

TENANTS' RIGHT IN ENGLAND: A CASE STUDY
IN AGRICULTURAL REFORM,
1832-1875

By

LLOYD WAYNE GOSS

Bachelor of Arts
East Central State College
Ada, Oklahoma
1957

Master of Arts
Oklahoma State University
Stillwater, Oklahoma
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Thesis Approved:

Homer L. Knight

Thesis Adviser

Odie R. Fair

Phillip G. L. Dick

Douglas Hale

BW Emmert

N. Thurman

Dean of the Graduate College

PREFACE

Tenants' Right was a minor issue which surfaced intermittently during much of the nineteenth century. The question involved granting compensation to farmers for their improvements which had not been fully utilized before they relinquished their holdings. The matter gained in importance during the mid-nineteenth century because of two factors. First, the period was one of rapid agricultural improvement, and a need arose for substantial additions of capital to implement the desired changes. There was a shortage of money among the landlords, and the tenants were looked upon as a possible source of capital. The heavy investments required of the farmers brought about a mixing of their assets with those of the landlord. The fertilizers applied to the land and the land itself could not be separated. But the tenant was left relatively unprotected, for he usually was subject to dismissal from his holding upon six months' notice. There developed, consequently, a demand that justice be rendered the farmer through a system of compensation for unexhausted improvements.

A second consistent aspect of Tenants' Right involved the use of the issue as a weapon to attack the aristocracy's control of

the farmer. By the Chandos Amendment to the Great Reform Bill, the vote had been extended to £50 tenants-at-will. Since such tenants were subject to dismissal upon six months' notice, they were particularly subject to the political pressures applied by the landlord. The Radicals in particular seized upon this aspect of the question and supported efforts to enact Tenants' Right legislation, because they thought its passage would allow them greater influence in the countryside. An extension of Radical support among the tenants would have made other proposed reforms much easier to accomplish.

These two aspects, improvement of agriculture and an attack upon aristocratic power, run like a continuous thread throughout the Tenants' Right issue. The question was also associated with a number of more important movements of the time. Thus Tenants' Right becomes connected with the repeal of the Corn Laws, the extension of the suffrage, and the movement for the secret ballot. Though the Tenants' Right issue never assumed the proportions of a major movement, it did possess the potential of attracting widespread support and of causing disruption of traditional political alliances. It was this danger that prompted Disraeli and the Tory Party to adopt the issue and push through the "permissive Agricultural Holdings Act of 1875.

It should also be noted that the relationship of Tenants' Right to the larger political controversies of the era and its place

in the conflict of parties have been neglected heretofore. It is therefore the purpose of this study to emphasize the importance of the tenant farmers in the struggle to limit the political power of the aristocracy and to demonstrate the more effective role played by agricultural elements in the period after 1867.

I wish to take this opportunity to express my appreciation to the members of my committee for the assistance in the preparation of this dissertation. I am deeply indebted to Dr. Homer L. Knight, my director, for his many hours of patient reading and valuable suggestions. To Drs. Odie B. Faulk, Douglas D. Hale, Bernard W. Eissenstat, and Harold S. Gordon, my eternal appreciation for their encouragement and suggestions.

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CHAPTER I

THE BASIS OF ARISTOCRATIC POWER

In the nineteenth century a concerted and sustained attack was made upon the power of the landed interest in England. This assault revealed itself in many forms: the reform of Parliament in 1832, the repeal of the Corn Laws, the alteration of the inheritance laws applicable to landed estates, and the demand for a change in the relationship between the tenant and the landlord in rural England. The last issue involved compensation for the improvements made by the farmer, the full value of which he had not been able to extract before he relinquished the holding. Tenants' Right, the subject of this study, refers to the practice of allowing the tenant to collect for these unexhausted improvements.

Tenants' Right became increasingly important during the 1840s and continued to attract intermittent attention for the next thirty years. Two factors helped to explain concern with the matter. The economic relationship of the tenant and the landlord had political connotations, and certain elements in England desired to alter their association in order to diminish the power of the aristocracy. The other aspect of Tenants' Right involved the

expansion of scientific agriculture and the necessity of producing greater amounts of food for the growing industrial population.

Advanced husbandry required that increased amounts of capital be invested, and, its proponents argued, compensation for unexhausted improvements would encourage a flow of money into agricultural production.

Bills concerning Tenants' Right were introduced into the House of Lords in 1842, 1843, and 1845, but these initial efforts received little consideration. The repeal of the Corn Laws revived interest in the matter, for many husbandmen felt that improvement afforded the best opportunity to meet the challenge that agricultural imports were likely to offer to British agriculture. In the late 1840s and early 1850s, legislation designed to grant compensation to English farmers for unexhausted improvements was introduced almost annually into the House of Commons. Two of these bills passed the Lower House only to be defeated in the House of Lords. Success appeared to be imminent in 1852. But Philip Pusey, the principal advocate of Tenants' Right, failed in his bid for re-election to Parliament in that year, and for almost twenty years thereafter little interest was displayed in the issue. The political turmoil of the period, increased agricultural prosperity, and the reformists' concern with questions deemed more vital explained the lack of attention given to Tenants' Right legislation during the next two decades.

Interest in Tenants' Right revived in the late 1860s and in the early 1870s. Agriculture's declining prosperity, the formation of the Central Chamber of Agriculture, and the Conservative Party's policies of noblesse oblige combined to secure the passage of the Agricultural Holding Act of 1875. With the passage of this measure, recognition was given that the tenant as well as the owner had rights in the holding, and thus a dual proprietary interest of property was tacitly established.

Tenants' Right as an attack upon the landed interest emerged as a result of the franchise changes enacted by Parliament in 1832. These innovations were important for Tenants' Right for two reasons. First, the extension of the vote to the £50 tenant-at-will increased the number of electors over whom the landlords had substantial control. Second, the aristocracy began to feel the full brunt of the attacks being launched against them and to resist any measure which faintly appeared to threaten their power. A review of the clauses pertinent to the landed interest's control of the countryside and the attitudes of this dominant group were of great consequence to the history of Tenants' Right legislation. A pattern of opposition was established which persisted until well after a Tenants' Right measure had been passed.

A challenge to aristocratic power had been germinating for a long while. As early as the 1780s, proposals for the reform of the House of Commons had received serious consideration, but

the French Revolution and the subsequent reaction to that upheaval had temporarily killed any hope for change. When the Whigs assumed power in November, 1830, however, the conflict burst into full bloom. Their accession made some type of parliamentary reform a foregone conclusion. In their desire for an adjustment of representation in the House of Commons, the Whigs were not alone. They were joined in this struggle by others who constituted a diversity of interests. Many younger Whigs demanded substantial changes because the system then current precluded their party from maintaining itself in power for long periods of time. The Radicals, some of whom desired political democracy and extended freedoms for individuals, supported the Whig half-measures because they appreciated that these were the only reforms they could expect at the moment. These reformers recognized, nevertheless, that ultimately their cause would be well served by such change. A few Tories allied themselves with the reformers because they thought that some change was inevitable under existing circumstances. Though both major parties found political democracy distasteful, the Tories who advocated reform agreed with the Whigs that political power had to be altered to correspond with the economic interests of the country. Consequently, the Whigs sponsored a Representation of the People Act, the Great Reform Bill, and, after great difficulties, were able to secure its passage on June 7, 1832.

The primary purposes of the Bill were to eliminate a number of the "rotten" or nomination boroughs and to extend the franchise to the middle classes. In Schedule A of the Act, small boroughs of under 2,000 inhabitants were to lose their parliamentary representation. Schedule B proposed to permit boroughs with populations of fewer than 4,000 but one member instead of the current two. One hundred and sixty-eight vacancies would be created by the change, most of which were controlled by oligarchic patrons who "nominated" their representatives to Parliament. Also contemplated was a reform of the franchise. The vote was to be extended everywhere to the £10 house-holder, but the 40s. freehold suffrage was to be retained in the counties. In addition, a number of borough voters who held unusual voting privileges were to be disfranchised. The measure struck deeply at the political base of the Tory aristocracy and thus aroused the passions of the opposition.

The First Reform Bill was defeated in committee; the Whig government of Earl Grey resigned, and elections were held which returned it with a larger majority. Grey's government then introduced a Second Reform Bill which incorporated changes designed to win added Tory support. The so-called Chandos Amendment was the principal device intended to placate the opponents of parliamentary reform. Designed to increase the power of the landlords, the Amendment would have extended the franchise in the counties to the £50 tenant-at-will, i. e., to the short-term leaseholder who

could be dismissed upon six months notice. Many Whigs also supported expansion of "natural" influence on the part of the landed interest, but the clause was vigorously opposed by the Radicals who deplored the hold the owners would have over their tenants. Nevertheless, the measure carried the Commons by 232 votes to 143. The compromise was not sufficient to carry the House of Lords, however, and on October 8, 1831, the Peers rejected the Bill 199 to 158.

While violence shook the countryside, the Ministry submitted a Third Reform Bill on December 12. The new proposal made further concessions designed to lessen the alarm felt by the Lords. Five of the boroughs disfranchised in Schedule A were changed, and eleven boroughs were dropped from Schedule B. In addition, the new Bill allowed resident freemen in the boroughs to retain their ancient voting rights. The Lords were not pacified, however, and they attempted to amend the measure drastically. Grey declined to accept their innovations, and, when the King refused to create fifty new peers to override the veto of the Upper House, the Prime Minister resigned on May 8.

William IV then called upon the Duke of Wellington to form a new ministry. But Wellington was unable to secure the support of Sir Robert Peel, as he had in 1829, and so was forced to inform the King of his inability to govern. The Monarch recalled Grey and agreed to create the necessary new peers if

this proved unavoidable. Faced with a crisis in government, opposition in the Lords collapsed, and on June 4, 1832, the Reform Bill passed that House.¹

During the course of the debates on the Bill, the Tory aristocrats had predicted grave consequences for the landed interests and for the country if the measure became law. Opponents of reform had hastened to attack the principles upon which the Act was based and had explored its possible consequences. Their primary objections were that such changes would destroy the balanced Constitution, deprive important interests of influence in the Commons, reduce the influence of the landed interest in Parliament--thus endangering property--and foster class conflicts within the nation. If, according to Norman Gash, the Whigs had accepted this interpretation, the proposed legislation would have been defeated, for they feared modifications in the social structure as much as their adversaries.²

Aristocratic fears concerning the threat to the country and the power of the landed interest were reflected in the debates

¹ A number of general accounts present excellent summaries of the fight for Parliamentary reform in 1832. Among these are Asa Brigg's The Age of Improvement (1959), E. L. Woodward, The Age of Reform, 1815-70 (1938), Anthony Wood, Nineteenth-Century Britain, 1815-1914 (1960), and R. K. Webb's Modern England (1968).

² Norman Gash, Politics in the Age of Peel: A Study in the Techniques of Parliamentary Representation, 1830-50 (London, 1953), p. 4.

on the Reform Bill of 1832. These fears persisted and emerged on almost every occasion when the interest of the aristocracy was challenged. Horace Twiss, M.P. for Newport, Isle of Wight, rose soon after the introduction of the measure and launched an objection that was to be repeated frequently by the Tories. He contended that the Ministry was about to destroy the balanced constitution by proposing to ". . . remove all the proportions of the Legislature, all the landmarks of the Constitution. . . ." ³

Twiss sarcastically admitted that the Commons had a precedent to follow in their intended subversion, for such a change had been sought during the reigns of Charles II and James II. The objective of the seventeenth-century conspirators had been to increase the powers of the Crown, but such maneuvers had been universally denounced as unjust and unconstitutional. Now, he charged, the usurpers would confer absolute power upon "the democracy," but this, too, was neither just nor constitutional. The goal of the Glorious Revolution had been to place the "boroughs and the corporations on their proper footing," and this had been achieved. Then, the settlement had been insured by the Bill of Rights, which established the House of Commons as the representative of the ". . . estates of the people of this realm." ⁴ For almost a

³ Great Britain, 3 Hansard's Parliamentary Debates, II (1830), 1129.

⁴ Ibid.

century and a half, the Revolutionary solution had benefited the nation, but now, with great temerity, the Members were asked to sanction the destruction of the arrangement.

Sir Robert Peel, echoing Mr. Twiss's sentiments, presented a consistent and sustained attack upon the Reform Bill. He denied that the Tory "alarms" concerning the after-effects of the proposal, if passed, were visionary. Peel also rejected the Whig contentions that the measure was constitutional, conservative, or that it had a tendency to diminish instead of increase democracy.⁵ The great statesman vehemently denounced the measure as "unjust in its principle . . . dangerous . . . in its tendency . . . and [as an] imminent positive evil."⁶

Peel hammered on the measure's inherent tendency to destroy the balance of the Constitution and invade popular rights. He said the ". . . ancient theory of the Constitution is in favour of a popular assembly controlling the prerogative of the Crown, and balancing the House of Peers." He contended that the proposal before Parliament sought to alter the long established relationship between the Houses of Parliament and to tilt the scales toward the more popular body. Once the overpowering influence of the people was established over the Commons, however, no other authority within the state would be able to resist

⁵ Ibid., III, 899.

⁶ Ibid., 900.

their desires. Was this power compatible with good government and the maintenance of the limited monarchy? Peel thought not and believed that the House of Commons would gradually assume all powers within the state. The countervailing influences upon the popular house, the Crown and the Lords, would grow progressively weaker ". . . and, ultimately, would owe its bare existence to its practical disuse."⁷ Consequently, the constitutional tranquility currently in existence would be overthrown and a single element, the House of Commons, would completely dominate all other branches of government.

Peel also saw in the Act a dangerous tendency to destroy the proportions which had been so well established between the various parts of the country and among the several classes in the United Kingdom. Appealing to English nationalism, he maintained that almost every boundary of every constituent body would be altered, and a decline in English membership in the reformed Parliament would result. Even worse, however, was the fact that the members from the new towns and cities would be elected by one predominant class of the people--a class subject to the same influences, swayed by the same passions and sympathies, and dominated by the same commercial interests. Lodging absolute power with one class, he asserted, was contrary to the wisdom of ancient institutions which had checked ". . . the restless appetite

⁷Ibid., 904-06.

for change . . ." and which were designed ". . . to fortify the feeble contrivances of reason." In addition he rejected the Whig contention that the measure was final, that there would be no further changes. The predominance of a single interest would make future change necessary, for if the principles upon which the reform rested were good, then additional reforms were a foregone conclusion.⁸

Twiss had also warned against the consequences of such invidious disruptions of the balanced interests and proclaimed that what was needed was "security," not reform--security against the "blind passions" of the people that might pull down the Constitution, ". . . the ark of the general safety."⁹ The removal of the several interests in the Commons increased the danger that the two ". . . great Aristocracies--the Aristocracy of the land and the Aristocracy of trade . . ."--would dominate the government. The people had little to fear from the influence of the Crown, but there was much to fear from these two powerful groups.¹⁰ Twiss believed there was a real danger of the middle class rising to predominance and as its interest was buying and selling, the country would suffer.¹¹

⁸ Ibid., 900-02.

⁹ Ibid., II, 1132.

¹⁰ Ibid., 1133.

¹¹ Ibid., 1135.

The Tories feared also that the reform would foster bitter class conflicts. Peel stated that he believed aristocratic influence would continue despite the destruction of the rotten boroughs, and that friendly relations would continue to be the normal state existing between the landlord and his tenants. In times of peace, the farmer would defer to the opinions of the owner. But in periods of unrest ". . . when the storm rises--when the passions of the people are excited . . . ," he feared violence similar to that in Ireland would characterize the relations between these two groups.¹² Michael T. Sadler, M.P. from Newark, thought that the Bill was but an opening barrage in a battle that would lead to the decline of the propertied element in the House of Commons. He argued that once the landed estate was impotent, the seals would be torn from their land titles, and that the interest of the people would predominate to the disadvantage of both the industrial and the landed interests.¹³

Opponents of the Reform were particularly concerned about the diminished role that they feared the landed interest would be destined to play. They viewed the Bill as a direct attack upon the position of the aristocracy. Twiss was representative of this opinion when he asserted that the boroughs were to

¹² Ibid., III, 907.

¹³ Ibid., II, 1536.

be disfranchised, not because they were corrupt, but because they were under the influence of the Crown and the aristocracy. The advocates of reform felt, he continued, that these elements ". . . had no business to mix their alloy with the pure democracy of the House." If the mixed government which had served England so well in the past were to survive, however, then it was mandatory that the Crown should continue to be a factor in the Commons and the House of Peers should not be ". . . destitute of influence through individual peers."¹⁴ Alexander Baring, M.P. for Thetford, was also skeptical of the future role of the aristocracy. He thought that in the struggle for political dominance, "The field of coal would beat the field of barley. . . ." The middle class would have an advantage because their population was more compact and thus could be more easily organized. Baring said the traders and manufacturers were more energetic and would act with such dispatch in the Commons that the disunited rural interest would be overwhelmed.¹⁵

James Stuart-Wortley, Lord Wharncliffe, speaking in the House of Lords on March 28, concurred with his colleagues in the Commons as to the inimical tendencies of the Reform. He viewed it as a danger to all the institutions of the country, a disruption

¹⁴ Ibid., 1131-32.

¹⁵ Ibid., V, 580.

of the balanced interest in Parliament, and extremely disadvantageous to the monarchy.¹⁶ The nobleman was particularly concerned, however, with the altered position of the landed interest. Contrary to Whig contentions, he maintained, the measure would not benefit the aristocracy but would work more for the advantage of the manufacturing and commercial interests. Indeed, the Act would lessen and ultimately destroy the power of the aristocracy. He denied that the landed and the manufacturing interest were ". . . one and indivisible . . ." and that they must ". . . fall or thrive together." Once this measure had passed, he thought, then the gentry would discover that the industrial element possessed a predominance in the House of Commons, and the road would be open for the total repeal of the Corn Laws and other measures of benefit to the aristocracy.¹⁷

Having these fears, the landed interests quite naturally attempted to safeguard their position by utilizing the instruments at hand. One of the most obvious devices of this design was the Chandos Amendment to the Reform Bill. This clause, as mentioned above, had extended the franchise in the counties to the £50 tenant-at-will. As this class of farmers was subject to dismissal upon six-months' notice, the coercive power of the landlord was

¹⁶ Ibid., II, 991-93.

¹⁷ Ibid., 999-1003.

considerable, and, if later charges are valid, they would frequently use it to intimidate the lease holders of their lands.¹⁸ A second method which the aristocracy found effective in controlling elections involved the corrupting of boroughs. Through these and similar tactics, the landed interests were able to keep their political power fairly intact.

After the passage of the Reform Bill of 1832, the landlords remained capable of coercing their tenants politically. Their abilities in that respect had even been enhanced by the Chandos Amendment. Not only did the aristocracy continue to dominate the counties, but they also were able to intimidate sizeable numbers of voters in the boroughs. The gentry had moved quickly to insure their continued control of the voting, and the investigations of the Select Committee on Bribery at Elections in 1835 revealed that they had mastered only too well the techniques of controlling elections. In ferreting out the details, the Committee found corruption and intimidation to be deep-seated.

¹⁸F. M. L. Thompson in his English Landed Society in the Nineteenth Century (London, 1963), p. 202, comments that the "Tenants were certainly anxious not to displease their landlords, and if left without guidance at an approaching contest might ask that their landlord's wishes should be made known. Their dutiful voting was partly a matter of prudence and partly a matter of accepted custom based on loyalty rather than fear. Contemporaries were much excited by the issue of landlord influence, but we need accept neither the view that it worked only through the threat of coercion nor that it never caused a tenant to vote against his convictions."

One purpose of the investigation was to scrutinize the procedures used by the aristocracy. An issue of particular concern to the Committee was the degree and methods of intimidation practiced by the landlords in regard to their tenants. Joseph Parks, an investigator of long experience for committees of this type, offered evidence that appeared to indicate widespread coercion. He stated that it was customary for candidates to obtain the permission of the landlord before they attempted to canvass the tenants. Such forms of etiquette were frequently observed only in the breach if the owner was a member of the opposite party, and electioneering was continued even though consent of the landowner had been refused. The employment of such tactics was generally futile, for if the landlord chose to exert his powers of intimidation he could effectively control his farmers. Parks cited a case in Warwickshire as an example of an owner exercising his prerogative. In this instance, Parks had discovered a number of tenants who were hostile to the opposing candidate because they were involved in a tithe case against him. Parks thereupon secured the signatures of seven of these voters pledging themselves to support his candidate. Arrangements were made to transport them to the polling place, but several days prior to the election he received word that they would not be able to come. Their landlord had told them that if they voted as promised he would disfranchise them, a control he would have been able to

exercise since the statutes of the hospital prevented the tenants from going over a mile or two out of town without leave. The landlord, however, was not satisfied with merely thwarting the design to vote these tenants for the opposition. On the day of the election, he brought several of them to Coventry and polled them for his candidate.¹⁹

The witness thought there was no doubt but that the tenants had been intimidated. Such practices, he testified, were very effective and were not at all uncommon. Parks had encountered similar pressures during an election in Stamford, and there ". . . notices to quit had a material effect upon the voters." A number of Stamford electors had been forced to cast their ballots ". . . against their notorious wishes and principles." During a recent election, Parks disclosed he had kept a notebook and had registered the opinions of at least two-thirds of the voters in a certain district. Their reasons for selecting their choices for office did not reflect their desires or interests. Instead, the electors had made their decisions with an eye toward the landlords

¹⁹ A description of this type of coercion is presented in Lady Charlotte Guest: Extracts From Her Journal, 1833-1852, edited by The Earl of Bessborough (London, 1950), p. 54. "The Tory landlords brought their Tenants up themselves like flocks of sheep, and made them break their pledgewords. They absolutely dragged them to the Poll, threatening to turn them out of their farms unless they voted plumpers for Lord Adare. One man shed tears on being forced to this. Although they had just been voting against us by compulsion the poor farmers received me enthusiastically, and wanted to drag my carriage up the Hill, but this I would not allow. . . ."

and other influences. Care had to be exercised not to alienate those who gave them credit or others with whom they had to deal. It was the opinion of Parks that adoption of the secret ballot would radically alter the voting pattern of the tenants.²⁰

James Terrell, an election agent in Devonshire and Exeter, confirmed Parks' opinion by testifying that intimidation was not uncommon in county elections. He too had knowledge of tenants who had been politically active but who had been called in by their landlords and compelled to vote for the opposing party's candidate. How had this been arranged? Terrell asserted that such coercion had been effected through "influence." By influence, however, he did not mean to imply that the owners employed direct threats, but since the tenants had no leases, the farmers feared that if they offended the landlord their holdings would be terminated. Such abrupt cancellation of their use of the land would have been financially ruinous because heavy investments had usually been made and the tenants required considerable time to extract their capital.²¹ Terrell further indicted the 1832 compromise when he contended that the effort to preserve an independent element in the counties had failed. The Whigs, as mentioned above, had tried to maintain a group of electors to offset the £50

²⁰Great Britain, Sessional Papers, Report of the Select Committee on Bribery at Elections, VIII (1835), pp. 101-02, Q. 1738-48.

²¹Ibid., pp. 157-58, Q. 2732-34.

tenant-at-will by retaining the 40s. freehold voters.²² Many small freeholders, however, supplemented their limited acreages by renting lands from local owners. Since these small landowners were tied to a particular district because of their properties, they were often more subject to intimidation than the farmer who was only a tenant.²³ One aspect of the Whig reform, consequently, had, contrary to expectations, served to buttress the power of the Tory landlords.

James Skerrett, a solicitor at Wrexham, echoed the previous charges and related how the landlords brought their tenants to the poll. They ". . . bring them up to vote just like soldiers well-drilled, headed by one of their principal tenants, and perhaps the agent with them." The owner frequently insured the proper voting of the farmers by stationing himself at the end of the polling-booth. The system, he felt, was very effective, for he knew of few instances where a tenant voted against his Tory landlord. The lack of independence on the part of the tenants-at-will, he contended, was due to the extension of the suffrage made by the Chandos Clause of the Reform Bill of 1832, and intimated

²²₃ Hansard, VI (1830), 690. Lord Althorp and the Whigs had recognized that the tenants would probably be influenced and had retained the 40s. freehold to prevent the agricultural interest from ". . . having the whole interest in the returning of county members."

²³ Report of the Select Committee on Bribery at Elections, VIII (1835), p. 160, Q. 2763-75.

that the resulting opportunities for coercion was an important reason why the owners were reluctant to grant leases for long periods of time.²⁴ Thus the dual nature of the Tenants' Right issue was firmly established within three years after the passage of the Great Reform Bill. There was an intimate connection between the political issue of the farmers' vote and granting them security of capital to encourage agricultural improvements.

Robert Mullen, a Medical Doctor and secretary of the Meath Political Club in Dunshaughlin, when examined before the Committee, stated that pointed threats were commonly directed toward tenants and submitted as proof a letter sent by Viscount Gormanstan to his agent with the stipulation that it be shown to the farmers. The letter threatened:

I shall make it a point to know from you (if there are any) the names of all such of my tenants who do not wish to oblige me with their interest, and will not go to vote. Time may come when they want me to oblige them; we may then fairly toss up our pretensions and strike the balance. If there are any who have refused to oblige me by going, through a pretence of fear, I beg you will ask them again from me, and let me know their answer.²⁵

Thus the tenants were warned that failure to vote properly would result in punitive action being taken against them, probably through refusal to renew their holdings.

²⁴Ibid., pp. 226-29, Q. 3951-95.

²⁵Ibid., p. 471, Q. 8253.

English landlords had discerned quickly that the Chandos Amendment to the Reform Bill of 1832 afforded them a potent political weapon. Feeling threatened, the owners hastened to insure their continued domination in the House of Commons by exercising their "influence" upon their tenants-at-will. Sometimes the threats were direct by word or letter and exercised by marching their farmers to the polls, but more frequently the warnings were veiled and unspoken. Regardless of the technique employed, the end product remained the same. Tenants supported the politics of the landlord, and the landed gentry continued supreme in the counties.

Control of elections by the aristocracy through intimidation was not confined to the counties. It could frequently be effectively extended to the boroughs as well.²⁶ Thomas Edgworth,

²⁶ Charles Seymour in his classic Electoral Reform in England and Wales (London, 1915), p. 95, recognized the continued control of many boroughs by the landed interest. "The apparent effect of the new qualifications was to throw complete control of the elections into the hands of the middle class. On the one hand the strength of the purely democratic element, which had been manifested through the ancient voting rights, was weakened; while on the other, the power of the aristocracy was attacked by the liberation of the close boroughs. It must be remembered, however, that the new middle class electors did not secure the control that was predicted for them and which historians have often taken for granted. Although they were nominally in power in most of the boroughs, without the fear of working class competition or the domination of a regular patron, they often possessed no more real power than the burgage holders who preceded them. As we shall see, the disposal of the suffrages bestowed in 1832 was by no means invariably in the hands of those who possessed the legal voting qualifications; some votes were controlled by the registration

a solicitor at Cheshire, offered pertinent witness to this type of influence in an election in Wrexham, Derbyshire. A certain Mr. Madocks was contesting the election in that borough with a Mr. Wilson Jones. Madocks had been canvassing the electorate for several days and had received many promises of support when one Sir Watkin, a noble of the locality, issued a letter expressing his approval of Jones. The impact of the statement was demonstrated by the reaction of one voter who had pledged his support to Madocks. When shown the letter, he immediately replied:

"Then I cannot support you, I must depend entirely upon the support of Sir Watkin." The landed interest was not content with this limited show of force, however, and on Saturday they intensified their efforts. Fourteen gentlemen within a radius of about ten miles of the borough came to town and conferred about the election. They then visited all the voters, individually, and, according to the witness, their activity had a very great effect upon the electors. Afterward many of the voters stated that they were afraid to express any opinions contrary to those of the gentlemen. The aristocracy maintained the recently applied pressures by having at least one of their number present in town visiting

lawyers, who knew how to make and unmake qualifications; others were bought with cash or refreshment; still others were disposed of through the influence of property over dependence and landlord over tenant."

voters every day until the election.²⁷

When questioned by the committee as to whether this performance would not have been merely an example of the "natural deference" which the townspeople showed for the judgment of their superiors, Edgworth denied that this was the case. He said it was a clear case of intimidation. Many of the voters confided in him: "I cannot vote for you, my landlord is on the other side, but I wish you every success."²⁸ The owners had in this instance been able to pressure the borough tenant in a manner similar to that practiced upon the farmers.

Opportunities for intimidating borough voters were limited. The number of nomination boroughs had been greatly reduced by the Reform Bill of 1832, but the aristocracy soon discovered they could still control many of the towns by means of corrupt practices. Each election saw a plethora of challenges to various borough elections, and some of these districts appear in petition after petition. As early as 1835, as mentioned above, a Select Committee on Bribery in Elections had been appointed to study this problem, and during the next three decades Parliament passed several measures with the intention of curtailing these activities. Despite these reforms, corrupt practices continued unabated.

²⁷ Report of the Select Committee on Bribery at Elections, VIII, pp. 180-81, Q. 3125-26.

²⁸ Ibid., p. 185, Q. 3125-26.

Bribery was extensive. So too was treating, hiring of unnecessary election employees, renting of public-houses, and the retaining of superfluous vehicles of conveyance. Almost without exception, the committees appointed to investigate the petitions protesting elections in specific boroughs, established the presence of corruption, and while it is difficult to determine with certainty the extent of such abuses, their findings indicated that it was widespread.

One practice which was very effective in all elections was the hiring of so-called "committee rooms" in public-houses. In the Sandwich borough, which also included the villages of Walmer and Deal, the agent for the Conservative candidate was very adept in soliciting the aid of many of these establishments. The extent of his success can be seen from the number of such houses in the borough as compared to those employed. There were thirty-three in Sandwich, eighty-four in Deal, and twenty-one in Walmer. Of these, the agent secured seventy-one rooms in Deal and Walmer and eighteen in Sandwich. The principal houses in Sandwich and Deal received £10 rent and all others £5. These practices in effect constituted a very efficient means of bringing both the keeper of the house and his clientele. Renting these rooms to candidates was a prize to be sought, for the average annual rent of these houses was only about £20. Also, the keepers frequently distributed treats and bribes for the prospective

office holders.²⁹ Thus in the election of 1874, the landlady of the New Pilot in Gloucester spent £714, and the owner of the Leopard Inn distributed £40.³⁰ The candidates attempted to justify the employment of such rooms by contending that they were necessary as stations for bill posting, but the committee refused to accept this explanation and concluded that the real purpose was to facilitate bribery.³¹

Numerous jobs were also provided for the electorate by the various candidates. In Lancaster, a borough of 16,000 population with 1,408 voters, the Conservatives expended £309 for canvassers and messengers, £405 for vehicles of conveyance, and £183 for clerks and personation agents. The Liberals' expenses ran slightly less but were comparable to those of their opponents.³² These "employees" frequently constituted a considerable proportion of the voters. At Macclesfield, where 817 voted for the Conservatives, 103 were engaged as canvassers.³³ At

²⁹ Great Britain, Sessional Papers, Report of the Sandwich Bribery Commission, XLV (1881), p. 7.

