

**CHAP. 46.**

An Act to amend the Law relating to the Occupation and Ownership of Land in Ireland. A.D. 1870.
[1st August 1870.]

WHEREAS it is expedient to amend the law relating to the occupation and ownership of land in Ireland :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.**LAW OF COMPENSATION TO TENANTS.***Claim to Compensation.*

1. The usages prevalent in the province of Ulster, which are known as, and in this Act intended to be included under, the denomination of the Ulster tenant-right custom, are hereby declared to be legal, and shall, in the case of any holding in the province of Ulster proved to be subject thereto, be enforced in manner provided by this Act.

Legality of
Ulster
tenant-right
custom.

Where the landlord has purchased or acquired or shall hereafter purchase or acquire from the tenant the Ulster tenant-right custom to which his holding is subject, such holding shall thenceforth cease to be subject to the Ulster tenant-right custom.

A tenant of a holding subject to the Ulster tenant-right custom, and who claims the benefit of such custom, shall not be entitled to compensation under any other section of this Act; but a tenant of a holding subject to such custom, but not claiming under the same, shall not be barred from making a claim for compensation, with the consent of the Court, under any of the other sections of this Act, except the section relating to compensation in respect of payment to incoming tenant; and where such last-mentioned claim has been made, and allowed, such holding shall not be again subject to the Ulster tenant-right custom.

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 Legality of
 tenant
 custom other
 than Ulster
 custom.

2. If, in the case of any holding not situate within the province of Ulster, it shall appear that an usage prevails which in all essential particulars corresponds with the Ulster tenant-right custom, it shall in like manner, and subject to the like conditions, be deemed legal, and shall be enforced in manner provided by this Act.

Where the landlord has purchased or acquired or shall hereafter purchase or acquire from the tenant the benefit of such usage as aforesaid to which his holding is subject, such holding shall thenceforth cease to be subject to such usage.

A tenant of any holding subject to such usage as aforesaid, and who claims the benefit of the same, shall not be entitled to claim compensation under any other section of this Act, but a tenant of a holding not claiming the benefit of such usage shall not be barred from making a claim for compensation with the consent of the Court under any of the other sections of this Act; and where such last-mentioned claim has been made and allowed, such holding shall not be again subject to such usage as aforesaid.

Compensa-
 tion in
 absence of
 custom.

3. Where the tenant of any holding held by him under a tenancy created after the passing of this Act is not entitled to compensation under sections one and two of this Act, or either of such sections, or if entitled does not seek compensation under said sections or either of them, and is disturbed in his holding by the act of the landlord, he 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 awarded does not exceed the scale following; that is to say,

In the case of holdings valued under the Acts relating to the valuation of rateable property in Ireland at an annual value of—

- (1.) £10 and under, a sum which shall in no case exceed seven years rent;
- (2.) Above £10 and not exceeding £30, a sum which shall in no case exceed five years rent;
- (3.) Above £30 and not exceeding £40, a sum which shall in no case exceed four years rent;
- (4.) Above £40 and not exceeding £50, a sum which shall in no case exceed three years rent;
- (5.) Above £50 and not exceeding £100, a sum which shall in no case exceed two years rent;
- (6.) Above £100 a sum which shall in no case exceed one year's rent;

But in no case shall the compensation exceed the sum of £250.

Any tenant in a higher class of the scale may, at his option, claim compensation under a lower class, provided such compensation shall not exceed the sum to which he would be entitled under such lower class on the assumption that the annual value of his holding is reduced to the sum (or where two sums are mentioned, the highest sum) stated in such lower class, and that his rent is proportionally reduced.

Provided that no tenant of a holding valued at a yearly sum exceeding £10, and claiming under this section more than four years rent, and no tenant of a holding valued at a yearly sum not exceeding £10, and claiming as aforesaid more than five years rent, shall be entitled to make a separate or additional claim for improvements other than permanent buildings and reclamation of waste land.

