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(Mal-)practices of Auctioneering on the English Property Market During the 19th Century
(Informelle) Praktiken im Auktionswesen auf dem englischen Immobilienmarkt im 19. Jahrhundert

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Abstract: In the 19th century, auctions became a widespread form of transaction for real estate in England. Contemporaries viewed auctioning as an effective method for the transaction of land, in terms of price determination and transparency. Contrary to these theoretical assumptions, the article shows that in practice it was not economic efficiency but group interests that played a decisive role in the establishment of the auction mechanism. The article provides an analysis of the formal and informal rules of the auction trade for real estate and argues that 19th century real estate auctions did not always lead to optimal results in terms of valuation and allocation because power structures played a greater role in them than auction theory assumes.

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Estates are landscapes gazed upon a while, then advertised and auctioneered away.¹

1 Introduction

Once they became popular in England during the long 18th century, auctions were frequently used as a mode of exchange, for leisure and business alike. Due to the economic and cultural upswing after the Glorious Revolution, all kinds of art, colonial goods and other commodities were exchanged through public sales in the lively London coffeehouses. Auctions became a popular leisure-time activity for the bohemian society in Restoration London and a symbol of the consumption of luxury goods.² This trend continued – two of today’s biggest auction houses for prestigious art sales were founded during the 18th century: Sotheby’s (1744) and Christie’s (1778). Historian Christiane Eisenberg speaks of a time of prosperity for auctions during the 18th century.³

However, it was not until the 19th century that auctions became a popular practice for land sales. In many texts published throughout the 19th century, terms like auction or public sales were used synonymously with the term land auction.⁴ This indicates that land was frequently exchanged through auction sales and suggests that these auctions became as popular in the 19th century as art and goods auctions had been in the 18th century.

This article focuses on land auctions in 19th century England with an emphasis on the London market. Land auctions were highly demanding market-mechanisms because they depended on formal and informal institutions, and networks of skilled professionals like solicitors, auctioneers, and publishers. Although the auction appeared to be an almost anonymous and transparent market mechanism, in reality it was a complex network of actors with vested

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interests, in which opportunities for manipulation and fraud arose. The main question of the article is therefore, why the auction became a significant sales medium for land. Was it that auctions, despite their complexity and problems, were still regarded as the most effective means of transaction? Or could it be that auctions worked in favour of one group, which therefore helped to further promote the mechanism? The aim is to find out whether the contemporaries’ ideas about efficiency were reflected in practice and which group benefited from the auctions.

Marie-France Garcia-Parpet made the following argument in her research on the Strawberry Auction at Fontaines-En-Sologne. She wrote that,

it should not be seen as the spontaneous appearance of a mechanism for liberating economic energies which came into being because of the rationality and efficiency of its procedures. [...] The practice which constitute the market are not market practices.

According to Garcia-Parpet, the newly created variety of buying and selling should rather be seen as “a social innovation resulting from the work of a number of individuals interested, for different reasons, in changing the balance of power between the growers and the buyers.”

Since power relations are not merely reflected in the sales but represent a social relationship, the practices of the auction will be examined within the framework of this article. A look at the concrete practices can also shed light on the extent to which the theoretical ideas of contemporaries regarding the efficiency of the auction were reflected in its execution.

So far, the practices concerning auctions in England have received little attention in historical research. Most publications on the land market and auctions address the question why the auction played a crucial role for the land market in the 19th century, focusing on the auction as a solution to problems in matching buyers and sellers. F.M.L. Thompson notices in his article on the land market that much more land was advertised for sale by auction than was actually sold and concludes that this finding is a reflection of a general uncertainty regarding land values. He indicates that the auction-mechanism was frequently


used to test the market value of an estate. In order to avoid payment of auction
duty, an estate “would be bought in just above the final bid, and would then be
sold by private contract.”

In his publication on the land market in the 19th century, historian Desmond
Fitz-Gibbon echoes Thompson writing that auctions “very often had the func-
tion simply of advertising a property and of estimating a public value that could
then subsequently be negotiated in private.” On the one hand, land auctions
were apparently seen as an efficient solution by contemporaries, and were insti-
tutionalised above all to facilitate questions of value and price. On the other
hand, auctions were often used in a strange way as a kind of prelude to the
actual sale, but this did not seem to be common knowledge and did not corre-
spond to the idea of an efficient market. One reason why auctions in the context
of land sales have often been ignored by research was the circumstance that
auctions were often only a gateway to private treaty transactions. The sales were
therefore not counted as sales via auctions – although they influenced the out-
come of the transactions.

This complex relationship between auctions and private treaty transactions
indicates that although contemporaries considered the auction mechanism to
be particularly efficient, in practice it seems to have been associated with many
problems and complications. The following article explains how the develop-
ment of this contradictory system can be explained. It does so in three steps.

The first question addressed is how to best define auctions, taking into ac-
count how these are conceptualised in modern theory, as opposed to how they
were conceived within their historical context. Economic as well as historical
and social science theory emphasises that auctions are frequently used when
other methods of valuation and of matching buyers and sellers fail. But what
problems did the actors on the land market face in these regards? The question
what expectations contemporaries had of the mechanism and why it was re-
garded as efficient is addressed in this section.

Second, a brief introduction to the London auction market for land will be
given. Which factors contributed to the popularization of land auctions in the
19th century? Besides economic reasons such as the valuation problem, there
were probably other factors that ultimately led to the spread of the land auction,
such as the increasing importance of print media and the factor of entertain-

8 D. Fitz-Gibbon, Marketable Values. Inventing the Property Market in Modern Britain, Chicago
2018, p. 93.
ment, or vested interests of one particular group. Therefore, in order to find out whether individual interests played a role, it will be explained which actors participated in the auctions and how they could benefit from the mechanisms: What were the motivations for selling and buying land and how can the land offered be characterized?

