

AGRICULTURE AND GAME

By JAMES DUNDAS WHITE, LL.D.

If we are "to make the land less of a pleasure-ground for the rich and more of a treasure-house for the nation," we ought, among other things, to authorize the occupier or cultivator to kill and take any game which comes on to his land and damages his crops.

In law, speaking generally, the animals and birds that come under the description of "game" are wild: they are not the property of any one till they are killed or taken; and, apart from certain special provisions, no one is responsible for any damage that they do. But the legal right to kill and take them is limited by law to particular persons. In England the occupying owner (to take the simplest case) has the sporting rights—to give them their ordinary name—and if the owner lets the land to a tenant, the sporting rights are assumed to pass to the tenant unless they are specially reserved. In Scotland an Act of 1621 (c. 31) limited the rights of hunting and hawking to those who have a plough of land in heritage; and as a tenancy, however long, does not come within this description, the sporting rights do not pass to the tenant unless they are specially included in the lease. In either country the holder of the sporting rights, in the absence of contrary agreement, can let them to some third party, who is generally known as the shooting tenant. In both countries, moreover, the landowner can decline to let the land except on his own terms; so that, for practical purposes, in both countries, the sporting rights are an incident of land-ownership. In both countries, also, the law is so partial to sporting rights, that the killing or taking of game by an unauthorized person is treated as a punishable offence, instead of merely as an invasion of the sporting rights giving rise to an action for damage.

The need of giving better protection to occupiers of land against injury to their crops from ground game led to the passing of the Ground Game Act, 1880, which conferred on every occupier of land in the United Kingdom "as incident to and inseparable from his occupation of the land, the right to kill and take" hares and rabbits thereon, "concurrently with any other person who may be entitled to kill and take" them on the same land, subject to certain qualifications; and this Act was supplemented by the Ground Game (Amendment) Act, 1906. The provisions for damage by deer and winged game are much less adequate. The Agricultural Holdings Act, 1908, s. 10, and the Agricultural Holdings (Scotland) Act, 1908, s. 9, give the tenant who is not entitled to kill game the right to claim compensation from his landlord for damage done by game, subject to certain conditions: and for the purposes of these latter Acts "game" is defined to mean "deer, pheasants, partridges, grouse and black game." This right to claim compensation for the damage is not nearly so satisfactory as the simple remedy by direct action.

During the War, under the Defence of the Realm Regulations, No. 2R, the Board of Agriculture made the Destruction of Pheasants Order, No. 514 of 1917, empowering certain authorities, where pheasants were causing damage to crops, to authorize occupiers to kill them on behalf of the Board; but this Order has now lapsed. Similarly, also, during the War, under the Defence of the Realm Regulations, No. 2Q, the Board of Agriculture made the Order, dated 15th January, 1917, authorizing "the occupier of any agricultural holding in Scotland to kill by any means available any deer that are trespassing on his grazings or causing injury to his crops." That Order was revoked and superseded by the Killing of Deer (Scotland) Order, 1918, made by the same authority on 27th September, 1918, which provided that:—

"The occupier of any agricultural holding in Scotland is hereby authorized to kill by any means available

deer that are trespassing on his grazings or causing injury to his crops:

Provided that, where the Board are of opinion that the powers conferred by this Order are being abused by any such occupier, they may by notice served upon him suspend the operation of the said powers as regards his holding."

This Order has now lapsed, with the general lapse of the Defence of the Realm Regulations, and, notwithstanding the recommendations of the Game and Heather-burning (Scotland) Committee, 1921 (Cmd. 1401, at pp. 11, 33), there is not yet any further legislation of a like character, and the occupier is now in the same position in respect of damage by deer as he was before the War.

