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LETTERS FROM INVERARAY: THE EIGHTH DUKE OF ARGYLL’S CORRESPONDENCE WITH THE FIRST MARQUESS OF DUFFERIN AND AVA, WITH PARTICULAR REFERENCE TO GLADSTONE’S IRISH LAND ACTS

N M DAWSON*

INTRODUCTION

I have often stood on the shore of my own country looking to the opposite coast of Ireland, divided by a strait so narrow that on a clear day we see the houses, the divisions of the fields, and the colours of the crops; and I often wondered at the marvellous difference in the development of the two kindred peoples . . .

Those are the words of George Douglas Campbell,1 eighth duke of Argyll in the Scottish peerage, addressing the House of Lords during a debate on Gladstone’s second Irish land bill in 1881.2 The duke’s estates, comprising 175,000 acres in Argyll and the inner Hebrides, provided many vantage points from which to survey the coastline of north-east Ireland; but, from that distance, it is unlikely that he could have seen any part of the much smaller estates of his great friend, Frederick Temple Blackwood, marquess of Dufferin and Ava, whose lands lay in County Down: some near the southern shores of Belfast Lough, some in the heart of the county and some on the Ards peninsula.3

Even so, Argyll doubtless often thought about Dufferin—“Duffy”—whenever he gazed across the water. In Argyll’s autobiography, which Colin Matthew, Gladstone’s biographer, judged to be “the best autobiography of a Victorian cabinet minister”,4

* The extended text of the Stair Society Lecture delivered on 17 November 2012.
2 HL Deb 1 July 1881, col 1761.
4 Matthew (n. 1).
Argyll spoke of Dufferin as “the most intimate friend I ever had of my own age. His friendship has added more than I can well say to the happiness and charm of life.” Dufferin, in turn, described Argyll as the “dearest friend man ever had”. The corresponded for forty years, and many of Argyll’s letters to Dufferin survive in the Dufferin papers in the Public Record Office of Northern Ireland. Of course, not all of these letters were written from Inveraray: as Argyll’s personal, social and political life took him to many places, we find in the collection letters from Rosneath, Alnwick, Argyll Lodge in London, the India Office, the House of Lords, Cannes and Argyll’s yacht The Columba, as well as from Inveraray castle. Some of Dufferin’s letters to Argyll are also in the collection, having been returned to Lady Dufferin by the ninth duke of Argyll after Dufferin’s death. Dufferin’s diplomatic service in Canada, Russia, France, Italy and Turkey is reflected in his letters to Argyll. There are some gaps in the series, which runs from 1859 to 1899; one significant interruption is the period 1884–9, during which the Napier Commission report was published leading to the Crofters Holdings (Scotland) Act 1886, and when Dufferin was viceroy of India. The Irish land question dominated their correspondence for thirty years from the beginning of Gladstone’s first ministry in 1868.

**DUFFERIN AND THE ULSTER TENANT-RIGHT CUSTOM**

Argyll was not alone in his view of Dufferin the man. Described by Bertrand Russell as “delicious”, Dufferin was judged by Queen Victoria to be “much too good-looking and captivating”. A superficial resemblance to Disraeli was sufficient to engender rumours in the 1830s that Disraeli was his real father; but these are discounted by Harold Nicolson, Dufferin’s nephew and one of his biographers. His undoubted wit and urbanity were due in no small measure to influences from his mother’s family: born Helen Sheridan, Dufferin’s mother was the granddaughter of the actor, playwright and politician, Richard Brinsley Sheridan. Dufferin and his mother were close; he was her only child, and his father died when he was just 15. As Nicolson puts it, he and his mother “enhanced each other’s merriment and inspired each other’s wit”. His father’s people, the Blackwoods, originally came from Fife and settled in County Down in the late 1500s, gradually accumulating some 18,000 acres and embedding themselves in the gentry of Ulster. The Dufferin barony was granted to secure the Blackwoods’ support for the Act of Union 1800. While they

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6 Harrison, “First marquess of Dufferin” 246.  
7 PRONI, Dufferin and Ava papers, D1071/H/B/C/95, correspondence between George Douglas Campbell, eighth duke of Argyll, and Lord Dufferin.  
8 *Report of the Commissioners into the Condition of the Crofters and Cottars in the Highlands and Islands of Scotland*, PP 1884 xxxvi.  
9 Quoted in Davenport-Hines’s biography of Dufferin (n. 3).  
10 Nicolson, *Helen’s Tower* 86.  
12 Nicolson, *Helen’s Tower* 62. When he was just 22, Dufferin commissioned a Scottish architect, William Burn, to design a tower to be built on the estate in his mother’s honour. Known as Helen’s Tower and built in the Scottish baronial style admired by Dufferin, it was completed in 1861; poems written in Helen’s honour by Robert Browning, Lord Tennyson and the duke of Argyll were placed in the tower. In 1921, an exact replica of Helen’s Tower, known as the Ulster Tower, was built at Thiepval to commemorate those members of the 36th (Ulster) Division who fell at the Somme. They had trained on land round Helen’s Tower, Co. Down.
were reasonably substantial landlords, the Dufferins were overshadowed in wealth and influence by two greater County Down families: the marquesses of Downshire (the Hills of Hillsborough), and the marquesses of Londonderry (the Stewarts, later Vane-Tempest-Stewarts, of Mountstewart), the most distinguished of whom had been Robert Stewart, Viscount Castlereagh, who had served as British foreign secretary at the end of the Napoleonic wars.

Possessed of only an Irish peerage, no Baron Dufferin could expect to sit in the House of Lords. Under the Act of Union, only twenty-eight Irish peers could be elected by their own number to sit in the House of Lords, and election was not a realistic prospect for any holder of the Dufferin barony. The House of Commons also seemed out of Dufferin's reach: as an Irish peer, he could not stand for election in an Irish constituency, and he had no obvious prospect of election in an English one. Yet Helen Blackwood was convinced that her son, Sheridan's great-grandson, would achieve greatness, and through her he made many influential contacts in English society. She was one of three sisters, all noted beauties in London circles: one of her sisters became the duchess of Somerset, while the other was Caroline Norton, salon hostess, writer and social reformer. The Sheridan connection did not altogether advance Dufferin's career, although Helen was careful to steer her son away from the dissolute lifestyle of his most famous ancestor. While Dufferin was abstemious, he was extravagant, and indebtedness was to be a major feature of his life. During his minority, his guardian was Sir James Graham MP, Peel's home secretary from 1841 to 1846.

