant could borrow against some, perhaps all, of the £111 in tenant-right value. If the tenant purchased the holding from the landlord at 20 times the annual rent, paying £128, fully financed by an advance from the Land Commission, his annuity payments would be about £4.7 so that the maximum he could borrow would be £47. The larger the proportion of the farm's total value that the occupier owned before purchase — that is, the larger his tenant right relative to the rent he paid the landlord — the more severe this restriction on mortgaging. The unusual institutional feature of tenant-

* Note, however, that Hooker [1938:80] interprets the rule as including the State debt in which case no mortgage at all could be raised until many years after tenant purchase.

right, and the ability to borrow against it, meant that mortgage restriction which might have been neutral under a more standard tenure arrangement could actually reduce the availability of rural credit.

The mortgaging restriction was not absolute. A tenant purchaser could apply to the Land Commission for permission to exceed the debt limit. Few did so, however, and of those who did between 1904 and 1913 about 20% were refused and many that were granted permission were allowed to mortgage less than the amount requested (Great Britain [1914:Appendix 17]). While the low number of applications might seem to indicate that the restriction on mortgaging was not binding, the Departmental Committee states that the constraint on borrowing *was* binding and that indeed it *should* be, otherwise there would be “over-mortgaging” (Great Britain [1914:§822]). More likely purchasers, when faced with the choice of an application to the Land Commission or raising funds in some other fashion, chose to deal with a bank or some other non-mortgage lender. A later legal decision also provided a loophole by deciding that so-called judgment mortgages were outside the purview of the 1903 Act. In the case of a judgment mortgage, if an unsatisfied creditor could show that his debtor owned an interest in land, the creditor could petition a court to give him, effectively, ownership of that land subject to satisfaction of the debt (Great Britain [1914:§825]).

Why did the government adopt a policy *intended* to restrict access to capital? In part, it was the action of a paternalistic government that simply did not trust peasant proprietors not to over-burden their holdings with debt, leading either to their own ruin or to the ruin of their heirs. Two objections to this argument received little attention. First, the reasonable conclusion to draw from the evidence presented to the Departmental Committee or the Royal Commission on Congestion in Ireland would be that those seeking credit would find it one way or another. The real choice, from the government’s viewpoint, was between a peasantry with debts secured on land and a peasantry with debts secured in some other way. Since non-mortgage debts were, by all accounts, likely to be *more* expensive, one would think the

mortgage debts would be preferable. A second objection is more obvious: why should the government care more about excess indebtedness among peasants than among any other social class?

Another motive for the mortgage restrictions was perhaps more transparent: the government wanted to maintain the seniority of its claims on purchasers. Bailey admits as much in rationalizing continued State supervision of land purchasers:

For its own security so long as the purchasers are liable for the repayment of their State annuities, the Government is bound to see that nothing is done that will endanger that security... If land purchase is to be largely extended it is advisable that further conditions be provided that will limit the power of charging and mortgaging holdings in a manner that is injurious to the occupier and to the general community (Great Britain [1903b:23]).

In other words, if mortgaging endangers the purchaser's ability to repay the State, then the State should prevent the practice. Nowhere does Bailey consider the possible economic *benefits* of mortgaging.* In the event, very few tenant purchasers defaulted prior to the partition of Ireland. In its report for 1920, the Land Commission noted that only .23 percent of purchasers (owing .23 percent of payments) were in arrears that year (Great Britain [1920b:viii-ix]).

Problems with Title to Land

The Departmental Committee argued that another obstacle to securing debts on Irish land was a poor system of title-registration. The Committee claimed that Continental smallholders were better-served by mortgage credit because of more effective title-registration systems, although no such system was in place in England (Great Britain [1914:§782]). This comment highlights a second missed opportunity; rural credit facilities would have been greatly aided by a method of registering both titles *and mortgages* that enabled potential borrowers to establish clearly and with little cost what prior claims existed on a given holding. Ireland had no system of compulsory title registration, although purchasers receiving

* Bailey's concern about excessive borrowing is difficult to square with his general impression that land purchase had led farmers to take a greater interest in their holdings. He even claims that tenant purchasers were *more* likely to be responsible about debt! (Great Britain [1903b:10]).

government assistance were required to register their new property. Even registry of title in Ireland was problematic, since it required the discharge of "equities," claims by emigrant relatives and others with a potential interest in the land (Great Britain [1914:§782-793]). An individual contemplating making a mortgage loan had first to satisfy himself that the borrower had clear title to the land, and then had to establish what prior liens had been placed on the holding. The latter was virtually impossible if the borrower sought to conceal prior loans; registration of mortgage obligations was possible but not required (except for mortgages on land purchased with state aid under the 1903 Act), and the method of registration required costly searches through many volumes. Much more efficient models were already in place in Continental Europe. Bavaria presents a typical case: there, each locale kept one set of records recording property rights in land (the *Grundbuch* or *Kataster*), and another recording mortgages and other encumbrances such as family charges (the *Hypothekenbücher*). Both were up-to-date public documents, based on contracts deposited in public archives. Each was organized *by holding*: to establish prior claims on a holding, a potential lender had only to inspect these documents. Complaints about the availability of rural credit were common in Bavaria at the end of the nineteenth century but it is also clear that individuals were able to raise mortgages on very small properties — in some cases consisting of little more than a garden plot.*

Irish Joint-Stock Banks and Mortgage Loans

Parliament can be faulted for the credit limitations in the tenant purchase rules, or for failing to establish compulsory registration of title and mortgages. Another limitation on mortgaging came from a different source: rural social norms that prevented banks from playing a role in mortgage credit. The second half of the nineteenth century witnessed a great expansion of joint-stock banks in Ireland. By 1900 most small towns had a branch bank open for at least part of each week (Great Britain

* Jäger [1975] describes both the land-records and the mortgage registry.