The practical realization of auctions will be addressed in the third part of the article: Could the auction actually fulfil the demands made on it and what problems were inherent in the mechanism? Within this part it will be shown that despite their reputation, auctions were demanding mechanisms and could only function in an effective way through the constant modification and reinterpretation of the institutionalised rules. It is argued that practices that deviated from the theoretical assumptions of a market ideal were not the exception but rather the rule and served primarily the supply side. The last part of the article summarizes all the results with regard to the question of how the auction was able to spread.

# 2 Auctions and Their Applications

What is an auction? Depending on the point of view there are different aspects to highlight. For economists, auctions are market mechanisms with specific rules. For sociologists and historians, the strict theoretical viewpoint of the economists is extended: An auction is a market mechanism and a social gathering with specific rules. Rules which can change over time, depending on the historical context. For the analysis here an auction can be defined as a competitive market mechanism in which a predefined bidding system functions as a means of information gathering which determines price and allocation of an object. Or in other words: An auction can simply be seen as “a way of gathering information combined with formal allocation and pricing rules.”

It is not an easy task to define the auction since there are many different auction systems – however most people tend to think of a so-called ascending bid auction or English auction when they think of an auction in general. The main variable is the bidding system. There are two different kinds of bids: ascending and descending bids. The more common system is the ascending bid, which often starts with a minimum bidding price (reserve price). Biddings are issued orally in a sequential fashion, until a final bid ends the auction. The last
bid is the one that is not followed by a higher bid after a certain period of time. The time span is often set by the auctioneer or measured by a timing device. The two main types of ascending bid-auctions are the English auction and the sealed-bid auction. This article will only address the English auction format, since it was the predominant form in England during the period under investigation. Offers on paper were not a regularly applied form in England during the 19th century, according to contemporary auctioneer Robert Squibbs.10

What role do auctions play within a market society? The basic operation within the market process is the exchange of goods.11 And all goods have something in common: to be exchanged in a market, they need to be priced. Economic sociologist Jens Beckert posed the question: “Where do prices come from?”12 To refine this question: How do market participants attribute prices to certain goods, or how do they know which price is appropriate? Depending on the characteristics of the market, answering this question can raise more complex issues, such as how valuation could be carried out in a growing market like 19th century England land market. It has already been mentioned that the auction mechanism addresses both valuation and allocation problems. In the course of the paper, valuation and pricing of land will be considered as a necessary precondition for allocation. The participants in an auction certainly benefit from the public nature of the event in terms of matchmaking, but ultimately the competitive mechanism serves to determine a suitable price for demand when other instruments are not suitable for various reasons.

Ideally, there are three kinds of price finding mechanisms on markets: Besides auctions there are private treaty and fixed priced transactions. During a private treaty exchange prices are normally not fixed, but subject to negotiation between seller and buyer. During this process of bargaining “the talk isn’t primarily over price per se. [...] the real controversy is over the various qualities of the item for sale.”13 So unlike a fixed-price transaction, the private treaty exchange may not include the same degree of consensus regarding the value of a certain commodity but the interested parties normally share a certain set of general criteria of evaluation – such as quality of material and degree of scarcity.14 Such

10 Cf. Squibbs, Auctioneers, p. 12.
14 Cassady’s classification further divided between sealed-bid arrangements and auctioning. However in this article this subdivision is not necessary, since it will deal with the English
general principles can be undermined and weakened by substantial social changes typical of modern societies. “When this occurs, there may not be sufficient grounds on which negotiations can get started. Auctions have proved to be successful mechanisms for dealing with such situations.”

This point of view is supported by modern economic theorists, such as Timothy Hubbard and Harry Paarsch who state that auctions are used when there are no established markets and there is little information on how to determine value.

Modern sociologists as well as economists therefore consider the auction mechanism a valid solution for the market-price problem. But there are more features that can be emphasised. Another factor is the speed at which transactions can be processed. Cassady summarises the arguments for auctions of landed property. He posits that auctions take place when there is strong competition and more than two parties are interested in the lot. Furthermore, Cassady sees auctions as a valid mechanism to get rid of resentments and trust problems, since most auctions are public events and easy to monitor – hence auctions generate trust and transparency.

Now we turn to the question of what problems existed in the 19th century that contemporaries wanted to address through the auction mechanism. Broadly speaking, during the 19th century in England, the use and demand for land changed: Due to industrialization, urbanization and globalization, the share of agricultural land in the capital stock was surpassed by that of urban real estate, although overall population growth implied a secular rise even in rents from agricultural land, and thus its value per acre. Furthermore, the Napoleonic War was particularly disruptive of prevalent structures of ownership and great estates were being divided and sold on the market. These developments had an impact on the estates offered for sale and on the supply and demand structure of the land market altogether.

Of course, land was also traded through markets before the 19th century. Therefore, it can be assumed that contemporaries had basic valuation tools for auction almost exclusively. Hence, both forms of competitive bidding are regarded as auctions.

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15 Smith, Auctions, p. 16.
16 Cf. Hubbard/Paarsch, Auctions, p. 17.
17 Cf. Cassady Jr., Auctions and Auctioneering, p. 22.
18 Cf. Hubbard/Paarsch, Auctions, p. 182.
calculating land values and prices. And indeed, in the course of the 19th century, numerous guidebooks were published that were dedicated to this topic. What problems did contemporaries face in the evaluation process? An exemplary look at the guidebooks reveals the problems.

The usual method of ascertaining the fee-simple value of land is to find its fair rental value or price by the year; to make all the necessary deductions as before explained; then reduce the sum to a clear annuity. Speaking generally of the lands in England, the real rental value, whether in the purchase or in the management, is not easily obtained [...].

