Proceedings of the House of Lords
20 May 1886

Crofters (Scotland) (No.2) Bill : Second Reading

[*transcribed by Iain Campbell*]

The Secretary for Scotland (the Earl of Dalhousie), in moving that the Bill be read a second time, said, that the subject was one of very great and very pressing importance. He believed that in one sense it was new to their Lordships' House, because it had never been formally under their notice; but in another sense it could not be regarded as new, because their Lordships could hardly be unaware of the discussions that had taken place in the Press and "elsewhere" upon this very delicate and difficult question.

For some time past, as the House knew, the population in certain parts of the Highlands and Islands of Scotland had been in a dissatisfied and discontented condition – a condition owing, no doubt, partly to the distress arising from the natural poverty of the country, and partly arising from causes which Parliament might, perhaps, do something to mitigate. In March, 1883, a Royal Commission was appointed for the express purpose of inquiring into the condition and grievances of the crofters and cottars of the Highlands and Islands of Scotland. That Commission reported in the month of April, 1884, and in summing up their Report they described the feeling which they found prevalent among the crofters in the following remarkable words:–The aspect of the present and the future calmly considered presents the following features:–The dissatisfaction of the small tenants in regard to their position is of native origin, but it is fomented by external influences. The land movement in the Highlands, even if it were not spontaneously maintained by the people themselves, would be aroused to action by other forces; it is impelled by the democratic and social aspirations prevalent among various classes at home, and will probably enlist the sympathies of Highlanders in all parts of the world. The Commission made certain specific recommendations with a view to the mitigation and, if possible, the removal of the causes of discontent which were susceptible of being removed by legislation. They made recommendations with regard to land tenure, fisheries, and communications, education, with respect to some extent to the administration of justice, with regard to game and deer forests, and emigration.

This Bill was partly based on the recommendations of the Commission. Matters connected with the improvement of the means of communication between the different parts of the Highlands and Islands, with education, and the administration of justice were not dealt with in the Bill because they had been already partly dealt with, and it was administration, not legislation, which was required for the purpose; neither was emigration for a reason he would explain by-and-bye if their Lordships desired. He did not say that the Bill contained everything recommended by the Commission; but it contained everything which, in the opinion of the Government, it ought to contain. It did not meet the extreme views of some advocates of the crofters' claims; but no legislation short of what was absolutely revolutionary, and not based on principles not a bit more applicable to the Highlands and Islands of Scotland than to any part of Great Britain could possibly satisfy them. But the Government thought it met the reasonable grievances and claims of the crofters so far as they could be dealt with by legislation.

The Bill was mainly a Land Bill, and was intended to improve the status and condition of the crofters so far as could be done without inflicting injustice upon others. He wished to impress upon their Lordships the extreme urgency of passing this Bill without delay, if they approved it. Some legislation, it was agreed on all hands, was absolutely necessary. On that point there was a general consensus of opinion. The question was whether the Bill was right and proper and fitted to grapple with conditions of things it was intended to meet. If their Lordships came to that decision and thought the Bill should pass, he would ask them to come to this further conclusion, that it ought to be passed as rapidly as possible. The appointment of the Royal Commission in 1883, the general tenour of its Report in the following year, and, above all, the Resolution passed in the House of Commons in November, 1884, had led the crofters to form expectations – and they had been encouraged to form expectations – that it would result in some beneficial legislation on their behalf. That expectation had been fostered by political agitators for the last two or three years, until it assumed in certain parts altogether unreasonable proportions – proportions which he was afraid no legislation that Parliament would pass was likely to satisfy. The minds of the people were fairly unsettled. In many cases payment not only of rent, but of poor rates and school rates, was so much in arrear as to argue a condition of things, to say the least, extremely unsatisfactory.

The Government were most anxious, as he was sure their Lordships were also, that a more wholesome and healthy state of things should be brought about. He was not exaggerating when he said that but for the length of time during which the expectations of the people of the West Highlands had been kept on the stretch – a fact which was very important in the case the existing condition of things in certain districts would argue widespread demoralization of an alarming character. His Predecessor in Office (Mr. Trevelyan) three months ago expressed the following strong opinion:– It is high time the present state of things should stop. But it was high time that Parliament having expressed a strong opinion in favour of remedial legislation should carry its opinion into effect. Since then matters had become worse. He asked their Lordships especially to pay attention to this, because it formed a strong argument in favour of legislation of some kind. In November, 1884, the House of Commons passed the following Resolution:– Resolved, that in the opinion of this House it is the duty of Her Majesty's Government to give effect to the recommendations of the Royal Commission upon the condition of the crofters and cottiers in the Higlands and Islands of Scotland; to apply such other remedies as it seems advisable. That this House concurs in the opinion expressed by the Commission, on page 110 of its Report, that the mere vindication of authority and repression of resistance would not establish relations of mutual confidence between landlord and tenant. He would go further than Mr. Trevelyan, and say that, having so strongly expressed its opinion that legislation was required, it was impossible, practically, for any Government which was dependent for its power – as all Governments in this country were – entirely on public opinion, vigorously to enforce the law until the law was altered to meet the grievance which Parliament admitted to exist. It was absolutely necessary, for the sake of law and order, that either this Bill, or some other Bill, should be passed, and passed quickly, into law.

He hoped their Lordships would see that it was his duty to try to persuade them that it was not only desirable to pass the Bill quickly, but, if possible, to pass it without mutilation of any of the more important provisions. If he might make a suggestion, he would like to say that their Lordships ought to remember that they were a House of landlords, and that it would become them well to take a generous view of things. He

hoped they would not make more Amendments in detail than were absolutely necessary, because that might go a long way to rob the measure of its grace.

