Irish Review (Dublin)

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Source: *The Irish Review (Dublin)*, Vol. 3, No. 34 (Dec., 1913), pp. 506-511

Published by: [Irish Review \(Dublin\)](#)

Stable URL: <http://www.jstor.org/stable/30062971>

Accessed: 15/06/2014 14:21

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THE NEW LAND BILL AND COMPULSORY PURCHASE

By JUSTIN PHILLIPS

THE compulsory powers vested in the Estates Commissioners under the Irish Land Act of 1909 lack vitality and force, and are so circumscribed as to render them impotent. If, in the opinion of the Commissioners, it is desirable that any estate or untenanted land should be purchased *for the purposes of relieving congestion*, in any part of Ireland outside the scheduled congested districts, they are empowered to make proposals and enter into negotiations for the purchase of such land, and they, or their authorised servants, are further empowered to enter upon any *congested* estate or untenanted land for the purpose of ascertaining the boundaries, extent, and character, so that they may be in a position, should they propose to purchase the land, to estimate the price to be offered for same. Now, according to the Land Purchase Acts, a "congested" estate is an estate, not less than half the area of which consists of holdings not exceeding seven pounds in rateable value, or of mountain or bog land, or not less than a quarter of the area of which is held in rundale or intermixed plots, and it is thus obvious that the powers of the Commissioners are confined within the narrowest limits.

Not alone are the Commissioners' powers limited, but the Act granting them their powers at the same time armed the landlord so effectively as to render it possible for him practically to defy the compulsory acquisition of his land. When the Commissioners have intimated to a landlord their intention of compulsorily acquiring his estate, he may, if he thinks fit, make an application to the Judicial Land Commissioner for an order to restrain the Estates Commissioners from carrying out their intention, on the grounds, amongst others, that there is other land, equally suitable for the purposes of the Commissioners, available by voluntary agreement at a reasonable price; that the land proposed to be acquired includes a park, garden, pleasure ground, recreation ground, demesne or home farm, or that

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should the untenanted land be acquired, other land the property of the owner would be injuriously affected. Furthermore, if he is dissatisfied with the price offered, he may apply to the Judicial Commissioner to fix the price to be paid for the lands proposed to be acquired. The costs and expenses incidental to all such applications have to be borne by the Estates Commissioners, and as a result, lengthy and costly litigation is encouraged.

Although—however strange it may seem—many landlords are anxious that the Commissioners should exercise their compulsory powers in regard to their estates, as they would then be paid their purchase money in cash, and not in depreciated Guaranteed Stock as in the case of a voluntary sale, the Commissioners have not shown any great desire to avail themselves to the fullest extent of their limited powers. The circumstances of over two hundred and forty estates have been brought under their notice by the tenants interested, with the object of having the estates compulsorily acquired; but the Commissioners have entered into negotiations with this object in view, in twenty-five cases only, and of these twenty-five it is only in about ten that the Commissioners have as yet gone beyond the initial stages by making what is termed a “final offer” for the purchase of the estate or untenanted land; in but three cases have they exercised their powers to the fullest extent by acquiring the land compulsorily; and in no case have they pressed a case so far that the landlord found it necessary to apply to the Judicial Commissioner for an order to restrain the compulsory acquisition of his land.

A total of three estates compulsorily acquired in four years! Can it be denied that this is a disgraceful record of the working of the compulsory powers granted to the Estates Commissioners under the Act of 1909? It is arrant humbug to say that compulsory proceedings are prohibitively expensive. The Commissioners have never pushed their work far enough to be in a position to say whether they are expensive or not; they have made practically no efforts to compel landlords to sell; nor as yet can they say what amount of opposition they would be likely to meet if they did endeavour to avail themselves of their powers to the full extent.

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Whether this lack of achievement is the result of intense apathy and gross inefficiency on the part of the officials, or an attempt on the part of the Commissioners to kill compulsory purchase, I am not in a position to say. I shall merely content myself with citing one particular typical instance which came under my notice of how the Commissioners neglect to exercise their powers. The estate is situate in Co. Kildare, and the tenants—a majority of whom occupy holdings liable to floods, live in bog huts surrounded during the winter months by inland seas, and are frequently compelled to seek refuge in the homes of their more fortunate neighbours—as far back as January, 1910, petitioned the Commissioners to exercise their compulsory powers in regard to the estate on which their holdings are situate. Since that time they have again and again pleaded for a full consideration of their truly lamentable case; but the Commissioners, though they are fully aware that the conditions under which these tenants exist are as bad as those prevailing in the worst congested district in Connaught, have done nothing. The estate is congested; there is abundance of untenanted land in the locality; the tenants are admitted to be thrifty and industrious; and if the Commissioners had only sufficient energy to tackle the matter, every poor tenant on this miserable estate could be put into possession of an economic holding; a rural slum, situate not thirty miles from Dublin, could be wiped out, and the hundreds of acres of rich grazing land surrounding turned into good-sized tillage farms, peopled by self-respecting industrious farmers. The Commissioners are afraid to touch the matter because the estate is a really bad one, and some day they will inform the poor tenants that they regret they cannot see their way to undertake the compulsory acquisition of the estate. Let the Commissioners ask themselves for what object were they given compulsory powers, and let them realise that sooner or later they must deal with estates of this kind, that there must be no shirking, and that so long as they neglect to carry out their obvious duty, so long must they be adjudged guilty of inability to carry out the compulsory clauses of the Act of 1909.