[1914:Appendix 3]), yet these banks did not provide mortgage loans to Irish farmers. The banks themselves told the Departmental Committee that it was not their policy to lend on mortgage security. The inability to use this well-developed financial structure to finance agricultural investment would seem a major loss. The banks argued that they were constrained by feelings toward land and forced sales: since neighbors would not buy land sold at distressed sales, it was not valuable as collateral.* This view was stated by T. W. Delaney, representative of the County Longford Committee of Agriculture:

I consider the difficulty which banks... have on a forced realisation of their security, makes it practically impossible to borrow a sixpence on land security... the timidity of the people... about interfering in a forced sale, naturally prevents banks or others from advancing money... (Great Britain [1914:Q12403]).

Delaney did not foresee mortgage banking until people viewed debts to banks as like any other obligation (Great Britain [1914:Q12409]). The problem did not disappear with partition; the 1926 Banking Commission, which took a generally critical attitude toward bankers, blamed the lack of mortgage facilities on the people:

It will never be possible for any country or its inhabitants to borrow freely, unless there be full recognition of the justice of the debt so incurred, and full readiness to have the creditor take possession of the property and convert it to his own use... in the event that the debtor finds himself unwilling or unable to meet the terms of his agreement... (Banking Commission [1926:20-23]).

The banks' unwillingness to extend mortgage credit robbed Irish tenant purchasers of one of the major benefits of ownership, the ability to use land as collateral for loans. Yet here the culprit was not Parliament, which could not legislate rural attitudes; the problem lie in the banks' perceptions of what would happen should they have to sell out a failed borrower. To the extent these perceptions were accurate — and a profit-making bank had no reason to abstain from a particular line of business without good reason — then rural norms formed one important limit to the ability of land reform to improve agricultural efficiency in Ireland.

* Although we do not have any accounts violence at particular distressed sales, fear of violence against those bidding was likely partly responsible for the difficulty of such sales.

Mortgage Credit and the Commoditization of Land

Another possible benefit to be had from the redefinition of property rights in land may come from making land more like any other commodity — relatively simple to purchase and to sell. If land can easily be traded in open markets, then the usual market mechanism ensures that land is allocated to its highest-value use. Ireland's land reform had mixed implications for the commoditization of land. Critics of the pre-reform tenancy system often complained, bitterly, that landlords would make tenants compete for the right to rent farms, thus increasing rents. To the extent this practice was general — and more recent research shows that it was not* — tenants were simply complaining that such competition raised rents by allocating land to its highest-value use!

How did tenant-right, whether in its customary form, or in the form established by the 1870 and 1881 Land Acts, alter the ability to buy and to sell land? Legally not at all; there were no provisions against selling a holding that had a judicial rent fixed, and the rent remained with the holding, so a new tenant could be guaranteed of the judicial rent. The reform of tenancy might have actually improved the land market because it removed all uncertainty about compensation for improvements and the future course of rents. Previously, a purchaser would have to satisfy himself as to the landlord's practices and intentions before purchasing a holding. With regulation, however, individual landlord practices became nearly superfluous.

Crotty [1966:88] has argued that the tenant purchase program was a step backward in this respect, in that "it substantially destroyed the competitive market for land." He credits the land purchase Acts with saddling Ireland with a large number of small, uneconomic holdings. Crotty claims that once a reduced annuity payment had replaced rent payments, Irish farmers became less sensitive to the true cost of owning and using their land; "as an owner-occupier, a farmer need not worry lest another man, by

* Competitive rents are, in fact, incompatible with tenant-right. See Vaughan [1994] for a discussion of rent-setting practices.

his willingness to invest more capital at a lower rate of return, might be able to pay a higher rent and cause his own eviction" (Crotty [1966:90]). This posits either a remarkable degree of irrationality on the part of the new owners or simply a preference for land ownership. An owner-occupier could sell his land at a profit to anyone who believed that he could more efficiently farm it. If the owner chose not to do so because of a strong desire to hold land then this would indeed cause production to be lower than otherwise. But it would not affect economic efficiency *per se* since the owner would gain utility from simply owning the land: land would remain in the hands of those to whom it had the most value.