³⁰ Great Britain, Sessional Papers, Report of the Gloucester Bribery Commission, XLI (1881), p. 8.

³¹ Report of the Sandwich Bribery Commission, LXV (1881), p. 7.

³² Great Britain, Sessional Papers, Report of the Lancaster Bribery Commission, XXVII (1867), p. vii.

³³ Great Britain, Sessional Papers, Report of the Macclesfield Bribery Commission, XLIII (1881), p. 10.

Gloucester one candidate employed 900 clerks and messengers.³⁴

Hiring vehicles to haul voters afforded office seekers another means of influencing large numbers of electors. The benefit in this practice could be twofold. First, if a candidate could secure most of the means of transporting voters to the polls, his opponent would have difficulty in getting out his support. Second, it was a means of indirect bribery. In Oxford, the Conservative candidate employed 196 carriages for a voting population of 6,495 at an average price per elector of about £1, 5s.³⁵ At Lancaster in the election of 1865, £854 were spent for conveyance to transport county voters who could not have exceeded 330.³⁶ Both investigating commissions concluded that these sums represented too great an expense considering the numbers of voters involved.

The reports of the commissioners vividly revealed the extent of corruption. In the Sandwich election, the commission declared 128 persons guilty of bribing voters and 1,005 guilty of accepting these payments.³⁷ They also concluded that 127 electors

³⁴ Report of the Gloucester Bribery Commission, LXI (1881), p. 8.

³⁵ Great Britain, Sessional Papers, Report of the Oxford Bribery Commission, XLIV (1881), p. 12.

³⁶ Report of the Lancaster Bribery Commission, XXVII (1867), p. vii.

³⁷ Report of the Sandwich Bribery Commission, XLV (1881), pp. 9-11.

received bribes from both sides. At Skerton, part of the Lancaster borough, at least 43 of the 62 voters residing there were bribed during the election of 1865.³⁸ The percentage of voters accepting illicit payments at Gloucester was high as well. Here the commission declared that there were 2,756 voters accepting bribes in a total poll of 4,904.³⁹ These figures indicated that corruption was widespread; frequently it involved as many as half the ballots cast.

Thus elections became quite expensive due to the variety of corruption employed. Large sums of money were required to win, and these funds were supplied by plutocrats, aristocrats, or by the emerging political associations. The political organizations connected with the candidates at Sandwich provided money for bribes independent of their respective office seekers. It was estimated by the investigating commission that the total of direct bribes in this election amounted to at least £2,500--£3 a head for the Conservatives, and £1,200 total for the Liberals.⁴⁰ The election at Lancaster was notably expensive as well. Here the Conservatives reported expenses of £1,404 and the Liberals £1,129.

³⁸Report of the Lancaster Bribery Commission, XXVII (1867), p. xiv.

³⁹Report of the Gloucester Bribery Commission, XLI (1881), p. 17.

⁴⁰Report of the Sandwich Bribery Commission, XLV (1881), p. 10.

However, the agent for the Liberals testified that he had received £6,055 to be applied to the election, and he believed the Conservatives had spent at least an equal amount. Since there were only 1,419 voters in the borough, this represented an expense of over £8 per voter. The electoral commission thought that costs should not have exceeded £600 or £700 in an honest election.⁴¹ The enormous expense involved in contesting an election allowed the landed interest successfully to challenge and to win a substantial number of seats in any given election.

The powerful position occupied by the English aristocracy during the greater part of the nineteenth century did not, however, depend solely upon coercion and intimidation. It depended also upon those factors which are referred to collectively as "deference." These elements were vague and frequently were not fully understood even by the writers of that age. Recognition of the shadowy basis of the power of the landed interest was expressed in an article of July, 1843, in Blackwood's Edinburgh Magazine. Here the author maintained that ". . . the peculiarity of our aristocracy is so effectual for obscurity, that we also, as a nation, are ignorant upon much which marks it characteristically. . . ." ⁴²

⁴¹ Report of the Lancaster Bribery Commission, XXVII (1867), p. vii.

⁴² Thomas De Quincey, "The Aristocracy of England," Blackwood's Edinburgh Magazine, LIV (July, 1843), p. 51.

A number of traits displayed by the landed interest were frequently commented upon and, if carried out with dignity, generally enhanced the reputations of the aristocrats. Among these, to mention only a few, were their educational level, devotion to state service--both civil and military--their open-handed generosity, knowledge of agriculture, contributions to improved farming, and even their prowess on the athletic field. Many of these activities did not serve to set the aristocracy apart from the community as a whole but contributed instead to a close identification between the upper classes and their social inferiors. Consequently, a mutuality of interests bound the landed gentry to their rural brethren.

Aristocratic power rested, in part, upon the fact that its members performed many necessary and desirable functions in the society--they were active participants and not parasites as had been the old French nobility. Their value in this capacity was recognized and widely acclaimed by large numbers of the populace. A letter of November 12, 1863, by "A Practical Farmer" emphasized one function of the landed interest. "From these [landlords] the farmer can get improved crosses for his stock, and on their lands and at their expense he can see implements and manures tested. They are the pioneers in all improvements."⁴³ Even James Caird, a prominent agricultural writer of the time with

⁴³ The Times, November 12, 1863, p. 10.

Radical connections, was laudatory of the progressive landlords. He recognized the remarkable work being done on the Duke of Bedford's estates and noted experiments being carried on and the data being published for the instruction of the public.⁴⁴ He encouraged the landlords in general to greater efforts and counseled them to "Go, and do thou likewise. . . ."⁴⁵ Caird was equally complimentary in his praise of the experiments of Philip Pusey on his Berkshire farm and asserted that the benefits which these endeavors conferred upon the district around him were ". . . readily recognized by the farmers, who profit by those which he finds successful, while they . . . avoid his failures."⁴⁶

The gentleman's country neighbors expected him to be a man of many parts but one with a distinctly agricultural flavor.

Tennyson portrayed him as:

No little, lily-handed baronet he,
 A great, broad-shouldered, genial Englishman,
 A lord of fat prize oxen and of sheep,
 A raiser of huge melons and of pine,
 A patron of some thirty charities,
 A pamphleteer on guano and on grain,
 A quarter session chairman, abler none. . . .⁴⁷

From the duke to the squire, he was to show an interest in the

⁴⁴James Caird, Esq., English Agriculture in 1850-51 (London, 1852), p. 438.

⁴⁵Ibid., p. 442.

⁴⁶Ibid., pp. 111-12.

⁴⁷Quoted by Esme Wingfield-Stratford, The Squire and His Relations (London, 1956), pp. 316-17.

cultivation of the soil. It was his duty to advocate improvements in agricultural methods, to at least know the language of the farmyard, and preferably to compete for prizes at the county shows. Many landlords did not disappoint their tenant followers. The Duke of Devonshire declared that the proudest moment of his life ". . . was when my pig won the first prize at Skipton fair." Lord Waywarden was depicted as ". . . over his gaiters in the yellow straw . . . engaged in the . . . operation of poking and punching a fat bullock . . . to ascertain the beast's chance of an agricultural prize."⁴⁸ These enterprises did not place the owner on an equal footing with his tenants, nor did the latter expect him to be, but the closer he came to the soil the more intimate were his relations with his farmers. Although they might grumble and cheat him, they valued his recognition and sought his opinion. The tenants also recognized a common interest and thus were inclined to support his politics without intimidation being generally necessary.⁴⁹

His neighbors also expected the gentleman to be a sportsman or, as frequently noted, a "bit of a barbarian." But so long as he could adapt himself to his environment without forfeiting his dignity, his popularity was likely to increase correspondingly.⁵⁰

⁴⁸Chester Kirby, The English Country Gentleman: A Study of Nineteenth Century Types (London, n.d.), pp. 237-39.

⁴⁹Wingfield-Stratford, pp. 246-47.

⁵⁰*Ibid.*, p. 247.

Contingent upon his rank and circumstances, the aristocrat was expected to keep a pack of hounds and to follow them with enthusiasm. Typical of this sentiment was the sporting writer "Thormanby." He asserted, "I can never look at the Duke of Beaufort when, in all the dignity of his presidential office he heads the meet of the Coaching Club . . . without a feeling of reverential awe . . . 'There', I say to myself with bated breath, 'sits a lineal descendant of the Plantagenets.' . . ." ⁵¹ Such an attitude was indicative of the deference shown to the members of the landed interests both in social and political association with their less exalted neighbors.

The aristocrats generously provided entertainments for their rural underlings; at times they were only spectators but often they were active participants. The Duke of Dorset, for example, was renowned for the enthusiasm with which he played cricket with his tenants, and his generosity in endowing the town of Sevenoaks with a cricket ground was roundly applauded. ⁵² The members of the landed interest were also obliged to maintain a large house with as many servants as could be afforded. Forty or fifty was not uncommon for the larger houses. This number was not the minimum that the aristocrat needed for comfort but

⁵¹Ibid., p. 289.

⁵²Ibid., pp. 248-49.

was all he could maintain. A sizeable staff tended to increase his prestige in the community.⁵³ He was expected to entertain lavishly and to present balls during the appropriate seasons. The dining was not limited to his aristocratic guests, for on special occasions the owner was obligated to entertain his servants and tenants as well. Thus two days after his birthday party, the Duke of Rutland provided ". . . a ball on an equally magnificent scale for the servants."⁵⁴

The power of the landed interest rested upon a much more substantial basis than riding to the hounds, playing cricket with the tenants, or providing their neighbors with lavish dinners. It had its roots in the confidence of the people. It was founded on the belief that the landlords would give first consideration to the honor of England, and that they could ". . . be relied on for freedom from personal motive--that, in short, the 'stake in the country' idea is a reality."⁵⁵ This assertion was supported by a July, 1848, article in Blackwood's Edinburgh Magazine which defended the English land inheritance laws. Here the author contended that if the land laws were repealed, land would become a commercial

⁵³F. M. L. Thompson, English Landed Society in the Nineteenth Century, p. 187.

⁵⁴Wingfield-Stratford, p. 290.

⁵⁵John Langton Sanford and Meredith Townsend, The Great Governing Families of England (London, 1865), I, pp. 5-6.

article, tenants would come to regard it as just so much capital, and the old families would be gradually dispossessed. Such a development, in turn, would result in the old aristocracy being replaced by a new ruling group, the aristocracy of trade.⁵⁶

The author believed that commerce should play a subordinate and not a primary role in the leadership of the nation. He thought the landed classes were best fitted to occupy this position. They could be assigned the task of governing for, since there could not well be an educational test to determine who was most qualified to rule, discretion demanded that the undertaking be entrusted to the class in which was found ". . . the highest and most enlarged form of education." That title could only be claimed by the leisured class, the gentlemen of England. Then too, if the squire was not always an educated man, at least he derived his thoughts from those who were. As for the middle class, "the Cobden and Brights," their principal motive ". . . appears to be the interest of My Shop. Their notion of loyalty, patriotism, and British prosperity, is nothing but low wages, high profits, and a brisk trade in calicoes." Consequently, in the opinion of the author, the counting-house was the worst possible preparation for Parliament. Conversely, a ". . . class endowed with leisure is indispensable,

⁵⁶"The Laws of Land," Quarterly Review, LXIV (July, 1848), p. 14.

not only for the grace and civilisation, but even for the moral well-being of a community."⁵⁷ These were popular themes of the period, and the landed interest acquitted itself well in the exercise of its assigned responsibilities. The owners endowed charities, advocated religious reforms, built hospitals, officered the army and navy, presided over the Quarter Sessions and other local agencies, and on more than one occasion supported legislation contrary to their own immediate interests.

The power of the landed interest during the middle of the nineteenth century was, therefore, derived from many sources. Certainly the most obvious power base, and not the least significant was firmly anchored in the ownership of land and the dependence of the farmers upon the good disposition of their landlords. But this coercive power does not fully account for aristocratic dominance during the greater part of the century, and, as previously mentioned, such was duly recognized by contemporaries. Leslie Stephens, writing in 1867, appreciated that the power of the aristocracy had many facets and analyzed it thusly:

The main influence . . . of the upper classes undoubtedly depends upon what may be called the occult and unacknowledged forces which are not dependent upon any legislative machinery. England is still an aristocratic country; not because the nobility have certain privileges, or possess influence in certain boroughs. A power resting upon such a basis would be very fragile and

⁵⁷Ibid., pp. 14-15.

would go to pieces at the first strain upon the Constitution. The country is aristocratic, because the whole upper and middle, and a great part of the lower classes have still an instinctive liking for the established order of things; because innumerable social ties bind us together spontaneously, so as to give to the aristocracy a position tolerably corresponding to their political privileges.⁵⁸

England was, then, a deferential society in which the landed classes were accustomed to receive respect from the community at large. The country, to a considerable degree, accepted the authority of the landed interest out of habit and offered few objections.⁵⁹

The landed interest could, no doubt, influence elections in particular counties and boroughs. But this was not indicative of their power in the country as a whole. A contemporary analyzed their power as not as great as prior to 1831. They could no longer nominate an independent working majority in the House of Commons. Still, however, their influence was great, and, if they reached agreement on an issue, their opposition to it could be formidable. The aristocracy could not arrest a popular issue, but they could control "provincial opinion" and elect a majority of the members in Parliament. Their power extended beyond this however.

⁵⁸ Quoted in H. J. Hanham, Elections and Party Management: Politics in the Time of Disraeli and Gladstone (London, 1959), p. xv.

⁵⁹ Thompson, English Landed Society in the Nineteenth Century, p. 184.

They could, if united, render the existence of any cabinet of which they did not approve impossible for long periods, and they could and do impose on every political administration, every political party, and most political manifestations, certain strict traditional rules of action, certain limits within which the whole play of the forces created by the constitution must be carried out or be arrested.⁶⁰

The influence of this small group of landowners, when combined with their tenants and dependent boroughs, could completely dominate English politics during times of peace.

The landed interest controlled over half the votes in the House of Commons during much of the nineteenth century, but these could be effectively employed only when they were united on an issue. Unity could most generally be achieved when opposing some matter which the aristocracy considered as hostile to its interests. A long list of blocked or deferred measures offered ample testimony to this obstructionist practice. Several proposals relating to changes in the established Church and also a number of attempted revisions of the land laws floundered upon the aristocratic rock of opposition. Perhaps the most famous example involved the long delay that was effected in the repeal of the Corn Laws. An Anti-Corn Law League had been formed in 1839 and had proceeded to organize an effective campaign dedicated to the negation of these laws. Despite a widespread campaign and the almost total support of the middle class, the landed interest was able to thwart repeal

⁶⁰ Sanford and Townsend, pp. 2-3.

until 1846. Only the crop failure of that year, the resulting Irish famine, and more especially the conversion of Sir Robert Peel to the cause, finally enabled the organization of Cobden and Bright to enjoy success. Victory had been won, however, only after an eight-year struggle, and the delay which the landed interest had been able to impose infuriated the Radicals.

Only on rare occasions could an issue solidify agricultural opinion sufficiently to prompt positive action as a group. Such a matter involved the rinderpest epidemic of 1865-67. Thousands of cases of the disease were reported from all over the country, and the landed interest demanded that adequate measures be taken to insure the curtailment of the contagion. In 1866, the Central Chamber of Agriculture proposed a program which included the restriction of imported animals and their quarantine to certain licensed ports, the slaughter of all infected animals with compensation to their owners, and a demand for greater restriction upon the transporting of all animals.⁶¹

Pressure was brought upon the Ministry, and it agreed to bring in a bill to deal with the matter. The agricultural interest was not content, however, to rely solely upon the Government and so had introduced a measure of its own. Their act proceeded through Parliament side by side with that of the Ministry but was

⁶¹ Hanham, pp. 34-5.

eventually defeated. Although their own bill was lost, the landed interest still sought to get their principles adopted. They then turned to amending the government measure and carried changes of such significance that the fall of the Ministry was expected.⁶² Thus the agricultural interest had united and had carried the matter of immediate concern. But this cohesion could not be maintained, and they quickly reverted to their negative actions.

Although the landlords had been deprived of their legal autocracy by the Reform Bill of 1832, they remained confident that ". . . in the long run the influence of property was sure to tell."⁶³ Their optimism was not illusory, and the owners remained secure in their control of Parliament. In the 1864 session, there were ". . . 1 Marquess, 5 Earls, 15 Viscounts, 34 Lords, 72 Baronets, 58 Honourables, and 100 palpably belonging to the historic names of the land, seated in the House of Commons."⁶⁴ Further analysis revealed that 31 families supplied 110 members or one-fourth of the English representatives. To view their power from another angle, these landlords nominated five times the number of representatives to the House of Commons as the city of London, or a figure equal to that of London and the

⁶²Ibid.

⁶³Sandford and Townsend, p. 14.

⁶⁴Ibid., p. 7.

next forty largest cities combined. Based upon such figures, Sanford and Townsend would appear justified in asserting that the landed interest ". . . have been, and to a large extent still are, to our political system what bones are to the body."⁶⁵

Landlord rule remained a matter of Radical concern until the third quarter of the nineteenth century. Any measure appearing to offer a possibility of reducing the power of the landed interests was likely to be supported by the Radicals. Consequently efforts to alter the economic, and thereby the political, relationship between the land owner and his tenants-at-will were likely to be endorsed by these reformers. Tenants' Right legislation was an issue that threatened to allow the farmer greater political latitude; therefore, the measure could not be considered only for its impact on agricultural production but also for its political significance.

⁶⁵ Ibid., p. 15.

CHAPTER II

HIGH FARMING AND THE NEED FOR CAPITAL

The second factor which prompted reformers to advocate Tenants' Right legislation was the necessity of improving the land. The need was dramatically emphasized in an article by J. F. W. Johnson in the Edinburgh Review of October, 1849. The author purported to take an intellectual foreigner, heretofore unacquainted with England, on an agricultural tour of the island. The supposed visitor was first taken along well-traveled paths and met prosperous, intelligent farmers. The tourist concluded that English farmers were skillful, manly, and firm. Then, however, Johnson erased the recently acquired knowledge and took the imaginary traveler on another journey. This time the trip was along less frequented paths and they visited a class of small farmers who were characterized by depression, despondency, and ignorance. Johnson concluded that the intellectual visitor's second estimate of English husbandry would be far different from the first.¹ This mythical tour revealed two very disparate sides of British

¹J. F. W. Johnson, "Agriculture and Science," The Edinburgh Review, XC (October, 1849), pp. 357-8.

agriculture at about the middle of the nineteenth century. The first was rapidly improving; the other was primitive, almost medieval. Johnson's view of these extremely different types of husbandry was mirrored by most contemporary writers on the subject, their only disagreement was as to degree.

Despite the existence of the two contrasting modes of agriculture, the period from about 1837 to 1874 is referred to as the era of "High Farming."² It was an era characterized by great scientific progress in agriculture. During this time the Royal Agricultural Society of England was founded, the work of Justus von Liebig in agricultural chemistry of soils was applied, the Rothamsted experimental station was founded by Sir John Lawes, and there were widespread technical improvements as well. A new age of "controlled breeding, calculated feeding, and scientific soil treatment" had dawned.³ High Farming was ". . . an extension of mixed farming . . ." that is, it was a system which interlocked the growing of grain crops and the fattening of cattle and sheep.⁴ Many of the techniques employed had been used

²Lord Ernle, English Farming Past and Present (6th ed., Chicago, 1961), p. 349.

³J. D. Chambers and G. E. Mingay, The Agricultural Revolution, 1750-1880 (New York, 1966), p. 170.

⁴E. L. Jones, "The Changing Basis of English Agricultural Prosperity, 1853-73," Agricultural History Review, X, (1962), p. 104.

previously.⁵ They were improved upon, however, and their use became much more widespread during this time. In addition, many innovations were introduced and perfected.

The changes added a new dimension to the challenge of the landed interest. Great concern was expressed over the lack of capital available to implement the many improvements demanded by High Farming. The adoption of these new methods was deemed vital, for English survival as a great power demanded that she be able to feed herself. Consequently, many reformers became interested in promoting improved agriculture and legislation which would facilitate such achievements. Opinions varied as to the best method of accomplishing these goals, but Tenants' Right was one reform early seized upon as being a measure that would encourage increased farm production. A number of improvements were considered basic to the needs of mid-nineteenth-century English agriculture. Among these were drainage of fields and pastures, chalking, marling, and claying, the use of artificial and natural manures, construction of adequate buildings, the use of new agricultural implements, and the elimination of superfluous hedgerows and fences.

"Drainage," asserted Lord Ernle, "was the crying need of the day both for pasture and arable land." The clay, or heavy,

⁵See Erick Kerridge, The Agricultural Revolution (London, 1967), Kerridge argues that the agricultural revolution took place in England much earlier than is generally supposed.

lands retained moisture for prolonged periods with an undesirable effect upon both crop and cattle type farming operations. If the land were used for pasture, the "moisture-loving" plants outgrew the more nutritive herbage and the dampness also fostered disease in the livestock. If it were under cultivation, the wetness of the soil increased the costs of breaking and also reduced the number of days the land could be worked. The excess of moisture caused scanty crops to be produced and was conducive neither to the growing of root crops nor of clover.⁶

A primitive type of drainage, sometimes called "rag drainage," had been practiced in many parts of England, but it was both expensive and unsatisfactory. The system consisted of filling trenches with branches or stones, but it soon silted up and ceased to drain the fields adequately.⁷ Cheap, effective methods became available in 1843, however, when John Read, an ex-gardener and self-taught mechanic, invented a method of producing inexpensive clay tiles. From that time forward, the practice of drainage expanded rapidly, frequently with governmental encouragement.⁸

The principles of drainage were relatively simple. Trenches were dug, usually following the old furrow which had

⁶Ernle, p. 365.

⁷Caird, p. 8.

⁸Wingfield-Stratford, p. 331.

previously drained the land, at varying distances and depths throughout the field. An excellent system on the farm of Sir John Conroy was described by James Caird during his survey of English agriculture in 1850-51. The pipes were laid about four feet deep, and the drains were placed from fifteen to thirty feet apart. These distances varied according to the stiffness and wetness of the soil. The small pipes were then connected with larger tiles which carried the excess water from the farm.⁹ Such was essentially the principle followed throughout England. Trenches might be deeper or shallower and the drains separated by greater or smaller distances, but the technique remained constant.¹⁰

Drainage projects rapidly moved ahead. In 1846 the Peel Ministry provided for £2,000,000 to be loaned to farmers for the purpose of field drainage, and in 1850 the Whigs doubled this allocation. Parliament also chartered several private companies to carry on this work after the government's loan funds were exhausted. In addition to these measures, farmers and landlords cooperated to drain thousands of acres of arable land. Caird estimated that at least £9,000,000 of state money had been spent on drainage in the thirty years after 1846. He also estimated in

⁹Caird, pp. 100-01.

¹⁰John Lockhart Morton, The Resources of Estates Being A Treatise on the Agricultural Improvements and General Management of Landed Property (London, 1858), pp. 567-68.

1873 that of some ten million acres in all of Britain requiring drainage, only 4 or 5,000,000 had been properly treated.¹¹

Chalking, marling, and claying were three ancient practices widely utilized during the Golden Era of English agriculture. The methods were similar in technique and consisted of carting chalk onto clay lands and marl or clay onto sandy fields. The chalk or clay was usually dug from pits in the very field to which it was to be applied.¹² These substances acted as a fertilizer and also changed the consistency of the soil.¹³ Philip Pusey was laudatory in his praise of the benefits of these techniques and estimated that the average cost of claying or marling in 1841 was only about 54s. per acre. The yearly return was 5ls., or 95 percent of the original cost of the first year that the improvement was utilized.¹⁴

One characteristic aspect of High Farming was the increased use of fertilizers, both natural and artificial. The new

¹¹J. H. Clapman, An Economic History of Modern Britain, (Cambridge, 1932), II, pp. 270-72.

¹²Caird, p. 62.

¹³Great Britain, Sessional Papers, Report from the Select Committee on Agricultural Customs with Minutes of Evidence, Vol. III, Irish University Press Series of British Parliamentary Papers (Shannon, Ireland, 1968), VIII, p. 49, Q. 927.

¹⁴Philip Pusey, "On the Progress of Agricultural Knowledge during the last Eight Years," Journal of the Royal Agricultural Society of England, XI (1850), p. 408.

fertilizers could be safely used on dry soils and on lands that had been drained. Their use increased in proportion to the amount of land thus improved. Nitrates were imported from Chile, and by 1847 no less than 220,000 tons per year entered British ports. John Benet Lawes patented his process for the manufacture of superphosphate in 1842, and after 1861, adequate supplies of potash became available due to the opening of mines in Strassfurt, Germany.¹⁵ Guano was also widely used as a fertilizer at this time, and in 1854 some 300,000 tons were imported, an amount sufficient to fertilize about 2,000,000 acres of land.¹⁶ English farmers were also still using more traditional types of fertilizers such as bones, soot, and rape cake, as well as night-soil acquired from the towns and cities in their locality.

One of the most important sources of fertilizers involved the keeping of livestock primarily for the purpose of converting the farm products into manures. Caird maintained that High Farming could more appropriately have been called high feeding. The practice involved maintaining large numbers of sheep and cattle and feeding them solely for the manures thereby produced. The systems of grain growing and cattle feeding thus became interlocked. The extent of this connection can be appreciated from the

¹⁵G. E. Fussell, Farming Techniques from Prehistoric to Modern Times, (London, 1966), p. 178.

¹⁶Clapman, p. 273.

testimony of William Huntly to the Select Committee on Agricultural Customs in 1843. He was an Essex farmer who occupied 1,500 acres of land, some 1,200 acres of which was "under the plow." He regularly kept from 1,000 to 1,600 sheep and 90 to 100 bullocks on his farm.¹⁷ The common practice was to tie the animals in a stall, thus allowing them to move as little as possible, and there they were fed enormous quantities of feed. A bullock weighing 550 to 600 pounds would be given 6 pounds of mixed cake and meal (as much as 16 pounds was sometimes fed), 75 pounds of roots, and 20 pounds of straw or hay daily.¹⁸ Heavy feeding was considered a necessary adjunct to growing grain. Mr. Huntly testified he had never had a "lot" of bullocks that paid their expenses but estimated that on the sale of meat he lost only one-third of his investment.¹⁹ The loss would be recovered, however, by the increased grain production which resulted from the application of the manures. Subsequently larger crops would necessitate the purchase of additional animals to consume the increased production of the farm. Thus a steadily expanding cycle was established.

¹⁷ Select Committee Report on Agricultural Customs,
1. 118, Q. 2086-89.

¹⁸ Fussell, p. 193.

¹⁹ Select Committee Report on Agricultural Customs,
p. 118, Q. 2192-03.

One improvement frequently necessitated further expenses in other areas, and the sophisticated farming of this era demanded adequate buildings to house these enterprises. At one farm in Dorsetshire, Caird found buildings that were very desirable, even if they were not typical. The variety of buildings included those which housed improved machinery. A steam engine was part of the farm's tools and was used as a source of power to thresh and winnow the corn, cut the straw into chaff, grind the cattle feed into meal, and to work a crusher which broke bones into a size suitable for use as fertilizer. A large building was needed to house this engine, and over the furnace was located a drying loft where beans or dame corn could be prepared for grinding. Room was also provided so that all the livestock on the farm could be kept constantly housed, day and night, winter and summer, and thus no particle of their manure was wasted. From 90 to 100 bullocks were kept on the farm, all tied in stalls. Sheep were housed in a separate building and were similarly confined. Special buildings were also provided for roots and pigs and for the quarantining of newly purchased animals.²⁰ Such improvements as these were enormously expensive; by 1882 more than £3,500,000 had been spent on buildings as provided for in the various Draining and Improvements Acts. Altogether, it has been estimated

²⁰Caird, p. 68-71.

that between 1846 and 1876, £24,000,000 was spent on drainage and other improvements on some 4 or 5,000,000 acres of land.²¹

Farmers of the mid-nineteenth century had an increasing number of agricultural machines at their disposal, and there was widespread adoption of these implements. Steam had been used for some time to power threshers, but now it began to be applied to cultivating equipment. By 1867 the Royal Agricultural Society estimated that some 200,000 acres were being steam-tilled.²²

There were also horse-pulled drills, cultivators, mowers, artificial fertilizer spreaders, hay-presses, and improved plows and reapers.²³ The employment of improved machinery resulted in considerable savings to the farmers. The use of better plows and plowing techniques allowed the number of horses used for that purpose to be decreased from 371,937 in 1840 to 297,858 by 1848, and the acreage formerly used to pasture these animals was made available for raising crops.²⁴ Considerable labor savings were effected as well, both in terms of time and money. By using

²¹ Chambers and Mingay, pp. 176-77.

²² Clapham, p. 268.

²³ Christabel S. Orwin and Edith H. Wheltham, History of British Agriculture, 1846-1914 (London, 1964), pp. 102-14.

²⁴ Pusey, "On the Progress of Agricultural Knowledge during the last Eight Years," (1850), p. 395.

Garrett's threshing machine, for example, grain could be processed at a cost of 1s. to 1s. 3d. per quarter compared to 3s. to 4s. by hand, thus resulting in a savings of from 2s. to 3s. per quarter.²⁵ Similar examples could be cited for almost any of the new devices for plowing and harvesting.

Refinements in machinery and its expanded employment necessitated an assault on an old grievance of the farmers--elimination of hedges or fences that cut the land into small patches. So prevalent were these divisions that a farmer in Devonshire grew 100 acres of wheat in fifty different fields.²⁶ Another account reported 34 miles of hedgerow in a parish of 762 acres; the hedgerows occupied 54 acres of land, or 1 acre in 14. Such instances were not isolated. An extended survey showed that ten parishes, containing 36,976 acres, had 1,651 miles of hedge which was ". . . about half as long as the great wall of China. . . ." Depending upon the size of the fields, fences in Devon occupied as much as 17 percent of the total land area.²⁷

²⁵Ibid., p. 399. A quarter is a measure of grain equal to eight bushels or one-quarter ton.

²⁶Philip Pusey, "On the Agricultural Improvements of Lincolnshire," Journal of the Royal Agricultural Society of England, IV (1843), p. 306.

²⁷Cuthbert W. Johnson, Modern Agricultural Improvements: Being A Supplement to the British Husbandry of the Society for the Diffusion of Useful Knowledge (London, 1847), p. 19.

