



# Bodleian Libraries

UNIVERSITY OF OXFORD

This book is part of the collection held by the Bodleian Libraries and scanned by Google, Inc. for the Google Books Library Project.

For more information see:

<http://www.bodleian.ox.ac.uk/dbooks>



This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 2.0 UK: England & Wales (CC BY-NC-SA 2.0) licence.

PRICE ONE SHILLING.

HANDY BOOK  
OF  
FARM TENURE  
AND PURCHASE

UNDER THE  
LANDLORD & TENANT (IRELAND) ACT,  
1870.

WITH AN INDEX AND THE RULES.

BY HENRY DIX HUTTON,  
BARRISTER-AT-LAW.

"One of the great mischiefs in Ireland, I think, is that it seems  
to be taken for granted that Marx is a nuisance."—*O'Connell.*

DUBLIN :

IRISH  
Ireland

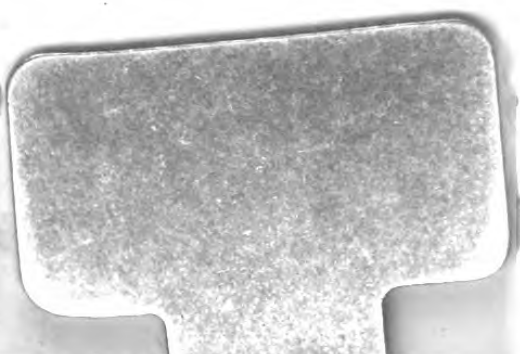
WEBB AND SON, 74, ABBEY STREET;  
AND SON, 85 AND 86, ABBEY STREET.

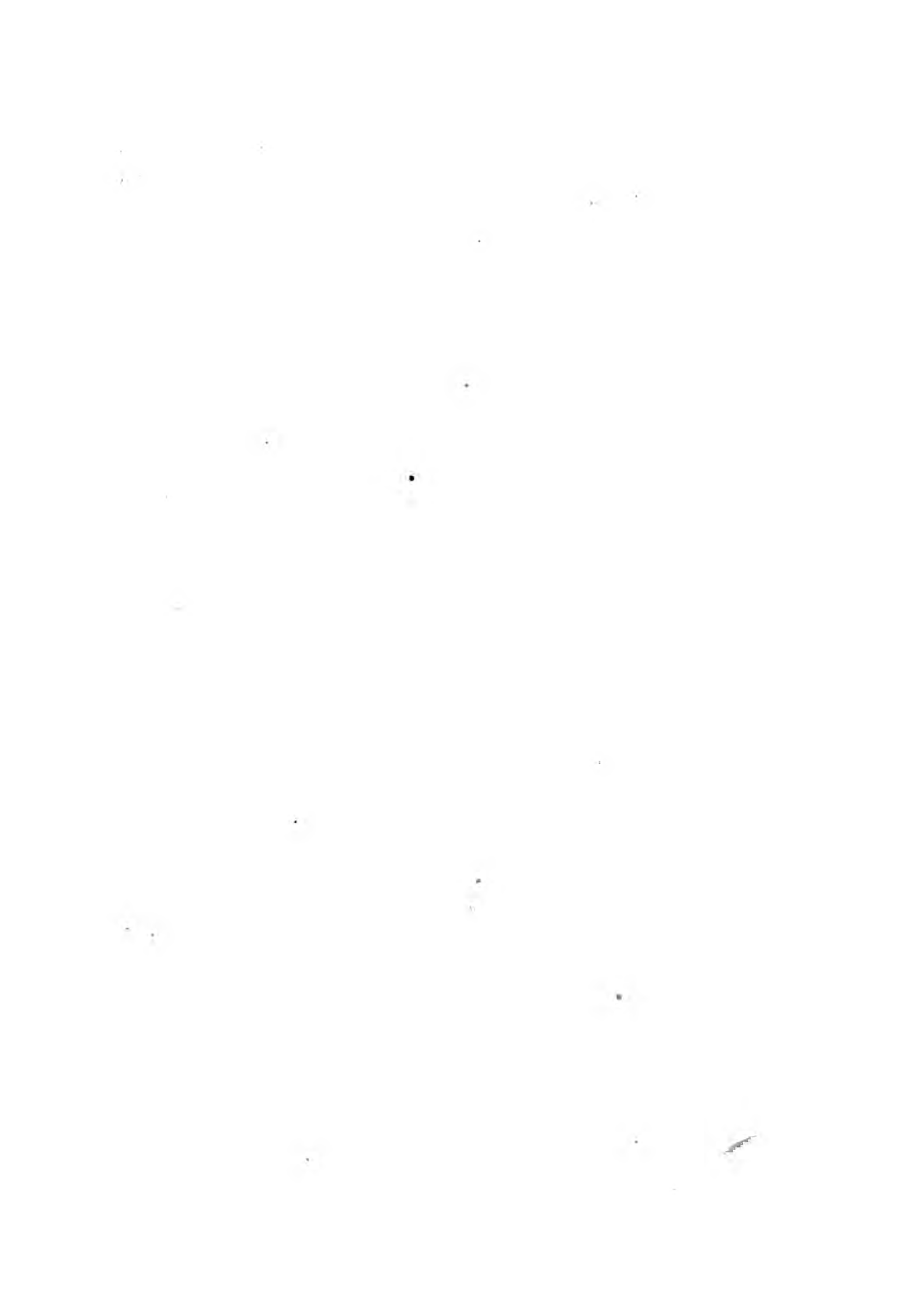
**LAW**

*L. Ir. C-28 f. Fenancy 1*

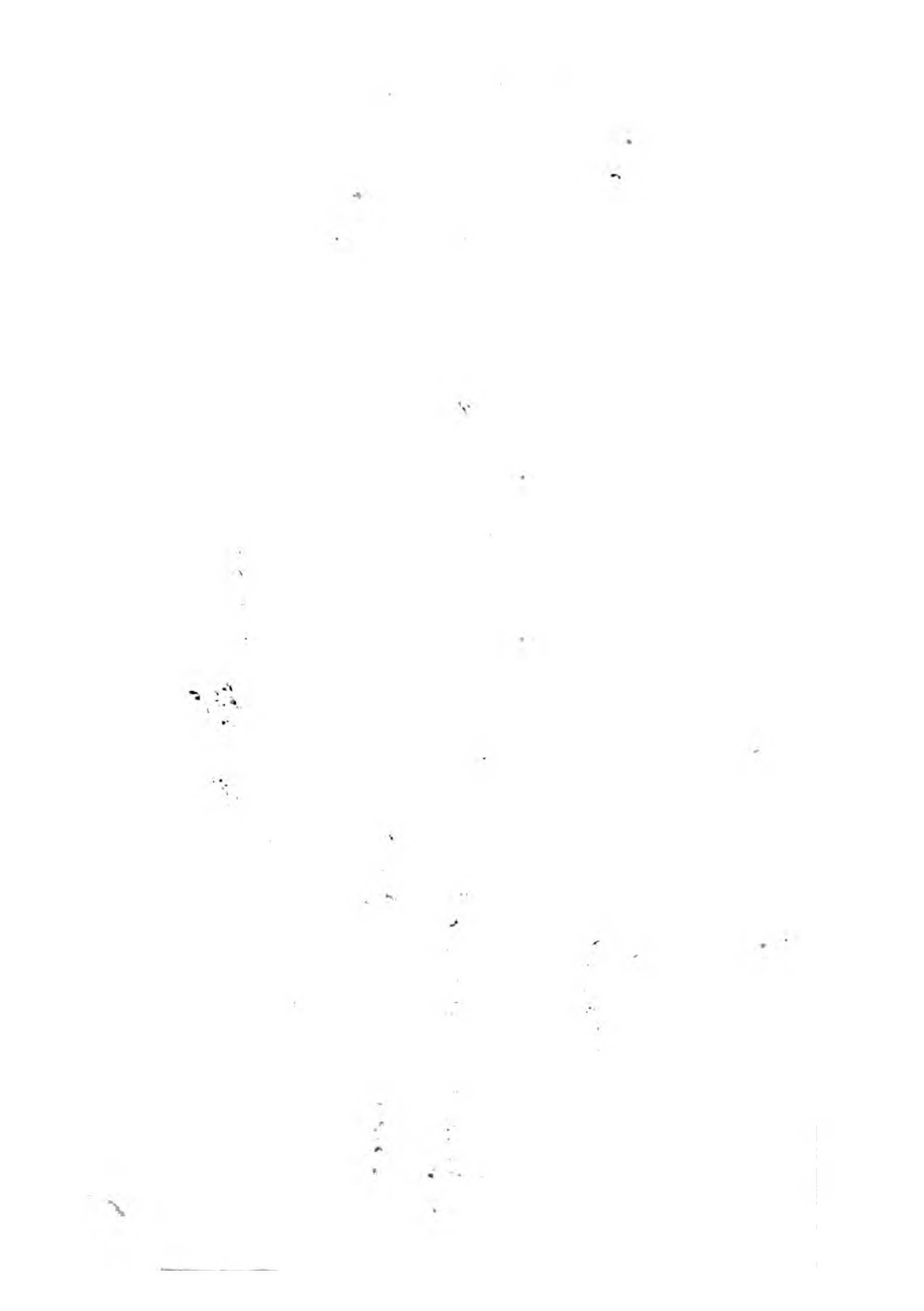
**L, L**  
**OW. <sup>UK.</sup> Ireland**  
**510**  
*H 984*

*Ireland 510*









HANDY BOOK  
OF  
FARM TENURE & PURCHASE

UNDER THE

Landlord and Tenant (Ireland) Act,  
1870.

WITH AN INDEX AND THE RULES.

BY HENRY DIX HUTTON,

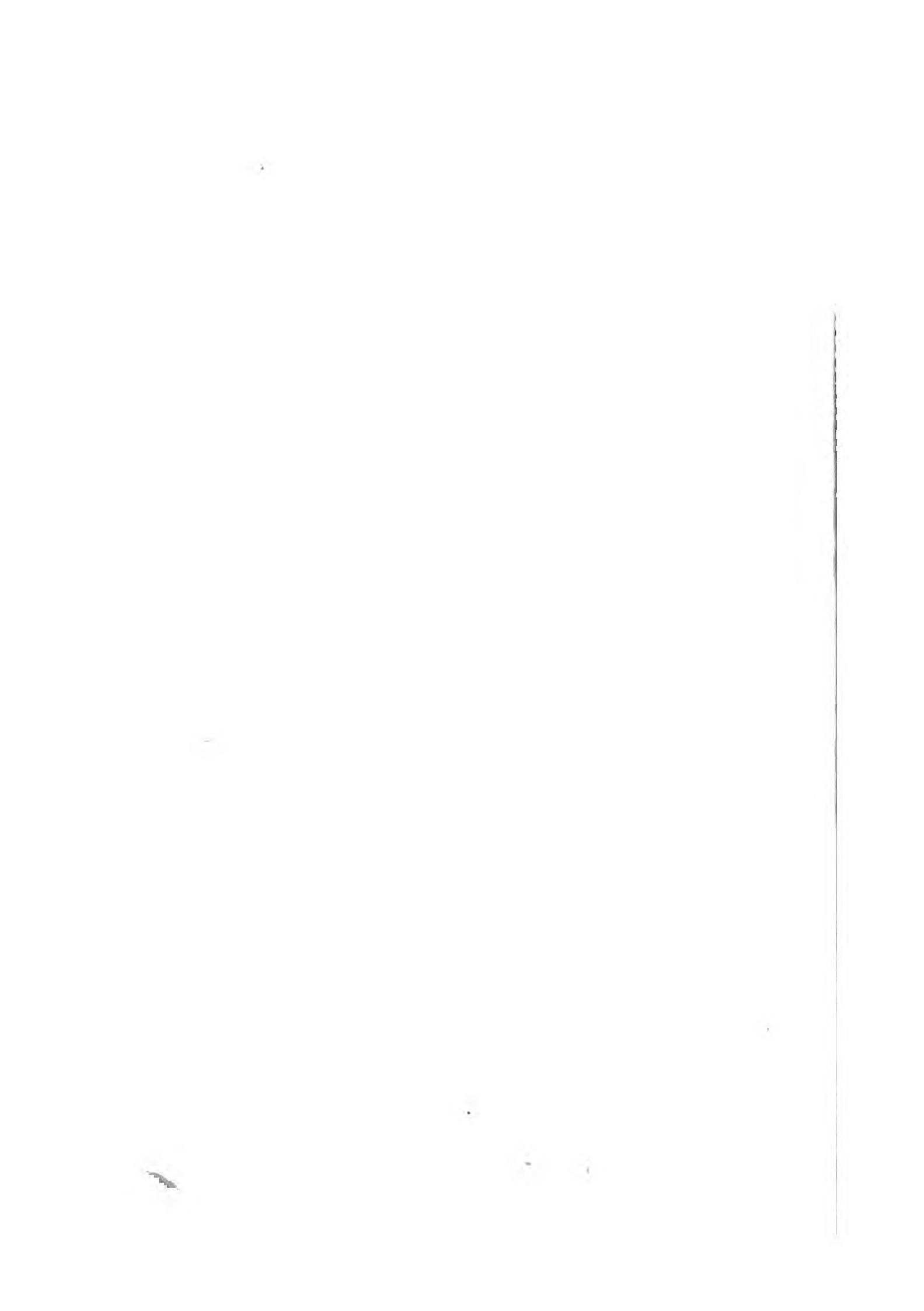
BARRISTER-AT-LAW.



“One of the great mischiefs in Ireland, I think, is that it seems to be taken for granted that MAN is a nuisance.”—*O'Connell*.

DUBLIN :  
R. D. WEBB AND SON, 74, ABBEY-STREET ;  
W. H. SMITH AND SON, 85 & 86, ABBEY-STREET.

1870.



## TABLE OF CONTENTS.

---

	PAGE
<b>PREFACE</b> ... ..	i—xix
Defects and shortcomings of the measure ; the position of the tenant in Ulster, and the other provinces under the Act compared .. .. .	i—viii
Observations on fixity of tenure .. .. .	vii—ix
Legalisation of Ulster tenant-right .. .. .	ix—xi
Advantages of the measure .. .. .	xi—xiii
Deficiencies of Irish agriculture, especially in small farms .. .. .	xiii—xviii
Farm-proprietary and sales to tenants under the Act	xix
<b>INTRODUCTION</b> ... ..	1—15
Ulster Tenant-Right Custom, its nature and legalization	2— 9
Non-Customary Holdings, their position under the Act	9—13
Farm-Purchase ; the facilities offered for the growth of a farmer-proprietary .. .. .	14—15
<b>PRACTICAL ANALYSIS OF THE ACT</b> .. .. .	16—37
<b>PART I. TENANT-RIGHT.</b>	
General View .. .. .	16—26
Ulster Tenant-Right Holdings .. .. .	16—17
Non-Customary Holdings .. .. .	17—26
<b>I. COMPENSATION FOR DISTURBANCE</b> .. .. .	18—21
<i>a.</i> What is disturbance ? .. .. .	18—19
<i>b.</i> What classes of tenants can claim for disturbance ?	19—20
<i>c.</i> What is the measure of claim for disturbance ?	20—21
<b>II. COMPENSATION FOR IMPROVEMENTS</b> .. .. .	21—25
<i>a.</i> What improvements authorize a claim for compen- sation ? .. .. .	21—22
<i>b.</i> Who can claim for improvements ? .. .. .	22—23
<i>c.</i> How is claim for improvement to be proved ?	24—25
<i>d.</i> What is the measure of compensation for improve- ments ? .. .. .	25
<b>III. SALE OF 'TENANTS' INTEREST</b> .. .. .	25—26
<b>CLASSIFICATION OF HOLDINGS</b> .. .. .	27—29

TABLE OF CONTENTS.

	PAGE
First and Second Tables, Ulster tenant-right holdings, and non-customary holdings existing on the 1st of August, 1870	27—2
Third Table, Non-Customary Holdings created after the 1st of August, 1870	2
CLAIMS FOR COMPENSATION OR OTHERWISE, HOW MADE, DECIDED, AND ENFORCED	30—3
Powers of Limited Owners to grant leases	3
PART II. AND PORTION OF PART III.	32—3
Sale of Lands and Advances to Tenants	3
<i>a.</i> Purchases by agreement with landlord	32—3
1. By individual tenants	3
2. By tenants collectively, jointly with other pur- chasers who are not tenants	33—3
<i>b.</i> Purchasers under proceedings for public sale in the Landed Estates' Court	3
Advances to tenants	3
RESIDUE OF PART III.	35—3
Advances to landlords :	
1. In respect of compensation to tenants	3
2. For improving waste lands	3
Powers of Board of Works	3
PART IV. CERTAIN LEGAL PROCEEDINGS AND CIVIL BILL COURT	36—3
PART V. MISCELLANEOUS CLAUSES	3
LANDLORD AND TENANT (IRELAND) ACT, 33 & 34	
Vic. cap. 46	39—7
Subjects of the Clauses	39—41
THE ACT	41—7
INDEX TO THE ACT	77—80
RULES OF THE COURT FOR LAND CASES RESERVED :	
Claims by Tenants	82—107
RULES OF THE PRIVY COUNCIL :	
Sales to Tenants	108—122

## P R E F A C E .

---

3 "Property is a *social* institution, both in its origin and its destination."  
 3 AUGUSTE COMTE.

---

3 THE main object of this work is neither praise nor criticism,  
 3 but utility. It consists of two parts, an Introduction and a  
 -3 Practical Analysis. The former points out the leading prin-  
 3 ciples of the Land Act of 1870, and submits the interpre-  
 3 tation, which the writer deems necessary to secure its just  
 3 and beneficial operation. The latter will, it is hoped, assist  
 -3 both landed proprietors and tenant farmers to ascertain their  
 3 privileges, claims, and obligations under the same Act, in  
 3 reference to tenure and purchase.

3 I think it is unreasonable to suppose that a complete and  
 3 final settlement could be accomplished, by a single effort, of a  
 3 problem which, like the IRISH LAND QUESTION, has during  
 3 the last quarter of a century engaged the attention of six  
 3 Prime Ministers and ten Governments. The Act of 1870 is  
 3 unquestionably a great advance upon all previous govern-  
 7 mental proposals, and is notably superior to the Bill of 1866.  
 4 This was sanctioned by the Irish members who were the  
 7 advanced Liberals of that date ; but neither embraced Ulster  
 8 Tenant Right, nor recognised, even indirectly, possessory  
 3 claims, nor protected the tenant's property in retrospective  
 3 improvements. But this very superiority, the rapid result of  
 3 an acknowledged political urgency, much more than of any  
 3 well-grounded deliberate change in public opinion, of England  
 3 more especially, itself rather strengthens the presumption that  
 3 the Act of 1870, however surprising as an effort of *Imperial*  
 3 legislation, does not completely meet the real wants and just  
 3 requirements of Ireland. Such is, I believe, the fact, and I

therefore think it right to call attention to some of the most serious defects and shortcomings of the measure.

I regret that the Act did not, in express terms, sweep away the modern infringements of Ulster tenant-right, instead of leaving this to judicial decision.

I find the following statement made by a speaker at the Conference of the Ulster Tenant-Right Association, held in Belfast, as reported in the *Northern Star*, 5th March, 1870:—

“The Rev. M'Auley Brown said he had heard Mr. Gladstone speech when introducing the Bill, and it convinced him that Mr. Gladstone meant well to the North as to the South. He had subsequently an interview with him on a cognate matter, and he pointed out to him what Ulster tenant-right was, and how it was being infringed by landlords; how some landlords were forcing short leases on tenants in place of tenant-right, and others were arbitrarily bringing down the Ulster custom to three years' rent as compensation for eviction. Mr. Gladstone was surprised to hear of such landlord infringements, and took a note of them. At the end of the interview he said these were clear invasions of the Ulster custom, and he gave them to understand that his Bill would meet all these cases. (*Applause.*) On reading the Bill, however, he (Mr. Brown) was surprised to find that it did not cover any of these cases, and he wrote to Mr. Gladstone since he returned to Ireland. He had received an answer from Mr. Gladstone, in which he expressed a hope that the tenant-farmers of Ulster would have sufficient courage to resist all such infringements until they were protected by law.” (Loud and prolonged cheering.)

Unless the Courts can sweep away these, the customary tenants will be often dealt with very unequally, or reduced to the alternative of claiming as non-customary tenants. (Secs. 1 and 2). The future position of a tenant, so renouncing, may be very disadvantageous. Thus, the Ulster tenant-right embraces all kinds of improvements, and is not excluded by an ordinary lease; whereas, a non-customary tenant, under a lease for 31 years, made after the 1st of August, 1870, will have no claim for disturbance, and can only claim for improvements consisting of permanent buildings,\* reclamation of waste land,\* away-going crops, and tillage. If *within* the Province of Ulster, the tenant renouncing the custom cannot claim for the purchase-money of good-will, even when paid with the landlord's

---

\* Subject also to be reduced, or even cancelled, by lapse of time. (See Sec. 4, last paragraph.)



consent (compare Sec. 1 and Sec. 2). Tenants, if valued above £50, and not exceeding £100 per annum, can only claim two years' rental for disturbance; while the claim for disturbance is entirely excluded for yearly tenancies existing on the 1st of August, 1870, and valued above £100 per annum.

The provision which sanctions the extinction of Ulster tenant-right by purchase (Secs. 1 and 2) will be found full of difficulty. In some cases such extinctions have been attempted; but I am informed the custom always sprang up again. To extinguish partially a general custom will be still more difficult now that this is legalized. The only effectual mode of doing so will be, I think, the making of fee-farm grants.

The position of the non-customary tenant under the Act is altogether inferior to that occupied by the tenant who can claim under the genuine, unrestricted Ulster tenant-right. This inferiority is broadly marked in three respects.

First, the Ulster custom, as legalized by the Act, is not based on *mere* compensation for disturbance or improvements, but recognizes a sort of co-partnership in the tenant. The Act refuses to extend this principle to the non-customary tenant, and the practical difference thus established is very considerable. The mere complication of the provisions, and the difficulty of calculating beforehand what the non-customary tenant, if evicted, may expect, are serious disadvantages. The logical result of the co-proprietary view is that the tenant's interest is wholly unaffected by the particular cause of his quitting; his claim being unconditional, except so far as the landlord can establish a counter claim for actual loss in arrears of rent or deterioration. But the Act goes far beyond this just limitation, since it annihilates the tenant's claim for disturbance in various cases; as when he subdivides, or sublets without consent (Sec. 3; 2), or commits a breach of certain conditions (Sec. 9). Even eviction for non-payment of rent (except in some very special cases (Sec. 9) precludes a claim for disturbance; a disqualification the more remarkable, because it is precisely in cases of arrears for rent that the Ulster custom operates most beneficially for both parties. So the mere question of altering the terms of holding, as to rent or otherwise, when the landlord and tenant differ, may, if the Court agree with the view of the former, disentitle the latter to claim for disturb-

ance (Sec. 18). The difference also as to improvements is very great. The Ulster custom practically embraces every class of improvements, and enables the tenant to obtain their full value of whatever sort they may be, and after any length of time, so far as they retain their worth. But the Act expressly enacts that the non-customary tenant's claim shall be diminished by length of enjoyment, even in the case of the most permanent improvements (Sec. 4, last paragraph). The Ulster tenant whose predecessors had erected the house and farm buildings, or reclaimed the land, can obtain whatever may be the actual value of the improvements of part of his goodwill after any lapse of time. The non-customary tenant, in the like case, may be told that the benefit of them has been enjoyed for a long period, say for sixty or a hundred years, and therefore he can claim nothing. It is, besides, plain that his position is wholly uncertain until the Court has considered this question. The Act carries out the same distinction of principle between the Ulster and the non-customary tenant, as regards improvements in other particulars (see Sec. 4.)

The difference between the Ulster and the non-customary tenant under the Act is equally striking in reference to the *proof* of improvements. The Ulster custom practically relieves the tenant of all responsibility on that head, and operates as a presumption that *he* has made *all* the improvements. The Act affirms the same *principle* for non-customary tenants, throwing on the landlord the onus of proving the contrary (Sec. 5). But, as regards improvements made before the 1st of August, 1870, this just and beneficial provision is hampered with restrictions both inequitable and impolitic (Sec. 5 ; 1, 2, 3, 4). In various cases, though the landlord is not relieved from the *claim* for such improvements, the tenant is embarrassed by the difficulty and expense of *proof*. Thus, the Ulster tenant is not put to any expense and trouble of proof in claiming the value of his goodwill by reason of a previous sale of the property in the Landed Estates' Court, or otherwise ; or because he holds under a lease ; or because the improvements were made twenty years before the 1st of August, 1870 ; or because his holding is valued at £100 per annum and upwards. But in all these cases the Act, though leaving the claim unaffected, obliges the non-customary tenant to prove it.

Secondly, the Ulster custom places all classes of tenants, irrespective of the size or value of their holdings, on the same footing. The greater competition for small farms may increase the price of goodwill for them ; but the larger farms also reach a standard far exceeding the sum which the non-customary tenant can look for under the Act, in respect of disturbance and improvements conjoined. This appears clearly from the scale prescribed in cases of disturbance (Sec. 3), especially if coupled with what I have pointed out above as to the claim for improvements, as diminished by the lapse of time (Sec. 4, last paragraph). Moreover, holdings existing on the 1st of August, 1870, and valued above £100 per annum, will not entitle the holder to any compensation for disturbance. The great difference made apparently in favor of the smaller holdings may, not improbably, work very prejudicially as an encouragement to their extinction and consolidation into larger holdings, which will confer a smaller claim for compensation ;\* particularly since tenants of holdings valued at £50 per annum and upwards can contract to forego all claims for compensation under the Act (Sec. 12).

Thirdly, the Ulster custom, without excluding leases, has largely modified their operation,† the tenant's possessory right

\* I find that Mr. W. G. Brooke, in his edition of the Land Act, takes this view. See note 7 to Sec. 3, p. 11, and note 11 to Sec. 4, p. 20.

† Of course a lease *may* expressly or even by implication exclude the custom. In fact, some recent cases have occurred in Ulster where tenants have thus been dealt with. The form of lease adopted by Lord Dufferin, and in some cases actually executed by tenants on his estate, (See the Report of Tenant-Right Conference, and the lease set out in extenso in the *Northern Star*, 5th March, 1870) is a remarkable example of such efforts to abrogate the custom. If there were any purchase of the tenant-right, none such appears from the lease. The only consideration stated is the usual one of the rent and covenants. The effect of the contract is entirely to abrogate the *possessory* element of the Ulster custom, substituting for it a twenty-one years' lease, with a limited right to compensation for defined improvements, or, *at the option of the landlord*, a renewal for twenty-one years on the like terms, at the rent originally reserved or then payable. Even the security afforded by the twenty-one years' lease is seriously affected by clauses which absolutely determine it, in case the tenant should die intestate, assign, sublet, or mortgage without consent, or become bankrupt or insolvent, or even if he should be in arrear of rent for forty days.



or goodwill continuing after the expiration of the term. The non-customary tenant under the Act, who accepts a lease for thirty-one years or upwards, will lose all claim for disturbance. Leaseholds existing on the 1st of August, 1870, however short, will confer no claim for disturbance. The Ulster custom is unaffected by the source whence the disturbance comes. But non-customary tenancies, from year to year, existing on the 1st of August, 1870, will only entitle the holders to claim for disturbance when evicted by their *immediate* landlord. This excludes the very large class of tenants who were induced to reclaim mountainous and boggy land by the middleman, to whom leases were granted after the relaxation of the penal laws.

The great defect of the Act of 1870 is its pervading spirit of compromise between Irish facts and English ideas. This contradictory attitude of the Imperial Legislature is apparent both in the *end* sought and the *means* selected.

The framers of the measure saw, and honestly endeavoured to meet, the great evil of arbitrary evictions—this being the most obvious, and, politically, the most productive of immediate mischief. But the difficulties connected not with possession, but with rent, were imperfectly understood; and the effort was, not to grapple with, but to elude them. The Government recoiled from any direct interference with the question of rent. In the end the necessity was admitted, and concessions were made; but these were very partial, and I think inadequate. I do not believe that the majority of Irish tenants, even of the larger class, hold a position which can enable them to contract with the real freedom which presupposes a sufficient social equality. If this view be correct, it remains to be seen which are the most stubborn—Irish facts, or imperial notions of what these *ought to be*.

The same fundamental defect pervades the entire structure of the Act, considered as means to the end chiefly sought—the practical security of the homes and industry of Irish tenant-farmers. The measure is essentially a compromise between the Irish and the English agricultural tenure. The Irish system is characterized by *status* tenancy,—that is, a tenancy based on equitable notions embodied in custom, and tending towards fixity of tenure,—and small farms. The English system, *as com-*

*monly represented*,\* rests upon contract, and large farms cultivated by capitalists. The fluctuation and incoherence of ideas thus produced are strongly marked in the Act.

On the first point of difference, the disinclination to admit frankly the existence of the Irish *status* tenure, its fitness and relative excellence for Ireland, is evinced in a variety of ways. Even the Ulster Tenant-right is represented, not in its true light, as a *quasi* proprietary claim, a virtual co-partnership between the landlord and tenant, but as a mere system of compensation. In reference to the non-customary tenants this disposition is carried much farther, as will have been seen from the previous remarks, comparing the position of such holdings with that of Ulster tenants. The possessory claims, practically universal in Ireland, are limited to certain classes, and capriciously varied. Even the claims of improvements are too much moulded on the English system of compensating for husbandry operations and minor ameliorations of the soil. The tendency throughout the Act is to make *status* the exception, contract

---

\* I use this qualification, because, in truth, there exists in the English relation of landlord and tenant a powerful *status* element, which is partly protected by the law (agricultural customs), and still more by public opinion. The following remarks of Mr. James Howard, M.P., the eminent manufacturer of agricultural machines, addressed by him to the London Farmers' Club (meeting of 2nd of May, 1870) are remarkable:—"Mr. Coussmaker raised a very important question, and that is, the right of a tenant to make improvements without the consent of his landlord, and he advocated that the landlord should not be called upon to make compensation for such improvements. In the interests of the public, it would be intolerable that the tenant should have no claim for compensation under those circumstances, because a landlord may be a very ignorant person. He may not only not know what is to the interest of his tenant, but he may be ignorant of his own interests; and what the public is most concerned with is, that he should not stand in the way of the general advancement of the country. It is one of the fundamental principles of law to afford protection to the weak against any undue exercise of power on the part of the strong; and I think, seeing the circumstances of this country, as alluded to by Mr. Masfen, where three tenants are looking for one farm, the State is perfectly justified, in the interests of the public, in stepping in to protect the interests of the tenants. I have often heard it remarked of late, that the rights of property are not held so sacred as they were in times past, and great evils are foreboded of that growing feeling. Now I believe that the rights of property in this country were

the rule; and there is great reason to apprehend that it will give an impulse to a sort of written agreements, complicated in their nature, and calculated to operate oppressively for the tenant, injuriously to both parties. The Act shows equal traces of the second point of contrast between the Irish and the English systems—the size of farms. I have already pointed out the encouragement, indirectly, given to consolidation, by the marked difference between the compensation for disturbance respectively awarded to the smaller and larger classes of tenants, and by placing the right of free contract so low in the scale of value.

A few words may, therefore, be not undesirable in the interest of a more complete and final settlement of the Irish Land Question, in case events should prove the insufficiency of the present Act.

Writers and politicians\* have advocated the solution of the Irish Land Question by adopting FIXITY OF TENURE. By that term is commonly understood, in reference to Ireland, the

---

never better understood or more fully recognized than they are at present. Time was when it was an accepted doctrine in this country that a man had a right to do as he liked with his own; but I believe we have outgrown that, and the people of England now take a very much broader view of the rights of property. They believe that there are certain duties attaching to property, as well as rights to be exercised. If a man, or a class of men, so manage or control their property that the full benefits are not derived from it by the community—if, for instance, a landlord stocks his tenants' farms with game, or avails himself of improvements made by a tenant without recognizing the right of the tenant to the advantages which he has created himself, *or if for insufficient reasons he evicts the tenant from his holding*—I say then that the State is perfectly justified in stepping in, and putting the law in such a form that the tenants and the public shall not be damaged by such arbitrary course of conduct on the part of any owners of property. I believe, gentlemen, that nothing would tend more to the advancement of agriculture in this country, and that nothing would tend more to the benefit of the landlords than a well-considered Tenant-Right; and I believe that the paper we have heard read to-night (*English Tenant-Right*, by Mr. Corbett, Secretary to the Farmers' Club), and the discussion that has taken place, will hasten that desirable end."