Last year the Government introduced a Crofters Bill, and had they remained in Office they would doubtless have passed it into law; but the hanging up of the Crofter Question for another year was one of the minor results of the change of Government last summer. The Bill of last year was, however, in many respects less complete than the present Bill, for it proposed to give only fixity of tenure, fair rent, and compensation for improvements. But the present Bill provided also for increase of crofts, both arable and pasture, for loans to be advanced by the Treasury, through the Fishery Board, and for developing the fishing industry. That last point was very hopeful, and though that provision did not occupy a very large portion of the Bill, it was to his mind one of the most important in the whole measure. Formerly the manufacture of kelp was a very important industry in Scotland. About the beginning of the century the price of kelp was £20 or £22 a ton, and it was a means of livelihood for the crofters and cottars. The Western Islands produced about 20,000 tons annually of the value of from £400,000 to £440,000. When the abolition of the Salt Duties lowered the price from £22 to £2 a-ton the great industry was destroyed, and the condition of the people was very much and very suddenly lowered. That fact should count for something when considering the claims of those people. It was impossible for the people to foresee and provide for a contingency of that kind. The means of communication in that part of the country were very scanty; and it was, therefore, extremely difficult for them to adapt themselves to the industries that might be springing up. That one fact alone should at all events count for something when considering the claims of the crofter population to exceptional legislation; and he thought it was obvious if they could by any means facilitate the creation of a new industry that would take the place of the kelp industry they should be doing something to replace the crofters in the same favourable position which it was alleged they occupied in the olden time, and, at the same time, they should be doing a very laudable and desirable thing in itself, and from a public point of view; and, in regard to that point, the development of the fishing industry offered a prospect of very great hope.

The development of the fishing industry was of great promise, and the fishing grounds in the neighbourhood Westward of the Hebrides were of unusual fertility and very valuable. In order that the fisheries might be properly worked and developed more boats were wanted; and the Bill proposed to advance money, through the Fishery Board, to the fishermen for the purchase of boats and gear. They were not without practical, and he thought very valuable, experience on that point. The Highland Fisheries Company was a Company formed a year-and-a-half ago for the purpose of advancing money to fishermen for the purpose of boats, and hitherto their experiment had been extremely successful. It was likely to be very much more successful when the means of communication had been further improved, and the Government had that point at this moment under consideration. That Company advanced money to crofters – men, of course, selected after due and careful inquiry – and they charged 3 per cent on the money advanced. Between January and July, 1885, money was advanced to 22 fishermen, and the total sum advanced was £4,027. Of that total sum advanced there was repaid up to the present time £2,694. That was to say, the average sum advanced to each fisherman was £183, and the average sum repaid was £122. These results were full of hope in the future for the fishing industry, and gave the Government good ground to proceed upon when they contemplated the advancement of loans for the purpose of developing the fishing industry.

Perhaps the most prominent and important feature of the Bill was that which proposed to give more land to the crofters and prescribed the manner in which that was to be done. Much had been said on both sides as to the historical justification for the Bill, and especially as to this particular provision. It had been objected that there was no historical ground whatever for the exceptional treatment of the districts and holdings dealt with by the Bill. For his own part, he would be very sorry to push the historical argument too far; and he would only say in regard to it that although there might have been no legal rights of grazing which the clansmen in old days could enforce in a Court of Law, yet in those districts to which the Bill applied there was undoubtedly, speaking generally, an undisturbed exercise by the clansmen of the enjoyment of pasturage for their cattle. It must, of course, be admitted that in particular cases and in particular circumstances this enjoyment was sometimes interfered with by the chiefs of the clan. Yet under normal conditions the custom and practice of the country amounted to something very like practical continuity of occupancy. This Bill was intended to give legal sanction and efficacy to those previous customary enjoyments, and even to extend them where possible without injustice to other people. In some cases the sub-division of houses and the over-crowding of townships had been the work of the crofters themselves; but it had not always been entirely the work of the crofters themselves. In some cases it had been due to the action of the landlords. This Bill made it impossible that such action should occur in the future. The Bill gave facilities for the improvement of the condition of the crofters, and put it out of the power of owners to take any steps for sub-division prejudicial to the interests of the crofters.

Of course it might be objected that this was very grandmotherly legislation, but a wise grandmother might do good. The question before the House was whether or not the Bill was suited to the circumstances of the crofters, and it seemed to him to be an absurd argument to say that the principles of legislation were equally applicable to all classes of society. It had always seemed to him absurd to argue that the same principles of legislation were equally applicable to all populations alike, no matter how widely they differed as to the stage of development at which they had arrived. He submitted that the history of the Highlands, the difficulty of access to some portions, the imperfect means of communication, and the peculiar difficulties against which people had to contend and struggle against for many years afforded an ample justification for the Bill, even if it were not necessary in fulfillment of the promise already given by Parliament and to set at rest the minds of the population, which had been recently so much exercised on the subject, in regard to the provisions of the measure.

He admitted readily enough that the provision with regard to the enlargement of the crofters' holdings was a novel provision; but he submitted that it was absolutely necessary in the present state of things. If voluntary agreement would have sufficed for the solution of this question, the necessity for this clause would not have arisen; and for his part he hoped and expected that the application to the State would lead to many voluntary agreements being made, which would not otherwise have been made. In framing this part of the Bill the Government had constantly before them the recommendations of the Royal Commissioners, and had, so far as was possible, followed them. He did not wish to throw the responsibility for the Bill on the Royal Commissioners; but a presumption was raised in favour of this provision when it closely corresponded with the recommendations of the Commissioners, and when the view of Her Majesty's Government coincided with the view of the Commissioners. The working of this measure would be intrusted to certain Land Commissioners, three in number. They would occupy a position somewhat similar

to that of the Commissioners under the Irish Land Act. One Commissioner must be a trained lawyer of eminence; the other two would, he supposed, be practical men, and one of the three must be able to speak Gaelic. These Commissioners would be intrusted with the power of fixing rent, the amount of compensation, and the powers requisite to give effect to the provision in the Bill with regard to the enlargement of holdings, as well as the power of determining summarily whether individuals were or were not crofters within the meaning of the Act.