As I have already shown, the Commissioners can compulsorily

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purchase congested estates or untenanted land for the purpose of relieving congestion, but they have at present no powers in regard to non-congested estates, nor can they compulsorily acquire untenanted land for any other purpose than that of relieving congestion. It is now proposed to extend the scope of the Commissioners' work in regard to the acquirement of land by authorising them to exercise their powers in connection with the purchase of any estate or untenanted land, not situate in a congested districts county, for the purpose of *resale to tenants and others*, whether the estate is or is not congested. It is further proposed that a landlord shall no longer be able to restrain compulsory acquisition on the ground that other land sufficient and equally suitable is available for purchase by voluntary agreement at a reasonable price; that where land is purchased as a result of proceedings initiated under the compulsory provisions of the Land Purchase Acts, no bonus shall be payable; that where an order has been sought to restrain the Commissioners from exercising their compulsory powers, the costs incidental to such application shall, unless the Judicial Commissioner fixes the price at a figure greater than the price offered by the Commissioners, be borne by the landlord; and if it appears to the Judicial Commissioner that the landlord acted unreasonably by withholding information required by the Commissioners, or in any other respect, he may order the landlord to pay the costs or expenses incurred by the Commissioners in consequence of such unreasonable action.

There is no denying the fact that if these proposals ever become law, the powers of the Estates Commissioners will be considerably increased, and the restraining powers of the landlord considerably curtailed. The Commissioners have been hampered by being compelled to confine their attention to congested estates, and by not being empowered to acquire land for any other purpose than that of relieving congestion. On practically every estate in Ireland there are a number of uneconomic holdings, but yet the estate on which these holdings are situate may not be a congested one within the meaning of the Act of 1909. Consequently the Commissioners are unable, were they ever so willing, to interfere in their behalf.

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A new feature of the present Land Bill is a clause proposing to deprive tenants who, in the opinion of the Estates Commissioners act unreasonably in refusing to purchase, of the right to have a judicial rent fixed on their holdings. This is a very necessary clause, and should be welcomed; but it is of first importance that the tenants' rights should be clearly defined.

Mr. Birrell has laid it down that tenants should be satisfied with a reduction of 20 per cent. in their rents as compared with their annuities—Conference terms—and it is thus logical to assume that if a tenant refused to purchase at a price which would secure this reduction, he might be held to be acting unreasonably, and would forthwith be deprived of his right to have a judicial rent fixed on his holding. But the Government have lost sight of the fact that the tenants who have purchased have secured terms much better than those laid down as reasonable by the Land Conference; that those who purchased under the Act of 1903 secured on an average a reduction of 27.5 per cent.; and those who purchased under the Acts of 1885, 1891, 1896 and 1909, average reductions of over 30 per cent. in their rents as compared with their annuities. It should therefore be clearly laid down that a tenant must not be held to be acting unreasonably unless the reduction in his rent, as compared with his annuity, which would be secured by purchasing at the price at which the landlord was willing to sell, was 32 per cent. or more in the case of non-judicial and first term Judicial rents, and 25 per cent. or more in the case of second and third term Judicial rents. To hold that a tenant acted unreasonably, and to deprive him of rights which he has fought so hard to secure, because he refused to purchase at a price securing only 20 per cent. reduction in his rent, would be grossly unjust, and should not be permitted by the tenants' Parliamentary representatives. The reductions secured under previous Land Purchase Acts are fair, and give an accurate idea of what is reasonable and just to both tenant and landlord. Speaking generally, a tenant should be satisfied to purchase, and a landlord to sell at prices securing similar reductions, and a tenant should rightly be held to be acting unreasonably if he refused to

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purchase at a price securing such a reduction in his rent; and, similarly, a landlord should be held to be acting unreasonably if he refused to sell at a price which would grant such a reduction in the tenants' rent.

Judge it from whatever point we may, the compulsory powers vested in the Estates Commissioners under the Birrell Act have been worse than useless, and of the necessity for placing stronger and wider powers at their disposal there is no doubt, but we must not allow matters to rest there. We must see that the Estates Commissioners exercise whatever powers they possess to the fullest extent. The record of proceedings under the Act of 1909, in so far as it relates to compulsory purchase, is so mean and inglorious that the Estates Commissioners have so far refrained from making any mention whatever of compulsory purchase in their annual report. So that the public may be in a position to see what progress is being made, a statement giving particulars of all compulsory proceedings should be embodied in all future annual reports of the Estates Commissioners.

There are a number of Irish landlords who, from an inborn desire to be perverse, would refuse to sell to their tenants on any terms. In the interests of their country, as well as the interests of their unfortunate tenants, these landlords must be brought to a realisation of the duty they owe to society. The tenants have done their duty in regard to sales direct between landlord and tenant, but up to the present the Estates Commissioners have entirely failed in their duty in regard to compulsory purchase. In the past it was quite a common occurrence to see Acts of Parliament passed with the object of benefiting this country rendered worthless by Rules and Regulations, or by neglect of duty on the part of the Irish officials entrusted with their administration. Are we going to tolerate similar treatment to-day? Assuredly not. If the Estates Commissioners let it be understood that it is their intention to exercise their powers in every case in which landlord and tenants fail to come to an agreement as to the terms of purchase, it will be found that those landlords who now declare their unalterable resolve to refuse to part with their lands will see the error of their ways, and arrive at some reasonable arrangement with their tenants, and thus put an end to Ireland's greatest evil—a pernicious land system.