\* See more especially the essays of Judge Longfield, Mr. George Campbell, and Mr. John George MacCarthy, and the propositions put on the notice-paper of the House of Commons by Sir John Gray, M.P., and Mr. Morrison, M.P.



transfer of the ownership of land to existing tenants in perpetuity, either absolutely, or with a qualified and limited right of resumption by the landlord in certain cases, subject to a rent, either fixed or liable to be adjusted from time to time, and with guarantees for good husbandry, and against sub-letting. I put aside objections to this course which are merely of an *imperial* character; for all such, I conceive, should yield to considerations of justice and policy based on the history and actual condition of the relations of landlord and tenant in Ireland. Looking at the question, therefore, from an Irish point of view, I think the "fixity of tenure" principle is liable to very serious difficulties, both in theory and practice. It would almost certainly deprive the landlord of the motive and power to make that larger and more extensive class of estate-improvements which naturally devolve on him, and are often—as, for example, arterial drainage—essential to the making of farm-improvements by the occupiers. If such a plan were adopted, the transfer of the land must almost necessarily be compensated by re-valuation and raising of rents, which would meet with strong resistance among the tenantry. Moreover, fixity of tenure, even in a qualified shape, is not, as I conceive, supported by the analogy of the Ulster Custom.\*

The legalization of the ULSTER TENANT-RIGHT CUSTOM, within and without that province, as sanctioned by the Act, leaves untouched the vast number of holdings which do not, with strictness, fall under that tenure, though its germ unquestionably exists in the ideas and practice of the farmers. The difference amounts to little more than this, that the tenant's possessory interest and right of transmission is recognized and systematized in Ulster, while in the rest of Ireland the landlords have, very generally, ignored and discountenanced it. I believe that, excepting the cases—comparatively few, and

---

\* I agree with Mr. Morier (*Cobden Club Essays*, p. 292), in holding that the Prussian legislation of Stein had a much stronger *legal* justification than Irish circumstances could have afforded, though this difference was, I think, in a great measure owing to the solicitude always felt by the Government of Prussia for the peasantry, and the opposite tendencies, in former times, of the ruling powers and courts of justice in Ireland.



chiefly recent\*—of genuine commercial dealings for farms, the *real* tenure throughout Ireland is based on *status*, not on contract; a state of things quite intelligible, and readily justifiable to any one who has studied Irish history and the actual relations of landlord and tenant. It has been said that customs must grow, and cannot be improvised. That no doubt is true; but the fact is that many usages of local growth have been legalized and generalized.† When, then, we find that southern Irish landowners *have* deliberately sanctioned and systematically introduced on their estates the Ulster custom, as based on the recognition of the tenant's interest, subject to a fair rent, with right of transmission, it is difficult to see why that ancient custom—freed, in express terms, from all modern encroachments—could not have been legally sanctioned and extended to the entire of Ireland. That, I incline to think, if accompanied by the simple and *non-legal* machinery of Government arbitration—as long practically worked under the Railway Purchase of Land Acts—might have been found the most complete, and, in the long run, the least difficult and trying solution of the Irish Land problem.

I believe that the policy of recognizing the possessory and industrial interest of the tenant—his good-will—as a property having a marketable interest, limited only by the landlord's just claim to a fair rent, would be, for the reasons above stated, the wisest and most advantageous for all parties. The Act tends in this direction, not only by sanctioning such sales when made with the landlord's consent,‡ but in the encouragement indirectly given to the sale of tenants' improvements, by absolving the landlord who permits this transfer, in the

---

\* Leases in Ireland have been usually granted for political purposes or to make the tenant feel secure, but not on any commercial principle. They therefore seldom form an exception to the above remark.

† For example, the system of "crossed cheques" was at first a merely local practice, not even amounting to a legal usage. It is now embodied in a general Act for the United Kingdom.

‡ Sec. 7. This consent may be express or *implied*. I must, however, observe, that the 13th section (introduced in the House of Lords) may interfere materially with the operation of the 7th section; since, in all cases where rent is in arrear, the former practically enables the landlord to require a distinct assent to any assignment of the holding.

case of a tenant who quits *voluntarily*, from any personal claim for compensation on that head. I trust that no ill-founded apprehensions of danger or lingering feudal prejudices may prevent Irish landed proprietors from adopting a course already sanctioned by the successful practice of distinguished members of their own class in every part of Ireland. The Act is most carefully framed with a view to relieve landlords from *direct* claims by the tenant, except where the latter is dispossessed, or his industry appropriated by the act of the landowner for his own satisfaction or benefit. It is worthy of observation that the legal claims which English tenants can enforce under their agricultural customs, often to very large amounts, are in practice seldom made directly against their landlords, because these allow the outgoing tenant to arrange for the price with the incoming tenant. The Irish Land Act of 1870 is framed exactly in this spirit; and landlords, if they think fit to follow the example set in this respect in England, can free themselves from expensive claims and troublesome litigation, by permitting the sale of the tenant's interest in his holding.

Whatever, therefore, may be the defects and shortcomings of the Act, I believe that it must be productive of much good, *provided* Irish landowners, as a whole, are determined to work it fairly and according to the spirit of the measure, as one intended to secure both the homes and the industry of the tenant farmers of Ireland.

Consistently with this view, an immense field remains for the exertions of landowners, which they alone can occupy. On their intelligent devotedness mainly depend the important operations of arterial drainage, whether extending over entire districts, or merely embracing individual estates. On them also mainly hangs the condition of the agricultural labourer.\* The Act of 1870 contains few provisions† of moment affecting this important class. The improvement of agriculture should, no doubt, afford them the prospect of more continuous employment and better wages. But their homes, there is too much reason to believe, are very generally in a deplorable

---

\* There were 478,916 of these in Ireland by the Census of 1861.

† See Sec. 10. "Land required by landlord for labourers' cottages."

state.\* I believe that, in connexion with this, the present system of Poor Law taxation, as based on Electoral Districts, and not (as now in England) on Union Rates, calls for urgent revision. But direct efforts by the landlords are essential for securing the comfort and contentment of the agricultural labourers. A recent Act enables limited owners to charge their estates for building mansions to the extent of two years' rental (33 & 34 Vict., c. 56). The extension of this Act to many other objects, including the erection of labourers' cottages, is justified by the analogy of the "Montgomery Act" for Scotland, and seems called for by the state of Ireland.

The real utility of such measures, however, presupposes the frank acceptance by the Irish landowners of the *spirit* of the Act of 1870. That Act ostensibly permits owners to resume the land on paying to the tenants compensation for improvements or disturbance, or for both together. But its true object is to discourage eviction, to check hasty consolidation. Its efficacy on these heads must depend partly on the liberality and vigour of the courts, but still more on the growth and spread of just, liberal, and humane views among Irish landowners. Their tone and practice has been too much modelled on what may be called the "English System"—large farms and capitalist farmers,—and the events of the last quarter of a century in Ireland have tended to increase this disposition. But the discussions of the current year have, in part at least, shown its mistake. They have still more clearly proved that the "English System" is not one, as a whole, suited to Ireland. Not a few Irish landlords recognize this, and it may be hoped that their precept and example, fortified by the changes in the law, will have a large effect in forming a sound public opinion, and thus in securing the legitimate influence which belong to wealth and social position, when these are employed in promoting the good of the people.

I have no doubt that the combined effect of the claims which the Act sanctions for disturbance and improvements, when known to the tenantry and appreciated by them, must have a great and beneficial effect. They tend to create a bar-

---

\* See the Reports of Poor Law Inspectors on the Wages of Agricultural Labourers in Ireland, 1870.



rier against arbitrary eviction, and to inspire a confidence in the tenants of obtaining the reward of their capital and industry, honestly and skilfully applied. The discouragement to enterprise and labour among the Irish tenantry, created or fostered by insecurity, is testified by writers of high authority and large experience.\* It is right, therefore, that they should avail themselves of the new position in which the law now places them. No protecting enactments, or penalties on eviction, can enable Irish farmers, especially the smaller class of farmers, to hold their ground, unless they strenuously exert themselves to improve their holdings. That a large field for such exertions exists admits of no doubt. In support of this view I cannot do better than to quote some extracts, showing the opinions of an eminent Irish agriculturist† as to the actual condition of Irish farmers, viz. :—

#### TILLAGE.

“ It is not too much to say that by deep, early, and good tillage the value of the produce of every acre of arable land in Ireland could, on an average, be increased by at least £1. As this could be done without extra expense, and as there are five and a-half millions acres in tillage, the wealth of the country could thus be annually increased by five and a-half millions sterling.”

#### MANURES.

“ The author of this treatise has estimated elsewhere, that upwards of 80,000,000 lbs. of phosphoric acid are annually removed out of the soil of Ireland in the bones of animals exported, in the ejecta of man that go to waste, &c. : as the phosphoric acid, in manure, costs 4d. per lb., this represents an enormous loss.

“ When, in addition to this drain upon the land, it is borne in mind that the collection and preservation of home-made manures are sadly neglected, and that the soil is badly tilled, the small return of our crops need excite no surprise ; the wonder is, that it is not smaller.”

“ The manure made in the ‘ bawns ’ of thousands of the small farmers of Ireland, is not what is here called farm-yard manure at all, but compost of clay. They cart a quantity of clay from the headlands or old ditches, or from trenches cut in the fields, throw it into the yards in front of their doors ; on this is poured kitchen refuse. By being kept in the yard for some time, the clay ‘ sours,’ and a little of its mineral constituents be-

---

\* See the Remarks of Judge Longfield, *Cobden Club Papers*, 1st Essay.

† *Handy Book of Small Farm Management*, by Thomas Baldwin, Superintendent of the Agricultural Department of National Education, 1870.

comes liberated. . . . It is not quite easy to calculate accurately the loss annually incurred in this way by Irish farmers. We may, however, guess at the truth in this way:—There are grown every year about 1,500,000 acres of potatoes and roots; each acre of these gets, one with another, at least ten tons of farmyard manure, and each ton of this manure is not within a sixpence of the value it might be if properly made; this gives a gross loss of £375,000 a-year. The loss to the farmer is in reality far greater than this; for deficiency in tillage or manure may reduce the crop one-half. We feel fully satisfied the deficiency of crops in Ireland, arising from bad manure, amounts to several million sterling yearly.”

#### ROTATION OF CROPS.

“There are many other rotations in use, but those which we have described are the most common. The adoption of them would effect a vast improvement in the circumstances of the small farmers of Ireland, very few of whom adopt any fixed system of cropping. The prevailing system on those small farms is to raise a crop of potatoes on the lea, and grow one crop of grain after another as long as the land will bear it, and then to “rest” the land by letting it run to grass for some years, after which the same round of cropping is gone over again. This is an exhausting and ruinous system. It goes on the principle of starving the crop and exhausting the land, and ends by exhausting the scanty capital of the small farmer.”

#### GRAIN CROPS.

“It is not too much to say, that if the land of the country was well farmed, a saving of at least two and a-half stones of seed could be effected on each of the two millions and a-quarter acres under grain; and this represents about 32,000 tons of grain, worth more than a quarter of a million sterling. We must not attempt to effect this saving, however, except where the land has been drained and well tilled. More seed is required under bad than good farming. Some of the seed is killed by frost on undrained or wet land; and when the soil is not properly prepared, a great deal is buried so deep that it never grows at all.

“On the other hand, extremely thin seeding, which makes the harvest late, is unsuited to our climate.”

“The quantity of wheat and oats annually lost in Ireland by not cutting these crops in time is fully equal to the seed sown; and this for the two millions of acres under these two crops fully amounts to one million sterling!

“This is a national disgrace which can only be removed by diffusing agricultural knowledge among the farmers of the country.”

#### GRASSES.

“We now have to treat of the natural or true grasses, which, as permanent pasture and meadow, occupy about one-half the land of Ireland. There is no class of plants so imperfectly cultivated in these countries. A high authority has declared that the grass lands of England are a dis-

grace to British agriculturists ; and it may be safely stated that, by means within the reach of all farmers, the average yield of the grass lands of Ireland could be increased, by the application of skill and care, by at least 10s. an acre, and as we have in round numbers ten millions of acres in grass, this would give an annual increase of £5,000,000 to the wealth of the country. The unproductive state of our grass lands arises from several causes, the principal of which are, first, ignorance (on the part of farmers) of the proper grasses to grow in given situations ; second, want of care and skill in laying down the land with grasses ; and third, want of care and attention in weeding, and, when necessary, manuring the grasses."

"There is not, perhaps, in Irish small-farm management a more glaring defect, or one calling more for immediate improvement, than the mode of producing grass. Sometimes the farmer does not sow any seeds at all, but allows the land to cover itself with whatever grasses it throws up naturally. Again, thousands of small farmers allow land to run to grass when it is reduced by corn crops and mismanagement to such a state of poverty that it will no longer yield even a middling crop of grain. The land is then allowed to rest itself in grass. This is a ruinous and miserable system."

#### HAYMAKING.

"The hay crop suffers deterioration chiefly from the following causes :—first, rain ; second, loss of fragrance by fermentation ; third, loss of colouring matter ; fourth, it is allowed to remain in the field until a portion of it is rotted away ; and this again involves loss of aftergrass. . . . If we unite all the foregoing sources, the loss annually sustained in this country is enormous. On an average for all Ireland, it is not under 20 per cent., or a fifth of the actual value of the crop. We have about 1,500,000 acres under meadow land in Ireland, the average produce of which is about two tons per acre. The total hay produced, therefore, is 3,000,000 tons ; the value of which, in round numbers, amounts to about £7,500,000 ; and of this sum one-fifth, or £1,500,000, is lost by bad management."

#### LIVE STOCK.

"The quality of the live stock in Ireland has improved immensely of late years. The improvement is perceptible everywhere. Still, it is notorious that it has not become as general as it ought, and that there are thousands of small farms in the country the live stock on which is unprofitable. There are in Ireland more than half a million of horses, more than three and a-half millions of cattle, nearly five millions of sheep, and nearly a million of pigs. The gross value of the whole of these may be put down at about forty millions sterling. Some of the most intelligent farmers in the country think that by carrying out improved modes of breeding and management, this total could be increased twenty per cent. in five years. As the greatest improvement is to be effected on the small holdings, it follows that the greater portion of this increased wealth would accrue to the small farmers of the country. The first great means of



effecting this object is to diffuse among the people correct notions on the means of improving the stock."

"We slaughter annually in Ireland about half a million of beasts, and export to Great Britain about a third of a million. A large number of them are sent to market in very good condition by the graziers, large farmers, and landed gentry of Ireland. It is well known, however, to those who attend the Dublin and provincial markets, or witness the shipments of cattle from the Irish ports, that a great many beasts are sold either in a half-finished state, or sent to England as stores. The loss on the former is very considerable; for, as every practical man knows, beasts pay better for their keep in the more advanced than in the early stage of fattening. And again, as our climate is on the whole better adapted for roots than that of England, we see no reason why a large number of the store cattle now exported should not be fattened in Ireland. It would increase the profit of the farmer, and the gross produce of the country; the large quantity of valuable manure obtained would leave the land in better condition for other crops, and the labouring class would receive more employment.

"The farmers who sell their cattle say stall-feeding does not pay. It must be admitted that the slovenly system of stall-feeding which many people follow cannot pay; it is also true that the price of store cattle is sometimes so high as to render it difficult to fatten them profitably; but it may be safely assumed that the intelligent farmers of England and Scotland who fatten a great many of our Irish cattle, do not lose by the system. We have seen Irish cattle in the stalls of English farmers who pay a higher rent than is paid for the same class of land in Ireland."

#### BUTTER MAKING.

"By a good system of dairy management, all the butter produced in the country might rank first or second, and never should be lower than third. It is difficult to arrive at an accurate measure of the improvement that may be effected in this branch of industry; but we are quite safe in saying that if the dairy were well managed in all parts of Ireland, it would increase the average value of the butter produced at least £1 a cwt., and add to the wealth of the country at least £1,000,000 a-year. The wide field for improvement is shown by the quotations of the principal markets. At Cork, for example, the butter is divided into six classes; as we write, the price of the first is 150s., and of the sixth only 95s. a cwt."

#### CHEESE MAKING.

"There are two reasons why cheese making has not been extensively adopted in this country. In the first place, the majority of the farmers require to convert their produce into money as quickly as possible. Butter can be sold as soon as it is made, while cheese cannot be sent to market until several months have elapsed. Double Gloucester cheese, for instance, requires nine or ten months to bring it to maturity. In the next place, the manufacture of good cheese requires more dairy accommodation than the bulk of Irish farmers can command."



## SHEEP.

“The average value of the sheep in Ireland could be increased 10s. a head in a short time by bestowing proper attention on their breeding, feeding, and general management; and as there are about 4,800,000 sheep in the country, this would increase our wealth to the amount of £2,400,000.

“It is in regard to the sheep in the hands of the small farmers that the greatest improvement remains to be effected. They are frequently ill-shaped, require three or four years to come to market, and do not weigh as heavily as well-bred and well-fed sheep at the age of fifteen or sixteen months. Food is thus wasted, the farmer’s capital is turned slowly, and the profit is extremely small, or, as sometimes happens, there is no profit at all.”

## FARM-HORSES.

“There are in Ireland upwards of 500,000 horses, of which two-thirds are used for agricultural purposes. A large proportion of these do not give an adequate amount of work for the food they consume. They are badly shaped and ill-adapted for farm work. Little or no care is bestowed on their breeding, and their feeding, especially while young, is also neglected.”

## POULTRY.

“England is now importing eggs and poultry from the Continent at the rate of close on a million and a quarter sterling per annum. Of eggs, the imports, one day with another, are upwards of a million a day!

“Ireland, with its half a million of farmers, could supply this demand, and at the same time increase the quantity for home use.”

## DRAINAGE.

“It may be noted as a rule, that all peaty and clay soils are improved by thorough drainage. All grass lands that contain rushes, sedges, and other water plants are also in want of this improvement. We may feel certain, too, that grass lands which have here and there patches of a brownish or unhealthy green through them, contain too much water. We have in Ireland at least 6,000,000 acres of land in need of drainage; this work could be effected at a cost of £5 an acre, which would give a rentcharge of 5s. an acre; but the increased value of the land, consequent on drainage, would be at least 10s. an acre, and on hundreds of thousands of acres of bog and clay it would be fully £1 an acre after a few years. Thus the value of the land of the country would be increased by upwards of £3,000,000 a year.

“Many persons will ask, Where is all the capital to execute this work to come from? We answer that the bulk of it is in the labour of the people. The farming classes of Ireland have a great deal of labour in their families, which could be most usefully employed at draining their farms at opportune seasons, when other works are not pressing.”

## RECLAMATION OF LAND.

“The most abundant class of soils in Ireland in want of improvement

is our bog land. In 1841 it was estimated that there were 4,000,000 acres of this kind of land capable of being improved ; and at the present moment the area is not less than 3,000,000 acres."

#### FARM-HOUSES AND OFFICES.

"In this chapter we do not propose to treat of the dwellings or offices required on large farms, but simply confine ourselves to the wants of the small farmers and labourers, who in the backward parts of the country, such as in the south and west, live in miserable hovels unfit for human beings, and have no farm offices deserving of the name.

"Many of the landed gentry of Ireland have made most laudable exertions to improve the dwellings of the labourers and farmers ; the Government, too, has lent money for this purpose, but as yet their combined efforts have had little influence on the mass of the people, and chiefly because the plans hitherto devised have been on too costly a scale.

"Most of the cottages erected by the landed gentry cost £90 a piece, and for these labourers cannot afford to give a rent which would pay for their erection.

"The Board of Works do not lend any money for the erection of dwellings or offices on farms of less than £50 annual rent.

"We know a very comfortable cottage of this kind built of mud walls, with strong upright posts of larch trees, chimney of stone and mortar, thick coat of thatch, and with boarded floor, put up at an outlay for timber, mason, thatcher, and a kitchen grate, of £6 6s. 6d. We do not advocate mud walls or straw for thatch for those who can afford more costly materials, but in every effort to improve the condition of a people, regard must be had to their circumstances ; and at present the small farmers most in want of decent houses cannot afford to build them with stone, mortar, and slate.

"The site of every farm-house and offices should be well drained, damp being most pernicious to man and beast. Pools of water, and, above all, pools of mixed liquid manure and water, so commonly seen about the dwellings and offices of Irish farmers, are most injurious. We know a farmer who, in 1867, lost cattle to the value of £500 by lung disease, which was brought on by want of proper drainage, and neglect of the simple laws of health."

It is therefore plain that much remains to be done before Irish agriculture can reach its fair level of perfection ; and the security afforded by the Act of 1870 is, I conceive, such as justifies the friends of the Irish farmer in calling on him to use his utmost exertions.

I have no doubt that the millions of deposits, of which so large a portion are contributed by Irish farmers, can now be safely, and far more profitably, expended by them upon their houses, their farm buildings, with all the appliances and aids of husbandry. It may, however, be a matter requiring serious

consideration, whether the system of loans by the Board of Works should not now be reconstructed, so as to embrace at least a large proportion of the occupiers of land in Ireland. Such a change would be entirely in the spirit of the Act, which proceeds on the assumption that Irish tenants have made, and still more will make, all those classes of improvements that transform mere land into the farm, and associate prosperous agriculture with happy homes for the tenant-farmers of Ireland.

The practical efficacy of the Second Part of the Act (Sales to Tenants) will largely depend on the spirit in which it is carried out by the BOARD OF WORKS and the LANDED ESTATES COURT. The Board of Works, so far as regards loans for agricultural improvements, has hitherto shown little disposition to deal liberally with tenant-farmers. It is to be hoped that, both on this head and in organising the new loan system, a more enlightened and progressive spirit may be manifested. I must also express my conviction that the Landed Estates Court, both in its principles and practice, has greatly fallen off from the largeness and vigour of its earlier days, especially the first ten years of its working under the original Act, when called the Incumbered Estates Court. A state of things has been introduced and sprung up urgently calling for reform preceded by an inquiry. This should also embrace the department of the Court known as the RECORD OF TITLE OFFICE. The system of recording Parliamentary Titles is of special importance for purchasers of properties so small as those of tenant-farmers must be. The system, I think, demands a careful revision, and ought to be made both compulsory and local.

10, *Lower Mountjoy-street, Dublin,*  
14th October, 1870.



HANDY BOOK  
OF  
FARM TENURE AND PURCHASE.

---

INTRODUCTION.

THE LAND ACT of 1870 is a great step in the right direction. Abandoning a purely English system and economic metaphysics, it largely follows the best Irish traditions and adopts ideas sanctioned by foreign and colonial experience. The tenure-clauses evince the first, the purchase-clauses the second of these tendencies. The reform thus possesses an historic character—resting on the past, to better the present, and to prepare the future. The changes made in the law of landlord and tenant go beyond the proposals of Sharman Crawford, O'Connell, and Sir Joseph Napier. Mr. Crawford's bill of 1848, which was sanctioned by the Irish Tenant League of 1852, was based on the Ulster Tenant Right, already recognised in railway valuations under the Land-Clauses Act (8 Vic., c. 18, sec. 81). The legal sanction of the presumption that improvements had been made by the tenants, in accordance with the statement of the Devon Commissioners' Report (1845), was advocated by Mr. O'Connell. The Bill of Sir Joseph Napier (1853) affirmed, in principle, the tenant's property in his improvements to a limited extent, both retrospectively and prospectively. These fundamental points are now made the law of the land; the first unreservedly, the second and third with reservations, which diminish but do not destroy their value. The facilities which the Act affords towards the purchase of their farms by the occupiers are likewise justified by



experience, partial but encouraging, in Ireland; still more by the results of a Farmer-Proprietary in every Continental country, in the United States, the British Colonies, and India.

## LAND-TENURE.

### ULSTER TENANT-RIGHT CUSTOM.

The Act of 1870 begins by legalizing the "Ulster tenant-right." This custom is the Irish counterpart of the English copyhold.\* It does not go so far as that system, which practically confers fixity of tenure at an ascertained rent. Had the Irish bench in former times favored popular claims as the English judges did, the result would, I doubt not, have been the same in both countries. The copyholder and the Ulster farmer are alike *status* tenants, that is, tenants the nature and conditions of whose tenure are determined not by contract, but by equitable principles which have acquired the force of customary law. Equity embodied in custom is the foundation of both tenures. The copyholder, originally a serf, next a tenant-at-will, was at last enabled, under judicial decisions, to control the landlord's power by a custom which prohibited eviction and regulated the conditions of tenure. The Ulster tenure clearly tended in that direction, for it embraces not only improvements but possession. The "goodwill" comprises both, and in effect makes the tenant a co-proprietor with the landlord. He owns, under the custom, a saleable interest in his holding. The custom, if judicially favored as in England, would probably have ended in fixity of tenure. Unsupported, and in more recent times infringed by landlords, it stopped short of that. The limitations attempted were of various kinds. The landowners claimed the right of resuming possession for special purposes; sought to impose a maximum on the price of tenant-right; and not unfrequently raised the

---

\* The Zemindàree tenure of the Bengal ryots affords another analogy, in one respect even more complete, since under that system (as established by Act X. of 1859 and explained by the judgment in the great 'Rent Case') the rent is not fixed but variable, tenant and landlord sharing in the increase of value produced by general causes. See the writer's essay, *Ancient Tenures and Modern Land-Legislation in British India.*—1870.

rent beyond the fair customary value. These innovations have no doubt impaired, but by no means destroyed the custom, which ought henceforth, under the protection of the law, to recover its pristine vigor and ancient boundaries.

The Ulster Tenant-Right must be considered both in its practical and legal aspects.

The true and universal custom of Ulster, I conceive, is this. The tenant, whether yearly or leasehold, enjoys an occupation-right or possessory interest, capable of being assigned or otherwise transmitted. The landlord is entitled to approve of the incoming tenant, and to receive arrears of rent, and other claims, out of the purchase money. He may resume possession on notice to quit, or expiration of the lease, but he must pay the tenant the value of his interest. The rent is a fair customary rent regulated by the practice of the neighbourhood, and can only be raised when and so far as increase in value is occasioned by change in prices, or other general causes independent of any improvements made by the tenant. Any other augmentation of rent is plainly inconsistent with the custom, since it must, *pro tanto*, diminish the customary market value of the tenant-right. I believe the above to be a correct statement of the *essential* characteristics of the ancient and genuine custom as it still subsists on the estates of the best landlords in counties—such as Down—where it has been respected and fostered on the grounds of justice and good policy between owners and occupiers.

Next, as to the legal aspects of the Ulster Tenant-Right under the Act of 1870. It fulfils the three principal conditions which the English law demands.

First. The Ulster custom is an ancient custom. The proof, however, need not go beyond twenty years, which, in the absence of proof to the contrary, warrants the presumption of its immemorial existence. I deem it of the utmost importance that the custom should be upheld as an ancient right and not a mere modern practice.\* The latter view must tend to let in

---

\* I regret to be obliged to express my entire dissent from the view taken by Mr. W. O'Connor Morris in his useful edition of the Irish Land Act, 1870 (p. 47). The English decisions which favor the usages of modern agriculture, giving to outgoing tenants compensation for manures,



and sanction all those comparatively recent innovations and restrictions by which landlords have attempted to restrict and practically abrogate the tenant-right. The former view will, I trust and believe, assist the courts to vindicate the just and benevolent intentions of the Legislature, by sustaining the ancient custom, freeing it as far as possible from all such limitations as are at variance with its essence, and unduly limit the tenant's interest in his farm—in other words, the full customary market-price he can get for that interest.

Secondly. The Ulster Custom is not a mere estate-regulation, or even a district-usage, but a general custom. It extends (with rare exceptions and those of modern origin) over the entire Province of Ulster. The Act,\* I submit, clearly recognises this fact. It refers no doubt to usages, but that, I apprehend, merely means local variations so far as these are not inconsistent with the fundamental and essential features of the Ulster Custom. The tenants of Donegal are, I submit, entitled to refer to the evidence of the genuine and ancient custom afforded to this day by many estates in Down and other counties of the PROVINCE, which is clearly designated by the Act as the peculiar sphere and original limit of the institution.

In the absence of an express *contract*, limiting or abolishing the ancient tenant-right, I contend that all innovations by way of mere notice or estate-regulations are simply null and void,

---

tillage, drainage, etc., are no doubt worthy of consideration. But I am unable to understand how these usages can be placed in the same category with a custom which gives to the tenant "a quasi-proprietary right;" a "concurrent interest" with the landlord (ib. p. 36). I must add my conviction that the *status* of the tenant under the Act of 1870 is not regulated according to law by his *old* legal tenure, (i.e. as holding merely by lease or from year to year, ib. p. 36) but by the *whole* relations which constitute the ULSTER TENANT-RIGHT CUSTOM. It also strikes me that when the Legislature emphatically affirms and ratifies a wide spread practice, it will be difficult to hold that, "if it is a custom, (i.e. ancient) it is to be construed strictly. No inferences are to be made in its favor." (ib. p. 47). I earnestly hope the Act of 1870 may not, on this and other points, be construed in a spirit which can only nullify its provisions and defeat its policy.

\* See especially the second section, which makes "*The Ulster Tenant-Right Custom*" the standard of comparison with extra-Ulster usages which *in all essential particulars* correspond therewith.

so far as they conflict with the ancient and genuine custom. The Ulster holding, whether yearly or by lease, confers the *status* of a continuing tenure.\* That is now recognised by the law, and the Courts should draw from it every fair inference favourable to the customary tenant. The Ulster Custom, like every other agricultural custom, ancient or modern, results from *the dealings of the tenants*. The landlord has no *active* share in creating the custom; and once an ancient custom is proved to exist, he cannot derogate from it by any *ex parte* proceeding. The tenant enters under the custom, and is entitled to the benefit of it. This proposition has special importance with reference to the efforts of landlords to limit the market price of the Ulster tenant-right. I conceive all such attempts are infringements of the ancient custom, and should be declared null and void. The same thing holds good with reference to the raising of rent, which is obviously both the result and the cause of arbitrary limitations of the value of the tenant's interest. The ancient custom unquestionably is violated by raising the rent beyond the fair customary rate. The great disparity between the market prices of tenant-right in the different Counties of Ulster is well known. It arises in part, no doubt, from the real difference in the value of the farms and farm improvements. But the main cause is artificial, and proceeds from the arbitrary regulations, above referred to, sought to be imposed by landlords, but most of all from the inequitable raising of rent beyond what the fair customary standard would have warranted. Of all the gradual and recent infractions of Ulster Tenant-Right which have caused so much indignation and discontent, "not loud but deep," in that province, this of raising the rent has been the most serious; and unless the Act, backed by the interpretation of the Courts, stops these proceedings, the legalization of the Ulster Custom will have accomplished very little for the tenant.

Thirdly. The Ulster Custom is reasonable. I premise two principles of English law which should be borne in mind when we consider this proposition. The Courts lean to support an ancient custom, or even a modern usage, and the onus

---

\* The Act manifestly aims at recognising this for the whole of Ireland, as far as possible (See Secs. 2, 11).

of showing that it is *un*-reasonable lies on the objector. Again, a custom is not unreasonable because it may produce what seems hard in an isolated case, or may, under particular circumstances, even cause hardship. The judicial mind looks to its general bearings, and regards its influence in the long run and on the public good. Tried by those tests, the modern tenant-right usages of agriculture in England, nay more, her ancient customary tenure known as copyhold, have been upheld. The same tests may without fear be applied to the Ulster Tenant-Right.

We have clear proof that a tenant-right, restricted only by the landlord's claim to enjoy a fair customary rent—capable, therefore, of being raised within proper limits—does not encroach upon the landlord's property, or diminish his just revenue. Mr. William Stewart Trench, the well known and extensive land-agent, states,\* “ I think the land in the North of Ireland with which I am acquainted is let *higher* at this moment, *in proportion to its intrinsic value*, notwithstanding the Tenant-Right which exists there, than the land in other counties which I have had to deal with.” There is, however, one word in this statement which requires correction. “ Notwithstanding ” should be expunged, and “ by reason of ” inserted in its place. The idea implied by the language of Mr. Trench is that which has so long been the bane of Ireland, namely, that what benefits the tenant injures the landlord. The reverse is the truth, and Ulster Tenant Right in its best form proves this. The landlords in that province obtain a higher rental from their estates, *because* the tenants are prosperous ; and the tenants prosper, mainly, *because* they possess the security which encourages them to augment both the extent and productiveness of the land under cultivation. Owing to these exertions, and the general prosperity of that part of the country, an increase of wealth is created, which the landlord and tenant share between them, as copartners, on equitable terms.