Caird indicated the density of such timber on the estate of Earl Ducie by stating that timber valued at £3,500 was sold from superfluous ~~fences~~ fences on a farm of only 260 acres.²⁸ The hedges not only caused a waste of time in turning implements and teams in the small patches but definitely damaged crops. The timber seriously deprived the crops of needed food, and turnips forty feet from the boundaries were four times as large as those adjacent to the fences.²⁹ Furthermore, they provided shelter for rabbits and hares which did considerable damage to growing crops. Pusey also indicted hedges by noting several more inherent evils: they encouraged mildew in wheat, provided a harbour for weeds which spread to the fields, and sheltered birds which devoured the corn.³⁰ Elimination of the excessive number of divisions would represent a material gain in agricultural production.

Thus the period saw many remarkable improvements, changes that have been termed revolutionary. These innovations were heralded by contemporaries as being necessary to feed the growing urban population and as offering a solution to the depression which plagued English agriculture during the early 1840s. Since substantial expense was involved in effecting these

²⁸Caird, p. 40.

²⁹Ibid., pp. 52-3.

³⁰Pusey, "On the Agricultural Improvements of Lincolnshire," (1843), pp. 404-05.

improvements, measures designed to attract increased investments in agriculture were soon forthcoming.

The earliest Tenants' Right measures, designed to encourage the improvement of the land by the tenants, were introduced into the House of Lords by Lord Edward Berkeley Portman in 1843, 1844, and 1845. Portman stated that such legislation was necessary because it ". . . would dispose tenants to lay out their capital in the proper improvement and cultivation of their lands." He also emphasized that the acts would correct an injustice in the existing system. The tenant was currently compelled to pay the landlord for any dilapidations suffered by the farm during his occupancy, but received no compensation in return for the improvements which he made. Portman further pointed to the fallacy of the argument that the tenant was secure because there was a tendency for the farm to be passed from father to son. The death of the landlord or the sale of the holding to a new owner could quickly alter the status of the farmer and bring about his financial ruin.³¹

Portman said he had other reasons for introducing such bills, and indicated that he really had not expected the measures to receive favorable consideration at first. On withdrawing the first Act in July, 1843, he acknowledged that many of the members

³¹
3 Hansard, XLLIV (1844), 278-79.

of the House of Lords were unprepared to discuss such legislation. The primary purpose would have been served, however, if the attention of the members was directed toward this question. For once that had been accomplished, he had no doubts but that favorable action would be taken.³² A major objective of Lord Portman's bills was, then, to educate the members of the legislature to the need for a Tenants' Right bill.

Opposition to Lord Portman's proposal was brisk and not altogether rational. John Thomas, Lord Redesdale, questioned the wisdom and necessity of the measure,³³ and Miles Thomas, Lord Beaumont, envisioned difficulties for the tenant himself if the Bill were passed. He said the landlord would be forced to withdraw the assistance which he had previously extended to the farmer, and improvements would actually decline since the owner would not consent to them. Agreement would subject the landlord to the risks of "enormous litigation." Beaumont further asserted that there was no need for the Bill because of the good feeling and community of interest between the owner and his tenants. The landlord was already compelled to be reasonable, for if he were not he would be unable to get desirable farmers for his lands. He concluded, consequently, that the measure ". . . would be

³²Ibid., LXX (1843), 1324.

³³Ibid.

inoperative except for evil."³⁴ Against criticism of this kind the Bill made little progress, and Portman was unsuccessful in pushing through any legislation dealing with the problem of Tenants' Right. Interest in the issue languished for the next several years until resurrected as a palliative to an even greater peril then facing English agriculture, the repeal of the Corn Law.

Occasionally some interest in the difficulties of the tenants aroused comment, but these were sporadic and at no time constituted a sustained movement. In fact, the scarcity of attention indicates that Tenants' Right had few ardent supporters during the period from 1843 to 1846. A letter in The Times of February, 1845, indicated some appreciation of the farmers' plight, but even then the primary objective of the author, S. G. O. [Sidney Godolphin Osborne], was to relieve the rural laborer. Osborne told the farmers, "You are really to be pitied. With the exception of the men who work for many of you at 7s. a week wages, you are, of all classes of society, at this moment the most unfortunate." Their interests were under attack, he asserted, by all classes, particularly by the middle class which advocated the repeal of the Corn Laws, and little support could be expected from Peel, or for that matter, from the great Whig landowners who were imbued with the doctrine of free trade. Osborne warned the farmers to

³⁴Ibid., LXXIV (1844), 280.

Place no dependence on anybody's efforts for you, but for once hold together and try to help yourselves. Let the rent you pay, the burdens you have to bear, the prices you must henceforward expect, be set before your landlords and the public; and just ask in so many words for that just and fair adjustment of your tenure which the aspect of the times makes reasonable.

But he cautioned the farmer against direct political action. "Leave badgering 'the Minister' to your country members", he counseled; by example of hard work and fairness they would win public opinion to their cause.³⁵

Meanwhile, the attacks upon the landed interest, which had fluctuated from year to year after 1832, were growing in intensity. The interval between 1839, when the Anti-Corn Law League was formed, and 1846, when the laws were finally repealed, was a period of increasingly vehement indictment of aristocratic power and responsibility. As indicated in the previous chapter, the Reform Bill of 1832 had attempted to curtail the influence of the landlords in the House of Commons, but the owners had remained in control. Consequently, the middle class revived the assault on a broad front. They advocated changes in the inheritance laws, alteration of the game laws, and, above all, repeal of the Corn Laws.

Debate on the Corn Laws had been continued since the passage of the Corn Law of 1815. The measure had provided for

³⁵S. G. O. [Sidney Godolphin Osborne], "To the Tenant Farmers of England," The Times (London), February 21, 1845, p. 6.

an absolute prohibition on the importation of foreign grain when the domestic price fell below 80s. per quarter, but full freedom of trade when the price was above that figure. Opponents immediately challenged the "system of prohibition" as being "injudicious" and contended it would increase the price which manufacturers had to pay for labor, thus handicapping them in their competition with foreign merchants. A leading antagonist of this early Corn Law was Sir Robert Peel, Sr.³⁶ William Cobbett had also been skeptical of the measure and predicted that the bill would not produce the results the landlords expected but would only serve to heighten social tensions.³⁷

Cobbett's prediction proved correct, for the law did not provide satisfactory protection of the landed interest. The Act was inflexible and conformed badly to the requirements of the market. Prices had to remain over 80s. for three months before the ports were opened, and during periods of shortage this closure worked a real hardship upon the growing industrial population.³⁸ Also prizes fluctuated violently, a situation which worked to the disadvantage of the farmers. These weaknesses in the Law of 1815 led to a revision of the Act in 1822. By the amendments of

³⁶ C. R. Fay, The Corn Laws and Social England (Cambridge, 1932), pp. 41-2.

³⁷ Asa Briggs, p. 203.

³⁸ Fay, p. 79.

that year, foreign wheat was to be prohibited until the domestic price reached 70s. At this point, grain could be imported but not duty free as had previously been the case. When the price was between 70s. and 80s. a duty of 12s. was to be levied; when between 80s. and 85s. a tax of 5s.; and when above 85s. only 1s. in duty. Prices of other grains were fixed on a similar scale. The sliding scale did not go into operation, however, because that portion of the 1815 bill which had kept the ports closed until the price reached 80s. was not repealed.³⁹ This remained the situation until 1828, when the Corn Law was again amended. The interval was significant, nevertheless, because it marked the first instance when the industrial and commercial classes attempted to unify themselves against the landowners.⁴⁰ Subjected to the agitation of the lower classes and aware of the unsatisfactory nature of the previous settlements, Parliament passed a new Corn Law in 1828. That bill provided for a sliding scale in which a duty of 24s. 8d. would go into effect when the price of wheat was at 52s. and would progressively decrease to 1s. when the price reached 73s.⁴¹ One other reform in Corn Law was effected before its repeal in 1846. In 1842 the practice of lowering the duties on a

³⁹ Donald Grove Barnes, A History of the English Corn Laws from 1660-1846 (New York, 1930), p. 174.

⁴⁰ *Ibid.*, p. 185.

⁴¹ *Ibid.*, p. 200.

sliding scale was continued, but this measure was not acceptable to the middle class either. As Osborne had warned ". . . it would be somewhat rash for Mr. Cornfield to trust much to the effect of the bone now thrown to Mr. Powerloom."⁴²

The Reform of 1832 had struck at the landed interests' political power and, as had been predicted, the economic base of the aristocracy was now being attacked. Such would be economically beneficial to the middle classes, but ". . . its political results would be even more desirable to the radicals who made up the hard core of the movement and for whom the League served as a rallying point--nothing less than a fatal weakening of the landed interest and the overthrow of the Tory Party."⁴³

The movement, led by John Bright and Richard Cobden, was basically a middle-class movement, but attempts were made to enlist the support of workingmen and farmers. These met with little success. The workers had supported the bourgeoisie during the fight for the Reform Bill, but had received little for their efforts, and felt that the issue merely represented an attempt to divert them from the Chartist program.⁴⁴ The Corn Law

⁴²The Times, February 21, 1845, p. 6.

⁴³Chambers and Mingay, p. 152.

⁴⁴Donald Barnes in A History of the English Corn Laws, p. 247, asserts "The Chartists frankly hated the League as an agent of the middle class, whose objects were to hand over the working class to the manufacturers and money-lords, and to

reformers also tried to drive a wedge between the tenants and the landowners by contending that repeal would benefit the renter. It would, they asserted, result in their paying lower rates, but the farmers preferred in this instance to cast their lot with their rural brethren, the county gentry.⁴⁵

Despite their lack of success with the workers and the tenant farmers, the Radicals were successful because they attracted sufficient support from free trade landowners.⁴⁶ Although this element supported free trade, they were united in believing ". . . that good government stood for sound administration and the protection of property in all its forms, but that the less it

divert attention from factory and Poor Law reform. Most of the Chartists strongly believed in protection for agriculture, because they believed that free trade in grain would throw out of cultivation a great deal of land and drive thousands of agricultural labourers to the factories to compete and to reduce wages. Reduction of prices, which had such a strong appeal to the middle classes, aroused the fierce opposition of the Chartists. They held that the persons who lived on fixed incomes benefited by this reduction, but that it was equivalent to an enormous increase in the national debt for which the labourer paid in taxes."

⁴⁵Orwing and Whetham, p. 151.

⁴⁶Donald Grove Barnes recognized the importance of this element in A History of the English Corn Laws, p. 269, when he emphasized the necessity of converting their leader to repeal. He asserted that "apparently the greatest contribution of the League to the repeal in 1846 was the part played by Cobden in converting Peel. The agitation outside Parliament may have done more to make free trade inevitable in the long run; but the influence of Cobden on Peel . . . was much more significant in bringing about immediate repeal."

interfered with private life the better."⁴⁷ In their estimation, the country must still be ruled by gentlemen and the prevailing social structure was to be preserved.

Sir Robert Peel expressed this attitude when he reported to his Tamworth constituents in 1847 that repeal ". . . tended to fortify the established institutions of this country and to discourage the desire for democratic change in the House of Commons."⁴⁸

Repeal, therefore, was a strategic retreat which would aid in maintaining the Aristocratic Constitution. This argument was strangely reminiscent of the Whig position in 1832 and was to be enunciated again in conjunction with Tenants' Right in 1875.

Apparently the aristocracy had accommodated themselves to the inevitability of democracy and were now fighting a delaying action.

The middle class was, and had been for a long time, impatient with aristocratic control of the country. Bitter resentment of the latter's established power was vividly revealed in a review of Isaac Tomkins' "Thoughts upon the Aristocracy of England." The author, Henry Brougham, quoted Tomkins in challenging the right of the aristocracy to inherit the government of England:

It is certain that the eldest son (of a peer) is deemed by our institutions to be born a lawgiver,

⁴⁷Orwin and Whetham, p. 43.

⁴⁸Chambers and Mingay, p. 159.

a senator, and a judge; that he alone, be he ever so ignorant, stupid, and vicious, is allowed to decide upon the great questions of policy and of jurisprudence, and to sit in appeal upon the decisions of all the legal tribunals of the country, property, liberty, limb, and life. These high functions are so essentially inherent in him, that no bankruptcy, no idiocy (short of being found lunatic by commission), no criminality, can deprive him of his judicial and legislative attributes.⁴⁹

If the landed interest were not to be the governors of England, then who was qualified? The answer was obvious to the author:

The middle class, not the upper class, are the part of the nation which is entitled to command respect, and enabled to win esteem or challenge admiration. They read, they reflect, they reason, they think for themselves; they will neither let a pope nor a prince, nor a minister, nor a newspaper, form their opinions for them; and they will neither, from views of interest nor motives of fear, be made the dupe or tool of others. They are the nation--the people--in every rational or correct sense of the word. By them, through them, for them, the fabric of the government is reared, continued, designed. How long are they likely to suffer a few persons of overgrown wealth, laughable folly, and considerable profligacy, to usurp, and exclusively to hold, all consideration, all individual importance? Can the scales of society be kept steadily adjusted when the unnatural force, violently exerted in favour of the feather, makes the unaided gold kick the beam?⁵⁰

These questions remained unanswered during the debates on the repeal of the Corn Laws; the aristocracy continued to dominate the government and this domination goes far toward explaining the

⁴⁹Henry Brougham, "Thoughts upon the Aristocracy of England," The Edinburgh Review, LXI (April, 1835), p. 65.

⁵⁰Ibid., p. 69.

violence of the charges hurled by the reformers.

Richard Cobden proved a persistent opponent of the landed interest, both during and after the struggle to repeal the Corn Laws. Cobden was most critical of the landlords because of the political coercion they practiced on their farmers. They were ". . . men who will not give their tenants a tenure, but with a view to the general elections." They cajoled their tenants and drove them to the polls to do their bidding.⁵¹ He further charged that the ". . . landlords really make their acres a kind of electioneering property. We know that their land agents are their electioneering agents."⁵² He warned them that the country would no longer be governed by a combination of landlords and tenants.⁵³ Their use of the land had been a ". . . gratuitous piece of impertinence to the rest of the community."⁵⁴ But if the landlords really desired to serve the farmer, as they maintained, they could do so by allowing him to practice his art on favorable terms.⁵⁵

⁵¹John Bright and James E. Thorold Rogers (eds.), Speeches on Questions of Public Policy by Richard Cobden, M. P. (London, 1878), pp. 20-29.

⁵²Ibid., p. 183.

⁵³Ibid., p. 193.

⁵⁴Ibid., p. 112.

⁵⁵Ibid., p. 29.

Cobden offered a number of suggestions which he thought would result in an improved agriculture. One of the first actions that the farmer needed to take was to meet together "in one community." They should exclude landlords and land agents from their discussions on certain problems. In other words, they should move to emancipate themselves politically. He assured his audience that he was not advocating conflict between tenants and owners; after all, they had common interests. But "let them act toward each other with fairness, justice, and with honesty, and they would be promoting in the end not only their own, but the general interest of the community."⁵⁶

But Cobden's program was more than political; he advocated reforms that would lead to an improved system of agriculture. The farmer, he asserted, needed an adjustment of his rents, a secure tenure in his land, the right to rid his holdings of destructive game, incentives to improve his homestead, and a variety of innovations upon his lands. Unfortunately, the tenant could not approach his landlord or the agent for a redress of these grievances.⁵⁷

The greatest burden under which the tenant labored, however, was the lack of capital. There was no doubt, he maintained,

⁵⁶ Ibid., p. 229.

⁵⁷ Ibid., p. 100.

that the cause for the shortage was the absence of security for capital on the land. Many tenants could have improved their farms; either they had money themselves or had friends who could lend it to them, if they but had security. But their tenancy ran from year to year, and many investments required a period of eight years before a full return could be expected. Landlords, however, prevented farmers from making improvements; the tenant was kept servile, dependent, and afraid to farm more efficiently for fear his rent would be raised.⁵⁸

Cobden warned the aristocracy of continuing its obstructionist policies.

You, gentlemen of England, the high aristocracy of England, your forefathers led my forefathers; you may lead us again if you choose; but though--longer than any other aristocracy--you have kept your power, while the battle-field and the hunting-field were the tests of manly vigour, you have not done as the noblesse of France or the hidalgos of Madrid have done; you have been Englishmen, not wanting in courage on any call. But this is a new age; the age of social advancement, not of feudal sports; you belong to a mercantile age; you cannot have the advantage of commercial rents and retain your feudal privileges too.⁵⁹

If, however, the aristocracy adjusted itself to the spirit of the new age, Cobden promised that it might yet do well. If the aristocrats persisted in obstructing the spirit of the age in which they lived,

⁵⁸Ibid., pp. 134-36.

⁵⁹Ibid., p. 145.

". . . if you give nothing but opposition to schemes . . . then you are no longer a national body."⁶⁰ His warning in this instance was in conjunction with the struggle for repeal of the Corn Laws, but undoubtedly he would have extended it to other reforms as well.

In the heat of the struggle for free trade, John Bright also indicted landlord rule. He asserted that the landed interests held "unlimited sway" in the government, and the results of their domination had been war and rapine. This favored class had taken all the honors while the people had suffered all the scars. While pretending to place the interest of the country above its private concerns, Bright asserted, the aristocracy had proceeded to legislate in the most corrupt and partial fashion. Laws were passed to preserve wild animals and vermin which preyed upon their farmers. Aristocratic sport resulted in the pauperization of many of their tenants. Thus in areas where squiredom was strong, one in seven qualified as paupers, but in the country as a whole, only one in eleven was so classed.⁶¹

Bright also accused the owners of stifling agricultural progress by refusing to lease their lands and provide proper

⁶⁰Ibid.

⁶¹James E. Thorold Rogers, (ed) Speeches on Questions of Public Policy by John Bright, M.P., Vol. II (London, 1868), pp. 279-80.

security for tenants of capital. He thought that one of the benefits of free trade would be to force the landlords to rent out their farms on more favorable terms.⁶² "I say," Bright thundered, "let us get a system of farming, of agreements, of management, from one end of it [the country] to the other. . . ."⁶³ The farmers would receive such treatment, however, only when they ceased depending upon the "farmers' friends," that is the landed interest. Tenants should look to their own ranks and pay more attention to their own interests than they were then doing.⁶⁴

Bright suggested a plan for the reform of agriculture, a method for instituting the improvements necessary for advanced cultivation. The key to such High Farming lay in properly obtaining security of capital for the improvement of the soil. He also indicated that he thought free trade would force English husbandry into agreements which would attract farmers with sufficient resources to secure such results. Bright further insisted that the nation had a right to expect, indeed demand that the land be made to produce to its capacity. Land was a valuable natural resource and the nation could properly control its use if this became necessary.⁶⁵

⁶²Ibid., p. 300.

⁶³Ibid., p. 323.

⁶⁴Ibid., p. 328.

⁶⁵Ibid., p. 324.

Bright's belief that free trade would force the agricultur-
alist to farm more effectively in order to compete with foreign
goods was not an isolated view. An anonymous letter to The
Times of November, 1846, intimated the same feeling and stressed
the conviction that the granting of Tenants' Right offered a solu-
tion to the foreign challenge. The author thought, however, there
would be great difficulty in getting owners and tenants to arrive at
agreements. He believed, consequently, that ". . . nothing but a
legislative enactment founded upon correct ideas and data can ever
settle the matter." The system advocated by the author consisted
of granting leases for either fourteen or twenty-one years and
having a team of "valuers" determine which improvements were
left on the land at the expiration of the lease. Thus the farmer
would be protected in his investment, and the owner would not
have his soil depleted during the last few years of the contract.

The proposition met with a number of criticisms, the
most constant being that Tenants' Right was an interference with
the "rights of property." The author denied the validity of the
argument, for the public had a great interest in seeing that the
land was farmed in the most productive manner. The contention
was also invalid, he thought, because the government already
interfered with property in many ways: manufactures were regu-
lated, and sanitary and zoning laws followed the principle of
intervention. If the government regulated certain types of property

for the national good, why not the soil? Certainly the land was just as important to the nation as any other form of property.⁶⁶

The demand for intervention was soon translated into action when Philip Pusey introduced his first of a series of Tenants' Right measures. Pusey was not a Radical. He was a Berkshire squire who owned some 5,000 acres and who had long been an advocate of "scientific farming." He was a founder of the Royal Agricultural Society, and twice had served as president of that organization. Though a close friend of both Peel and William E. Gladstone, he could not match their eloquence or effectiveness before the House of Commons. His contributions to the agricultural interests were considerable, however, and because of his knowledge of the subject, he was a frequent witness before committees concerned with agricultural questions.⁶⁷

Pusey had been a supporter of Corn Law repeal. He explained the motivation for his switch to this position in a letter to Gladstone on March 1, 1846.

Certainly a near acquaintance with the standard of farming in different parts of England has for some time convinced me that it is in our power to make up by increased production for any probable diminution of price under Free Trade. I must confess too that Carlyle's 'Past and Present' made me heartily

⁶⁶"Tenants' Right in Land," The Times, November 7, 1846, p. 5.

⁶⁷"Philip Pusey," Dictionary of National Biography. Vol. XVI. edited by Sir Leslie Stephens and Sir Sidney Lee. (London, 1917), pp. 504-05.

ashamed as a landowner of taxation for the purpose of keeping up rents. It is two years I think since I have felt that the only ground for the defense of protection was the danger to be apprehended from repeal by farmers of capital.⁶⁸

Pusey concluded, however, that repeal would have its most dire consequences for farmers in the under-farmed parts of the country. Inefficient farmers were quite likely to be faced with bankruptcy, but he thought the country would be compensated for their dislocation. The benefits would be derived from the fact that landowners would be compelled to devote greater attention to their estates and that would be ". . . the source of much wholesome activity and innovation in rural districts." The government should also actively intervene to prompt desired changes in agriculture, and one measure which would contribute to improvement was a bill granting Tenants' Right. Pusey said that he had opposed such a bill when Lord Portman had introduced it, but now believed, "The farmers wish it and there is nothing which would draw so much capital to the land."⁶⁹

But Pusey's purpose was limited solely to his desire of fostering an improved system of farming in England. He certainly did not consider Tenants' Right as being an attack upon the

⁶⁸ Ronald Warren Linker, "Philip Pusey, Esquire: Country Gentleman, 1799-1855" (Unpublished Ph.D. dissertation, Dept. of History, Johns Hopkins University), p. 536.

⁶⁹ Ibid., p. 537.

entrenched political power of the landed interest. As Professor Ronald Warren Linker pointed out, Pusey recommended:

. . . the principle of nobless oblige as one legitimate animus of social action. The ruling classes, accordingly must assume a paternalistic responsibility for the well-being of the lower orders; dispensing from above a limitless portion of love and consideration, whilst receiving in return a full measure of deference and obedience. A fundamentally rural ideal, arising out of the inner life of a responsible household or a well-regulated estate--were it to recommend itself as the sole categorical imperative of public morality, then Pusey believed, the entire Kingdom might happily anticipate a quasi-millennium of peace, prosperity, and order. It was his personal intention, with the Journal in his hand and a crowded schedule of private legislation in view, to set an altruistic example for all to follow.⁷⁰

He would preserve the old ancestral home.⁷¹ The gracefulness, purity, and piety of the nobleman's family had to be maintained,⁷² for it was the duty of the children of the land to pass ". . . the sacred torch unextinguished, . . ." brightened if possible, ". . . but at least unimpaired and unsullied."⁷³ Thus Pusey contemplated the continued existence of the social and political system of his time. The landed interests were still to dominate and to legislate, according to their judgment, in the best interest

⁷⁰ Ibid., p. 462.

⁷¹ Philip Pusey, "Plato, Bacon, and Bentham," The Quarterly Review, LXI (January-April, 1838), p. 493.

⁷² Ibid., p. 496.

⁷³ Ibid., p. 506.

of the country. There was to be no social or political revolution--merely an agricultural revolution.

On February 9, 1847, Pusey asked for permission to introduce a Tenants' Right bill and the House ordered that the measure be submitted. This was done the following day.⁷⁴ "A Bill for the Improvement of Agricultural Tenant Right in England and Wales" was designed to ". . . extend the custom of agricultural tenant right in accordance with the modern advance of husbandry . . ." in order to expedite the improvement of the land and to increase the produce therefrom, and to encourage the employment of farm laborers.⁷⁵ This early measure was broadly drawn and, when compared to later bills, represented a simplistic approach to a very complicated problem. In fact, the proposed piece of legislation offered dramatic testimony to the general lack of understanding of agricultural customs concerning compensation for unexhausted improvements.

According to the measure, outgoing tenants under any contract which began either before or after the passage of the Act were to be entitled to receive from the incoming tenant or the landlord compensation for any outlay properly incurred after the passage of the Bill. Payment was to be made for improvements

⁷⁴ 3 Hansard, XC (1847), 383.

⁷⁵ Great Britain, Sessional Papers, Vol. I (1847), p. 11.

of the farm that were unexhausted at the time the tenant left the holding. Included in the temporary improvements were the purchase or preparation of artificial manures and the purchase of food for cattle. Durable improvements of the soil were also to be compensated. These included the practices of draining, marling or otherwise altering the nature of the soil. Permanent improvements, such as the raising of fences and the construction of roads and necessary buildings, were to be paid for as well.

The amount of compensation due the outgoing tenant was to be estimated by ascertaining the cost of the improvements and then determining the time lapse necessary for the tenant to recover the full benefit of his expenditure. The Act, however, was not to invalidate agreements entered into by the tenant and the landlord prior to the enactment of the measure. Restrictions were also placed upon the tenant's ability to claim compensation for durable improvements of the soil and permanent improvements of the farm. The tenant was to have at least five years remaining on his lease or gain the consent of the landlord before he could undertake such improvements. In the case of buildings, the tenant could remove them if the owner failed to pay for them. But before the farmer could be compensated for these, they had to be in good repair and also they must have been insured against fire since the time of their erection. If the landlord failed to compensate for buildings, then the tenant was to have the right of entry

to the holding for three months after the termination of his lease for the purpose of removal.

The Bill provided definite procedures which the farmer had to follow to be compensated and also provided means to resolve disputes between the owner and the tenant. The tenant was to deliver to the landlord the amount and nature of his claim three months before the end of his tenancy. These demands were to be accompanied by vouchers of expenditures to support the claims. If the owner did not compensate the tenant within three months, then the matter was to be referred to valuers who would ascertain whether payment was due and, if so, the amount. This sum was to be recoverable within one month.

Recognition was given to the restrictions upon the land, and thus the bill provided that ". . . any owner of a farm, either absolutely entitled or entitled-in-tail, or for life, or for a term of years whereof not less than twenty shall be unexpired . . ." was enabled to contract with his tenant as to the number of years to be allowed for compensation. No owner having a limited interest, however, was to consent to a period exceeding twenty-two years, and he was not to grant compensation for buildings exceeding one year's rent. Exceptions were made to these provisions if the land had lain waste or remained unimproved. The effectiveness of the Act would have been somewhat curtailed by the the provision that it was not to affect the rights of the

landlord or the outgoing or incoming tenant under any existing custom or previous agreement unless such contracts were contrary to the provisions of the measure.

One of the most controversial features of the Bill was the so-called permissive clause. It provided that nothing in the law was to ". . . prevent any agreement between any landlord and tenant exempting themselves from the operation of this act."⁷⁶ Thus the permissive clause made its appearance and was to be the greatest source of controversy at almost every stage in the effort to pass such legislation. It was to be the most debated portion of the Agricultural Holding Act of 1875 and was to be the primary target of the Holding Act of 1883. The clause would allow landlords and tenants to "contract out" of any or all the provisions of the Bill.

The Bill was vigorously assaulted during the second reading on February 22. Colonel Charles De Lait Waldo Sibthorp, the real originator of the Chandos Amendment⁷⁷ and a radical conservative of long standing, said that he would strenuously oppose the measure and characterized the proposed legislation as a "rigmarole" bill. He thought it would interfere unnecessarily between the tenant and the landlord and, consequently, disturb the

⁷⁶Ibid., pp. 11-14.

⁷⁷Norman Gash, p. 92.

"good feeling" that existed between them.⁷⁸ Sidney Herbert, M.P. from Wiltshire, also objected to the measure, because such legislation was unnecessary; custom already provided the same benefits. He thought tradition more effective than law and doubted the wisdom of attempting to provide "one uniform rule" for all the various agricultural systems of the country.⁷⁹

The Act was criticized because it was construed as being contrary to the interest of the owner. Mr. Williams, representing Cumberland, said the measure was objectionable because it allowed the tenant to defraud the landlord with greater ease than at present. Charles Newdegate, M.P. for Warwickshire, also thought the Act to be unfair to the landlord. He said that the Bill allowed the tenant to sue the landlord, but it precluded the owner from initiating litigation to recover losses suffered due to dilapidations.⁸⁰

The measure was also denounced as being precipitous; it had been initiated without proper consideration. Newdegate said he had received communications from various parts of the country which indicated that agricultural customs varied greatly from district to district, and he thought the Bill did not give proper attention to this aspect. He was supported in this opinion by Sir

⁷⁸₃ Hansard, XC (1847), 383-84.

⁷⁹
Ibid., 384.

⁸⁰
Ibid., XCI (1847), 541-42.

Robert Peel, who believed the measure possessed merit, but advocated that adequate studies be made before it was considered further.⁸¹

At the May 12, meeting of Parliament, Pusey gave notice of his intention to withdraw the Bill. He indicated that Peel's advice was instrumental in his decision, and that he too favored further investigation of the tenant situation. Also the furious reception given the measure by the landlords prompted him to attempt to "avoid doing violence" to their feelings. But, he warned, the measure was destined to become law in a very few years. He alone had submitted petitions representing farmers who held over 200,000 acres in favor of such legislation, and this pressure would ultimately prove decisive.⁸²

The sensibilities of the landlords were not the only factors which prompted Pusey to withdraw his Bill. In a letter published in the Mark Lane Express on May 10, 1847, he conceded that success could no longer be hoped for in the current session. He nevertheless expressed certainty that the exertions of so many persons and the declarations of numerous farmers would not be "thrown away." The tenants were cautioned not to interpret delay as lack of desire on his part to secure passage of the measure.

⁸¹Ibid.

⁸²Ibid., XCII (1847), 719.

Quite the contrary, he had postponed his Bill because the Government had promised to introduce an Irish Tenant Right Bill. Since adoption of the measure by the Government would give great strength to its principle, Pusey had determined to await the promised action. It had since become known, however, that the Government had been forced to abandon the measure for the present, and Pusey thought it would be futile to attempt to re-introduce his Bill so late in the session.

Despite this setback, Pusey announced, ". . . we have encouragement to perseverance." The Bill had been passed through a Select Committee, and Sir Robert Peel admitted that tenants who made durable improvements on their lands were entitled to the protection of the law in seeking compensation. He thought these events represented an advance in their fight for Tenants' Right, but warned that immediate success was perhaps not to be expected. "In seventeen years," he continued, "I have seen many proposals to Parliament rejected, but finally passed into law by their own intrinsic justice."⁸³ There was no doubt that this was such a cause.