One other point he wished to draw attention to was that the Bill as it came to this House was substantially the same Bill as was first introduced in the House of Commons in the early part of the Session. Her Majesty's Government had been firm and consistent in adhering to the principles embodied in the Bill, and had resisted, and, on the whole, successfully resisted, Amendments, from whatever quarter, that seemed to trench on the lines they had marked out for themselves. He need hardly say, in the other House of Parliament the pressure was chiefly concerned in extending and enlarging the scope of the Bill in various ways, and he had had numerous communications and a variety of correspondence on this point, and in certain quarters there appeared a vague opinion that the Government might as well have done more for the crofters than they have done in the Bill. Suggestions had not been wanting that the Government ought to have been more generous in dealing with them; but this Bill was based upon a recognition of the peculiar history and circumstances of the crofter population, and if they deviated from it in the direction of what was called going further, they would have to proceed on altogether different principles. These principles, if they admitted them, would carry them very far indeed, and they would find themselves face to face with very large questions indeed – questions which had no special application to the Highlands of Scotland, but which were equally applicable to any other part of Great Britain, or, indeed, of the civilized world. On the other hand, it was absolutely necessary to go as far as the Government had gone, and he hoped their Lordships would not ask the Government to make any serious modifications in the measure. The Government were not infallible, and he did not assert in their behalf that the Bill was incapable of amendment in detail. Indeed, he himself intended to propose one or two Amendments – one rather an important one; but he did assert that, taken in connection with what had been, and, he hoped, might yet be done in regard to education, and especially in regard to improved means of communication, this Bill fairly met the requirements of the case of the crofter population. That was the population with which they had to deal, and on these grounds he hoped their Lordships would give the Bill a second reading.

Moved, "That the Bill be now read a second time" – (The Earl of Dalhousie.).

Lord Napier and Ettrick said he trusted that the position he had recently held in connection with this question as Chairman of the Royal Commission on the Crofters would justify him in submitting his opinion of the merits of the Bill now before them. The main provisions of the Bill were those relating to official rent, fixity of tenure, compulsory enlargement of the holdings, and State aid to the fishing industry. With regard to the first, he thought that he might affirm that the State, in interfering to assess the rental of land, engaged in an interference with freedom of contract and rights of property, which could only be justified by great abuse, or by the hope of doing a great amount of good. Therefore, it became very important to ascertain whether in the case before them there had been such a prevalence of excessive rent; and whether, in the

proposed change, there was a prospect of the advantage he had indicated. In the evidence before the Royal Commission there were a great number of complaints as to excessive rent; but they were not pressed or urged in a very earnest or convincing manner; they were not presented with that persistency or passion which frequently accompanied the complaints in regard to the restriction of the area of the holdings; nor were the complaints as to rent supported by impartial or independent testimony, so as to produce any convincing impression on the minds of the Commission. They were informed that on some crofts rents had not been raised for many years; on some not for a whole generation. In other cases rents had been raised in the same proportion on the small holdings as had been the case in other parts of Scotland on larger farms, and in some peculiarly exceptional cases of excessive rent it was not shown that the increase had always been exacted. Under those circumstances, the Commissioners did not conceive that the complaint of excessive rent was one of a crying or urgent nature.

On a general view of the whole question of rents in the Highlands and Islands, it did not seem to them that the case had been made out of a persistent and general abuse which would justify the intervention of the State with the rights of property; but if this innovation were inevitable, it would be at least consolatory if they could feel that the adoption of the system of official rents would involve any substantial or practical improvement. He could not entertain an impression that the great majority of the crofters paid rents varying from £2 to £5. Taking the precedent of Ireland, they might assume there would be a general reduction of rents to the extent of 25 per cent if the Scottish Commissioners were as liberal as the Irish; but even such a reduction of a £3 rental only would be 15s – 1-40th or 50th part of the aggregate revenue or earning of the family. Such a remission might diffuse a certain amount of gratification, and enable crofters to make some useful purchase of personal indulgence; but such remissions could not have the slightest influence in raising or elevating the social or economic condition of the crofter as a farmer, a mechanic, or a fisherman. In the case of a great number of crofters, though rent was abolished altogether, it would make no substantial alteration in the condition of the people.

Referring to the depopulation which took place in the Highlands at the end of last and the beginning of the present century, he said that even in the case of the best-intentioned of the proprietors their action had not been justified by the change. The result of those unfortunate transactions had been the foundation in the country of a dark tradition and resentment amongst the people, and also, in some cases, it had led to positive distress.

He thought the Government had acted wisely in dealing with the question of the enlargement of holdings. The opinion of all classes and conditions of men who gave testimony before the Commission agreed in this – that the existing holdings were too small.

On the question of fixity of tenure, however, he had never heard on the part of any one of the Gentlemen with whom he was associated on the Commission any opinion in favour of fixity of tenure in the unqualified and extreme form in which fixity of tenure had been adopted in the Bill before the House; nor did he ever hear the principle of fixity of tenure in the same absolute shape recommended by any persons outside the Commission who were in an independent and impartial position. The general opinion regarding it seemed to be that the concession would be fraught with very considerable social and economic objections – that it might tend to confirm the national lethargy, attach the crofters more

strongly to the soil, and increase the dangers of sub-division and squatting; so that the Commissioners did not feel themselves justified in recommending the principle of fixity of tenure, and to the resolution of the Commissioners on the subject he still heartily adhered. That opinion at the time was confirmed by the impression that as fixity of tenure was the negation of proprietary rights, so it would very likely become the negation of all proprietary duties. If that principle were applied to the whole population of the Highlands and Islands, they would run a great risk of depriving them of the counsels and control of the owner of the soil, which were so valuable, and abolish, so far as the law could do so, all that remained of mutual affection, good offices, and material assistance, which it was desirable to encourage instead of destroy. In destroying the proprietor as a moral agent, they destroyed a powerful instrument for preventing evil and promoting good. It would surely be better to preserve the proprietor, encouraging, enabling, and compelling him to do his duty.