Again, it is demonstrable that the Ulster Custom has not checked such a gradual increase in the size of farms as the operation of general causes in society—for example, the dimi-

---

\* *Evidence before the Lords' Committee on the Tenure (Ireland) Bill, 1867.*



nution of domestic weaving, or improvements in agriculture—naturally and unavoidably brings about. Mr. Filgate, for many years agent on the Downshire estates, testifies to this.\* “It is a curious circumstance that, taking Lord Downshire’s estate in the part which I have immediately under my own management, and comparing what has been going on in the way of consolidation for the last fourteen or fifteen years, the very same thing has been occurring there, *where we have no ejectments, and where we have literally no arrears of rent*, as has been going on in the South and West. The turning point is very much the same. The farms below fifteen acres have decreased, and farms above fifteen acres have increased.” The reason for this extraordinary agreement in the alteration of the size of farms, accompanied by the equally remarkable difference between the social state of the North and that of the rest of Ireland, is not difficult to discover. In the former case the tenant-right payments induced the peaceable relinquishment of farms no longer profitable to their holders, since these were thus saved from want and degradation, and enabled to emigrate with their families. In the latter case, the tenants were simply reduced to the condition of agricultural labourers, ill paid and badly housed, with no prospect in sickness, destitution, or old age, except the poor-house.

The most plausible objection against the Ulster Tenant-Right Custom† is its alleged tendency to encroach on the tenant’s agricultural capital. The tenant, however, obtains real value ; an investment bearing no doubt a small interest—about 3 per cent—but affording practical security against eviction and for industry. Besides, the want of *legal* sanction for the custom largely produced the alleged mischief ; since it prevented the tenant from borrowing—as is commonly done in England where tenant-right customs prevail—at a moderate interest,

---

\* *Evidence before the Lords’ Committee on the Tenure (Ireland) Bill, 1867.*

† One northern proprietor qualified it on this ground as “black-mail,” but subsequently described it as a “gracious custom.” Happily the general opinion of Ulster landlords bears out the latter interpretation. It would be easy to quote evidence to this effect. I can here only refer to that of Mr. Hamilton of St. Ernan’s, Co. Donegal, who has discussed the custom and the above objection.—*Macmillan’s Magazine*, Dec. 1869.



enough to carry him on in farming until he could recoup himself the purchase of goodwill out of his savings.

It would be easy to multiply these considerations on the justice and advantages of the Ulster Tenant-Right. When fully recognised and liberally interpreted, this custom appears in its true light, as an institution admirably adapted to the circumstances which gave it birth. It stamps landed property with a *social* character, because it protects the accumulated labors of generations; enforces a system of reciprocal duties; promotes peace and general well-being. The interest of all parties alike,—of tenants, of landlords, and the community—therefore, requires the abolition of those restrictions which conflict with the custom of Ulster as understood and practised by the best and most liberal landlords.

There is at all events much to be said in favour of this view, in point of reason and legal authority. If the courts should not sanction it, or should do so only partially, the Act presents to the Ulster tenant\* the alternative of claiming, with the consent of the Court, compensation both in respect of improvements and of disturbance. But I should strongly advise the tenants to hold on to a custom which, once established, must gradually gain strength, and tend towards a uniform rate—one varying with natural causes, material or social, but not with the caprice of individual owners. The maintenance of the Ulster Custom of Tenant-Right in its original integrity, free from all later innovations and corruptions, is of the deepest importance, not merely as regards the Province of Ulster—where its present pecuniary value has been estimated at not less than twenty millions sterling—but in reference to the whole of Ireland. The Act of 1870 (Sec 2,) has legalized this custom, wherever it can be shown to subsist in its “essential particulars.” † That it does already thus exist in many dis-

---

\* This must be understood only with limitations, which will be pointed out hereafter, pp. 17, 19, 22.

† The Act has various other provisions which indirectly encourage the spread of the Ulster custom. The seventh section gives the tenant, on quitting, a claim against the landlord who has, expressly or by implication, consented to the purchase of goodwill. It also authorizes landlords to free themselves from claims on this ground, or a claim for improvements by tenants who quit voluntarily, by allowing them to sell their interest.

tricts admits of no doubt. It is equally certain that the estates\* where the growth of the custom of Ulster, to its full extent, has been encouraged, are among the best managed and present the happiest results of any in the country. The gradual spread of this custom, as based on the practice of the best Irish landlords, is therefore a matter of the greatest moment, and the Irish public must anxiously await the judgments of the local courts, and the interpretation of the Act of 1870 by the Court for Land Cases Reserved.

### NON-CUSTOMARY HOLDINGS.

The Act next deals with holdings not subject to the Ulster Tenant Right Custom, which I shall call non-customary holdings. It deals with them in a two-fold way. The tenant, generally speaking, may either claim compensation for disturbance and improvements (Secs. 3, 4, 5, 8), or he may claim, in respect of money previously paid for good-will, with the consent, express or implied, of the landlord, and for improvements not included in such sum (Sec. 7).

The latter of these alternatives (viz., claiming for purchase-money of good-will, plus any improvement not included thereunder, (Sec. 7), does not require any lengthened notice. It approximates to the principle of the Ulster Tenant Right, but differs from it essentially, since the tenant who holds under that custom need not prove the landlord's consent to the previous sale, but the non-customary tenant must do so.†

The Act enables non-customary tenants, yearly and leasehold (but as to both classes with important exceptions),‡ who pay their rent, and observe the conditions of tenure, if disturbed by the landlord, and about to quit their holding, to claim compensation according to a sliding scale (Secs. 3, 16). The scale is based on the public valuation of Ireland; the compensation on so many years' purchase of the actual rent, as specified for each class of tenancies. The highest rate of

---

\* For example, that of Lord Portsmouth. See *The Land Question of Ireland*, by W. O'Connor Morris, p. 134.

† See further remarks on Sec. 7, p. 26.

‡ These are pointed out in "The Practical Analysis." See also the Tables below, p. 27.

... would be to say that ... could keep him ...

... considerations on the ... When ... interpreted, this custom appears ...

... in favour of this view, ... If the courts should ... the Act presents ...



dicts admits of no doubt. It is equally certain that the estates where the growth of the custom of Ulster, to its full extent, has been encouraged, are among the best managed and present the happiest results of any in the country. The gradual spread of this custom, as based on the practice of the best Irish landlords, is therefore a matter of the greatest moment, and the Irish public must anxiously await the judgments of the local courts, and the interpretation of the Act of 1870 by the Court for Land Cases Reserved.

the esti-  
com-  
ments.  
re will  
source

NON-CUSTOMARY HOLDINGS.

The Act next deals with holdings not subject to the Tenant Right Custom, which I shall call non-cust. holdings. It deals with them in a two-fold way. Generally speaking, may either claim compensation for improvements and improvements (Secs. 3, 4, 5, 8), or he may claim respect of money previously paid for good-will, which is not included in such sum (Sec. 7).

The  
ly in-  
erpret-  
s it has  
with re-  
mulated  
ards, the  
an in-  
tenant's

The latter of these alternatives (viz., claiming compensation for money of good-will, plus any improvements made under, (Sec. 7), does not require any proof of custom. It approximates to the principle of the Landlord and Tenant Act of 1850, which differs from it essentially, since the latter requires proof of custom; that custom need not prove the landlord's title, but the non-cust. tenant must prove his title.

pretation.  
which directs  
ments made  
time during  
age of such  
kinds of im-  
or shorter  
is with these  
re concerned ;  
s and offices—  
ants, and these  
wholly different  
by the outlay very  
and expensive re-  
rent and often con-  
also, is a laborious and  
uction for this class of  
Ireland especially  
because of the enjoyment,  
and very

The Act enables non-cust. tenants to claim compensation for improvements and improvements (Secs. 3, 4, 5, 8), or he may claim respect of money previously paid for good-will, which is not included in such sum (Sec. 7). The scale is based on the value of the improvements as specified for each class of improvements.

\* For further details on this subject, see the book on the law of land, by W. O. ...  
+ See ...



compensation allowed in respect of the loss sustained by the tenant by reason of quitting his holding, is seven years' rent for tenancies valued up to £10 per annum ; the lowest is one year's rent for tenancies valued over £100 per annum. Tenants whose holdings are valued under £50 per annum cannot contract to renounce compensation for disturbance, until the 1st of January, 1891 (Secs. 3, 12). Their claim may be forfeited or reduced by certain acts (Sec. 3, Provisoes 1, 2 ; Secs. 9, 13, 14).

The following classes of tenancies are excluded from claiming for disturbance, viz. ; first, leaseholds made after the 1st of August, 1870, for thirty-one years and upwards ; secondly, tenancies existing on the 1st of August, 1870, if held by lease or by a yearly tenant, where the valuation exceeds £100 ; thirdly, tenancies, yearly or leasehold, existing on the 1st of August, 1870, held under a middleman, when the superior landlord evicts ; lastly, all tenancies which have been determined before the 1st of August, 1870\* (Sec. 3).

In addition to the claim for disturbance, and in many cases where this is withheld, the Act sanctions the claim of a tenant, who is quitting his farm, against the landlord, for improvements made, purchased, or inherited by him (Sec. 4). The definition of improvements includes all works *suitable*† to the holding which increase its letting value, as well as manures, tillage, and away-going crops (Secs. 70, 8). This claim cannot, like that for disturbance, be forfeited. But it may be reduced by counter claims for arrears of rent or taxes, or for deterioration, or by reason of long enjoyment, a low rent, or other benefits to the tenant (Sec. 4). The claim for improvements can also be made by a tenant who quits voluntarily, or is evicted for non-payment of rent, or breach of condition ; but, in these cases, the landlord may free himself from liability by allowing the tenant to sell his interest (Secs. 4, 9). Permanent buildings, and the reclamation of waste land, confer a

---

\* Of course this does not apply to cases where the parties have been left in possession under a *renewed* tenancy.

† "No improvement shall be deemed to be required for the *suitable* occupation of a tenant's holding and its due cultivation, which appears to the court to diminish the general value of the estate of the landlord." (Sec. 4.)

claim for compensation after any lapse of time, subject, however, to be reduced as above stated (Sec. 4, last paragraph); but as regards other improvements, if made before the 1st of August, 1870, the claim must be put forward within twenty years from the making of such improvements. The tenant's claim for improvements cannot be renounced by contract, unless his holding is valued at or over £50 per annum (Sec. 12). In specified cases (Sec. 4, Provisoes 1 (b, c, d, e), and 2) the claim is not sanctioned. The claim for compensation for improvements of certain classes of tenants is limited to particular kinds of improvements. Thus, a lease for thirty-one years, or upwards, limits this claim to reimbursement for permanent buildings and reclamation of waste land. (Sec. 4.)

The Act also facilitates the proof of the claim for improvements, by reversing the presumption which hitherto has existed in favor of these having been made by the landlord (Sec. 5); but this important provision is subject to many exceptions as regards improvements made before the 1st of August, 1870. (see p. 24).

The Act makes no provision by which the tenant can *directly* protect himself from an unjust rise of rent. In such an event, the holder of a farm, subject to Ulster tenant-right, can merely refuse to pay the increase, and claim his right to sell at the existing rent, or, at most, a fair rent. The non-customary tenant can only refuse to pay, and challenge the landlord to evict, at the risk of his having to pay compensation for disturbance and improvements. But the non-customary tenant should bear in mind that if the landlord satisfies the Court that the increase of rent asked is reasonable, the tenant who persists in refusing to pay it will lose all claim for disturbance (Sec. 18).\*

If a liberal construction of the Act be, as already noticed (p. 2), necessary for the protection of the Ulster tenant-right, the same is no less so for that of the non-customary tenants.

First, as regards compensation for disturbance; it is clear that disturbance does not mean actual eviction (See Secs. 16 and 21).

---

\* It would seem that the tenant may assent to the terms proposed by the landlord, even at the trial of the claim, but of course he would have to pay the costs of the proceeding.

I conceive it arises on service of a notice to quit, or other legal proceeding for terminating the tenancy.

A most important matter is the construction to be placed on the general enactment contained in Section 3 of the Act. This provides that the non-customary tenant who "is disturbed in his holding by the act of the landlord, shall be entitled to such compensation for the *loss* which the Court shall find to be *sustained by him by reason of quitting his holding*, to be paid by the landlord, as the Court may think just, so that the sum accorded does not exceed the scale following." A subsequent Section (19) provides that the decree of the Court "shall state the items of claim allowed," including, of course, "the particulars of loss sustained by the tenant in quitting his holding." The object of this part of the Act is to check *arbitrary evictions*; to prevent the dispossession of tenants, unless caused by their own misconduct. I conceive, therefore, that the "loss" here intended does not mean simply specific damage caused to the individual tenant by his disturbance. Such a construction would render the operation of the measure wholly uncertain. The true meaning of the Act, I submit, is that the farmer *must be taken to have an interest in his holding*, according to the scale in which he is placed, combined with his claim for improvements. The measure, therefore, of his "loss" must be the *maximum*\* of damages that can be awarded, subject only to be refused by reason of the acts of the tenant, in the cases specifically pointed out (Secs. 3, 9, 13, 14, 18); or to be reduced on account of arrears, deterioration of the holding by, or other misconduct of, the tenant (Secs. 3, 18). I must add that the last paragraph of Sec. 18 will call for the greatest exercise of discretion, and a sound knowledge of Irish circumstances in the Court. If, for example, this clause should be made an engine for raising rents arbitrarily, or for forcing tenants to accept costly leases, or leases containing, as is too often the case, unduly stringent clauses, the entire scope of the measure would be put in jeopardy. If, on the other hand, a liberal construction of the

---

\* It should be remembered that the goodwill brings a higher proportionate price for small farms, the competition for these being greater, and therefore the possessory element more valuable.



Act be adopted, the tenants can form some approximate estimate of the value of their interest in their holdings, compounded of compensation for disturbance and improvements. Unless they can so calculate, the object of the measure will be defeated—the “message of peace” converted into a source of litigation and social discord.

Next, as regards compensation for improvements. The general definition given by the Act (Sec. 70), is plainly intended to benefit the tenant, and should be liberally interpreted. This can only be done by taking the holding *as it has existed, and exists when the claim is made*, and not with reference to any possible changes which may be contemplated by the landlord or the incoming tenant. In other words, the improvements should be valued as they would be by an incoming tenant of the same class buying the outgoing tenant's interest in his improvements.\*

The next point which demands a liberal interpretation, arises out of the clause (Sec. 4, last paragraph), which *directs* the Court to reduce the tenant's claim for improvements made before the 1st of August, 1870, by considering the time during which such tenant may have enjoyed the advantage of such improvements. Now, there are, no doubt, certain kinds of improvements which repay themselves in a longer or shorter time—as tillage, manuring, drainage, &c., and it is with these exclusively that English tenant-right customs are concerned; but in Ireland the buildings—both the houses and offices—have been and are commonly erected by the tenants, and these important classes of improvements stand on a wholly different footing. Even farm buildings not only repay the outlay very slowly, but they require constant attention and expensive repairs. Their *conservation* demands frequent and often considerable expenditure. Reclamation, also, is a laborious and expensive process, and any serious deduction for this class of improvements, so general and important in Ireland, especially among the very small farmers, because of long enjoyment, would be, I conceive, both unjust and very impolitic.

---

\* See the remarks of Mr. George Campbell, *The Irish Land*, pp. 172-8.



## LAND PURCHASE.

The second part of the Act of 1870 institutes a system intended, and I hope calculated, to promote the gradual formation of a FARMER PROPRIETARY in Ireland. The plans proposed for effecting this object have been noticed by Mr. George Campbell, from whose book (*The Irish Land*, pp. 74-77) I may be allowed to quote the following passage:—"The scheme which has attracted most attention, and has been received with most favor, is that of Mr. Bright for acquiring the estates of landlords willing to sell, and giving the tenants the opportunity of becoming owners on favorable terms. I have no doubt that this plan would be good as far as it goes, but, in addition to the objection that it involves the use of English money, there is this also to be said, that the plan cannot within any reasonable time be carried far enough to be a real remedy for the grievances of the mass of the Irish people; it would only benefit a select few. I believe it would be most desirable that Government should, on reasonable terms, acquire a few large Irish estates, put a good Indian collector in charge, and try the effect of model management on Asiatic principles. Such an experiment would, I dare say, be well worth the money . . . Mr. Henry Dix Hutton certainly puts a similar proposal, in a very attractive form, in his scheme\* for State Land Banks, which are to advance money to the tenants for the purchase of their farms at  $3\frac{1}{2}$  per cent. and receive 5 per cent., so that  $1\frac{1}{2}$  per cent. forms a sinking fund to redeem the land in thirty-five years. His view is that, taking the value of land in Ireland to be twenty years' purchase, the tenant paying 5 per cent. will pay no more than his present rent, while he at the same time gradually acquires the property in the soil. He would also immediately obtain that which he most covets—fixity of tenure."

To Mr. Bright justly belongs the honor of having first proposed the extension of loans of public money—long familiar in Ireland in the shape of advances to landlords for drainage purposes—to a system for enabling Irish tenants to buy their farms. Of the particular plans suggested for carrying out

---

\* Put forward in the pamphlet, entitled, *Prussia and Ireland*, 1867.

this policy above referred to, the second alone has at present been adopted by the legislature, probably as being the one the immediate application of which presented fewest difficulties. According to this scheme, tenant farmers can purchase, either by agreement with their landlords, or on sales advertised in the Landed Estates' Court. The Board of Works is authorized to advance to the occupier, thus purchasing, a sum not exceeding two-thirds of the purchase-money, repayable by an annuity charged on the holding, at the rate of 5 per cent., and terminable in thirty-five years; or sooner, if the tenant can pay off the balance of debt remaining due on foot of the advance. An example will illustrate the great advantages which this scheme offers to tenants. Suppose the tenant of a twenty acre farm, let at an annual rent of £24, agrees to purchase it at the rate of twenty-five years' purchase—that is, for £600. The Government, if satisfied of the security, will advance two-thirds of this sum, or £400. The tenant must find the £200. If he possesses this sum, it would probably be invested on deposit in a bank, or in the funds, at not more than £3 per cent. If borrowed, he might have to pay £5 per cent. The annuity payable to Government would amount to £20, to which must be added the interest on the £200 withdrawn from investment or borrowed, that is, as the case may be, either £6 or £10 per annum, making in all an annual payment of £26 or £30. The above tenant, who had saved a sum amounting to one-third of the purchase money, would thus pay £2, or 2s. per acre beyond his present rent; or, if obliged to borrow it, he must pay £6, or 6s. per acre beyond his present rent. In either case, at the end of thirty-five years he would have no more rent to pay; the purchase money, invested or borrowed, together with the additional rent per acre during thirty-five years, having converted him into a proprietor in fee-simple.

The Act contains various other provisions of more or less importance concerning tenancies-at-will, notices to quit, and county cess. It is not necessary to notice them more particularly in this place.

## PRACTICAL ANALYSIS.

The Act consists of five parts, arranged as follows :—

- I. Tenant-Right and Proceedings in Court ;
- II. Purchase of Farms ;
- III. Advances of Public Money ;
- IV. Certain Legal Proceedings ;
- V. County Cess, Tenancies-at-will, and Miscellaneous Provisions

## PART I.—TENANT-RIGHT.

The Act applies generally to agricultural holdings, to pastoral holdings, and to such as comprise both arable and pasture land (Sec. 71). Certain classes of holdings are, however, wholly excluded—1stly, demesne land ; 2ndly, town parks ; 3rdly, labourers' or servants' holdings ; 4thly, conacre ; 5thly, temporary lettings ; 6thly, cottage allotments not exceeding one quarter of an acre (Sec. 15). Pastoral holdings valued under £50 per annum come within the Act (*ib.*) But a claim for improvements *only*, or for the purchase of goodwill with the landlord's consent (Sec. 7), and not for disturbance, is given in respect of holdings *wholly or mainly pastoral* which (1) are valued at or above £50 per annum, or (2) do not comprise the tenant's abode, unless the pasture land adjoins to or be ordinarily used with the holding where the tenant usually resides (Sec. 15).

The tenancies embraced by the Act fall under two heads :  
1. ULSTER TENANT-RIGHT HOLDINGS ; 2. NON-CUSTOMARY HOLDINGS.

## ULSTER TENANT-RIGHT HOLDINGS.\*

Customary tenure exists both within and without the Northern Province. The Act in effect legalizes the "ULSTER TENANT-RIGHT CUSTOM,"† wherever a holding may be situated which is PROVED to be subject to it (Secs. 1 & 2).

The Act sanctions the extinction by purchase or otherwise of the custom.‡ In that event the tenant is, I conceive,

\* See Introduction, pp. 2-9.

† Its nature has been discussed already, p. 3.

‡ The contract must be in writing, duly signed under the Statute of Frauds.

remitted to the claims which he could make as a non-customary tenant ; but the Court would no doubt take into account the consideration given for extinguishing the custom (Sec. 18). It seems, however, doubtful what the effect of the landlord's dealing for the purchase or acquisition of the customary right will be, if a NEW holding is created ; but in such a case it would be difficult, if not impossible, to *prove* that the holding was subject to the custom.

The Act also authorizes tenants to renounce the benefit of the custom, if they consider that they can get better terms as non-customary tenants (Secs. 1, 2). I trust that the Custom of Ulster may be so construed as to render such renunciation unnecessary.\* It is remarkable that the tenant within Ulster who renounces is placed (probably by oversight) in a *worse* position than a corresponding tenant outside of that province ; since the former can claim only for disturbance and improvement (Sec. 1), while the latter can claim for these, or on foot of the purchase of goodwill, if made with the consent of the landlord (Secs. 2 ; 7).

In electing to stand by the custom or to renounce it, the nature of the tenancy must of course be considered,† and also that when the tenant renounces, the holding ceases to be subject to Ulster Tenant-right.

#### NON-CUSTOMARY HOLDINGS.

Holdings not governed by the Ulster tenant-right custom are protected by the Act in three separate modes. These are (I.) Compensation for disturbance ; (II.) Compensation for improvements ; (III.) Sale of the tenant's interest. The rights thus conferred on tenant-farmers are different in their nature, and in some cases affect different classes of holdings. In order to render these provisions as clear as their complication admits, I have adopted the following plan. I shall first explain, as accurately as can be done without obscuring the subject by minute details, *the general scope of the Act under the above three heads*, considering each by itself and in reference to the other two. I shall next exhibit, as nearly as

---

\* See Introduction, p. 2.

† See Non-Customary Holdings below.



possible, *the legal position of each class of non-customary holdings.*

#### NON-CUSTOMARY HOLDINGS—GENERAL SCOPE OF THE ACT.

Two general remarks should be premised, since they apply to all three heads, and affect every class of non-customary holdings.

First. Where such holding—two or more held of the same landlord being deemed for this purpose one holding—is valued *at or above £50 per annum*, the tenant may contract in writing not to make any claim for compensation (Sec. 12). The tenant of a holding valued *under £50 per annum* cannot do so\* (ib.).

Second. The tenant's claim against the landlord only arises when he is quitting his holding ; that is, when steps are taken to terminate the tenancy (Sec. 16).

#### I. COMPENSATION FOR DISTURBANCE.†

##### A. *What is disturbance ?*

Although the Act gives no definition of "disturbance," the term plainly imports the removal of the tenant by the landlord from his holding without reasonable cause. One main object of this part of the Act is to give the industrious farmer practical security against being capriciously deprived of his home and means of subsistence, by obliging the landlord who evicts to disburse a sum proportionate to the tenant's loss occasioned by leaving his farm. This, together with any compensation awarded for improvements, must be paid or deposited before the tenant can be actually dispossessed (Secs. 3, 4 ; 21). The tenant's claim for disturbance—as to improvements it is otherwise, see p. 22—does not arise where he quits of his own accord,‡ or even where he is evicted for non-payment of rent (except in two specified cases), or for breach of certain conditions (Sec. 9) ; or if, after having given notice of

---

\* This restriction, so far as relates to claims for disturbance, is only to remain in force until the 1st of August, 1891.

† See Introduction, p. 12.

‡ The tenant quitting voluntarily, or evicted for such causes, may, however, under certain circumstances, prefer a claim for goodwill (see Sec. 7, p. 26).

surrender, he refuses to give up possession ; or where he subdivides or sublets without consent in writing, or after written prohibition ; or lets in conacre save for growing potatoes or green crops (Secs. 3, prov. 2). Where the landlord merely resumes possession because the tenant refuses his consent to a *fair* increase of rent, or other terms which the court deems reasonable, and the landlord "was and is willing" to continue the holding on such terms, the tenant forfeits his claim for disturbance (Sec. 18). Holdings from year to year, existing on the 1st of August, 1870, give the tenant no claim for disturbance where the landlord evicting can set up any of the following defences :—That the tenant has assigned without the landlord's consent and acceptance of the assignee ; the rent being in arrear ; or contrary to the estate-practice ; or unreasonably, in the judgment of the court (Sec. 13) : or that the tenant is evicted for unreasonably refusing the landlord or his agents liberty to enter on the holding for certain specified purposes (Sec. 14). The landlord may resume possession of part of a non-customary holding for cottages (one-twenty-fifth of the whole), without liability for disturbance (Sec. 10).

#### B. *What classes of tenants can claim for disturbance ?*

Assuming that a disturbance has arisen, as described under head A, the following classes of non-customary tenants are ENTITLED to claim for disturbance (Sec. 3) :—

(1). Tenants from year to year, valued below and up to £100 per annum, whose holdings exist on 1st of August, 1870, when the disturbance is the act of the *immediate* landlord.

(2). Tenants from year to year whose holdings are created after the 1st of August, 1870, unless the claim is excluded by contract, which is prohibited during twenty years from 1st January, 1871 for all holdings valued under £50 per annum.

(3). Tenants under leases granted after the the 1st of August, 1870, for any term less than 31 years, unless the claim is excluded by contract, which is prohibited during twenty years from 1st January, 1871, for all holdings valued under £50 per annum.

The following classes of non-customary tenants are NOT ENTITLED to claim for disturbance (Sec. 3) :—

(1). Tenants whose holdings are from year to year, existing on the 1st of August, 1870, but valued at more than £100 per annum.

(2). Tenants holding under leases granted before the 1st of August, 1870.

(3). Tenants holding under leases granted after the 1st of August, 1870, for 31 years, or any longer term.

(4). Tenants whose holdings have expired before the 1st of August, 1870.

(5.) Tenants whose holdings existed on the 1st of August, 1870, but who are disturbed by the act of the *superior* landlord.\*

*C. What is the measure of claim for disturbance ?*

The landlord and tenant may agree as to the amount of compensation for disturbance (sec. 27).

Where litigation is necessary, the tenant can claim compensation for the loss† occasioned by the disturbance to such amount as the court shall think just, not exceeding the maximum specified in the Act, and which in no case is to exceed £250. The Act provides a sort of sliding-scale, regulated by the rating of holdings under the Public Valuation (Sec. 3). Each class of holding between the limits of value specified, will entitle the holder to a sum for disturbance, not exceeding so many years' purchase of the rental. Thus, holdings rated below and up to £10 per annum will entitle the tenant to claim a sum not exceeding seven times his rent, and so on, the number of years' purchase awarded diminishing according to the scale of valuation (Sec. 3).

An arrangement is also provided under which the tenant who is valued at any given sum in the scale can always claim at least as much as the tenant below him in the scale.

For example, estimating approximately the proportion between rating and renting as 2 to 3, a holding rated at £10, rented at £15, would entitle the holder to seven times the rent, or £105 as compensation for disturbance. But the compen-

---

\* For example, where the tenant holds under a middleman whose lease falls in after the 1st of August, 1870.

† See Introduction, p. 12.



sation payable in respect of a holding placed in the second highest scale (say rated at £12 and rented at £18), would only amount to £90, if the limit of five years' purchase were uniformly insisted on. The tenant in the latter case is therefore allowed to estimate his compensation as if he were placed in the higher scale, and, accordingly, to recover £105, being the amount which he could claim if he were rated at £10, and his rent proportionally reduced; *i.e.*, from £18 to £15 (Sec. 3).

The tenant of a holding rated up to £10 per annum can claim seven years' rent, and the tenant of a holding rated from any sum over £10 up to £30 per annum can claim five years' rent for disturbance. Nevertheless, the Act provides, that if a tenant falling within the first of these classes claims more than five years' rent, and if a tenant falling under the second of these classes claims more than four years' rent, in either of such cases his claim for improvements must be confined to permanent buildings and reclamation of waste land (Sec. 3). In all other cases the claim for disturbance and that of improvements are cumulative, the tenant being at liberty to recover (subject to the above limitation) the full amount awarded under the Act for each sort of claim.

The claim for disturbance may be annulled for any of the reasons stated under head A (below). It may also be reduced in respect of arrears, wrongful deterioration, or other just causes (Secs. 3 ; 18).

## II. COMPENSATION FOR IMPROVEMENTS.\*

### A. *What improvements authorize a claim for compensation ?*

The Act practically recognizes the three great classes of agricultural improvements. (1). Permanent improvements, including houses, farm buildings, and reclamation; the last, however, being confined to *waste*† land.‡ (2). Durable im-

---

\* See Introduction, p. 13.

† The word "waste" was not in the original bill. Its introduction has narrowed the tenant's claim on this head very materially, since it excludes the removal of stones from land under pasture. This kind of improvement, therefore, will fall only under the second head above mentioned.

‡ The planting and cutting of registered trees by the tenant is left to be regulated, as before, by the existing Timber Acts (Sec. 4).



provements, comprising drainage, fencing, and the like. (3). Husbandry improvements, as unexhausted tillages, manures, and such like farming works (Sec. 4). Under this head also may be classed the away-going crops (Sec. 8). The Act specifies an important distinction between Class 1 and Classes 2 & 3, when made before the 1st of August, 1870. Improvements, Class 1, confer a right to compensation, no matter how long the claim may be delayed. But improvements, Classes 2 & 3, if made *before* the 1st of August, 1870, confer no right to compensation where more than twenty years have elapsed between the date of the particular improvement and the making of the claim. The foregoing distinction is general, applying to all sorts of tenancies (Sec. 4). Another important distinction of the same nature is made, which only affects certain kinds of leasehold tenancies. Tenants who either hold under leases "made *before* the 1st of April, 1870, for a term of life or lives, with or without a concurrent term of years, and which leases shall have existed for 31 years before the making of the claim;" or who hold under leases made *either before or after* the 1st of August, 1870, for a term certain of 31 years or upwards, can only claim for improvements of Class 1 or Class 3. A similar limitation of the claim for improvements to Class 1, in the case of certain claims for disturbance, has been noticed above (Compensation for Disturbance, C, p. 21).

It is provided that the tenant of lands usually occupied or expressly let as grazing land may not break them up for tillage, so as to confer any claim for disturbance or improvement (Sec. 4); but farms let to be used wholly or mainly for pasture, and valued under £50 per annum, can claim both for disturbance and improvement (Sec. 15).

The Act excludes the claim for improvements of whatever sort in certain cases, which will be more conveniently mentioned under the next head (B).

#### B. *Who can claim for improvements?*

Speaking generally, *all* tenants can claim for improvements *when they quit their holdings*; but they can make no claim as long as they continue in the enjoyment of them. A distinction, however, is drawn as to the mode of enforcing the claim.

If the tenant is evicted on notice to quit, or on expiration of his term, his claim is directly against the landlord for compensation. But if he quits voluntarily, the landlord may free himself from payment, by allowing the tenant to sell his interest in the improvements on such terms as the court may deem reasonable (Sec. 4 ; 4). Tenants who are evicted for non-payment of rent, or breach of certain conditions, are also classed by the Act under the latter head as tenants who quit voluntarily (Sec 9).

The manifest policy and aim of the Act is to place the skilful and industrious tenant in a position such that he cannot be deprived of the fruits of his capital and exertions, unless by his own default. In certain cases the Act steps in to prevent what might seem a hardship on the landlord (Sec. 4 ; 1). Thus, where the improvements are made within two years after the 1st of August, 1870, or during the residue of a lease granted before the same date, the tenant may lose his claim for improvements ; but only when he has made them after a prohibition in writing by the landlord, nor then unless the court deems the improvement injurious to the estate (Sec. 4 ; 1 (b) ). Again, if the landlord has undertaken to make any improvement himself, the tenant cannot claim compensation for making it, unless the landlord has failed to perform his undertaking within a reasonable time (Sec. 4 (e) ).

The tenant cannot *forfeit* his claim for improvements (like that for disturbance) by non-payment of rent, breach of condition, or otherwise. It can, however, be reduced on just grounds (see below D, p. 25).

There seem to be only two modes in which the tenant can deprive himself of compensation for improvements by his own act or consent.

Firstly, the tenant who is valued at or over £50 per annum may contract not to make any particular improvement, or to forego his claim for improvements (Sec. 4, 1 (d) ; Sec. 12).

Secondly, he may have contracted in writing before the 1st of August, 1870, not to claim for an improvement ; or he may contract to make an improvement himself, in consideration of his receiving some benefit—such, for example, as an abatement in rent. If he contracts, in writing, to accept any such benefit, it must stand in lieu of compensation (Sec. 4, 2, 1 (c) ).