It has often been suggested that winged game should be brought within the provisions of the Ground Game Acts. With regard to deer, it may be mentioned that the present writer when a Member of the House of Commons, drafted and introduced the Ground Game (Inclusion of Deer) (Scotland) Bill, 1913, which was designed to bring deer within the Ground Game Acts in Scotland, and had among its supporters Mr. Munro, M.P. (now Lord Alness, Lord Justice Clerk) and Mr. (now the Right Hon.) Ian Macpherson, M.P. But that Bill got no further; though the long-standing grievance that it was intended to remedy became aggravated during the War, and was dealt with temporarily by the deer-killing Orders just mentioned. Whatever be the method adopted, the occupier should be given the right to deal directly with deer that are doing damage to his holding. Provisions for claiming compensation afterwards are no satisfactory alternative, and in practice they raise all sorts of difficulties, particularly to the poor man. Nor should we allow the real remedy to be side-tracked by proposals for the compulsory fencing of deer-forests. The question still remains whether, if the deer break bounds—as may happen in consequence of difficult ground, or of failure to keep the deer-fences efficient, or of the deer swimming across some boundary loch—and damage a holding, the occupier of that holding is to be allowed to deal with them directly or not. Moreover, to give the occupier the right to deal with them directly would be the most effective way of inducing the deer-preservers to fence their deer-forests as efficiently as possible.

Another matter may be mentioned. The Ground Game Acts give the occupier an inalienable right to kill and take the ground game, and make void any contract to the contrary.* But landlords can circumvent these provisions by asking a higher rent than they otherwise would, with a view (which is understood by both parties but forms no part of the contract) to making a voluntary reduction of a corresponding amount when the rent becomes due, if in fact the tenant has left the ground game to them; and by declining to let the land except at this higher rent—a course which is facilitated by the favourable treatment that the present rating and taxation gives to properties so long as they have no occupier in the technical meaning of the word, and by the prevalence of yearly tenancies. So long as these conditions are allowed to continue, the reform of the game laws must be to a great extent illusory. Thus, even from this point of view, it is important that those who hold the land should be rated and taxed on its real market value, whether it is technically occupied or not, and that the tenants should have security of tenure. The rating and taxation of land values would secure the first result directly; and it would conduce to the second, because the liability to pay rates and taxes on the land value continuously, even though the land is unused and unlet, would incline landlords to continuous tenancies at continuous rents.

* In the above-mentioned sections of the Agricultural Holdings Acts, relating to compensation for damage by deer and winged game, there is a similar provision making void any agreement to the contrary, which can be outflanked in much the same way.

In considering questions relating to "game," we should of course, bear in mind that the birds and animals which are regarded as game are "preserved," and in some cases bred, in order that the game-preservers and their friends, or their shooting-tenants, may enjoy the "sport" of shooting them.* It is strange that people should still find pleasure in shooting timid and defenceless creatures, killing some and, incidentally, wounding and maiming others. But the present point is that they should not be allowed to preserve and breed game for their own "sport" at the expense of other people's crops, and that those whose crops are being damaged by the game should be entitled to protect their crops by dealing with the game directly. A few words may be added with reference to close-times. There is no close-time in this country for deer, the period for deer-stalking being left to the owners of the deer-forests. Nor is there any close-time for hares and rabbits; though by the Hares Preservation Act, 1892, it is unlawful to sell or expose for sale in Great Britain any hare (except imported foreign hares) between March and July, both months inclusive, and the right of the occupier to kill and take ground game on moorlands (as distinguished from enclosed arable lands) under the Ground Game Acts is also limited in point of time. The close-times for various birds that are regarded as "game" are fixed by various statutes mainly in the interests of "sport." If it is desirable to have statutory close-times for game birds, these birds, like various other wild birds, should be brought within the Wild Birds Protection Acts, under which close-times are provided with a view to the conservation of bird-life, having proper regard to the interests of agriculture. Against such provisions there is no objection; and legislation along these lines is welcome to all lovers of birds and animals.

* The economic aspect of pheasant shooting has been described in the saying, "Up flies a guinea, off goes a penny, and down comes half-a-crown."

THE LAND FOR THE PEOPLE.