Pusey promised his constituents his continued support for Tenants' Right, and expressed confidence that the alarms of the landlords would soon subside.

⁸³Quoted in Ronald Warren Linker, "Philip Pusey, Esquire: Country Gentleman, 1799-1855," pp. 553-54.

As to the future, unless the Government should undertake the necessary inquiries, I shall, if I have the honour of a seat in the new Parliament, at once move for a Committee on agricultural tenant right. The present Bill, I believe, would have been perfectly safe. But this safety must be proved to the landlords by temperate argument; though we cannot but meanwhile regret to see land requiring improvement, and labourers in want of employment, because the farmer's capital, which should improve that land and employ those labourers, is devoid of security. I cannot doubt that alarm will shortly yield to evidence, and a just settlement of tenant-right be welcomed by the landlord as well as the tenant.⁸⁴

Philip Pusey, therefore, reaffirmed his faith in the principle of noblesse oblige. Once the facts were made known to the landlords, they would meet their responsibilities and pass the Tenants' Right Bill.

The Government failed to submit a Tenants' Right bill at the next session of parliament, and Pusey fulfilled his promise to do so. On February 15, 1848, he introduced a second bill which was essentially the same as the previous measure.⁸⁵ Two weeks later, on February 29, Charles Newdegate moved that a Select Committee be appointed to inquire into the matter of Tenants' Right. He said the question had been argued for several years and a great deal of confusion surrounded the matter. The majority of Parliament apparently agreed with him, and consent was

⁸⁴ Ibid.

⁸⁵ 3 Hansard, XCVI (1848), 658.

given for the selection of such a committee.⁸⁶ The committee was to ". . . inquire into the Law and Custom of different parts of England and Wales . . ." and on March 6, the members were nominated with Pusey as chairman.⁸⁷ Thus ended the first stage in the struggle for an effective Tenants' Right bill.

⁸⁶ Ibid., XCVII (1848), 858.

⁸⁷ Select Committee Report on Agricultural Customs, p. iii.

CHAPTER III

THE SELECT COMMITTEE ON AGRICULTURAL CUSTOMS AND PUSEY'S FINAL EFFORTS

A turning point in the Tenants' Right movement was reached with an investigation by the Select Committee on Agricultural Customs in England and Wales. Until that time, one of the chief criticisms made by the opponents of Tenants' Right measures had been that the proposals were precipitous; no such legislation was required. It was also stressed by both adversaries and friends of the Bill that not enough was known of the matter. After the survey, the bills introduced concerning the subject revealed greater appreciation of the complexities of Tenants' Right legislation.

The proponents of Pusey's Bill were apparently able to secure the appointment of a committee favorable to legislation concerning Tenants' Right. Altogether, seventeen members were selected to serve on the Committee, but only fifteen served at any one time. Pusey was nominated as Chairman of the Committee, and of the seventeen members appointed, two were co-sponsors of Pusey's Bill and at least fourteen were members of the Royal

Agricultural Society of England. Though this organization did not officially endorse political action, it was strongly committed to agricultural improvement. Undoubtedly, its members were favorably disposed toward measures which promoted progress in husbandry. In addition, a number of these men held responsible positions within the Society. Two had served as President of the organization, one was a trustee, three were members of the Council, and four were Governors of the Society.¹

Selection of the fifty-two witnesses to appear before the Committee also indicated that a report favorable to the passage of the Tenants' Right Bill was a foregone conclusion. Witnesses included two barristers who were both active workers in the campaign to revise the land laws, and one of them, Chandos Wren-Hoskyns, was quite prominent in the Radical circles of the day. Therefore, it appeared unlikely that authoritative legal testimony offered before the Committee would be unfavorable to the cause of Tenants' Rights. Of the fifty-two witnesses who appeared to offer evidence, twenty-five were tenants, and since they would benefit most by the passage of such a measure, they were prone to favor legislation of that type. The next largest group called to testify were the land agents;² the familiarity with which they

¹"List of Governors and Members," Journal of the Royal Agricultural Society of England, XI (1849), pp. 1-64.

²Select Committee Report on Agricultural Customs, p. xv.

were greeted by the Chairman and other members of the Committee indicated that the drift of their testimony was predictable. On a number of occasions, the authority of the witness was established by questions as to whether he had won the prize in his county for the best farm, or had he written the prize essay for the Journal of the Royal Agricultural Society, or whether or not the landlord for whom he worked had recently introduced an expanded system of compensation for unexhausted improvements. Where such familiarity was lacking, the witness was frequently from an area with a strong Tenants' Right custom, and their testimony tended to be favorable to the value of improved agricultural practices.

The interest of the Committee centered upon several questions: (1) What was the legal position of tenants and owners? (2) What was the status of permanent fixtures such as buildings, and did tradesmen possess advantages in this respect superior to those of the farmer? (3) What compensation was given for short-term improvements? (4) What remuneration was given for long-term improvements? (5) How uniform were the customs in the various parts of England and Wales? (6) What legislation, if any, would the witnesses recommend that Parliament pass in dealing with Tenants' Right? and (7) Would such laws result in a distinct improvement in agricultural production?

The first question to occupy the Select Committee on Agricultural Customs was the effect of land inheritance laws upon

the ability of the owner to grant concessions to his tenants. Primogeniture, or the perpetual entailment of estates, had been abolished in England long before the nineteenth century, but the objectives of the law had been negated through the policy of resettlement. The law provided that land could not be ". . . tied up for longer than the lives of living persons and for twenty-one years after the death of the longest survivors."³ However, the landowner could leave the estate to his eldest son and also provide a settlement for his widow and other children. The father, upon executing such a will, became the tenant-for-life and the son the tenant-in-tail. When the son came of age, it was common for the entailment to be broken and for a new settlement to be made. At that time, the son would usually be provided with an allowance, and the eldest grandson would be named tenant-in-tail in remainder. Resettlement also afforded an opportunity to sell off portions of the estate to pay debts, and to make adjustments upon the settlement of other members of the family. But no further changes in the family settlement could be made until the tenant-in-tail in remainder came of age. The system frequently placed the limited owner (tenant-for-life) at a serious disadvantage, especially if he desired to pursue an improved type of agriculture. He could not grant leases for longer than his own

³Orwin and Whetham, p. 59.

life, nor sell off any part of the estate, nor mortgage the land or in any way prejudice the interest of his son.⁴

The Committee was particularly concerned with the subject of the rights of in-coming and out-going tenants. The most authoritative legal experts on this question were James Stewart and Chandos Wren-Hoskyns, both Barristers-at-law. Stewart testified that for out-going tenants he conceived the law to be:

. . . that if the tenant in any way improves the land let to him, either by erecting fixtures, or by manuring the land, or by any other thing that goes to improve nature, or that which is permanent, I conceive that he has no right by law, independent of custom, on going off the land demised to him, to claim anything from anybody; that he cannot claim anything either from the landlord or the in-coming tenant.⁵

Even if the landlord, provided he was a limited owner, contracted with the tenant for certain improvements, his successor, the tenant-in-tail, would not be bound by the covenant unless it was supported by the custom of the locality. In other words, no man could bind his estate beyond his own interest in it.⁶ Chandos Wren-Hoskyns concurred in these opinions. He believed that if the landlord agreed, contrary to local custom, to improvements of the land the tenant could seek compensation from the owner's

⁴ Ibid., pp. 59=60.

⁵ Select Committee Report on Agricultural Customs, p. 1,
Q. 4.

⁶ Ibid., p. 12, Q. 145-47.

heir only through the personal property of his deceased landlord and not through his real property.⁷

In any case, the tenants' claim to compensation hinged upon local custom. But, because of the vagueness of the term, it was extremely difficult to establish clearly what was local custom in a court of law. As a rule of thumb, a practice was considered valid only when it could be traced back beyond legal memory, and unless that could be done it was not given cognizance in the courts. However, the time limit on such memory had been gradually reduced, and Stewart believed that if the custom had been in existence for twenty years that was then sufficient to establish it in law.⁸

Similar restrictions, Wren-Hoskyns contended, applied to the landlord in the granting of leases. The tenant-for-life could reach agreements which provided for good husbandry, but these agreements did not allow him to make "special covenants" binding upon his successor.⁹ W. Goodenough Hayter, M.P. for Somersetshire, sought to clarify the position of the owner whose settlement granted him the power to make leases:

Question: Do you apprehend that the power to grant a lease for 21 years of farming land, does not enable

⁷Ibid., p. 45, Q. 869.

⁸Ibid., p. 12, Q. 196-97.

⁹Ibid., p. 52, Q. 978.

the tenant for life to grant such a lease as would enable the property to be farmed consistent with the course of good husbandry by special covenants to that effect, binding upon the successor?

Answer: By general covenants; by the covenants that are usual; but I do not think he could introduce special covenants, operating as a prospective charge.

Question: Your doubt would arise as to whether he could introduce any special covenants so as to be consistent with good husbandry, yet not consistent with the customs of the country?

Answer: I think so, if they were of a nature to extend the charge upon the estate, or upon the heir to the property.¹⁰

Thus the landlord's ability to improve his estate through either annual agreements or leases was greatly restricted by the practice of settlement. The only apparent way in which innovations could be introduced in English farming was through landlord capital, and of that there was a dire shortage. The very settlement which prevented the owner from contracting with his tenants also placed him in difficult financial circumstances.

Both Stewart and Wren-Hoskyns asserted that substantial alterations in the inheritance laws of estates were desirable. Stewart thought that since these laws prevented the landlord from authorizing his tenants to undertake improvements, it would be advisable to alter the law in that respect. He believed that such restrictions were common, extending over "two-thirds of the lands

¹⁰Ibid., p. 46, Q. 879-80.

of England."¹¹ Wren-Hoskyns agreed that the owner was impeded in his ability to approve the projects of his tenants and guarantee them compensation.¹² He would have gone further than just allowing the owner to permit his tenants to improve, and so advocated the establishment of a tribunal to rule upon which improvements should be allowed in the eventuality that the landlord would not agree to them. He reasoned ". . . that the land is a species of property in which the whole community have an interest, and that there should be a means of referring from the capricious opinion of the owner. . . ."¹³ These reformers pointed out the close connection between the Tenants' Right question and the movement for "free trade in land." Most agricultural improvements revolved around the ability of the tenant-for-life to obligate his successor to honor his contracts. Until the law granted such concessions, then the fate of the farmers' capital remained tenuous.

The Committee was also interested in the distinctions that existed in the fixtures of agriculture as opposed to manufacturing tenancies. The agricultural tenant was at a considerable disadvantage, for if he erected a building for the purposes of

¹¹Ibid., p. 5, Q. 55-56.

¹²Ibid., p. 45, Q. 873.

¹³Ibid., p. 52, Q. 977.

husbandry, the courts had clearly ruled that he could not remove them.¹⁴ Even when the farmer had erected a steam threshing machine, Stewart believed, the question of removal was strictly at the discretion of the landlord, for according to existing decisions, the owner of the farm was entitled to the apparatus.¹⁵ The rule applied only to permanent fixtures, and permanency was determined by whether the fixture was attached to the soil or not. For example, if a building was erected upon stones, then the tenant could remove it; if affixed to the ground, he could not.¹⁶

Trading tenants, however, occupied a much more advantageous position from that of the farmer. Such a tenant was allowed to remove all items and machines erected for the purpose of pursuing his trade. According to court dicta, trading tenants were even allowed to remove buildings.¹⁷ The respective positions of the two types of tenants was confused, but, the witness testified, he had no doubts that a distinction did exist between trade fixtures and those which were not trade fixtures.¹⁸ When asked to explain the reasons for the contradictory approaches,

¹⁴Ibid., p. 2, Q. 6.

¹⁵Ibid., p. 2, Q. 10.

¹⁶Ibid., p. 6, Q. 66.

¹⁷Ibid., p. 2, Q. 6.

¹⁸Ibid., p. 4, Q. 44.

Stewart replied that he could only account for them politically; the tenants in the towns had more power than the tenants in the country, and the ". . . tenants in the country were a good deal more under the power of the landlord than the tenants in the town."¹⁹

Both Stewart and Wren-Hoskyns found the distinctions between trading and agricultural tenants to be incongruous. Stewart thought the same principle should be applied to both. He believed such a uniform application of law would work to the benefit of both the landlord and the farmer and would tend to encourage the introduction of machinery into agriculture.²⁰ Wren-Hoskyns believed both types of tenure required alteration: the ". . . law as to trade fixtures should be more settled, and that the law of agricultural fixtures should be put upon the same footing."²¹ More specifically, he advised that all buildings erected by a tenant should be his property, and thought the farmer should have the right of removal or compensation at the expiration of his holding. He concluded that the right could be properly and effectively conferred only through legislation.²²

¹⁹Ibid., pp. 4-5, Q. 46.

²⁰Ibid., p. 5, Q. 47-48.

²¹Ibid., p. 47, Q. 897-99.

²²Ibid.

The investigation was especially concerned with improvements of the land. After all, these were basic to a more efficient agriculture, and thus to the production of greater amounts of food for the country. Progressive farming techniques, both short-term and durable improvements, were examined in detail. The Committee inspected the Lincolnshire custom closely, for it appeared to foster the most advanced system of husbandry in the country. Pusey's Tenants' Right bills and most of the subsequent measures were based upon the practices of that district. In 1843, Pusey had made an extensive survey of the agricultural improvements of Lincolnshire, and had been impressed by the efforts of both the farmers and landlords there.²³ Consequently, it was not surprising that the Committee expressed an intense interest in the customs of that area.

William Hesselstine, a farmer of North Lincolnshire, gave testimony which adequately described many aspects of the region's

²³In his article "On the Agricultural Improvements of Lincolnshire," (1843), pp. 315-16, Pusey said, "I have not seen a set [of farmers] more liberal in any part of the kingdom: industrious, active, enlightened, free from all foolish and expensive show or pretence to emulate the gentry, they live comfortably and hospitably, as good farmers ought to live; and, in my opinion, are remarkably void of those rooted prejudices which sometimes are reasonably objected to this race of men. I met with many who had mounted their nags, and quitted their homes purposely to examine other parts of the kingdom, and done it with enlarged views, and to the benefit of their own cultivation. They have visited other districts, and they have since so managed their own farms that these deserve to be viewed in return. Practical farmers may perceive defects which escaped my observation; but if

customs. He observed that compensation for unexhausted improvements was allowed for a number of practices. For chalking, payment "reached" over seven years.²⁴ Compensation was allowed for a number of other improvements as well: for boning, three years;²⁵ for claying and liming, five years;²⁶ and for caking of cattle, three years.²⁷ Tenants of the Lincolnshire district, however, usually received no remuneration for buildings and drainage. The landlord usually "found" the materials for these practices, and the farmers supplied the labor for construction or installation.²⁸

Compensation for unexhausted improvements under the Lincolnshire custom was determined by a system of valuers. Both the out-going and the in-coming tenant appointed persons to represent them in determining the value of the improvements to be left on the farm. If disagreement arose, then a third party would be

they see Lincoln Heath, or the Wolds, either in harvest or later in winter, when the sheep are in the fold and the cattle in the yard, I do not think that they will be disappointed.

²⁴Select Committee Report on Agricultural Customs, p. 17, Q. 236.

²⁵Ibid., p. 17, Q. 239.

²⁶Ibid., p. 18, Q. 257.

²⁷Ibid., p. 18, Q. 259.

²⁸Ibid., p. 21, Q. 338-45.

selected to arbitrate the differences. Thus the landlord did not ostensibly enter into these negotiations, which the witness, Major Francis Brown, saw as a great advantage.²⁹

The Committee was interested in determining whether or not these practices actually fostered agricultural improvements. Accordingly, they asked Hesseltine if he were offered a farm of 1500 acres in an area that did not allow compensation for improvements made upon the land whether or not he would lime, chalk, or engage in many of the advanced agricultural practices that he currently used. He replied that he would not. Without covenants for compensation, he indicated, no man of business would so invest his money. When the Committee inquired as to whether a tenant should not in such cases seek redress by reduction of rent Hesseltine responded:

If there was any security given; the tenant must have security for laying out money. A man occupying 1,000 acres of land, and improving it, must have security. Various circumstances happen between landlord and tenant, which perhaps they do not anticipate, and neither wish to see; but they do happen, and those circumstances render it necessary. I have a friend in Yorkshire who used a very considerable quantity of cake on 1,500 acres of land; he used more than 100 tons a year. I have known him pay 700 l. for bones; he had no covenants; the landlord said, "there is such confidence between us, you do not want anything of that kind. I am highly satisfied." It turned out, however, that the landlord gave the tenant notice to quit, and he went and asked the cause. The landlord said, he thought

²⁹Ibid., p. 390, Q. 7197.

in the first instance he had too much farming; and in the second, the land would bear more rent putting on it. The tenant said, "I think it is very hard from what you had stated to me a year and a half before, that there was no occasion for any covenants." However, the fact of the case was, that the tenant left³⁰ and there was no compensation for bones or cake.

In areas where custom did not provide for compensation, the tenant was completely subject to the arbitrary actions of the owners. Consequently, the conclusion of both the witness and the Committee was that, "Good husbandry depends upon security of tenure, granted by lease or custom,"³¹ previous testimony as to the importance of confidence between tenant and landlord notwithstanding.

The Committee also sought to determine the extent to which compensation for unexhausted improvements was granted in the other counties of England. Here the evidence indicated that customs varied greatly from county to county and that they differed even within particular districts.

Question: The question now put refers to where custom is confirmed?

Answer: There would sometimes be very great difficulty in defining the customs. In Lincolnshire they are confined to the four or five points to which I have already alluded; it would therefore be a very simple act of the Legislature to settle it for Lincolnshire. But in other parts of the country tenant-right varies very much from that of Lincolnshire; Nottinghamshire, for instance, where a much

³⁰ Ibid., p. 25, Q. 451.

³¹ Ibid., p. 25, Q. 49-56.

greater allowance is made to the outgoing tenants for green crops; he is paid for the whole value of his turnip crop.³²

Few customs compared favorably with that of Lincolnshire. In the East Riding of Yorkshire, compensation was provided only for manure and the tenant was allowed to take the away-going crop if it had been boned the previous year.³³ In Sussex, the customary payments differed greatly in the different districts of the county. In parts of the county, allowances were confined largely to "acts of husbandry," and to hay and fodder fed to cattle. In other parts of the county, for fallows and tillage performed on the fallows, and for rent and taxes on the same.³⁴ No remuneration at all was made to the out-going tenants in Gloucestershire for any kind of improvements.³⁵

A good deal of variation was found in compensations allowed for short-termed improvements, that is, those which pertained to the soil. Such practices included boning, chalking, claying, liming, the use of guano, manure, and artificial fertilizers. Three years were allowed for boning in Lincolnshire; in Lancashire, it was suggested that four or five years be allowed,

³²Ibid., p. 31, Q. 574.

³³Ibid., pp. 417-18, Q. 7572-92.

³⁴Ibid., p. 378, Q. 7015-17.

³⁵Ibid., p. 221, Q. 4133-34.

and in Oxfordshire four years were considered sufficient.³⁶ Chalking had even greater differences. On the Isle of Wight ten years were allowed, but only seven in Lincolnshire, and in Suffolk it was estimated that it would only be beneficial for five or six years.³⁷ In Nottinghamshire, only five years would be allowed for lime, but in Herefordshire three or four years was thought sufficient.³⁸ Questions concerning other improvements revealed the same variations as to the length of time that was allowed to extract capital investments from the soil.

Of the more permanent type of improvements, such as raising of fences and buildings, the construction of roads, and drainage, there was an equally wide discrepancy in the proper time which should be allowed for the tenant to recover his expenses. William Pinches, Esq., a proprietor in Shropshire, thought that if drainage were performed in the best manner, thirty years should be allowed. There was, however, no compensation made for any improvements in that county. In Derbyshire, only seven years were allowed for drainage, whereas on the Isle of Wight, twelve years were allowed on the estates of Lord Yarborough.³⁹ Equally varying practices were found in connection

³⁶ Ibid., p. 17, Q. 241; p. 172, Q. 3065; p. 316, Q. 5801.

³⁷ Ibid., p. 273, Q. 6911; p. 176, Q. 3155.

³⁸ Ibid., p. 42, Q. 799; p. 325, Q. 5965.

³⁹ Ibid., p. 366, Q. 6773; p. 371, Q. 6863; p. 373, Q. 6913.

with other permanent improvements, but the example of drainage suffices to illustrate the point.

Witnesses also offered a variety of recommendations regarding the legislation they thought desirable to deal with the Tenants' Right issue. Some said they wanted no legislation on the matter, or that they desired only limited changes. These farmers were generally from areas which had a strong custom favorable to them, and they feared that laws on the matter might not be so beneficial as the traditions under which they were currently farming.⁴⁰

Generally concurring opinions evidenced that compensation was needed for unexhausted improvements, and some witnesses had specific proposals. One thought a year's notice instead of six months' to quit the holding would be of advantage. Another would have omitted the "permissive clause" in Pusey's bill because he thought it wrong to make a law with one hand and upset it with the other.⁴¹ The testimony of William Bennett, a land agent from Bedford, enumerated the basic ingredients such a bill should contain. He said that he thought a farmer was entitled to compensation for articles left upon the farm which were actually of benefit to the incoming tenant. The payment to which the outgoing tenant

⁴⁰Ibid., p. 34, Q. 627.

⁴¹Ibid., p. 205, Q. 3840 ff.; p. 216, Q. 4052.

was justified should be determined by the interest that he had left in them. On the subject of legislation, he thought that a bill concerning the matter should go as little into the "particulars" of the issue as possible, for this would allow the customs of the various localities to be given consideration. The Committee was especially interested in his conception of how compensation should be determined and inquired whether the payment made to the outgoing tenant should be based upon the amount of money the farmer had actually spent. Bennett thought the landlord should not be responsible for making compensation for improvements that had been foolishly undertaken or badly done. He was of the opinion that no sensible valuer would recommend such a payment, nor should he have the power to grant such compensation.

Question: The principle, in your judgment ought to be the value left in the land for the incoming tenant, not the capital expended by the outgoing tenant?

Answer: For the value left in the land. It would be proper for the valuer to be furnished more or less with the items of expenditure, showing what had really been done; it would not be likely that an opponent taking the landlord's or the incoming tenant's side would be willing to take a man's mere ipse dixit, unless he could prove how far it had been done; I cannot conceive either that we have a right to call upon landlords to give back money foolishly expended.⁴²

Ostensibly both landlords and tenants supported the principle of

⁴² Ibid., p. 105, Q. 1921-23.

just compensation to farmers and fair returns to the owners for the improvements purchased.

But the controversy flamed when the manner of determining how compensation was to be granted came under consideration. One of the most radical proposals, as mentioned above, was that of Chandos Wren-Hoskyns. He thought that "direct legislation" on the matter of payments might be very difficult, and advocated instead that powers should be entrusted to those made responsible for enforcing the measure. He would not have Parliament determine what the compensations should be, but merely stipulate that these officials be authorized to make the decisions. Wren-Hoskyns stated that enforcement should be entrusted to a "species of court of arbitration" and that decisions would be based upon ". . . a general notion of right, under which the custom would be a matter of local evidence." These courts would have been composed of local agents, already in existence, who were conversant with the agricultural customs of their districts.⁴³ The board or court would have the further responsibility of allowing the tenant to undertake needed improvements over the objections of the landlord, thus securing the farmer's right of compensation if the improvements appeared to be in the best interest of the country.⁴⁴

⁴³ Ibid., p. 49, Q. 929-38.

⁴⁴ Ibid., p. 51, Q. 965-77.

The board would also have the authority to collect the customs of different districts and to extend the customs which it thought desirable to its own area.⁴⁵

Wren-Hoskyn's plan was challenged by Newdegate. This Committee Member rejected Wren-Hoskyn's argument ". . . that the community has a peculiar claim upon the land for its good cultivation. . ." on the grounds that the adoption of free trade indicated that the country had decided that it would not depend upon English production, but would derive its food supplies from other sources, that is from foreign producers.⁴⁶ Thus, was pointed out a conflict between Tenants' Right legislation and the prevailing thought of the day, regulation versus *laissez-faire*.

A proposal similar to that of Wren-Hoskyns was made by John Houghton, a Berkshire land agent. He likewise advocated a tribunal to allow improvements to be made if the owner would not or could not grant such permission. However, this witness rejected the contention that if such restrictions were placed upon land they should be imposed also upon mercantile property. Houghton contended that the difference was the landlord would welcome legislation of regulatory nature, for he frequently was not in

⁴⁵ Ibid., p. 53, Q. 981

⁴⁶ Ibid., p. 54, Q. 997.

a position to give assent to improvements.⁴⁷ Again, the settlement of estates frustrated agricultural progress.

Most witnesses agreed with Bennett's view that legislation should obligate both the tenant and the landlord to make certain compensations. Farmers should be able to recover expenditures for improvements and owners should possess the right to collect for dilapidations to buildings, fences, and the land. Testimony generally indicated that the witnesses thought the best method of determining what payments were due to each party could be arrived at by having improvements assessed by a system of arbitration and umpires. Both the tenant and the landlord would be forced to abide by their decision.⁴⁸ In other words, the Lincolnshire custom was to be followed.

Several aspects of the system of valuers and umpires were called into question by witnesses. John Outhwaite asserted that calling in an umpire to finally decide the issue, if the valuers could not agree, was "awkward." Why not have him make the decision to begin with? The main difficulty of having an umpire was that he frequently did not know the basis of the first appraisal. Outhwaite thought that in order to establish a just system of

⁴⁷Ibid., p. 234, Q. 4432-36.

⁴⁸Ibid., pp. 148-49, Q. 2645-51.

valuation, as opposed to a compromise, an itemized list of the things evaluated should be provided to all parties.⁴⁹

In addition, Outhwaite advocated that the method of selecting and paying the valuers and umpires should be changed. Instead of allowing the owner and the tenant to make the appointments, these officials should be in the patronage of the government, and their fees should depend upon the number of acres of ground that they had to appraise. Payment would be made by the party that was in the wrong.⁵⁰ By these methods, objective appraisals would more likely be made and considerable litigation avoided.

Discussion concerning items which witnesses thought should be included in a Tenants' Right bill frequently led to evaluations of Pusey's measures. One objection to his bill was that it interfered with the "free agency" between the farmer and the owner. If such a measure were passed, they would not be able to ". . . alter the custom of the country by private agreement."⁵¹ Also, it was contended, great difficulty would be encountered in attempting to determine precisely what the payments for improvements should be. Such problems were particularly true in the

⁴⁹Ibid., p. 161, Q. 2845-50.

⁵⁰Ibid., p. 162, Q. 2860-65.

⁵¹Ibid., p. 398, Q. 7306-07.

case of food purchased for cattle. How much, for example, was paid for by the sale of cattle, and how much was charged as manure to the land? The witness, Robert Clutton, thought that establishment of such a system would result in greatly increased payments by the landlord and the vesting of too much power into the hands of the valuers.⁵² In other words, the opportunities for the tenant to defraud the landlord would be greatly enhanced. One of the most frequent objections to Pusey's pending bill was the clause allowing allowing the interested parties ". . . to nullify the whole Bill by private agreement."⁵³ This criticism, it should be noticed, was in direct opposition to the "free agency" idea and indicated the difficulty inherent in resolving disagreements between the contending parties.

Most of the witnesses agreed that there would be a substantial improvement in agricultural production if Tenants' Right laws were enacted. The estimates varied greatly from small percentages to a doubling of the productivity of English farms.⁵⁴ An increased yield was Mr. Pusey's and his co-sponsors' primary objective. They assumed that greater protection of the tenant's expenditures would prompt him to invest more heavily in his

⁵²Ibid., p. 434. Q. 7922-24.

⁵³Ibid., p. 248, Q. 4679.

⁵⁴Ibid., p. 17, Q. 231; p. 44, Q. 855; p. 56, Q. 1034; p. 323, Q. 5931.

farming operation; he would either invest his own capital or would be able to borrow because of the security offered by the bill. Since the late 1840s and early 1850s was a period characterized by agricultural depression, there was a shortage of landowner capital. Therefore, the attraction of additional sources of investment to agriculture was vital to the industry,⁵⁵ and tenant capital seemed to offer the only solution.

From time to time, a number of subsidiary issues demanded the attention of the Committee. One such matter involved the effect which Tenants' Right legislation would have upon the political power of the landed interest. William Bennett said that the owners would not voluntarily enter into agreements granting compensation for unexhausted improvements because it would lessen their control over the tenants. The landlord was currently

. . . at liberty at any time to dismiss his tenant; and if there should be any misunderstanding, or if he should not go the right way at an election, or talk too freely of the injury of game, or in any other way offend the landlord, he can get rid of him, and there is no call upon him for compensation; the landlord can get rid of him with perfect impunity at the end of six months. I think that is rather an additional reason why landlords wish to be at full liberty to get rid of the tenants just as soon as they please; whereas I know that a clause of the description I am speaking of, or a general law that will more or less give compensation to tenants, would at once induce the landlord to weigh the matter, as to whether he would part with his tenant, if he farms his land pretty well; and when the tenant might have a stiff claim for

⁵⁵
3 Hansard, CCXV (1875), 497.

compensation, I do not think a landlord would part with his tenant quite so quickly under those circumstances.⁵⁶

Further testimony indicated that dismissal for political reasons was not uncommon. Edward Hughes, a farmer from Kent, said that he knew of several cases where such intimidation had occurred.⁵⁷ In the estimation of several of the witnesses, then, a side effect of Pusey's legislation, supposing that it were compulsory, would be to help purify elections. The question arose inadvertently, and the Committee appeared anxious to drop the matter. Apparently most members agreed with Pusey in approaching Tenants' Right reform from a position of paternalism. They believed, therefore, that the political structure of the country should remain unchanged.

Another concern of the Committee was the effect of Tenants' Right legislation upon small farmers. Edward Wilmot, a Derbyshire occupier, thought that such a measure would attract capitalists to the land, and that men of limited means would not be able to compete. Far from deploring this tendency, he saw the elimination of the small tenant as a positive good, both for them and for the country, for they would find other employment. "I cannot fancy a more unhappy person," he continued, "than a small farmer on a cold clay farm with half capital; he is worse

⁵⁶ Select Committee Report on Agricultural Customs, p. 107, Q. 1938.