C. *How is claim for Improvements to be proved ?*

The Act sanctions a general presumption (subject, however, to important exceptions) that all improvements have been made by the tenant or his predecessor in the holding (Sec. 5). The landlord may prove the contrary ; that is, may show that the improvements claimed for have not been executed by the tenant, or that the practice of the estate was for the landlord or his predecessor to contribute to the making of them (Sec. 5). The burden of proof will thus be usually thrown upon the landlord. This rule is especially important as regards improvements made *before* the 1st of August, 1870, and is strictly in accordance with the well-known fact that, speaking generally, all improvements have been made by the tenants in Ireland. Within the last twenty years more has been done in that way by landlords, chiefly, however, by assisting the tenants, and even that to a very partial extent. Nor ought the landlord to have much difficulty in rebutting the presumption, where he or his predecessor made or contributed to the improvements.

The Act, however, has introduced, with reference to all *improvements made by non-customary tenants before the 1st of August, 1870*, some most important exceptions, which to a large extent deprive the tenant of the benefit of this presumption. These exceptions, of course, do not affect the claim for compensation itself, but merely the *proof*, obliging the tenant in the excepted cases to give evidence, positive or presumptive, that he or his predecessors actually made the improvements. The exceptions are six in number, and their effect is shortly as follows :—

The tenant must *prove* his claim for improvements *made previously to the 1st of August, 1870* : if made

- (1.) Before the date of a sale to the landlord or his predecessor in title.
- (2.) During a lease.
- (3.) Twenty years or upwards before 1st of August, 1870.
- (4.) Where the holding is valued above £100 per annum.
- (5.) Where the landlord proves that the practice of the estate was for him to make the improvement.
- (6.) Where the landlord reasonably satisfies the court that



the tenant or his predecessor did not make the improvements (Sec. 5).

The Act, also, with reference to improvements made before or after the 1st of August, 1870, either by landlord or tenant, introduces a plan of registration, in order to preserve evidence for proving the claim, if made at any future time (Sec. 6). This registration is optional, and, except in case of buildings, and such like erections, the provision would probably be of little advantage to either party, especially to tenants.

*D. What is the measure of Compensation for Improvements ?*

This may be ascertained by agreement between landlord and tenant (Sec. 27).

The tenant must of course prove the value of the improvements ; that is, the amount of capital and labour expended in making them. The Act assigns no limit to the amount claimed, but the court is directed, in making its award, to "take into consideration the time during which such tenant may have enjoyed the advantage of such improvements ; also, the rent at which such holding has been held, and any benefits which such tenant may have received from his landlord in consideration, expressly or impliedly, of the improvements so made." (Sec. 4, last clause).

As before stated (A, p. 21), the claim must, in certain cases, be limited to permanent buildings and reclamation of waste land.

Where the non-customary tenant has obtained compensation, wholly or in part, for improvements under the head of payment for goodwill, he cannot to that extent claim for them separately. But for improvements not so included ; for example, for any made since the date of purchase of goodwill, a claim may be sustained (Sec. 7).

The sum awarded for improvements is made subject to deductions in respect of arrears of rent or taxes, or wrongful deterioration (Sec. 4, 5).

III. SALE OF THE TENANT'S INTEREST.\*

The Act sanctions the sale of the tenant's interest or good-

---

\* See Introduction, p. 9.



will to this extent, that if the landlord has consented to the sale, the tenant quitting his holding may claim against the landlord on account of the purchase-money, so far as the court may deem just (Sec. 7). This claim may be enforced *directly* against the landlord if he evicts the tenant; but in case the tenant quits voluntarily—which includes ejection for non-payment of rent or breach of certain conditions (Sec. 9)—the landlord can discharge himself of liability, by offering to allow the tenant to sell on such terms as the court, in case of litigation, shall deem to have been reasonable. The tenant claiming under Sec. 7 cannot also claim for disturbance. But the sum accorded for purchase of goodwill may be supplemented by an award of compensation in respect of improvements not comprised in the goodwill; for example, such as may have been made by the tenant since its date (Sec. 7).

The landlord's *consent* need not be express. It may be implied from dealings or circumstances; for example, the acceptance by the landlord of arrears from the incoming tenant, or the discharge of such with his knowledge, actual or presumable, out of the purchase-money paid to the outgoing tenant (Sec. 7).

No claim under this section can be made where the sale of goodwill took place during the existence of a lease made before the 1st of August, 1870 (Sec. 7).

The tenant of a holding subject to the Ulster tenant-right—if situated *out of that province* (Sec. 2)—who renounces its benefit, may claim under Sec. 7.

The sale of *improvements* by the tenant may also be sanctioned by the landlord as a substitute for a direct claim against himself, when the tenant quits voluntarily, or is evicted for non-payment of rent, or breach of certain conditions (Secs. 4, 5 ; 9).

# CLASSIFICATION OF HOLDINGS.\*

## ULSTER TENANT-RIGHT HOLDINGS.

- (1.) Within the province of Ulster (Sec. 1.) } See Observations, pp. 2-9 and 16-17.  
 (2.) Outside the Province of Ulster (Sec. 2.) }

## NON-CUSTOMARY HOLDINGS.

HOLDINGS EXISTING ON THE 1ST OF AUGUST, 1870.

HOLDINGS FROM YEAR TO YEAR, existing on 1st August, 1870.	Claim for Disturbance. (Sec. 3.)	Claim for Improvements. (Secs. 4, 5, 8.)	Claim for purchase of Goodwill, made with Landlord's consent. (Sec. 7.)
1. † Valued above £100 per annum.	None.	Allowed; unless held under written contract, which expressly excludes the same; or unless the tenant, where he has a holding valued at £50 and upwards, has contracted in writing not to claim. But as to improvements made before the 1st of August, 1870, only for permanent buildings and reclamation of waste land, and for such other improvements as were made within 20 years before	Allowed.
2. Valued below and up to £100 per annum;	None.		
(1.) If disturbed by head landlord;	Allowed.		making the claim: as to proof of same, see before, p. 24, and Sec. 5. For certain cases of improvements excepted, see Sec. 4, 1 (b), (c), (d), (e).
(2.) If disturbed by immediate landlord.			

\* See Observations, p. 17.

† This term throughout refers to a valuation under the Acts for valuing rateable property in Ireland.

**NON-CUSTOMARY HOLDINGS, CONTINUED.**

**HOLDINGS EXISTING ON THE 1ST OF AUGUST, 1870.**

	Claim for Disturbance. (Sec. 3.)	Claim for Improvements. (Secs. 4, 5, 8.)	Claim for purchase of Goodwill made with Landlord's Consent. (Sec. 7.)
<p><i>LEASES granted before the 1st of August, 1870.</i></p>	<p>None.</p>	<p>Allowed; unless they are expressly excluded by the lease (Sec. 4, 2); or landlord prohibits making improvements in writing, and court deems the same to be calculated to diminish the general value of estate (Sec. 4; 1 (b)). Where the lease was granted for 31 years or upwards, for a term of life or lives, with or without concurrent term of years, which lease shall have existed for 31 years before making claim, the claim (unless the lease specially provides the contrary) can only be made for permanent buildings, reclamation of waste land, and unexhausted tillages or manures (Sec. 4; 3.)</p>	<p>None.</p>

NON-CUSTOMARY HOLDINGS, CONTINUED.

1870.

HOLDINGS CREATED AFTER THE 1ST OF AUGUST,  
(As to what are new and what transmitted holdings, see Sec. 11.)

	Claim for Disturbance. (Sec. 3.)	Claim for Improvements. (Secs. 4, 5, 8.)	Claim for purchase of Goodwill, made with Landlord's consent. (Sec. 7.)
HOLDINGS FROM YEAR TO YEAR, created after the 1st of August, 1870 :—			
1. Valued at £50 per annum and upwards.	Allowed, unless tenant has contracted in writing not to claim.	Allowed, unless tenant has contracted in writing not to claim.	Allowed.
2. Valued under £50 per annum.	Allowed. Contract not to claim prohibited for 20 years, ending 1st Jan., 1891.	Allowed. Contract not to claim for suitable improvements prohibited.	Allowed.
LEASES granted after the 1st of August, 1870 :—			
1. Under 31 years.	Allowed.	Allowed; unless the tenant, where he has a holding valued at £50 per annum and upwards, has contracted in writing not to claim.	Allowed.
2. For 31 years and upwards.	None.	Allowed; unless the tenant, where he has a holding valued at £50 per annum and upwards, has contracted in writing not to claim; but claim is confined to permanent buildings, reclamation of waste land, and unexhausted til- lages and manures; with away-going crops.	



## CLAIMS FOR COMPENSATION OR OTHERWISE :

## HOW MADE, DECIDED, AND ENFORCED.

The landlord, if an absolute owner, can agree with the tenant as to the amount of compensation payable under the Act. A "limited owner" is empowered to do the like on complying with the conditions prescribed. The court, after notice given to the next remainderman, may, on payment of the compensation, make an order, charging the holding with an amount in favour of the limited owner, at the rate of £5 per cent. for each £100 paid to the tenant, and to last 35 years. (Sec. 27.)

If the parties do not agree, the Act directs the claim to be made, when the tenant is about to quit his holding, by serving a notice in writing upon the landlord or his agent within the time prescribed by the Rules. This notice must state particulars, dates, and periods of claim ; and where the claim is for disturbance, the number of years' rent claimed must be specified (Sec. 16). Unless the landlord, within the time prescribed by the Rules, serves a notice, stating that he disputes the whole or portion of the claim, he will be deemed to have admitted it. The service of such a notice by the landlord will constitute a dispute which, unless terminated by agreement, must be decided by the "court." (Sec. 17.)

The court takes one of two shapes—the Civil Bill Court or a Court of Arbitration (Sec. 22). The parties may agree to settle their dispute by ARBITRATION, and the referees, chosen as prescribed by the Act (See Schedule at the end of Act), shall constitute the "court." This is to have, generally, the same powers as the Civil Bill Court. It cannot, however, punish for contempt, or enforce its award, but may report the offender to, and have the award recorded and enforced by, the Civil Bill Court. The award shall not be vitiated by technical defects, subject to appeal, or removeable by *certiorari*. In default of any agreement to arbitrate, the dispute must be decided by the CIVIL BILL COURT, which must make its order in writing, and state particulars (Sec. 19). Its judgment is subject to an appeal to the *Assize-going Judges*, or, for the County of Dublin, to two Common Law Judges ; who may reserve questions of law for the consideration of the *Court for Land Cases Reserved* sitting in Dublin. (Secs. 23, 24.)

The Court of Civil Bills or Arbitration has received a very extensive equitable jurisdiction, under which it is empowered and bound to take into consideration any claim, objection, or set-off, or any default or unreasonable conduct on either side, affecting the matter in dispute, and to strike the balance as justice may require ; also to disallow the claim for disturbance if the landlord can show that he "has been and is" willing to continue the tenant on just and reasonable terms, which "have been and are" unreasonably refused by the tenant. (Sec. 18.)

The award or judgment must determine the whole amount payable for compensation, and apportion the same where several persons occupy distinct relations of landlord and tenant with reference to the one holding ; but this provision only applies to non-customary holdings. (Sec. 20.)

The Act furnishes the tenant a strong guarantee for his rights, by enacting that until the compensation awarded has been paid to him, or deposited in court, the landlord cannot evict. But this provision does not entitle the tenant to hold possession against a *superior* landlord, who is not liable to pay compensation. The landlord may deposit the compensation in court, and the tenant cannot, without its special leave, draw the amount until he shall have given up possession. If, after the award, but before possession is given up, the tenant damages the holding, the court may award compensation, including *mesne* rates. (Sec. 21.)

#### POWERS OF LIMITED OWNERS.

The Act defines the term "limited owners," pointing out the classes comprehended under it" (Sec. 26). The "limited owner" is empowered to agree with the tenant as to the amount of compensation, and to obtain, after giving notice to the remainderman, a charging order in respect of the money so paid, in the form of an annuity at the rate of £5 for every £100 of compensation, to last for 35 years, in favour of the limited owner, with a priority pointed out by the Act. (Sec. 27.)

The "limited owner" is empowered to grant Agricultural Leases not exceeding 35 years, at a *fair* rent, and on certain prescribed conditions. They may be confirmed by the court,

and shall bind the lessor and all parties interested subsequent to him. This power is to be in addition to all other leasing powers. (Secs. 28, 29, 30.)

## PART II. AND PORTION OF PART III.

### SALE OF LANDS, AND ADVANCES TO TENANTS.\*

The Second Part, and portion of the Third Part of the Act, are framed with a view to promote the gradual formation of a Farmer-Proprietary in Ireland. These enactments authorize agreements between owners, absolute or limited, and tenants, for the purchase of their agricultural or pastoral holdings; and empower the Landed Estates' Court to promote purchases by tenants on proceedings for the sale of estates. Facilities are given for the completion of such dealings by Government loans, through the agency of the Board of Works.

All sales under the Act must be carried out through the Landed Estates' Court, which will execute a conveyance to the tenant conferring a Parliamentary or indefeasible title. But a purchase may originate in two ways; first, by AGREEMENT between an individual tenant, or the tenants collectively, and the landlord (Sec. 32; 47); secondly, under proceedings for PUBLIC SALE in the Landed Estates' Court. (Sec. 46.)

#### A. PURCHASES BY AGREEMENT WITH LANDLORD.

These are of two sorts, viz., either (1) agreements by individual tenants (Sec. 32), or (2) agreements by the tenants collectively with other purchasers. (Sec. 47).

The Act specifies three classes of landlords who can agree to sell to their tenants, singly or collectively, viz. :—

Firstly. "Absolute owners."

Secondly. "Tenants for life."

Thirdly. "Other limited owners."

These terms are defined by the Act (Sec. 33). They embrace a very great variety of landed proprietors, both individual and corporate owners.

---

\* In preparing the analysis of Parts II. and III., I have been indebted to the commentary on the Act by Mr. William G. Brooke, which may be consulted with advantage by the legal profession.



(1.) *Agreements with Landlord to purchase by individual tenants.*

The agreement should be put into writing, in duplicate, properly signed and attested, each copy bearing a sixpenny agreement stamp. Landlord and tenant may jointly, or either of them, with the assent of the other, may separately apply to the Landed Estates' Court to carry out the sale to the tenant of his holding. (Sec. 32 ; and see Rules of Privy Council.)

The court may require the landlord to deposit a sum as security for costs (See R. & D. ; P.C.); and will make certain preliminary inquiries directed by the Act (Sec. 34). For the due protection of remaindermen, incumbrancers, and others interested in holdings sold by "limited owners," the inquiry will, in such cases, embrace the "sufficiency of the price" (Sec. 34). The court will then investigate the title, and, on payment of the purchase money, will execute a conveyance in favour of the tenant, conferring an indefeasible title, freed from all incumbrances save quit-rents, rights of common, drainage-charges, the terminable annuity payable to the Board of Works for the purchase money advanced, and other similar charges specified in the Act (Secs. 35, 36). The court can direct the purchase money to be lodged in bank, and will see to its proper distribution, charging a per-centage fee on each sale, and paying same into the Exchequer. The costs of distributing the purchase money, unless caused by disputed titles, or through neglect to comply with rules, will not be charged on the purchase money, but paid out of public funds (Secs. 37, 38, 39, 40.) The court is empowered to apportion rents and decide all questions. The Privy Council is to make rules as to proceedings under Part II. The tenant purchasing, or his successor, where an advance is obtained from the Board of Works, cannot, without their consent, assign, mortgage, subdivide, or sublet, so long as the annuity charged lasts, under penalty of forfeiting the part so dealt with. (Sec. 44.)

(2.) *Agreement to purchase by tenants collectively, jointly with other purchasers who are not tenants.*

Cases may often occur where a landlord does not choose to sell portions of his property, but is willing to sell the whole. In order to facilitate such arrangements, where the entire



tenantry cannot or do not wish to purchase their holdings, the Act provides as follows :—If the tenants, comprising four-fifths in value of the estate, arrange to purchase, and other purchasers can be found to buy the residue, the sale may be carried out under the Act as if the whole of the purchasers were tenants ; except that the purchasers of the residue will only get an advance not exceeding one-half of their purchase money. It would seem that the provision against assigning, mortgages, sub-letting, and sub-dividing (Sec. 44), does not apply to the purchasers who are not tenants (Sec 47.)

#### B. PURCHASERS UNDER PROCEEDINGS FOR PUBLIC SALE IN THE LANDED ESTATES' COURT.

When any property has been brought into the Landed Estates' Court with a view to a public sale, and an absolute order for sale made, the Act directs that all reasonable facilities shall be given, consistently with the interests of parties in the estate, to occupying tenants desirous of purchasing their holdings. (Sec. 46.)

The tenant purchasing, or his successor, where an advance is obtained from the Board of Works, cannot without their consent assign, mortgage, sub-divide or sub-let, so long as the annuity charged lasts, under penalty of forfeiture of the part so dealt with. (Sec. 45.)\*

#### ADVANCES TO TENANTS.

The Board of Works is empowered to assist the purchase in all the above-mentioned cases, by advancing a certain proportion of the price. As regards sales under heads A (1), p. 33,

---

\* The following useful remarks are taken from Mr. W. G. Brooke's Edition of the Act, p. 83.

“ A Tenant who wishes under the present Act to become his ‘ own landlord,’ and who is aware that the estate is about to be sold in the L. E. Court, should first ascertain whether there is any chance of an offer for purchase at a reasonable rate being received? An enquiry of the Solicitor having carriage of the sale (or at the Judge's chambers), will usually suffice to shew whether a public sale is imperative. The proper time to apply to have the holding sold as a separate lot will be *after* the service of the customary ‘ Notice to Tenants, &c.,’ and before the final settlement and approval of the Rental.”

and B, p. 34, the tenant may, on application to the Board (they being satisfied with the security), obtain an advance not exceeding two-thirds of the purchase money. On the advance being made, the holding shall be charged with an annuity of £5 for every £100 of such advance, payable to the Board for 35 years, subject to redemption at an earlier period if desired (Secs. 44, 45, 51). As regards sales under head A (2), p. 33, advances may be made to tenants to the extent and on the terms just stated. The Board is also authorized to make like advances, but only to the extent of one-half the purchase money, to other purchasers, of the remaining one-fifth in value of the estate, either collectively on security of the entire residue, or to such purchasers severally on the security of their separate portions bought. (Sec. 47.)

### RESIDUE OF PART III.

#### ADVANCES TO LANDLORDS, AND POWERS OF BOARD OF WORKS.

The Board of Works is authorized to make advances to landlords in two cases, viz., in respect of (1st.) compensation payable to tenant; (2nd.) improvement of waste lands.

##### (1.) *Advances in respect of Compensation to Tenants.*

Advances under this head cannot be made where the tenant has been "disturbed" by the landlord (see p. 18). In other cases, the compensation agreed on or awarded, or so much thereof as the Board deems expedient, may be paid to the tenant on behalf of the landlord; the holding to be charged with an annuity of £5 for every £100 advanced, payable to the Board for 35 years, subject to redemption sooner if desired. (Secs. 42, 51.)

---

Between these two steps there is an interval of more than a month, which will afford ample time for the tenant to endeavour to accomplish the purchase of his own holding, either with or without the aid of an advance from the Board, under sec. 45.

The tenant is at liberty (personally, or by a Solicitor) to attend on the settling of the Rental by the Examiner, and then to apply to have his holding made into a separate lot; and if his request be not acceded to, he may apply to the Judge, under the 26th Gen. Rule of the Court, before the final approval of the Rental."

(2.) *Advances for improving Waste Lands.*

The Board of Works is authorized to make such advances as they think fit to a landlord about to reclaim waste lands ; or, where such land is contracted to be sold, to lend a sum not exceeding one-half of the purchase money on the joint security of the vendor and purchaser ; such advance to be repaid by an annuity charged on such waste, and any other lands, of £5 for every £100 advanced, payable to the Board for 35 years, subject to redemption sooner if desired. (Secs. 43, 51.)

## POWERS OF BOARD OF WORKS.

The annuity charged in consideration of an advance by the Board of Works is made a first charge on the holding purchased, with certain specified exceptions (Sec. 48), and is recoverable in like manner as tithe rent-charge (Sec. 49). Only two years' arrears of the annuity are recoverable. The owner in possession is liable, and in his default the successor may pay arrears, and recover same as a debt (Sec. 50). The owner liable to pay the annuity may redeem it on terms specified in the Act (Sec. 51, and Schedule). The Board may also commute the payment of any principal sum for an annuity (Sec. 52). The Treasury is to control the Board as regards advances, which are limited to a sum of £1,000,000, repayable as the Treasury shall direct (Secs. 53, 54, 55). Any annuity charged under the Act by the Civil Bill Court may be registered by the Clerk of the Peace for the County. (Sec. 56.)

## PART IV.

## CERTAIN LEGAL PROCEEDINGS, AND CIVIL BILL COURT.

All NOTICES TO QUIT must bear a 2s. 6d. stamp. They must be printed or written, or partly one or the other, signed by the landlord or his agent, and shall not take effect until six months from date of service, terminating (in the absence of agreement to the contrary) on the last gale day of the calendar year, under a penalty of forty shillings for not conforming to the above requisites. (Secs. 57, 58.)

Where a leasehold holding descends, on the death of a tenant, as *personal property*, and no legal personal represen-

tative has been constituted, the local Civil Bill Court may grant ADMINISTRATION, limited, however, to the purposes of the Act.\* Provision is made for the cases of married women, and of persons under disability in reference to proceedings under the Act (Secs. 60, 61). The Act also contains certain regulations affecting the constitution of the Civil Bill Courts (Secs. 62, 63, 64.)

## PART V.

### MISCELLANEOUS CLAUSES.

As to holdings created *after the 1st of August, 1870*, GRAND JURY CESS may be deducted by the tenant in like manner as poor-rates, the amount deducted not to exceed one-half of the entire sum paid (Sec. 65), except where the valuation of such holding is not higher than £4 per annum, in which case the immediate landlord shall pay the entire. In default of his doing so the occupier is liable, but can deduct the cess from his rent (Sec. 66). These provisions, however, do not apply to county cess levied under the "Peace Preservation, 1870," and similar Acts. (Sec. 67.)

Tenants of holdings created *after the 1st of August, 1870*, at an acreable rent, will, in the absence of a renewal to the contrary, be exempted from rent for any portion dedicated to a PUBLIC ROAD (Sec. 68.)

TENANCIES AT WILL, *after the 1st of August, 1870*, are practically abolished, the tenant being declared entitled to notice to quit and compensation as if he had been a yearly tenant. *Bona fide* lettings for temporary convenience or necessity are excepted. (Sec. 69.)

---

\* A *real representative*, that is, a person who, in the absence of the lawful heir, represents descendible *freehold*, can be appointed by the Landed Estates' Court in respect of titles *recorded* in the Record of Title Office, Dublin.





# LANDLORD AND TENANT (IRELAND) ACT,

33 & 34 VICT., CAP 46.

---

*The Act came into force on the 1st of August, 1870.*

---

## SUBJECTS OF THE CLAUSES.

### PART I.

#### LAW OF COMPENSATION TO TENANTS.

##### *Claim to Compensation.*

Sec.

1. Legality of Ulster tenant-right custom.
2. Legality of tenant custom other than Ulster custom.
3. Compensation in respect of disturbance.
4. Compensation in respect of improvements.
  - (1.) Exception of certain improvements.
  - (2.) Exception of certain tenancies.
5. Presumption in respect of improvements.
6. Permissive registration of improvements.
7. Compensation in respect of payment to outgoing tenant.
8. Compensation in respect of crops.
9. Limitation as to disturbance in holding.
10. Exception in case of lands required for labourers' cottages.
11. Derivative title of tenant.
12. Partial exemption of certain tenancies.
13. Restriction as to compensation in certain cases of assignment.
14. Eviction in certain cases not to be deemed a disturbance.
15. Exemption of certain lands.

##### *Proceedings in respect of Claims.*

16. Proceedings by tenant in respect of claims.
17. Proceedings by landlord in respect of claims.
18. Equities between landlord and tenant.
19. Order of Court to be in writing, &c.
20. Provision in case of derivative estates in the same holding.
21. Restriction on eviction of tenant.

dation land over and above the ordinary letting value of land occupied as a farm, and shall be in the occupation of a person living in such city or town, or the suburbs thereof, or any holding let to be used wholly or mainly for the purpose of pasture, and valued under the Acts relating to the valuation of property in Ireland at an annual value of not less than fifty pounds, or any holding let to be used wholly or mainly for the purposes of pasture the tenant of which does not actually reside on the same, unless such holding adjoins or is ordinarily used with the holding on which such tenant actually resides : Provided that nothing herein contained shall prevent the tenant of any such holding making any claim which he otherwise would be entitled to make under sections four, five, and seven of this Act ; or,

- (2.) Any holding which the tenant holds by reason of his being a hired labourer or hired servant ; or,
- (3.) Any letting in conacre or for the purposes of agistment or for temporary depasturage ; or,
- (4.) Any holding let and expressed in the document by which it is let to be so let for the temporary convenience or to meet a temporary necessity either of the landlord or tenant, and the letting of which has determined by reason of the cause having ceased which gave rise to the letting :
- (5.) Any cottage allotment not exceeding a quarter of an acre.

*Proceedings in respect of Claims.*

16. Every tenant entitled under this Act to make any claim in respect of any right or for payment of any sums due to him by way of compensation, and about to quit his holding, may within the prescribed time serve a notice of such claim on his landlord, or in his absence his known agent ; the notice shall be in writing in the prescribed form, and shall state the particulars of such claim, subject to such amendment as the Court may allow, together with the dates at which and the periods within which such particulars are severally alleged to have accrued, and, where such claim or any part of the same is in respect of compensation under the provisions of section three of this Act, the number of years rent claimed shall be specified.

17. On the receipt of the notice the landlord shall be deemed to have admitted the claim made by the tenant, unless within the prescribed time and in the prescribed manner he serves a notice on the tenant stating that he disputes the whole or some portion of the claim

made by the latter, and upon service of such notice by a landlord on the tenant a dispute shall be deemed to have arisen between the landlord and the tenant as to the whole or a portion of such claim, and such dispute shall be decided by the Court, unless within the time and in the manner prescribed in that behalf such dispute shall have been settled by agreement between the landlord and tenant.

18. On the hearing of any dispute between landlord and tenant under this Act either party may make any claim, urge any objection to the claim of the other, or plead any set-off such party may think fit (including in the case of a landlord any moneys paid on account of the purchase of the right of the tenant under the Ulster tenant-right custom or such usage as aforesaid), and the Court shall take into consideration any such claim, objection, or set-off, also any such default or unreasonable conduct of either party as may appear to the Court to affect any matter in dispute between the parties, and shall admit, reduce, or disallow altogether any such claim, objection, or set-off made or pleaded on behalf of either party as the Court thinks just, giving judgment on the case with regard to all its circumstances, including such consideration of conduct as aforesaid, and the Court shall have jurisdiction at the hearing of any such dispute to ascertain what sums, if any, shall be deemed due by the tenant to the landlord under sections three, four, and seven of this Act, or any set-off in respect of unliquidated or liquidated damages under said sections, or any of them; and in any case in which compensation shall be claimed under section three of this Act, if it shall appear to the Court that the landlord has been and is willing to permit the tenant to continue in the occupation of his holding upon just and reasonable terms, and that such terms have been and are unreasonably refused by the tenant, the claim of the tenant to such compensation shall be disallowed.

19. In every case of dispute between landlord and tenant, heard before the Civil Bill Court, the order of the Court shall be reduced into writing in the form of a decree or award (as the case may be), and shall state the items of claim allowed, that is to say, the particulars of loss sustained by the tenant in quitting his holding, and of the improvements and payment to his predecessor in title in respect to which compensation may have been awarded to the tenant under the third, fourth, and seventh sections, and also the particulars of any set-off, objection, default, or conduct allowed or taken into account; such decree or award to be made in the prescribed form.



20. Where in the case of any holding there are several persons standing in the relation to each other of landlord and tenant, and the circumstance of any one of such tenants quitting his holding by reason of disturbance or otherwise involves the interest of any of such persons other than the tenant quitting his holding, the Court shall determine the whole amount payable under this Act on the occasion of such tenant quitting his holding, and shall direct payment of the same by such person, and to such one or more of the persons interested, and in such manner as the Court thinks just; provided that this section shall not affect the Ulster tenant-right custom or such usage as aforesaid to which any holding is proved to be subject.

21. A tenant who may be decided by the Court to be entitled to compensation to be paid by any landlord, shall not be compelled by process of law to quit his holding until the amount of compensation due to him has been paid or deposited in manner herein-after mentioned.

A landlord shall in all cases have the option of depositing in the manner prescribed the amount of compensation due; and if at any time after the making of a claim for compensation as herein-before directed, and before finally giving up possession of his holding, a tenant shall be alleged to have done any damage to his holding, or the buildings thereon, the Court shall inquire into the same, and allow to the landlord out of the money so deposited such compensation as it may deem just, including mesne rates. In no case shall a tenant, except by special leave of the Court, be entitled to receive the money so deposited until he shall have given up possession of his holding. Where compensation is awarded in respect of any holding to be paid by any landlord who is himself a tenant of such holding, the tenant to whom such compensation is awarded shall not by reason of such compensation not being paid or deposited in manner aforesaid by such landlord be entitled under this section, as against a superior landlord not liable to such compensation, to retain possession of the holding after the expiration or determination of the title thereto of the landlord by whom such compensation was so awarded to be paid as aforesaid.

*Court to award Compensation.*

22. For the purposes of this part of this Act the Court shall mean one or other of the tribunals following; that is to say,  
 The Civil Bill Court of the county where the matter requiring the cognizance of the Court arises;  
 or,

Court to mean Civil Bill Court or Court of Arbitration.

Provision in case of derivative estates in the same holding.

Restriction on eviction of tenant.

The Court of Arbitration constituted as in this Act mentioned.

Where a matter requiring the cognizance of the Court arises in respect of a holding situate within the jurisdiction of more than one Civil Bill Court, any Civil Bill Court within the jurisdiction of which any part of the holding is situate may take cognizance of the matter.

23. The judge of the Civil Bill Court (herein-after called the chairman) shall in all cases brought before him under the provisions of this Act have power to take evidence upon oath, and to compel the attendance of witnesses, and shall have all and the same powers, jurisdiction, and authority as in cases of Civil Bill ejection coming within his jurisdiction as such judge: Provided always, that the judge shall himself without a jury decide any question of fact arising in any case brought before him under this Act.

The chairman may, with the consent of both parties, hear and determine any case brought before him under this Act in chamber, if he so thinks fit, and when so sitting in chamber he shall have all and the same powers, jurisdiction, and authority in respect to cases so heard as if sitting in open court.

The chairman may, within the prescribed time after making any order, review or rescind or vary any order previously made by him, but, save as aforesaid, and as provided by this Act with respect to appeal, every order of the Civil Bill Court shall be final.

Any order made by the chairman under this Act may be enforced by attachment or otherwise in the same manner as if it were the order of any of the superior courts of common law at Dublin, and if such order made by the chairman be for the payment of money, it may also be enforced in the same manner as civil bill decrees for money demands made by such chairman.

24. Any person aggrieved by any order of the chairman made under this Act may, within the prescribed time and in the prescribed manner, appeal therefrom in manner following; that is to say,

Appeal from  
Civil Bill  
Court.

(1.) Where such order has been made in the county or the county of the city of Dublin, to two judges of the superior courts of common law to be from time to time selected by the Court for Land Cases reserved:

(2.) Where such order has been made elsewhere, to the judges of assize of the county in which such order has been made: And every such appeal may be heard and determined by one of the said judges; but in case any question of law shall arise upon any such appeal, the judge before whom such question arises may, if he thinks fit, require that the same shall be heard and determined by both the said judges, and thereupon such question shall

be heard and determined by both the said judges, who shall for such purpose sit together.

The judge or judges hearing such appeal may give judgment affirming, reversing, or modifying the order appealed from, and may finally decide thereon, and make such order as to costs in the Court below and of the appeal as may be agreeable to justice; and if the judge or judges alter or modify the order, such order so altered or modified, and signed by the judge or judges, shall be of the like effect as if it were the order of the Civil Bill Court. The judge or judges may also, in cases where he or they think it expedient so to do, instead of making a final order, remit the case, with such directions as he or they may think fit, to the Court below.

The judges to whom any such appeal may be made may, where they deem it expedient, reserve any matter or question arising upon such appeal by way of case stated for the consideration of the Court for Land Cases reserved at Dublin.

The Court for Land Cases reserved at Dublin shall, for the purposes of this Act, be constituted in manner following; that is to say, the Lord Chancellor, the Master of the Rolls, the Lord Justice of Appeal, the Vice-Chancellor, and all the judges of the Common Law Courts shall be judges of the said Court for Land Cases reserved, and any five of such judges, the Lord Chancellor or Master of the Rolls, or Lord Justice of Appeal, or the Vice-Chancellor or one of the chief judges of the Common Law Courts being one, shall have power to hear and determine any matters that shall be brought before the said Court.

