

CHAPTER I

THE LAND OF THE REALM

Thrice in our rough island's story attempts have been made to spy out the land.

The first by order of William I the Domesday Book of 1086;

The second by request of the House of Lords, Return of Owners of the Land, 1873; and

The third under the Finance Act, 1909-10 (the Lloyd George Budget).

Of this last it need only be said that it was a political expedient quite unrelated to any principle. The professed object was to secure a valuation of the land, to be used as the basis for assessment to Land Values Taxation. A horde of costly valuers went roaming over the country discovering, as they claimed, a non-existent *thing—minus site values!* Meanwhile literally hundreds of thousands of appeals were accumulating, choking the Law Courts, and the legal profession seemed in for a very profitable time when, in his Budget of 1922, Sir Austen Chamberlain, with the approval of his chief, Lloyd George, then Premier, scrapped the Valuation Department, destroyed the records, discharged (or transferred to other branches of the Civil Service) the Valuers, and returned to the Land Lords the whole of the money taken from them under the Land Value Duties of the Act of 1909-10.

The precedent thus established should not be overlooked when a tax is repealed in future: what's sauce for the Land Lord ought to be sauce for the Landless.

William's Domesday Book is said by some to have taken six years to compile. It was completed by 1086, but it did not cover the four northern counties: Cumberland, Durham, Northumberland and Westmorland. Neither did it include Scotland or Ireland, William's conquest not having extended over these two countries. London, too, was omitted from the Survey; its citizens objected.

Commissioners or King's Justiciaries (Legati Regis) were appointed with ample powers to ascertain "upon the oath of the several Sheriffs, Lords of Manors, Presbyters, Reeves, Bailiffs, or Villans, according to the nature of the place, what was the name of the place, who held it in the time of the Confessor, who was the present

holder, how many hides of land were in the manor, how many carracutes in demesne, how many homagers, how many villans, how many cotarii, how many servi, what freemen, how many tenants in socage, what quantity of wood, how much meadow and pasture, what mills and fish-ponds, how much added or taken away, what was the gross value in King Edward's time, what the present value, and how much each free-man or soc-man had or has."

The object was, says Sir Martin Wright, "To discover the quantity of every man's fee, and to fix his homage," or, in other words, to ascertain the quantity of land held by each person, and the quota of military aid which he was bound to furnish in proportion to the extent of his holding. That homage "being the *rent* to be paid by the *holder* for permission to *hold*."

As soon as his Commissioners had reported, William summoned a Witenagemot (assembly or council of wise men: we call it "Parliament" now) to meet him at Old Sarum, near Salisbury. It was attended, some say, by over sixty thousand men; all the abbots, bishops, barons, and knights of the kingdom, with every free tenant, came together to swear fealty to William for their lands and to declare themselves his tenants. This they did on bended knee, and in the most solemn manner of the time.

The oath of fealty was later made a statutory obligation by Edward II (1301), which provided that "When a freeman shall do fealty to his lord, he shall hold his right hand upon a book and shall say thus: "Hear you my lord, that I shall be to you both faithful and true, and shall owe my fidelity unto you for the land that I hold of you, and lawfully shall do such customs and services as my duty is to you at the times assigned".

By their oath the landholders acknowledged that, as Dr. Stubbs says in his "Constitutional History," "The king of Domesday is the supreme landlord of all the land of the nation; the old folk land had become the king's and all private land is held mediately or immediately of him."

This, the central theory of English Law, has not been changed through the centuries.

The idea involved is that the lands were *held*, and *not owned*, and that the proprietary rights lay in the nation, as represented by the king.

“No lawyer will assert for any English subject a higher title than tenancy-in-fee, which bears the impress of *holding* and denies the assertion of ownership.”—Joseph Fisher, F.R.H.S., “History of Landholding in England” (1875).

The second “Domesday,” Return of Owners of the Land, 1873, is contained in 4 large volumes, and may be seen in the British Museum Library. Like the first, it does not cover London. It extends over the whole of what then was the United Kingdom, but in the case of Lancashire in particular, is far from being complete: against very many names of owners “in that county the acreage and/or rental value being omitted.

The Return was ordered by the House of Lords on the motion of the Earl of Derby, father of the present peer, who is reported in the official Debates for February 19, 1872, as follows:

“The Earl of Derby asked the Lord Privy Seal (Viscount Halifax) whether it was the intention of Her Majesty’s Government to take any steps for ascertaining accurately the number of proprietors of land and houses in the United Kingdom, with the quantity of land owned by each proprietor. He should not trouble the House at any length, because he understood that the suggestion he had ventured to put in his question was acquiesced in, and would be acted upon by the Government. They all knew that out-of-doors there was from time to time a great cry raised about what was called the monopoly of land, and, in support of that cry, the wildest and most reckless exaggerations and mis-statements of fact were uttered as to the number of persons who were the actual owners of the soil. It had been said again and again that, according to the Census of 1861, there were in the United Kingdom not more than 30,000 landowners; and though it had been repeatedly shown that this estimate arose from a misreading of the figures contained in the Census returns, the statement was continually reproduced, just as though its accuracy had never been disputed. The real state of the case was at present a matter of conjecture, not he believed, for his own part, that 300,000 would be nearer the truth, than the estimate which fixed the landowners of the United Kingdom at a tenth of that number. He entirely disbelieved the truth of the popular notion that small estates were undergoing a gradual process of absorption in the larger ones.