According to land agent and surveyor this rental value can be determined in three steps: First “ascertain the quality of the soil”, then “take into account the various other circumstances that affect the value” and finally “assess the value in money.”22 Various qualities therefore play a role in the valuation, for example the size, the location of the land (whether it is near a town or railway line, for example) or the quality of the soil.23 It is emphasised repeatedly that the valuer, land agent, or auctioneer must have a lot of experience.24 One indicator for assessing the value of rural properties was the so-called years’ purchase. The years’ purchase is

the sale value expressed as a multiple of the annual rent. Thus an acre of land renting at P1 a year, and selling at P20, will be worth ’20 years purchase’ This is analogous to the price/earnings ratio (P/E), used to value financial and commercial assets. A high YP implies a low rate of return, which suggests a low level of risk.25

For example, the years’ purchase was used to emphasise the safety of investing in land and to compare values (or prices).26

The basis for calculating the value of land, for example with the help of the years’ purchase was the availability of information on land and sales. Only then

21 J.G. Rhodes, Remarks on the Purchase Value, Management and Letting of Landed Property. With several useful Tables by which the Rental Value may be ascertained of any Number of Acres, Roods, or Perches, London 1853, p. 9.
23 Cf. Squibbs, Auctioneers, pp. 167 f.
26 Cf. Journal of Auctions, No. 2, 13.08.1853, p. 15
could comparisons be made, which were an important method for determining value. For lack of data – there was no central register of land transfers or ownership – the auctioneer Alexander Rainy suggested as early as 1838 that a “general register for the transfer of property” should be established.

The collection of information was also a stated aim of journals such as the Journal of Auctions. The Journal of Auctions dealt exclusively with land sales and aimed “to collect all kinds of useful information relating to property, its value, its management, its selling prices, its varieties, investments and how to invest”, hence to become the main medium for sellers and buyers of property. The repeal of the stamp duties for advertisements and newspapers in the 1850s proved useful for the launch of trade periodicals such as the Journal of Auctions. This in turn led to auctions being advertised more effectively, both in the cities and in the province. The Journal was published between 1853 and 1856 and was one of many short-lived trade periodicals during that time. But regardless of its limited durability it can serve as a source for various topics and discourses which contemporaries were concerned with. For example, in a series named “How to value land” four common kinds of tenures – freehold interest, limited interest, leaseholds, and copyholds – were mentioned and described “according to their actual rather than their legal definition.” From 1857 onwards, the Estates Gazette pursued the same ambition and aimed to be a “medium specifically designed to bring together potential purchasers and those anxious to sell.”

What these remarks convey is that the difficulty of assessing property market resides not only in its volatility, but in the contemporary perception of its complexity. Auctioneers and sellers relied on the expertise of experienced valuers for questions of value and on the knowledge of solicitors for legal aspects of the sale: A prerequisite for the valuer to make a valuation were the full particu-
lars as to the conditions of the leasehold, usually provided by the solicitor.\textsuperscript{35} The whole system of auctions in England depended on a network of people and the dissemination of information through print media such as magazines and auction particulars. Organizing an auction can therefore be considered a complex and time-consuming process.

Why did contemporaries praise auctions for sales of land nevertheless? In short, auctions represented a way for contemporaries to determine market prices. Attempts were made to collect the data and thus enable price comparisons. Because “after all, the true value of an article is what it will fetch in the market; and I see no reason why this principle should not apply to the rent of land as to everything else.”\textsuperscript{36} The next part will focus on the history of the auction market for land in England and its participants – especially on the role of the auctioneer and on the motivation of sellers and buyers. It is shown that modern economic theory in particular neglects other factors that played a role in the establishment of the auction in the 19th century.

\section{A Short History of Land Auctions in 19th Century England}

The history of auctions in England starts earlier than its institutionalisation through acts of parliament in the 18th century.\textsuperscript{37} The limited availability of suitable sources might be one reason why auctions in the Middle Ages and Early Modern Period are not examined in detail, although there are some mentions of candle-light auctions in Europe before the 18th century.\textsuperscript{38} However, the auction in England started to become more popular with the rise of a consumer society in the 18th century.\textsuperscript{39} In the second half of the 18th century, auctioneering became

\textsuperscript{35} Cf. Journal of Auctions, No. 6, 10.09.1853, p. 62.
\textsuperscript{36} Tuckett, On Land Valuing, p. 6; Squibbs, Auctioneers, pp. 162 f.
\textsuperscript{37} Many historical texts and elaborations on the history of the auction start in ancient times, mentioning the infamous Babylonian wife auctions as described by Herodot around 500 BCE. Then this market system seems to disappear during the Middle Ages and reappears in Early Modern Period-Europe. See for example V. Krishna, Auction Theory, San Diego 2002, p. 1.
\textsuperscript{38} “Sales by Candle were known to have occurred as early as the 15th century. Alternative methods involving time limits may be equally old-established.” in: D.H. Chapman, The Chartered Auctioneers’ and Estate Agents’ Institute. A Short History, London 1970, p. 4.
a highly profitable business so that it became obvious for the state to tax the auction trade\(^4^0\), especially once art auctions became a regular part of London life from the late 17\(^{th}\) century onwards.\(^4^1\) Hence, an Auction Duty was first imposed in 1777 to increase fiscal revenue during the war in the American colonies, as Satomi Ohashi has pointed out.\(^4^2\)

Due to flourishing overseas trade and numerous colonies, a large number of new goods such as elaborately crafted furniture and art objects found their way to England. The increasing demand could not be satisfied by local merchants and craftsmen, which is why London merchants in particular made their way to Europe to buy art objects and exclusive goods that they could sell to their wealthy customers at the English auction markets. Auctions in coffeehouses became an important part of social life for the urban elite and antique collectors in London.\(^4^3\) Art and book auctions were particularly popular.\(^4^4\) For example, between 1722 and 1760 alone, about 18,000 foreign paintings were imported into Britain.\(^4^5\)

At the end of the 18\(^{th}\) century there were around 60 auction houses in London and by 1890 the number had increased to 11,000 auctioneers in England and Wales.\(^4^6\) According to F.M.L. Thompson, there were about 6000 auctioneers engaged in the real estate business in 1871.\(^4^7\) Unfortunately it is difficult to determine what share the auctions had in total land sales in the 19\(^{th}\) century. Thompson estimates the number of land auction sales in the first quarter of the century to be between ten and fifty per cent of all sales, but points out that the relation varied throughout the 19\(^{th}\) century.\(^4^8\) From many perspectives, it seems evident that auctions increased in significance in the real estate market over the 19\(^{th}\) century. They became more frequent, approached the ideal of a market in the minds of contemporaries (much like markets for standardized commodities)


\(^{43}\) Cf. Cowan, The Social Life of Coffee, p. 133. Cowan uses the term *virtuosi* to describe a certain class of art-loving English gentlemen, p 11.