He knew that it might be contended that with a moderate official rent and fixity of tenure the occupiers would themselves undertake improvements, favoured by the stabilities of their position. He did not undervalue the benefits attached to a prolonged interest in the holding. Those benefits were apparent even under a terminable lease; they would be most apparent when connected with absolute property; they would still be apparent in the half-way condition of fixity of tenure, where such tenure was bestowed and enjoyed under favourable conditions. The small tenant on the mainland, or even in some of the Southern Islands, who practised a civilized husbandry, who was surrounded by good examples, who had access to the materials for improvements, to the great markets of purchase and sale, was suited for such a tenure and would profit by it; but the mass of the poor crofting population in Skye, in the Long Island, and along the shores of the North-Western Highlands would, he apprehended, be incompetent without the directions and contributions of the proprietor to contrive, undertake, and prosecute works of common or individual utility, which were indispensable to their higher welfare. It might still, however, be argued that fixity of tenure was necessary to prevent arbitrary eviction. That might have been a valid argument 60 years ago; but it was a valid argument no longer. There was no arbitrary eviction in the Highlands now. Eviction was only used, or only threatened, to enforce the payment of rent; and under the Bill it could still be used for that purpose, and would, perhaps, be used with greater right. It was only due to the honesty and candour of the noble Earl who moved the second reading to admit that in recommending the adoption of the principle of judicial rents and fixity of tenure he did not contend there was any abuse at the present moment, either with reference to the amount of rent or the practice of eviction.

The last provision in the Bill which claimed special attention was the grant for fisheries. The sum was not large – he believed only £10,000 – but of that he did not complain. The object was excellent, but it must be approached with great circumspection; and £10,000 tentatively applied, and applied with success, might do some positive good, and justify a more liberal appropriation hereafter.

The greatest defect in the Bill – he meant the greatest want – was the absence of any provision for emigration under Government encouragement and control; for without some such measure all other remedies in the congested regions of the country would be ineffectual. He believed, however, that the noble Earl the Secretary of State for the Colonies (Earl Granville) had held out some hope that this question would be considered by Her Majesty's Government hereafter in another measure and on a larger scale.

He agreed with what had fallen from the noble Earl (the Earl of Dalhousie) in respect to the question of enlargement of holdings. The Commissioners, proceeding on this evidence and on their own experience and observation, resolved that the first and greatest object should be the extension and the improvement of crofters' holdings by the various and complete methods and expedients which are embodied in their Report; and a majority of the Commissioners determined that among those methods should be included a power of compulsory extension, in the absence of spontaneous arrangements between the proprietor and the occupier. He asked whether the question of enlargement, as well as the questions of rent and of tenure, might not be left to free adjustment between the parties concerned? He hoped the claim to enlargement would be settled by free adjustment; but it appeared to him that in this case the power of compulsion should be held in reserve. There was not the least fear of rack-rents or of wanton eviction. The proprietors would in any case now treat their poor tenants with humanity and indulgence; but it was not so certain that the proprietors would, without some powerful impulse, undertake the rather difficult and complex task of enlarging and remodelling the smaller holdings. This was a case in which he thought the power of compulsion should be held in reserve. In this question of enlargement he thought that he, personally, could not be suspected of prepossession or prejudice. He had himself been a proprietor of land from his earliest years, and his interests and affections were identified with the land. It might be said that they conceded enlargement – they even conceded compulsory enlargement; but how would the small tenant be able to avail himself of the new privilege? Would he be able to occupy and stock his additional land? He was not very sanguine of great, extensive, and rapid social improvements by legislation.

The labouring people must work out their own salvation by personal industry, integrity, and thrift. It would be idle to suppose that a poor crofting community, with a very contracted area of common pasture, would be able suddenly to take over a large farm, to take over the stock at a valuation price, and to pay the rent which was formerly paid by the sheep farmer in good years. It would also be idle to suppose that an individual crofter who, up to the present time, had paid a rent of from £2 to £5 a-year would suddenly be able to undertake a croft of the annual value of £15 a-year, and to do justice to the proprietor and to the soil. The method and manner in which additional land could be alone conferred with advantage on the small tenant was by the enlargement of the common pasture, by the appropriation of a portion of the adjacent land, together with some moderate portion of land susceptible of tillage, or susceptible of feeding stock. Regarded in this practical and moderate form, he believed that small tenants would be able gradually to occupy and stock these large holdings. He thought this concession would be very highly valued by them, and it would be very beneficial to them, on one condition, and that was that the evils of squatting and sub-division were prevented; and be thought that in that respect the provisions of the present Bill were very strong. He thought that the question of the enlargement of holdings could be better carried out in the absence of the provision for fixity of tenure, for this reason – that the proprietor in possession of his own prerogatives, who was well-intentioned by his tenants, would be able to use his authority, his control, and his advice in the recasting and remodelling of these large holdings, which he would not be able to do under the present system. That duty was, more or less, delegated by the Bill to Commissioners, who would not understand it so well as the proprietor; but he considered the enlargement of holdings was such an important question, that even under any disadvantage it was the principal object they should have at heart; and he could not help expressing his gratitude to Her Majesty's Government for having had the courage to embody this provision in the Bill.

Up to the present time he had spoken in the interest of the crofters. He would leave to others – perhaps to his noble Friend on the Cross Benches (the Earl of Wemyss), or the noble Duke behind him – to speak in the interest of the proprietors. He might be permitted, however, to say that he did not think that the material interests of the proprietor were really seriously affected by the provisions of the Bill, as, in his opinion, the proprietor would not have got more from his land under any circumstances than he would get under its provisions. In his judgment, the Bill contained some provisions which were illusory, and some provisions which were even mischievous, as well as being pernicious. He was obliged to confess, with sorrow and confusion, that the very provisions which he deprecated were the provisions which the crofters had been taught to covet, and which the public in Scotland had learned to applaud. Those provisions might not be wise; but they were popular and acceptable, and he feared they were unavoidable. He could only express the hope that, if adopted, they might prove instrumental towards conciliation and peace; and that they might help to restore the population, who had many interesting and attractive qualities, to their normal condition of morality and order.