In 1847, Dufferin came of age and took possession of his estates. It could not have been a less auspicious moment to become an Irish landlord, with the Great Famine still making its calamitous progress, although Ulster escaped the worst of it. Dufferin was president of the Oxford Union that year; and, in company with an Oxford friend, the Hon. George Frederick Boyle (later the sixth earl of Glasgow), he travelled to south-west Ireland to see some of the worst-affected areas. Dufferin and Boyle's account of this episode was published in Oxford in 1847 as *Narrative of a Journey from Oxford to Skibbereen during the Year of the Irish Famine*, one of the most compelling and disturbing contemporaneous accounts of the effects of the Famine. Proceeds of sales of the publication were sent to Skibbereen for famine relief. Although the short work was not intended to offer suggestions for future action, it is clear from his other writings that Dufferin saw the problem as Malthusian, and he believed firmly in the utility of landlord-assisted emigration. On his own estates in Ulster, however, he also created work in order to alleviate the distress of the tenantry, and reduced rents for five years.13

Dufferin took a detailed interest in his estates, where he had some 7,000 tenants. The estates were heavily mortgaged: a quarter of the annual rental was swallowed up by interest payments on loans, while another quarter was needed to pay annuities under family settlements.14 In a society where improvements to land were made, if at all, by tenants rather than landlords, Dufferin was nevertheless regarded as an improving landlord.15 His estate policy was consistently firm but could only

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15 See Harrison, "First marquess of Dufferin" ch 5.
be regarded as unusually harsh in one respect. From the outset, he shared his late father's hostility to one of the dominant elements of land tenure in Ireland, the Ulster tenant-right custom, taking the view that it did not prevail on the larger part of his estates: that “a more unbusinesslike and mischievous system … could not have been invented” was his uncompromising view.\(^6\) In this respect, his estate practice differed markedly from that on the Downshire estates, where the Ulster custom operated fully.\(^17\)

In legal terms, the Ulster custom was a slippery aspect of landlord-tenant relations in Ireland. Two Irish barristers and text-writers described it as “a phantom that melts away under every attempt to define it and … chameleon-like, appears to assume a different aspect every time it presents itself”.\(^18\) They nevertheless attempted a definition, namely that it was the right of the tenant to continue in possession as long as he paid the rent, and the right of the tenant to sell “all of the interest in the farm recognised by custom” as belonging to him. As Dufferin was taking control of his estates, the Devon Commission had recently published its report and volumes of evidence on the occupation of land in Ireland.\(^19\) The report described the Ulster custom as “the most striking peculiarity” in the Irish system of land tenure, outlining its principal effect as follows:

> Under the influence of this custom, the tenant claims, and generally exercises a right to dispose of his holding for a valuable consideration, although he may himself be [a] tenant-at-will, and although he may have expended nothing in permanent improvements. We have found that in various parts of that province, sums equal to ten, twelve, or fifteen years' purchase upon the rent, are commonly given for the tenant-right; and this not only where the rent is considered low, but where it is fully equal to the value. Proprietors generally have been enabled to … secure a power of selection with respect to the [new] tenant, and to place some limit upon the amount to be paid; wisely judging, that a tenant who pays a large sum of money (part of which he probably borrows) in entering upon a farm, will be crippled in his means for the proper management of it.\(^20\)


\(^17\) Maguire, *Downshire Estates* 140.


\(^19\) Report from Her Majesty's Commissioners of Inquiry into the State of the Law and Practice in respect to the Occupation of Land in Ireland, PP 1845 [605] xix; [606] xix; [616] xx; [657] xxxi; [672] and [673] xxii. The report was also published in Dublin in 1845 in four volumes, and a digest of the evidence taken by the commissioners was published in Dublin in 1847.

\(^20\) PP 1845 [605] xix 14. The prices paid for the tenant-right, or occupancy, or goodwill, generally increased between the date of the Devon Commission report and Gladstone's first land act in 1870. Vaughan notes that on the duke of Abercorn's estates in Tyrone and Donegal, the average value of tenant-right between 1867 and 1887 was twenty-three years' purchase of the rent, and 25 per cent of the sales of the goodwill were for more than thirty years' purchase. He observes that, had the duke sold the freehold, he might not have got as much: Vaughan, *Landlords and Tenants* 71.
Under the custom, there was a direct but elusive link between the two financial burdens that an incoming tenant had to bear – the price of the goodwill or tenant-right, and the rent. As prices for tenant-right rose, levels of rent fell – in Dufferin’s words, like buckets in a well. It was generally understood that rents should not be increased too much to avoid lowering the price of the tenant-right. If the outgoing tenant had made major improvements to the land, the custom operated as a vehicle for compensation for unexhausted improvements, but in practice tenant-right often commanded the same price whether or not the outgoing tenant had improved the holding at all. Landlords wishing to consolidate holdings when tenants quit the land had themselves to pay the outgoing tenants for the tenant-right. The Ulster custom was especially strong in the province which lent its name to the practice; but it or similar customs prevailed in many other parts of Ireland. In his memoirs published in 1898, Lord Selborne, former Liberal MP, attorney general and lord chancellor, trenchantly observed that, up to 1860, all of Westminster’s legislative efforts to improve landlord-tenant relations in Ireland were based on a wholly erroneous assumption that Irish and English land tenures were identical, when in fact landlords, in Ulster generally, and in some other parts of Ireland, had laid the foundations of a system of dual ownership, by encouraging the growth of customs, the effect of which was to create saleable interests of substantial value in the continued occupation of the land ... It is true that this dual ownership rested upon sanctions of imperfect obligation, moral equities not recognised by law; but in a self-asserting and self-reliant population, such as that of Ulster, a sense of right which no legal theory could suppress ... took strong root.

The custom created expectations of, but did not guarantee, a fair rent or fixity of tenure; but if tenants were evicted, at least they had something to sell when they quit the holding, although the landlord had the first claim on the price paid for the tenant-right to secure any rent arrears. As Lord Hatherley, lord chancellor in 1870, observed, land agents set up their “little Insolvent Court” to receive the value of the tenant-right from incoming tenants, pay landlords what was owing to them in arrears of rent, and return the balance, if any, to the outgoing tenants. Despite being widespread in estate practice, the custom had no legal force before 1870, even though it had long been the case that tenurial and other customs could be absorbed into the common law if they were judged to be ancient, certain and reasonable. Some tenant-right customs of a limited nature had been recognised at common law in various parts of the British Isles. When legalisation of the Ulster

21 Dowling, _Tenant Right and Agrarian Society_ 315ff.
22 PP 1865 [402] xi: _Report and Minutes of Evidence of the Select Committee on the Tenure and Improvement of Land (Ireland) Act 1860_, minutes of evidence, qs 1213 and 1030.
23 “Roundell Palmer, first earl of Selborne (1812–95), lord chancellor”, by David Steele in _ODNB_ (online edn); R Palmer, _Memorials – Part II: Personal and Political, 1865–1895_, ed S M Palmer, 2 vols (1898) i 136.
25 HL Deb 17 June 1870, col 376.
26 HL Deb 14 June 1870, cols 4–5 (Earl Granville) and 16 June 1870, col 184 (Lord Cairns). See D R Denman, _Tenant-Right Valuation in History and Modern Practice_ (1942), esp ch 4. See also _Sucksmith v Wilson_ (1866) 4 F & P 1084, and reference to an unreported case, _Mowles v Ludlam_ (1861, Coleridge and Erle JJ) discussed in evidence before a Commons select committee: see n. 22, q 1454.
custom was debated in 1870, some commentators condemned the failure of the Irish judiciary to recognise it at common law. Lord Hatherley, for example, observed that “the common law in Ireland ought long ago to have given [the tenant] an interest in all [his improvements],” but the charge was misconceived. The Ulster custom most commonly gave tenants an interest not merely in their improvements but also in their holdings – the goodwill or tenant-right – that was not contingent on the making of improvements to the land; and its real effect, the creation of a system of dual ownership across swathes of Ulster land, was too great for the common law to countenance. Secondly, and fatally at common law, the Ulster custom was subject to great variation as to its detailed operation. It was protean, varying not only from district to district but also from estate to estate, and thus lacking the certainty necessary to become part of the common law. This meant that sales, bequests and mortgages of the tenant-right, though common, were not legally enforceable even though they were given practical effect in land agents’ offices. Landlords could and sometimes did exploit this uncertainty in concerted efforts to alter estate practices that had been established by their predecessors in title; and there is now historical evidence to show that the Ulster custom advanced or retreated generally at certain stages of the nineteenth century. In his time, Lord Dufferin asked his agent to attempt to restrict the price payable for the goodwill on those sections of his estates where the custom existed. Several historical narratives developed around tenant-right: it was sometimes explained as a reference to ancient Gaelic clan ownership before Ireland was brought under English rule, or an example of feudal tenure not unlike a copyhold. Most commonly and plausibly, the Ulster custom was taken to be a by-product of the seventeenth-century Plantation of Ulster and was attributed to unwritten contractual arrangements between the original plantation landlords and the Scottish or English ancestors of the current tenants. Lord Dufferin’s jaundiced attitude to any historicist theory emerges from this sarcastic comment during a debate in the House of Lords:

There are indeed some persons who believe that the custom ... was a kind of heaven-sent ... dispensation which descended upon Ulster as the manna through the encampment of the Israelites, or the dew upon the fleece of Gideon, covering that favoured province with the sudden and exact precision with which the crust covers a tart.

He rejected the Plantation theory, contending that the Ulster custom was in fact a tenurial accretion of the eighteenth or nineteenth century: a response to competitive pressure for land combined with (unexplained) landlord restraint in charging market rents. He strongly objected to the sale of the tenant-right, describing it as a “relict

27 HL Deb 17 June 1870, cols 374–5.
28 Vaughan, Landlords and Tenants (n. 16) 89.
29 See generally Dowling, Tenant Right and Agrarian Society (n. 16), and Vaughan, Landlords and Tenants (n. 16).
30 Dowling, Tenant Right and Agrarian Society 306.
31 Dowling, Tenant Right and Agrarian Society ch 2.
33 See, e.g. his evidence before a Commons select committee in 1865: n. 22, qs 1463–5.
of barbarism". On the other hand, he recognised that in Ireland, unlike England, land improvements were as a rule made by tenants; and the practice on his own estates was to allow tenants, on quitting their holdings, compensation for unexhausted improvements. His hostile and inflexible refusal to allow the full-blown Ulster custom—the sale of the tenant's goodwill—to operate on most of his estates was frequently articulated in speeches, in publications and in surviving correspondence with his agent.

Although Dufferin spent significant periods of time on his estates, much of his early adult life was spent in London, where his mother urged him on to a career in politics. Apparently as a favour to his former guardian Sir James Graham, in 1849 Lord John Russell gave Dufferin a court appointment as lord-in-waiting to the queen, with whom he became a great favourite. Elevation to the United Kingdom peerage soon followed, giving him an entrée into British political life. He took the title Clandeboye, not Claneboye, the original Irish spelling, apparently because of a reference to Clandeboye in Sir Walter Scott's *Rokeby*. Dufferin always claimed that, next to his mother, Scott had been the greatest influence on his life.

Under his mother's influence, he gravitated towards the Liberal Party emerging from a long period of political transformation, supporting Lord John Russell without enjoying any real rapport with him. It was under Russell's aegis that he gained experience of diplomacy, most notably as a British special commissioner in Lebanon in 1860. His character and personality, and his lack of political conviction, were such that a proconsular career would in the long run suit him better; but it would be another twelve years before that career would start in earnest, the delay possibly caused by his unwillingness to leave his mother for lengthy periods in her later years. In 1862, he married Hariot Rowan-Hamilton of Killyleagh castle in County Down. Throughout much of the 1850s and 1860s, while Argyll was substantially involved in British political life, Dufferin's parallel political career stalled. In 1863, he wrote to Argyll:

> life slipping by and I haven't done anything ... an Irish estate does not give sufficient occupation. [His estate was by now heavily indebted.""] I cannot endure to be idle any longer, and although literary occupation is open to me it will be with great dissatisfaction that I shall subside into that lower form of existence."

He was in fact already well known as the author of the popular travel book, *Letters from High Latitudes*, an account of a sailing expedition in the schooner *Foam*

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34 HL Deb 28 February 1854, col 42; reprinted in Milton (ed.), *Speeches and Addresses* 12.
35 Dufferin's evidence before the 1865 Commons select committee: n. 22, q 989.
36 PRONI, Dufferin and Ava papers, D1071/A/K, and Milton (ed.), *Speeches and Addresses* 6–14 and 38ff. Dufferin took an interest in Irish land issues throughout his time in the House of Lords: Harrison, "First marquess of Dufferin" 67 and 179.
37 Harrison, "First marquess of Dufferin" 47 and 64n; Nicolson, *Helen's Tower* (n. 3) 35. The reference is to *Rokeby*, canto v.
38 Harrison, "First marquess of Dufferin" 111–12.
39 The Hamiltons had owned a great deal of land in that county since the seventeenth century.
40 His principal creditor was John Mulholland, later first Lord Dunleath, who by foreclosing on one of the Dufferin mortgages furnished himself with an estate at Ballywalter: see PRONI, "Introduction to the Dufferin papers" 7–8, and Harrison, "First marquess of Dufferin" ch 8.
41 PRONI, Dufferin and Ava papers, D1071/ H/B/C/95/11, Dufferin to Argyll, 20 December 1863.
from Scotland to Iceland and on to Jan Mayen Island and Spitzbergen. (He dedicated the expedition to the duke and duchess of Argyll.) The book was an instant success and went through several editions from 1854 until the 1910s. It also inspired his mother, after a period travelling with him in the countries around the Mediterranean, to write Lispings from Low Latitudes, published in 1863 under the flimsy guise of "The Hon. Impulsia Gushington", a satire on intrepid lady travellers of the Victorian era.

A year after his gloomy letter to Argyll, he got his first political appointment, as under-secretary at the India Office, followed by the War Office. All the while, however, he was nailing his colours to the mast as an apologist for the Irish landlord interest. His evidence before an 1865 Commons select committee on Irish land legislation was followed by publications in 1867 and 1868, specifically rejecting land-reform proposals of Isaac Butt and John Stuart Mill respectively. Published as Gladstone assumed the leadership of the Liberal Party, these might with hindsight be seen as political miscalculations. At about the same time, Dufferin wrote privately to Sir Roundell Palmer MP, a leading Chancery silk, to ask him just how far Parliament could go to curtail landlords' rights. (Palmer would become Lord Selborne, lord chancellor, in 1872.) Palmer's reply, that law and equity existed to serve a sound political system, not to curtail it, was swiftly followed by a second, more reassuring letter to Dufferin, stating his belief that giving Irish tenants security of tenure was inexpedient from every point of view.