\(^{44}\) „A systematic study of auctions advertised in the periodical press for the last four decades of the seventeenth century reveals that 88 percent of all auctions held at the time were sales of books or artworks, while wholesale auctions compromised a mere 5 percent of the total.” Ibid., p. 134.

\(^{45}\) Cf. Lazenby, Pride of Peacocks, p. 2.

\(^{46}\) Cf. Ibid., pp. 2-3.

\(^{47}\) Cf. Thompson, Chartered Surveyors, p. 159.

and replaced more private forms of matching buyers and sellers for important segments of the real estate market.49

Auctions were often attended not only out of buying interest but also as a pastime.50 The auction became a public medium in which seemingly priceless curiosities were commodified and could be priced by interested buyers.51 Wall provides a cultural explanation for these auctions. She states that,

> the auction supplies the additional promise of those objects becoming available to a wider consumer public. [...] The auction at least appears to supply benches across class and gender so that new people could compete with gentry for the property of gentry and in the process (perhaps) acquire the status of gentility. Auctions (promise to) create gentlemen.

These promises were conveyed mainly through the auction catalogues and the auctioneer.52 When considering the reasons for the rise of the auction in England, the aspect of entertainment should not be neglected. The heyday of art and commodity auctions ended in the late 18th century and was to some extent replaced by the emerging real estate auctions, which were popularised from the mid-18th century onwards.53

In general, it can be said that since the end of the 18th century, the land market had been stimulated, among other things, by the fact that the owners of large land holdings were more frequently forced to sell part of their real estate. The most common reason for the sales was debt – the volume of the sales increased as a result of the Napoleonic Wars. Auction houses initially “became a lifeline for landowners crippled by mortgages, taxes and annuity payments who were desperate to raise ready cash by the sale of works of art and library content.”54 For many large estate owners, auctions became initially something like a last chance to liquidate their land after no sale via private treaty was achieved.55 However, in the course of the 19th century, property auctions became increasingly detached from the negative image of being a last resort for indebted landowners.

At the beginning of the 19th century, the auction market was indeed still underdeveloped, which did not benefit the competitive mechanism. But the auc-

50 Cf. Eisenberg, Auktionen und die Erfahrung der Konkurrenz als Marktmechanismus, p. 237.
53 Cf. Eisenberg, Auktionen und die Erfahrung der Konkurrenz als Marktmechanismus, p. 239.
54 Lazenby, Pride of Peacocks, p. 2.
tion houses were a familiar environment for members of the urban upper classes, who were the main group of interested parties in the 19th century for both works of art, and small and medium-sized properties, especially those close to London. Hence, when landowners wanted to liquidate a property, they began to turn to the London auction market more frequently and voluntarily. \(^{56}\) The property business seemed to be profitable for the sellers and middle men, because the group of non-landed millionaires preferred to buy small but comparatively expensive properties in the counties surrounding London. \(^{57}\)

As a result of industrialisation, an urban upper class of entrepreneurs emerged – a largely landless class. Even though some city dwellers tried to climb the social and political ladder by buying land, it was by no means certain that the purchase of land would grant the new men of wealth entry into the peerage: The “typical wealthy man was simply not rich enough to impress the English aristocracy, while the barriers to acceptability still remained.” \(^{58}\) But apart from the (political) status, there were other reasons for rich urbanites to buy a rural plot of land. Especially among the middle class, the need to live away from the busy and polluted centres had been growing since the 1700s. The expansion of transport made it possible for those who could afford it to retreat to the developing suburbs and the countryside, even if only temporarily. Until then, landed estates and so-called country houses had been reserved primarily for the landed gentry and wealthy farmers, but the offers on the London property market testify to the fact that in the course of the 19th century, the wealthy urban population also wanted to afford such a country estate. \(^{59}\)

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\ldots\text{when an auctioneer advertised a large estate, he addressed himself to either the wealthy landed proprietor, or the rich merchant, \ldots}\text{men who bought either for the purpose of absorbing their wealth, or founding a family. Or if he advertised a small estate, he looked either to the money-making attorneys, well-to-do agriculturist, or prosperous tradesmen. \ldots}\text{Wealth has been scattered broadcast, and there are men who require properties many miles from town, or far north or west, \ldots.}^{60}
\]

The potential buyers on the London market therefore consisted of financially strong interested parties and great landowners wanted to resell their land at the

highest possible price with the help of middlemen. Contemporaries acknowledged the publicity of the auction mechanism, which in combination with high demand would “provoke competition, and often produces a better price than could be obtained by private contract.” A sale by auction was regarded as the safest and best method to prevent selling an estate undervalue:

The publicity of an auction, and the competition which it engenders, render it the most effectual method of ascertaining and obtaining the market price, which is, practically, the value of property.

Fitz-Gibbon states that auctions were used to dispose of all kinds of property, from large estates to smaller properties. However, in absolute terms most of the properties offered consisted of land significantly smaller than 1000 acres, if only because these properties were far more frequent than the larger estates. Large estates, such as those recorded in the “Modern Domesday Book”, were only rarely subdivided. Moreover, the capital of the urban upper class would not have been sufficient to buy grand estates. For the same reason, few farmers were among the buyers.

As the properties were often located outside London, one of the most important tasks of the auctioneers was to adequately describe the property for sale - unless it could be inspected by the prospective buyers or the sale took place on the premises. Ever since the Auction Duty Act of 1777, English auctioneers were compelled to publish printed particulars before an auction and to hand in written reports after the sale to the Excise Office in London. Particulars and reports were needed to keep track of the many auctions for the purpose of tax collections and to avoid legal disputes. Today, countless of these particulars and auction announcements can be found in the archives.