The Duke of Argyll said, the noble Lord who had just spoken had apparently assumed that he was one of the few Members of that House who would speak upon that subject in the interest of the crofters, and had observed that he would leave to others the duty of speaking in the interests of the proprietors. He could assure the noble Lord that they on that side of the House, and on the other side as well, who were proprietors of land in the Highlands, were quite as anxious to assist the crofters as any of those demagogues who had been inciting them. They desired to see the crofters a prosperous people. They had worked for that end, many of them for years, and they would be very glad if the Legislature could see its way to pass any measure which would really have the effect of permanently improving their condition.

His noble Friend (the Earl of Dalhousie) who had charge of the measure always dealt with every matter which was committed to his hands with singular judgment and discretion, and he was not sure that he had ever shown that judgment and discretion better than he had done that night. He spoke with great moderation and good temper on every point; but he skimmed with infinite agility over the thinnest ice. The Bill belonged either to the category of measures which they should discuss upon their own merits, or to the category of measures which they could discuss only with reference to the political situation in which they found themselves. He was bound to confess that he would not oppose the second reading of this Bill, not because he thought it was a good Bill on its merits, but on account of the position in which they were placed. He said distinctly that, on its merits, the Bill might be denominated by a new title. It would be no travesty of what he believed would be the effect of this measure to call it a Bill to arrest agricultural improvements in certain counties in Scotland. That would be an accurate title for the Bill.

In order to show that he was not speaking vaguely or at random, or out of mere antipathy to any new principle adopted by Parliament, he would direct the attention of the House to one broad feature of the Bill, and of the speeches which had been made in favour of it. The Bill, as it had been pointed out to them, proposed to advance public money for the benefit of crofters as regarded their fishing avocations; but it did not propose to advance money to the extent even of a single shilling for agricultural purposes. He wanted to point out to the House the effect of that. Mr. Trevelyan, in his speech in "another place," dwelt at great length upon that point, and said he was not prepared to recommend Parliament to

advance public money to crofters for agricultural purposes. The right hon. Gentleman said – and he (the Duke of Argyll) could not gainsay the argument – that he did not see why the small tenant on the West Coast of Scotland had more claim on the public purse than the small tenant in any other part of Scotland who might be suffering from agricultural distress, or, indeed, than the small tradesmen, who were now suffering great distress. Mr. Trevelyan put his foot down on that at once, and said he would be no party to the advance of public money for agricultural speculation of that kind; and it was surmised at the time that Mr. Trevelyan had in his mind, when he made that speech, other proposals which were likely to be before Parliament with regard to another country. He asked them to look at this Bill fairly and closely, and they would find that one of the clauses of the Bill distinctly deprived the crofter of his access to the capital of the landlord. They refused to the crofter one shilling of public money, and they put him under such conditions that he could not get one shilling from his landlord. Did they think that that was for the benefit of the crofter, and that it would tend to the improvement of land in Scotland?

The 5th clause said that a new agreement might be made between the landlord and the tenant, but that the agreement would hold so long as one of the parties did not apply to the Land Court for a revision. Let him point out how that operated. Two years ago the tenants on his property in the Island of Tiree came to him and said – "Will you help us to drain and fence this land?" He said – "Certainly I will, if you pay me a moderate percentage on the outlay." In that Island, and in many parts of the Highlands, there were plenty of rocks but no stones, and the fences had to be made with wire at great cost. These poor crofters were not able to lay out that money; but they were perfectly willing to pay to the landlord interest on his outlay. He told those crofters he would be very glad to help them, and a year and a-half ago the work was done. This year they asked him to proceed with the work; but he said – "I am sorry I cannot do that, till I see what Parliament is going to do with my freedom of contract with you". If this Bill were passed he should have to say to these crofters – "My friends, Parliament has prohibited you from making any binding contract with me on that. You may promise your 4 or 5 per cent upon this outlay; but you cannot bind even yourselves, still less can you bind your successors in the farm". Under these circumstances he should be obliged to say – "I am very sorry Parliament has put you in the position of children or fools, and has put me in a position in which I cannot lay out any capital with any security. You must fence and drain the farm for yourselves".

He would now beg the House to understand what was the experience of draining land in the West Highlands of Scotland. Sir James Caird was surprised when he informed him he could not drain land in the Highlands under from £12 to £15 an acre; but Sir James Caird was forgetting at the time that in consequence of the character of the soil they had to put their drains very thick, and largely to depend upon tiles and filling in. The tiles had to be obtained from Ayrshire, and therefore became very expensive in the West Highlands, and the result was that efficient drainage could not be done for anything like what it could be done for in the Lowlands of Scotland. That being so, how were the poor tenants, these crofters, to drain the land, because the Bill shut them out from the assistance of the State – because they said that these people should not have a shilling of money? In Committee he hoped the Government would be able either to insert a new clause, and so alter the 5th clause, so that after the tenant had been placed in possession of the increased croft he should be able to make a reasonable bargain with his landlord with respect to drainage and other matters. Without that this Bill, instead of improving the lot of these poor people, would immensely damage them.