Provided that—

- (1.) Out of any moneys payable to the tenant under this section all sums due to the landlord from the tenant or his predecessors in title in respect of rent, or in respect of any deterioration of a holding arising from non-observance on the part of the tenant of any express or implied covenant or agreement, may be deducted by the landlord, and also any taxes payable by the tenant due in respect of the holding, and not recoverable by him from the landlord :
- (2.) A tenant of a holding who at any time after the passing of this Act subdivides such holding, or sublets the same or any part thereof, without the consent of the landlord in writing, or, after he has been prohibited in writing by the landlord or his agent from so doing, lets the same or any part thereof in conacre, save for the purpose of being solely used and which shall be solely used for the growing of potatoes or other green crops, the land being properly manured, shall not, nor shall any sub-tenant of or under any such tenant as last aforesaid, be entitled to any compensation under this section :
- (3.) A tenant of a holding under a lease made after the passing of this Act, and granted for a term certain of not less than thirty-one years, shall not be entitled to any compensation under this section, but he may claim compensation under section four of this Act.

The tenant of any holding valued under the Acts relating to the valuation of rateable property in Ireland at an annual value of not more than one hundred pounds, and held by him under a tenancy from year to year existing at the time of the passing of this Act,

A.D. 1870. shall, if disturbed by the act of his immediate landlord, be entitled to compensation under and subject to the provisions of this section.

Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this section shall, so far as relates to such claim, be void both at law and in equity; this provision shall be subject to the enactment contained in the section of this Act relating to the partial exemption of certain tenancies, and remain in force for twenty years from the first day of January one thousand eight hundred and seventy-one, and no longer, unless Parliament shall otherwise determine.

Compensation in respect of improvements.

4. Any tenant of a holding who is not entitled to compensation under sections one and two of this Act, or either of such sections, or if entitled does not make any claim under the said sections, or either of them, may on quitting his holding, and subject to the provisions of section three of this Act, claim compensation to be paid by the landlord under this section in respect of all improvements on his holding made by him or his predecessors in title.

Provided that—

Exception of certain improvements.

(1.) A tenant shall not be entitled to any compensation in respect of any of the improvements following; that is to say,—

(a.) In respect of any improvement made before the passing of this Act, and twenty years before the claim of such compensation shall have been made, except permanent buildings and reclamation of waste land; or,

(b.) In respect of any improvement prohibited in writing by the landlord as being and appearing to the Court to be calculated to diminish the general value of the landlord's estate, and made within two years after the passing of this Act, or made during the unexpired residue of a lease granted before the passing of this Act; or,

(c.) In respect of any improvement made either before or after the passing of this Act in pursuance of a contract entered into for valuable consideration therefor; or,

(d.) (Subject to the rule in this section mentioned as to contracts) in respect of any improvement made, either before or after the passing of this Act, in contravention of a contract in writing not to make such improvement; or,

(e.) In respect of any improvement made either before or after the passing of this Act which the landlord has undertaken to make, except in cases where the landlord has failed to perform his undertaking within a reasonable time : A.D. 1870.

- (2.) A tenant of a holding under a lease or written contract made before the passing of this Act shall not be entitled on being disturbed by the act of the landlord in or on quitting his holding to any compensation in respect of any improvement, his right to which compensation is expressly excluded by such lease or contract : Exception of certain tenancies.
- (3.) A tenant of a holding under a lease made either before or after the passing of this Act for a term certain of not less than thirty-one years, or in case of leases made before the passing of this Act for a term of a life or lives with or without a concurrent term of years, and which leases shall have existed for thirty-one years before the making of the claim, shall not be entitled to any compensation in respect of any improvement unless it is specially provided in the lease that he is entitled to such compensation, except permanent buildings and reclamation of waste land, and tillages or manures, the benefit of which tillages or manures is unexhausted at the time of the tenant quitting his holding :
- (4.) A tenant of a holding, who is quitting the same voluntarily, shall not be entitled to any compensation in respect of any improvement when it appears to the Court that such tenant has been given permission by his landlord to dispose of his interest in his improvements to an incoming tenant upon such terms as the Court may deem reasonable, and the tenant has refused or neglected to avail himself of such permission :
- (5.) Out of any moneys payable to the tenant under this section all sums due to the landlord from the tenant or his predecessors in title in respect of rent, or in respect of any deterioration of the holding arising from non-observance on the part of the tenant of any express or implied covenant or agreement, may be deducted by the landlord, and also any taxes payable by the tenant due in respect of the holding and not recoverable by him from the landlord.

