

**THE HISTORY OF LAND TENURE IN  
IRELAND. BEING THE YORKE  
PRIZE ESSAY OF THE UNIVERSITY  
OF CAMBRIDGE FOR THE YEAR  
1888**

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**WILLIAM ERNEST MONTGOMERY**

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OF CAMBRIDGE FOR THE YEAR 1888.

BY



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## PREFACE.

THE Yorke Prize was founded, under the sanction of the Court of Chancery, from the bequest of Edmund Yorke, M.A., late Fellow of St Catharine's College, Cambridge. It is awarded annually to such graduate of the University, of not more than seven years' standing from his first degree, as shall be the author of the best essay upon some subject relative to "The Law of Property, its Principles and History in various Ages and Countries." The subject announced for the year 1888 was "The History of Land Tenure in Ireland," and the following pages owe their existence to the conditions of the Prize which direct that the successful Essay shall be printed and published.

The immense range of an adequate history of Irish land tenure is manifest, and the present slight sketch can of necessity give but an outline of this involved subject. I may, however, briefly point out a few of the most prominent difficulties met with in tracing the troubled history of Irish land law, and explain the basis upon which the present Essay has been constructed. In the case of the Brehon Law there is undoubtedly a large opening for original work, but the initial difficulty inseparable from an entire dependence on translations, is enhanced by the complex nature of the Laws themselves. I have therefore when dealing with this branch of the subject given full references to the authorities relied on. Passing from the archaic law to English legislation I have throughout assumed that the forces of social disunion, which hindered the



working of broad legislative measures, are of more importance than the multitude of petty and ineffectual experiments with Irish land law with which the Statute Book is crowded. Minor enactments have therefore been passed over in order to examine more fully those of extended scope.

The national, religious, and political bias which has coloured so much of the literature connected with Ireland creates an obstacle in the way of an attempt to write an impartial history of the land law. In addition much of the recent land legislation is so involved with current politics as to render it hard to avoid the vexed questions of the day. I have, however, endeavoured to the best of my ability to write without prejudice and to carefully eschew present political controversy.

WM. E. MONTGOMERY.

2, THE CLOISTERS,  
PUMP COURT, TEMPLE.

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"No rule of law dealing with the contracts of owners and hirers of land is in itself objectively good or bad; the law which is most advantageous in one society would, if suddenly introduced into another, seem unjust, and probably prove mischievous; the good or evil effects of any law depend upon its being applicable or inapplicable to the social condition of the society into which it is introduced."—A. G. RICHES.

"There has in general survived to the Irish farmer, through all vicissitudes, in despite of the seeming or real veto of the law, in apparent defiance of political economy, a living tradition of possessory right, such as belonged, in the more primitive ages of society, to the status of the man who tilled the soil."—*Report of the Bessborough Commission.*