The officers of the Court of Exchequer Chamber shall act as officers of the Court for Land Cases reserved.

All cases referred to the Court for Land Cases reserved shall be prosecuted, heard and determined by such Court in such manner and form and subject to such rules and regulations as the said Court may from time to time by rule direct.

The Court for Land Cases reserved shall give such judgment as ought to have been given in the Court below by the judges thereof, and such judgment shall be of the like effect as if it were the judgment of the said judges, or the Court of Land Cases reserved may remit the case, with such directions as they think fit, to the Court below.

25. Where the parties to any such dispute as aforesaid respecting any holding are desirous that such dispute should be settled by arbitration, they shall, in the prescribed manner and within the prescribed time, refer the same to an arbitrator or arbitrators, with an umpire to be appointed in manner appearing in the schedule annexed hereto, and the tri-

Court of  
Arbitration.



bunal so selected shall be deemed in respect of such dispute the Court of Arbitration under this Act.

The Court of Arbitration shall, in all cases brought before it under this Act, have all and the like powers, jurisdiction, and authority as a Civil Bill Court under this Act, with this exception, that the Court of Arbitration shall have no power to punish persons for contempt, or to enforce its awards ; but it may report to the Civil Bill Court the name of any person refusing to give evidence, or to produce documents, or guilty of contempt of the Court when sitting judicially ; and the Civil Bill Court may, upon such report, punish the offender in the same manner as if the offence had been committed in, or in respect of a matter under the cognizance of the Civil Bill Court.

The award of the Court of Arbitration may, at the instance of either party, be recorded in the prescribed manner and within the prescribed time in the Civil Bill Court, and when so recorded shall be enforceable as if the same were an order of said Court.

No such award shall, so far as relates to the dispute under this Act, be held to be invalid by reason of the violation of or non-compliance with any technical rule of law respecting awards, where such award substantially decides the dispute referred to the Court of Arbitration.

No appeal shall lie from an award of the Court of Arbitration, nor shall any such award be removeable by certiorari.

*Powers of limited Owners.*

26. The expression "limited owner" shall in this Act mean as follows :

Interpreta-  
tion of  
"limited  
owner."

- (1.) Any person entitled under any existing or future settlement at law or in equity, for his own benefit and for the term of his own life, to the possession or receipt of the rents and profits of land, whether subject or not to incumbrances, in which the estate for the time being subject to the trusts of the settlement is an estate for lives or years renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates:
- (2.) Any body corporate, any corporation sole, ecclesiastical or lay, any trustees for charities, and any commissioners or trustees for ecclesiastical, collegiate, or other public purposes, entitled at law or in equity, in the case of freehold land, to an estate in fee-simple or in fee-farm, and in the case of leasehold land to a lease for an unexpired residue



of not less than thirty-one years, or for a term of years or of lives renewable for ever, or renewable for a period of not less than thirty-one years.

27. A landlord being a limited owner, shall have power to agree with a tenant as to the amount of compensation payable to him under this Act, and on payment of the same to the tenant may apply to the Civil Bill Court for an order charging the holding with an annuity in respect of such payment; and the Court, upon being satisfied of such payment having been made, shall charge the holding with an annuity of five pounds for every one hundred pounds of the sum so paid to the tenant, and so on in proportion for any less sum, such annuity to be limited in favour of the limited owner, his executors, administrators, and assigns, and to be payable for a term of thirty-five years on the anniversary of such date; provided that no such order shall be made by the Court unless notice of the application for the same shall have been given in the prescribed form to the person for the time being entitled to the first estate of inheritance, if any, expectant upon the determination of the estate of the limited owner, or if such person shall be a married woman, infant, or lunatic, to his or her husband, guardian, or committee respectively. Any annuity created under this section shall be a charge upon the holding having priority over all estates and interests subsequent to the estate or interest of the limited owner, but subject to any estates, mortgages, or other interests having priority over or charged on the estate of the limited owner.

28. Any limited owner shall have power to grant agricultural leases for any term of years absolute, or determinable at fixed periods, subject to the following restrictions:

Power of limited owner to grant leases.

- (1.) The term of any lease shall not exceed thirty-five years:
- (2.) The power of leasing conferred by this Act shall not include any mansion house or demesne lands:
- (3.) The lease shall take effect in possession, or within one year after the execution thereof, and not in reversion, and there shall be reserved thereby a fair yearly rent to be incidental to the immediate reversion of the holding, without taking anything in the nature of a fine, premium, or foregift; and in estimating such yearly rent it shall not be necessary to take into account against the tenant the increase (if any) in the value of the holding arising from any improvements executed by him or his predecessors in title:
- (4.) The lease shall imply a condition of re-entry for non-payment of the rent thereby reserved:

- (5.) The lease, if it includes any building, shall contain a clause declaring whether the landlord or the tenant is bound to rebuild such building in the case of the same being destroyed during any part of the tenancy by fire, lightning, or tempest, and whether the landlord or the tenant is bound to keep the same in repair :
- (6.) The lessee shall execute a counterpart of every lease, and shall thereby covenant for the due payment of the rent reserved :

Upon the application of any landlord or tenant the Civil Bill Court may confirm any lease granted or proposed to be granted under this Act, and such Court may, if it thinks just, confirm or refuse to confirm such lease with or without modifications, and the confirmation of any such lease shall be deemed conclusive evidence of the lease being within the powers of this Act; the confirmation of a lease shall be certified in the prescribed manner.

29. Any lease granted in pursuance of this Act by an individual limited owner shall be valid against the person granting the same, and against all persons entitled to any estate or interest subsequent to the estate or interest of such limited owner; and any lease granted in pursuance of this Act by any limited owner, being a body corporate, corporation sole, trustees for charities, commissioners or trustees for ecclesiastical, collegiate, or other public purposes, shall bind all the estate and interest of such last-mentioned limited owner; but no lease granted by an owner holding himself under a lease shall continue after the expiration of the term granted by such owner's lease.

30. All powers of leasing given by this Act shall be deemed to be in addition to any other powers any limited owner may possess, and such owner may exercise any other power of leasing vested in him in the same manner as if this Act were not passed.

31. The Court for Land Cases reserved, or any five of the judges of the said Court (the Lord Chancellor or Master of the Rolls, Lord Justice of Appeal or Vice-Chancellor, or one of the chief judges of the Common Law Courts being one), may from time to time make, and when made may rescind, annul, or add to, rules with

respect to the following matters:—

- (1.) The proceedings in the Civil Bill Court and Court of Arbitration under this part of this Act :
- (2.) The proceedings in appeals under this part of this Act :
- (3.) The proceedings in Land Cases reserved under this part of this Act :

Effect of lease by limited owner.

Leasing powers of Act to be cumulative.

Rules for carrying first part of Act into effect.

- (4.) The circulation of forms and directions as to the mode in which this part of this Act is to be carried into execution :
- (5.) The scale of costs and fees to be charged in carrying this part of this Act into execution, and the taxation of such costs and fees, and the persons by or from whom and the manner in which such costs and charges are to be paid or deducted, subject nevertheless to the sanction of the Treasury as to the amount of fees to be charged :
- (6.) The service of notices on incumbrancers and other persons interested, and any other matter by this part of this Act directed to be prescribed :
- (7.) As to any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this part of this Act into effect.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

---

## PART II.

### *Sale of Land to Tenants.*

32. Subject to the restrictions herein-after mentioned, the landlord and tenant of any holding in Ireland may agree for the sale of the holding to the tenant at such price as may be fixed between them ; and upon such agreement being made they may jointly, or either of them may separately with the assent of the other, apply to the Landed Estates Court, in this part of this Act referred to as "the Court," for the sale to the tenant of his holding.

33. No sale shall be made under this part of this Act unless the landlord is the absolute owner of the land which forms the holding of the tenant, or such tenant for life or other limited owner as is in this section mentioned.

"Absolute owner" shall in the case of freehold land mean the owner in fee simple or in fee farm, or person capable of appointing or disposing of the fee, whether subject or not to incumbrances, and in the case of leasehold land mean the owner or person ca-



pable of disposing of the whole interest in the lease under which the land is held, whether subject or not to incumbrances.

No holding of leasehold tenure shall be sold under this part of this Act unless the lease under which the landlord is possessed of the land which forms the holding is a lease for lives or years renewable for ever, or a lease for a term of years of which not less than sixty are unexpired at the time of the sale being made ; and no sale shall be made under this part of this Act by a landlord being the owner of a leasehold under a lease containing a prohibition against alienation unless such prohibition has determined or is waived.

“Tenant for life” shall, for the purposes of this part of this Act, mean any person entitled under any existing or future settlement at law or in equity for his own benefit and for the term of his own life to the possession or receipt of the rents and profit of land, whether subject or not to incumbrances in which the estate for the time being, subject to the trusts of the settlement, is an estate in fee simple or fee farm, or a lease of such duration as is in this section mentioned.

“Other limited owner” shall mean any body corporate, any trustees for charities, and any commissioners or trustees for collegiate or other public purposes, having an estate in fee simple or fee farm, or possessed of such leasehold as is in this section mentioned, whether subject or not to incumbrances.

34. The application shall be accompanied by a deposit of such sum (if any), to be deposited by the landlord by way of security for costs, as the court may require. Upon the foregoing conditions being complied with, the Court shall make such inquiries as to the circumstances of the holding in respect of which the application is made, and as to the parties interested therein, either as incumbrancers, owners, or otherwise, and as to the sufficiency of the price and of the capacity of the landlord to sell the same, as the Court may think fit, and if the Court approve of the application it shall carry such sale into effect accordingly, and execute the necessary conveyance to the tenant.

35. The conveyance by the Court under this part of this Act of a holding to a tenant shall in the case of freehold land confer on the tenant an estate in fee simple or fee farm, as the case may be, in such holding, together with all rights, privileges, and appurtenances enjoyed or reputed as belonging or appertaining thereto, subject to such charges and interests, if any, as are in this part of this Act declared not to be incumbrances, and in the case of estates in fee farm to the rents, covenants, and conditions expressed

As to the sale of holding by the Court.

Estate of purchaser to be free from incumbrances.



in the grant relating to the land of which the holding forms the whole or part, and on the part of the grantee, his heirs, executors, administrators, and assigns, to be paid, observed, and performed, but free from all other estates, incumbrances, and interests whatever, and shall in the case of leasehold land vest the holding in the tenant for the period, and subject to the rents, covenants, and conditions, expressed in the lease relating to the land of which the holding forms the whole or part, and on the part of the lessee, his executors, administrators, and assigns to be paid, observed, and performed, subject to such charges and interests, if any, as are in this part of this Act declared not to be incumbrances, but free from all other incumbrances and estates whatsoever.

36. The following charges and interests shall not be deemed incumbrances within the meaning of this part of this Act; that is to say,

Certain charges not incumbrances.

- (1.) Quitrents and rentcharges in lieu of tithes:
- (2.) Rights of common, rights of way, watercourses, and rights of water and other easements:
- (3.) Heriots, manorial rights of all descriptions, and franchises:
- (4.) Charges for drainage, or other charges created under Act of Parliament, and to be specified in the conveyance.

And every holding sold under this part of this Act shall, unless the contrary is expressed, be deemed to be subject to such of the above charges and interests as may be for the time being subsisting thereon.

37. The Court shall determine the rights and priorities of the several persons entitled to or having charges upon or otherwise interested in any holding sold in pursuance of this Act, and shall distribute the purchase money in accordance with such rights and priorities.

As to the distribution of purchase money.

Where any moneys arising from a sale under this part of this Act are not immediately distributable, or the parties entitled thereto cannot be ascertained, or where from any other cause the Court thinks it expedient for the protection of the rights of the parties interested, the Court may order the moneys to be lodged in Court or in the prescribed bank to the prescribed account, and may by its order declare the trusts affecting such moneys, so far as the Court has ascertained the same, or state the facts or matters found by it in relation to the rights and interests in such moneys; and the Court may from time to time make such orders in respect to any such moneys, and the investment or application thereof, or the payment thereof to the parties interested, as the circumstances of the case may require.

38. There shall be charged, in respect of any sale made in pur-

Costs of sale. suance of this part of this Act, such per-centage fee on the price paid as the Treasury may prescribe, and the fees so charged shall be paid in to the receipt of Her Majesty's Exchequer, and carried to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

39. Where any purchase moneys have been so lodged in Court or in the prescribed bank, provision shall be made in the prescribed manner with the sanction of the Treasury for the payment without cost to the persons entitled to any estate or interest in or having charges upon the holding so sold of any principal or interest moneys to which such persons may be entitled in respect of such estate and interest: Provided that any provision so made shall not extend to any expense caused by disputed titles, or any expense incurred by the failure of any person to comply with the rules for the time being in force relating to the distribution of such purchase moneys.

40. The Court shall have full power to apportion charges, rents, and covenants, and decide all questions whatsoever, which it may be necessary to decide for the purposes of this Act, and shall not be subject to be restrained in the due execution of their powers under this Act by the order of any Court.

41. The Privy Council in Ireland may from time to time make, and when made may rescind, annul, or add to, rules with respect to the following matters:

(1.) The proceedings to be had under this part of this Act:

(2.) The circulation of forms and directions as to the mode in which this part of this Act is to be carried into execution:

(3.) The scale of costs and fees to be charged in carrying this part of this Act into execution, and the taxation of such costs, and the persons by whom such costs and fees are to be paid, subject nevertheless to the sanction of the Treasury as to the amount of fees to be charged:

(4.) The giving of notices to incumbrancers and other persons interested, and the service of such notices and any other matter by this part of this Act directed to be prescribed:

(5.) As to any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this part of this Act into execution:

In framing rules under this section the Privy Council shall

provide that notice of any sale to be made under this part of this Act shall be served upon every registered incumbrancer by sending it through the post in a prepaid letter addressed to such incumbrancer, and in proving service of any such notice it shall be sufficient to prove that such notice was properly directed to the incumbrancer at his last known place of abode, and that it was put as a prepaid letter into the post office.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

### PART III.

#### *Advances by and Powers of Board.*

42. Where any sums are due in respect of compensation under this Act from a landlord to a tenant who is quitting his holding, but has not been disturbed by his landlord, the Commissioners of Public Works in Ireland, in this Act referred to as the Board, may, upon the application of such landlord, advance to the tenant on behalf of the landlord the whole or such portion of the sum so due as they may think expedient, and upon an order being made to that effect by the Civil Bill Court, and upon such advance being made by the Board, such holding shall be deemed to be charged with an annuity of five pounds for every one hundred pounds of such advance, and so in proportion for any less sum, such annuity to be limited in favour of the Board, and to be declared to be payable within a term of thirty-five years.

43. The Board may from time to time upon such security as they may approve advance such sums as they may think fit to any landlord in Ireland for the purpose of enabling him to reclaim waste lands; and where any landlord has contracted for the sale of any waste land the Board may advance upon security jointly given by the vendor and purchaser such sums as they may think fit, not exceeding a moiety of the purchase money contracted to be paid; and such waste land, and any other lands included in any such security, shall, upon an order being made to that effect by the Civil Bill Court, and upon such advance being made by the

Advances to  
landlords for  
compensa-  
tion for im-  
provements.

Advances to  
landlords for  
improve-  
ment of  
waste lands.



Board, be deemed to be charged with an annuity of five pounds for every one hundred pounds of such advance, and so in proportion for any less sum, such annuity to be limited in favour of the Board, and to be declared to be repayable within a period of thirty-five years.

44. The Board, if they are satisfied with the security, may advance to any tenant for the purpose of purchasing his holding in pursuance of this Act any sum not exceeding two thirds of the price of such holding, and upon an order being made by the Civil Bill Court to that effect, and upon such advance being made by the Board, such holding shall be deemed to be charged with an annuity of five pounds for every one hundred pounds of such advance, and so in proportion for any less sum, such annuity to be limited in favour of the Board, and to be declared to be repayable in the term of thirty-five years.

No purchaser, or person deriving title through him, of any holding to whom any advance has been made under this section shall, without the consent of the Board, alienate, assign, subdivide, or sublet his holding during such time as any part of the annuity charged on such holding remains unpaid, and any part of such holding alienated, assigned, subdivided, or sublet in contravention of this section shall be forfeited to the Board, to be held by them for public purposes.

45. Where an absolute order for the sale of any estate has been made by the Landed Estates Court, and the tenant of any holding forming part of such estate is desirous to purchase such holding, he may apply to the Board in the prescribed manner to advance any sum not exceeding two thirds of the amount he may pay for the purchase of the same, and the Board may, subject to such conditions as to the price to be paid for such holding and to any matter relating to such purchase, as they think fit, agree with such tenant to make such advance.

When any such tenant has been declared the purchaser of a holding, and has paid one third or any greater part of the purchase money, the Board may pay the balance of such purchase money instead of such tenant, and upon such payment being made by the Board the Landed Estates Court shall by order declare such holding to be charged with an annuity of five pounds for every hundred pounds of such advance, and so in proportion for any less sum, such annuity to be limited in favour of the Board, and to be declared to be repayable in the term of thirty-five years.

Any holding charged by order of the Landed Estates Court in manner aforesaid shall not, without the consent of the Board, be

Advances to tenants for purchase of holdings.

Advances to tenants for purchases of holdings in Landed Estates Court.



alienated, assigned, subdivided, or sublet during such time as any part of the annuity charged on such holding remains unpaid, and any part of such holding alienated, assigned, subdivided, or sublet in contravention of this section shall be forfeited to the Board, to be held by them for public purposes.

46. The Landed Estates Court shall on the sale of estates by said Court, so far as is consistent with the interests of the persons interested in the estates or the purchase money thereof, afford, by the formation of lots for sale or otherwise, all reasonable facilities to occupying tenants desirous of purchasing their holdings under the provisions of this Act, and for that purpose shall hear any application in that behalf made by the Board or any such occupying tenant.

47. Where the landlord of an estate is willing to contract for the sale under the second part of this Act of his estate in its entirety but not in part, and the tenants of the holdings comprising four fifths in value of such estate are willing to purchase their holdings, and other purchasers can be found to buy the residue of such estate, and to pay one half of the purchase money payable in respect of such residue, such sale may be made accordingly under the second part of this Act in the same manner as if the whole of the purchasers of the estate were tenants of the landlord, and the Board may advance to such other purchasers one half of their purchase money upon the security of the residue of the estate, and such advance may, at the discretion of the Board, be made to such purchasers collectively on the security of the whole of the residue of such estate, or to such purchasers severally on the security of the portions bought by them respectively, or partly in one way and partly in the other. Where any advance is made to purchasers or a purchaser under this section, the land bought by such purchaser or purchasers shall, on an order made to that effect by the Civil Bill Court, be charged with an annuity of five pounds for every one hundred pounds of such advance, and so in proportion for any less sum, such annuity to be limited in favour of the Board, and to be declared to be repayable within the term of thirty-five years.

48. Every annuity created in favour of the Board in pursuance of this Act shall be a charge on the land subject thereto having priority over all existing and future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to the tenure, to rentcharges in lieu of tithes, and any charges created under any Act authorizing advance of public money, or under any Act

creating charges in respect of improvements on lands, and passed before this Act, with the exception also (in cases where the lands are subject to a fee-farm rent, or held under a lease reserving rent) of such fee-farm rent or rent reserved as aforesaid. The term during which every such annuity shall be payable shall be computed from the date of the advance in respect of which the same shall be charged, and every such annuity shall be payable in equal half-yearly payments on every first day of May and every first day of November during the said term of thirty-five years, with such apportionment, if any, as may be necessary in respect of the first and last of such payments.

49. Every annuity created in pursuance of this Act shall be recoverable by the Board or by or in the name of the Attorney-General for Ireland in manner in which rent charges in lieu of tithes are recoverable in Ireland; a certificate purporting to be under the hand of a member for the time being of the Board shall be evidence that the amount of any annuity or arrears of annuity stated therein to be due under this Act from any person named therein is due to the Board from such person.

50. No arrears of any annuity charged on land in pursuance of this Act shall be recoverable after the expiration of two years from the date at which the sum in arrear became due; and as between owners having successive interests in any land so charged it shall be the duty of the owner for the time being in possession or in receipt of the rents and profits of such land to prevent such arrears arising, and if he make default in doing so, and the owner next entitled in possession pay any arrears caused by such default, the amount so paid shall be a debt due to the owner who has paid the same from the owner by whose default it became necessary to make such payment.

51. Where any land is charged with an annuity in favour of the Board, it shall be lawful for any person liable to pay such annuity to redeem the said annuity, or so much thereof as may at any time remain unexpired, by payment to the Board of a sum of money equivalent to the then value of the said annuity, such value to be calculated according to the table in the schedule annexed hereto.

52. Where any person is entitled to receive any principal moneys in pursuance of the sale of any holding made by them in pursuance of this Act, the Board may, on the application of such person, commute such principal moneys for the payment of an annuity of equivalent value, the value of money being reckoned at three pounds ten shillings per cent. per annum; and where any such person

as aforesaid is entitled to the payment of a sum annually, the Board may commute the same for the payment of a principal sum of equivalent value, the value of money being reckoned at three pounds ten shillings per cent. per annum.

The Board may also, with the assent of the claimant, compromise by the payment of any principal or annual sum any postponed contingent or doubtful or other claim of any person to any share or interest in the purchase money arising from the sale of any holding under this Act.

53. The Board shall in making advances, in the mode of investing and dealing with the funds that come into their possession, and in the mode of accounting for the same, and generally in the performance of their duties under this Act, conform to any directions, whether given on special occasions or by general rule or otherwise, which may from time to time be given to them by the Treasury, and shall report within such time and in such manner as the Treasury may direct to the Treasury all matters which may be transacted by the Board.

Control of  
Board by  
Treasury &c.

54. There shall be issued to the Board for the purposes of this Act, at such times and in such sums and in such manner as the Treasury may determine, any sums of money not exceeding in the whole one million pounds, and the Treasury may from time to time issue to the said Board the said sum of one million pounds out of the Consolidated Fund or the growing produce thereof.

As to issues  
of moneys to  
the Board  
by Treasury.

55. All repayments to the Board of principal sums or by way of annuities in respect of advances made by them shall from time to time be paid back to the Consolidated Fund in such manner as the Treasury may direct.

Repayment  
to Consoli-  
dated Fund  
of moneys  
advanced.

56. The Civil Bill Court shall, on the application of any person entitled to an annuity by this Act directed to be charged by order of the Civil Court, make an order charging the same accordingly, and the clerk of the peace of the county in which such Court has jurisdiction shall keep an alphabetical registry in his office of all charging orders so made by the Court, and shall allow any person to inspect the same at all reasonable times on the payment of one shilling.

Duty of  
Civil Bill  
Court as to  
charging  
orders.

For the purpose of making charging orders in respect of any holding the Civil Bill Court of the county in which such holding or any part thereof is situate shall be deemed to have jurisdiction over such holding.



PART IV.

SUPPLEMENTAL PROVISIONS.

*As to Legal Proceedings and Court.*

Stamp  
duty on  
notice to  
quit.

57. There shall be paid in respect of every notice to quit to be served on a tenant of a holding as defined under this Act a duty of two shillings and sixpence, and such payment shall be denoted by a stamp on the notice.

Regula-  
tions as  
to notice  
to quit.

58. No notice to quit shall be valid unless it is printed or written, or partly in print and partly in writing, and signed by the landlord or his agent lawfully authorized thereunto, nor unless such notice at the time of the service thereof is duly stamped with a stamp denoting the payment of a duty of two shillings and sixpence. A notice to quit shall not in the case of a tenant from year to year take effect until after the expiration of a period of not less than six calendar months from the date of the service of the notice, such period of six calendar months, in the absence of agreement to the contrary, to terminate on the last gale day of the calendar year. Any person serving on a tenant a notice to quit that is not in conformity with this section shall incur a penalty not exceeding forty shillings, to be recovered summarily under the provisions of the Petty Sessions (Ireland) Act, 1851.

In any proceedings between landlord and tenant, where the due service of a notice to quit has been proved, such notice to quit shall, until the contrary is proved, be deemed to have been duly stamped.

Administra-  
tion on death  
of tenant.

59. The Civil Bill Court in any county on being satisfied that a tenant in such county has died, and that there is no legal personal representative of such tenant or no legal personal representative whose services are available for the purposes of this Act, may, if a legal representation of the tenant is required for the purposes of this Act, by order appoint such person as it thinks best entitled to be administrator of the deceased tenant limited to the purposes of this Act, and any such limited administrator shall for all the purposes of this Act represent the deceased tenant in the same manner as if the tenant had died intestate, and administration had been duly granted to such limited administrator of all the personal estate and effects of the tenant.

Provision as  
to married  
women.

60. A married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a feme sole, but where any other married woman is desirous of making any application, giving any consent, or doing any act, or becoming



party to any proceeding under this Act, in relation to any holding, her husband's concurrence shall be required, and she shall be examined by the Civil Bill Court of the county where she may for the time being be, or of the county where the holding is situate, apart from her husband touching her knowledge of the nature and effect of the application or other act, and it shall be ascertained that she is acting freely and voluntarily.

61. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding in relation to any holding under this Act, is a minor, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person the committee of whose estate if he were idiot or lunatic would be authorized to act for and represent such person under this part of this Act is of unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Civil Bill Court of the county in which the holding is situate to appoint a guardian of such person for the purpose of any proceedings under this part of this Act, and from time to time to change such guardian; and where such Civil Bill Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time to remove or change such next friend.

62. For the purposes of carrying into effect the provisions of this Act the judges of Civil Bill Courts in Ireland shall, in addition to the Civil Bill Courts now by law directed, hold such Courts in such places within their respective jurisdictions as may be prescribed by the Privy Council in Ireland.

63. There shall be paid to the judges and officers of the Civil Bill Courts and to the officers of the Court of Exchequer Chamber in Ireland, by way of remuneration, for the additional duties by this Act imposed upon them, such annual sums by way of additional salaries respectively as the Lord Lieutenant may direct and the Commissioners of Her Majesty's Treasury may approve, and all such sums shall be paid by the said Commissioners out of moneys to be provided by Parliament for that purpose.

Provision  
as to other  
persons  
under dis-  
ability.

Additional  
sittings of  
Civil Bill  
Court.

Additional  
salaries to  
judges and  
officers of  
Civil Bill  
Courts.

64. In case it shall appear to the Lord Chancellor that from any reasonable cause the judge of any Civil Bill Court cannot conveniently hold the Courts prescribed under this Act, he may appoint any other judge of a Civil Bill Court to hold such Courts in his stead, and thereupon the judge so appointed shall hold such Courts as aforesaid, and shall for the purposes thereof have all and every the powers, authority, and jurisdiction of the judge in whose stead he shall have been appointed, and so long as he shall continue to act in his stead there shall be paid to him instead of to the said judge, the additional salary payable to the said judge under this Act.

Power to appoint a substitute in Civil Bill Court if judge cannot attend.

PART V.

*Miscellaneous.*

65. Any person who, under any tenancy whatsoever created after the passing of this Act, becomes the occupier of any premises liable to grand jury cess, and who is liable to pay a rent in respect of the same, may deduct from such rent, for each pound of the rent of which he is liable to pay, one half of the sum which he has paid as grand jury cess in respect of each pound of the net annual value of such premises as valued under the Acts relating to the valuation of rateable property in Ireland, and so in proportion for any less sum than a pound: Provided always, that it shall not be lawful for any such person to deduct from the rent payable by him for such premises a larger sum than one half of the amount of the cess that has been paid by him in respect of the same.

Mode of payment of grand jury cess in certain cases.

Any person receiving rent in respect of any premises liable to grand jury cess, who also pays a rent in respect of the same, shall, if such rent is received and paid under contracts entered into after the passing of this Act, be entitled to deduct from the rent so paid by him a sum bearing such a proportion to the amount of the cess deducted from the rent received by him as the rent paid by him bears to the rent received by him.

66. Whenever the net annual value of the whole of the premises situate in any county of a city, county of a town, or barony, occupied by any person under any tenancy whatsoever created after the passing of this Act, does not exceed four pounds, as valued under the Acts relating to the valuation of rateable property in Ireland, and the same are liable to grand jury cess, then such cess shall, after the passing of this Act, be paid

Where value of premises does not exceed 4l. immediate lessor to pay grand jury cess.

and payable by the immediate lessor or lessors of such person, and may be recovered from such immediate lessor or lessors in like manner as but for the provisions of this section it might have been recovered from the person occupying such premises.

If any such cess payable by any such immediate lessor be not paid within four months after the same has become due, the person duly authorized to collect the same may give notice in writing to the occupier for the time being of such premises to pay the cess due in respect of such premises, and after the expiration of one calendar month from the time of giving such notice it shall be lawful to recover such cess from such occupier, or in his default from any subsequent occupier of the premises, in like manner as if the same were cess due in respect of premises of a net annual value greater than four pounds.

And every such occupier so paying such cess may deduct from the rent he may be then or next thereafter liable to pay in respect of any such premises the whole of any such cess that he may have paid in respect of the same premises, and if rent sufficient to cover such cess be not then or do not thereafter become due from such occupier, he shall be entitled to recover the same from such immediate lessor by Civil Bill.

67. Nothing in the two next preceding sections of this Act contained shall apply to any county cess levied under the authority of any presentment made for the compensation of any person for any loss or damage occasioned by any malicious injury, or of any presentment made under the authority of section one hundred and six of the Act passed in the session of Parliament held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, chapter one hundred and sixteen, or under the authority of "The Peace Preservation (Ireland) Act, 1870," or to any moneys levied as county cess by the direction of the Lord Lieutenant of any district under the authority of "The Peace Preservation (Ireland) Act, 1856," or any Act or Acts amending or continuing the same now in force.

68. Any person who, after the passing of this Act, shall take at an acreable rent land adjoining or intersected by any public road or public roads, shall not, in absence of an agreement to the contrary, be liable to rent for any portion of such land as may be contained in the public road or roads.

69. Where any tenancy at will, or less than a tenancy from year to year, is created by a landlord after the passing of this Act, the tenant under such tenancy shall on quitting his holding be entitled to notice to quit and

Exception  
as to county  
cess levied  
in certain  
cases.

Non-liability  
for rent for  
land covered  
by public  
roads.

Tenancies  
at will.



compensation in the same manner in all respects as if he had been a tenant from year to year : Provided that this section shall not apply to any letting or contract for the letting of land made and entered into bonâ fide for the temporary convenience or to meet a temporary necessity either of the landlord or tenant.

*Definitions.*

70. In the construction of this Act the following words and expressions shall have the force and meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto :

General definitions.

The term "person" or "party" shall extend to and include any body politic, corporate, or collegiate, whether aggregate or sole, and any public company :

The term "county" shall extend to and include county of a city, and county of a town, and a riding of a county, where such county of a city, county of a town, or riding of a county is appointed for civil bill purposes :

The term "prescribed" shall mean prescribed by any rules made in pursuance of this Act :

The term "lease" shall include an agreement for a lease :

The term "settlement" as used in this Act shall include any Act of Parliament, will, deed, or other assurance or connected set of assurances whereby particular estates or particular interests in land are created, with remainders or interests expectant thereon ; and every estate and interest created by appointment made in exercise of any power contained in any settlement or derived from any settlement shall be considered as having been created by the same settlement ; and an estate or interest by way of resulting use or trust to or for the settlor, or his heirs, executors, or administrators, shall be deemed to be an estate or interest under the same settlement :

The term "landlord" in relation to a holding shall include a superior mesne or immediate landlord, or any person for the time being entitled to receive the rents and profits or to take possession of any holding :

The term "tenant" in relation to a holding shall mean any tenant from year to year and any tenant for a life or lives or for a term of years under a lease or contract for a lease, whether the interest of such tenant has been acquired by original contract, lawful assignment, devise, bequest, or act and operation of law ; and where the tenancy of any person having been a tenant under a tenancy which does not disentitle him to compensation under this Act is determined or



expiring, he shall, notwithstanding such determination or expiration, be deemed to be a tenant until the compensation, if any, due to him under this Act has been paid or deposited as in this Act provided :

The term "improvements" shall mean in relation to a holding,—

- (1.) Any work which being executed adds to the letting value of the holding on which it is executed, and is suitable to such holding ; also,
- (2.) Tillages, manures, or other like farming works, the benefit of which is unexhausted at the time of the tenant quitting his holding.

71. This Act shall not apply to any holding which is not agricultural or pastoral in its character, or partly agricultural and partly pastoral; and the term "holding" shall include all land of the above character held by the same tenant of the same landlord for the same term and under the same contract of tenancy.

Agricultural  
or pastoral  
holdings  
only subject  
to this Act.

72. This Act may be cited for all purposes as "The Landlord and Tenant (Ireland) Act, 1870."

Short title.

Application  
of Act.