Any contract between a landlord and a tenant whereby the tenant is prohibited from making such improvements as may be required

A.D. 1870. — for the suitable occupation of his holding and its due cultivation shall be void both at law and in equity, but 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, nor shall anything in this Act contained authorise or empower any tenant or occupier, without the previous consent in writing of the landlord, to break up or till any land or lands usually let, occupied, or used as grazing or grass lands, or let expressly as grazing or meadow land, or to cut timber without the consent of the landlord; provided that the tenant may cut timber planted and registered by him or his predecessors in title.

Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this section shall, so far as relates to such claim, be void both at law and in equity, subject, however, to the enactment contained in the section of this Act relating to the partial exemption of certain tenancies, and to the provision in this section as to any improvement made in pursuance of a contract entered into for valuable consideration therefor.

Where a tenant has made any improvements before the passing of this Act on a holding held by him under a tenancy existing at the time of the passing thereof, the Court in awarding compensation to such tenant in respect of such improvements shall, in reduction of the claim of the tenant, 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.

Presumption
in respect of
improvements.

5. For the purposes of compensation under this Act in respect of improvements on a holding which is not proved to be subject either to the Ulster tenant-right custom or to such usage as aforesaid, or where the tenant does not seek compensation in respect of such custom or usage, all improvements on such holding shall, until the contrary is proved, be deemed to have been made by the tenant or his predecessors in title, except in the following cases where compensation is claimed in respect of improvements made before the passing of this Act :

- (1.) Where such improvements have been made previous to the time at which the holding in reference to which the claim is made was conveyed on actual sale to the landlord or those through whom he derives title :

- (2.) Where the tenant making the claim was tenant under a lease of the holding in reference to which the claim is made : A.D. 1870.
- (3.) Where such improvements were made twenty years or upwards before the passing of this Act :
- (4.) Where the holding upon which such improvements were made is valued under the Acts relating to the valuation of rateable property in Ireland at an annual value of more than one hundred pounds :
- (5.) Where the Court shall be of opinion that in consequence of its being proved to have been the practice on the holding, or the estate of which such holding forms part, for the landlord to make such improvements, such presumption ought not to be made :
- (6.) Where from the entire circumstances of the case the Court is reasonably satisfied that such improvements were not made by the tenant or his predecessors in title :

Provided always, that where it is proved to have been the practice on the holding, or the estate of which such holding forms part, for the landlord to assist in making such improvements, such presumption shall be modified accordingly.

6. Any landlord or tenant who may be desirous of preserving evidence of any improvements made by himself or by his predecessors in title before or after the passing of this Act may at any time (subject to the provisions herein-after contained) file a schedule in the Landed Estates Court specifying such improvements, and claiming the same as made by himself or his predecessors in title, and such schedule so filed shall be *primâ facie* evidence that such improvements were made as therein mentioned: Provided always, that notice in writing of the intention to file such schedule, together with a copy thereof, shall be given by the landlord to the tenant for the time being of the holding on which such improvements shall have been made (or by the tenant to the landlord, as the case may be,) within the prescribed time before applying to the Landed Estates Court to file the same; and if the person receiving such notice shall dispute the claim made by such schedule, either wholly or in part, he shall be at liberty within the prescribed time and in the prescribed manner to apply to the Civil Bill Court to determine the matter in difference, and in such case such schedule shall not be filed unless or until leave shall have been given to file the same either in its original or in any amended form by the Civil Bill Court; provided also, that before filing any such schedule

Permissive
registration
of improve-
ments.

A.D. 1870. — proof shall be made in the Landed Estates Court by statutory declaration that the notice hereby required has been duly given, and that no application has been made within the prescribed time by the party receiving such notice to the Civil Bill Court, or (if any such application has been made) that leave has been given by the Civil Bill Court to file such schedule.

Compensation in respect of payment to incoming tenant.