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61 J.H. Howard, The Duties of Solicitors. In Sales by Auction, or Private Contract, or under Extents, or Decrees of Courts of Equity. Also In Mortgages of Real Property in England, Ireland, and the British West Indies, Including the Practice of Fines and Recoveries, and the Corresponding Colonial Proceedings, London 1827, p. 1 f.
63 Cf. Fitz-Gibbon, Marketable Values, p. 18.
64 After an analysis of all listings in 7 issues of the Journal of Auctions between 1853 and 1855. A sample of land auctions at the end of the 18th century provide the same result (The National Archive, TNA C 104-231 and C 104-262).
66 Unfortunately, the auction reports or receipts do not seem to have survived. In any case, they have not been found in the relevant London archives.
The structure of the multi-page particulars was always the same. The cover sheet lists all relevant information about the property and the sale: Location, size, other features worth mentioning, type of ownership – freehold, leasehold or copyhold – and of course the time and place of the sale and the number of lots for sale. Also included were the auction particulars – the rules of the sale. That is, the amount of the auction duty, the steps of the bidding, when and how the payment should be received, etc. On further pages often more detailed descriptions of the lots, partly with graphics, could be found. Another reason for issuing these particulars was simply to make properties comparable in enlightening ways to make it easier for buyers to select what they might bid for. The texts in the particulars by no means consisted only of mere descriptions of the premises. Exaggerations and ornate finishes should lead prospective buyers to increase their willingness to buy, even beyond rational considerations. The fact that the auctioneers were compelled to describe the estates in this manner was mainly due to the fact that most of the properties were located outside London – where the potential buyers were based. But preparing the particulars was only one of the auctioneer’s tasks.

The auctioneer was an agent for vendors and buyers alike, as such he dealt with solicitors and land agents similarly. He was responsible for conducting auctions according to applicable law and the results of his sales would eventually appear in trade journals. A representative description – “the general manner of conducting a sale by auction” – can be found in a volume on the auction law, published in the 1890s by the Estates Gazette:

The date, time and place of sale are usually advertised in the principal newspaper circulating in the neighbourhood, and also sometimes in the London papers. Also handbills are usually exhibited in a conspicuous manner about the locality. In the meantime the auctioneer will have prepared particulars and conditions of sale and catalogues of the good to be sold. On the day of the sale the auctioneer at the place fixed reads the conditions of sale and the sale then begins, the lots being knocked down to the highest bidder. Of course, if there is a reserve which is not reached, the auctioneer withdraws the property or the particular lot from the sale.67

In sum, the function of auctioneers can be divided into two roles. On the one hand, the auctioneer is the person who is responsible for running the auction according to the pre-set rules. He is concerned with the accurate progress of the trade and liable for the fair treatment of all parties – either when acting independently or on behalf of an auction house.

67 Pocock, A Handbook of Auction Law, p. 56.
Typically, the auctioneer represents the main difference between auctioneering and bargaining. During a bargaining process, the person who stimulates competition is usually the seller himself, whereas in auctions, the auctioneer acts as an impartial middleman. This means, “in case of any dispute, concerning the fairness of the transaction, [...] the proof shall lie on the auctioneer.”\footnote{J. Knuckey, The Auctioneer’s Assistant. An Abstract of the Laws of Excise, Relating to the Sale of Estates and Property of every Kind by Auction, London 1803, p. 13.} If the auctioneer was first and foremost the agent of the seller, he would become equally the agent of the buyer after the fall of the hammer. The auctioneer can thus be regarded as a middleman who felt obliged to both sides, at least formally.

On the other hand, the auctioneer acts as show master to foster the spirit of competition. Robert Squibbs, a 19\textsuperscript{th} century auctioneer himself, mentions that many people attending auctions for estates or other goods would have only a vague idea of the value of the lot. But “[o]nce in the auction room, they will be led on [...] by the spirit of competition, and influenced not a little by the vigorous and hearty manner of the auctioneer.”\footnote{Cf. Squibbs, Auctioneers, p. 264.} In turn, in a guidebook for sellers recommends to its readers that they should stay calm “and not to allow oneself to be influenced by the bidding of other persons, or by the advance of the price by the auctioneer.”\footnote{H. W. Gresswell, How to buy and sell at Auction Rooms, London 1891, p. 12.}

A vivid image of how an auctioneer might act as show master can be found in the person of the auctioneer George Robins, “the most famous man in London” during the middle of the 19\textsuperscript{th} century.\footnote{Cf. Auctions and Auctioneers, in: Overland Monthly and Out West Magazine 2, 1871, pp. 113-121, here: p. 113; Fitz-Gibbon, Marketable Values. Gibson also cites Squibbs.} Robins apparently used to repeat excerpts from humorous writers and “set the room in a roar of laughter” to sell land and other property. As a result of this he “often obtained higher prices for works than they could have been purchased for in the shops.”\footnote{Auctions and Auctioneers, p. 113.} In sum, these descriptions may raise doubts about the ideal of the impartial auctioneer. It could be argued that auctions favoured the sellers’ side over the buyers for obvious reasons: Foremost, auctioneers were employed by sellers and responsible for selling the property for the best price.\footnote{Cf. Pocock, A Handbook of Auction Law, p. 60.}

What were the roles of sellers and buyers in the process? The seller could in consultation with the auctioneer determine a reserve price and had the option to withdraw his offer before the auction ended. But potential buyers also had their own means to influence the sale in their favour – particularly illicit and
cartel-like agreements were one possibility. But the general motivation for buyers to participate in land auctions can only be presumed. Since auctions seemed to be a popular measure for sellers, buyers did not have a choice but to participate. It is not difficult to deduce that land auctions and sales were capital-intensive investments, hence the frequent visitors of London land auctions were probably people from the urban upper class and land owners. An unquestionable development was the increasing significance from urban estates in comparison to agricultural estates as capital investments. So generally speaking, the reasons for purchasing a property may be either for capital investment or acquiring a representative estate outside the urban centres as mentioned above. Lazenby further argues that people attended auctions not only to buy land but to socialise or simply rejoice in the loss of others, because forced sales by the court were usually carried out by public auction. It even seemed that the gambling aspect of the auctions played a role: “Gambling at one period […] was a very popular pastime with the wealthy, and many landed estates changed ownership through the practice.” In summary, auctions seemed to be a popular way to promote competition among buyers. If bidding competition did not produce the desired results, especially in times of low demand for land, the seller side still had the option of selling the land through private arrangements.