73. This Act shall apply to Ireland only.

## SCHEDULE.

### *Arbitrations.*

- (1.) If both parties concur a single arbitrator may be appointed.
- (2.) If the single arbitrator dies or becomes incapable to act before he has made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if no appointment of an arbitrator had taken place.
- (3.) If both parties do not concur in the appointment of a single arbitrator, each party on the request of the other party shall appoint an arbitrator.
- (4.) An arbitrator shall in all cases be appointed in writing, and the delivery of an appointment to an arbitrator shall be deemed a submission to arbitration on the part of the party by whom the same is made, and after any such appointment has been made neither party shall have power to revoke the same without the consent of the other.
- (5.) If for the space of fourteen days after the service by one party on the other of a request made in writing to appoint an arbitrator such last-mentioned party fails to appoint an arbitra-

tor, then upon such failure the party making the request may apply to the Court, and thereupon the dispute shall be decided by the Court according to the provisions of this Act.

(6.) If any arbitrator appointed by either party dies or becomes incapable to act before an award has been made, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if for the space of fourteen days after notice in writing from the other party for that purpose he fails to do so the remaining or other arbitrator may proceed *ex parte*.

(7.) If, where more than one arbitrator has been appointed either of the arbitrators refuses or for fourteen days neglects to act, the other arbitrator may proceed *ex parte*, and the decision of such arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

(8.) If, where more than one arbitrator has been appointed, and where neither of them refuses or neglects to act as aforesaid, such arbitrators fail to make their award within twenty-one days after the day on which the last of such arbitrators was appointed, or within such extended time (if any) as may have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as hereafter mentioned.

(9.) Where more than one arbitrator has been appointed, the arbitrators shall, before they enter upon the matters referred to them, appoint by writing under their hands an umpire to decide on any matters on which they may differ.

(10.) If the umpire dies or becomes incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the arbitrators shall forthwith after such death, incapacity, or refusal, appoint another umpire in his place.

(11.) If in any of the cases aforesaid the said arbitrators refuse, or for fourteen days after request of either party to such arbitration neglect, to appoint an umpire, the Civil Bill Court, as defined by this Act, shall, on the application of either party to such arbitration, appoint an umpire.

(12.) The decision of every umpire on the matters referred to him shall be final.

*Table for Redemption of Annuities or Rentcharges.*

Term unexpired.	Redemption money to be paid in respect of each 10l. of annuity.*	Term unexpired.	Redemption money to be paid in respect of each 10l. of annuity.*
	£ s. d.		£ s. d.
1	9 14 10	19	137 18 8
2	19 3 1	20	142 19 5
3	28 4 11	21	147 16 9
4	37 0 6	22	152 10 10
5	45 10 1	23	157 1 8
6	53 13 11	24	161 9 5
7	61 12 2	25	165 14 1
8	69 5 1	26	169 16 0
9	76 12 8	27	173 15 0
10	83 15 3	28	177 11 5
11	90 13 0	29	181 5 2
12	97 6 1	30	184 16 5
13	103 14 7	31	188 5 3
14	109 18 8	32	191 11 8
15	115 18 7	33	194 15 11
16	121 14 5	34	197 17 11
17	127 6 3	35	200 17 10
18	132 14 3		

*Note.*—This table is calculated on the assumption of the original purchase money being repaid in 35 years with interest at  $3\frac{1}{2}$  per cent. payable half-yearly.

\* Where the unexpired term includes part of a year, such addition, if any, as may be necessary shall be made to the redemption money in respect of such part of a year.

INDEX TO THE ACT.

	SECTION
ACREABLE RENT, lands subject to, not chargeable for public roads,	68
ADMINISTRATION, may be granted by Civil Bill Court, ...	59
ADVANCES ( <i>see Board of Works</i> ).	
AGENT, duly authorized, may sign Notices to Quit, ...	58
,, claims of tenant may be served on, ...	16
ALIENATION of land sold to tenants and charged with annuity,	
prohibited, ... ..	44, 45
ANNUITY charged on a holding, ... ..	27, 42, 43, 44, 45
,, in favour of limited owners, ... ..	27
,,     ,, of Board of Works, ... ..	42, 43, 44, 45, 47
,, arrears of, how recoverable, ... ..	49, 50
,, redemption of, ... ..	51, 52
APPEAL, Court of, ... ..	24
,, rules for proceeding in, ... ..	24
ASSIGNMENT ( <i>see Alienation</i> ).	
,, may be a bar to disturbance-compensation, ... ..	13
,, by operation of law, ... ..	13
ARBITRATION, Court of, ... ..	25
,, award not subject to appeal, ... ..	25
,, powers of Court of, ... ..	25
AWAY-GOING CROPS, rights respecting, ... ..	8
BOARD OF PUBLIC WORKS, advances by, for compensation, ... ..	42
,,     ,,     ,, for reclaiming waste land, ... ..	43
,,     ,,     ,, for purchase of waste land, ... ..	43
,,     ,,     ,, to tenants to purchase	
holdings, ... ..	44, 45
,,     ,,     ,, to assist parties, not being	
tenants, in purchasing	
estates, ... ..	47
,,     ,, recovery of annuities by, ... ..	48
,,     ,, may commute or compromise claims, ... ..	51, 52
BUILDINGS, permanent, claims for, not precluded by lapse of time,	48
CHARGING ORDERS ( <i>see Annuity</i> ).	
CIVIL BILL COURT, the Court of first instance, ... ..	22, 23
,,     ,, to decide all questions on equitable principles, ... ..	18
,,     ,, decision of, to be in writing and state par-	
ticulars, ... ..	19
,,     ,, orders of, subject to appeal, ... ..	24



	SECTION
CLAIMS, contracts not to make, when void, ... ..	3, 4, 12
"  of tenants for disturbance, ... ..	3
"  "  "  improvements, ... ..	4, 8
"  "  "  permanent buildings and reclamation of waste land, ... ..	3, 4
"  "  "  payment to predecessors in title, ... ..	7
"  "  "  away-going crops, ... ..	8
"  may be barred in certain cases, ... ..	3, 4, 9, 10, 13, 14, 15
"  under Ulster tenant-right custom, ... ..	1
"  "  tenant-right customs out of Ulster, ... ..	2
CLERK OF PEACE, to register charging orders of Civil Bill Court, ... ..	17
COMPENSATION for Ulster tenant-right custom, ... ..	1
"  "  tenant-right customs out of Ulster, ... ..	2
"  "  disturbance, ... ..	3
"  "  improvements, ... ..	4
"  "  permanent buildings and reclamation of waste land, ... ..	3, 4
"  "  payment to predecessor with consent of landlord on coming into holding, ... ..	7
"  "  away-going crops, ... ..	8
"  to be paid or secured on eviction, ... ..	21
"  not to be paid to tenant until possession given up, ... ..	21
CONACRE, regulation affecting, ... ..	3
CONSENT OF LANDLORD to sub-let, ... ..	3
"  "  to sub-divide, ... ..	3
CONTRACTS may be made by tenants not to claim compensation in certain cases, ... ..	12
"  not to make claims, how far void, ... ..	3, 4, 12
COTTAGES FOR LABOURERS, to obtain Land for, ... ..	10
CUSTOM ( <i>see Tenant-Right.</i> )	
DEMESNE LANDS, exemption respecting, ... ..	15
DISTURBANCE, compensation for, ... ..	3
"  conditions affecting claims for, ... ..	3, 9, 13, 14, 15
EJECTMENT for non-payment of Rent :—	
"  not generally a disturbance, ... ..	9
"  in certain cases is a disturbance, ... ..	9
GALE DAY for Notice to Quit, ... ..	58
GAME, landlord entering for, not a disturbance, ... ..	15
GOODWILL, sale of, how far sanctioned, ... ..	7
GRAND JURY CESS, may be deducted from rent in certain cases, ... ..	65, 66
HOLDING, definition of, ... ..	71
INCUMBRANCES and charges, inquiries as to, by Landed Estates' Court, ... ..	34
IMPROVEMENTS, compensation for, ... ..	4
"  definition of, ... ..	70
"  presumption regarding the making of, ... ..	5
"  schedule of, may be filed as evidence, ... ..	6
LABOURERS' COTTAGES, provision respecting, ... ..	10
LANDLORD, definition of, ... ..	10

LANDLORD— <i>continued.</i>	SECTION
„ may obtain loan for payment of compensation, ...	43
„ „ „ reclamation of waste land, ...	43
„ may agree with tenant for amount of compensation, ...	27
„ „ „ for sale of holding, ...	32
LEASE, includes agreement for a, ...	70
„ for 31 years, a bar to disturbance claims, ...	3
„ „ a bar to claims for certain kinds of improvements, ...	4
LEASING POWERS under the Act, ...	28, 29, 30
LIMITED OWNER, definition of, ...	26, 33
„ „ may agree with tenant for compensation, ...	27
„ „ may obtain charging order for improvements, ...	27
„ „ power of, to grant leases, ...	28, 29, 30
„ „ „ to sell the estate, ...	32
MEADOW LANDS not to be broken up without consent of landlord, ...	4
MINING, and other royalties, landlord may enter holding for, ...	15
NOTICE of filing Schedule of Improvements, ...	6
„ surrender by tenant, ...	9
„ claim by a tenant, ...	16
„ counter claim by landlord, ...	17
„ to incumbrancers, ...	41
„ as to charging order on remainder-man, ...	27
NOTICE TO QUIT, chargeable with stamp duty, ...	57
„ „ requisites of, ...	58
„ „ when to take effect, ...	58
PASTURE LANDS, under certain conditions, exempt from disturbance claims, ...	15
„ „ tenant not to break up without permission, ...	4
PREDECESSORS IN TITLE, definition of, ...	11
PUBLIC ROADS, tenant not to pay rent for, under certain conditions, ...	68
PURCHASE MONEY of holdings, part of, may be advanced by Board of Works, ...	44, 45, 47
RECLAMATION OF WASTE LAND, claims for, not precluded by lapse of time, but liable to be reduced thereby, ...	4
REGISTRY OF CHARGING ORDERS by Clerk of the Peace, ...	27, 56
„ in Landed Estates Court of improvements, ...	6
RENT, apportionment of, ...	40
„ ejection for non-payment of in case of exorbitant rent, ...	9
„ tenant resisting reasonable increase of, may forfeit his claim for disturbance, ...	18
„ to be taken into account in estimating compensation, ...	4
REPRESENTATIVE OF TENANT ( <i>see Administration</i> ).	
RULES to be made by Court for Land Cases, ...	31
„ „ by Privy Council, ...	41
SETTLEMENT, definition of, ...	70
SUBDIVISION OR SUBLETTING OF HOLDING without consent, a bar to claims for disturbance-compensation, ...	3
TENANT, definition of, ...	70

	SECTION
TENANT— <i>continued.</i>	
„ subdividing or subletting by a forfeiture of claim for disturbance, ... ..	3
„ may purchase holding, by agreement with landlord,	32
„ limited administration may be granted to representative of,	59
TENANT-RIGHT USAGES in Ulster, ... ..	1
„ „ out of Ulster ... ..	2
TOWNPARKS, no compensation in respect of, ... ..	15
ULSTER TENANT-RIGHT legalised, ... ..	1, 2
„ „ voluntary extinction of, ... ..	12
WATER-COURSES, landlord may enter for the purpose of opening,	15

Court for Land Cases Reserved.

RULES FOR PROCEEDINGS

UNDER PART I.

OF THE

LANDLORD AND TENANT (IRELAND) ACT, 1870.

33 & 34 VICTORIA, CHAP. 46.

CONTENTS.

	PAGE
Proceedings in respect of Claims, ... ..	82
Service of Notices of Claim, ... ..	83
Service of Notices of Dispute, ... ..	83
Entry in Court of Notices of Claim and Dispute, ...	83
Registration of Improvements, ... ..	85
Practice of the Court, ... ..	85
Fees for Proceedings under the Act, ... ..	86
Taxation of Costs, ... ..	86
Regulations as to Clerks of the Peace, ... ..	86
Deposits by Landlords of Compensation Money, ...	87
Appeals, ... ..	88
Arbitration, ... ..	88
Limited Owners, ... ..	89
Definitions, ... ..	91
APPENDIX TO THE RULES :—	
Forms for use in Ordinary Land Cases, ... ..	92
Forms for use in Cases of Limited Owners, ... ..	100
SCHEDULE (A)—Schedule of Fees referred to in Rule 24, ...	106



*It is this day (29th October, 1870) ordered by the Court for Land Cases Reserved, that the following shall be the Rules for proceedings under Part 1 of the Landlord and Tenant (Ireland) Act, 1870 :—*

#### PROCEEDINGS IN RESPECT OF CLAIMS.

1. All applications and disputes under the Landlord and Tenant (Ireland) Act, 1870, shall be heard in the Division of the County where the land or some part thereof is situated, unless the Chairman shall otherwise direct on being satisfied that the same can be more conveniently tried in any other division. But the Chairman may, at his discretion, hear any interlocutory motion arising in the course of any such proceeding in any division of his county.

2. At each of the ordinary Sessions now held in each year there shall be for each Division of the County, and in one Town in such Division, a separate part of such Sessions for the disposal of business under this Act, to be termed the Land Session, of the commencement of which notice shall be given at the time and in the manner now by law directed with respect to the holding such ordinary Sessions; but for the year 1871 such notice may be given on or before the 1st of January, 1871.

3. Notices of Claim under the 16th Section of said Act shall be in the Form No. 1, 2, 3, or 4 [*as the case may be*] in the Appendix to these Rules, or as near thereto as circumstances will admit.

4. The limits of time within which Notices of Claim may be served shall be as follows :—

Every tenant who may claim to be entitled to compensation under the Act may serve notice of his claim (if any) ;—

*a.* As soon as he shall have been served by his Landlord with Notice to Quit, or with an Ejectment, or disturbed by any act of the Landlord within the meaning of the said Statute ;—

*b.* In case of a tenancy for an uncertain term, as soon as the term shall have expired ;—

*c.* In case of a tenancy for a term certain, when the term shall be within six months of its expiration ;—

*d.* In case of a Tenant who shall give Notice of Surrender, with such Notice, or after its service ;—

*e.* In every case the Notice of Claim (if any) shall be served before the Tenant quits or is deprived of possession by his Landlord, or at latest within one calendar month thereafter, subject however to the provision contained in the next Rule, and to the discretionary power hereinafter given to the Chairman.

5. Notices of Claim may be served up to the 1st day of January, 1871, though the time limited by these Rules for service thereof might otherwise have expired.

6. A copy of every Notice of Claim and of every Notice of Dispute shall, within one week after its service, or within such other time as the Chairman shall direct, be delivered to the Clerk of the Peace who shall duly record the same, with the date of the Delivery thereof to him, in a book to be kept for such purpose.

#### SERVICE OF NOTICES OF CLAIM.

7. The service of Notices of Claim on any Landlord, or, in his absence, on his known Agent, shall be effected in such manner (except as to the time of service), as now by Law prescribed for ordinary Civil Bill processes, but may be effected by others than the Process Servers of the Court, where the service is to be made without the county.

8. Where a Landlord is resident out of the County, the Chairman may, on application to him for such purpose, direct service of the Notice of Claim or of any other proceeding under this part of the Act to be effected within such time, and in such manner, whether by registered letter or otherwise, as he may think fit; or may declare that any service already effected shall be good service of the same.

9. All Notices of Claim shall be served one calendar month, at the least, before the first day of the Land Session at which the Claim thereunder shall be entered for Hearing.

#### SERVICE OF NOTICES OF DISPUTE.

10. The Notices of Dispute by the Landlord shall be in the Form 5 or 6 in the Appendix to these Rules, or as near thereto as circumstances will admit, and the same, together with a copy of any Set-off or Claim relied on by him, shall be served within twenty-one days from the service on him of the Notice of Claim (subject to the discretionary power hereinafter given to the Chairman), and shall be served in the manner now by Law prescribed for the service of ordinary Civil Bills; but the Court may, in its discretion, upon facts duly verified, allow substituted service thereof, or direct any other mode of service.

#### ENTRY IN COURT OF NOTICES OF CLAIM AND DISPUTE.

11. Every Notice of Claim or of Dispute shall contain, if issued by an Attorney, his name and place of business, or if not issued

by an Attorney, shall contain the name and residence of the Claimant or person issuing the same ; and service of the Notice of Dispute, and of all subsequent proceedings in the course of such Dispute, may be effected by service thereof at such place of business or residence, as the case may be ; and if the Tenant's claim be consequent upon the service of an Ejectment, the Notice of Claim may be served either as hereinbefore prescribed by these Rules, or at the residence of the Attorney for the Plaintiff mentioned in such Ejectment.

12. If either Tenant or Landlord shall have failed to serve, or to lodge, a Notice of Claim or of Dispute, or any other notice in the course of the dispute, within the times or in the manner herein limited, the Chairman may, on the application of such party, if he shall think sufficient excuse exists, and upon such terms as to costs, or otherwise, as he shall think fit, declare such service as may have been effected to be sufficient service, or enlarge the time for such service or lodgment, and if he think fit adjourn the Hearing.

13. Where a Notice of Claim shall have been served, the Tenant shall, after the service of the Notice of Dispute, or in case of no Notice of Dispute being served, then, after the expiration of the time for serving notice of the same, lodge such Notice of Claim in due course, for Hearing, with the Clerk of the Peace, at the next ensuing Land Session, giving one week's notice to the opposite party ; or if the next Land Session shall take place before the expiration of one calendar month from the original service of such Notice of Claim, then at the second next ensuing Land Session ; and in the event of the Tenant failing to lodge his Claim for Hearing in such manner, he shall not be at liberty thereafter to do so, unless the Chairman shall, by reason of special circumstances, and on such terms as he may think fit, otherwise direct.

14. Where a Dispute shall have arisen, the parties may, at any time before such Dispute shall have been decided by the Chairman, by an agreement in writing signed by them respectively, or by their agents duly authorised, settle such dispute ; and thereupon the said parties shall cause a copy of such agreement, also duly signed by them, or by their said agents, to be delivered to the Clerk of the Peace, who shall duly record the same.

15. The Claimant may, at any time before setting down his Claim for Hearing, by notice in writing delivered to the Clerk of the Peace, require his Claim to be dismissed as against all or any of the Respondents, with costs, and the Court may pronounce a dismiss accordingly, and such notice shall operate as a relinquishment of his Claim, and the Clerk of the Peace shall forthwith file such notice, and enter the same in the Record of Notice and Dis-



pute Book hereinafter mentioned, and, at the expense of the Claimant, forward a copy thereof to each of the Respondents.

### REGISTRATION OF IMPROVEMENTS.

16. The notice of intention by a Landlord or Tenant to register improvements under the sixth section of the Act, together with a copy of the schedule specifying such improvements, shall be served on the opposite party two months, at the least, before application shall be made to the Landed Estates Court to file the schedule of such improvements.

17. The Landlord or Tenant receiving such notice and disputing the claim made by the schedule, shall within one month after such receipt, serve notice on the opposite party that he disputes such claim either in the whole or in part, specifying the particulars so disputed, and that he will apply to the Civil Bill Court to determine the matter, and shall also, within such period, deliver a copy of such notice to the Clerk of the Peace, who shall record the same.

18. Upon the due service of such notice and copy, a Dispute shall be deemed to have arisen in respect of such alleged improvements, and the same shall be heard within such time, and in such manner, and subject to the same regulations as other Cases under these Rules.

19. The discretionary powers, with respect to the service and lodgment of notices given to the Chairman hereinbefore, shall apply to all notices respecting the Registration of Improvements under the sixth section.

### PRACTICE OF THE COURT.

20. The practice, forms, and Rules in force and used in the Civil Bill Courts with respect to Civil Bills and Civil Bill Ejectments, including all powers of amendment, shall, subject to these rules and orders, and so far as the same are not inconsistent with them, or with any of the provisions of the Landlord and Tenant Act (Ireland) 1870, be adopted with reference to proceedings under the said Act, so far as the same are applicable, *mutatis mutandis*.

21. The service of all notices relied on for any purpose shall, unless admitted by the opposite party, or otherwise allowed by the Chairman, be proved on oath at the hearing.

22. If at the hearing it shall appear to the Chairman that the case comes within the provisions of the 20th section of the Statute, or that the interests of persons not represented before the Chair-



man are involved, he may adjourn such hearing and direct such notice to be given to said persons as to him shall seem fit.

23. The Chairman shall be at liberty to review, rescind, or vary any order previously made by him at any Land Session during the continuance of the ordinary Sessions of which such Land Session shall form a part, but not afterwards, except upon the application in court of both parties, or their consent in writing.

#### FEES FOR PROCEEDINGS UNDER THE ACT.

24. In all proceedings under this Act the fees specified in the schedule (A) to these rules annexed, shall be the lawful fees and emoluments for the discharge of the duties therein specified by the persons therein named, and no other fees or emoluments shall be recoverable for the discharge of such duties, or be allowed in any bill of costs between party and party, or in any decree, dismiss, order, or award.

#### TAXATION OF COSTS.

25. The Chairman shall have power to give or withhold the costs, in the whole or in part, of any proceedings under this Act, and to order the same, or any portion thereof, to be paid by the opposite party, together with the reasonable expenses of necessary witnesses, and such expenses as he may consider to have been properly incurred in making copies of documents, or in making maps or surveys for the information of the Court; to be recoverable in the same manner as sums awarded for compensation, or decreed under this Act.

26. The Chairman shall, in all proceedings under this Act, upon request of either party or his attorney, tax the costs between party and party, and include the same in his decree or dismiss, order or award, when costs shall have been given against the opposite party; and shall, at the like request, tax the costs between attorney and client in such proceedings; and no costs shall be recovered in respect of any proceedings under this Act in the court of the Chairman, or preparatory thereto, unless the same shall have been so taxed.

#### REGULATIONS AS TO CLERKS OF THE PEACE.

27. The Clerks of the Peace shall keep in their offices separate books, in which shall be entered all notices of Claim, Dispute, or Set-off lodged with them in pursuance of the foregoing Rules, and all Orders, Interlocutory or Final, made in the matter of such Disputes, to be called The Record of Claim and Dispute

Books, which shall be accessible to the public between the hours of twelve and three o'clock daily (Sundays, Christmas Day, and Good Friday excepted), on payment to the Clerks of the Peace of the fee of One Shilling for each search to be made.

28. The Clerks of the Peace shall also keep Court Books, and shall enter therein the names of the witnesses examined at any hearing, with the date and description of any document used upon such hearing, and the orders of the Chairman, and shall sign the same, to be countersigned by the Chairman.

29. The decree, dismiss, or order of the Chairman shall be in the Form No. 7, 8, 9, or 10 in the Appendix to these Rules annexed, or as near thereto as may be, according to the circumstances of the case.

30. The Clerk of the Peace shall, before each sitting, make out a list for the Chairman, of all cases for hearing under this Act, and deliver or transmit the same to the Chairman.

31. All notices or documents relating to any matter under this Act may be delivered to the Clerk of the Peace either by giving same to him personally at his office, or to any Clerk or Assistant in charge of such office, there and not elsewhere; or by sending the same through the General Post Office in a prepaid letter duly registered, and addressed to the Clerk of the Peace at his office in the town where the same shall be kept, posted in such time as to admit of its delivery in the ordinary course within the periods herein required for the delivery of such notices.

32. Where a search shall be required from the Clerk of the Peace for any matter recorded in his Office under these Rules, a requisition in writing for such purpose shall be delivered to him, specifying the particulars required, and he shall thereon file such requisition, and deliver with all reasonable expedition to the person demanding the same a certificate signed by him setting forth the particulars so required.

33. The Clerks of the Peace shall be entitled to receive for the the filing such requisition, making such search, and delivering such certificate, the fee of Two Shillings.

#### DEPOSITS BY LANDLORDS OF COMPENSATION MONEY.

34. Deposits by landlords of compensation money, under the 21st section of the Act, shall be made in the Branch Banks of the Bank of Ireland in the respective counties, or, if no such branch exists in a county, then in such other Bank or Branch Bank within the same as the Chairman shall direct.

35. To effect such deposit the landlord shall obtain a docket, signed by the Clerk of the Peace, authorizing the lodgment of

the sum in the bank, in the name of the Clerk of the Peace, to the credit of the claim.

36. No deposit so made shall be drawn out without an order of the Chairman, made on notice to the landlord, or on consent in writing of the parties.

37. Where any deposit shall have been so made, the sum deposited shall be paid out only on the cheque of the Clerk of the Peace, countersigned by the Chairman of the County, which cheque, so countersigned, shall be a sufficient warrant to the bank for such payment.

### APPEALS.

38. Any person dissatisfied with any Order of the Chairman under this Act, may appeal therefrom within one week from the last day of the ordinary Sessions in the town in which such Order shall be made, on giving notice of appeal in writing to the opposite party or to his attorney, and on lodging a copy of such Notice with the Clerk of the Peace, within said period of a week.

39. When such order shall have been made in the county or the county of the city of Dublin, then, (except as hereinafter mentioned,) such appeal shall be taken to the next ensuing sitting of the Judges to be selected by the Court for Land Cases Reserved; and when such order shall have been made elsewhere, then to the Judge or Judges of assize at the next ensuing assizes; but if the same shall be held within ten days from the termination of the ordinary sessions in the town in which such order was made, then to the second next sittings or assizes thereafter.

40. The Clerk of the Peace shall enter in the Record of Claim and Dispute Book the order of the Judge or Judges to be made on such appeal, and any directions given by them or him thereon, and shall also enter therein any order or directions made by the Court for Land Cases Reserved, when such order or directions shall be transmitted to him.

### ARBITRATION.

41. The reference of any dispute under said Act to an Arbitration Court, and the appointment of the arbitrator or the arbitrators and umpire, shall be in the Form numbered (11) in the Appendix to these Rules, or in accordance therewith, and be signed by both parties; and such reference, with the nomination of the arbitrator or arbitrators and umpire, as the case may be, shall be lodged with the Clerk of the Peace before the first sitting of the Arbitration Court thereunder.

42. The Clerk of the Peace shall forthwith, on receipt of such reference and nominations, and on being satisfied by affidavit or



statutory declaration as to the signatures thereto, enter the same in the Record of Claim and Dispute Book ; and thereupon any application or report in the matter of such Arbitration may be entertained by the Civil Bill Court, and such order may be made thereon, under the 25th section of said Act, as the Chairman may think right.

43. Where either party desires the award of a Court of Arbitration to be recorded, he shall, ten days before the first day of the Land Session next ensuing the making of such award (if sufficient interval shall exist, and if not, then before the next following Session), serve notice on the opposite party of his intention to apply to the Chairman for such purpose, which application shall be heard in regular course, according to the practice of the Court.

44. On the hearing of such application, the Court may, if it shall think fit, and if such award substantially decides the dispute referred, order the same to be recorded ; and the Award shall thereupon be duly recorded by the Clerk of the Peace in the Record of Claim and Dispute Book.

45. Reference of a Dispute to an Arbitration Court may be made at any time before the first day of the Land Session at which such dispute may be entered for hearing ; or afterwards, with the consent of the Chairman.

#### LIMITED OWNERS.

46. The application for an order to charge a holding with an annuity in respect of any compensation agreed on and paid to a tenant under the 27th section, shall be in the form (A) in the Appendix to these rules, or as near thereto as the case will admit, and shall be accompanied by a map or plan of the holding proposed to be charged, showing the contents thereof in acres, and the bounds (with the names of the adjoining occupiers) enlarged from the Ordnance Survey to the scale of 25·344 inches to a statute mile. The application shall be verified by the Affidavit of the Limited Owner (or of some other person allowed by the Chairman), in the form (B) in the Appendix to these rules, and shall, with a copy thereof, be lodged with the statement and map, in the custody of the Clerk of the Peace amongst the records of the office, two months before the commencement of the Land Session at which the application is to be made.

47. The Clerk of the Peace shall, on receipt of such application, and on payment to him of the necessary postal fee for transmission of the same as a registered letter, forward the copy by Post, so registered, to the Chairman for perusal.

48. The Chairman may, on perusal thereof, require such Searches, Information, or Copies of Documents as he may consider



necessary, and may also direct such advertisements to be published, and such notices to be given as he may think proper.

49. The Limited Owner shall, after lodging his application, and twenty-one days before the commencement of the Land Session at which it is to be heard, serve a notice in the form (C) in the Appendix to these rules, on the person named in such application, as entitled to the first estate of inheritance expectant upon the determination of the estate of the Limited Owner; or, if such person shall be a married woman, on her husband, and if an infant, idiot, or lunatic, on his or her guardian or committee, as the case may be, and on such other person or persons as the Chairman may direct.

50. The Limited Owner shall, at the hearing, give evidence of the settlement under which he claims, and of all such other documents as shall, in the opinion of the Chairman, be necessary.

51. The Chairman may, at the hearing of such application, adjourn the same, and direct such further inquiries to be made, or further notices to be served, as he shall deem expedient.

52. If the residence of the person entitled to the first estate of inheritance be not known, or if he be absent from the United Kingdom, or if any difficulty exist either in determining the person answering such description, or by reason of the idiocy, infancy, or lunacy, or coverture of any person, such facts should be specially stated in the application, and the directions of the Chairman be, in the first instance, taken thereon.

53. The Charging Order shall be in the Form (D) in the Appendix to these rules, and shall be entered by the Clerk of the Peace in a book to be kept for that purpose, and shall be signed therein by the Chairman—and a copy of any order so made, attested and signed by the Clerk of the Peace, shall, on application be furnished to any person requiring the same, on payment to him for such copy of the sum of Three Pence per folio, or part of a folio.

54. Applications by Landlords or Tenants to the Civil Bill Court for the confirmation of any agricultural Lease granted, or proposed to be granted, under the 28th section of the Act, shall be in the Form (E or F), as the case may be, in the Appendix to these rules, or as near thereto as circumstances will admit, and be verified by affidavit, and be lodged with the Clerk of the Peace two months before the commencement of the Land Session at which the application is to be heard.

55. The Limited Owner or Tenant, as the case may be, shall, after lodging his application, and fourteen days before the commencement of the Land Session at which it is to be heard, serve notice on the Tenant or Limited Owner, as the case may be, of his intention to apply for the confirmation of such Lease, or proposed Lease.

56. At the hearing of such application the Chairman may direct further inquiries to be made, or further notices to be served, or advertisements to be published, if he shall deem it, from special circumstances, expedient to do so.

57. The Order confirming any Lease, whether with or without modifications, shall be entered by the Clerk of the Peace in a separate book to be kept for that purpose, and shall be signed therein by the Chairman, and shall be certified by the Clerk of the Peace on the original Lease and counterpart, or either of them, when such Lease and counterpart shall have been duly signed by the parties respectively, and when the same, or either of them, shall be presented to him for such purpose ; and such certificate shall be also countersigned by the Chairman, and a copy of any order so made, attested and signed by the Clerk of the Peace, shall, on application, be furnished to any person requiring the same, on payment to him of Three Pence per folio, or part of a folio.

58. All notices or other documents to be served on any person under the portion of the Act relating to Limited Owners may be served on him personally, or on any inmate of his house above sixteen years of age, at his usual place of abode ; or, where such person resides out of the country, and within the United Kingdom, by sending the same, through the Post, in a prepaid registered letter, addressed to him at his usual or last known place of abode, or may be served in such other manner as to the Court shall seem expedient. Any document to be served by Post shall be posted in such time as to admit of its being delivered, in due course of delivery, within the period prescribed for the service thereof ; and, in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put, as a prepaid registered letter, into the Post Office.

#### DEFINITIONS.

In the construction of these Rules the word Order shall include any Decree, Award, or Ruling.

The word Settlement shall include any Act of Parliament, Will, Deed, or other Assurance constituting the title of the Limited Owner, or the Person having the first estate of inheritance.

The expression Clerk of the Peace, shall include the Deputy Clerk of the Peace.

In the computation of time for the purposes of these Rules, Month shall mean calendar month ; and when the computation shall be by days, Sunday shall be excluded, and the days shall be exclusive of the first and inclusive of the last.

## APPENDIX TO THE RULES.

## FORMS FOR USE IN ORDINARY LAND CASES.

## (I.)—FORM OF A NOTICE OF CLAIM FOR DISTURBANCE.

*Landlord and Tenant (Ireland) Act, 1870.*

County of Limerick,  
 Division of Newcastle.  
*A. B.*, Tenant of the lands  
 of Mount Hawk, in the  
 barony of  
 and parish of  
*Claimant* ;  
  
*C. D.*, of  
 Landlord of the above-  
 named Tenant in respect  
 of the said lands,  
*Respondent.*

The said *A. B.*, asserting that he  
 is disturbed in the occupation of  
 such lands by the act of his Land-  
 lord.