"AH, YES, I REMEMBER IT WELL"

Argyll wrote to Dufferin in late 1898 asking if he recalled when they first met: "I want to fix a firm date for my memoirs". Argyll's recollection was that he and the duchess were walking in the garden behind Apsley House in London in about 1850 or 1851, when Dufferin came along the road through Hyde Park: "we stopped and spoke to each other through the railings". Dufferin's recollection was different:

I have verified the date of my first visit to Inveraray. It was on the 4th of September 1850; but I think that the first place I [met] you was at Stafford House in '48 or '49 [this was the Duke of Sutherland's London place, now Lancaster House] ... But though I cannot remember the date on which we first foregathered, I remember perfectly well the first time I ever saw you. You were riding in Rotten Row, and my attention was arrested by your looking so young, and the colour of your hair, and I asked somebody who you were.

42 Nicolson, Helen's Tower (n. 3) 107–9.
43 It also inspired Tim Moore to attempt the same journey and publish his own account, which pays tribute to Dufferin's voyage: T Moore, Frost on my Moustache (2000).
44 See n. 22, qs 948–1576.
47 Dufferin and Ava papers, D1071/H/B/C/95/155, Dufferin to Argyll, 25 October 1898.
48 Dufferin and Ava papers, D1071/H/B/C/95/156, Dufferin to Argyll, 19 November 1898.
ARGYLL

From the political company that they kept, it appeared that Argyll and Dufferin were specimens of what Argyll described as "a special breed of spaniels", the aristocratic Whig landed interest. Argyll was Dufferin's superior in rank, wealth and political influence, but they both enjoyed a wide and partly shared range of interests beyond the political sphere, including the arts, science and sailing. Like Dufferin, Argyll had come into possession of his estates in 1847 at a time of agricultural distress: famine was widespread in Mull and Tiree. The desperate plight of the crofters exposed the problem of congested districts unable to support the population. While the fifth and sixth dukes had permitted uncontrolled subdivision of holdings, Argyll, like his father before him, pursued a policy of consolidation of holdings and used his own funds to assist both agricultural works on his estates and emigration. His uncle the sixth duke had greatly added to the burden of debt charged on the estates: the level of indebtedness in 1847 was over £250,000. His mother's estate in East Lothian had been sold in that year, strengthening his resolve to preserve the Argyll estates. Towards the end of his life, he would write that, in consequence of the famine and the actions that he felt compelled to take,

I became a convinced Free Trader. But it was in Free Trade in all its completeness that I believed. Free Trade in the products of the soil could not be met except by Free Trade also in land itself, and by conducting agriculture and land-owning as a business on the same conditions on which other businesses are conducted when open to competition.  

His attitude towards insolvent or indolent tenants was strict, although he always exonerated himself from the worst excesses of landlordism and held his estates up as a model of best agricultural practice. Assisted emigration and consolidation of holdings were significant strands of his estate policy. Professor Sir Tom Devine has subjected Argyll's claims to scrutiny and challenged his rather studied emphasis on the ends rather than the means of his estate-management policy.

Argyll attended Parliament from the age of 17. As the eldest son of a peer, he was permitted to listen to debates in the House of Lords, standing on the steps of the throne – and often did so, claiming that it was his one delight when in London. He was also, in his own words, "a constant and attentive listener, under the gallery of the House of Commons, to the great debates which preceded and followed [Peel's] attainment of power". From the age of 20, when he published his thoughts on the Disruption in the Scottish Church, he was a polymath and prolific writer on many issues of politics, domestic and foreign affairs, religion, natural science and economics. He was active in Scottish public life: for example, chancellor of

49 Southgate, Passing of the Whigs (n. 13) vii and 282.  
50 Duke of Argyll, The Unseen Foundations of Society (1893) ix. See also Duke of Argyll, "On the economic conditions of the Highlands of Scotland" (1883) 13 Nineteenth Century 178, and "A corrected picture of the Highlands" (1884) 16 Nineteenth Century 710.  
51 See, e.g., Duke of Argyll, Crofts and Farms in the Hebrides (1883).  
53 Argyll, Autobiography (n. 1) i 149.  
54 See generally Mulhern, "The intellectual duke" (n. 1).
the University of St Andrews at the age of 28, and president of the Royal Society of Edinburgh in his late thirties. Marriage at 21 to the daughter of the duke of Sutherland further advanced his social standing, political connections and wealth, and in 1847 he took his seat in the House of Lords on the strength of his United Kingdom title, Baron Sundridge, his dukedom being solely Scottish until 1892.55

From the early 1850s to the early 1880s, Argyll was in cabinet for about twenty years, under five different administrations, first becoming lord privy seal in 1852. Although in his youth he had despised the old Whig Party of Grey and Melbourne, and became a Peelite in the 1840s, he was with the Liberal Party from 1859 onwards.

I joined that group of statesmen who inherited the traditions of Sir Robert Peel ... With them I remained until we were absorbed in the coalition cabinet of Lord Aberdeen in 1853. Our first and special bond of union with the Whigs was resistance to any attempted return to the system of protection. In that cabinet I followed with hearty sympathy the brilliant prosecution of that work of tariff reform by Mr Gladstone ...56

His only departmental role was as secretary of state for India in Gladstone’s first ministry; but, throughout his time in cabinet, he was regarded as a heavyweight and, in Gladstone’s view, unquestionably the greatest orator in the Lords in the mid- Victorian period.57 While he was widely admired and respected, it is said that colleagues found him angular and outspoken. He was certainly very vehement and confident in his opinions – as his in-law Lord Granville said, “a little impulsive and fizzing”.58 This has been attributed to his solitary youth, his mother having died when he was five, and his elder brother nine years later. He wrote in his Autobiography: “[s]ome, perhaps many, of my contemporaries ... have thought me confident in my opinions, and very aggressive in my expression of them”.59 His explanation was that, from the time of the Disruption onwards, he had made a habit of so thoroughly researching all sides of a topic before speaking or writing about it, that when he stated his opinion it was one that was fully informed. He deplored the failure of others to do likewise.

THE CORRESPONDENCE; GLADSTONE’S FIRST LAND ACT

Argyll and Dufferin were prolific correspondents with many of the leading political and cultural figures of their time.60 Their correspondence with one another is characterised by a profound friendship, and has many amusing, sad, interesting and poignant moments, as some examples will illustrate.

25 July 1859: Argyll describes a visit to Tennyson’s residence on the Isle of Wight, and his “toy-like” summer house. “On nearing it, I saw it was a gingerbread ... We have heard him twice read the new poems Guinevere & Maid of Astolat. I envy you the first reading of them. Guinevere is magnificent beyond all expression. ‘Them’s my sentiments’ ... My wife has been spoiling you so far as to send you the ‘Idylls of the

55 Argyll, Autobiography (n. 1) i 301.
56 Argyll, Unseen Foundations x–xi.
57 Argyll, Autobiography ii 587.
58 Steele, Irish Land and British Politics (n. 46) 210.
59 Argyll, Autobiography i 167.
60 Dufferin’s brilliance as a letter-writer is noted in a review by W P Morrell of the Dufferin–Carnarvon correspondence: (1957) 72 English Hist R 561.

THE CORRESPONDENCE; GLADSTONE’S FIRST LAND ACT

Argyll and Dufferin were prolific correspondents with many of the leading political and cultural figures of their time.60 Their correspondence with one another is characterised by a profound friendship, and has many amusing, sad, interesting and poignant moments, as some examples will illustrate.