⁵⁷ Ibid., p. 247, Q. 4641

off than a common day labourer."⁵⁸ His opinion was far from unanimous. Others thought that in some cases small farmers might be forced out, but generally they felt security of capital would allow the small tenants to borrow money for better farming, and this would stimulate them to greater efforts.⁵⁹

Agricultural laborers were also seen as beneficiaries of Tenants' Right legislation. John Houghton thought there was no doubt but that security to tenants would increase the opportunities for employment by laborers.⁶⁰ Thomas Owen, a Berkshire land agent, said the measure would aid the rural laborer because the farmer would be encouraged to improve his farm, and such improvements were usually made during the winter when demands for employment were greatest.⁶¹ William Hutley, an Essex farmer, testified that high farming resulted in a great increase of employment for labor, and that if it was sufficiently widespread then wages of the laborers would rise substantially.⁶²

Having assembled voluminous testimony, the Committee submitted its report to Parliament on July 3, 1848. They reported

⁵⁸Ibid., p. 66, Q. 1286-89.

⁵⁹Ibid., p. 110, Q. 1978.

⁶⁰Ibid., p. 232, Q. 4401.

⁶¹Ibid., p. 244, Q. 4600-01.

⁶²Ibid., p. 123, Q. 2192-94.

that ". . . different usages have long prevailed in different counties . . ." and that compensation was ordinarily extended for crops left by the out-going tenant, tillage, straw, hay, and manures.⁶³ But the Committee also found that in some parts of the kingdom a "modern usage has sprung up" which allowed compensation to the tenant for acts of husbandry other than those referred to above. These included such innovations as purchased food for livestock, draining, and chalking of the soil, all of which would require some lapse of time before the farmer was reimbursed for his expenses. However, except in those districts where such practices were sanctioned by custom, the tenant could not claim compensation unless by express agreement with the landlord. The Committee believed these practices had grown out of a "spirited" system of agriculture, and that they were still in a process of expanding themselves.

These usages had, the Committee asserted, been gradually accepted in certain districts, and had been recognized as the "customs of the country." They also determined that the compensation for unexhausted improvements agreed to by the landlord was in fact paid by the in-coming tenant. Payment was determined by valuers who ascertained the costs of the improvements, and who then spread the costs over several years. These

⁶³Ibid., p. iii.

appraisers then deducted the number of years that the tenant had utilized the improvements from the total years allowed, and thereby arrived at the sum due to the out-going tenant.

The Committee reported that the practices appeared to be "highly beneficial" to all concerned, and that they led to a great increase in the productivity of the soil. Such improvements also facilitated the employment of rural laborers. Thus, the Committee recommended that all legal difficulties which inhibited the extension of these agricultural practices be removed so land-owners and tenants could enter into voluntary agreements. The report further stated that any attempt to make the adoption of the practices compulsory would meet with great difficulties.⁶⁴

To allow voluntary agreements between tenants and landlords, the Committee recommended that settled estates ". . . should be endowed with every practicable privilege which is attached to absolute property. . . ."⁶⁵ In addition to the ordinary leasing powers, owners of limited estates should be empowered to bind the estate to guarantee security to the tenant for his use of modern agricultural methods. The Committee further advised that the laws concerning fixtures be revised, and that tenants be allowed to remove them if they had been responsible for their

⁶⁴Ibid., pp. iii-iv.

⁶⁵Ibid., p. iv.

construction and if the landlord refused to take them. In other words, the same rules in this matter should apply to both the agricultural and the trading tenant.⁶⁶

A few days after the Select Committee submitted its Report, Pusey withdrew his second Bill, apparently for the purpose of revising the measure in accordance with the findings of the recently concluded investigation. He subsequently introduced a new Bill, read for the first time on March 1, 1849,⁶⁷ which incorporated a shift in emphasis. The purpose of the Bill remained that of providing a method to grant compensation for unexhausted improvements, but it recognized that the central obstacle to such payments lay in the inability of the limited owner to conclude agreements binding upon his successor. Consequently, Pusey's latest measure provided in the first clause ". . . that persons having limited Estates should be enabled to enter into Agreements, binding on their Successors, entitling the Occupiers, at the Termination of the Tenancy, to Compensation for the Execution of certain Improvements. . . ."⁶⁸ This point, when expanded to allow the owner absolute disposal of his estate, was to be the primary objective of the "Free Trade in Land" movement.

⁶⁶ Ibid.

⁶⁷ 3 Hansard, CIII, (1849), 9.

⁶⁸ Sessional Papers, IV (1849), p. 17.

Several other changes were evident in the new measure. Some provided for limitations designed to protect the landlord. One such proposal would have limited the estimated period of compensation to twelve years instead of leaving the time open as the 1848 Bill had done. Also the measure specifically provided that the ". . . Amount due to the Landlord [was] to be deducted from the Amount due to the Tenant . . ." whereas the previous Act had been silent on that point.⁶⁹

Most of the innovations, however, tended to strengthen the position of the tenant. Enforcement of awards upon the application of either landlord or tenant would be effected by ". . . One of Her Majesty's Superior Courts at Westminster."⁷⁰ Also tenants would be allowed to either remove or sell to the landlord fixture or buildings erected by the occupiers for any purpose, provided always, that the tenant did not "injure" the land or buildings of his landlord.⁷¹ Perhaps the most notable omission in the 1849 Bill, however, was the dropping of the so-called "permissive" clause. The clause had provided, as mentioned above, that the Act would not ". . . prevent any agreement between any landlord and tenant exempting themselves from the operation of this

⁶⁹ Ibid., p. 18.

⁷⁰ Ibid., 1. 21.

⁷¹ Ibid.

Act."⁷² Pusey evidently responded to testimony before the Select Committee which had been very critical of that feature of his earlier legislation. Apparently he intended that his most recent effort be compulsory, consequently, applicable to the whole of England on an equal basis.

The Bill was read a second time on March 14, and Pusey made a plea for its passage. He pointed out that the desired investigation had been made and its findings had been placed before the House. He "begged" to introduce the measure for the third time during the current Parliament and said the Act was in "strict conformity" with the report of the Select Committee.⁷³

Opponents of the Act immediately attacked the measure on much the same basis as they had previously done. Colonel Sibthorp moved that the second reading be postponed until a date six months from that time. He said that the only effect of the Bill would be to disturb the good relations then existing between the landlord and the tenant. The Bill resembled, he thought, ". . . Parr's life pills and Holloway's ointment . . ." because it sought to ". . . cure all diseases by one unvarying specific."⁷⁴ The next legislation he expected was a bill that would "meddle" with the relations between a master and his butler

⁷²Supra, p. 74.

⁷³3 Hansard, CIII (1849), 688.

⁷⁴Ibid., 688.

or cook which would lay down where a butler could go and what a cook could do.⁷⁵ Other criticisms reflected resentment against compulsory legislation. Harry Verney of Bedford thought the Bill offered undue interference and advocated that "friends of agriculture" promote leases instead of Tenants' Right.⁷⁶

Robert Palmer, Member from Berkshire, touched upon one of the most controversial features of the new Bill when in defense of the act he lauded it as being a distinct improvement over the Bill of last session. The current measure was better, he thought, because it allowed owners to make agreements with tenants which were binding upon their successors. He stressed that the feature was a positive good for both the tenant and the landlord, for it would make possible the improvement of the land.⁷⁷ Joseph Henly of Oxfordshire also thought the expanded control of one's property an improvement over the previous Bill. He emphasized that the clause would be as beneficial to the lease holder as to the tenant-at-will. But the measure would benefit the greater number as tenants-at-will, for most farmers did not desire leases; what they wanted was security for their capital.⁷⁸

⁷⁵ Ibid., 688-89.

⁷⁶ Ibid., 690.

⁷⁷ Ibid.

⁷⁸ Ibid., 692.

Some members feared that the clause established a dangerous principle. J. A. Roebuck thought that the consequences of allowing the tenant-for-life to bind his successor for twelve years would lead to unceasing litigation.⁷⁹ Newdegate criticized the clause also, for he thought that the holder of a property might be so imprudent as to give such agreements that the interest of his successor would be completely absorbed. He suggested that the Bill be altered to guard against these dangers.⁸⁰

Several other aspects of the Bill came under attack as well. Sir John Y. Buller of Devonshire proposed that the granting of compensation for food purchased for cattle and sheep be eliminated. He contended that the provision worked an injustice upon the landlord, for the tenant might have more than one landlord, and great difficulty would be encountered in attempting to determine upon which holding the manure was applied.⁸¹ Sir George Strickland objected to the increased powers granted to the valuers in deciding what were cattle. "Why were pigs not mentioned in the bill?"⁸² Still other objections arose over the "unlimited power" given the tenants to remove fixtures. "That," it was

⁷⁹Ibid., CV, (1849), 573.

⁸⁰Ibid., CX, (1850), 1065.

⁸¹Ibid., CIII, (1849), 1450.

⁸²Ibid., 1452-3.

asserted, "would lead to serious mischief."⁸³

Soon after the Speaker left the Chair, but before the House had gone into committee of the whole on March 28, 1849, Henry A. Herbert, Member for Kerry, moved that the Bill be extended to Ireland. He emphasized that the measure was not "sufficient for Ireland's needs," but it was a "step in the right direction."⁸⁴ Pusey expressed reluctance to consent to the extension, but thought himself unjustified in opposing the amendment since such was so "generally" desired. He thought there was ". . . nothing in the Bill which could render it inapplicable to Ireland."⁸⁵ The amendment was carried and the word Ireland was substituted for Wales.⁸⁶ The movement for Tenants' Right in England and Ireland, thus, became closely associated, at least for the short run.

Finally, after lengthy debate, the Bill passed the House of Commons on May 24, 1849, and was sent to the House of Lords.⁸⁷ There, Lord Portman, the sponsor of the earlier bills, presented the measure. He outlined the objectives of Tenants' Right and summarized the objections to the Act that had been offered in the

⁸³Ibid., 691.

⁸⁴Ibid., 1071-72.

⁸⁵Ibid., 1446.

⁸⁶Ibid., 1446-47.

⁸⁷Ibid., CV, (1849), 967-8.

Commons, but urged that the measure be passed. His only recommendation to alter the proposed legislation consisted of amending it to protect the landlord against subletting of a holding.⁸⁸ But the Bill, as Colonel Sibthorp had predicted, ran into strong opposition in the Upper House. Lord Beaumont moved that the measure be read again in six months, and this suggestion carried by a vote of nine to five.⁸⁹ Tenants' Right was dead for that year.

Pusey persisted, however, and on February 28, 1850, introduced another Tenants' Right proposal.⁹⁰ Again the Bill ran the gauntlet of the Commons and on July 2, 1850, the House passed the measure.⁹¹ But the Lords were still adamantly opposed, and on July 6, 1850, Lord Beaumont once more proposed that the Bill be read in six months. The delay was approved,⁹² and so Pusey's last attempt to secure such legislation scarcely received a hearing in the House of Lords.

The advocates of Tenants' Right were not, however, totally frustrated during this period. On April 3, 1851, a measure

⁸⁸Ibid., 1089-90.

⁸⁹Ibid., 1092-93.

⁹⁰Ibid., CIX, (1850), 133.

⁹¹Ibid., CXII, (1850), 855.

⁹²Ibid., 1422.

entitled "A Bill to Improve the Law of Landlord and Tenant in relation to Emblements, to growing crops Seized in Execution, and to Agricultural Tenants Fixtures" was introduced into the House of Commons.⁹³ The Act is of concern to this study primarily because of the provisions in conjunction with agricultural tenant's fixtures. Clause four of the measure was almost identical to clause two in Pusey's proposed 1848 legislation.

As mentioned previously, the Select Committee on Agricultural Customs had been intensely interested in the laws applicable to trading and agricultural fixtures. Testimony by two expert witnesses, Stewart and Wren-Hoskyns, had pointed out the absurdities in the laws. Consequently, the Committee had recommended that the privileges of removal enjoyed by the trading tenant in respect to fixtures " . . . should be extended to those erected for agricultural objects."⁹⁴

The Landlord and Tenant Bill of 1851 adhered to the recommendations of the Select Committee on Agricultural Customs. The Bill provided that any tenant who erected farm buildings, engines or machinery at his own expense, provided they were not constructed in behalf of some obligation, was to have the same right of removal as the trading tenant. He was to enjoy the right

⁹³ 3 Hansard, CXV, (1851), 967.

⁹⁴ Select Committee Report on Agricultural Customs, p. iv.

to remove them even if they were affixed to the soil.⁹⁵

Care was taken, nevertheless, to safeguard the rights of the landlord. The tenant was instructed not to injure the buildings of the owner during the removal process. Also, the farmer was to notify the landlord in writing one month prior of his intention of removing agricultural fixtures. The owner could if he so chose, elect to purchase the improvements made by the tenant. If difficulty was encountered in arriving at a fair compensation, then the value of the fixtures was to be determined by referees or an umpire.⁹⁶

Debate on the issue was remarkably short in both the Commons and the House of Lords. After limited discussion, the measure passed the Commons on June 27, 1851,⁹⁷ and was sent to the House of Lords. Debate in the Lords was of even shorter duration, and on July 8, 1851, the Bill received the approval of that House.⁹⁸ On July 24, 1851, it received the Royal Assent and became law.⁹⁹ Though Tenants' Right advocates had received little of what they desired, the passage of the act was

⁹⁵Sessional Papers, IV (1851), p. 3.

⁹⁶Ibid., p. 4.

⁹⁷3 Hansard, CXVII, (1851), 1306.

⁹⁸Ibid., CXVIII, (1851), 324.

⁹⁹Ibid., 1382.

tantamount to a recognition of the justness of the principles for which they were fighting. With such a concession, could legal recognition of compensation for other unexhausted improvements be long delayed?

Proponents of Tenants' Right legislation had not succeeded in carrying their objective but still there appeared cause for optimism. Bills had been introduced for four successive years between 1847 and 1850. Two of these measures had passed the House of Commons, and as soon as the public could be properly educated to the need for such reform, the Lords would be compelled to submit also. Supporters of compensation for unexhausted improvements had also succeeded in getting a Select Committee to make an exhaustive investigation of the issue and its report had favored remedial legislation. In fact, a portion of its recommendations had been implemented concerning agricultural fixtures in 1851. When combined with the agricultural depression then raging in England, the need for capital to foster improvements in husbandry, and the anticipated competition from foreign grains, the Tenants' Right reformers would appear to have been justified in their expectations of imminent legislation on the subject. They were, however, to be disappointed for circumstances soon worked to deplete the interest in the subject. Mid-Victorian England simply appeared to ignore the furor that had raged around the matter.

CHAPTER IV

A PERIOD OF INACTIVITY

Philip Pusey's failure to secure Tenants' Right legislation marked the end of the initial effort in behalf of the farmers, and for almost two decades thereafter little interest was displayed in the subject. Several factors seemed to account for this lapse of activity. The nation appeared to desire a halt to reform so that it could absorb the changes of the previous sixteen years. Also the prevailing dogmas of mid-Victorian England did not encourage legislative outburst. Disruption of political parties caused by the fight for repeal of the Corn Laws made it difficult for either party to sponsor controversial legislation, and the great prosperity of the age helped establish a general sense of security thus lessening reformists tendencies. In addition, the attention of potential supporters of Tenants' Right was focused on other matters, particularly foreign affairs. When combined, these elements offered an almost insuperable obstacle to reformers during the period from 1851 to 1867.

The dogmas of mid-Victorian England have caused that country to be described as being one of "high rectitude and public

spiritedness."¹ There were, however, glaring exceptions to that general picture. As W. L. Burn maintained, "The England of Fielding and Smollett was a long time in dying and the mid-Victorian scene was too complex, too heterogeneous in its structure, for description by any one simplifying adjective."² There were, nevertheless, certain attitudes which are associated with the era, and though the people of that time failed to measure up to the standards they set for themselves, there was general agreement that these goals were admirable.

One "virtue" frequently extolled during the period was the value of individualism. The mid-Victorian had ample evidence of the power of a specific person, for many of the reforms of the preceding era had been the product of personal effort.³ Witness the work of Wilberforce in the abolition of the slave trade or the success of Cobden and Bright in the Repeal Movement. Individualism, i. e., English individualism, was thought to be a positive good: "It is . . . characteristic of Englishmen--this desire of the individual rather to raise himself to the height of others more favoured by fortune or culture than to drag them down to his

¹G. M. Young, Victorian England: Portrait of an Age (New York, 1964), p. 5.

²W. L. Burn, "The Age of Equipoise: England, 1848-1868," Nineteenth Century and After, CXLVI (July-Dec., 1949), p. 208.

³R. K. Webb, Modern England: From the Eighteenth Century to the Present, (New York, 1968), p. 287.

level. . . ."⁴ Generally, the Englishmen of that period believed a person should be allowed to do as he wished. Thus when forty skaters drowned in Regent's Park after the ice broke, an attendant testified at the inquest that ". . . people went on the ice just as they liked."⁵ Without equivocation, Herbert Spencer, the prophet of that age, defined man's prerogatives:

Man cannot exercise his faculties without certain scope. He must have liberty to go and to come, to see, to feel, to speak, to work; to get food, to get raiment, shelter, and to provide for each and all the needs of his nature. He must be free to do everything which is directly or indirectly requisite for the due satisfaction of every mental and bodily want. Without this he cannot fulfill his duty or God's will. But if he cannot fulfill God's will without it, then God commands him to take it. He has divine authority, therefore, for claiming this freedom of action. God intended him to have it; that is, he has a right to it.⁶

Men, therefore, should be free to act in the social, religious, economic, and all other spheres of life as they desired; in fact, they had divine sanction for the exercise of such liberties. The only limitation imposed by Spencer was that ". . . the freedom of each be bounded by the similar freedom of all."⁷

⁴Edward Bulwer-Lytton, "England and Her Institutions," Quarterly Review, CXX (October, 1866), p. 559.

⁵Burn, p. 209.

⁶Herbert Spencer, Social Statics: The Conditions Essential to Human Happiness Specified, and the First of them Developed, (New York, 1954), pp. 68-9.

⁷Ibid., p. 69.

Among the areas of freedom valued by the mid-Victorians, few were given greater importance than the right to contract without outside interference. In business matters ". . . each is free to offer; each is free to accept; each is free to refuse. . . ."8 Thus if two parties reached an agreement then neither had had his rights transgressed, and the transaction was valid. Any interference between the two contractors, Spencer believed, represented a breach of equity.⁹ Consequently, much of the legislation of the period was "permissive," i. e., individuals could by mutual agreement set aside the provisions of particular pieces of legislation.

Each man, the mid-Victorians believed, by exercising his liberties, charted his course to success or failure. They admired achievement, which in turn depended upon the possession of the requisite traits of character. Among these characteristics was hard work, and their literature reflected it. Thus Anthony Trollope¹⁰ depicted Arthur Fletcher as:

⁸ Ibid., p. 131.

⁹ Ibid., p. 132.

¹⁰ Asa Briggs' Victorian People: A Reassessment of Persons and Themes, 1851-67, (New York, 1963), p. 87, the importance of authors Anthony Trollope and Walter Bagehot was emphasized as, "The two writers who most surely described the essentials of life in the late fifties and sixties. . . . Indeed, two of the labels which have most frequently been attached by tidy minded historians to the middle years of the century have been 'the age of Bagehot' and 'the age of Trollope.' The brilliant diagnosis of Bagehot's English Constitution and the steady observation displayed in the forty-seven novels of Trollope point to a

. . . the very pearl of the Fletcher tribe. Though a younger brother, he had a very pleasant little fortune of his own. Though born to comfortable circumstances, he had worked so hard in his young days as to already made for himself a name at the bar.¹¹

In sharp contrast to young Fletcher was his rival, Ferdinand Lopez. Lopez was selfish, void of principle, unmanly, and thought that others were wrong in condemning him for these shortcomings, the nature of which he did not even understand. His lack of success, Lopez thought, was not his fault; consequently, he projected the responsibility for his failures upon others.¹² He was greedy, as was his partner Sextus Parker. Instead of prospering by dint of hard work, they sought easy wealth through sharp practices. The end product was their mutual ruin.¹³ Such was the theme constantly stressed by Trollope.

Mid-Victorians also possessed a spirit of buoyant optimism. By enhancing his own position, the individual propelled the whole society forward, and Englishmen believed the well-being of the nation was constantly progressing in this mechanistic fashion.

common set of interpretations and conclusions. Both writers described the same superficially secure and comfortable England; for both of them young England had passed into the world of dream and Chartism into the world of nightmare."

¹¹Anthony Trollope, The Prime Minister, (London, 1952), I, p. 134.

¹²Ibid., II, pp. 187-89.

¹³Ibid., II, pp. 142-47.

The Victorians were disciples of progress, for they had witnessed great changes in a rather short period of time. There had occurred impressive improvements in agricultural techniques and, consequently, in farm production. Railroads now expedited the marketing of their goods, and articles were available in the villages that previously could only be obtained in London. Though the smokestacks belched forth their impurities, few people of that time doubted that the resultant items produced represented progress. Lord Macaulay expressed faith in the progress of the age while reviewing the mortality statistics of some of the urban areas. He contended that the annual mortality rate in Manchester had been one in twenty-eight about the middle of the eighteenth century, but had fallen to only one in forty-five in 1830. Similar figures were cited for both Leeds and Glasgow. Not only had the death rate declined in these three great industrial centers but in England and Wales as a whole. Macaulay thought such improvement attributable to a variety of things: people were better fed, lodged, clothed, and attended when they were ill. These advances resulted from an increased national wealth which had accompanied the industrial revolution.¹⁴

Progress, however, was not all in the past, for the future appeared to offer even brighter prospects. Macaulay boldly

¹⁴ Lord Macaulay, Critical Historical and Miscellaneous Essays, II, (New York, 1860), pp. 147-48.

proclaimed that theme and assigned the primary responsibility for such advances to the individual. He asserted:

History is full of the signs of this natural progress of society. We see in almost every part of the annals of mankind how the industry of individuals, struggling up against wars, taxes, famines, conflagrations, mischievous prohibitions, and more mischievous protections, creates faster than government can squander, and repairs whatever invaders can destroy. We see the wealth of nations increasing, and all the arts of life approaching nearer and nearer to perfection, in spite of the grossest corruption and the wildest profusion on the part of rulers.¹⁵

Progress was a certainty; it was a product of the nature of things. Macaulay stressed, however, that the individual was primarily responsible for these advances.

Also contained in the previous quotation was another characteristic attitude of the mid-Victorians, a distrust of centralized government. Samuel Smiles¹⁶ reflected this attitude when quoting the maxim, "Heaven helps those who help themselves." He proclaimed that self-help was ". . . the root of all genuine growth in the individual . . ."¹⁷ and in this lay the true source

¹⁵Ibid.

¹⁶Briggs, Victorian People, p. 116. Briggs maintains ". . . every society has its propagandists who try to persuade their fellow-citizens to develop a special kind of social character which will best serve the needs of the day. In mid-Victorian England one of the most important propagandists was Samuel Smiles. . . ."

¹⁷Samuel Smiles, Self-Help, (New York, n.d.), p. 21. Self-Help was first published in 1859.

of national strength. Governmental activity, conversely, tended to deplete national vigor.

Whatever is done for men or classes, to a certain extent takes away the stimulus and necessity of doing for themselves; and where men are subjected to over-guidance and over-government, the inevitable tendency is to render them comparatively helpless.

Even the best institutions can give a man no active help. Perhaps the most they can do is, to leave him free to develop himself and improve his individual condition. But in all times men have been prone to believe that their happiness and well-being were to be secured by means of institutions rather than by their own conduct. Hence the value of legislation as an agent in human advancement has usually been much over-estimated.¹⁸

Smiles, as did other prominent writers of the time, thought that the central government should limit its activities.¹⁹

¹⁸ Ibid., pp. 21-22.

¹⁹ Disraeli expressed the same fear of centralized government in a defense of the territorial constitution. He asserted that the burdens imposed on land were ". . . not to gratify the pride or pamper the luxury of the proprietors of land but because in a territorial constitution you and those whom you have succeeded have found the only security for self-government, the only barrier against that centralizing system which has taken root in other countries. I have always maintained these opinions. My constituents are not landlords; they are not aristocrats; they are not great capitalists; they are the children of industry and toil, and they believe first that their material interests are involved in a system which favours native industry, by ensuring at the same time real competition, but they also believe that their political and social interests are involved in a system by which their rights and liberties have been guaranteed: and I agree with them--I have the same old-fashioned notions." Quoted in Robert Blake, Disraeli, (New York, 1967), p. 281.

. . . it is every day becoming more clearly understood, that the function of Government is negative and restrictive, rather than positive and active; being resolvable principally into protection--protection of life, liberty, and property. Laws, wisely administered, will secure men in the enjoyment of the fruits of their labor, whether of mind or body, at a comparatively small personal sacrifice; but no laws, however stringent, can make the idle industrious, the thriftless provident, or the drunken sober. Such reforms can only be effected by means of individual action, economy, and self-denial; by better habits, rather than by greater rights.²⁰

Thus Smiles thought that most reform legislation was futile. He was not alone in these thoughts; Walter Bagehot even denied that the first duty of Parliament was to legislate. The obligation to pass laws was but third in its responsibilities, while the proper management of the state and the educational opportunities that the debates of the Houses of Commons and Lords afforded the nation came first.²¹

Many of the dogmas of mid-Victorian England found their political expression in the person of Lord Palmerston. He was, for both Trollope and Bagehot, the central political figure of the period; they considered their era to be "the age of Palmerston." Though he did not display in his personal life many of the virtues admired by the people of that era, he nevertheless reflected the mood of the nation.²² The first Lord Goschen described

²⁰Smiles, p. 22.

²¹Briggs, Victorian People, p. 89.

²²Ibid., p. 88.

Palmerston's attitude toward domestic reform in an account of an interview with the Prime Minister in February, 1864. Goschen inquired of him, "What is to be said about domestic affairs and legislation?" To this Palmerston replied, "Oh, there is really nothing to be done. We cannot go on adding to the Statute Book ad infinitum. Perhaps we may have a little law reform, or bankruptcy reform; but we cannot go on legislating for ever."²³ The feeling that there was nothing left to be done was indicative of complacent satisfaction with the general situation in England during the entire period. In June, 1850, Palmerston had applauded the virtues of a nation which made it possible for its citizens to advance themselves through individual effort.²⁴ In such a country was there really need for general reform?

During the period from 1851 to 1867, there was little legislation of far-reaching importance passed. As mentioned above, the political parties were too disrupted to sponsor controversial measures. The repeal of the Corn Laws had left them badly divided. Sir Robert Peel had completely disrupted the Conservative Party; many of its members considered him a traitor and therefore refused to follow his lead. The Derby-Disraeli element of the Conservatives, however, did not possess

²³Quoted in Herbert C. F. Bell's Lord Palmerston, II, (London, 1936), p. 370.

²⁴Burn, p. 211.

sufficient strength to rule without appealing to one or more of the other major political groups. Between 1846 and 1867, they were always a minority party by forty to eighty seats.²⁵ Consequently, during this era, the Conservatives could form only three minority governments--1852, 1858, and 1866--which were all of relatively short duration.²⁶

Other major factions in Parliament consisted of the Whigs, Peelites, Irish, and Radicals. Together they constituted a majority and could rule the country. Such an alliance was tenuous, however, and could quickly dissolve over unexpected issues. The Peelites were primarily interested in maintaining free trade. They considered themselves a center group between the demands of the Conservative protectionists on the one side and the adamant position of the Radicals on the other. Some Peelites even thought they should maintain themselves permanently as an independent party in the hope of eventually becoming a majority.²⁷ After 1852, when the Conservatives accepted free trade, there were no major matters of principle which divided the Peelites from their former party brethren. Consequently, many of the rank and file

²⁵Elie Halevy, A History of the English People in the Nineteenth Century, IV, Victorian Years, 1841-1895, (New York, 1961), p. 422.

²⁶Briggs, The Age of Improvement, p. 419.

²⁷Halevy, p. 312-13.

followers of Peel returned to the Tory fold. Most of the leaders, however, refused to do so; probably their hatred of Disraeli, the man who had so abused their leader, prevented Peelites like Gladstone and Sidney Herbert from rejoining the party.²⁸

The Irish and the Radicals also made poor political allies, for while ". . . they could usually be relied on to help turn the Conservatives out, they could not always be trusted to keep the Whigs in."²⁹ The Radicals included men of diverse interests. Some like Bright and Cobden were pacifists; others like J. A. Roebuck were staunchly jingoistic. In addition, the Whigs had divisions within their own party. Palmerston and Russell wasted much of their energies in trying to have their respective "tit-for-tats," i. e., each tried to topple the Ministries of the other.³⁰

The extent to which the parties had been disrupted in 1846 was not immediately apparent. From 1846 until the Tories renounced protection in 1852, the Peelites were willing to support the Whigs in order to keep the protectionists out. After that date, the difficulty of maintaining a ministry from one general election to another became evident. Control of individual members depended upon the control of patronage. After 1832, the

²⁸Blake, pp. 274-75.

²⁹Ibid., p. 275.

³⁰Ibid., pp. 275-76.

control of the Crown over administrative offices had been eliminated, but the party apparatus was not sufficiently developed to replace royal influence. Only in periods when issues tended to unite or when an individual was dominant, as was Peel from 1841 to 1846, could party unity be maintained. The Reform and Carlton Clubs had been formed by the Whigs and Tories respectively but were relatively ineffective during the period. They were unable to discipline members successfully because elections did not generally depend on national issues. Most questions raised were strictly local in nature. It was not until after 1867, when the electorate was greatly expanded, that the party caucuses became effective and could extract a greater degree of loyalty from their members. Only then did party politics return to the regularity that had prevailed prior to 1832.³¹

Many potential supporters of Tenants' Right legislation were distracted by other issues. The "age of Palmerston" was a period in which considerable attention was focused on foreign affairs. Major international and imperial crises occurred with sufficient regularity to keep many Radicals busy with those incidents. Both Cobden and Bright were consumed for a time by their opposition to the Crimean War, and J. A. Roebuck, another prominent Radical, was just as occupied by his support for the

³¹Ibid., pp. 270-73.

venture. Hardly had that crisis subsided when the Indian Mutiny demanded attention in 1857. Again, just as politicians were able to return to domestic affairs, the Civil War in the United States diverted their efforts once more. These three major events, to say nothing of crises on the Continent, demanded much of the time that reformers would perhaps have devoted to internal problems.³²

The relative prosperity or adversity of agriculture also affected the status of agrarian legislation. A principle motive behind Philip Pusey's introduction of Tenants' Right bills had been to allow British husbandmen to meet the challenge from foreign competition. The period from 1846 to 1853 was characterized by agricultural depression, and the foes of free trade immediately raised the specter of ruin for the English farmer. Only the restoration of tariffs on farm products, they asserted, would avert the impending disaster for rural England.