The aspect of speed of auctions was not emphasized by contemporaries – at least not explicitly in regard to land auctions. This is not surprising, considering how much time was spent on the preparation for the auction and on the formalities after the sale of a plot of land. A two-part article in the Estates Gazette in the spring of 1858 shows that the sale of land in the 19th century was time-consuming. For example, it describes that when selling land, it was always necessary to prove whether the person in question was legally authorised to sell the land at all. As one can already imagine, there was a variety of people involved in a 19th century land auction: solicitors, land agents and valuers, journalists and publishers, government officials, sellers, potential buyers, bidders, and last but not

75 Cf. Lazenby, Pride of Peacocks, p. 3.
77 Squibbs, Auctioneers, pp. 11 f.
78 Similar tendencies can be observed with regard to the lease market in Westphalia in the 19th century. Cf. J. Bracht/F. Scholten, Between Rack Rents and Paternalism, in this volume.
80 Cf. Transfer of Land, in: The Estates Gazette, 01.05.1858, p. 13, and 15.05.1858, p. 14.
least, auctioneers. In the case of forced auctions of indebted properties, however, the aspect of speed was emphasised. Possibly here the steps of preliminary assessment of the value of the land before the auction were skipped and the guarantee of the highest possible price played a subordinate role.  

It has now been outlined what factors contributed to the spread of land auctions and what contemporaries expected from the sales. Land auctions were widespread in the 19th century because they were a supposed solution to the valuation problem. Furthermore, it can be assumed that sellers preferred this market for pricing their land and matching of the sale, because they hoped to gain an advantage. The publicity of the auction made it possible to attract a bigger group of potential sellers than through private treaty sales and the auction mechanism took advantage of the competition (even if the land was sold privately afterwards). Additionally, auctions were also regarded as a popular pastime. Due to the public nature of the sales and the competitive mechanism, auctions were therefore regarded as transparent and efficient methods to sell land. But could these claims be fulfilled in practice? In the subsequent last part, the focus is on deceptive practices as a controversial element of 19th century land auctions.

4 Practices and Malpractices of Land Auctioneering

During the 19th century, auctions became almost synonymous with land auctions, at least within London circles and in much noticed guidebooks and texts on auctions. The first lobby for auctioneers was founded in 1799 – The Select Society of Auctioneers. Unfortunately, there is no information on the agenda of the Society, but it is likely that members of the society used their gatherings simply as an opportunity to exchange information on sales, locations and to support each other against accusations of fraud. As will be shown below, the fact that the land auction business was thriving encouraged people to get their share through insider trading and other deceptive practices.

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In 1807, a pamphlet was published anonymously – probably by George Edmund Shuttleworth, later a founding director of the Mart – in which the founding of an Auction Mart for real estate sales in form of a central building was suggested in order to relocate the auctions from dispensed coffeehouses. The Auction Mart was opened 1812 in London. Besides its function as a marketplace, the Mart served as a gathering place for information on national land sales including offices, message boards, reading rooms and a coffee shop. On the one hand, the representative frontage of the building and the official appearance of the business were supposed to portray the land auction as a legitimate profession. On the other hand, it was already well known that the backroom sales were a basic feature of land auctions and sales at that time. So the building included several rooms for private negotiations. Although the idea of the Auction Mart was to elevate the legitimacy of the real estate business, obscure market practices did not become less frequent.

To counteract these obscure practices, several additions to the initial 1777 Act were made during the course of the 19th century. A 1797 publication, The Town and Country Auctioneers Guide, mentioned more than 15 additions to the initial Act. Other examples are the statutes from 1806 and 1825 regarding licences and stamp duties, the 1845 “Act to repeal the duties on sales by auction”, and finally the Sales for Land by Auction Act, 1876. The Duty on Auctions was eventually repealed in 1845, probably because the anticipated revenues were chipped away due to the complex system of fees and exemptions.

Fitz-Gibbon’s acknowledgement that “fears of collusion and fraud at ‘mock auctions’ were perennial worries in the 19th century” already is indicative of problems and may be generalised. So called mock auctions and other deceptive practices were part of the auction system, especially in cases when the auction mechanism was used to determine a sales price for land, which would be otherwise difficult to assess for the various reasons discussed above. Although the

84 Cf. Fitz-Gibbon, Marketable Values, pp. 21 f.
87 Cf. The House of Commons, Sales of Land by Auction Act, 1866, pp. 397 ff.
89 Fitz-Gibbon, Marketable Values, p. 31.
practice of withdrawing the property before reaching a binding bid was frequently used during land auctions, its status remained controversial.

Since new regulations were imposed regularly as reactions to emerging malpractices, it can be concluded that contemporaries had problems to keep up to date with the new laws, which would explain the appearance of numerous handbooks in the course of the 19th century. At the same time, auctioneers and land agents worked on their recognition as professionals, in an effort to overcome the numerous accusations of deceptive practices.

It has already been acknowledged that backroom sales were a basic feature of land auctions and sales at that time. But they were not the only informal practices within the land-auction business. One of the most vivid descriptions of the deceitful auction business – although not exclusively related to land auctions – stems from English bookseller E. Wilson, who in 1812 wrote a pamphlet in the form of a letter addressed to the president of the Board of Trade. Wilson suspected that the general success of this form of selling would destroy the retail sector in the long run. He predicts, that “[...] we shall very soon find that the auction-mart is an infinitely worse enemy to us than the decrees, or even the armies of Bonaparte [sic] [...].” Indeed, during that period it was not unusual to depict auctions as a national enemy or at the very least an enemy of national economic interest. It was during this time that the term mock auction became widely used in English publications.