While the Acts had little direct impact on the commoditization of land, their indirect effects through the limitation of mortgage credit may have created important obstacles to the consolidation of holdings. The direct effect of the Acts on the pattern of landholding was close to neutral: while the Acts contained provisions that limited subdivision and subletting, no serious attempt forcibly to amalgamate small holdings was made in the reforms, apart from the somewhat limited efforts of the Congested Districts Board. But the limitations on mortgaging discussed above created major difficulties in raising sufficient money to purchase holdings. As was reported to the Departmental Committee, (Great Britain [1914:356]) the purchase of holdings that had been obtained through tenant purchase was made significantly more difficult through the limitations on mortgaging. Some land transactions which could have improved the efficiency of land use would not have been possible because of the inability to borrow funds sufficient for purchase. This meant that only those in possession of sufficient resources on their own could actively engage in consolidating holdings and employing land in its highest value use.

4. The Limits to Land Reform

Agitation over such issues as tenant-right and tenant purchase were a central feature of the several nationalist movements of late nineteenth century Ireland. Yet interest in land and land reform was, as historians now appreciate, less a matter of genuine concern over rural conditions than an attempt to use

a popular, bread-and-butter issue to advance the nationalist cause. Parnell himself, probably the most successful nineteenth century Irish politician outside of O'Connell, rode to prominence largely by harnessing agrarian distress; "It was the land issue that supplied, in 1879, the politically mobilizing factor that made Parnell" (Foster [1989:402]). Gladstone's interest in Irish land stemmed not from any interest in economic development, but from his desire to pacify Ireland. Earlier economic historians accepted the critique of land tenure in Ireland as promoting inefficiency, and with that view also accepted the idea that the Land Acts must have promoted increased efficiency. Revisionist economic historians, starting with Solow, effectively challenged the view that the Land Acts were a cure for any disease the Irish were really suffering. This paper provides further analysis to strengthen the revisionist position.

Yet this is not to say that land reform in Ireland could not have been a helpful step toward agricultural efficiency. Rural credit in Ireland was problematic and formed an impediment to efficiency; and several Continental countries offered models that might have been profitably imitated. Yet when Parliament regulated, and then abolished, Irish landlordism, it did so in a way that did little to improve agricultural conditions, and missed a major opportunity to place rural credit on a more secure footing. The limitations to mortgaging imposed by the Acts may have even *reduced* rural credit availability by eliminating the ability to borrow against tenant-right and thus have helped to lock in a pattern of inefficiently small holdings.

Is this to say that land reform in Ireland was a mistake? No — "to show that [the Land Act of 1881] was widely realized on economic grounds to be either wrong or irrelevant is to miss the whole point" (Solow [1971:155]). The same can be said for the land purchase program. The Land Acts in Ireland reflect the outcome of a *political* struggle, a struggle between landlords and tenants, tenants and their creditors, and between Irish Parliamentary representatives and English political parties. Land reform in Ireland accomplished what the people of the day in fact wanted. Nonetheless, it should be kept

in mind that, within the bounds of its political objectives, a land reform can still be effective *economic* policy: the Irish reforms missed important opportunities to create real economic benefits.

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Table 1					
Tenancies at Will as a Percentage of All Holdings in a Given Valuation Category*					
Valuation Category	The Provinces of Ireland:				Ireland
	Ulster	Munster	Leinster	Connaught	
< £15	86.35	72.35	81.28	90.06	83.76
£15 - £30	72.85	56.36	67.99	72.18	67.12
£30 - £50	62.65	46.75	54.77	57.06	54.83
£50 - £100	50.28	36.85	39.33	41.53	41.16
> £100	31.86	21.79	22.31	28.84	24.40
Holdings of Each Size as a Percentage of Total Holdings for all Sizes					
< £15	77.48	65.86	65.25	89.53	75.06
£15 - £30	14.76	17.54	16.45	5.98	13.79
£30 - £50	4.80	8.49	7.97	2.03	5.65
£50 - £100	2.25	5.84	6.08	1.52	3.64
> £100	.81	2.27	4.26	.94	1.86
Source: Great Britain [1870b: Tables 1-6]					

* Mokyr [1985] shows that tenancies-at-will had become more common after the famine, so that the distribution here may have been rather different in earlier periods.

Table 2			
Summary of the Impact of the Land Law Acts on Rent in Ireland			
Measure	Judicial Term		
	1st Term	2nd Term	3rd Term
Number of holdings where rent was fixed	382,813	144,009	5,887
Acreage of holdings where rent was fixed	11,385,375	4,434,640	191,105
Average percentage reduction in rent	20.7	19.3	9.2
<p><i>Source:</i> Great Britain [1920b, Appendix Tables 52-54]</p> <p><i>Note:</i> Table covers all judicial rents through March 31, 1919. Rent reductions measured against previous term; thus third-term reductions are decrements from the second-term rent.</p>			

Table 3	
Effect of Land Purchase Act Mortgage Restrictions on Hypothetical Farm	
Mortgaging Tenant-Right	
Ricardian Rent	10
Judicial Rent (assuming two 15-percent reductions)	6.4
Value of Tenant Right	111
Mortgage Permitted for Same Farm Purchased Under Land Act	
Purchase Price (assuming price 20 times annual rent)	128
Annual payments to Land Commission	4.7
Maximum total mortgage on the holding	47
Assumes tenant-right capitalized at 3.25 percent, the interest rate charged by the Land Commission.	