³² Bright recognized the disastrous effect of such crises upon the Radical program. On August 9, 1855, he wrote, "War is the grave of all good, whether in administration or legislation, and it throws power into the hands of the most worthless class of statesmen. . . ." George M. Trevelyan, The Life of John Bright, (Boston, 1914), p. 249. Greville also comments upon the effect of foreign affairs upon domestic policies. On July 15, 1857, he asserted, "For the last three weeks or more all public interest and curiosity have been absorbed in the affairs of India and the great Mutiny that has broken out there. . . ." Again on August 2, he noted, "The Civil War in India, for such it may be called, supersedes every other object of interest, and the successive mails are looked for with the utmost impatience. . . ." Charles Cavendish F. Greville, Leaves From the Greville Diary, (New York, n. d.), pp. 790-91.

Free traders thought this argument merely a ploy of the landed interest--they ". . . have cried 'Wolf' much too often to be entitled to attention now," declared one contemptuous critic.³³ These exponents of laissez faire argued that the Corn Laws had never been a preventive to agricultural distress, so the lack of protection was not the cause of depression at that time.³⁴ Instead, they argued, the circumstances behind the decline of agricultural prices were "special and extraordinary."³⁵ Recent grain crops had been damaged because of unusually wet weather and consequently had suffered a decline in value.³⁶ Meat prices had fallen because of panic, for the numbers of animals imported were "really not worth reckoning."³⁷

On the whole, the fact is beyond disproof, that the imports of foreign provisions in all shapes, are not above three per cent of the consumption; a proportion so inconsiderable as fully to prove our position, --that as regards all that class of articles, the British agriculturists is not exposed to competition at all.³⁸

³³Alexander Russel, "Agricultural Complaints," Edinburgh Review, Vol. 91, (April, 1850), p. 562.

³⁴Ibid., p. 563.

³⁵Ibid., p. 564.

³⁶Ibid., p. 565.

³⁷Ibid., p. 567.

³⁸Ibid., p. 573.

Under these circumstances, free traders contended, the English farmer could expect prices to rise.

The predictions of the free traders proved correct for the period from 1851 to 1873. During this twenty-two-year span, English farmers enjoyed the greatest relative prosperity in their history. Figures compiled by J. R. Bellerby indicate that agriculture made substantial gains during the era.³⁹

Reward for management and risk:	
in 1851	£21.4 million
in 1870-73 on average	£43.9 million

Incentive income per man-week per farmer: ⁱ	
in 1851	£0.514
in 1870-73	£1.038

Incentive income relative to that for industrial occupations:	
in 1851	49.5 percent
in 1870-73	77.3 percent

These statistics provide proof of a substantial improvement in the over-all position of agriculture between 1851 and 1873. They do not, however, tell the story of how individual sections of the agricultural industry fared.

E. L. Jones emphasized that the basis of English agricultural prosperity changed during this era. It was his contention that the production of grain became less remunerative. An enterprise that had once been considered an adjunct to grain production,

³⁹Quoted by E. L. Jones, "The Changing Basis of English Agricultural Prosperity, 1853-73," Agricultural History Review, Vol. X (1962), p. 103.

the feeding of livestock, was ceasing to serve the wheat fields, and their respective roles were being reversed. Between 1853 and 1873, the feeding of cattle became the most profitable aspect of farming, and the raising of grain, particularly wheat, declined in overall importance.⁴⁰ James Caird recognized the shift that had taken place. In 1868, he wrote:

Since 1850 the price of bread on the average, has remained the same while that of meat, dairy produce, and wool has risen fifty per cent. . . . This and the steadily advancing barley, to which I then referred, is the true explanation of increasing rents and agricultural prosperity, notwithstanding increasing receipts of foreign corn.⁴¹

The validity of Caird's statement becomes apparent when statistics concerning the price of wheat for the thirty-year period from 1846 to 1875 are investigated. Prices of wheat fluctuated widely in particular years, but for the period as a whole remained relatively stable. Wet years in England, periods of war, and poor crops in foreign countries are reflected in substantial price changes, but these did not represent permanent improvement. On the whole, the price of wheat changed little. When prices are averaged on a five-year basis over the thirty years from 1846 to 1875, the results show that wheat prices failed to improve: The average for 1846-50 was 51s. 11d.; 1851-55, 55s. 8d.; 1856-60, 53s. 4d.;

⁴⁰Ibid., pp. 108-09.

⁴¹Ibid., p. 109.

1861-65, 47s. 6d.; 1866-70, 54s. 8d.; and 1871-75, 54s. 8d. The average for the first five years under consideration, 1851-55, was 55s. 8 d., and the average price for the last five years, 1866-70, was 54s. 8d. There had been virtually no changes on the average in the amount the farmer received for his wheat crop during the entire sixteen-year period.⁴²

TABLE I
AVERAGE WHEAT PRICES, 1846-1875
(PER QUARTER)

YEAR	s.	d.	YEAR	s.	d.	YEAR	s.	d.
1846	54	9	1856	69	2	1866	49	11
1847	69	5	1857	56	4	1867	64	5
1848	50	6	1858	44	2	1868	63	9
1849	44	6	1859	43	9	1869	48	2
1850	40	3	1860	53	3	1870	46	11
1851	38	6	1861	55	4	1871	56	8
1852	40	9	1862	55	5	1872	57	0
1853	53	3	1863	44	9	1873	58	8
1854	72	5	1864	40	2	1874	55	9
1855	74	8	1865	41	10	1875	45	2

B. R. Mitchell and Phyllis Deane, Abstract of British Historical Statistics, (Cambridge, 1962), pp. 488-89.

Wheat prices failed to rise despite a growing population and an increased consumption of the product by English workers.

⁴²In fact, there was a 2.2 per cent decrease.

Though population in the United Kingdom increased by roughly 100 percent from 1801 to 1867,⁴³ the total agricultural population changed little during this period. In 1851, there was a total of 1,377,111 persons engaged in agriculture in England and Wales. This figure had only increased to 1,341,578 by 1861, but by 1871 had declined to 1,305,025.⁴⁴ Thus the proportion of urban to rural dwellers was increasing rather rapidly. By 1851, 50.8 percent of the population was urban;⁴⁵ by 1861, the ratio was 5 to 4; by 1881, the urban population was double that of the rural areas.⁴⁶ There was also an increased per capita consumption of wheat during this era; it rose from about five and one-half to five and three-quarters bushels. The country, consequently, required an additional 23,000,000 quarters to satisfy the market,⁴⁷ for more than two-thirds of the population was being maintained by wheat in 1869.⁴⁸

⁴³H. Evershed, "Variations in the Price and Supply of Wheat," Journal of the Royal Agricultural Society of England, Vol. XXX (2d Series, 1869), p. 190. The population increased from 15,795,287 in 1801 to 26,833,496 in 1841 to 30,270,000 by 1867.

⁴⁴Ernle, p. 507.

⁴⁵Shepard B. Clough and Charles W. Cole, Economic History of Europe, (Boston, 1952), p. 670.

⁴⁶S. G. Checkland, The Rise of English Industrial Society in England, 1815-1885, (New York, 1964), p. 33.

⁴⁷Evershed, p. 194.

⁴⁸Ibid., p. 189.

But the increased consumption and demand was not reflected in British wheat prices. Failure to do so was best explained because the importations of wheat increased more rapidly than did population. From 1860 to 1867, wheat imports averaged 8,000,000 quarters per year. These figures represented an increase of almost 100 percent over the seven years following repeal. During those years (1847-53), imports averaged almost four and a quarter million quarters per year.⁴⁹ Evershed's figures were too high for the 1860-67 period but they do reveal an awareness of the impact of foreign wheat on the British market.

The following table dramatically illustrates the growing problem of foreign competition. As the figures in Table II demonstrate, importations of wheat increased six times in the twenty-one-year period from 1846 to 1867, and eightfold by 1875. Such an influx of foreign grains could not help but effect the British grain market.⁵⁰

⁴⁹Ibid.

⁵⁰Some Englishmen of that period did not agree with Evershed's position as to the effect that foreign grain was having upon their markets. In an article, H. S. Thompson, "Agricultural Progress and the Royal Agricultural Society," Journal of the Royal Agricultural Society of England, XXV (1864), p. 24, stated, "Large as these quantities [of wheat] undoubtedly are, we are satisfied that they do not warrant the opinion generally entertained that, since the adoption of free trade, the importation of foreign wheat and flour has been increasing faster than the consumption--or in other words, that the production of wheat in this country is declining, and that its place is being supplied by importation."

TABLE II
 IMPORTATION OF WHEAT INTO BRITAIN, 1846-1875^a
 (QUARTERS)

YEAR	QUARTERS ^b	YEAR	QUARTERS ^b	YEAR	QUARTERS ^b
1846	1,241,600	1856	3,529,800	1866	4,632,200
1847	2,302,200	1857	2,979,600	1867	6,929,200
1848	2,260,800	1858	3,676,200	1868	6,528,000
1849	3,332,600	1859	3,467,400	1869	7,528,000
1850	3,240,200	1860	5,096,800	1870	6,180,000
1851	3,303,800	1861	5,991,200	1871	6,078,000
1852	2,652,200	1862	8,206,800	1872	8,425,600
1853	4,260,000	1863	4,872,800	1873	8,772,600
1854	2,973,800	1864	4,639,400	1874	8,305,600
1855	2,312,000	1865	4,192,600	1875	10,375,400

^aB. R. Mitchell and Phyllis Dean, Abstract of British Historical Statistics, p. 98.

^bMitchell and Deane's table was given in thousands of hundred-weights. The author has computed these into quarters for purposes of consistency and clarity.

More dramatically, estimates of the numbers of people in the United Kingdom being fed by foreign and domestic supplies revealed the steady pressures on the British farmer. Despite the growth in population, the figures in Table III indicate an absolute loss in the domestic market of approximately one-fourth between 1841 and 1867. Even these figures are not fully explanatory, for a good deal of the imported maize was being used as food in Ireland and not as feed for cattle as might have been supposed.⁵¹

⁵¹Evershed, p. 191.

Such dependence on foreign supplies was bound to have predictable political repercussions. As one commentator put it:

Those questions, of vast social and political importance, connected with the food supply of this country will probably become subjects of pressing urgency and of practical discussion. The rapid increase of population here and on the Continent, and the competition of other nations, will force the country to the practice of a more self-supporting system of agriculture.⁵²

TABLE III
POPULATION MAINTAINED BY FOREIGN^a
AND DOMESTIC SUPPLIES

YEAR	AVERAGE NUMBER OF THE POPULATION MAINTAINED BY FOREIGN WHEAT, IN EACH YEAR AT 6 BUSHELS PER HEAD	AVERAGE NUMBER OF THE POPULATION MAINTAINED BY THE GROWTH OF THE UNITED KINGDOM DURING THE PERIOD
1841	1,200,000	24,280,000
1851	3,930,000	23,255,000
1861	6,706,000	21,600,000
1867	10,600,000	19,014,000

^aH. Evershed, "Variations in the Price and Supply of Wheat," p. 190. This table is a portion of a table listed by Evershed.

The way to stimulate greater production depended upon the attraction of increased capital onto the land. How could this

⁵²Ibid.

be done? The author, Evershed, offered no answer in his article, but one of the simplest solutions to the problem lay in Tenants' Right legislation, and the issue had the advantage of being the most moderate of several panaceas being bandied about at the moment.

While the wheat farmer was suffering from the competition of foreign grains, the producers of animal products were enjoying substantial increases in prices.⁵³ Such a shift had been predicted by James Caird who outlined a program in 1851 which he thought offered the greatest profit potential for British husbandmen.

During the next few years, British agriculture underwent a considerable adjustment in its internal balance. As mentioned above,⁵⁴ farming in England was "mixed." That is, the growing of grains depended upon the feeding of livestock and had led to a system sometimes referred to as "high feeding." The manures produced by feeding sizeable quantities of roots, hay, and oilcake were used to fertilize the wheat fields. Meat production per se resulted in a substantial loss to the farmer, sometimes as much

⁵³It is not possible to separate absolutely the grain producer from the livestock grower. A common practice in the grain areas was for the farmer to buy stores also, cattle suitable for "feeding-out," and complement his other activities with a meat production program.

⁵⁴Supra, p. 42.

as one-third. Nevertheless, he had been able to show an overall profit by charging a portion of his feeding costs off to his production of grain. As already indicated, the price of wheat did not improve during the period 1853 to 1873; since farmers' consumer prices were rising, the farmer was no longer able to absorb the loss from their livestock operations.

Fortunately, however, the farmer was not forced to take such a loss, for with the growing prosperity of the English worker, there came an increase in the prices the husbandman received for his animals. Caird estimated that while the price of bread did not increase during the period from 1853 to 1873, the prices for animal products rose by about 50 per cent.⁵⁵ The improvement in the price of beef is illustrated by Sauerbeck's meat prices for the London market.

Sauerbeck's figures show that prime beef prices moved from an index of 65 in 1851 to 85 by 1859 to 92 by 1867. This upward movement represents a gain for the cattleman of approximately one-third in a period of sixteen years. Important also is the fact that the progression is fairly steady. Under such stable conditions, the meat producer does not have to contend with a widely fluctuating market and thus is assured of a relatively good price for his products.

⁵⁵Supra, p. 135.

TABLE IV
 PRICE INDICES FOR BEEF^a
 (AVERAGE 1865-74=100)

YEAR	PRIME	MIDDLING	YEAR	PRIME	MIDDLING	YEAR	PRIME	MIDDLING
1851	65	62	1859	85	84	1867	92	92
1852	65	64	1860	88	86	1868	88	88
1853	80	80	1861	87	86	1869	97	94
1854	88	88	1862	81	80	1870	99	99
1855	88	90	1863	83	84	1871	106	109
1856	85	84	1864	88	90	1872	104	107
1857	85	84	1865	94	94	1873	115	115
1858	83	84	1866	94	97	1874	110	105
						1875	113	113

^aQuoted by Edith H. Whetham, "Livestock Prices in Britain, 1851-93," Essays in Agrarian History, ed. W. E. Minchinton, (New York, 1968) II, p. 203. These figures represent only a portion of Miss Whetham's table.

Mutton tended to show substantial price increases as well. In fact, there were indications that sheep were even more profitable than beef. The figures presented in Table V showed the relation of mutton and beef in the period from 1848 to 1863. Thus, while the average price of wheat remained relatively stable during the entire period, the price of mutton and beef increased by 30 to 50 per cent respectively in a period of only fifteen years.

The principal factor that kept prices of British wheat down was the competition from the virgin prairie lands of America. Before the American Civil War, expansion into that area had been limited, but after the conflict, settlement progressed rapidly.

Americans began to utilize an English invention, the railroad, to aid in the exploitation of that vast area. There were about 30,800 miles of track in the United States in 1860, and most of it was east of the Mississippi River. Between 1860 and 1880, however, the Americans built railroads at a feverish pace, and by 1880 track exceeded 64,000 miles. Most of this new construction was west of the Mississippi. The expanded rail system made feasible the settlement of the Great Plains and allowed the American grain producers to get their crops to market.⁵⁶

TABLE V
COMPARISON OF BEEF AND MUTTON PRICES^a

	AVERAGE OF 5 YEARS, ENDING 1855 (PER STONE OF 8 LBS.)		AVERAGE OF 5 YEARS, ENDING 1863 (PER STONE OF 8 LBS.)		INCREASE IN 10 YEARS		INCREASE PERCENT
	s.	d.	s.	d.	s.	d.	
Beef	4	2 1/2	5	0 1/2	0	10	20
Mutton	4	5	5	9	1	4	30

^aH. S. Thompson, "Agricultural Progress and the Royal Agricultural Society," p. 34.

⁵⁶R. C. K. Engor, "Some Political and Economic Interactions in Later Victorian England," The Making of English History, ed. by Robert L. Schuyler and Herman Ausubel, (New York, 1952), p. 537.

Other technical developments aided the production and marketing of trans-Atlantic grains. Manpower was scarce but the American farmer had the same labor-saving machines at his disposal, primarily the reaper, that had allowed the English husbandman to effect considerable savings in labor. Also improvement in the efficiency of marine engines between 1862 and 1873 allowed ships to carry greater cargoes with a resultant decrease in transportation charges. These factors allowed grain to be shipped from Chicago to Liverpool for £1 6s. per ton less than previously. Shipping costs dropped from £3 7s. per ton in 1873 to £2 1s. by 1880, a savings of more than one-third.⁵⁷ Competition had been damaging before, but it certainly increased with these developments.

During the same time, the interval between 1853 and 1873, there were no significant increases in the importation of meats. It was not until after 1876 that a process of refrigeration was perfected and American cattle became a competitive threat to British producers.⁵⁸

Although wheat prices did not increase materially between 1851 and 1867, many of the farmers' expenses rose rather sharply. Average retail price indices reveal some of the pressures to which the English farmer was subjected. The index

⁵⁷ Ibid.

⁵⁸ Ibid.

(1850 = 100) shows an increase from 1851, when the average was 97, to 126 in 1854, or a rise of 29 percent. By 1860 it had dropped to 111 but had risen to 121 by 1867.⁵⁹ Rent charges on agricultural lands increased substantially during the same period. Figures compiled on 12,000 acres indicate that rents increased from 20s. 3d. per acre in 1851-55, to 24s. 10d. in 1866-71. This represented an increase of about 25 percent.⁶⁰ Indices on 120,000 acres (1866-77 = 100) indicate a similar rise. In 1851 the rent index stood at 79; by 1860 it was at 92 and by 1867 had risen to 95.⁶¹ The wages that the farmer was forced to pay his laborers increased from 9s. 9 1/4d. in 1851 to 11s. 11 1/4d. in 1861 and to 13s. 1 1/4d. by 1871.⁶² This represented an increase of 22.2 percent between 1851 and 1861 and another 9.8 percent between 1861 and 1871.⁶³ The English farmer was caught in a situation where he was selling his wheat for not more at the end of this period than at the beginning, while his cost of producing the grain had risen by 20 percent

⁵⁹Mitchell and Deane, p. 343.

⁶⁰Robert J. Thompson, "An Inquiry into the Rent of Agricultural Land in England and Wales during the Nineteenth Century," Essays in Agrarian History, II, ed. W. E. Minchinton, p. 64.

⁶¹Ibid., p. 68.

⁶²A. Wilson Fox, "Agricultural Wages in England and Wales during the Last Fifty Years," Essays in Agrarian History, II, ed. W. E. Minchinton, p. 138.

⁶³Ibid., p. 137.

or better. In 1867 wheat prices were unusually good, 64s. 5d. per quarter, but these prices had dropped to 48s. 22d. by 1869. Operating under such handicaps, the British husbandman would not long remain satisfied. He would soon demand legislation deemed beneficial to the farmer.

Attention was also diverted from the Tenants' Right issue by the rise of a more comprehensive land program generally referred to as the free trade in land movement. Like Tenants' Right, free trade in land emerged from the struggle over repeal of Corn Laws. The Radicals needed a new issue upon which to attack aristocratic power, and the removal of restrictions upon the transfer of land was consistent with their doctrines of *laissez-faire*. Also the League's attempt to create forty shilling freehold voters encountered the problem of land transfer, and a modification of the land laws would greatly facilitate that movement.⁶⁴ In addition, the free trade in land question had a definite and compelling economic argument. It was argued by supporters that land should be an article of commerce; that if so considered, agriculture would become more efficient.⁶⁵ The improvements required by

⁶⁴F. M. L. Thompson, "The Economic and Social Background of the English Landed Interest, 1840-70. With Particular Reference to the Estates of the Dukes of Northumberland," (Unpublished Ph.D. dissertation, The Queen's College, Oxford, 1955), pp. 54-55.

⁶⁵*Ibid.*, pp. 3-4. Professor Thompson emphasized the necessity of recognizing the two main streams of thought prominent in the formulation of the land question, the conservative and

the agriculture of that time necessitated an adequate amount of capital, and the methods of settlement prevented the needed monies from flowing onto the land. As Professor F. M. L. Thompson stated, ". . . this issue of the borrowing powers of life tenants provided ammunition for a frontal attack on economic grounds on the whole system of limited ownership."⁶⁶

Two elements were, then, of basic importance to the free trade in land movement: The land laws and the restrictions they placed upon the transfer of land and the effect of the land settlements and their impact upon the solicitation of capital for agricultural improvements. A third matter, the relationship of tenant and landlord, was given some consideration and was closely related to the first two, but did not constitute a special interest of the movement. The free trade in land movement concentrated upon the ownership of land and the type of landlord produced by the prevailing land laws.⁶⁷

the radical. He states, "The men who took the conservative were not necessarily all Tories; they tended to be the professionals, those with a direct connection with the land and who desired to remedy various shortcomings in law or practice indicated by experience, with the aim of improving and thus preserving, not challenging or undermining, the basic structure. Those who took the radical view were those who saw all the problems of land ownership and tenure as inter-related effects of some few general clauses, and who desired to bring about fundamental changes in the existing order."

⁶⁶Ibid., p. 48.

⁶⁷Ibid., p. 49.

The doctrinaire supporters of Corn Law repeal had been engaged in an effort to remove all legislative and social restrictions that tended to prevent the individuals from freely pursuing his economic self-interest.⁶⁸ In order to further their cause, the reformers seized upon several aspects of the land laws. Great concern was expressed with the iniquities of primogeniture. The issue was not one of paramount importance, for very few estates were affected by this rule, but it made an effective political slogan. Through it the feudal nature of the landed interest could be dramatically pointed out to the English people.⁶⁹

The attack upon the political power of the landed interest was continued by the Radicals through the instrument of the National Freehold Land Movement. The objective of the association was the purchase of land which would then be distributed to members of the working class, thus qualifying them as freehold voters. The idea for such a movement originated as a result of the protectionists' defeat of Lord Morpeth in the West Riding in 1843. In two years, sufficient voters had been secured so that Lord Morpeth had been returned to Parliament without opposition. The idea was revived after the repeal of the Corn Laws, and several local organizations had been formed, the Liverpool

⁶⁸ Ibid., p. 54.

⁶⁹ Ibid., p. 50.

Financial Reform Association and the London Financial Reform Association were two of the most prominent of these local societies. The idea was expanded with the formation of the National Freehold Land Movement about 1850. By 1851 the organization could boast a membership of at least 4,500 and could control some 20,000 votes.⁷⁰ "All that was necessary was to neutralise the 108,000 tenants-at-will . . ." and Cobden predicted that this task could be accomplished within seven years.⁷¹ Once the tenant vote had been offset, the Radicals would be able to dominate absolutely the House of Commons.

The National Freehold Land Association appeared destined to enjoy success commensurate to that of the Anti-Corn Law League. John Bright succeeded in forming an alliance with the working classes for a systematic attack on the land laws.⁷² Ernest Jones, of Chartist fame, proclaimed the land question to be the chief issue before the country. The matter furnished a common ground upon which the middle class and the workers could join to attack the landed interest.⁷³ The free trade in land movement

⁷⁰ Ping-ti Ho, "Land and State in Great Britain, 1873-1910," (unpublished Ph.D. dissertation, Dept. of History Columbia University, Library of Columbia University, New York, 1951), pp. 16-17.

⁷¹ Thompson, "The Economic and Social Background of the English Landed Interest, 1840-1870," pp. 64-65.

⁷² Ping-ti Ho, p. 17.

⁷³ Ibid., p. 19.

also held a conference at Birmingham in November, 1849, and launched a newspaper, the Freeholder, to express the views of the reformers.⁷⁴

On January 1, 1950, the Freeholder announced the Association's purpose as that of altering the composition of the House of Commons. This body, the article asserted, was composed of the landed interest and their relatives whose sole purpose was to maintain the status quo. The only way in which the membership of the Commons could be changed, the Radicals thought, was to have free trade in land. Another editorial of March 1, 1852, stated the program somewhat more moderately. The objectives involved the abolition of primogeniture, entail, copyhold, and the establishment of a simple plan of registering land titles.⁷⁵ The goal of the Association, nevertheless, still was aimed at lessening the influence of the aristocracy in the lower house.

The Association sought to fulfill its objective of creating freehold voters by purchasing lands and establishing people upon them. Cobden had assumed that individuals would establish residences in key constituencies for political purposes. What was demanded by prospective purchasers, however, was quite different. They wanted lands close to their places of employment; the result

⁷⁴Thompson, "The Economic and Social Background of the English Landed Interest, 1840-70," p. 65.

⁷⁵Ibid., p. 67.

was, instead of challenging the aristocratic control in the counties, a substantial suburban development occurred.⁷⁶ It was also discovered that once people acquired property they had a tendency to join the Conservative ranks.⁷⁷

The National Freehold Land Association was a financial success. Once a large tract of land had been acquired, the title had to be cleared only once, and so there was a substantial saving in legal fees. The Association had adequate loan facilities for purchasers, and good profits were made from the re-sale of plots. Members began to join for the profits they could realize from their investments.⁷⁸ As the profit motive gained momentum, the reforming instincts declined, and in August, 1856, the Freeholder suspended publication for lack of support.⁷⁹ The movement failed politically for several reasons. A partial cause of failure was that some of the most flagrant obstacles had been removed by legislation which made possible the flow of capital into agriculture and allowed improvements to be made.⁸⁰ Another partial explanation can be found in the disruption of Radical forces caused by the

⁷⁶Ibid., pp. 68-69.

⁷⁷Ibid., p. 72.

⁷⁸Ibid., p. 70.

⁷⁹Ibid., p. 72.

⁸⁰Ibid., p. 59.

Crimean War.⁸¹ The primary reason for failure was probably found in the issue itself. As professor Thompson states, "To attempt to treat land as though it were a commodity like corn was to invite disappointment."⁸²

Reformers were not totally ineffective in getting new legislation passed during the period between 1851 and 1867. Sir James Caird, one of the most prominent agriculturalists of the time, had presented a program that he felt necessary for agriculture to prosper under free trade. He asserted:

A wise pursuit of individual interest will, we are persuaded, be most conducive to their [the farmers and landlords] own and the general welfare. It is by individual energy that this is to be developed. And while no exclusive protection is granted by the legislature, the agricultural interest has a right to demand that all trammels on their enterprise and industry should now be withdrawn.

The measures of a public character which, in addition to those within the power of individual landlords or farmers, we have indicated, are these:--

1. The cheapening and facilitating the transfer of land.
2. The sale of overburdened estates.
3. The encouragement of leases, with liberal covenants.
4. An alteration of the law of settlement.
5. The collection of agricultural statistics.⁸³

No comprehensive legislation was passed during the period, but most of these subjects were dealt with in piece-meal fashion.

⁸¹Ibid., p. 60.

⁸²Ibid., p. 61.

⁸³Caird, p. 526.

As mentioned previously, the only way a limited owner could abrogate a family settlement for purposes of granting long leases and selling or exchanging portions of the estate was by Private Act of Parliament. This procedure could be both time consuming and expensive. In 1855, a remedy to the situation was sought in the Leases and Sales of Settled Estates Bill. The measure allowed the tenant-for-life to grant agricultural leases for fourteen years. Under the terms of the act the limited owner could also contract for long-term building and mining leases, and these would be binding upon his heir. In addition, the Bill allowed him, with the approval of the Court of Chancery, to sell outlying parts of the estate. The measure had some difficulty in passing the Commons but was finally approved on July 29, 1856. But the Act was still cumbersome, and it was not until the passage of the Amending Act of 1864 that owners were allowed to grant leases without going through Chancery.⁸⁴

Several measures were also passed which allowed the limited owner to borrow for purposes of improving his estate. In 1846 a bill provided for government loans for the purpose of drainage. These loans were to be a first charge upon the property, taking precedent over all previous mortgages. The act was an instant success, and in 1850 the Ministry provided another

⁸⁴ Orwin and Whetham, pp. 64-65.

£2,000,000 for the same purpose. The Government also provided for the chartering of private corporations for the same purpose, and by 1878 the Treasury and the private companies had loaned about £12,000,000 to the farmers of the United Kingdom. Still many improvements could not easily be undertaken. Consequently, in 1864 an Improvement of Land Act was passed which provided that limited owners could charge the estate for certain permanent improvements. There was, however, the limiting factor that the landlord had to prove to the Inclosure Commissioners that the projected improvement would increase the value of the estate.⁸⁵

The period from 1851 to 1867 witnessed no comprehensive changes in the laws applicable to agriculture. There were limited changes, but these appeared to be all the country desired. With few exceptions, there was no intense agitation for reforms or, perhaps, the measures that were passed were sufficient to allay the development of intense demands for change. Instead, reformers of the period concentrated on other issues. They were occupied with foreign affairs, but, on the whole, the great prosperity of the country seemed to indicate that not much in the way of change was necessary.

The political torpor which appeared to prevail during the election of 1865, however, was misleading. Palmerston was old,

⁸⁵ Ibid., pp. 197-98.

and it was generally assumed that after he was removed from office reform would begin once more. Also many speculated that a decline in the country's prosperity would perhaps touch off a new torrent of change. The grain-growing sector of agriculture was not enjoying good times and was beginning to seek relief. At first, it sought a reduction of the malt and other taxes, but soon began to demand more basic changes. Tenant and landlord relationships were almost certain to undergo careful scrutiny under these circumstances.

CHAPTER V

PASSAGE OF THE AGRICULTURAL HOLDINGS ACT OF 1875

After 1867, conditions once more began to favor a resurgence of interest in Tenants' Right legislation. The English political environment changed: party politics revived, and significant legislation was once again introduced into Parliament with some prospect of success; the mass of new voters enfranchised by the Reform Bill of 1867 had to be pacified. The secret ballot was introduced in 1872, and many were trepidatious about its consequences. Agriculture also became a greater political factor, for with the formation of the Central Chamber of Agriculture, the farmers had an instrument that could command more attention than they had previously. Also, Parliament passed an Irish Land Act in 1870, and this action raised the question of whether the legislators could do any less for the English husbandman. In addition, the English wheat farmer continued to suffer the pressures originating from the failure of wheat prices to rise while production costs continued to climb. Combine these factors with Disraeli's attempts to strengthen the Conservative Party and his

concepts of Tory Democracy, and some type of Tenants' Right legislation appeared likely.

As previously described,¹ Palmerston had opposed any but minor domestic reforms. In regard to Tenants' Right, he was adamantly opposed and viewed the proposals as a virtual confiscation of property. The Prime Minister thought the functions of government ought to be limited to removing legal obstacles, guaranteeing "security to life and property" and leaving men of business "unshackled by law."² He also doubted that any change which violated the "natural rights of property" would be advantageous and vigorously condemned any attempt to regulate the landlord's relations with his tenants. "I say these doctrines are Communistic doctrines. . . ." ³ he fumed. Given Palmerston's attitude and enormous popularity, the espousal of the Tenants' Right cause would have been futile during the period of his political ascendancy.

On October 18, 1865, the Prime Minister died, and reformers quickly recognized that a great protagonist of the status quo had been removed. Gladstone expressed such feelings in a letter to Lord John Russell. He stated his willingness to serve in Russell's cabinet but warned ". . . any government now to be

¹ Supra., p. 127.