Mock auction is a collective term for a variety of practices rather than a description of a specific method. Estate agent Alexander Rainy lists cases in which auctioneers, agents, and solicitors offering non-existing land or land not actually available for sale; “the reward being a share in the commission, and other charges made on the sale of property.” Further, he complains that the auction duty would operate as a fetter upon the market because due to the high duty, vendors and purchasers would therefore not meet in the public market. He notes that no auction duty is imposed on bought-in lots, resulting in a lot of properties being withdrawn before the auction is finished and eventually sold afterwards by private contract. A reduction or abolishment of the auction duty combined with an obligatory duty imposed on any lot, provided there was at least one bid, then remained unfunded, cf. Eisenberg, Auktionen und die Erfahrung der Konkurrenz als Marktmachanismus.
would lead to an increased demand for large estates and put a stop to mock auctions.\textsuperscript{94} Withdrawing a property to save on auction duty was arguably the most common informal practice during land auctions.

Another frequently used practice was called \textit{Puffing}, executed by so-called \textit{Puffers}. \textit{Puffing} meant basically that bidders were trying to raise the final bid through their biddings without having the intention to buy. This process helped vendors to raise their earnings or prevented a sale below value. Interestingly enough, there was a thin line between puffing as an illegal practice and private bidding as an \textit{informal} practice. Puffing developed at the beginning of the 19\textsuperscript{th} century, at a time “when genuine bidders where scarce.” Private bidding had been a common practice since the advent of real estate auctions, where the seller hired a bidder to prevent his property from being sold below value. The legality of the unofficial process never seemed to be in doubt.\textsuperscript{95} In the end, the practice remained an integral part of the expanding land auctions and was so common, that the Sales of Land by Auction Act 1867 – “commonly called the Puffers Act”\textsuperscript{96} – further institutionalised it and allowed biddings commissioned by the vendor.\textsuperscript{97}

Basically, within the new law, a firm distinction was made between reserved price auctions and open formal auctions, whereby it was not possible for the vendor to appoint a bidding agent for reserved price auctions. Therefore, when a person would bid in order to help the vendor, this fact needed to be announced before the auction in written form. Despite its shortness, the Act included a series of exemptions and conditions, which may have been difficult to apply in practice. For example, the person selected as puffer was prohibited from making a higher bid than that previously recorded in writing by the seller. Although the auctioneer was prohibited from accepting such bids, it was also his sole responsibility to identify these persons.\textsuperscript{98}

Ultimately, it remained in the power of the auctioneer to decide whether he accepted a bid or declared it void. The fifth paragraph of the Act determined that “the Auctioneer shall not at any Sale by Auction of Land make any bidding for or on behalf of himself or any other person.” Furthermore, the 1845 Act included a clause regarding the identity of the auctioneer, which suggests that it was common for auctioneers to operate without a licence.\textsuperscript{99} These findings indi-

\textsuperscript{94} Cf. \textit{Ibid.}, p. 12.  
\textsuperscript{95} Cf. \textit{Bateman}, A Practical Treatise on the Law of Auction, p. 131.  
\textsuperscript{96} \textit{Pocock}, A Handbook of Auction Law, p. 76.  
\textsuperscript{97} Cf. \textit{The House of Commons}, Sales of Land by Auction Act.  
\textsuperscript{98} Cf. \textit{Ibid.}, p. 3.  
cate once more that the auctioneer’s role as an impartial entity was not more than an ideal. A personal relationship with the auctioneer was beneficial for both sellers and buyers.

In many cases, land auctions were devious affairs and the opposite of trust- and transparency-generating mechanisms, as mentioned above. Instead, frequent visitors could profit from a method called silent bidding – bidding through eye signs. Silent bidding was a method “pursued by all dealers and brokers. Hence it is that at a sale, a novice wonders how the lots run up so quickly, seeing that so few open their mouths in order to bid.”

100 In a reader’s letter printed in the Journal of Auctions in 1853, an anonymous city auctioneer addressed the “conviction that Auctions may be conducted with perfect openness and truth-telling” and shared his personal difficulties with the current practice. False descriptions of properties were omnipresent, hence the public was already used to dealing with exaggerated and sometimes false descriptions. 101 Squibbs devotes an entire chapter in his book to the particulars of sale and the exaggerated descriptions of land and provides examples of this practice. 102

The name, the description and price, seemed so exceedingly attractive, that he [the interested party] determined to run down from town to expect it. On arriving at the scene of his hastily cherished hopes, he was blocked by a stream which ran through the road, and which was too evidently fouled with the refuse from some adjoining cottages. [...] an ordinary, unarchitectural-looking building from the distance, in an out-of-the-world position, with dense overgrown shrubs, and to get at which you must wade through the stream ankle deep. 103

Mock auctions and other issues were a recurring theme in the Journal of Auctions. 104 Another reader wrote a letter in 1856, pointing out auctioneers who were not listed in the Auctioneers Society directory and had fraudulent intentions. In fact, during the 19th century, several such directories and yearbooks appeared, listing auctioneers and members of an association. 105 In addition to the networking function, the associations were there to create trust among potential customers and to safeguard against measures of fraud by outsiders who would otherwise harm the profession. Furthermore, the auction market was not easily accessible to everyone, provided that they wanted to get adequate infor-
formation before making a deal through one of the aforementioned media, if neces-
sary. In addition, the lists of associations of course potentially offered the
possibility to exclude auctioneers or not to include them at all. In sum, this is
further evidence of the complexity of an auction in terms of information gather-
ing. Besides the list for auctioneers, another print medium seems to have proven its worth: collections of legal cases that could serve as precedents.