[*Here state nature of the alleged  
 disturbance.*]

claims compensation for the loss  
 sustained by him in quitting his  
 holding, as follows :

at \_\_\_\_\_ years rent thereof (the holding being valued  
 at \_\_\_\_\_ per annum), and the annual rent being  
 The said *A. B.* also claims compensation for Improve-  
 ments made on said lands by himself, and by  
 \_\_\_\_\_, his predecessor in title [*if such is  
 the case*], viz. :—

£ s. d.

[*Here state nature of improvements if claimed for, such as Per-  
 manent Improvements, Reclamation of Waste Lands, Ordinary  
 Improvements, etc., as the case may be.*]

(Signed)

*A. B.*

Dated 1st August, 1870.

[Every item of demand must be specified with as much par-  
 ticularity as practicable; including dates, amounts, and the  
 nature and description of the claim.]

(II.)—FORM OF A NOTICE OF CLAIM FOR IMPROVEMENTS WHERE  
THE TENANT CLAIMS FOR IMPROVEMENTS ONLY,  
*Landlord and Tenant (Ireland) Act, 1870.*

County of Limerick.  
Division of Newcastle.  
*A. B.*, Tenant of the lands  
of Mount Hawk, in the  
barony of  
and parish of  
*Claimant* ;  
  
*C. D.*, of  
Landlord of the  
above-named Tenant, in  
respect of the said lands,  
*Respondent.*

The said *A. B.*, claims compensa-  
tion for Improvements made on the  
said lands by the said *A. B.*, [*or by*  
*E. F.*, his predecessor in title, or  
by both, as the case may be], as  
follows :—

[Enumerate and describe particularly the alleged improve-  
ments as in the preceding form.]

(Signed)

*A. B.*

Dated the 28th August, 1870.

(III.)—FORM OF A NOTICE OF CLAIM BY AN ULSTER TENANT IN  
CASE OF DISTURBANCE, NOT CLAIMING UNDER ANY ULSTER  
TENANT-RIGHT CUSTOM,  
*Landlord and Tenant (Ireland) Act, 1870.*

County of Donegal,  
Division of Buncrana.  
*A. B.*, Tenant of the lands  
of Mahanabo, in the ba-  
rony of  
and parish of  
*Claimant* ;  
  
*C. D.*, of  
Landlord of the above-  
named Tenant, in re-  
spect of the said lands,  
*Respondent.*

The said *A. B.* asserting that he  
is disturbed in the occupation of the  
said lands now held by him by the  
act of his landlord,

[*Here state nature of alleged dis-  
turbance.*]

and not claiming the benefit of any  
Ulster Tenant-right Custom, claims  
compensation for the loss sustained  
by him in quitting his holding [*here*  
*adapt the preceding forms to the*  
*statement of the present claim.*]

(Signed)

*A. B.*

Dated the 1st September, 1870.



(IV.)—FORM OF NOTICE OF CLAIM IN RESPECT OF AN ULSTER  
TENANT-RIGHT CUSTOM,*Landlord and Tenant (Ireland) Act, 1870.*

County of Donegal,  
Division of Buncrana.  
A. B., Tenant of the lands  
of Glounavadara,  
*Claimant* ;

C. D., of  
Landlord of the above-  
named Tenant, in re-  
spect of the said lands,  
*Respondent.*

The said A. B., claims to be entitled to the benefit of the following Tenant-right Custom, viz. [*here set out the right claimed*]; or claims the following sum as due to him by way of compensation under a tenant-right custom, &c. [*as before*].

[Here state with particularity the tenant-right custom in respect of which compensation is claimed, together with the amount and detailed particulars of the claim.]

(Signed)

A. B.

20th August, 1870.

[This form can be adapted to the case of a claim under section 2.]

(V.)—FORM OF A LANDLORD'S NOTICE OF DISPUTE OF THE  
WHOLE CLAIM,*Landlord and Tenant (Ireland) Act, 1870.*

County of Kerry,  
Division of Cahirciveen.  
A. B., tenant of the lands  
of Tubber, situate in the  
barony of ,  
and parish of ,  
*Claimant* ;

C. D., of ,  
landlord of the above-  
named tenant, in respect  
of the said lands,  
*Respondent.*

Take notice, that I, the said C. D., landlord of the said A. B., dispute the claim, and every part thereof, made by him for compensation in respect of the lands of Tubber, and that in the event of the claim of the said A. B., or any portion thereof, being allowed, I will rely upon the following items of set off in satisfaction or reduction of said claim.

[Here enumerate and describe the items of the alleged set off with as much particularity as possible, including dates, amounts, and the nature and description thereof.]

(Signed), C. D.

(VI.)—FORM OF A LANDLORD'S NOTICE OF DISPUTE OF A PORTION OF A CLAIM,

*Landlord and Tenant (Ireland) Act, 1870.*

County of Kerry,  
 Division of Cahirciveen.  
*A. B.*, tenant of the lands  
 of Tubber, situate in the  
 barony of \_\_\_\_\_,  
 and parish of \_\_\_\_\_,  
*Claimant* ;  
  
*C. D.*, of  
 landlord of the above-  
 named tenant, in respect  
 of the said lands,  
*Respondent.*

Take notice, that I, the said *C. D.*,  
 landlord of *A. B.*, dispute the fol-  
 lowing items of the claim made by  
 him for compensation in respect of  
 the lands of Tubber.

	£	s.	d.
No. 1. The item for the erection of buildings,	20	0	0
No. 2. The item for unexhausted tillages and manures,           ...           ..           ...	50	0	0
But I admit and am willing to allow the item, No. 3, for gates and fences,       ...       ...	10	0	0

And I hereby give notice that I will rely upon the following items of set off, namely :—

[Insert particulars, as in preceding Form directed.]

(Signed,)

*C. D.*

(VII.)—FORM OF DECREE,  
*Landlord and Tenant (Ireland) Act, 1870.*

County of Wicklow, Division of Arklow. A. B., of The Scalp, tenant of the lands of Goat's Hill, situate in the ba- rony of parish of and county aforesaid, <i>Claimant;</i>	}	By the Chairman of Quarter Sessions for the County of [Wick- low.]
C. D., of landlord of the above- named tenant, in respect of the said lands, <i>Respondent.</i>	}	

The Court having heard and investigated a claim, duly made and prosecuted under the said Act, in which the Claimant sought compensation in respect of [disturbance in his holding of the said lands to the amount of £ ] and for [improvements effected therein to the amount of £ ] and for [ ], and in which the said C. D., admitted or disputed such claim, and relied on a claim for [set off, &c.] (as the case may be); (*or, if no appearance by the Respondent*) [and it appearing to the Court that notice of said claim was duly served upon the said C. D.]\* and it appearing to the Court that the said A. B. has established his claim for

[*Here state particulars of loss sustained by the Tenant in quitting his holding which have been allowed.*]

and for

[*Here state the particulars of improvements and payments to predecessors allowed.*]

making together the sum of £ , and it further appearing that the said C. D. has established

[*Here state particulars of any set off, objection, default, or conduct of the Tenant, allowed or taken into account.*]

making together the sum of £ [or has failed to establish his said claim.

It is adjudged that after deducting the said sum of £ from the said sum of £ , there is due by the said C. D. to the

said *A. B.* the sum of £            in respect of the said claim, which said sum of £            the said *C. D.* is hereby ordered to pay to the said *A. B.*, together with the sum of £           , for costs and £            for expenses of witnesses. And the several Sheriffs of the respective counties of Ireland are hereby commanded, notwithstanding any liberty within their bailiwicks, to enter the same, and take in execution the [body or goods, as the case may be] of the Respondent(s) to satisfy the said sum of £            and costs.

Dated this        day of            in the year One Thousand Eight Hundred and Seventy.

Sum recovered,        .        .        £  
 Costs,                .        .        .        £  
 Witnesses' expenses, .        .        £  
 Warrant,             .        .        .        £

E. F.—Chairman of Quarter Sessions for said county.

G. H.—Clerk of the Peace for the said county.

I. K.—Attorney for the Claimant(s).

[NOTE.—If any default or unreasonable conduct of either party under the 18th section has been relied on at the hearing, the Decree should notice the fact, and specify the allowance or disallowance of the claim and the sum (if any) awarded in respect of such item.]

(VIII.)—FORM OF DISMISS,

*Landlord and Tenant (Ireland) Act, 1870.*

County of Wicklow,  
 Division of Arklow.

*A. B.*, of the Scalp, Tenant of the lands of Goat's Hill, situate in the barony of           , parish of           , and county aforesaid,  
*Claimant*;

*C. D.*, of           , in said county, Landlord of the above-named Tenant, in respect of the said lands,  
*Respondent.*

By the Chairman, &c. [Proceed as in last form to \*.]

And it appearing to the Court that the said *A. B.* has failed to establish his said [several claims] or his said claim in respect of           , [see preceding form] but has established his said claim in respect of            to the amount of £           . And it further appearing that the said *C. D.* has established his claim for [see preceding form] to an amount equalling [or exceeding] the said sum of £           . It is therefore ordered that the claimant's said claim be, and the same is hereby dismissed,



and that the Respondent(s) do recover against the Claimant(s) the sum of £ costs of this dismiss, together with for witnesses' expenses. And the several Sheriffs in Ireland are hereby commanded, notwithstanding any liberty within their respective bailiwicks, to enter the same and take in execution the Claimant's [body or goods, as the case may be] to satisfy and pay the Respondent(s) the said cost of obtaining this dismiss.

Dated at , this day of , One Thousand Eight Hundred and Seventy.

Cost of dismiss,	.	.	.	£
Witnesses' expenses	.	.	.	£

E. F.—Chairman of Quarter Sessions for said county.

G. H.—Clerk of the Peace of said county.

I. K.—Attorney for the Respondent(s).

(IX.)—FORM OF DECREE ON A CLAIM UNDER AN ULSTER TENANT-RIGHT CUSTOM,

*Landlord and Tenant (Ireland) Act, 1870.*

County of Donegal,  
Division of Buncrana.  
A. B., of , Tenant  
of the lands of Mahana-  
bo, in the barony of  
parish of ,  
and county aforesaid,  
*Claimant* ;  
C. D., of , Land-  
lord of the said A. B.,  
in respect of the said  
lands,  
*Respondent.*

By the Chairman, &c.  
The Court having heard and investigated a claim duly made and prosecuted under the said Act, in which the Claimant made a claim in respect of a certain Ulster Tenant-right custom, that is to say [here set out the right claimed], [here adapt Form No. VII. to the circumstances of this case].

[This form can be adapted to the case of a claim under sec. 2.]

(X.) FORM OF DISMISS OF A CLAIM UNDER AN ULSTER TENANT-RIGHT CUSTOM,

*Landlord and Tenant (Ireland) Act, 1870.*

County of Donegal,  
Division of Buncrana.  
A. B., of \_\_\_\_\_, Tenant  
of the lands of Mahana-  
bo, in the barony of  
parish of \_\_\_\_\_,  
and county aforesaid,  
*Claimant* ;  
C. D., of \_\_\_\_\_, Land-  
lord of the said A. B.,  
in respect of the said  
lands,  
*Respondent.*

By the Chairman of Quarter Ses-  
sions for said county. [Proceed as  
in last form to \* and then adapt  
Form No. VIII, to meet the circum-  
stances of the case.]

(XI.)—FORM OF SUBMISSION TO ARBITRATION AND APPOINTMENT  
OF ARBITRATORS AND UMPIRE,

*Landlord and Tenant (Ireland) Act, 1870.*

County of Kilkenny,  
Division of Thomastown,  
John Smith, of \_\_\_\_\_,  
Tenant of the lands  
of Piltown, in the ba-  
rony of \_\_\_\_\_,  
*Claimant* ;  
Patrick Power, of \_\_\_\_\_,  
Landlord  
of the above-named Te-  
nant in respect of the  
said lands,  
*Respondent.*

Whereas John Smith has claimed  
for compensation under this Act, in  
respect of the lands in the title here-  
of, the sum of £ \_\_\_\_\_, by reason  
of disturbance in his occupation, by  
the act of the said Patrick Power  
[as the case may be]; and the sum  
of £ \_\_\_\_\_, for improvements ef-  
fected thereon, as appears by the  
notice of claim bearing date the  
\_\_\_\_\_, lodged on the \_\_\_\_\_ day of \_\_\_\_\_,  
in the office of the Clerk of the  
Peace. And whereas the said Pa-  
trick Power disputes the said claim,

and relies moreover, in satisfaction or reduction of same, upon a  
set off amounting to £ \_\_\_\_\_, for \_\_\_\_\_ or £ \_\_\_\_\_, damages  
for \_\_\_\_\_ [as the case may be], as appears by the notice of dis-  
pute, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, lodged in the office of  
the Clerk of the Peace.

It is hereby agreed by and between the said parties, to refer such dispute to the order, award, and final determination of *A. B.* of \_\_\_\_\_ and *C. D.* of \_\_\_\_\_ pursuant to the provisions of the said Landlord and Tenant (Ireland) Act, 1870, in that behalf provided. Accordingly the said John Smith hereby appoints *A. B.*, of \_\_\_\_\_, to be and act as his arbitrator herein, and the said Patrick Power hereby appoints *C. D.* of \_\_\_\_\_, to be and act as his arbitrator in accordance with the provisions of the said Landlord and Tenant (Ireland) Act, 1870.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
 (Signed) JOHN SMITH.  
 Witness—  
 (Signed) PATRICK POWER.  
 Witness—

The said *A. B.* and *C. D.*, the arbitrators so hereby appointed do hereby, and before entering upon the matters herein referred to them, in accordance with the said Act, appoint *E. F.* of \_\_\_\_\_ to be, and act as Umpire, in case of difference between them.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
 (Signed) *A. B.*  
*C. D.*

Witness—

## FORMS FOR USE IN CASES OF LIMITED OWNERS.

(A.)—FORM OF APPLICATION BY A LIMITED OWNER TO THE CHAIRMAN OF QUARTER SESSIONS FOR A CHARGING ORDER, IN RESPECT OF COMPENSATION AGREED ON, AND PAID,

*Landlord and Tenant (Ireland) Act, 1870.*

TO THE CHAIRMAN OF QUARTER SESSIONS OF THE  
 COUNTY OF \_\_\_\_\_

County of \_\_\_\_\_  
 Division of \_\_\_\_\_  
 In the case of the Estate  
 of *A. B.*, a Limited  
 Owner of land, and *C. D.*  
 the person entitled to  
 the first subsequent es-  
 tate of inheritance there-  
 in.

The Applicant sheweth as fol-  
 lows :

1. That under a deed dated the  
 \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, and made  
 between, &c. [*or*, under the last will  
 of \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_,  
 and duly executed], the Applicant  
 is entitled to an estate for the term  
 of his life, and for his own benefit,  
 in the lands of \_\_\_\_\_

2. That the estate in the lands subject to the trusts of such deed [*or will*], is an estate in fee-simple [*or, an estate for lives, or years renewable for ever, or as the case may be.*]

3. That the said *C. D.*, of \_\_\_\_\_, now residing at \_\_\_\_\_, (the post town of which is \_\_\_\_\_, in the county of \_\_\_\_\_) is the person now entitled to the first estate of inheritance in said lands, expectant on the determination of the Applicant's estate therein.

4. That the said *C. D.* is of full age, and not under any disability [*if an infant, lunatic, &c., state the fact, and the name and residence of the guardian, committee, &c.*]

5. That the Applicant has been in receipt of the rents and profits of said lands since the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.

6. That the Applicant on the \_\_\_\_\_ day of \_\_\_\_\_, agreed with *E. F.* of \_\_\_\_\_, then being a tenant [from year to year, or as the case may be], of a portion of said lands, called \_\_\_\_\_, specified in the map hereto annexed, containing \_\_\_\_\_ acres, or thereabouts, to pay to him the sum of £ \_\_\_\_\_, as the amount of compensation payable to him for [disturbance, improvements, &c., *as the case may be*], under the 27th section of said Act.

7. That such agreement was a fair and equitable one, as between him and such tenant, having regard to said Act, and that he has paid the said sum of £ \_\_\_\_\_, to the said *E. F.*

8. That the Applicant now seeks for an order to charge the said holding of \_\_\_\_\_, in respect of such payment, with the annuity of £ \_\_\_\_\_, to be limited in favour of the Applicant *A. B.*, his executors, administrators, and assigns, to be payable for a term of Thirty-five years, from the \_\_\_\_\_ day of \_\_\_\_\_ [the date of the payment of the principal sum].

*A. B.*

[Signature of Applicant and Residence.]

[Map of Holding, with the bounds and names of adjoining occupiers, to be annexed enlarged from the Ordnance Survey to the scale of 25·344 inches to a Statute mile.]



(B.)—FORM OF AFFIDAVIT VERIFYING THE APPLICATION BY A LIMITED OWNER FOR A CHARGING ORDER IN RESPECT OF COMPENSATION PAID.

*Landlord and Tenant (Ireland) Act, 1870.*

County of _____ Division of _____ In the case of the Estate of <i>A. B.</i> , a Limited Owner, &c.	}	A. B. of _____, in the county of _____, maketh oath and saith, that he has read the accompanying appli- cation for a Charging Order, signed by him, or by _____ [as the case may be], and that the contents there- of are true, to the best of his knowledge, information, and belief. <div style="text-align: right;">[Signature of deponent.]</div>
--	---	--

(C.)—FORM OF NOTICE TO BE SERVED ON THE PERSON HAVING THE FIRST ESTATE OF INHERITANCE IN THE LANDS, BY A LIMITED OWNER WHO HAS LODGED HIS APPLICATION FOR A CHARGING ORDER IN RESPECT OF COMPENSATION AGREED ON, AND PAID.

SIR,—Take notice, that an application has been lodged by me with the Clerk of the Peace for the county of \_\_\_\_\_, claiming to be the Limited Owner of the lands of \_\_\_\_\_, in the county of \_\_\_\_\_, praying that the Chairman of the said county may order the holding of \_\_\_\_\_, late in the occupation of E. F., as my tenant, to be charged in my favour with the annuity of £ \_\_\_\_\_ for the term of thirty-five years, in respect of the sum of £ \_\_\_\_\_ paid by me to the said E. F. by agreement, as compensation to him for [*disturbance, improvements, &c., as the case may be*] under the 27th section of the Land Improvement (Ireland) Act, 1870, as mentioned in such application; and I hereby give you notice, that you are stated therein to be the person having the first estate of inheritance in said lands, within the meaning of the said Act; and that such application will be heard at the Land Session to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next, at which, if you object to such application, you are hereby required to attend; or in default the Chairman will proceed as he may deem right.

(Signed) *A. B.* [Limited Owner].

To *C. D.* [the person having the first estate of inheritance in the lands]  
*to be addressed to his residence and post-town.*

(D.)—FORM OF A CHARGING ORDER FOR AN ANNUITY IN RESPECT OF COMPENSATION AGREED ON AND PAID BY A LIMITED OWNER,

*Landlord and Tenant (Ireland) Act, 1870.*

BY THE CHAIRMAN OF THE QUARTER SESSIONS OF THE COUNTY OF——

County of  
Division of  
In the case of the Estate  
of *A. B.*, a Limited  
Owner of land, and *C. D.*,  
the person entitled to  
the first estate of inher-  
itance therein.

It appearing to the Court that the said [*A. B.*] being a Limited Owner of the lands of \_\_\_\_\_, in the said county, on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ agreed with [*E. F.*] then being tenant to him [*state tenant's interest*] of a portion of the said lands called \_\_\_\_\_, containing \_\_\_\_\_ acres, or thereabouts, to pay to the said [*E. F.*] the

sum of £ \_\_\_\_\_, as the amount of compensation payable for disturbance, improvements, &c., [*as the case may be*] under the 27th section of said Act, and that the said [*A. B.*] had paid to the said [*E. F.*] the amount of said compensation.

And it appearing that the said [*A. B.*] duly caused to be served personally [*or, if otherwise, state mode of service*] on [*C. D.*], the person entitled to the first estate of inheritance in said lands, a notice signed by the said [*A. B.*] stating the fact of such agreement and payment, and his intention to apply for an order to charge such holding with an annuity of £ \_\_\_\_\_ in his favour for the term of thirty-five years, and the said [*C. D.*] having appeared before the Court, was duly heard [*or in case of no appearance, say*, And whereas proof was given to the Court that twenty-one days' previous notice of the intention of the said [*A. B.*] to make such application had been duly served on the said [*C. D.*], or his agent, etc.] And it having been proved to the satisfaction of the Court that the said sum of £ \_\_\_\_\_ was paid by the said [*A. B.*], to said [*E. F.*] *Now, it is hereby ordered* that the lands of \_\_\_\_\_, containing \_\_\_\_\_ acres, in the barony of \_\_\_\_\_, and county of \_\_\_\_\_, as specified in the map lodged in this case in the Office of the Clerk of the Peace for the said county, be charged with an annuity of £ \_\_\_\_\_ in favour of the said [*A. B.*] his executors, administrators, and assigns, for the term of thirty-five years,

payable on the            day of            in each year, commencing from  
 the       day of       18  
 [Follow the words of the Order as made by the Chairman.]  
 Dated this       day of

\_\_\_\_\_  
 Chairman of the Quarter Sessions of  
 the county of  
 \_\_\_\_\_

(E.)—FORM OF APPLICATION BY A LIMITED OWNER TO THE CHAIRMAN OF QUARTER SESSIONS FOR AN ORDER OF CONFIRMATION OF A LEASE, OR PROPOSED LEASE,

*Landlord and Tenant (Ireland) Act, 1870.*

TO THE CHAIRMAN OF QUARTER SESSIONS OF THE  
 COUNTY OF \_\_\_\_\_

County of Division of In the case of <i>A. B.</i> , (a Limited Owner) seeking for an Order of Confir- mation of a Lease, [ <i>or</i> proposal for a Lease.] _____	}	The applicant showeth as follows : 1. That he is entitled to an estate for his life, and for his own benefit, in the lands of _____, in the barony of _____, and county of _____, under a deed dated the day of _____, made between, etc., [ <i>or</i> under the last will, <i>or, etc., of _____, dated the _____ day of _____, and duly executed.]</i>
--	---	--

2. That he is in receipt of the rents of said lands.

3. That he has granted [*or* has proposed to grant] to (*C. D.*) an agricultural lease of the lands of \_\_\_\_\_ containing \_\_\_\_\_ acres, or thereabouts, part of said estate, the date of such lease or agreement being the \_\_\_\_\_ day of \_\_\_\_\_ 18

4. That such lease [*or* proposed lease] is for the term of \_\_\_\_\_ years, [*as the case may be*] at the yearly rent of £ \_\_\_\_\_ which is a fair yearly rent for the same ; the General Tenement Valuation thereof being £ \_\_\_\_\_

and that the applicant has not received, or contracted for, nor will he receive or contract for any consideration in the nature of a fine, premium, or foregift for said lease [*or* proposed lease.]

5. That the holding thus leased [*or* proposed to be leased] does not include any mansion house or demesne lands.

The applicant, therefore, applies that such lease [*or* proposed lease] may be confirmed by the Court.

[Signature of Applicant.]

*Verification.*

County of Division of In the case of the Estate of <i>A. B.</i> , a Limited Owner, &c.	}	A. B. of _____, in the county of _____, maketh oath and saith, that he has read the accompanying application for an Order of Confir- mation of a Lease, signed by him, or by _____ [as the case may be], and that the contents thereof are true, to the best of his knowledge, information, and belief.
--	---	--

[Signature of deponent.]

(F.)—FORM OF APPLICATION BY A TENANT [*or* PROPOSED TENANT]  
 TO THE CHAIRMAN OF QUARTER SESSIONS FOR AN ORDER OF CON-  
 FIRMATION OF A LEASE, OR PROPOSED LEASE,

*Landlord and Tenant (Ireland) Act, 1870.*

TO THE CHAIRMAN OF QUARTER SESSIONS OF THE  
 COUNTY OF \_\_\_\_\_

County of Division of In the case of <i>E. F.</i> , a te- nant [ <i>or</i> proposed te- nant] seeking for an Order of Confirmation of a lease [ <i>or</i> proposed lease.]	}	The Applicant showeth as follows: 1. That [ <i>A.B.</i> ] of _____, in the county of _____, and now resid- ing at _____, is, as Limited Owner, entitled to an estate for his life, and for his own benefit, in the lands of _____, in the barony of _____, and county of _____ 2. That the said [ <i>A.B.</i> ] is in re-
---	---	---

ceipt of the rents of said lands, and has by lease bearing date the  
 day of \_\_\_\_\_ granted the lands of \_\_\_\_\_, contain-  
 ing \_\_\_\_\_ acres, or thereabouts, part of said estate to applicant,  
 as tenant for the term of \_\_\_\_\_ years, [*as the case may be*], and  
 that he is now in possession thereof. [*If a proposal for a lease,*  
*alter the preceding paragraph accordingly.*]

3. That the yearly rent reserved on said lease [*or* proposed to  
 be reserved] is £ \_\_\_\_\_, and is a fair yearly rent for the same,  
 the General Tenement Valuation thereof being £ \_\_\_\_\_; and  
 that the applicant has not given, or contracted for, nor will he  
 give, or contract for any consideration in the nature of a fine,  
 premium, or feregift for said lease [*or proposed lease.*]



4. That the holding thus leased [*or proposed to be leased*] does not include any mansion house or demesne lands.

The applicant, therefore, applies that such lease [*or proposed lease*] may be confirmed by the Court.

[Signature of applicant.]

---

*Verification.*

County of	}	A. B. of	in the county of
Division of		,	maketh oath and saith,
In the case of the Estate	}	that he has read the accompanying	
of <i>E. F.</i> , a Tenant, &c.		application for an Order for Confirmation of a Lease, signed by him, or	

by [as the case may be], and that the contents thereof are true, to the best of his knowledge, information, and belief.

[Signature of deponent.]

---

SCHEDULE (A).

SCHEDULE OF FEES REFERRED TO IN RULE 24,  
*Landlord and Tenant (Ireland) Act, 1870.*

COUNSEL'S FEES.

	£	s.	d.
To claimant's counsel, where the sum in the Notice of Claim shall not exceed £100, ... ..	1	1	0
Where the claim shall exceed £100, ... ..	2	2	0
To Defendant's counsel, like fees.			

ATTORNEY'S FEES.

To the claimant's attorney, for attending and taking instructions in all Land Cases, reading over leases, deeds, wills, or other documents, ... ..	0	6	8
Drawing the Notice of Claim, ... ..	0	3	4
For every copy thereof actually lodged, served, or posted, ... ..	0	1	0
To the claimant's attorney, for advising the proofs, entering the case, and attending the hearing,	1	1	0

	£	s.	d.
To respondent's attorney, for taking instructions, reading over leases, &c., ... ..	0	6	8
Drawing the Notice of Dispute, with particulars of Set-off, or Claim to accompany such Notice (if any),	0	3	4
For every copy thereof actually lodged, served or posted, ... ..	0	1	0
To the respondent's attorney for advising the proofs, entering the case, and attending the hearing,	1	1	0
Attending to obtain consent to act as guardian <i>ad litem</i> , and drawing consent therefor, ... ..	0	3	4
To the claimant's or respondent's attorney for preparing any decree, dismiss, or award ; and attending the chairman to sign the same, ... ..	0	6	8
Drawing costs between party and party, and attending the chairman for taxation thereof, ... ..	0	3	4
Preparing instructions for counsel, and attending him whenever counsel is employed, ... ..	0	6	8
For moving or opposing any interlocutory application to the Court, ... ..	0	2	6
Preparing the notices and affidavits where necessary to support or resist such application, a sum not exceeding, ... ..	0	5	0

APPEALS.

To counsel for the parties respectively the same fees on appeals as on the hearing before the chairman.			
To attorneys for the parties respectively, ...	1	1	0

O'HAGAN, *C.*  
 EDWARD SULLIVAN, *M.R.*  
 JAMES HENRY MONAHAN, *C.J. Com. Pleas.*  
 D. R. PIGOT, *C.B.*  
 HEDGES EYRE CHATTERTON, *V.C.I.*  
 JAMES O'BRIEN.  
 J. D. FITZGERALD.  
 R. DEASY.  
 JOHN GEORGE.  
 JAMES A. LAWSON.

The Landlord and Tenant (Ireland) Act, 1870.

---

R U L E S ,

WITH

APPENDIX OF FORMS AND DIRECTIONS,

FOR

CARRYING OUT SALES THROUGH THE LANDED ESTATES COURT.

---

R U L E S .

THE PRIVY COUNCIL IN IRELAND, under the authority of the LANDLORD AND TENANT (IRELAND) ACT, 1870, and pursuant to the provisions of the same, have made and issued the following code of RULES, FORMS, and DIRECTIONS for the carrying out of sales of land to tenants under the said Act.

1. In the construction of these Rules and the Appendix hereto, and of any future Rules to be made under the authority and for the purposes aforesaid, the same meanings shall be assigned to words as are assigned to them by the said Act; the word "Board" shall mean Board of Commissioners of Public Works; and the word "Court" shall mean the Landed Estates Court; and the word "Judge" shall mean either of the Judges thereof; and the words "Examiner," "Officer," and "Clerk," respectively, shall be deemed to refer to officers of the said Court; and any act, matter, or thing to be done by the Court may be done by either of the Judges thereof.

2. Every agreement to be made for the purchase of a tenant's holding under the second part of the Act, shall be in writing, signed by the parties, and shall be subject to the approval of the Court. The agreement may be in the form [No. 1] in the Appendix hereto, and may comprise the holdings of two or more tenants.

3. All proceedings in the Court under the second part of the Act shall commence by STATEMENT, following the form No. 2, 3, 4, or 5 in the Appendix hereto, with such variations as the case may require. The statement shall be fairly written on post paper, book-wise, with sufficient margin, and shall be divided into para-

graphs ; and the same shall be signed and verified, and lodged in the office of Records and Affidavits of the Court, as in the case of a petition for sale. The address of every person named as interested in the premises shall be set forth, as far as the same may be known to the applicant. Where the application is made by the landlord several sales of holdings may be comprised in the same statement.

4. As the conveyance by the Court to the tenant will discharge the holding from any sub-tenancy existing therein, no sale of any holding will be made under the Act to any tenant unless such tenant be under his tenancy in, or entitled to, the actual possession of the holding, or unless every sub-tenant on the holding consents in writing to such sale being made.

5. To the statement shall be annexed a copy of the agreement for sale ; and also the following schedules, so far as the nature of the case will admit, viz. :—

(1.) A schedule of the parcels or townlands, with the tenants on each, their respective quantities, rent, and tenure, and general valuation of the premises ; also the head-rent (if any), rent-charge, and other outgoings ; also the tenure or interest of each tenant in his holding, and who is in the actual occupation thereof.

(2.) Schedule of all charges and incumbrances, existing or claimed ; also the amounts due on each, and the place of abode and post-town of each person interested therein, so far as the same is known.

It shall not be necessary to inquire into, or in the statement or the schedule thereto to set forth, any rights of way, rights of turrery, or other easements.

Every statement shall be accompanied by a copy for the use of the Judge.

On the lodgment of a statement, the date of reception and a distinguishing number shall be endorsed thereon, and on the accompanying documents, by the officer receiving the same, who shall thereupon transmit the same to the Examiner's Office to be laid before the Judge. An Index Book shall be kept in the Record Office of every statement, with the name of the Judge in rotation before whom such statement is to be sent.

6. Where the estate is in settlement, the statement shall set forth the names and addresses of the first tenant in tail in existence (if any) under the settlement, and of all persons having any beneficial estate or interest under, or by virtue of the settlement prior to the estate of such tenant in tail, and of all trustees having any estate or interest on behalf of any unborn child prior to the estate of such tenant in tail. And if there shall be no



tenant in tail in existence, the statement shall set forth the names and addresses of all the persons in existence having any beneficial estate or interest under or by virtue of the settlement, and also of all trustees having any estate or interest on behalf of any unborn child.

7. All moneys (including any sum required by the Court to be lodged as a security for costs in pursuance of the 34th section of the Act) shall be lodged in the Bank of Ireland to the account of the Court and the credit of the particular matter.

8. The original deeds or documents, material to the title, need not in the first instance be lodged in Court unless the Judge shall otherwise direct. Any person having the custody of any document relating to the title shall, if so ordered and on such terms as the Judge shall think just, produce or hand over the same to the solicitor having the carriage of the proceedings for the purposes of the sale. The Judge will state in its directions on the title whether it requires the deeds to be deposited in Court, or merely produced to the Examiner for inspection. The abstract of title must show the title of the purchasing tenant as well as the title of the landlord.

9. The draft of the conveyance to a purchasing tenant shall be sent for approval to the Solicitor of the Board of Works whenever the Board has advanced any part of the purchase-money, and shall be in the Form [No. 8] in the Appendix hereto, with such variations as the case may require.