² 3 Hansard, CLXI (1863), 1372.

³ Ibid., 1375.

formed cannot be wholly a continuation, it must be in some degree a new commencement."⁴ Disraeli, likewise, recognized that a new era had begun. "The truce of parties is over. I foresee tempestuous times, and great vicissitudes in public life."⁵

Disraeli also predicted that "If Johnny [Lord John Russell] is the man, there will be a Reform Bill. . . ."⁶ His prediction proved correct, and on March 12, 1866, the Ministry introduced a reform bill. The measure encountered a storm of protest. A combination of Conservatives and Adullamites, the disgruntled Liberals led by Robert Lowe, proved too formidable for Russell and Gladstone, so in June, 1866, the Government resigned. It was succeeded by the Third Derby Government, with Disraeli acting as leader in the House of Commons.⁷

Lord Derby and Disraeli entered office without commitment to reform. They took no action during the remainder of the session,⁸ but Derby soon came to believe that the Conservatives would

⁴ John Morley, The Life of William Ewart Gladstone (New York, 1921), II, p. 151.

⁵ George Earl Buckle and W. F. Monypenny, The Life of Benjamin Disraeli (New York, 1920), IV, p. 424.

⁶ Ibid.

⁷ Briggs, The Age of Improvement, pp. 501-02.

⁸ Joseph H. Park, "The English Reform Bill of 1867" (unpublished Ph. D. dissertation, Columbia University, 1920), p. 189.

have to deal with voter reform.⁹ Disraeli quickly concurred, and on January 3, 1867, wrote to the Prime Minister saying that the reform question was paramount. Accordingly, the Ministry attempted to bring forth the matter in a series of thirteen resolutions. Finally, these were incorporated into a bill, the Ten-Minutes Bill. The measure proposed household suffrage but with personal payment of rates and a stringent resident requirement as checks.¹⁰ There was also a series of "fancy franchises" to offset the newly enfranchised borough voters.¹¹ These proposals were not well received in the Commons, and Disraeli decided to present another bill.¹²

On March 18, 1867, he presented this measure to the Commons.¹³ Gladstone arose during the debate on the second reading and delivered a telling assault on the proposal. He was supported in the attack by Bright who said the expansion of the suffrage to the artisans was offset by the "fancy franchises" which gave 200,000 votes to the higher classes.¹⁴ Disraeli responded

⁹ Monypenny and Buckle, IV, pp. 453-54.

¹⁰ Park, pp. 193-94.

¹¹ Ibid., p. 195. The fancy franchises would give an extra vote to those who held a university degree, members of learned professions, persons having £50 in savings banks.

¹² Ibid., p. 196.

¹³ Ibid., p. 200.

¹⁴ Ibid., pp. 202-03.

that the Government had anticipated that many changes would have to be made, and he asked the House to

Act with us cordially and candidly, assist us to carry out this measure. We will not shrink from deferring to your suggestions so long as they are consistent with the main object of this Bill which we have never concealed from you, and which is to preserve the representative character of the House of Commons. Act with us, I say, cordially and candidly, you will find on our side complete reciprocity of feeling. Pass the Bill, and then change the Ministry if you like.¹⁵

Disraeli's plea for cooperation represented a turning point in the effort to pass the Reform Bill of 1867. The Annual Register recognized the significance of his willingness to compromise and stated that from that time the probability of arriving at a solution of the question before the end of the session was greatly enhanced.¹⁶ The only doubt that remained was whether Disraeli could convince his supporters to accept the amendments that were sure to come. In the debates that followed, the Ministry yielded to one amendment after another. A twelve-months' residency requirement instead of two years was voted, and composition was abolished altogether.¹⁷ Finally, in one of the most important concessions, Disraeli agreed to accept the amendment that all

¹⁵ Monypenny and Buckle, IV, pp. 526-27.

¹⁶ "Parliamentary Reform," Annual Register (1867), p. 53.

¹⁷ Park, pp. 209-210. Compound householders were those who did not pay their rates directly but paid them to the landlord who in turn passed them on to the local government.

paying poor rates would be given the vote. Now all occupiers of tenements who were not disqualified by resident requirements or by receiving parochial relief would be registered to vote. It was estimated that over 300,000 new voters would be enfranchised by the amendment.¹⁸

Disraeli had accepted compromise without consulting his colleagues. Within the preceding two months, there had occurred a great shift in public opinion concerning the matter. Disraeli had been secretly informed that Gladstone had decided to accept the principle for political reasons. Public opinion and politics, then, had influenced Disraeli to accept such a change. Not only would the public be well disposed toward the Conservatives, but the Prime Minister was also confident that acceptance would insure that ". . . we might take a step which would destroy the present agitation and extinguish Gladstone and Co."¹⁹

Borough franchise was important to the Conservatives, but the matter of paramount concern was county suffrage. Here the increase was much smaller and the number of voters rose only from 540,000 to 790,000.²⁰ Few changes had been made in Disraeli's original proposals. The occupation franchise was set at

¹⁸Ibid., pp. 210-212.

¹⁹Monypenny and Buckle, IV, p. 540.

²⁰Seymour, p. 286.

£2 with a twelve-months' residency requirement, and the new voters were required to have been rated and have paid these rates. Copyhold and leasehold requirements were dropped to £5.²¹ Given the control of the landlord over tenants, it is doubtful that these changes greatly affected the course of politics in the counties.²²

Why had both Liberals and Conservatives supported reform in 1866 and 1867? The attitudes of the leaders of the two parties offer some answers to the question. Gladstone had concluded that the extension of the franchise was a moral question and had electrified the House of Commons during a May 11, 1864, speech in which he proclaimed:

I call upon the adversary to show cause and I venture to say that every man who is not presumably incapacitated by some consideration of personal unfitness or of political danger, is morally entitled to come within the pale of the constitution.²³

His motivation for such an assertion was clarified in a letter of April, 1865. He wrote to his brother-in-law, Lord Lyttelton, that he did not expect his "peer colleagues" to understand or appreciate

²¹Ibid., p. 272.

²²Ibid., p. 300. The author asserted, "The reduction of the county occupation franchise resulted in a more surprising development, for it assured the Conservatives even more complete control in the counties than they had previously secured. In many constituencies where Liberals had been wont to divide the representation, they were forced to cede absolutely to their opponents."

²³Morley, II, p. 126.

his support of franchise reform, and that it was with great reluctance that he adopted the principle. Such a change was, however, for their own good. It had been proven that the "hard hands" could not be ruled effectively by force or fraud. They could, however, be governed by good will.²⁴ Gladstone was not only convinced that reform was justified on moral grounds, but that it was necessary from a practical standpoint as well. Coercion was not enough; preservation of English society demanded that the workers be admitted to the suffrage.

Disraeli also supported an extension of the suffrage; but his conviction was not based on moral grounds. His opponents, both on the Liberal and Conservative sides, attributed his concern to the desire for political power. In a speech at Norwich on May 16, 1868, Gladstone indicted the Tory Party for supporting reform merely for political purposes: "I find, however, that the Tories when it suits their purpose have much less reverence for antiquity than I have. They make changes with great rapidity, provided they are suitable to the promotion of Tory interests."²⁵ The Edinburgh Review was even more scathing in its interpretation of the Tory approach to reform. It accused the party of adopting the principles of John Bright without recognizing the man. They were

²⁴Ibid., p. 133.

²⁵Ibid., p. 179.

bitter because of their long exclusion from power and were determined not to let the current opportunity slip. "Unlimited abandonment of principles and policy on Reform, deceit in any quantity, vacillation without end. . . ." were the characteristics of recent Tory strategy.²⁶

Such was the criticism of bitter enemies and ostensible friends. Both had reservations concerning the motive behind the Conservative support of the extension of the suffrage. But had the Whigs done any less? The issue of reform had been used by Liberals as well. Blackwoods' Magazine charged that they had used the question of Parliamentary Reform ". . . for the last six or eight years as a measure of keeping themselves in office, and for no other earthly purpose."²⁷

But Disraeli obviously had other motives as well. He outlined the consistency of his support for the working classes in a speech to the workers of Edinburgh in October, 1867:

Now, gentlemen, during those thirty years there has been a great mass of legislation which has been carried in Parliament affecting the interests of the working classes--measures in which they were deeply interested themselves, which they promoted by their presence, and which they showed by their conduct were dear in every sense to the innermost sentiments of their hearts and hearths. . . . I think

²⁶"The Session and its Sequel," Edinburgh Review, CXXVI (October, 1867), p. 543.

²⁷G. R. Gleig, "The Progress of the Question," Blackwood's Edinburgh Magazine, CII (July, 1867), p. 113.

there have been thirty-two acts passed relative to the condition of the people, and especially of the working classes in this country, in which they took the deepest interest--laws affecting their wages, their education, their hours of toil, their means of self-improvement--laws the object of which was to elevate their condition and soften the asperities which are the inevitable consequence of probably any state of society that may exist. Now, Gentlemen I can say this, it is some trial of the disposition and career of a public man, that of those thirty-two acts passed during those thirty years, I have invariably supported every one. . . .

As early as 1845 in Sybil or the Two Nations, Disraeli had stressed that the Tory Party ". . . has its origin in great principles and in noble instincts; it sympathized with the lowly. . . ." It might have ceased to exist in a parliamentary sense, but he predicted that the Party would rise from the tomb and ". . . announce that power has only one duty--to secure the social welfare of the PEOPLE."²⁹ Disraeli believed that there should be a natural alliance between the people and the aristocracy, and that the Tory Party should also be the party of the people. The sympathies of the aristocrats had been awakened by the plight of the masses, and they would move to remedy these conditions. "They are the natural leaders of the people; . . . they are the only ones."³⁰ Thus the passage of the Reform Bill of 1867 was

²⁸Park, pp. 238-39.

²⁹Benjamin Disraeli, Sybil or the Two Nations (London, 1925), p. 278.

³⁰Ibid., p. 282.

probably prompted by dual motives on Disraeli's part. It was an excellent opportunity to "extinguish Gladstone and Co.," but there was the paternalistic desire to serve the people at the same time. He believed that there was a large body of conservative workingmen and sought to associate them with his party.³¹

The best description of Disraeli's domestic policy, "Tory Democracy," was provided by Sir John Gorst, the party organizer during the period. He asserted that the main tenet was that all government existed solely for the benefit of the governed. All public institutions were maintained to promote the happiness and welfare of the common people, and the rulers were the trustees of the nation, the people as a whole, not of a particular class. Tory Democracy also meant that the masses were to be conceded electoral power, and it was to be used to support those who promoted the interest of the populace. "It is democratic because the welfare of the people is its supreme end; it is Tory because the institutions of the country are the means by which the end is to be attained."³² The people were to support the party which worked for their benefit, and Disraeli had no compunction about reminding the workingman as to this responsibility. Accordingly, at Edinburgh in October, 1867, he told them, "You are indebted . . . to

³¹ Monypenny and Buckle, IV, p. 564.

³² Ibid., V, p. 369.

the party with which I am connected. . . ." ³³

Reform was begun by the Liberals in 1866 and completed by the Conservatives in 1867, but many, both Radicals and others, considered it as a continuation of the attack upon the aristocratic control of the country. R. Bernal Osborne, M.P. for Waterford City, emphasized that the landed interest had great influence in the House of Commons. Accompanied by the cheers of John Bright, he asserted that 217 members of the Commons were directly connected with or were members of the aristocracy. He charged that it was hypocritical for them to talk of the dangers of trade union influence, for this bloated membership constituted the greatest union of all. ³⁴ Charges were also pressed that the Tory party was opposing reform on the basis that the proposed changes would destroy the Constitution. But were the Tories and the Constitution synonymous? The Tories, he asserted, were those raised up after 1846 by Disraeli and were not to be confused with the Conservatives. It was true that reform would work against that group but not to the loss of the nation. ³⁵ The primary result of disfranchising boroughs under 10,000 population would be to deprive a class of men, the Tories, of seats, and they would not

³³ Park, p. 242.

³⁴ ³ Hansard, CLXXXIII (1866), 1818-19.

³⁵ Ibid., 1834.

be returned by any other constituency.³⁶ John Bright added heat to the controversy when he charged that the Tory party and those who supported them objected to any transfer of power. They regarded the workingmen as the American southern planter regarded his former slaves. Outbursts such as these were instrumental in causing some members of the aristocracy to adamantly oppose any extension of the suffrage.³⁷

Many members of the landed interest recognized that the proposed reform threatened their class. While introducing his reform measure in 1859, Disraeli had warned, "It is, however, one to which it will be difficult to reconcile our friends. John Stuart Mill says that it will annihilate the rural interest."³⁸ This fear had lessened very little by 1867.³⁹ During the debates on Gladstone's bill in 1866, it was asserted that extension of the suffrage was a dangerous principle, for it would allow the nation to be governed by the most numerous and least educated class.⁴⁰ Also the aristocracy thought that the small boroughs would be left

³⁶Ibid., 1884.

³⁷Trevelyan, pp. 351-52.

³⁸Monypenny and Buckle, IV, pp. 198-99.

³⁹Park, p. 233. Lord Shaftesbury offered the opinion that ". . . with the exception of a few advanced Democrats, they all detest and fear the measure."

⁴⁰³ Hansard, CLXXXIII (1866), 1834.

unrepresented, and maintained that the re-distribution being advocated was designed to deprive Conservative members of their seats rather than to create an equitable balance. The measure was characterized as a dodge to strengthen the Liberal party.⁴¹

Reform of the suffrage was not the only act interpreted as being an attack upon the aristocracy. The Ballot Act of 1872,⁴² which provided for secret voting, was thought by many to be a direct challenge to aristocratic control in the counties.⁴³ Lord Shaftesbury asserted that by adopting the measure the country would inflict upon itself a "direct dishonour." The Bill was an open admission of cowardice and corruption. If the measure passed, he was prepared to witness an attack upon the House of Lords and the disestablishment of the Anglican Church.⁴⁴

Another measure which had a direct effect upon the agitation for a Tenants' Right bill was the Irish Land Act of 1870. The question of Irish and English Tenants' Right had been intimately

⁴¹Ibid., 1853.

⁴²35-36 Victoria, c.33.

⁴³Seymour, p. 433. Seymour contended that Liberals and Conservatives both supported the Act. The Conservatives thought they might reap some advantage because it would make intimidation of borough voters more difficult by their employers. Liberals thought the bill would help free the tenant-at-will from the influence of the landlords in the counties. Both were disappointed at its ultimate failure to do either.

⁴⁴"The Ballot Bill," Annual Register (1872), p. 66.

connected for a brief time during the 1840s. Pusey's 1849 measure had been amended to apply to Ireland as well as to England and Wales.⁴⁵ Gladstone's legislation of 1870 was designed to protect tenants from unfair treatment and consequently recognized the extension of the Ulster custom to all of Ireland. The Act restricted the owner's ability to evict tenants and provided compensation for improvements.⁴⁶ A scale of damages was also established to determine the amount the tenant was to be paid when disturbed.⁴⁷ Gladstone recognized that the Bill was feared in England because of its possible consequences for the English landlord. Accordingly, he wrote to Lord Russell on April 12, 1870:

We have had a most anxious time in regard to the Irish Land bill. . . . The fear that our Land bill may cross the water creates a sensitive state of mind among all tories, many whigs, and a few radicals. Upon this state of things comes Palmer with his legal mind, legal point of view, legal aptitude and inaptitude (vide Mr. Burke), and stirs these susceptibilities to such a point that he is always near bringing us to grief. Even Grey more or less goes with him.⁴⁸

The importance of the Irish example was not lost upon the aristocracy. During the debates on the Tenants' Right Bill in July, 1875, Lord Elcho asserted that the measure resulted from the

⁴⁵Supra., p. 114.

⁴⁶Woodward, p. 348.

⁴⁷Ibid.

⁴⁸Morley, II, p. 295.

example of the Irish Land Act.⁴⁹

The political scene after 1867 was, then, one of party conflict, with both Conservatives and Liberals attempting to gather as broad a following as possible. Disraeli sought to impress upon the workingmen that there were bases for an alliance between the aristocracy and the toilers. Men such as Bright, who had opposed factory legislation, were not their friends; benefits, however, could be obtained from the aristocracy. On the other hand, the Liberals frequently hurled the charge that the landlords were not "the farmers' friends." They emphasized the conflict of interest existing between these two groups. The importance of the Reform Bill of 1867, the Ballot Act of 1872, and the Irish Land Act of 1870 must be viewed, in part, in the context of the larger attack being waged upon the aristocracy in order to appreciate the intimate association between them and Tenants' Right.

Agricultural discontent was compounded by the continued difficulties of the wheat-growing sector after 1867. Prices on a five-year average recovered somewhat from the low of 45s. 6d. between 1861 and 1865. From 1866-70, the five-year average was 54s. 8d. and it remained the same for the period from 1871 to 1875.⁵⁰ The farmer's costs, however, continued to rise. Rents

⁴⁹ 3 Hansard, CCXXV (1875), 1696.

⁵⁰ Supra., p. 136.

increased from an index of 95 in 1867 to 100 by 1870, and to 102 by 1875, or an increase of 7 percent.⁵¹ The wages the farmer was forced to pay his workers also continued to increase. Weekly wages on a Northumberland estate rose from 16s. in 1867 to 24s. in 1875, an increase of 50 percent. Labor-cost increases were not far behind in Warwickshire. Here they rose from 10s. 10d. per week in 1867 to 14s. 14d. in 1875.⁵² Moreover, the cattle industry was hard-hit by an epidemic of rinderpest. In February, 1866, reports showed that 17,875 cattle were infected,⁵⁴ and the agricultural interest grew insistent that the Ministry pass the legislation desired to prevent the further spread of the contagion.⁵⁵

Despite the large number of members of the aristocracy sitting in Parliament, the agricultural interest as such had no articulate program or centralized direction. In the period between 1835 and 1845, a number of Farmers' Clubs had been founded, but they were devoted to the improvement of farming techniques and the dissemination of agricultural knowledge. These

⁵¹R. J. Thompson, p. 68.

⁵²Ibid., pp. 173-74.

⁵³Clapham, II, p. 303.

⁵⁴Ernle, p. 375.

⁵⁵Supra., pp. 38-39.

organizations avoided involvement in political questions. A few sporadic attempts were made to organize for political purposes, such as the founding of the Agricultural Protection Society to oppose the repeal of the Corn Laws, but these institutions usually disappeared in two or three years. Not until the 1860s did the necessity of organizing for political reasons become fully apparent to the landed interest. Their experiences in trying to get the Government to pass legislation for the control of the rinderpest epidemic convinced many that some type of organization was mandatory for the protection of the agricultural interests.⁵⁶

The catalyst for the formation of an organization that could speak politically for all agricultural interests was a letter written by Charles Clay⁵⁷ and published by several London agricultural papers in 1865. He urged that a Farmers' League be formed in which:

The special object of the League would be to undertake duties now much neglected and beyond the rules of all existing societies; viz., the charge of measures in the Houses of Parliament and before the Government, calculated to benefit agriculture, as well as to oppose or modify any movement detrimental to that important interest.⁵⁸

⁵⁶A. H. H. Matthews, Fifty Years of Agricultural Politics: Being the History of the Central Chamber of Agriculture, 1865-1915 (London, 1915). pp. 2-3.

⁵⁷Ibid., p. 417. Mr. Clay served as Treasurer to the organization from 1866 to 1897.

⁵⁸Ibid., p. 392.

The purpose of the organization would be the political protection of agriculture, a function denied most other farm organizations. He demanded a hearing for husbandry at least equal to that given manufacturing, and emphasized that this objective could be achieved ". . . if agriculturists and their friends would make up their minds to set fairly about altering it. . . ."59

Mr. Clay also recommended a form of association based upon that adopted during the cattle plague. Management of the concern was to be effected by each local unit sending to the Central Chamber representatives consisting of the local chairmen and secretaries and any other delegates deemed advisable. The organization would be financed by each branch contributing £5 5s. annually, thus giving the central body a yearly budget of about £2,000. In addition, a permanent, well-paid, and efficient secretary, residing in London, would devote full time to furthering the interests of the Chamber. Through this organization, the agricultural interests would be able to exert pressure on all matters concerning farming. By activating its local branches, it would possess power which was currently being wasted simply because there was no central direction.⁶⁰

The proposals for a centralized authority received an enthusiastic welcome, and consequently the Central Chamber of

⁵⁹
Ibid., p. 393.

⁶⁰
Ibid., pp. 392-93.

Agriculture was established on February 6, 1866, at a meeting in the Salisbury Hotel, Fleet Street, London.⁶¹

The Chamber's membership included all agricultural classes. Landlords, tenants, and laborers were all recognized as having identical interests in the well-being of the agricultural establishment, but it was also apparent that there were questions that could divide them. Subsequently, the originators of the Chamber advocated that the matter most likely to cause difficulty, the tenure of land, should be debated openly and a viable solution arrived at, if possible.⁶² Other and more pressing problems, such as cattle diseases, caused some delay in the consideration of the Tenants' Right issue, but on November 21, 1868, the question of compensation for unexhausted improvements was raised by a local chamber. The Central Chamber eventually responded to demands from its subsidiary chapters and on April 5, 1870, adopted a resolution which in effect set forth a program for the general improvement of agriculture. Their resolution indicated that the Chambers of Agriculture were primarily concerned with a program which would attract large amounts of capital to the land. Several present policies were castigated as discouraging investments in husbandry. First among these was the excessive local

⁶¹Ibid., p. 394.

⁶²Ibid., pp. 165-66.

taxes upon the land, but the system of annual tenures, the lack of competition for unexhausted improvements, unnecessary restrictions placed upon the actual farming operations, and the over-protection of game were also emphasized as being contributory to the farmer's difficulty in securing adequate amounts of capital for his farming operations.⁶³

The April, 1870, recommendation of the Central Chamber of Agriculture was the product of a long period of agitation. While interest in Tenants' Right declined during the 1850s and early 1860s, this should not be misconstrued to mean that there was no interest. A few authors continued to advocate a change of policy but during the ten years from 1852 to 1862 there was a minimum of discussion. After 1862,⁶⁴ however, the issue was revived and by the end of the decade demands were once again being made for remedial legislation.

As in the earlier considerations of the subject, the matter of prime importance was how to attract sufficient capital onto the land. Frequently exponents of leases and Tenants' Right collided as to which plan offered the best solution for attracting money to agriculture. One remedy, and many came to agree with

⁶³ Ibid., p. 168.

⁶⁴ Ernle, p. 377. "Since 1862 the tide of agricultural prosperity had ceased to flow; after 1874 it turned, and rapidly ebbed."

it, proposed to engraft ". . . the system of tenant-right upon that of leases."⁶⁵ Neither the farmer nor the landlord was satisfied with the prevailing system of tenancy-at-will, and the combination of Tenants' Right and lease seemed to offer the best alternative, for it avoided the weaknesses of each and provided the strengths of both.⁶⁶ Such changes were necessary, for the current manner of occupation worked hardships upon both the farmer and the country. More than one-third of the Englishman's supply of "daily bread" came from imported grain and, unless reforms were made, imports were certain to increase.⁶⁷ The question of security of capital was ". . . second in importance to none . . . and on it hinges all future improvement of the soil of England,"⁶⁸ editorialized The Times.

By 1865, various Farmers' Clubs were engaged in discussions of a workable plan for Tenants' Right. In February, 1865, the Midland Farmers' Club investigated extensively a program advocated by Lord Lichfield.⁶⁹ In a short time the interest

⁶⁵John Wilson, British Farming: A Description of the Mixed Husbandry of Great Britain (Edinburgh, 1862), p. 540.

⁶⁶Ibid., p. 541.

⁶⁷G. Wray, "The English Farmer," The Times, November 4, 1863, p. 7.

⁶⁸"The Tenants' Outlay and the Tenants' Security," The Times, November 12, 1863, p. 10.

⁶⁹"Lord Lichfield on the Question of Land Tenure," The Times, February 4, 1865, p. 5.

displayed was too robust to confine itself merely to discussion. The growing sentiment for Tenants' Right was reflected in Parliament's decision in 1866 to publish the findings of the Select Committee on Agricultural Customs which had been compiled under the Chairmanship of Philip Pusey in 1848.⁷⁰ Also in 1868, the Journal of the Royal Agricultural Society of England published a prize essay by Clement Cadle on farming customs.⁷¹ Cadle emphasized how little the subject was understood⁷² and advocated a system that combined the best features of the lease with that of Tenants' Right.⁷³ Not content with such a passive role, however, the Farmers' Clubs began to make positive recommendations to Parliament. At the November, 1869, meeting of the Shropshire Chamber of Agriculture a motion was made, "That it is necessary for the encouragement of a better cultivation of the soil that legislation should be obtained to give the tenants

⁷⁰Ping-ti-Ho, p. 82.

⁷¹Clement Cadle, "The Farming Customs and Covenants of England," Journal of the Royal Agricultural Society of England, XXIX (1868).

⁷²Wilson, p. 541. Wilson also felt the necessity to explain what constituted Tenants' Right and said, "In certain districts of England this claim, called tenant-right, has been recognised so long, that apart either from written stipulation or statutory enactment, it has, by mere usage, attained to something like a legal standing."

⁷³Cadle, p. 166.

compensation for unexhausted improvements."⁷⁴ A similar recommendation was made at the December, 1869, meeting of the Staffordshire Chamber of Agriculture. At the latter meeting, Lord Lichfield censured the landowners of the county for their lack of interest in the subject and offered the opinion that if the pending Irish Land Act were passed, its principles should be applied to England also.⁷⁵

An analysis of the "Hindrances to Agriculture" was offered in 1870 by George Hope.⁷⁶ He emphasized several burdens under which farmers labored. Among these were the outdated covenants of farming,⁷⁷ hindrances caused by the laws of primogeniture and entail,⁷⁸ the game laws,⁷⁹ and, above all, the lack of security of tenure. Hope doubted that Tenants' Right agreements, which were the custom in some counties, promoted the

⁷⁴"Tenant Right in England," The Times, November 25, 1869, p. 9.

⁷⁵"The Staffordshire Chamber of Agriculture on Tenant-Right," The Times, December 6, 1869, p. 10.

⁷⁶James A. Scott Watson and Mary Elliot Hobbs, Great Farmers (London, 1951), p. 97. George Hope was reputed to be one of the greatest farmers of his era. p. 107. "In general politics he was an advanced liberal. . . ."

⁷⁷George Hope, "Hindrances to Agriculture (From a Scotch Tenant Farmer's Point of View)," Recess Studies, ed. Sir Alexander Grant, Bart. (Edinburgh, 1870), p. 377.

⁷⁸*Ibid.*, p. 386.

⁷⁹*Ibid.*, p. 400.

highest type of agriculture. However, they at least prevented the arbitrary confiscation of the farmer's property.⁸⁰

Hope did not merely emphasize the agricultural aspects of the matter but raised a question that generally was not far below the surface when Tenants' Right was discussed: the political implications involved. He argued that the current English practice:

. . . deprives tenants-at-will of independent action, and certainly does not leave them free men. In politics and other important questions they must feel they are mere tools in the hands of their landlords; and, however unable they may be to think alike, self-interest, or it may be self-preservation, causes the poor tenants to vote as they are told. It seems to be commonly understood in many parts of England, that the vote does not belong to the man but to the land. . . .⁸¹

From tenants operating under such a system, he thought, little improvement could be expected; they would continue to adhere to "hereditary routine."⁸²

Given such opinions in the country and subjected to the promptings from its local groups,⁸³ the Council of the Central Chamber of Agriculture returned to the question of Tenants' Right

⁸⁰Ibid., pp. 378-79.

⁸¹Ibid., p. 380.

⁸²Ibid.

⁸³"Farmers Capital in England," The Economist, March 9, 1872, p. 16. The increased interest in Tenants' Right legislation is demonstrated by the March meeting of the West Gloucestershire Chamber of Agriculture. The members not only demanded compensation for unexhausted improvements but called upon the Royal

on June 4, 1872, and finally on November 5 of that same year it unanimously passed a strong resolution committing that organization to support legislation on the issue. Their resolution stated:

That this Council considers it necessary for the proper security of capital engaged in husbandry that, when such security is not given by a lease or agreement, the outgoing tenant should be entitled by law to compensation for the unexhausted value of his improvements, while at the same time the landlord should be paid for dilapidations and deterioration caused by default of the tenant, provided that such compensation is subject to previous consent of the owner in the case of buildings, drainage, reclamation, and other works of a permanent character.

That this Council considers absolutely necessary a change in the law of tenancy, so that, in all yearly holdings, the letting and hiring of agricultural land, as well on entailed and ecclesiastical as on other estates, shall be subject to at least twelve months' notice to quit, cases of insolvency excepted.⁸⁴

Next, on March 4, 1873, the Council appointed a committee of nine members to gather information concerning Tenants' Right. The group included two members of Parliament, Sir Michael Hicks-Beach, and Clare Sewell Read.⁸⁵

The Committee submitted three reports which concluded that there were ". . . marked differences between customs prevailing to-day and those existing in 1848. . . ." ⁸⁶ They pointed

Agricultural Society to join the fight. In addition, the Chamber asked that a national congress be convened for the purpose of discussing the matter.

⁸⁴Matthews, p. 168.

⁸⁵Ibid., p. 169.

⁸⁶Ibid., p. 170.

out that there had been an extension of compensations allowed in many districts. Lincolnshire now allowed for guano, Cambridgeshire for claying, Cheshire for draining, and Oxfordshire for chalking and boning. These examples, they asserted, were sufficient to demonstrate that the Pusey report of 1848 was no longer valid as a basis for arriving at correct conclusions regarding current agricultural customs.⁸⁷

The Committee emphasized a number of points which may be summarized in the statement that great confusion existed throughout the country concerning Tenants' Right. Considerable difficulty was encountered ". . . in ascertaining what is understood to constitute an established custom."⁸⁸ Many customs had been radically changed in recent years and, in fact, were still undergoing change. The reports noted, however, that while these traditions were being altered and extended, the greater portion of England still had no provisions for compensation for unexhausted improvements.⁸⁹

The reports also pointed to the lack of uniformity in the customs that did exist. Compensation for guano, for example, was allowed in some counties when applied to corn crops, and in others

⁸⁷Ibid.

⁸⁸Ibid., p. 171.