The Duke of Richmond “thought this was a subject the importance of which could scarcely be overrated, and trusted that Her Majesty’s Government would be able to furnish the Return asked for by his noble friend. A vast amount of ignorance existed in regard to the question, and it was surely time that such ignorance was dispelled by *means* of documents possessing all the weight of Parliamentary Returns, and whose accuracy could not be disputed.”

Viscount Halifax said “his attention had been called, as had that of his

noble friend opposite (the Earl of Derby), to the extraordinary statements made in certain newspapers, and at some public meetings, respecting the wonderfully small number of landed proprietors in this country. For statistical purposes he thought that we ought to know the number of owners of land in the United Kingdom, and there would be no difficulty in obtaining this information.

The House of (Land) Lords having agreed, the manner of compilation of the Return needs to be explained. "After much consideration it was determined that lessees for terms exceeding 99 years, or with a right of perpetual renewal, should be considered as owners."

Instructions were issued for the Returns to be framed in accordance with this rule; "but, notwithstanding this direction," says the Explanatory Statement which prefaces the complete Return: "It is extremely probable that in several instances the names of the lessees have been entered in the Return as owners.

Corporate Bodies. "The Return must not be assumed to be complete in this respect, as there is reason to believe that in many cases the name of an individual is entered instead of the body or office which he represents, and this remark applies especially to glebe lands. Notwithstanding all the care that has been taken, there can be no doubt that in several cases the name of the same person will appear more than once in the county Return.

Property which is not rated does not appear in the parish lists, and consequently not in this Return.

At the time when the Return was prepared the following kinds of property were not rateable: (1) Mines other than coal mines; and with respect to coal mines, it must be observed that in those parishes where there are only underground workings, and no surface occupation with the mine, the valuation lists do not indicate the particular lands under which the workings are carried on, and consequently do not show the enhanced value of the land to the owner. (2) Woods, except where they consist of or contain saleable underwood."

No notice is taken in the Return of these descriptions of property, consequently many individual holdings are greater in extent than here shown: very much greater in the case of the large estates.

The material for the Return was collected county by county, with the result that an enormous amount of duplication occurred, which had the effect of swelling the number of holders while at the same time it concealed the true extent of the great estates, giving the

impression of a sub-division of the land which did not in fact exist. As an example of this: The Duke of Devonshire appears in Derbyshire as one holder with 89,462 acres, whereas actually he held 198,665 acres, the other 109,293 being distributed over 13 counties; in this way he is counted as 14 separate persons.

In the Explanatory Statement to the Return it is stated that “ an examination of a certain proportion of the names has been made, and the result gives, as an approximate estimate, about 6,000 owners as holding property in more than one county.” From our own examination of the names we are satisfied that this estimate is well below the fact.

Notwithstanding this duplication and the inclusion as owners “ of some thousands of names of leaseholders and others not entitled to be counted, the official totals were

Number of owners of one acre and upwards 269,547 =
Number of owners below an acre 703,289 .
Total 972,836.”

It is not known whether the Earl of Derby was satisfied that he had achieved his object when these totals were published, but W. L. Birkbeck, M.A., in his “ Distribution of Land in England,” has the effrontery to claim that

The delusion that ‘ the English nation is tenant at will to a few thousand landowners ‘ was dispelled by Lord Derby’s ‘ Domesday Book,’ showing that their number is about a million.”

Our own analysis of the Return gives the following totals for England and Wales; those for Scotland and Ireland will be found in the respective chapters which relate to those two countries

422 peers held over one-seventh of the country.

Holders of more than 1,000 acres :—3,810 persons held over one-third.

Holders of 100 to 1,000 acres :—33,997 persons held nearly one-fourth.

The above 38,229 persons held nearly three-fourths of the country.

Holders of 1 to 100 acres :—217,213 persons held under one-ninth.

Holders of less than 1 acre :—702,549 persons shared between them less than a two hundred and forty-seventh ($1/247$ th) part of the

country.

Landless :—20,047,275 others did not possess one square inch of their native land.

Population having more than doubled since the Return was compiled, the number of landless Britons to-day exceeds 43,000,000, for, although there has been some breaking-up of large estates in recent years, the age-old practice of adding field to field has not been abandoned, as an examination of our Tables of holdings will bear out.

When allowance is made for the duplication illustrated by such cases as that of the Duke of Westminster, and for the thousands of leaseholders counted as “ owners,” it is doubtful if the number of actual Land Lords would reach 600,000, and of these more than 570,000 would be *land-users* cultivating holdings below 100 acres in extent, and “ small men” who “ own” the fraction of an acre upon which their house stands.