

THE HISTORY OF LANDHOLDING IN IRELAND, 1877

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649604715

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Edited by Trieste Publishing Pty Ltd.
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JOSEPH FISHER

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IRELAND, 1877**

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LANDHOLDING IN IRELAND.

BY

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LONDON:
LONGMANS, GREEN, AND CO.

1877.

F5343h
(1876)

INTRODUCTION.

THIS work is an expansion of a paper read at the meeting of the Royal Historical Society in May, 1876. It is published separately to bring it within the reach of those who are not members of that Society, and do not receive the annual volume of its transactions.

The author has been compelled to omit much which he thought pertinent to the subject in order to bring the work within the prescribed limits.

WATERFORD,
December, 1876.

Ms. A. 8. 66

THE HISTORY
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IN the paper which I read last year upon the History of Landholding in England, I described the principles which underlie the distribution of land among the aboriginal inhabitants, the primal occupiers of the soil. It is not necessary that I should now dwell at much length upon that portion of the subject. I would, however, refer to two authorities which have weight in relation to the allotment of lands.

Sir William Blackstone says, vol. ii., p. 3,—

“By the law of nature and reason he who first began to use the land, acquired therein a kind of transient possession, that lasted as long as he was using it and no longer; or to speak with greater precision, the *right* of possession continued for the same time as the *act* of possession lasted. But there is no foundation in nature or natural law why a set of words upon parchment should convey the dominion of land; why a son should have a right to exclude his fellow-creatures from a determinate spot of ground because his father had done so before him.”

A more recent writer, Kenelm E. Digby (“History of the Law of Real Property,” p. 3), says,—

“However its origin is to be accounted for, this idea as to property in land is nearly universal in primitive communities. The land is regarded as the property of the community at large, and individuals as a general rule have only temporary rights of possession or enjoyment upon the lands of the community. The land is public land—*ager publicus*,—*folc-land*, or land of the people. Dealing with *folc-land* is the most important of the functions of the chief of the community in time of peace. In dealing with it he always acts, not as supreme landowner, but as the head of the community, in conjunction with the leaders of the second rank.”

My inquiries—I can hardly call them studies—led me some years ago to attempt a sketch of the changes in the system of landholding in the various countries of Europe; since then abler minds have worked in the same field. As I pursued my inquiries I thought the systems fell into groups, and that the similarity was mainly owing to *race*; identical institutions are traceable among kindred races. The necessities of humanity were similarly expressed. Land is the sustainer of life. In the language of the "Senchus Mor" it is "perpetual man." Hence arose the need of appropriating a portion to every man, who would otherwise owe his life to him who possessed the land and supplied him with food.

Time is a solvent; the increase of population, the division of labour, the growth of exchange of products, led to some changes. The necessities of conquest set aside primeval ideas. The stronger lived upon the labour of the weaker. Invaders carried their customs with them, and aboriginal systems were submerged in the deluge. The same usage will sometimes be found in two or more countries, but if the matter is followed up it will be found to proceed from the same cause. The *metayer* system of parts of France and Italy is clearly traceable to the inroads of the Burgundians; they formed two armies, one of which settled in France, the other in Italy, and under the name of *Hospitalities*, or payments from the farming occupants of the conquered lands, exacted a stated annual portion of the produce of the land; hence the word *metayer*, to measure.

My inquiries led me to group the land systems; there are the *Celtic*, the *Gothic*, (some prefer using the term *Teutonic*, but the Teutons were not one of the ancient races), the *Scandinavian*, the *Slavonian*, the *Mongolian* or *Scythic*, and those of the peninsulas, Turkey, Spain, and Italy, which have been more frequently overrun than the northern parts of Europe, and to whose inhabitants older historians apply the term *Scythic*, but the residents on the shores of the Mediterranean should not be confounded with the Scythians of Northern Asia.

The diffusion of men consequent upon the confusion of

tongues led the sons of Japheth* to settle in Europe, while those of Shem and Ham took Asia and Africa. The seven sons of Japheth were *Gomer*, from whom the Celts are descended; *Magog*, the Mongols or Scythians; *Madai*, the Slavs; *Tubal*, the Goths; *Tiras*, the Scandinavians; *Javan* and *Meshech*, the inhabitants of the isles of Greece, Turkey, Italy, and Spain,† who were called Scythians, but must not be confounded with the Mongols, or Magode, who are traced by Josephus to Magog.

Some recent writers overlook the most ancient and trustworthy of histories, and prefer the writings of Herodotus or Strabo to those of Moses. The latter are, in my opinion, more authentic, they tell us that the descendants of Noah peopled the whole earth. The new theory of development, which is pushed very far, not only with regard to the origin of the human race, but to the origin of institutions,

* Gen. x. 2—5: "The sons of Japheth; Gomer, and Magog, and Madai, and Javan, and Tubal, and Meshech, and Tiras. And the sons of Gomer; Ashkenaz, and Riphath, and Togarmah. And the sons of Javan; Elishah, and Tarshish, Kittim, and Dodanim. By these were the isles of the Gentiles divided in their lands; every one after his tongue, after their families, in their nations."