All have equal rights to life. Land is the only source from which the means of livelihood can be obtained. All should enjoy equally the bounties which nature has provided.

THE TAXATION OF LAND VALUES WOULD :

Enforce the rights of the people to the land in the simplest and most effective way, by obliging all who hold the land to pay taxation based in each case on the true market value of the land apart from improvements, whether the land is used or not :

Break down the monopoly which now restricts or prevents industry and employment in every direction ;

Exempt from the rates and taxes all dwelling houses, shops, warehouses, offices, machinery and other improvements ;

Free the trade of the country from Customs and Excise duties ;

Encourage the best use of land (town land, agricultural land, mineral-bearing land) necessarily promoting production and raising wages all round. *This is the only way to solve the problem of unemployment ;*

Cheapen the cost of living for the mass of the people and take away the only plausible argument for tariff-mongering and protective taxes, which always have benefited and always will benefit privilege at the expense of the people.

ASK YOUR CANDIDATE

Are you in favour of the Taxation of Land Values ?

HOUSING NOTES

DEMOLISHING SOME SLUMS AND MAKING OTHERS

At a meeting of the Manchester City Council on 10th January a scheme was approved for demolishing what is known as "The Medlock Street Unhealthy Area," in Hulme, Manchester. The 199 houses to be dealt with shelter 849 people, and are let at rents of from 6s. to 6s. 9s. a week. The cost of the scheme was estimated to be £121,528. £41,398 of that sum was for the acquisition of the site which, when cleared, would have a high value for business purposes. New houses and flats were to be provided for the displaced tenants on the Wilbraham Road estate, two miles away, at rents ranging from 12s. to 15s. 4d. An estimated deficit of £3,180 a year was expected to be covered by contributions from the Ministry of Health. In opposition to the scheme it was urged that the people now occupying the condemned houses were extremely poor and could not possibly pay the higher rents for the new houses. They would only remove into other houses in the district and still further intensify the overcrowded conditions existing there. The scheme was said to have caused consternation among the people concerned.

YET ANOTHER HOUSING SCHEME

At the same meeting the City Council also approved of another new housing scheme which, it was anticipated, would provide Manchester with 6,250 houses in three years for a penny rate. Under the old scheme, which would be completed in twelve months, they were promised that if Manchester contributed a penny rate they would get 17,000 houses, but the total yield would only be 4,000. The annual loss on each house under the old scheme was £6 to Manchester and £60 to the Government; under the new scheme the loss would only be £4 and £6 respectively. The Government contribution would be a fixed sum per house, and any losses incurred through inefficiency would be borne by the Corporation. Absolute freedom was demanded for the local Housing Committee to build in any way it liked and through any agency, the Government only to inspect the houses to make sure they came up to the standard requirements. In accepting the scheme the Council was not committed to anything beyond the principle as a basis of negotiation with the Government.

MUNICIPAL HOUSING CONFERENCE

At the invitation of the Lord Mayor a conference of municipal representatives of Glasgow, Liverpool, Bristol, Leeds, Sheffield and Salford was held in the Manchester Town Hall on 16th January. Birmingham was not represented because, although sympathetic to the conference, it had recently decided to go on building houses, with or without Government assistance. The following resolution was carried: "That this Conference of large English and Scottish local authorities is of the opinion that any revision by the Government of the financial terms of assistance should be on the basis of a contribution by the Government to the local authorities during the loan period of £6 per house per annum or £50 per cent. of the net annual loss if the loss is in excess of £12 per annum, and that the supervision of the Government should be limited to being satisfied that the houses to be erected do not fall below a standard to be specified." It was unanimously decided to ask the Cabinet Committee on Housing to receive a deputation, and a sub-committee was appointed to arrange details of the projected interview with the Committee and, if possible, with the Prime Minister.

EXEMPTION OF NEW HOUSES FROM RATES

The demand for new houses to be exempted from rates as a means of stimulating building is well maintained. When introducing the new housing scheme to the City Council on 10th January, Councillor E. D. Simon said