First published by the Estates Gazette in 1889, the 300 pages volume *A Com-
pendium of Commission Cases* was supposed to give auctioneers and estate agents
“an opportunity of finding at a glance a modern precedent for any dispute on
the subject in which they may become involved.”\(^{106}\) The volume included a se-
ries of references collected by the Estates Gazette Office and aimed to be a
standard work for legal aspects of the auction business. The book was frequent-
ly used for its designated purpose since – as the title proclaimed – a “revised
and greatly enlarged” second edition was released only four years after. To give
only a brief insight in some of the cases discussed, some examples are cited:
“Employment of more than one agent”\(^{107}\) (1879), “Property was put up to auction
but not sold”\(^{108}\) (1879), “Commission paid to two auctioneers”\(^{109}\) (1880), “Com-
misson paid twice”\(^{110}\) (1880), “Goods sold privately after instructions to auc-
tioneers”\(^{111}\) (1882), “Purchaser failing to complete”\(^{112}\) (1886), “Property put up to
auction, but afterwards sold by private contract”\(^{113}\) (1887), and the list goes on.
In sum, the book covers a variety of most recent cases to that date and can serve
as verification that the aforementioned problems were still relevant at the end of
the 19\(^{\text{th}}\) century. All these cases and problems contradict the remarks of estate
agent Alfred Cox, who insisted on promoting the increased advantages of prop-
erty sales by auction and noticed a change in public opinion – towards a more
positive perception of land auctions.\(^{114}\) What remains is the question of why,
despite the obvious problems, the auction continued to be considered a valid
method for trading land. This question is addressed in the last part of the paper.

\(^{106}\) G. Leger St. Daniels, *A Compendium of Commission Cases. Being a Collection of Cases on
the Law Relating to Auctioneer’ and Estate Agents’ Commission*, London 1893, Preface to the
first Edition.

\(^{107}\) Ibid., p. 2.

\(^{108}\) Ibid., p. 3.

\(^{109}\) Ibid., p. 6.

\(^{110}\) Ibid., p. 10.

\(^{111}\) Ibid., p. 16.

\(^{112}\) Ibid., p. 20.

\(^{113}\) Ibid., p. 33.

5 Conclusion

This article sheds light on the hitherto little considered practices of property auctions in England in the 19th century. In summary, auctions are considered competitive market mechanisms and their application seems suitable when other market mechanisms cannot effectively match buyers and sellers or allocate prices for goods. This view is shared by modern theory and contemporaries alike. The publicity of the mechanism also made it easier to offer and sell the land on the market. Due to the unique nature of land, it was not easy to determine the sales value. It is noticeable that the expectations formulated by contemporaries mainly represent the interests of the supply side, i.e. sellers, auctioneers and lawyers. At least since the beginning of the 19th century, these groups had organized themselves through associations or in the Auction Mart and tried to emphasize the advantages of the auction over other forms of transaction. Although buyers could also organize themselves and had the opportunity to make arrangements, the sellers often were in the better position. In times of a sellers’ market, the sellers took advantage of the auction mechanism to get a good price due to more competition. Regardless of the market situation, the sellers had access to tools such as puffers that ensured a high sales price. Due to the mentioned regulations, it can be assumed that the sellers kept the last word regarding the selling price. Naturally, the landowners wanted to get as much as possible out of their property. For this, they had the options of private treaty sales and auctions, which they used depending on the circumstances.

But the spread of the auction was not driven by economic factors alone. The cultural significance of the auction and the power relations in the market also played an important role in this respect. For example, the use of the auction mechanism suggested that all kinds of objects were available to a wider consumer public.\textsuperscript{115} The cultural explanation Wall uses applies in a similar way to the real estate auction: It is indeed the case that the publicity of auctions led to the real estate trade as a whole becoming visible (this is also in line with Fitz-Gibbon’s argument), and the auctions’ display of wealth and their function as a public event were partly responsible for their success.

The intention behind the efforts of contemporaries was ostensibly to make the real estate auction a transparent event accessible to everyone.\textsuperscript{116} However, it is not the case, as has been made clear from the previous elaborations, that the

\textsuperscript{115} Cf. Wall, The English Auction, p. 3.
\textsuperscript{116} Cf. Lazenby, Pride of Peacocks, p. 9.
increased visibility meant that the land offered at auctions became more accessible to a wider population (including farmers) or that the mechanism could be used without problems. Indeed, auctions were much more complex than contemporary theory would suggest. To maintain the functioning of the auction, a broad spectrum of institutions was needed: apart from locations like coffeehouses and the Auction Mart, legal institutions, information and networks, represented through publications, were also necessary; auctions were facilitated through journals like the Journal of Auctions or later the Estates Gazette. To say the least, land auctions were time-consuming and required preparation. But it has been argued throughout this article that fraudulent practices were not exceptions, but an integral part of the auctions that ensured that the sale of land yielded enough profit despite unfavourable market conditions. It can be stated that an auction did not always lead to optimal results in terms of valuation and allocation because power structures played a greater role than auction theory assumes.

This article could only provide a brief insight into the land auction of the 19th century, but demonstrates that many aspects of contemporary theory are reflected in today’s auction theory: Auctions are still seen as an efficient way of equating supply and demand and generating competition. Land was probably the first commodity in the history of auctions through which the numerous property commoditization problems became visible. It might be a somewhat far-reaching argument to claim that modern auction theory and the notion of modelability of markets were derived from the experience with the land market described above. But there are indications that it would be worthwhile to investigate this assumption further. It was no coincidence that Leon Walras chose the auction process to exemplify “the equilibrating tendencies of market competition”, a view which gained recognition later during the 20th century. In October 2020, about 200 years after the opening of the first Auction Mart in London, two economists, Paul Milgrom and Robert Wilson, were awarded The Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel, “for their improvements to auction theory and invention of new auction formats.” According to the Committee “auctions affect all of us at every level [...] [and] they are

117 Cf. Hubbard/Paarsch, Auctions, pp. 17 and 25.
becoming increasingly common and increasingly complicated.”\textsuperscript{120} This may be a good reason for further research on the history of auctions.

Bionote

Stephan Fasold


\textsuperscript{120} Ibid., p. 1.