He agreed with his noble Friend that what these people asked for was more land, and there were two ways of increasing crofts where there was land available; but there were many townships in the Highlands in the midst of other townships, and in that case they could only add land by taking it from their neighbours. Another mode of increasing the size of the croft was to wait for accidental vacancy, and then to add to it the adjoining croft. When a crofter came to him and asked to have his croft increased, he said to him – "Well, which of your neighbours do you want to swallow up?" That puzzled him. When he succeeded, 40 years ago, to an estate which was managed on the old Celtic system, and was overcrowded with crofters, he gave instructions to his agent never to turn out a crofter except for bankruptcy; but when a croft became vacant never to let it again to any man outside certain close relations of the late tenant, but to add it to adjacent crofts. Taking advantage of these vacancies, he had gradually succeeded in increasing the size of the crofts, until now they were most of them of a comparatively good size, and the crofters were now in comfortable circumstances. Now, what would be the effect of the Bill in that case? The whole of the operations to which he had been trusting for 40 years for the improvement of these people would be absolutely stopped, because the Bill gave the smallest of these people power to leave their crofts not only to their sons, and he did not object to that, or to the croft being left to daughters who had married well, or to brothers; but they empowered a crofter to leave the croft to his most distant relation; and if he should leave no will, then the croft was to fall to the heir-at-law, who might be a man who had lived all his life in Glasgow, and came for the first time into the parish to take up the croft, thus preventing that increase of the size of crofts that added so much to the comfort of the people. That was a fault in the Bill which, however, he was afraid that no Amendment the Government were likely to accept would alter, though he had an Amendment which he should put down on the Paper, with the view of leaving to the township as well as to the landlord the right to object to a tenant taking possession of the croft on the ground that he was a stranger. In all cases where adjacent land was not available the Bill would damnify the position of the crofter. The acceptance of that Bill, with all the Amendments it was possible for them to put in it, depended entirely upon what he called the difficulties in the way. What was their position? what were the circumstances that compelled them to adopt some measure which he quite admitted was necessary? In the first place, they had the manufacturers to deal with, and in their part of Scotland they had the survival of a class, once universal over the whole country, of small crofters, who were disappearing. Concurrently with that they had a strong popular opinion in favour of small holdings. He believed that in many parts of the country consolidation had gone on to an inconvenient extent, limiting the class of farms to persons with large capital. He believed it would be better to have larger farms; but just now they had almost a mania for the adoption of a plan under which small farms could be established or thrive.

Then there was a third point, which he would venture to call the Celtic mania. He himself was of Celtic origin – and as pure a Celt as existed – but the views upon that matter had gone to a most extraordinary extent. Now, if a man threatened another for telling the truth, if he seized upon another man's property without a shadow of reason and defied the law, if he refused to pay his portion of the rates, he was praised all over the papers as a hero, the only condition being that he should speak Gaelic. The Celtic mania had now to be dealt with, and, as far as it could be, reduced to reason.

Fourthly, they had the contagion of the Irish Land Act. He had always said that Act had debauched the public mind in these matters, as he foresaw it would do; and a great deal of the agitation brought on in the Highlands had simply been the echo of the Irish Land Act. Next, they had an organized agitation to which his noble Friend the Chairman of the Commission testified in a most frank manner when he said that the Commission was preceded by an organized band of agitators, and the Petitions that were sent in were drawn up at Westminster, and forwarded through Edinburgh by persons, many of whom were decayed schoolmasters. The crofters were told what they were to say, and in many of the Petitions the same terms were used. Then there was the fact that Government had appointed a Royal Commission to inquire into the matter; and in the presence of his noble Friend the Chairman of that Commission he would say that the whole of that matter had been grossly mismanaged, and the Commission ought to have been of a different character. It ought to have been a regular Court of Inquiry, where the truth or the untruth of the statements made could have been ascertained before the Commission. Great falsehoods were given as evidence, and the landlords had not the means to disprove them. There was, however, one advantage in having as Chairman of that Commission a man like his noble Friend (Lord Napier and Ettrick).

Lord Napier and Ettrick took exception to the statement of the noble Duke, and pointed out that the Commission examined most carefully the representatives of the landlords.

The Duke of Argyll said that his noble Friend went to the Island of Tiree in such a hurry that a letter he (the Duke of Argyll) sent to him only reached him by the purest chance before the Commission sat. If they had known what was to happen they ought to have had an organized band of examiners sent round with the Commissioners to cross-examine the witnesses, or to see that they did not tell lies, because he knew that many falsehoods were told. Excepting the fact that his noble Friend had great influence upon the witnesses that went before the Commission, and impressed them with the fact that the Government really wished to hear their side of the question, he believed the Commission was an ill-advised one, and that its Report did mischief.

Then there was the political situation. They had a vote in the House of Commons, about which he wished to say something. A discussion was raised upon a Motion that something should be done in the interests of the crofters, and it was brought on by a right hon. Gentleman who intended to stand for one of the crofter constituencies. Sir William Harcourt showed an anxiety to get rid of the vote, and he made a deprecatory speech upon the matter. When the vote was put many of the hon. Members rose and marched out of the House, showing that they were disinclined to resist a vote of the kind; and the fact was that in the face of a General Election all parties were powerless in regard to it. There was a moral cowardice on the part of all parties, and although the Government deprecated the vote it was allowed to pass sub silentio; but still it was a recorded vote of the House of Commons, and he was not surprised that his noble Friend and other Members of the Government should dwell upon it as an important factor in the political situation.

Lastly, they came to the Executive duties of the Government, and he did not know that the House had the least idea of the real state of things that had arisen in the crofter districts. In the Isle of Skye it was a small thing to say that the Queen's writ did not run there. The Queen's Messenger had gone to the Island, and had been assaulted and maltreated to the serious danger of his life when administering the writ of the Court of

Session. The poor's rates could not be collected at the present moment, and yet during the whole of the last winter the poor actually would have wanted the necessaries of life if the agents of the proprietors had not come forward to the banks and said – "We will guarantee this advance". That, he thought, was very handsome on the part of the landlords, who were not receiving their rents. At this time, also, they had the Sheriff of the county, Sheriff Ivory, representing to the Government that the state of things was intolerable; schools had been shut up, and unless the Government came to their assistance the poor would starve. He distinctly denied that any Government had the right to withhold the arm of the law from enforcing the law in such circumstances as these until the Parliament had been driven to the adoption of any particular measure. Still, they were bound to consider the state of matters, and he fully admitted the extreme importance of having this question, if possible, settled without the danger and risk of a rising and bloodshed. He entirely agreed with the statement that after all they were a very poor class of people, and that they had been misled by agitators into believing what was untrue; but the force of the law would have to be maintained sooner or later, and the sooner the better he said.

Under all these circumstances, he could not deny that they were in a position that compelled them to agree to something being done; and if any measure of that kind had to be passed, the Government must draw up a Bill with the view of doing as much good and as little injustice as was possible. But he did not think they had entirely succeeded.