10. If any purchasing tenant who has obtained an advance of money from the Board towards the completion of his purchase, shall for the space of two months thereafter omit or neglect to take the proper steps to obtain from the Court a conveyance of the premises, the solicitor of the Board may (with the sanction of the Court) take steps to have such conveyance prepared and executed. And in such case the costs of the conveyance, and the stamp duty, and other outlay incidental thereto, shall be a lien or charge in favour of the Board on the premises conveyed and on the deed of conveyance thereof.

11. The agreement for sale may provide for the costs and expenses incidental to the sale. So far as the same may not be so provided for by the agreement or by the Act or rules, all costs and expenses incidental to sales under the second part of the Act shall be payable as follows :—

(1.) The per centage fee or duty, the costs of the statement, of making out the landlord's title, and of subsequent proceedings shall be borne by the vendor, and shall be a charge on any fund in Court to which he is entitled.

(2.) The costs of making out the tenant's title, and of pre-

paring and taking out the conveyance shall be borne by the purchaser.

12. Any person coming within the provisions of the 39th section of the Act shall be entitled to such sum not exceeding two guineas for his costs incidental to the proceeding as the Judge may direct, or as the Examiner may certify for ; and the amount so certified for shall be payable forthwith on production of such certificate at the Paymaster's Office, Dublin Castle. Any further claim for costs which may be made under the 39th section of the Act shall be brought before the Judge on notice to the solicitor for the Treasury.

13. In the absence of any contract in pursuance of the "Attorneys and Solicitors Act, 1870," as to the costs of proceedings under the second part of the Act, they shall be taxed by the Taxing Officer of the Court according to the schedule of fees for the time being of the Court. A fee of 1½d. for every folio of 72 words may be charged for attested copies of documents. No other sums or fees shall be payable under this Act to any officer or clerk of the Court.

14. If in the peculiar circumstances of any case it shall appear to the Judge safe and expedient, he may make an order dispensing with the lodgment of an abstract of title, schedule of incumbrances, or rental, or any or all of them, and such order shall state what documents shall be used in lieu of the abstract, schedule, or rental, so dispensed with.

15. The Judge may, by his Order, direct that any moneys arising from a sale under the second part of the Act which are not immediately distributable, shall be laid out in the purchase of land which shall be limited and settled, to such uses and upon such trusts and for such purposes as shall be in such order stated ; and until such money can be so laid out it may under such order as aforesaid be transferred or paid over to the Trustees to be appointed or approved by the Judge for the purpose of being so laid out as aforesaid, with such power for the investment thereof in Government Stocks, Funds, or Securities in the meantime, and such directions for the payment of the income of such investment in the manner in which the rents of the land to be purchased would be applicable, as the Judge shall think fit.

16. The Judge may, by his Order, appoint trustees to receive and invest, and from time to time to call in and re-invest, any moneys arising from a sale under the second part of the Act, which are not immediately distributable, and such order shall declare the trusts affecting such moneys, and the nature of the securities on which the trustees may invest the same : Provided always that no investment or re-investment of the said moneys

(save in the Government funds) shall be made by the said trustees without the consent of the Judge.

17. Where any person who (if not under disability) might have made any application (other than an application to sell an estate under the said Act), given any consent, done any act, or been party to any proceedings under the said Act, shall be a minor, idiot, lunatic, or married woman, the guardian, committee of the estate, and husband respectively, of such person, may make such applications, give such consents, do such acts, and be party to such proceedings, as such persons respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of the said Act; but a married woman, entitled for her separate use (with or without power of anticipation), shall, for the purposes of the said Act, be deemed a feme sole : Provided always, that where there shall be no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person, the committee of whose estate, if he were an idiot or lunatic, would be authorised to act for and represent such person under the said Act, shall be of unsound mind or incapable of managing his affairs, but shall not have been found idiot or lunatic under an inquisition, it shall be lawful for the Judge to appoint a guardian of such person for the purpose of any proceedings under the said Act, and from time to time to change such guardian ; and where the Judge sees fit, he may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under the said Act, and from time to time remove or change such next friend ; and the Order appointing any person to act as guardian or next friend of a person under disability shall be served on such guardian or next friend by the Solicitor having the carriage ; and all Notices and Orders subsequently served upon such persons shall be deemed to have been duly served upon the party so under disability.

18. A notice of any sale to be made under the second part of the said Act, and which may be in the Form No. 6 in the Appendix hereto, shall be served on every registered incumbrancer ; and all notices to which any registered incumbrancer is entitled shall be served by sending the same through the post, in a pre-paid letter, addressed to such incumbrancer at his last known place of abode, as shown by some affidavit or verified statement, filed in the Court ; and all such services as aforesaid shall be effected through the Notice Office of the Court. All other services shall be effected in the manner directed by the rules of the Landed Estates Court for the time being.

19. All business, save when transferred to the Court list as



hereinafter provided, shall be regarded as Chamber business ; but the Judge may certify for the attendance of one Counsel in Chamber for each party in any proceeding, or may transfer any matter requiring argument to the Court list. The Judge may also certify for a fee to Counsel for perusing and settling a draft statement in cases in which the aid of Counsel may appear to it to have been necessary.

20. The Conveyance shall be under the Seal of the Court, and may be in the form in the Appendix hereto annexed, or to the like effect.

21. So far as these rules and the forms and directions in the Appendix hereto, or any rules hereafter to be made by the Privy Council in Ireland, under the authority aforesaid, may not extend, the rules, forms and directions, regulations, and procedure for the time being of the Landed Estates Court shall be observed and followed where the same may be applicable to proceedings under the second part of the Act, and shall not be at variance with the same or with these rules.

---

## APPENDIX.

---

### FORMS AND DIRECTIONS.

Issued by THE PRIVY COUNCIL IN IRELAND, under the authority of "The Landlord and Tenant (Ireland) Act, 1870," to be used and followed in the cases to which they are respectively applicable, but with such variations as may be required by the circumstances.

NOTE.—So far as these forms are not applicable, the existing forms used in proceedings in the Landed Estates Court, may be used and followed.

#### FORM No. 1.

##### AGREEMENT FOR SALE UNDER SECTION 32 OF THE ACT.

MEMORANDUM OF AGREEMENT pursuant to the Landlord and Tenant (Ireland) Act, 1870, between Augustus Boyd, of &c. D.L., (the vendor), and Cornelius Dunne, of &c. (the purchaser). The vendor agrees to sell and the purchaser agrees to buy the fee-simple of the townland of Barmeen, in the parish of Newtown and Barony and county of Louth, as now in the purchaser's occupation [by virtue of a lease for, &c.] The purchase-money is to be £750, payable at such time and in such manner as the Landed



Estates Court shall direct. The tenant's rent is to be payable up to and including the gale day next before the day on which the tenant shall be declared the purchaser by the Court.

The purchaser is to take subject to an annuity of £6 8s. payable half-yearly, in respect of a loan for drainage under the Act 10 and 11 Vic., chap. 32, and Acts amending the same, which determines on the 1st of May, 1872. He is also to take subject to the tithe-rentcharge of 16s. 6d. per annum, and the Quit-rent of 26s. 6d. per annum to which these premises are liable, but with such right of indemnity or contribution (if any) as now exists, or is just in respect of said Quit-rent which is payable out of this and the adjoining townland of

The application to the Court is to be made by the vendor alone [or by a Solicitor for vendor and purchaser jointly], to carry out the sale as aforesaid, and is to be diligently prosecuted according to the rules and directions in that behalf made.

See (4.) below. All costs and expenses properly incurred as incidental to the application to the Court to carry the sale into effect are to be borne by——

This agreement is subject to the approval of the Court ; and it is to be null and void if the Court refuses to carry the sale into effect, [or if the Board of Works declines to make an advance of two-thirds or one-half as the case may be of the purchase-money for the completion thereof under the Act.]

Dated,

A. B.  
C. D.

Signed in }  
presence of }

---

#### DIRECTIONS.

The agreement for sale under Section 32 between landlord and tenant, whatever be the form in which it is drawn, should always specify clearly—

- (1.) The amount and particulars of payment of purchase-money.
- (2.) The period at which the tenant's rent shall cease to be payable.
- (3.) Whether the application to the Court shall be made by both parties jointly, or by one of them, with the consent of the other.
- (4.) How the costs of the application are to be borne unless it is intended that they shall be regulated by Rule 11.
- (5.) Subject to what charges (if any) the sale is made.
- (6.) If there are any deeds such as leases or the like relating to other lands than those for sale, it should be stated in whose custody they are to remain, or if any deeds proper to be handed to the purchaser are not forthcoming the fact should be stated.

(7.) If the agreement be conditional on the making of an advance by the Board of Works, this should be mentioned.

The agreement should always be prepared in duplicate (one for each party) with a sixpenny agreement stamp on each part.

By rule No. 2, any agreement for sale made pursuant to the Act is subject to the approval of the Court; and if the Court declines to sanction the sale, the agreement becomes void and inoperative for all purposes.

---

FORM No. 2.

STATEMENT FOR CARRYING INTO EFFECT A SALE UNDER THE ACT.  
IN THE LANDED ESTATES COURT, IRELAND.

IN THE MATTER of the Estate of Augustus Boyd, an owner of land, and of Cornelius Dunne, a Tenant, and of the "LANDLORD AND TENANT (IRELAND) ACT, 1870."

THE STATEMENT of Augustus Boyd, of \_\_\_\_\_ Esq., D.L., and of Cornelius Dunne, of \_\_\_\_\_, farmer [or either of them, as the case may be].

SHEWETH—

1. That the said Augustus Boyd is the Owner in fee-simple [or otherwise, as the case may be] of the lands of Barmeen, in the barony and county of Louth, and has been in receipt of the rents and profits thereof since the year 1828.

2. That Cornelius Dunne, of Barmeen aforesaid, farmer, is the sole Tenant of the said lands under a lease executed to him by the applicant on the 3rd day of July, 1832, for the term of two lives, viz., of the said Cornelius Dunne and of O. P., now deceased, at the yearly rent of £33 10s. [or otherwise as the case may be].

3. That the said Cornelius Dunne is in the actual occupation of the said lands, save \_\_\_\_\_ acres thereof, which are in the actual occupation of X. Y., and that the said X. Y. has assented to the sale.

4. That an agreement in writing (a copy of which is annexed hereto) was made on the 15th September, 1870, for a sale of the lessor's interest in the lands to the said Cornelius Dunne for the sum of £750, payable as in said agreement stated.

5. That no further consideration for the sale aforesaid has been given or promised directly or indirectly over and above the said sum of £750.\*

---

\* The verification of this paragraph by the applicant himself will always be requisite.

6. That the said Augustus Boyd is unmarried, and that no person is entitled to any dower or thirds out of said lands, nor is any person interested therein, or in the purchase-money thereof, under any disability; and that there is not any suit or matter depending in any court of law or equity in relation to the premises, or any part thereof, or in relation to the receipt of the rents or profits thereof.\*

7. That the lands are fully described in the First Schedule, and that the incumbrances affecting the same are fully described in the Second Schedule annexed hereto.

8. That the said Augustus Boyd and Cornelius Dunne are desirous that the sale should be carried into effect by this Honorable Court in manner following, viz. :—

That a statutable conveyance may be executed by the Court to the said Cornelius Dunne of the fee simple of the said lands; and that the applicants may have such further or other aid and relief incidental to the proposed sale as the nature of the case may require, according to the judgment of the Court.†

---

\* As to persons under disability, and as to suits pending, the directions given by the Landed Estates Court, as regards petitions, are to be exactly followed.

† The statement should be accompanied by a copy of the agreement for the sale.

FORM No. 3.—*First Schedule to Statement.\**

Description of Lands.	Contents.	Tenure.	Poor Law Valuation.	Rent paid by Tenant.	Occupation.	Outgoings.
The Townland of Barneen, in the Parish of Newtown, and Barony and County of Louth.	A. R. P. Statutemeasure, 70 1 2	Fee-simple. [or as the case may be.]	£ s. d. 29 15 0	£ s. d. 33 10 0	C. Dunne is the sole occupier and tenant under the Lease for a life set forth in the above statement, & has been in occupation since the date of the Lease. [or as the case may be.]	Tithe-rentcharge 16s. 6d. per annum. A quit-rent of £1 6s. 9d. to the Crown is payable in respect of this and the adjoining townland of ——. An annuity of £6 8s., payable half-yearly to the Board of Public Works, in respect of a loan under stat. 10 & 11 Vic. ch. 32, and Acts amending same. This annuity determines on the 1st of May, 1874. It is to remain a charge on the lands so long as payable.

\* This Schedule should be copied exactly in any application to the Board of Works for an advance of money in aid of the purchase. In an application under the 47th section of the Act for sale of an entire estate (the landlord's title being common), all the tenancies should be set out as distinct items in the First Schedule to the Statement.



*Second Schedule to Statement.*

No.	Date and Registration.	Name & exact address of Incumbrancer.	Particulars of Incumbrance.	Amount of Incumbrance, and Observations.
1	1861: 2nd Feb. ; registered 4th Feb. 1861.	Royal Bank of Ireland, 2, Foster-place, Dublin; Jno. North, Esq., Public Officer.	Mortgage of these and several other lands executed by the owner to secure £2,000 and interest.	Principal £2,000 ; no arrear of interest due. It is proposed to pay over the purchase-money in part discharge of this mortgage.
2	1862; 5th July; registered 8th July, 1862.	Jane Smith, No. 27, Ely-place, Dublin, Widow.	Judgment obtained by her against the owner in Court of Queen's Bench in Trinity Term, 1862, and registered against the lands.	Penalty £400.

FORM No. 4.

VARIATION IN STATEMENT WHERE THE VENDOR IS HIMSELF A TENANT FOR LIFE, AND WHERE THE PURCHASE-MONEY IS TO BE PAID OVER TO TRUSTEES WHO DO NOT ACT AS VENDORS.

[Title of matter, &c., as before.]

SHEWETH—

That by the last will and testament of Sir H. Brabazon, bart., deceased, a copy of which is lodged herewith, the Brabazon Manor estate, which comprises (*inter alia*) the townland of Marlay, in the barony of Shrule, and county of Mayo, was vested in M. N. and O. P., their heirs and assigns, on trust, to pay the rents and profits thereof to the applicant, Brabazon Orme, for and during the term of his natural life, with remainder to his first and other sons in tail male, with remainders over, and that a power of sale was given to the said trustees.

That Knox Orme, the eldest son of the applicant, is the first tenant-in-tail under the aforesaid will, and is of the age of twenty-one years and upwards, and is now resident at University College, in the city of Oxford.

That the said trustees are living, and are now resident as follow:—M. N. at \_\_\_\_\_, post town \_\_\_\_\_, in the county of \_\_\_\_\_, and O. P. at \_\_\_\_\_, post-town \_\_\_\_\_, in the county of \_\_\_\_\_.

[Paragraphs as to disability and consideration for sale must be inserted in every case.]

That the said Trustees have never acted on the power of sale so conferred on them, and have declined to enter into any agreement for sale; [but are willing to receive any sum of purchase-money which this Honorable Court may pay over to them on the trusts of the aforesaid will.]

[State the occupation of the lands and agreement for sale.]

That the applicant B. Orme, as tenant for life within the meaning of the Act, is desirous that the proposed sale should be carried into effect by this Honorable Court in manner following, viz.:—

That a statutable conveyance may be executed by the Court to the said [tenant] of the fee-simple of his holding in the said townland, and that the Court may give such further or other aid and relief incidental to the proposed sale, as the nature of the case may require, according to the judgment of the Court.

Sch. 1. Description of lands, as before.

Sch. 2. Particulars of incumbrances (if any), as before.

## FORM No. 5.

VARIATIONS WHERE THE VENDORS ARE TRUSTEES FOR SALE, AND WHERE THE LAND IS HELD (TOGETHER WITH OTHER LANDS NOT SOLD) UNDER A LEASE OR GRANT.

[Title of the matter, etc., as before.]

[State the facts concisely, and especially the instrument creating the trust for sale, also state the name and address of the person now beneficially interested, and of the next remainder-man.

State very shortly the lease and last renewal or grant under which these with other specified lands are held.

State the other material facts, agreement for sale, statement as to disability, and no further consideration, etc., etc., and conclude as follows :—]

That the said [Trustees for sale] are desirous that the sale [or sales] may be carried into effect pursuant to the Act by this Honorable Court in manner following, viz. :—

That a statutable conveyance of the holding may be made to [tenant] for the residue of the term [or as the case may be], and that the Court may give such aid and relief incidental to the proposed sale, as the nature of the case may require, according to the judgment of the Court.

[Schedules as before.]

## DIRECTIONS.

Where any previous statement has been lodged, and sale carried out under the same title, or where the title has been in any other proceeding investigated and approved by the Court, it will be sufficient to refer to it without stating the owner's title over again.

In less simple cases it will be useful on drawing the statement to refer to the forms of petition, and to make use of some of the paragraphs therein which will be found annexed to the rules of the Landed Estates Court.

---

FORM No. 6.

NOTICE OF APPLICATION TO CARRY INTO EFFECT A SALE UNDER  
PART 2 OF THE ACT.

*The Landlord and Tenant (Ireland) Act, 1870.*

LANDED ESTATES COURT.

In the matter of Augustus Boyd, D.L., an owner of Land, and of Cornelius Dunne, a Tenant, and of the Landlord and Tenant (Ireland) Act, 1870.	}	Take notice that on the day of _____ I will apply to the Court to declare _____ the pur- chaser of the lands of _____ situate, etc., _____ and containing A. R. P. statute measure, as now held by the said for the term of _____, at the annual rent of £ _____ and valued at £ _____ by the Tenement Valuation of Ireland, for the sum of £ _____, and that you are at liberty to attend and object.
---	---	--

FORM No. 7.

CONVEYANCE TO A PURCHASING TENANT UNDER SECOND PART  
OF THE ACT.

Pursuant to the "Landlord and Tenant (Ireland) Act, 1870," I, D. L., a Judge of the Landed Estates Court, Ireland, in consideration of the sum of £750 paid (as set forth in the Certificate hereto) into the Bank of Ireland, to the account of the said Court and to the credit of the matter of A. Boyd, an owner of land, and of Cornelius Dunne, a tenant, and of the said Act, DO GRANT unto the said Cornelius Dunne the townland of Barmeen, in the barony and county of Louth, containing 70A. 1R. 2P. statute measure or thereabouts, and described in the annexed Map, with the appurtenances. To HOLD the same unto the said Cornelius Dunne, his heirs and assigns, for ever, SUBJECT to

*[Specify here any charge in respect of drainage advances, or advances by the Board of Works for purchase-money, or any other charge required to be specified by the 36th sec. of the Act.]*

In witness whereof, &c.

Signature (L. S.)

[The example given above is that of an ordinary fee-simple. If the property be leasehold or fee-farm this form will require variation, and it will be necessary to recite or refer to the instrument in the manner directed by the usual forms of the court.]



## FORM No. 8.

*Certificate of payment at foot of Conveyance.*

I CERTIFY that the above mentioned sum of £750 was paid into the Bank of Ireland as follows, viz., £250 by the said C. Dunne on the 5th of February, 1871, and £500 being an advance by the Board of Public Works, on the 12th of February, 1871.

[Printed forms of applications for advances under the Act may be obtained at the Office of the Board of Works.]

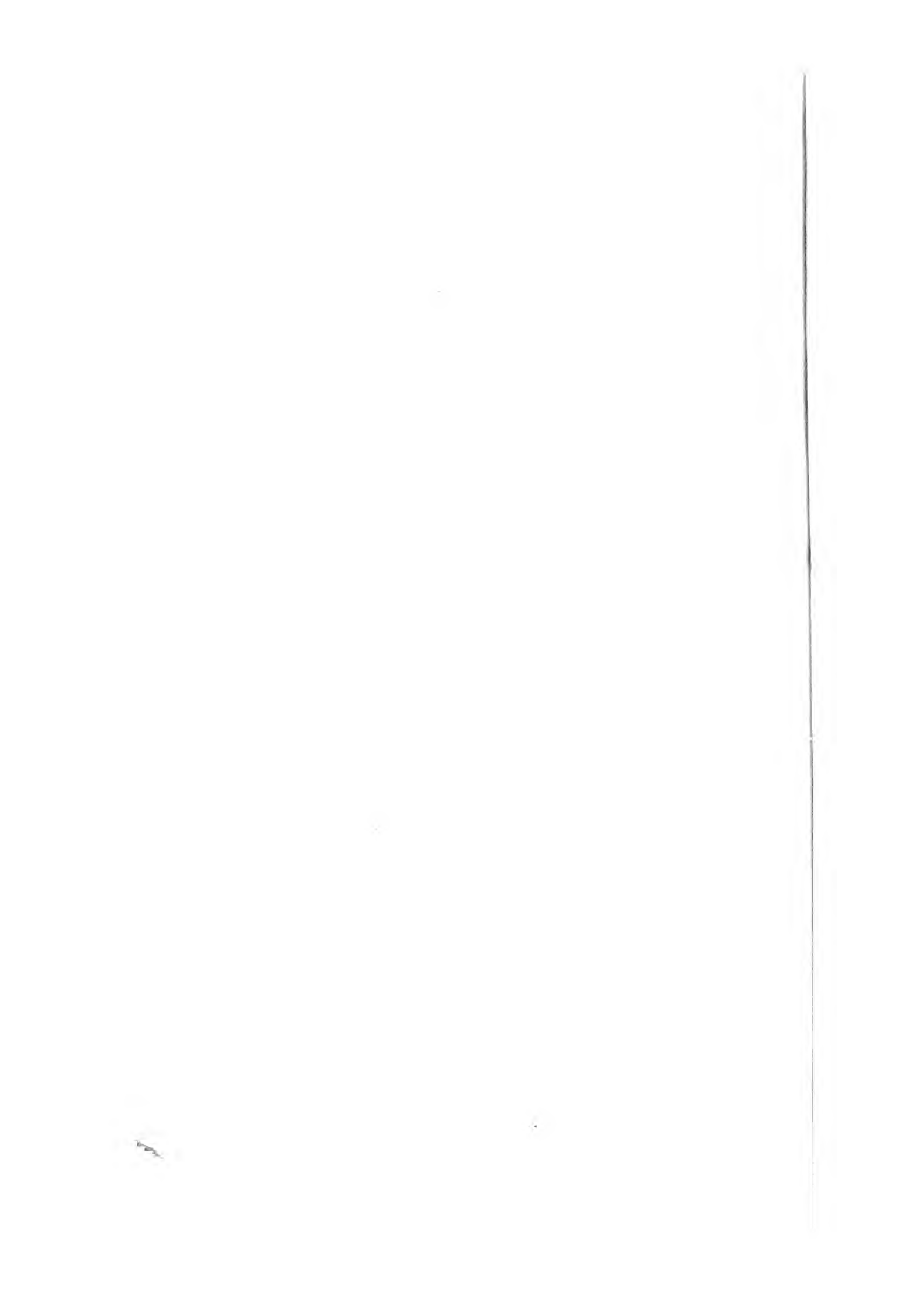
---

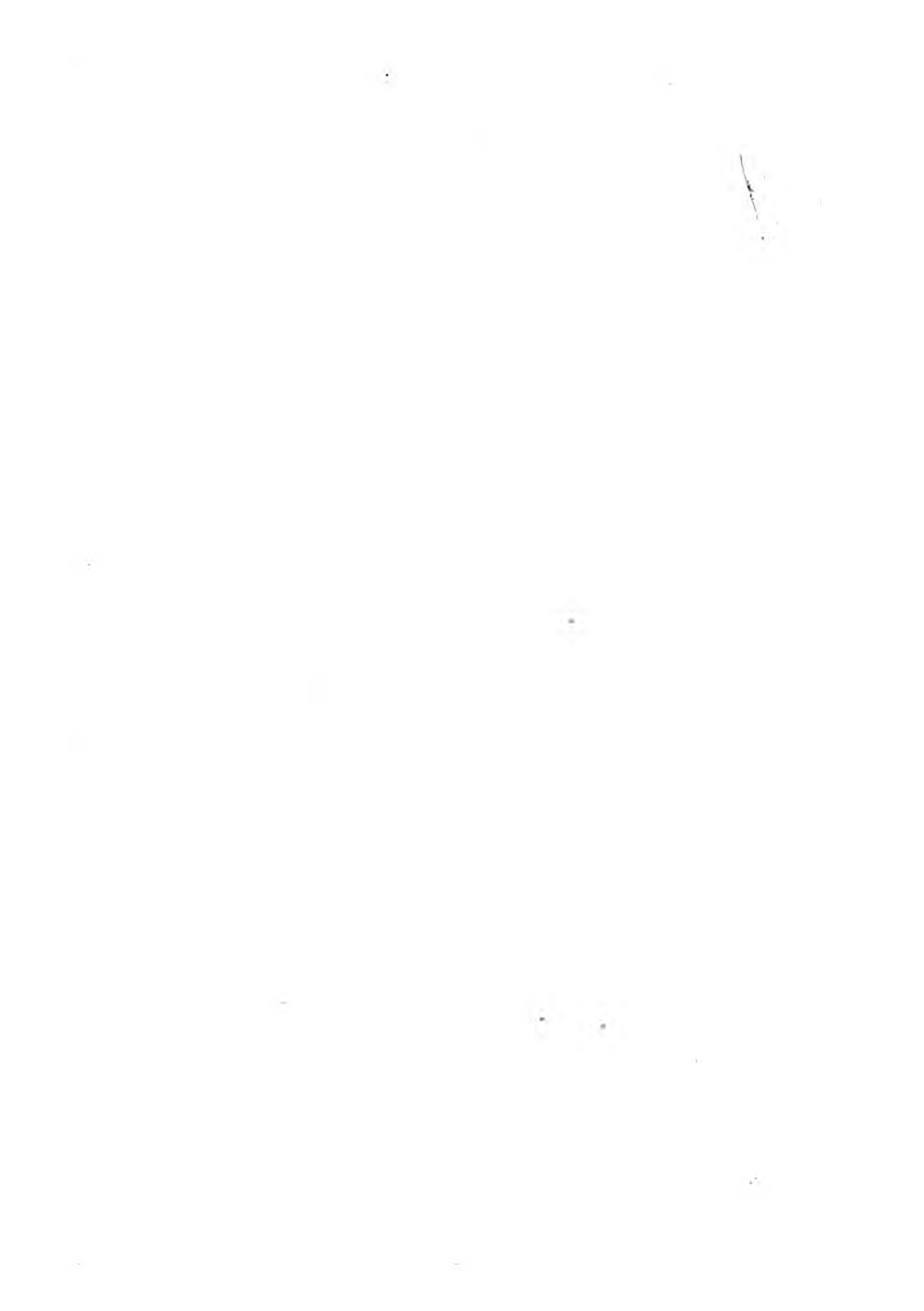
The foregoing Rules, with Appendix of Forms and Directions, were approved of by Order of the Privy Council, dated 29th November, 1870.

R. N. MATHESON,

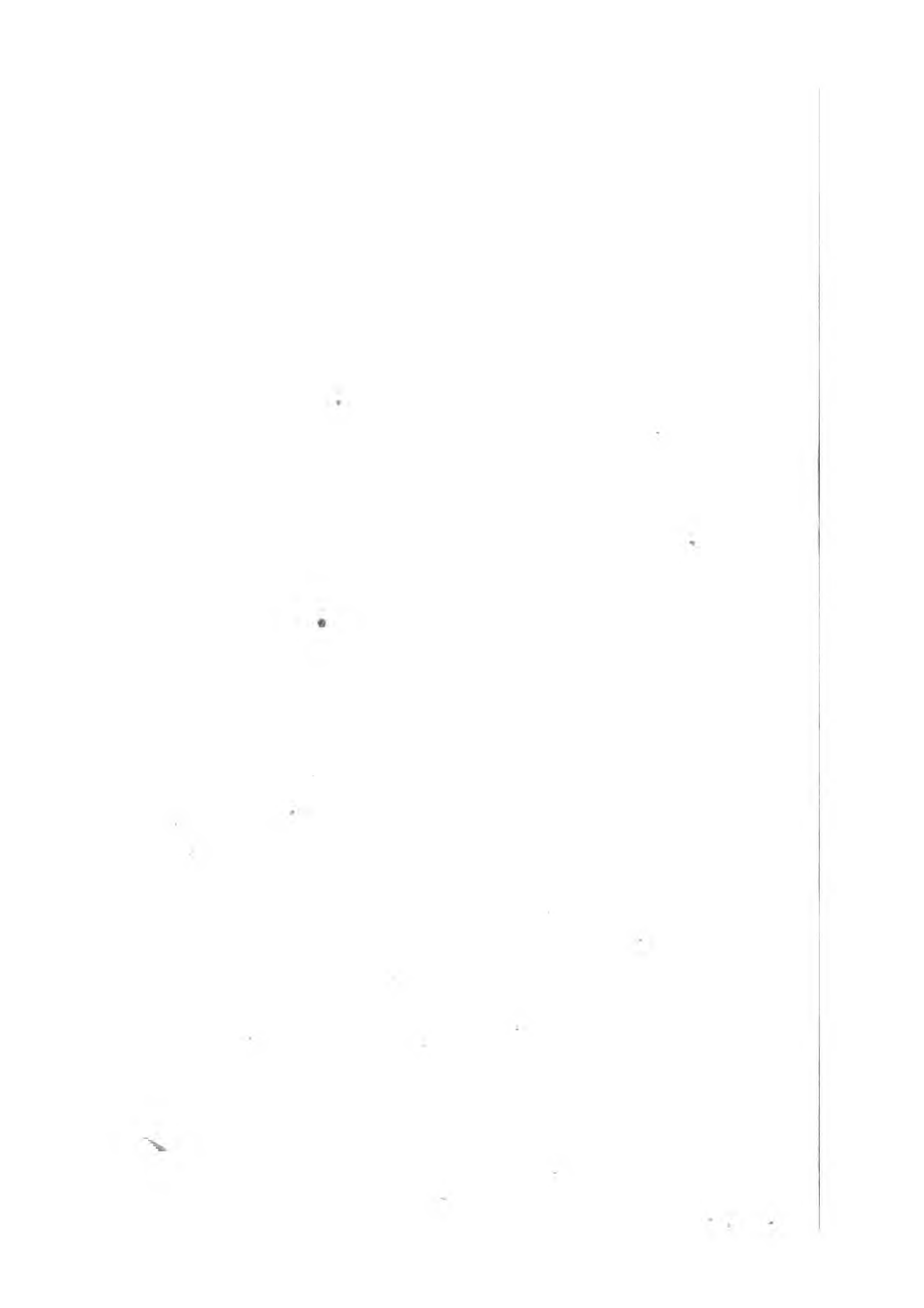
*Clerk of the Council.*













WORKS BY HENRY DIX HUTTON, ESQ.

**LAND-TRANSFER AND LAND-SECURITIES**

IN IRELAND, under the Provisions of the "Record of Title Act, 1855," the "Land Transactions Act, 1862," and the "Landed Estates Court Act, 1866," with the Acts, Rules, Schedules of Office Fees, and Solicitors' Costs, and a Copious Index. Dublin: Hodges, Foster and Co., 104, Grafton-street.

**THE PRUSSIAN LAND-TENURE REFORMS  
AND A FARMER-PROPRIETARY FOR IRE-**

**LAND.** Two Papers read at the Annual Meeting of the National Association for the Promotion of Social Science, held in Dublin, September, 1857. Published by permission of the Council. Dublin: John Falconer, 55, Upper Sackville-street. London: W. Ridgway, Piccadilly, and sold by all Booksellers. Price 1s., by Post, 1s. 6d.

**PROPOSALS FOR THE GRADUAL CREATION  
OF A FARMER-PROPRIETARY IN IRE-**

**LAND.** London: W. Ridgway, Piccadilly. Dublin: W. B. Kelly, 8, Grafton-street, and sold by all Booksellers. Price 6s., by Post, 7s.

**HISTORY, PRINCIPLE, AND FACT, IN RELA-**

**TION TO THE IRISH QUESTION.** Issues of  
Journal of the Manchester Examiner and Times. London:  
William Ridgway, 176, Piccadilly. Dublin: Hodges, Foster and  
Co., 104, Grafton-street. Manchester: A. Ireland & Co. Price  
1s., by Post, 1s. 3d.

**ANCIENT TENURES AND MODERN LAND-**

**LEGISLATION IN BRITISH INDIA.** A Paper  
read before the Statistical and Social Inquiry Society of Ireland.  
London: William Ridgway, 176, Piccadilly. Dublin: Hodges,  
Foster and Co., 104, Grafton-street. Price 5s., by Post, 5s. 6d.

BY THOMAS BALDWIN, ESQ.,

**HANDY-BOOK OF SMALL FARM MANAGE-**

**MENT.** I.—Machinery. II.—Farm Implements. III.—Crops.  
IV.—Live Stock. V.—Works which permanently improve the  
value of Land. VI.—The Management of a Breeding and  
farming at Glasnevin. Dublin: Byrne and Nolan, Stationers.  
Price 1s. 6d.