25 July 1859: Argyll describes a visit to Tennyson’s residence on the Isle of Wight, and his “toy-like” summer house. “On nearing it, I saw it was a gingerbread ... We have heard him twice read the new poems Guinevere & Maid of Astolat. I envy you the first reading of them. Guinevere is magnificent beyond all expression. ‘Them’s my sentiments’ ... My wife has been spoiling you so far as to send you the ‘Idylls of the
King’. Say beautiful things for us to the little Mother – poor creature, I pity her from the bottom of my heart tied to such a production. Ever thine. A.”

22 May 1860: Argyll congratulates Dufferin on a speech in the House of Lords. “You spoke excellently well: and had completely ‘the ear of the House’ which is a sure sign. Your little dig at some late colleagues who voted against us was delicious — and I saw the lugubrious countenance of Camperdown give some significant twitches. Hurrah! Yours aff. A.”

26 February 1862: some weeks after Prince Albert’s funeral. Argyll writes: “What did you think of the Queen? How can I tell you …? that there was never anything so touching — so gentle — so simple — so brokenhearted — and so pretty! with the white wreath of mourning on her brow. And did she not tell me — and desire me to tell Tennyson — how much she loved ‘In Memoriam’ … And have I not written to Tennyson, and has he not been pleased? And are you not an Irish ruffian — to have written instead of coming [here] to hear [the news]? And do you expect me to spend more ink and paper on you?”

8 April 1868: Dufferin had written to tell Argyll that the Regium Donum, an annual grant first established in the 1670s to augment the stipends of Irish Presbyterian clergy was to be withdrawn. Argyll’s reply: “C’est magnifique, mais ce n’est pas la guerre.”

7 October 1870: Argyll’s eldest son, the Marquess of Lorne, had become engaged to the queen’s daughter, Princess Louise, prompting this letter to Dufferin. “That spalpeen Lorne has been, and gone, and done it! He has proposed to the Princess Louise, and she has accepted him! This is a tremendous business. My dear wife is in a state of … nervous tension about it all. I hardly know when it will be known. Meanwhile keep it to yourselves strictly.”

Undated letter during Dufferin’s time as governor general of Canada in the mid-1870s, from Cheyenne, Wyoming. “We spent a whole day in Salt Lake City, and came in contact with a good many Mormons. I refused, however, to go and see Brigham Young, as he is too great a scoundrel to shake hands with.”

5 April 1877: Argyll tells Dufferin about a ninety-minute speech he had made in the Lords on the Eastern question. “I spoke all I meant to say … and though the audience was thoroughly hostile, and I never had a cheer the whole time, I had what I value much more, perfect silence, and all eyes fixed … There was one part of my speech that I must tell you about. A sort of impression had got about that I was to attack Dizzy, and that an aristocratic feeling against ‘new men’ on the part of ‘Old Whigs’

61 Dufferin and Ava papers, D1071/H/B/C/95/3, Argyll to Dufferin, 25 July 1859.
62 Dufferin and Ava papers, D1071/H/B/C/95/4, Argyll to Dufferin, 22 May 1860.
63 Dufferin and Ava papers, D1071/H/B/C/95/7, Argyll to Dufferin, 26 February 1862.
64 Dufferin and Ava papers, D1071/H/B/C/95/22, Argyll to Dufferin, 18 April 1868.
65 Dufferin and Ava papers, D1071/H/B/C/95/50, Argyll to Dufferin, 7 October 1870.
66 Dufferin and Ava papers, D1071/H/B/C/95/74, Dufferin to Argyll, n.d. but written during Dufferin’s vice-royalty of Canada (1872–8).
was at the bottom of it. Of course I hate the very notion of being suspected of such a feeling. Was I to say anything laudatory of Dizzy? I could not do that honestly. So I concocted an appeal to Dizzy that would contain only these two compliments: first, that he was kind to young men coming up in Parliament, and second, that he had led his party to a most unexpected victory. These two items of praise were wrapped up in a few sentences about the strength of his government, and the result was that the Tories were … delighted, and the press reported a magnificent eulogy on Lord Beaconsfield! Oh, the humbugability of the human species!67

7 November 1896: Argyll had written a poem about Dufferin’s career on the occasion of his retirement as a diplomat: “a wee tribute”.68 Dufferin’s reply shows how deeply moved he had been by Argyll’s tribute; and two years later he wrote that the poem was hung in Helen’s Tower on the Clandeboyce estate.69

Argyll and Gladstone were political intimates during the late 1860s and 1870s. In his autobiography, Argyll freely admitted to liking Gladstone from the first; they had worked together since the early 1850s and maintained a lively correspondence until Gladstone’s death. The Gladstones and the Argylls socialised often and were part of the then Cliveden set, hosted by the Sutherlands. In contrast, Dufferin and Gladstone were never less than wary of one another. That Dufferin should be disappointed when Gladstone did not offer him the lord lieutenancy of Ireland showed a marked lack of political self-awareness. Instead, he became chancellor of the duchy of Lancaster, while Argyll got the India Office. After Gladstone came to power in late 1868, both Argyll and Dufferin supported the first strand of his Irish policy, the disestablishment of the Church of Ireland. The second – land reform – was bound to be more difficult for them both.

Although convinced of the evils of landlordism in Ireland, Gladstone had no clear view of what form his land bill would take until late 1869. By then, the press in Ireland, strongly led by Sir John Gray MP, owner of the Freeman’s Journal,70 had cultivated a popular expectation of “tenant-right” for all occupiers of agricultural land; but this term could cover a multitude of options. One thing was clear: that, as a result of the growing political instability in Ireland, public opinion could not now be satisfied by mere compensation for unexhausted improvements, which was of course the (only) custom on the Dufferin estates.

In his autobiography, Argyll made the following comment about Gladstone’s modus operandi: “It is generally supposed that his mind was as original as it was ingenious and passionate and strong. In my opinion, it was quite the most receptive mind I have ever known. It held tenaciously everything that fell upon it from other minds.”71 David Steele’s unrivalled close study of the development and passage of Gladstone’s first Irish land bill shows the wide range of conflicting economic, legal and political opinions synthesised in the prime minister’s rationalisation of the

67 Dufferin and Ava papers, D1071/H/B/C/95/75, Argyll to Dufferin, 5 April 1877. See also D1071/H/B/C/95/84, where Argyll tells Dufferin with equal candour of a failed speech that he had given in Leeds.

68 Dufferin and Ava papers, D1071/H/B/C/95/145, Argyll to Dufferin, late October 1896.

69 Dufferin and Ava papers, D1071/H/B/C/95/146, Dufferin to Argyll, 7 November 1896, and D1071/H/B/C/95/156, Dufferin to Argyll, 19 November 1898.

70 Black, Economic Thought and the Irish Question (n. 45) 53.

71 Argyll, Autobiography (n. 1) i 481.
land question. At the moment of decision, however, two voices seem to have been critical. Chichester Fortescue, the Irish secretary, undoubtedly helped Gladstone to settle the details of the bill, although Fortescue in turn was being advised by Belfast law professor William Neilson Hancock. But the “big idea” came from Sir George Campbell, a Scot who had served as an Indian administrator and magistrate. Home from India on furlough for health reasons, he visited Ireland twice in 1869, for relatively short periods, and published a pamphlet entitled The Irish Land. Gladstone would later admit to its impact on his thinking. Campbell wrote:

It seems to me that we must do one of three things: 1. Firmly refuse all substantial concessions, and tell the discontented Irish that they may emigrate. 2. Concede something of the extreme theoretical rights of the landlords by way of compromise. 3. Satisfy, if it be possible, both Irish parties by the expenditure of British money. It is to this last plan that I especially object; and it is because the schemes put forward by the most distinguished of advanced liberals, Mr Bright and Mr Mill, are of this character that I think something else must be devised.