⁸⁹Ibid.

only when applied to roots. The amount of the allowances varied greatly as well. Some districts paid for all guano applied in the last year and others only one half or one third. The same confusion existed in conjunction with almost all other types of improvements regardless of whether they were of a temporary or a permanent nature.⁹⁰

While the Chambers of Agriculture debated and passed resolutions urging Parliament to pass Tenants' Right legislation, other groups were proposing to implement reforms more ominous for the English aristocracy. In 1870, John Stuart Mill launched his Land Tenure Reform Association with the announced purposes of abolishing primogeniture and entail, taxing the unearned increments of land, and fostering the acquisition of land by the state for distribution to peasant proprietors.⁹¹ There had been Radical threats issued before, but they were now more alarming. The electorate established by the Reform Bill of 1867 was an unknown factor. What would be their attitude toward proposals such as Mill had made? Threats that the prevailing land laws passed by a Parliament subservient to landowners for the protection of their interest would now be undone by the representatives of a larger constituency did not tend to allay the fears of the landlords.⁹²

⁹⁰ Ibid., pp. 170-71.

⁹¹ Ping-ti Ho, pp. 23-24.

⁹² George Odger, "The Land Question," Contemporary Review, XVIII (August, 1871), p. 34.

The issue of Tenants' Right was once again introduced into Parliament on February 11, 1873, when James Howard and Clare Sewell Read presented a Landlord and Tenant Bill.⁹³ The most controversial aspect of the act was Clause 12 which made the measure compulsory. This section stipulated:

Any contract made by a tenant after the passing of this Act, by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as related to such claim, be void both at law and in equity.⁹⁴

Lord Elcho immediately attacked the compulsory provision. He intimated that the Conservative Party would oppose the Bill unless the obnoxious violation of the freedom of contract was withdrawn. He then asked if it had been withdrawn. Clare S. Read assured him that the clause still stood and said that he doubted its removal would disarm Elcho's hostility to the act, for the noble lord had previously moved for the rejection of the measure before it was even printed.⁹⁵

The Bill never came to a vote, however, for on July 2, 1873, Read suddenly asked the House to discharge the order for the second reading of the Bill. He did so because of the unexpected illness of its co-sponsor, Howard. Read felt that it would

⁹³3 Hansard, CCXV (1873), 643.

⁹⁴Sessional Papers, II (1873), p. 275.

⁹⁵3 Hansard, CCXV (1873), 644.

be inappropriate to proceed with the measure under the circumstances but assured the Commons that it would be introduced again at a future date.⁹⁶

The political ramifications behind the Bill were made more obvious by Sir Wilfrid Lawson, M.P. for Carlisle. He said that he regretted the withdrawal of the act, for he thought the country should learn the opinion of the "great Conservative Party" upon the issue of Tenants' Right and, to facilitate the knowledge of their views, he asked that the House not allow the measure to be withdrawn. Henry Brand, the Speaker, also opposed the discharge of the second reading but for opposite reasons. He said that the purpose of the act seemed to be to cultivate popular favor and stipulated that a majority of the Conservatives had intended to vote for the second reading. Chandos Wren-Hoskyns thought it time to settle the issue; the matter had been left dangling for over twenty years. Also a discussion would reveal who were the "true friends of the farmers." Mr. Albert Pell, M.P. for Leicestershire, however, thought that what would be said would be directed more to the next general elections than to the merits of the issue. Efforts to prevent withdrawal failed and Read's proposal received the approval of the Commons.⁹⁷

⁹⁶ Ibid., 1645-50.

⁹⁷ Ibid., . . .

Lord Elcho was not content to allow the issue to rest with mere withdrawal. He immediately gave notice of his intention to submit on the first favorable occasion a resolution to the effect

That this House, while ready to consider any well-devised measure which, in the absence of any lease or agreement, proposes to give reasonable security to the capital of the Tenant invested in the Land, and due protection to the property of the Landlord, is not prepared to prohibit freedom of contract in England between Landlord and Tenant.⁹⁸

Thus he endorsed the principle of Tenants' Right only if such a measure was "permissive" and not compulsory. The issue of freedom of contract was to be, as it had been in the bills of Pusey, the one that was most heatedly debated.⁹⁹

Proponents of Tenants' Right persisted, however, and on June 19, 1874, Mr. Charles Seely, without advance warning, stated it was the opinion of the House that the Ministry should without delay introduce a measure providing compensation for unexhausted improvements. He asserted that in the last four years the Chambers of Agriculture had given impetus to the issue and that it currently occupied a more prominent position than the

⁹⁸Ibid., 1650.

⁹⁹The measure received bitter criticism in some conservative quarters. George Hedley, "Landlord and Tenant," The Gentleman's Magazine, CCXXXV (August, 1873), p. 150, asserted that there was no popular demand for such a measure and thought the bill to be the ". . . result of dissatisfied agitators and ambitious members, who had nothing to lose or gain, than of those who were immediately interested and vitally concerned."

questions of local taxation and the malt tax. At every Chamber and Farmers' Club meeting the matter was inevitably brought before the members.

Seely outlined the groups that suffered from the lack of Tenants' Right. The farmer suffered because he could not afford to invest his capital under existing circumstances and so received reduced profits as a result. Farm laborers suffered because they were denied the employment that would have resulted from agricultural improvements. The public had just grievances because of the lack of capital employed in the soil, for this lessened the quantity of food available and raised prices. The issue was peculiar, he thought, in that it might be altered to benefit the farmer, the laborers, and the public without doing injury to the landlord.

Seely, however, objected to several features of the landlord and Tenant Bill of Howard and Read. Their measure prohibited freedom of contract. "In all other ranks of life a man was left to take care of himself by making his own contracts."¹⁰⁰ Another feature of the Bill he disliked was the clause which allowed the tenant to remain in possession of the holding until all compensation had been paid; the inconvenience of such practices would be extreme. He also objected to the provisions that would allow the tenant-for-life to obligate his successor and doubted the

¹⁰⁰3 Hansard, CCXX (1874), 190.

wisdom of extending the notice to quit the holding from six to twelve months. Above all, the Bill suffered from omission. Seely thought the measure should have specified the rights of laborers.¹⁰¹

J. W. Barclay agreed that the Government should sponsor legislation pertaining to Tenants' Right. He thought, however, that if Parliament did not interfere in some fashion with the freedom of contract, the measure would be practically worthless. He would justify such interference because possession of land was a monopoly and by all the principles of political economy ought to be subject to regulation as a monopoly. Such regulation, he asserted, would not be unique in England. The Shipping Act interfered with the freedom of contract between sailors and shipowners, and the Truck Act worked similarly. Why should land be an exception?

Barclay also stressed that the current difficulties of English farmers necessitated reform. The present position of agriculture was untenable, for the profit margin of the tenant had been shrinking. In the ten years prior to 1855, the average price of wheat had been 53s. per quarter. In the ten years preceding 1872, it was 51s. 4d.; meanwhile, there had been a great increase in rents. Farmers needed relief; they could not long withstand the fall in prices he asserted, coupled with losses entailed by failure to be compensated for unexhausted improvements.¹⁰²

¹⁰¹Ibid., 187-92.

¹⁰²Ibid., 198-99.

At this point in the debate, Disraeli rose to object to Seely's motion calling upon the Ministry to bring forth Tenants' Right legislation as soon as possible. He stressed the complexity of the issue and said that, though he favored such legislation, there were parts of the Howard-Read Bill he could not accept. Since the Government had succeeded to office late in the session, "I must . . . disclaim such a duty on our part, and any readiness in a hasty, precipitate, and indigested manner to bring forth a subject of this kind."¹⁰³ He promised, however, that if the Government remained in office it would consider legislation of that nature. In fact, he confided, such a measure was already under discussion and would probably be brought forth during the next session.¹⁰⁴ With these assurances, Seely withdrew his motion.¹⁰⁵

Before the Government could act, however, the Marquess of Huntly introduced an "Agricultural Tenants Improvement Bill" into the House of Lords.¹⁰⁶ On July 16, 1874, Huntly moved that the measure be read a second time and proceeded to explain the purposes of the Bill. He proposed not to interfere with legal customs and the freedom of contract, but when a lease was silent

¹⁰³ Ibid., 205.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid., 209.

¹⁰⁶ Ibid., CCXX (1874), 1054.

upon those items mentioned in the schedules for payment, the act would then be brought into operation.¹⁰⁷ Another purpose of the measure, he asserted, was to provide machinery for the settlement of disputes. When a difference arose between the landlord and tenant as to the value of improvements, an arbitrator was to be appointed by the Inclosure Commission to decide the issue.¹⁰⁸

The Duke of Richmond quickly rose and presented a scathing attack upon the act. He said the Bill was "crude and inconsidered" and charged that it would put an end to the freedom of contract. The involvement of the Inclosure Commission in the arbitration procedures was a good example of the poor construction of the measure, for it was "cumbersome." The Duke moved that the Bill be read a second time "three months from now;" the motion carried and the Huntly measure died with a minimum of discussion.¹⁰⁹

Pressure on the Ministry continued, however, and on March 2, 1875, a large delegation of tenant farmers called upon Disraeli to express their views on compensation for unexhausted improvements. Mr. James Howard spoke first and stressed that now was an opportune time to pass such a measure, for there

¹⁰⁷Ibid., CCXXI (1874), 108.

¹⁰⁸Ibid., 109.

¹⁰⁹Ibid., 110-17.

were no other exacting issues in the way, and the party was in power which had declared itself to be in favor of helping the agriculturists. Howard emphasized the necessity that the legislation be compulsory and asserted that simply extending the notice to quit from one to two years was not sufficient.

Disraeli assured the farmers of his support: "I sympathize with your general purposes, and I approve many of the suggestions you have made." He refused to promise them any specifics concerning a Tenants' Right measure, but said the Ministry did intend to bring in legislation, and he believed that any Government which legislated on the matter without keeping the Lincolnshire custom before it would be making a very big mistake. The Prime Minister promised that the Bill would be before the country in a very few days and was confident it would satisfy the tenant farmers.¹¹⁰

Why had Disraeli and the Conservatives decided to sponsor such a measure? To remove the landlord's ability to intimidate his tenants would mean that little direct control would be left over the county voters. The aristocracy had already received several recent shocks of which the Ballot Act had appeared most ominous. In May, 1870, Disraeli had confided to Sir Stafford Northcote, "The Ballot bothers me." The impact which it would have upon

¹¹⁰"Mr. Disraeli and Tenant Right," The Times, March 3, 1875, p. 8.

the counties was unknown.¹¹¹ But one general election had occurred since its passage, and the Conservative's county vote had held fast. In fact the Tories had won their first clear majority since Peel.

Still the early 1870s were perilous times for the English aristocracy. A number of issues tended to divide the landlord and the tenant during the period. Radicals had been appealing with increasing frequency to the farmers as to the benefits of land reform. Game preservation was a problem that constantly disrupted the harmonious relations between these two rural groups, and many landlords further alienated their tenants by supporting the farm laborer's unions. In these circumstances, the farmers with alarming frequency took independent action. Two independent rural candidates had been elected in 1865. They were not anti-Conservatives, but they had been sent to Parliament despite the fact that they had not been sponsored by the traditional landowning influence.¹¹²

Liberals were quick to recognize the possibilities of the situation and began to appeal to the tenants. In 1874, Gladstone had appealed to the farmers by modifying the Malt Tax,¹¹³ and

¹¹¹ Monypenny and Buckle, V, p. 123.

¹¹² George Kitson Clark, The Making of Victorian England, (Cambridge, Mass., 1962), pp. 244-46.

¹¹³ Ibid., p. 245.

challenges as to who were the "farmers' friends" became frequent thereafter. Disraeli recognized the dangers for the Conservative Party, for if they lost their traditional support in the counties, the Party would be dead. There was no general movement for Tenants' Right such as those which had characterized Corn Law Repeal and electoral reform, but the time to act was before it became a burning issue. He explained his motives for undertaking such a solution to Queen Victoria:

'Tenant Right' is a perilous subject. In various forms it has harassed many parts of Europe since the great Peace of '15. It is used by the party of disturbance in Europe & this country to effect their ulterior objects in changing the tenure of land, on which in England the monarchial & aristocratic institutions mainly depend.

The advocates of Tenant Right would compel its adoption. The compulsory principle is so odious in this country that there would be no great fear if the Tenant Right Cry was only combined with the principle of compulsion--but unfortunately there is much in the relations between Landlord & Tenant in this country, which is unsatisfactory & anomalous; more in theory no doubt than in practice but still existing, & connected with the cry of Tenant Right. These circumstances give it a popular & powerful character & influence. The object of the measure of Yr. Majesty's Government is to take advantage of these tranquil times, get rid of those anomalies & circumstances of apparent injustice, & leave the cry of Tenant Right combined only with the odious condition of Compulsion.¹¹⁴

The Government Bill would, then, disarm those who were using the Tenants' Right question for other purposes. Since the measure

¹¹⁴Quoted in Blake's Disraeli, pp. 557-58.

was to be permissive, the only issue that would be left to those dissidents would be that of compulsion.

In keeping with Disraeli's promise to the tenant farmers, the Duke of Richmond, Charles Henry Gordon-Lennox, presented to the House of Lords an Agricultural Holdings Act on March 12, 1875. During his opening remarks, he stressed the importance of increasing the production of food in England, and he thought that the measure would attract the capital necessary for such an expansion. The law was not to be compulsory, for the Government had no desire to interfere with the freedom of contract. He also emphasized the fact that the Bill provided for a year's notice to quit a holding, and a system of arbitration for disputed payments would be established. An appeal to the County Court Judge was to be allowed if either party was not satisfied with the decision of the arbitrators.¹¹⁵

Discussion of the Agricultural Holdings Act revealed that several provisions in the Act were of concern to the members of Parliament. One matter that attracted their attention was whether proper protection was provided the landlord. Another involved the method of arbitrating disputed payments and the appeal of these decisions. Most important was the question of compulsion, or the preservation of the freedom of contract.¹¹⁶

¹¹⁵₃ Hansard, CCXXII (1875), 1680-91.

¹¹⁶Supra., pp. 149-52. The issue of freedom of contract

The two questions of giving adequate protection to the landlord and of establishing a suitable method of determining compensation for improvements were closely related. Many owners feared they would be the victims of fraud on the part of the farmers; they would be forced to pay for improvements poorly done or not made at all. It was emphasized that the determinant in granting compensation for improvements, therefore, should not be the amount of money spent but the increased "letting" value of the holdings.¹¹⁷ These improvements should only be allowed if the previous consent of the owner was obtained.¹¹⁸ Not only could such a system lead to fraud, extreme opponents asserted, but to grant farmers territorial rights in the soil was the first step toward communism.¹¹⁹

Provision for resolving disputes in matters concerning improvements also led to frequent verbal exchanges. The clause which allowed arbitrators and umpires to decide the amount of compensation to which a tenant or landlord was entitled was attacked. On the one hand, it was charged that the country was

had been discussed and the views well represented in conjunction with the Landlord and Tenant Bill of 1873 and so will not be elaborated upon further in order to avoid redundancy.

¹¹⁷₃ Hansard, CCXXIII (1875), 934.

¹¹⁸Ibid., CCXXV (1875), 1846.

¹¹⁹Ibid., 1687.

not prepared for such a settlement because the rest of England did not possess trained arbitrators like those in Lincolnshire.¹²⁰ On the other hand, the provision which allowed appeals to the County Courts was characterized as absurd, for one could not have both arbitration and appeal.¹²¹

An interesting development during the debates was the fear expressed by some members of the landed interest that if they did not make the bill compulsory then the door would be open to more serious attacks. If the Parliament acted now, however, it could prevent the issue from rearing its head again in a few years. The attitude of Edward Knatchbull-Hugessen was reminiscent of that expressed by the aristocracy during previous attacks upon its power. In 1832, Lord John Russell, "Finality Jack," had offered such an opinion in connection with the Reform Bill of 1832. Sir Robert Peel had justified the Repeal of the Corn Laws as an attempt to settle and preserve the institutions of the country. The current attempt to provide compensation to tenant farmers for unexhausted improvements was in some respects, then, the latest concession on the part of a landed interest engaged in a slow retreat. No doubt the battle would be lost, but

¹²¹Ibid., 928. The debates on the Agricultural Holdings Act of 1875 were very similar to those on the earlier Pusey measures and the testimony offered before the Select Committee on Agricultural Customs. Little of the verbage had changed during the thirty-year interval.

defeat would come only after a long mining and sapping of the aristocratic fortresses.

Though the debates were lengthy, the Agricultural Holdings Act had little difficulty in running the gauntlet of Parliament. It passed the House of Lords on May 13, 1875, and was sent to the Commons.¹²² Disraeli presented the measure to the Lower House on June 24,¹²³ and that body gave its approval on August 6,¹²⁴ The Tenants' Right Act received the Royal Assent on August 13, 1875;¹²⁵ the presumption of the law was now with the farmer. Disraeli's initial proposal had emerged with its main tenets intact: the bill was permissive, not compulsory.

The Agricultural Holdings Act of 1875 specified three classes of improvements. The First Class was to be exhausted over a period of twenty years and included such improvements as drainage of land, erection or enlargement of buildings, planting of permanent pasture, improvement of roads and bridges, building of fences, planting of hops or orchards, and reclaiming waste lands. The Second Class had a duration of seven years and covered the boning, chalking, claying, liming and marling of land. The Third

¹²²Ibid., CCXXIV (1875), 570.

¹²³Ibid., CCXXV (1875), 451.

¹²⁴Ibid., CCXXVI (1875), 589.

¹²⁵Ibid., 755.

Class was to extend for only two years and involved the application of artificial or other purchased fertilizers and the consumption of cake on the holding by cattle, sheep, or pigs.¹²⁶

The claim of the tenant to compensation was to be based upon the sum actually expended and subject to a proportional deduction for each year the tenant had use of these improvements. Measures were taken to safeguard the landowner from exaggerated claims and to provide for his compensation in the eventuality that the holding suffered dilapidation. In the case of the First Class of improvements, the tenant also had to give the landlord notice of such undertakings and receive in writing consent to proceed before he could claim compensation.¹²⁷

Should the farmer and the landlord not be able to agree upon the amount of compensation, two referees and an umpire were to be appointed to settle the dispute. If both parties agreed with the arbitrator's decision, then the action was final and binding. If either party contested the settlement, the case would subsequently be referred to the county court having jurisdiction in the area. If, for valid reasons, one party objected to the decision in the county court, the matter could be appealed to the High Court of Justice as a last resort. The decision would then be referred

¹²⁶38 and 29 Vict., c. 92 (1875), "Agricultural Holding Act of 1875," pp. 1029-30.

¹²⁷Ibid., pp. 1030-32.

back to the county court for execution as in any other money matter.¹²⁸

Other sections of the Bill provided that Crown, Duchy, ecclesiastical, and charity lands were to come under the provisions of the Act.¹²⁹ In addition, the measure provided that the notice to quit a holding was to be given a year in advance, and such an order for a portion of a farm would entitle the tenant to payment for improvements on the entire holding. The Bill also stipulated that the tenant had a right to remove fixtures if the landlord declined to compensate for them.¹³⁰

The most controversial portion of the Act was the section that allowed either the tenant or the landlord to contract outside the measure, the "permissive section." The clause provided that either party could, upon giving written notice to the other party, choose not to apply the Act or any provision of the bill to the contract. This was the part that had been most bitterly attacked in the debates as rendering the benefits to be derived an illusion, a child's balloon.¹³¹

After more than thirty years of agitation, the right of the tenant to compensation for unexhausted improvements had been

¹²⁸Ibid., pp. 1032-36.

¹²⁹Ibid., pp. 1037-39.

¹³⁰Ibid., 11. 1039-41.

¹³¹Ibid., p. 1041.

recognized. The true worth of the measure was, however, still debatable. One opponent of the Government Bill, William Edwin Bear, offered an evaluation while the Act was still in the House of Commons. He approached the subject by comparing several features of the Landlord and Tenants Bill with the Agricultural Holdings Act of 1875. The Government Bill was weaker in that it allowed only seven years instead of ten for durable improvements and two instead of four for temporary improvements. The Agricultural Holdings Act also made no provisions for granting tenants-for-life expanded powers for making leases, borrowing money, and in general exercising greater control of their properties. The matter was to be taken up in a separate bill. The Landlord and Tenant Bill had allowed the farmers to make certain permanent improvements and be compensated for them without the consent of the owner, if in the opinion of the arbitrators they were necessary for the profitable cultivation of the land. The Government Act made the landlord's consent mandatory. In the Landlord and Tenant Bill, the decision of the referees, with the assistance of an umpire, was final in deciding disputes concerning compensation. The Government Act, however, allowed appeals to the county court. The most serious difference between the two measures had to do with the matter of compulsion. The Landlord and Tenant Act provided that "Any contract made by a tenant after the passing of this Act, by virtue of which he is deprived of

his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as relates to such claim, be void at law and in equity." In other words, the measure was compulsory. The Agricultural Holdings Act, however, was permissive, for it provided that, "Nothing in this Act shall prevent a landlord and tenant . . . from entering into any such agreement as they think fit, or interfere with the operation thereof."¹³² With these glaring weaknesses would the Government Bill be of any real benefit to the farmers of England?

Chambers of Agriculture all over England had declared the measure to be unsuitable.¹³³ Disraeli's prediction that he would bring forth a bill that would satisfy the farmers had apparently not been accurate. What the Government gave with one hand, it took back with the other. As subsequent events were to prove, the substance of victory had been denied to the tenants. It became the common practice for the landlords to "contract out" of the provisions of the Act but, still, the "presumption of the law" recognized the justice of the farmers' claims.

Within a decade after 1867, the storm clouds of Tenants' Right had billowed, coalesced, and spread over the horizon. A combination of factors contributed to the success of the issue.

¹³² William Edwin Bear, "Agricultural Holdings Bill," Fortnightly Review, XXIII (July, 1877), pp. 640-41.

¹³³ 3 Hansard, CCXXIII (1875), 928.

The declining fortunes of the wheat farmer created a group that was demanding some type of relief. They had witnessed their collective power during the rinderpest epidemic, and shortly thereafter had organized a Central Chamber of Agriculture to protect the political interests of agriculture. There was also the factor of political expediency. Disraeli was trying to educate his party to the principles of "Tory Democracy," but the Liberals were also attempting to appeal to the tenant farmers, the foundation of the Conservatives. Some concessions would soon be necessary, and the Prime Minister decided to run for the "permissive" shelter before the "compulsory" storm broke.

CHAPTER VI

SUMMARY AND CONCLUSIONS

The nineteenth century witnessed a sustained attack upon the power of the English aristocracy. During the crisis attending the attempt to reform Parliament in 1832, the threat to the landed interest had been discussed extensively. One fear frequently voiced was that the balanced constitution would be disrupted and the control of the country would be turned over to the middle class. Control by those busy buying and selling was the immediate consequence of such an act, but the long-ranged danger was that more democratic elements would eventually gain control of the government. Sir Robert Peel pointed out that if the principle was good, additional reforms of the proposed type would be made in the future. The landed interest was warned that assaults would then be made upon other measures dear to their well-being. The Corn Laws would be repealed and the seals would be torn from their title deeds.

Reform had been approved in 1832, but the aristocracy attempted to safeguard its position by amendments to the Bill which allowed them to remain important in the boroughs and

counties. Tory aristocrats were able to insure their continued dominance in the counties by extending the vote through the Chandos Amendment to the £50 tenant-at-will. In the boroughs, they lessened their losses by forcing the Ministry to drop five of the boroughs from Schedule A and eleven from Schedule B.

In addition to these changes, the landed interest quickly turned to methods of intimidation and corruption which allowed them to retain considerable power in both the boroughs and the counties. Tenants-at-will were expected to vote as their landlord dictated, and since they were subject to dismissal from their holdings on six-months' notice, they generally conformed to his wishes. In the boroughs, great ingenuity was displayed in the variety of ways in which voters were bought. They were treated to drink and food, hired to carry non-existing messages, paid for the use of their vehicles on election day, employed to make and raise flags for candidates, and frequently were given sums of money outright for their votes. Through these various practices, the landlords were able to control a substantial number of seats in Parliament.

Aristocratic power did not, however, depend solely upon these flimsy though effective practices. There was also the element of "deference." The factors which contributed to the great respect shown the landed interest were shadowy and not well understood. The Englishmen of the age recognized the obscurity of

aristocratic power but did agree that if they carried out certain functions with dignity, their reputations would be enhanced. Their educational level, devotion to state service, open-handed generosity, knowledge of agriculture, and even their prowess on the athletic field all served to increase their prestige.

The power of the landed interest during the nineteenth century was, consequently, derived from many sources. Ownership of land provided the foundation for aristocratic power, and the dependence of the tenant-at-will upon the good disposition of the landlord allowed them to predominate in the counties. Though the precise extent of their power remains obscure, it is generally agreed that until the 1880s they controlled Parliament during normal times. The aristocracy ruled after 1832, however, only with the cooperation of the middle classes. When issues flared and the interest of these two groups diverged, the aristocracy was forced in the long run to submit.

The movement to repeal the Corn Laws provides an excellent example of the continued attack upon aristocratic power and how it was forced at length to defer to popular pressures. An Anti-Corn Law League was formed in 1839, and under the leadership of John Bright and Richard Cobden succeeded in securing the repeal of those laws in 1846. The landed interest had been forced to retreat. As Sir Robert Peel asserted, the change tended to fortify the institutions of the country and to discourage

demands for democratic change. Repeal was a calculated surrender which worked to strengthen aristocratic power.

Out of Repeal and an obstructing aristocratic power, the issue of Tenants' Right arose. The matter had been introduced into Parliament by Lord Portman in 1842 but had received little attention. It had also been advocated by those who were critical of the landed influence in the counties. The revival of Tenants' Right by Philip Pusey in 1847, however, was for the expressed purpose of helping the English husbandmen meet the expected increased foreign competition. Pusey and his supporters argued that the overseas threat could only be met by a healthy, vital, and improved agriculture. "High Farming" offered the best prospects of success, but some incentive had to be provided to attract capital onto the land. It was the contention of these advocates that the tenants would provide the necessary money, either from their own pockets or through borrowing, if they were guaranteed compensation for unexhausted improvements.

Accordingly, Pusey submitted Tenants' Right bills to the House of Commons in 1847, 1848, 1849, and 1850. The latter two measures passed the Lower House but were killed in the Lords. The period was not a total loss to Tenants' Right exponents, however, for in 1848 a Select Committee on Agricultural Customs made an extensive investigation of the subject. Henceforth all advocates of such measures were strongly influenced by

the findings of that Committee. One other success was enjoyed by advocates of compensation for unexhausted improvements. In 1851 an act was passed through Parliament which granted payment to tenants for agricultural fixtures or machinery that was left on a holding.

With the Lords' defeat of Pusey's last measure, the issue lay dormant for the next twenty years. Foreign competition was not as immediately severe as had been predicted, England was remarkably prosperous during the period, and mid-Victorian dogmas did not encourage reforms of that type. However, about 1862 English wheat farmers began to feel the squeeze of stabilizing grain prices, caused partly by foreign competition, and rising production costs. With these developments, sporadic demands were made for Tenants' Right legislation, but interest was minimal until about 1868.

In 1866, the agricultural interest decided that it must organize to protect itself. The instrument chosen was the Central Chamber of Agriculture. With a centralized organization, a permanent secretary, and adequate funds, the farmers of England became a more potent political force than previously. Their decision to enter politics corresponded with a revival of party conflict, and both the Liberals and the Conservatives were soon appealing to the tenant farmers. The Reform Bill of 1867 had rendered control of the boroughs difficult, and the Ballot Act of

1872 increased the independence of the urban voters. But the introduction of secret voting had possible grave consequences for the counties as well. The landlord could find that his traditional support had evaporated if the tenants were estranged. The Liberals were not slow to take advantage of the situation and began to address themselves to the farmers. In 1874, Gladstone courted them by modifying the hated Malt Tax. Disraeli quickly realized the danger of such a loss for the Conservative Party.

The Prime Minister decided to act before the issue became more of a factor in politics. Disraeli thought that if the farmers' legitimate grievances were separated from the more odious demand for compulsions, they would be satisfied and remain safely in the Conservative fold. Also the freedom of contract would be preserved. Consequently, the Ministry introduced an Agricultural Holdings Act into the House of Lords. The Act passed easily through both Houses of Parliament and received the Royal Assent on August 13, 1875. The measure was "permissive" but now the presumption of the law was with the farmer.

Several aspects of the Tenants' Right movement become increasingly clear and run like a continuous thread through the history of the issue. The demand for compensation for unexhausted improvements was part of a general attack upon aristocratic power. It rose out of the Reform controversy of 1832, for the tenant was subordinated to the landlord and Tenants' Right appeared to be a way of

freeing the farmers politically. As such, the issue was frequently closely associated with other assaults upon the landed interest. For this reason, John Bright and other Radicals supported the proposed legislation and felt it was completely in accord with their laissez-faire principles. Consequently, advocates of the free trade in land often stressed the importance of the measure, for it appeared to remove another restriction upon the economic life of the country.

Tenants' Right was also intimately associated during its entire history with the desire for improving the agricultural production of the nation. Improved agriculture, High Farming, demanded increased amounts of capital and the tenant farmers were looked upon as an important source of money. All that was needed was the proper inducement; compensation for unexhausted improvements, its proponents argued, would provide that.

Final passage of the Agricultural Holding Act was, however, the product of other factors. The desire to curtail the power of the landed interest and the needs of improved agriculture were important, but party circumstances appeared to demand immediate reform. On the one hand, the aristocracy seemed to think it necessary to yield in order to "fortify its institutions." The besieged aristocrats had become accustomed to making concessions to the democratic elements and Tenants' Right, in some respects, was simply one more example of such a retreat. Also,

politics appeared to demand that the farmers be pacified. The Conservative Party could ill afford to lose the support of the tenants. Such a loss would mean the demise of the Party. Disraeli recognized the danger and was able to push through permissive legislation before the demand for a compulsory bill became too great. He had educated his party well, and they submitted with a minimum of resistance.

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VITA

Lloyd Wayne Goss

Candidate for the Degree of

Doctor of Philosophy

Thesis: TENANTS' RIGHT IN ENGLAND: A CASE STUDY IN
AGRICULTURAL REFORM, 1832-1875

Major Field: History

Biographical:

Personal Data: Born in Tupelo, Oklahoma, September 16,
1933, the son of Ernest and Bennie Goss.

Education: Attended grade school in Tupelo, Oklahoma;
graduated from Tupelo High School in 1951; attended East
Central State College at Ada, Oklahoma, from 1951-53,
1955-57, received the Bachelor of Arts degree from there
with a major in History, in May, 1957; received Master
of Arts degree from Oklahoma State University in August,
1958; attended the University of Oklahoma in 1964-65;
completed requirements for the Doctor of Philosophy
degree at Oklahoma State University in July, 1972.

Professional Experience: Assistant Professor of History at
East Central State College, Ada, Oklahoma, 1967-72, on
sabbatical 1970-71; Graduate Teaching Assistant at Okla-
homa State University 1970-71; Instructor of History at
Murray State College, Tishomingo, Oklahoma, 1958-67;
Graduate Teaching Assistant at Oklahoma State University
1957-58.