Before sitting down he hoped the House would allow him to say a few words upon an important matter which his noble Friend had referred to. They would see the enormous temptation that a Government was under in these circumstances to invent arguments and history to support the Bill. They were driven to their wits' end to invent arguments, law, and history which had no foundation in fact, and these arguments would have a very bad effect on the country, and neutralize the Bill, because it would give a vague idea of ancient rights, which rights had never existed, and which the Bill did not sanction. He wished to point out one or two of these great historical errors to the House, which had been pressed into the service of the Bill – errors which had nothing to do with the case. One was the general impression that the old Celtic tenure of the country before the day of Charters was more favourable to the cultivating classes than they came to be under the Charters; but he contended that it could be proved beyond contradiction that under the old Celtic tenure the classes of cultivators were bound by harsh Celtic usages on the part of their Chiefs; and the first year of redemption to the Highlands and to the rest of the country was when written Charters were given. The same delusion had affected their Irish policy, where the land misery had not been due to English settlers. There was the direct mismanagement of the land by the old Celtic Chiefs; and the complaint against the English settlers was not that they had, but that they had not, introduced English law. It was exactly the same thing, only not so bad, in the Highlands.

He would now allude to another historical error – that the old clans had rights of grazing. As a mode of occupation, let it be distinctly understood that the word crofter was not Celtic at all; and the custom of holding a piece of land, and a common grazing in addition, existed over the whole of Scotland and England and Europe. They could go back to a period when, in the immediate neighbourhood of Edinburgh, there were common grazings, and the place where the battle of Prestonpans was fought was a common grazing. The clans had been spoken of as if they were confined to the Highlands; but the whole South of Scotland had been occupied by clans on precisely the

same footing. In Sir Walter Scott's Border Minstrelsy they would find the most interesting account of the state of society before the Union of the Crowns, where Sir Walter Scott talked of the Scotts, and the Elliots, and the Armstrongs, and the Johnstons as clans. They were all clans, just as the Campbells and the Frasers were clans. The mode of life was exactly the same.

There was a third historical error of a most extraordinary kind. Mr. Trevelyan actually said that there was nothing in the Bill which had not hitherto existed. But they never had anything like fixity of tenure; and, what was more, they never had the grazings of the mountains. He would not trouble the House with quotations; but he had many of them from the works of the most eminent authorities on Scotch history to show that in the Middle Ages the tenure was one of tenancy at will, except in the case of those who had written leases, and written leases existed before the battle of Bannockburn. One of the most remarkable books dealing with these matters was called The Book of Taymouth, containing a large number of documents, which had been preserved, regarding the management of that great Highland estate, which was some 60 miles in length, and these papers contained a continuous history of the estate for 300 years. Those papers had been put into the hands of a most competent man, and the book showed that the landlord exercised the power of displacement, of removal, of plantation, of protecting deer, and of protection of heather burning, which the landlord now possessed. Refugees were very often taken in and planted on the land – refugees from broken clans – and they had the most minute directions as to their conduct and the conditions of their tenancy. In short, all the historical nonsense about private rights vanished the moment they examined those papers. As regarded tenants at will and removal of tenants, as early as the 12th century they had an Act of Parliament providing for the incoming and outgoing tenants precisely as they might have it now. When Mr. Trevelyan made such statements in the House of Commons, it only showed that he was absolutely ignorant of the ancient history of the country for which he proposed to legislate. In The Book of Taymouth they had the most minute directions for the protection of the red deer, from 1571 up to 1720. Then they had the Gordon Estates, extending in the year 1600 from the coast of Banffshire to the West Coast opposite, Skye; and Mr. Joseph Robertson and Mr. Cosmo Innes testified that over that vast tract of country there were no sheep; there was hardly any cattle; and the whole of the country was absolutely waste mountain. Instead of that they had now an enormous added wealth.

There was another passage which he heard with astonishment, and that was the clearances and the stocking of the mountains with sheep was done for the benefit of the proprietors and not for the benefit of the public. Did Mr. Trevelyan mean to say that to change a whole country, almost waste except for a few glens, into a country where there were millions of sheep and tens of thousands of cattle was not a benefit to the country? He might just as well have said that there was no benefit to the country in the draining of the Bedford level, or the reclamation of England from wastes and forests. People talked about the diminution of population in the Highlands; but it all depended from what date they started. After the close of the Civil War in 1745 there was an enormous increase of population in the Highlands, quite out of proportion to the increase of the means of subsistence. That arose from four causes. First of all, there was peace, and one of the most prominent agitators in Scotland was so beset with sympathy for the crofters that he actually talked of the horrible outrages and massacres that went on before 1745 as a little wholesome blood-letting for the benefit of the population. When that little wholesome blood-letting came to an end there was an enormous increase in the breeding powers of

the country. Then there was the introduction of the potato, and the introduction of inoculation. He mentioned the last fact lately in a speech in Scotland, and he had an inquiry from one of the most prominent physicians whether inoculation had been introduced into the Highlands. He was very glad to refer that gentleman to seven or eight extracts from the accounts of Ministers in the Statistical Account of Scotland, published in 1790, which proved his assertion. The truth was that in former times the Highlands were subjected to desolation, famines, plagues, and visitations of small-pox, which swept away thousands upon thousands, and very frequently there was a failure of the crops, followed by starvation or slow fever. The potato saved the Highlands from famine, and inoculation saved the people from small- pox. Then there was the manufacture of kelp, which led to the sub-division of the crofts, because there was plenty of occupation, and the population accordingly increased. That industry failed, and the Highlands were the only country he knew of where, when a great industry ceased, the people would not remove, but remained on the spot. The state of the Highlands was most extraordinary as to population. In the Island of Lewis in 1801 the population was 9,168, while in 1881 it was 25,487 – a higher rate of increase than had taken place in the most populous city of Scotland. Those people, so far as he knew, were fishermen, and there was no additional means of support and subsistence. Those were the historical errors which had been stated by public men in favour of the Bill; and although the Bill passed into law to-morrow, it would be as useless as the action of the police in the Island of Skye, because they had to deal with moral force, and people ought to have the courage nowadays to speak a little truth and state their own opinions.