The economists John Bright and John Stuart Mill advocated state-assisted land purchase, enabling tenants to buy out the freehold. That would of course be the final solution to the Irish land question — and, when it gained momentum from the 1890s onwards, both Dufferin and Argyll felt able to support it as consistent with their free-trade philosophy. But that was two long decades away; and the British government, British public opinion and, more pertinently, many Irish landlords were not yet ready for such radicalism.

The realpolitik was that, with the Liberals in power, only Campbell’s second option was plausible: retention of the landlord-tenant relation subject to a curtailment of landlord-right and a correlative growth of tenant-right. With sweeping references, on the one hand to Indian customary tenures and on the other to his friend Henry Maine’s Ancient Law which acknowledged the tendency of less advanced societies (like Ireland) to value status above contract, Campbell lit upon the Ulster tenant-right custom as a basis on which to move forward, describing it as a “really very beneficial co-proprietorship” — but notice how the statement tails off — “of [a] somewhat indefinite and uncertain character”.

Overstating what the Ulster custom could deliver, Campbell’s proposition was that it should be “legalised” — made legally enforceable — and extended to all Irish tenants. He observed in passing that certain tenant-right customs had been recognised at common law in England, although in truth these were very specific and limited rights to compensation, for example, for crops planted by the tenant but not harvested by the time the tenant quit the holding. Much of Campbell’s thinking was shallow and tendentious, but its woolly historical relativism was exactly the packaging that Gladstone needed to sell land reform to a legislature still dominated by the

Steele, Irish Land and British Politics (n. 46).

He would later become MP for Kirkcaldy Burghs: E A Cameron, “Poverty, Protest and Politics”, in D Broun and M MacGregor (eds), Miorun Mor nan Gall – the Great Ill-Will of the Lowlander – Lowland Perceptions of the Scottish Highlands, Medieval and Modern (2007) 218 at 242.

Campbell, The Irish Land (1869) 3.

The possibility of legalisation of the custom was first proposed in 1847, by Sharman Crawford, but only in relation to tenants in Ulster: Kennedy, “The Struggle for Tenant-Right” ch 12.
landed interest. It was also the sugar-coating so detested by Argyll, who regarded the historicist argument as "clap-trap".76

A final word on Sir George Campbell’s *The Irish Land*: he singled Dufferin out for special mention, dismissing him in these terms: "Lord Dufferin’s strong objections to the [Ulster Custom] are not ... generally shared by any class in the country". Dufferin’s political isolation had begun much earlier in 1869, in January in fact, due to Argyll’s thoughtless actions. Dufferin had written to Argyll to say that agrarian violence was increasing in parts of Ireland.

Do any of you fifteen Deities, sitting in your ministerial Olympus, cast an eye towards these forlorn regions? If you do, you may perhaps have learned that a good many people have been shot lately. Joking apart, matters are looking very ugly in this part of the world ... [This] is the natural consequence of all that is being said about the inherent rights of the Celtic race to the soil of Ireland ... [Had Dufferin’s letter stopped there, all might have been well; but he continued:] a man may come from a stock rooted for 600 years in the soil of Ireland: unless he be a Catholic and his name begins with an “O”, he is to be denounced as an alien, declared incapable of holding landed property, his title considered as a usurpation; and the fee simple of the soil is to be adjudged to a set of thriftless squatters.77

Argyll promptly forwarded the letter to Gladstone because he considered that the prime minister should know what Dufferin had to say about the growth of violence. Dufferin was horrified — “my letter ... was ... intended for your private delectations. I am afraid our Gladstone will have thought it rather flippant”78 — and lamely asked Argyll to say to Gladstone that he was willing to make a speech in the Lords, broadly supportive in a non-committal sort of way, of the government’s intentions in relation to Irish land. It is likely that this episode confirmed Gladstone’s view of Dufferin’s lukewarm commitment to land reform.

A fairly intensive exchange of letters followed between Dufferin and Argyll on the subject of the Irish land bill, Argyll’s intention being to keep his friend informed of events and details of the draft legislation. Dufferin’s position outside cabinet, yet Lords spokesman on the government’s Irish policy, was difficult. When the details of the bill were almost finalised, Dufferin, anticipating the litigation that would follow such a measure, expressed concern to Argyll as to how the legislation could ever be managed on the ground in Ireland, “as scarcely a lawyer in Ireland has ever had an acre of land in his possession, and neither they nor even the judges understand the meaning of property”.79

The proposal to extend the Ulster tenant-right custom throughout Ireland was strongly resisted by Argyll and others, and was eventually abandoned in favour of the more limited option of legalising the custom and similar usages where they could be proved to exist (whether in Ulster or elsewhere) in 1870. Where the custom did not prevail, there were to be limited statutory rights of compensation for disturbance and improvements. After making a detailed study of the custom, Argyll was persuaded

77 Dufferin and Ava papers, D1071/H/B/C/95/31, Dufferin to Argyll, 11 January 1869.
78 Dufferin and Ava papers, D1071/H/B/C/95/32, Dufferin to Argyll, 14 January 1869.
79 Dufferin and Ava papers, D1071/H/B/C/95/37, Dufferin to Argyll, 26 November 1869.
that this limited legalisation was right and fair, although unlikely to lead to improved standards of husbandry. His acceptance of the entrenchment of customary tenure was consistent with his approach while at the India Office to Indian customary tenures. Years later, he would say in the House of Lords: “there was no part of the Land Act of 1870 that I more heartily agreed to than I did to the legalizing of the Ulster Custom, because I thought that custom, properly so called, is a part of contract”. He wrote as much to Dufferin in early December 1869. The latter also appeared to have been won round by Gladstone’s arguments; but, when he rose to support the bill in the Lords, he quickly fell into his natural role of arch-enemy of the custom, and his defence of the legalisation of the Ulster custom in Ulster brought loud cheers from the opposition benches. This is part of what he said:

But it will be said — if you think so badly of tenant-right custom, how can you be a party to its legalisation? Well, for the same reason that I would sentence the murderer of an illegitimate infant to be hanged. I do not approve of adultery, but the creature is there, and being there, is entitled to the protection of the law. Tenant-right exists. Its presence is acknowledged ... sheepishly... by one thoughtless author of its being — the landlord — and has been turned into a monstrous sturdy bantling [brat] by the partner of his folly, who not unnaturally appeals to the parish, or rather to your Lordships, in vindication of her rights.

Lord Salisbury spoke next, for the Tories. “It is not in my power to condemn the proposals of her Majesty’s government with the force and distinctness that have characterised the speech of the noble Lord Dufferin.” Dufferin offered to resign immediately, but this was rejected.

In the Commons, the bill’s principal opponent was the Liberal MP, Sir Roundell Palmer, former attorney general and soon to be Lord Chancellor Selborne. Gladstone wrote to Earl Russell:

We have had a most anxious time ... 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 ... and stirs these susceptibilities to such a point that he is always near bringing us to grief.