† The Israelites and the Jews continued to apply to the races inhabiting the shores of the Mediterranean the names of their ancestors. Thus Isaiah, chap. xxiii., in predicting the fall of Tyre, says, "Howl, ye ships of *Tarshish*; for it is laid waste, so that there is no house, no entering in from the land of *Chittim*." And again, chap. lvi. 19, "I will send those that escape unto the nations, to *Tarshish*, *Pal*, and *Lud*, that draw the bow, to *Tubal*, and *Javan*, to the isles afar off." This was written about 1,700 years after the deluge, but it shows that the Jews of that day preserved the nomenclature of a bygone age, and attributed the settlement of the Mediterranean to the sons of Japheth, three of whom are stated by name in the latter passage. Ezekiel, speaking of Tyre (chap. xxvii.), writes, "*Tarshish* was thy merchant by reason of the multitude of all kinds of riches; with silver, iron, tin, and lead, they traded in thy fairs. *Javan*, *Tubal*, and *Meshech*, they were thy merchants: they traded the persons of men and vessels of brass in thy market. They of the house of *Togarmah* traded in thy fairs with horses and horsemen and mules. The men of *Dedan* [*Dodanim*] were thy merchants; many isles were the merchandise of thine hand."

traces man to the monkey; those who advocate this theory have never shown when the power of developing monkeys into men, if it ever existed, ceased. If it existed it would continue; and unless they can produce a man-monkey, or a monkey-man, they fail to prove that a monkey ever developed into a man, and leave the Biblical narrative intact.

Language and institutions have followed the path of conquest. Mr. Latham, one of the most painstaking writers of philology, asks ("Elements of Philology," p. 611),—

"Has the Sanskrit reached India from Europe, or have the Lithuanic, the Slavonic, the Latin, the Greek, and the German, reached Europe from India? If historical evidence be wanting, the *à priori* presumption must be considered. I submit history is silent, and that the presumptions are in favour of the smaller class having been deduced from the area of the larger, rather than *vice versa*. If so, the *situs* of the Sanskrit is on the eastern or south-eastern frontier of the Lithuanic, and its origin is European." He adds, "A mile is a mile, and a league a league, from whatever end it is measured; and it is no further from the Danube to the Indus than from the Indus to the Danube. . . . The fact of a language being not only projected, so to say, to another region, but entirely lost in its own, is anything but unique. There is no English in Germany. A better example, however, is found in the Magyar of Hungary, of which no trace is to be found within some 700 miles of its present area. Yet the Magyar is not twelve hundred years old in Europe."

The absence of English from Germany is quite in harmony with my assertions that the Anglo-Saxons were Scandinavian, and that there was a complete migration of the Jutes, the Angles, and the Saxons, from the north of the Elbe into England, in the fifth and sixth centuries.

Looking at settlements from a philological point of view, it appears that the use of duplicate words is evidence of conquest; that such words as omnipotent, almighty, omniscient, all-seeing, ox, beef, sheep, mutton, bear the impress of two races, the conqueror and the conquered. Institutions bear the same imprint, though it is more difficult to separate their component parts than it is to follow the stream of

language ; but if we could follow back the branch to the trunk, we should arrive at the point of separation, which is also the point of union.

Herodotus gives the Celts the large domains of Central Europe north of the Danube, extending from the Black Sea to the ocean. There has been a westward movement of ancient races ; the Mongols have possessed themselves of parts of the land of the Scandinavians and the Slavs, the Scandinavians of some of those of the Celts, the Slavs have taken those of the Goths, the Goths have swarmed over into Celtic possessions, and also into the peninsulas of Italy and Spain ; while the Turks, the only Asiatic rulers in Europe, have held for several centuries part of the domains of the Southern Scythians. I have depicted upon maps of Europe the location of these races, in ancient and in the present time, and may perhaps publish them and the result of my researches at some future time.

My present task is to deal with that portion of the Celtic race which settled in Ireland, and where, being out of the high road of invasion, the ancient institutions remained uneffaced long after they had disappeared elsewhere. The general characteristic of the Celts was an unwarlike disposition ; being the original occupiers of fertile regions, they spread westward, yet found nothing to war with, hence there was an absence of any domineering or defensive organization. Their institutions appear to have been expressed in the cry of Celtic France at the end of the eighteenth century, " Equality, Liberty, Fraternity." The descendants of Gomer, the parent of the Celts, broke up into separate families, each governed by a patriarch ; disintegration was followed by integration, the family grew into the clan, sept, or tribe which was the joint owner of the land occupied by the progenitor, with a life possession to each of his descendants. There was a distinct limitation of the lands to the whole of his descendants, not to one portion to the detriment of others, each generation had the power of apportionment for life, and hence a dissimilarity in the size of the possessions. The lands be-