There was another great fallacy with regard to the Highlands. There were a great number of people who thought that the Highlands had become the monopoly of large sheep farms, and there were no intervening farms between the size of a large sheep farm and a croft. There was nothing more absurd. He would venture to say that there was a better and more equal division of land in the Western Highlands than in any part of Scotland – certainly far better than in those parts of Scotland which showed the other day the most splendid agriculture in the Kingdom. In Argyllshire and Inverness-shire there were a large number of farms below £50, a large number between £50 and £200, and a very large number between £200 and £1,000, and the number of larger ones was very small.

The responsibility for this measure rested with the Government and not with him; and he hoped they were very much encouraged by the success of the last Irish Land Act. It was perfectly clear that what were called judicial rents were not accepted by either party as judicial in the proper sense of the word, and caused both landlords and tenants to be discontented. The truth was that these matters could not be regulated and managed by Act of Parliament. They could not make a population contented by passing measures which attempted to do what in the nature of things was impossible. He thought that in the interest of justice and common sense he would have to move some Amendments in Committee. They were Amendments which he believed were not inconsistent with the principles of the Bill or the objects the Government had in view; and he was perfectly content, if they were accepted, that this Bill should be tried as an experiment to see if it would work satisfactorily.

The Earl of Fife. This question of the Scottish crofters has unfortunately, like so many others connected with the land, been greatly complicated, as the noble Duke has very truly said, by appeals to class prejudice and popular ignorance on the part of those whose

zeal for the Highland crofter is of but a very recent growth. I greatly fear that the condition of the Highland crofter is but the natural result of physical and economic causes which legislation is powerless to cure, and this is confirmed by the noble Lord (Lord Napier and Ettrick) who spoke second in this debate. The Royal Commissioners, whose Report I have carefully read, do not by any means suggest that the crofters suffer, on the whole, from rack- renting; but that their grievances result mainly from other causes. In an amiable desire to remedy matters, our legislators have endeavoured to rivet for all time to a barren soil populations which that soil is now unable to bear, and thus realize a graphic description of this Bill which I heard the other day, as one whose final end would be to stereotype barbarism. For what are the fundamental principles of this Bill? They are simply those of "fixity of tenure" and "fair rent," which we have heard so much of in an ominous quarter, and the application of which has not been attended with signal success. In that case – I mean in Ireland – those whom it was sought to conciliate were far from being conciliated; and in this case the self-constituted champions of the Highland crofter repudiate and refuse your concessions. Therefore, you are in this position – that, while you have set up in the British Isles principles opposed to your previous declarations and repugnant to all sound economic doctrines, you have not even secured the poor satisfaction of allaying the opposition of your agrarian agitators. But your Lordships are well aware that it is the custom nowadays to ask your critics to evolve an alternate policy; and my noble Friend will, doubtless, ask me what I propose to do to remedy the evils of which the crofters complain. Well, no insuperable difficulty seems to arise when large sums of money are required to solve difficulties on the other side of St. George's Channel. And here you have an exceptional case, in a small area, under circumstances which you say yourselves are entirely peculiar – of a small population, numbering, I believe, something like 40,000 families – and you hesitate to apply grants or loans from public money, which could not possibly be excessive, and which, if advanced to responsible persons, and with the co-operation of the landlords, might effect a material improvement in the condition of these people. Highland proprietors cannot be considered, as a whole, a wealthy class; and they are unable, therefore, to do what the special circumstances of the crofters make it desirable that they should do, either in the way of improving their holdings, or adding to their stock and implements. If, therefore, you are determined, or think you can improve their condition by exceptional legislation, such legislation should take the form of providing, by exceptional means, the necessary capital. This may not recommend itself to the sternest political economists; but it is surely better than to set up in the British Isles unsound principles, which may be claimed as precedents in the future, and which it is even now sought to extend far beyond the limits of crofting counties.

If the rights of landlords are in your way when seeking to improve the condition of any specially impoverished class, by all means let those rights be removed, after due compensation given. There are abundant precedents for this. But on what principle are you acting when you wish a man to keep his land, and yet tell him, as you do in the 11th clause of this Bill, to whom he is to be compelled to let it, and at what price? Surely, if the position of the crofters is to be considered such an exceptional one as to necessitate the application of principles, the soundness of which you can hardly justify, it would have been wiser, and I am convinced much more efficacious, to have approached this question in a totally different manner – to have endeavoured to cure the root, and not the mere developments of this evil. If land is wanted to expand these crofts, let land be purchased compulsorily, in the usual manner, for that object; if loans are required for agricultural purposes, let them be provided at a low rate of interest to responsible persons; if harbours are necessary, as we know they are for the development of the fishing industries, let

financial assistance be afforded under proper guarantees; and, lastly, let emigration, the only effectual remedy for congested, districts, be distinctly encouraged wherever feasible, instead of being entirely ignored as it is in this Bill.

I am convinced that nearly all that is requisite to deal with this special grievance in a corner of Scotland might be done through the financial aid of a State guarantee. The sum involved could not assume extravagant proportions; but if it were ten times what practical men hold to be requisite, it would yet be insignificant in comparison with those enormous sums you propose to pour out like water, to propitiate Irish discontent, and buy off Irish opposition. Surely it would have been better for the Government to have reserved some of its lavish generosity for a small Scottish grievance, rather than introduce a Bill which contains the maximum of interference with other people's freedom, and the minimum of satisfaction to the grievances alleged.

Although I have some knowledge of the populations in question, I am not personally affected by the provisions of this Bill; and as those who are directly interested in it, and who have more experience than myself in your Lordships' House, have not thought it necessary to take any steps in the matter, I shall merely content myself with entering my protest against this further violation of sound principles on the part of Her Majesty's Government.

Motion agreed to; Bill read a second time accordingly, and committed to a Committee of the Whole House on Thursday next.

[*end of transcript*]