To Argyll, Gladstone hinted that he would welcome his assistance in dealing with Palmer. Argyll wrote immediately to Palmer, making three key points: this was an Irish land bill, recognising exclusively Irish customary tenures; secondly, there was a very strong clause — for which Argyll was partly responsible — allowing contracting out of the compensation provisions in relation to land not covered by the custom; and finally, the grave situation in Ireland demanded some intervention: “the anchors

80 E D Steele, “Ireland and the empire in the 1860s: Imperial precedents for Gladstone’s first Irish land Act” (1968) 11 Historical J 64 at 68–9.
81 HL Deb 1 July 1881, col. 1753ff.
82 Dufferin and Ava papers, D1071/H/B/C/95/40, Argyll to Dufferin, 4 December 1869.
83 HL Deb 14 June 1870, col 61ff.
84 Steele, Irish Land and British Politics (n. 46) 308.
85 Steele, Irish Land and British Politics 303.
86 Steele, Irish Land and British Politics 305.
of opinion, on which all rights of property depend, are dragging and have lost their hold ... I dread the loss of this Bill more than I can say; and I, as a landowner, am satisfied with the concessions made". The "Argyll clause" was lost in the Commons, but the bill reached the statute book in the summer of that year, largely unscathed.

APPRAISAL OF THE 1870 ACT

Shortly after the introduction of the land bill in early 1869, the prominent County Down mill-owner, William Andrews, wrote to Dufferin asking, if the custom be declared to be the law, "what is the law?" Although the Act did not define the Ulster custom, its existence on any estate had to be proved in court; consequently, the 1870 Act generated for the first time a body of case law on the nature and operation of the custom. The best assessment to date of that body of case law is that contained in Vaughan's *Landlords and Tenants in Mid-Victorian Ireland*, although Frank Thompson's *The End of Liberal Ulster* also provides valuable material on the Act's reception specifically in Ulster. Thompson notes that, within days of the 1870 Act, the legalisation of the custom and similar usages was being described in the local press as a trigger for "endless squabbles and litigation". Vaughan's analysis of the cases shows that just under 5,000 cases were brought before the civil bill courts between 1871 and 1877, of which just over 2,000 were resolved by a court judgment. The legalisation of the custom also affected the solicitors' profession. Tenant-right was now a legally recognised asset. In 1871, Denis Caulfield Heron QC MP estimated that, overnight, the Act had generated approximately £20 million in Ulster and a similar amount where tenant-right prevailed in other parts of Ireland. The impact of this on probate, on security for debt and on bankruptcy practice has as yet only been sketchily traced.

Clive Dewey, in a fascinating review of historicism and Gladstone's Irish and Scottish land acts, describes the policy underpinning the 1870 Act as politically revolutionary - sacrificing as it did the sanctity of contract and property - but at the same time socially conservative, because it reinforced agrarian custom. But can the latter view be sustained? Fairly frequent recourse to the law must have disrupted the custom significantly and created yet another source of discontent. There is now compelling evidence that, as tenants realised that the Ulster custom in court did not deliver the "three Fs" (fair rent, fixity of tenure and free sale of tenancies), this fuelled agrarian unrest and increased landlord resistance to the custom. The latter point is borne out in Dufferin's letters to Argyll in 1880. "The extreme Tenant

88 Landlord and Tenant (Ireland) Act 1870, 33 & 34 Vict c 46. See Steele, *Irish Land and British Politics* 312.
89 Harrison, "First marquess of Dufferin" (n. 3) 259–60.
90 Vaughan, *Landlords and Tenants* (n. 16) ch 4; Thompson, *End of Liberal Ulster* (n. 16) 74ff.
91 Thompson, *End of Liberal Ulster* 74. Note Gladstone's comment that, by legalising the custom, it would be changed: Dowling, *Tenant Right and Agrarian Society* (n. 16) 297.
92 D C Heron, "On the Landlord and Tenant (Ireland) Act 1870" (1871) 6 *J Statistical and Social Inquiry Society of Ireland* 64 at 73.
93 Dewey (n. 76) 30.
Righters ... found that ... the Ulster Custom fell short of their own fantastic ideal."

"Lord Lurgan is [now] almost the only landlord in the north who from conviction is a friend of tenant right."

As a landowner, this was all largely a matter of indifference to Dufferin, who in early 1869 had granted his tenants new leases which effectively deprived them of any benefits accruing under the 1870 Act. Although he did this before he knew the details of the legislation, he would for many years afterwards be accused of acting on insider knowledge. Eventually, an extravagant lifestyle and personal indebtedness led to the sale of most of his estates in the 1870s, save only the Clandeboye estate near Belfast. Politically, however, the 1870 Act, and Dufferin’s “defence” of it, was the beginning of the end of his parliamentary career. His resignation was finally accepted in mid-1872, and an earldom was followed by his appointment as governor general of Canada, the first of a number of notable proconsular successes.

David Steele has described the 1870 Act as a monumental irrelevance in the sense that it fell so far short of widespread political demands in Ireland. But its very inadequacy made it highly relevant in the chain of political events. Ten years on, a second Irish land bill seemed inevitable. The Irish economy was threatened with collapse as a result of an agricultural depression; and many landlords, Dufferin included, felt compelled to allow tenants rent abatements, yet throughout the country there were widespread rent arrears and more evictions than usual. Outside Ulster, there was no compensation for disturbance under the 1870 Act for tenants ejected for non-payment of rent; inside Ulster, the price for tenant-right was in sharp decline. The developing Land War and the strength of the Irish party following the 1880 general election dictated the agenda at the start of Gladstone’s second ministry.

Quite apart from the subject of Irish land, Argyll’s correspondence with Dufferin reveals a degree of despondency from the start of Gladstone’s second ministry. Argyll expressed deep disappointment that he was not offered the India Office for a second time:

I had a few dreams how nice it would be to have India again, and you there [as viceroy] that we could act together ... how I wished to have interesting work. I have studied and worked at Indian affairs as no-one else has ... I do not like a nominal place [and] I would rather be out of office altogether. I look with positive weariness on the prospect before me and I don’t know how long I shall be able to stand it.

In truth, Argyll was in low spirits following a fire at Inveraray castle in 1877 and the death of his first wife a year later.

Gladstone, meanwhile, was assailed on all sides with demands for a new Irish land bill granting the three Fs to all tenants, while the situation on the ground in Ireland was dangerous and deteriorating. The three Fs went much further than Gladstone wished to go; but W E Forster, the Irish secretary, left him in no doubt that a measure falling short of those demands would not be sufficient. Gladstone

95 Dufferin and Ava papers, D1071/H/B/C/95/93, Dufferin to Argyll, 24 December 1880.
96 Dufferin and Ava papers, D1071/H/B/C/95/92, Dufferin to Argyll, 7 December 1880.
97 Harrison, "First marquess of Dufferin" (n. 3) 239-40.
98 Argyll wrote to Dufferin in Canada: "I hear terrible things about your expenditure ... Do not be too Irish or too Sheridanish; it is an awful combination": Nicolson, Helen’s Tower (n. 3) 155.
99 Dufferin and Ava papers, D1071/H/B/C/95/87-88, Argyll to Dufferin, 25 and 28 April 1880.
managed the agenda with characteristic subtlety. Argyll wrote to Dufferin, now in St Petersburg, saying that

Gladstone is the only barrier between us and the deep blue sea. He will not agree to the three Fs, that is to say, in form. But he sees his way to elaborate provisions which must (I think) end in them and are very little short of them now. On the other hand, he argues steadily against extreme views and denies joint ownership ... I do not see my way to be an advocate of such a measure as it stands, but it is not settled yet.100

GLADSTONE'S SECOND IRISH LAND ACT AND BEYOND

The reports of two royal commissions, the Richmond and Bessborough Commissions,101 made the introduction of legislation granting Irish tenants the three Fs inevitable, on the basis that freedom of contract was not a reality for Irish tenants (the Richmond view) or that historically Irish tenants had enjoyed a degree of security of tenure which amounted to joint ownership of the land (the Bessborough view) – in either case, an appeal to the different conditions prevailing in Ireland.102 In the event, the Land Law (Ireland) Bill 1881 was brought in, giving present and future tenants the right of free sale of their tenancies, an improved right of compensation for disturbance (fixity of tenure) and, for present tenants only, the right to apply to a new court, the Land Commission, to have a fair rent judicially fixed every fifteen years.

On New Year's Day 1881, Argyll wrote to Dufferin, saying that "I see that in resisting I shall ultimately stand alone ... I wish and long to be out."103 A few days later, Dufferin replied that "[a]ll of us landlords ... ought to present you with a crown of gold for the vigorous stand you are making against such tremendous odds"; but in truth his main concern was whether the bill would affect some of his land along the shore of Belfast Lough, which he had let on temporary contracts pending building development.104 Argyll prepared several memoranda for cabinet meetings and engaged in a frantic correspondence with Gladstone; but, as the prime minister's legislative proposals became clearer, Argyll told Dufferin that he was "getting more and more disgusted with our position and more and more anxious to be out of it if I could".105 He particularly objected to a right of sale for tenants as essentially transferring the landlord's rights of property to the tenant.106

Argyll resigned from cabinet on 31 March 1881, a week before the bill was laid before Parliament. When it had become clear that the proposed bill would not be modified to meet his objections, and that the main argument was that political agitation and a rent strike in Ireland had forced the government's hand, Argyll wrote to his friend:

100 Dufferin and Ava papers, D1071/H/B/C/95/103, Argyll to Dufferin, 23 February 1881.
102 Dewey (n. 76) 61–2.
103 Dufferin and Ava papers, D1071/H/B/C/95/94, Argyll to Dufferin, 1 January 1881.
104 Dufferin and Ava papers, D1071/H/B/C/95/98, Dufferin to Argyll, 16 January 1881.
105 Dufferin and Ava papers, D1071/H/B/C/95/100, Argyll to Dufferin, 1 February 1881.
The measure may be necessary to appease Ireland, which is in a dangerous condition. It may (if accepted) do good even to owners, who are in danger of losing all. But this is an argument from political necessity which, as a minister, I cannot conscientiously use. It is the "blunderbuss argument", a very strong one, but not one easy to defend on the part of those who hold the blunderbuss.107

He could not do what Dufferin had done in respect of the 1870 Act – stand up in the Lords to express false support for a measure of which he totally disapproved. In his resignation statement in the Lords on 8 April 1881, he said: "I am opposed to measures which tend to destroy ownership altogether by depriving it of conditions which are necessary to the exercise of its functions. In Ireland, ownership will be in abeyance or commission."108 Later, during the Lords' debate on the bill, he railed against the government's historicist presentation: "the idea that under the old Celtic custom the cultivator of the soil had a greater security than he now has is ludicrous".109 This tends to support Professor Ewen Cameron's view that Argyll never really understood the importance of the land to the occupier. It also shows that Argyll had not fully grasped that historicism in the debate about Irish land was increasingly a reference to the national question, not merely to the landlord-tenant relation. The notion of "land as metaphor", as Philip Bull has put it, was beyond Argyll's understanding of property in land.110

As the bill went through the Lords, Argyll secured what seemed to him an important amendment whereby the tenant's rights of free sale and to have a fair rent adjudication were excluded on estates where landlords made and maintained all of the improvements. He was crowing when he wrote to Dufferin:

I fought hard for two amendments, one of which I have carried ... [It] keeps open an inducement to Irish owners to do all the duties of a landlord, and insures to him the chief powers and rights of ownership in return. For the future this seems to me of incalculable value.111

This betrays Argyll's ignorance of Irish landlords, who on the whole were not given to land improvement – a point so often pressed upon him by Gladstone. Significantly, Cherry's Irish Land Acts, when dealing with the exception won by Argyll, stated that it applied only to "English-managed estates". It was one of the least litigated provisions of the Act, almost a dead letter.112

The Land Law (Ireland) Act 1881 was, after a fierce fight in the Commons, carried comfortably enough.113 Before long, it became a template for Scottish land reform. Cameron comments that, during the Scottish Crofters War 1882–3, the Irish Land Act of 1881 was always in the background, although the demands of the crofters were more modest and localised than those of the Land League.114

107 Dufferin and Ava papers, D1071/H/B/C/95/105, Argyll to Dufferin, 7 April 1881.
108 HL Deb 8 April 1881, col 994.
109 HL Deb 1 July 1881, col 1753ff.
111 Dufferin and Ava papers, D1071/H/B/C/95/109, Argyll to Dufferin, 17 August 1881. The relevant provisions are ss 1(6) and 8(4) of the 1881 Act.
112 R R Cherry, The Irish Land Law and Land Purchase Acts 1860 to 1901 (1903) 237.
113 44 & 45 Vict c 49.
114 Cameron (n. 106).
that was at issue in the case could only be applied where the full unrestricted Ulster custom was proved to exist, which was not the case on Dufferin's estate.\textsuperscript{130}

Of course, Dufferin wrote to Argyll (in the spring of 1899) to tell him about the case. Struggling to understand what was admittedly a puzzling case, Argyll commented in his penultimate letter to Dufferin:

How monstrous the whole system is! It always makes me bilious to hear it. I think I understand now, though it is rather confusing. [So] you are under the custom, as modified by your own system of management. Is not that about it?\textsuperscript{131}

And, in Argyll's last letter, dated 10 April 1899, further words of congratulation to Dufferin on his legal triumph, briefly capturing the fact that for the writer, his world was still that of landlord and tenant, while the addressee was still fighting yesterday's battles: "I understand your law plea now and am very glad you gained it. What swindlers the Irish tenants are!"\textsuperscript{132}

\textsuperscript{130} Upton v Marquis of Dufferin (1898) 32 Irish Law Times Rep 118; on appeal sub nom Harper et al v Marquis of Dufferin (1899) 1 Greer 253. See also Dufferin and Ava papers, D1071/A/A/14–16: press cuttings relating to test case on tenant right, 1898–9.

\textsuperscript{131} Dufferin and Ava papers, D1071/H/B/C/95/157, Argyll to Dufferin, 4 April 1899.

\textsuperscript{132} Dufferin and Ava papers, D1071/H/B/C/95/158, Argyll to Dufferin, 10 April 1899.