7. Where any tenant of a holding does not claim or has not obtained compensation under sections one, two, or three of this Act, and it is proved to the satisfaction of the Court that any such tenant or that his predecessors in title on coming into his holding paid money or gave money's worth with the express or implied consent of the landlord on account of his so coming into his holding, the Court shall award to such tenant on quitting his holding in respect of the sum so paid such compensation as it thinks just, having regard to the circumstances of the case; but such tenant shall not be entitled to any compensation under this section when it appears to the Court that such tenant has been given permission by the landlord to obtain such satisfaction from an incoming tenant in respect of the money so paid, or the money's worth so given by him, and on such terms as the Court may think reasonable, and such tenant has refused or neglected to avail himself of such permission; moreover where the money or money's worth paid or given by any tenant claiming compensation under this section on coming into his holding was paid or given in whole or in part in respect or as covering the value of any improvements on the holding, care shall be taken that such tenant shall not receive compensation in respect of the same improvements under this section and also under some other section of this Act; provided that out of any moneys payable to the tenant under this section all sums due to the landlord from the tenant or his predecessors in title in respect of rent, or in respect of any deterioration of a holding arising from non-observance on the part of the tenant of any express or implied covenant or agreement, and also any taxes payable by the tenant due in respect of the holding, and not recoverable by him from the landlord, may, if not deducted under the provisions of section four of this Act, be deducted by or on behalf of the landlord: Provided always, that this section shall not apply when such money or money's worth has been paid during the existence of a lease made before the passing of this Act.

Compensation in respect of crops.

8. Where a holding is proved to be subject to the Ulster tenant-right custom or such usage as aforesaid, and where the tenant claims under such custom or usage, and such custom or usage extends to away-going crops, the compensation payable in respect of

away-going crops shall be dealt with according to the custom or usage, but the tenant of every other holding, which is not proved to be subject to the Ulster tenant-right custom or such usage as aforesaid, or in respect of which no claim is made under such custom or usage, shall, in the absence of any agreement in writing to the contrary, on quitting his holding, be entitled to all his away-going crops, or, at the option of the landlord, to be paid the value of the same.

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9. For the purposes of this Act ejectionment for nonpayment of rent, or for breach of any condition against assignment, sub-letting, bankruptcy, or insolvency, shall not be deemed disturbance of the tenant by act of the landlord; and for the purposes of this Act a person who is ejected for nonpayment of rent, or for breach of any such condition as aforesaid, and is not disturbed by act of the landlord within the meaning of this Act, shall stand in the same position in all respects as if he were quitting his holding voluntarily; provided that in the case of a person claiming compensation on the determination by ejectionment for nonpayment of rent of a tenancy existing at the time of the passing of this Act, and continuing to exist without alteration of rent up to the time of such determination, the Court may, if it think fit, treat such ejectionment as a disturbance if the arrear of rent in respect of which it is brought did not wholly accrue within the three previous years, and if any earlier arrear remained due from the tenant at the time of commencing the ejectionment, or if, in case of any such tenancy of a holding held at an annual rent not exceeding fifteen pounds, the Court shall certify that the nonpayment of rent causing the eviction has arisen from the rent being an exorbitant rent; provided that no tenant who shall have given notice of surrender, and afterwards refuse to give up possession in pursuance of such notice, shall be entitled to any compensation under section three of this Act, though evicted by the landlord in a suit founded on such notice.

Limitation
as to distur-
bance in hold-
ing.

10. Any landlord may, after six months notice in writing to be served upon the tenant or left at his house, resume possession from a yearly tenant of so much land (not to exceed in the whole one twenty-fifth part of any individual holding) as he may require for the bonâ fide purpose of erecting thereon one or more labourers cottages, with or without gardens attached, and such resumption of land shall not, unless the Court shall be of opinion that same was unreasonable, be deemed a disturbance of the tenant within the meaning of this Act, and shall not subject the landlord to any claim for compensation, except in respect of improvements, beyond

Exception
in case of
lands re-
quired for
labourers
cottages.

A.D. 1870. an abatement of rent proportionate to the annual value of the land so taken by the landlord.

Derivative
title of
tenant.

11. For the purposes of this Act a tenant shall be deemed to have derived his holding from the preceding tenant if he has paid to such preceding tenant any money or given to him any money's worth in respect of his holding, or has taken such holding by assignment or operation of law from the preceding tenant; and where a succession of tenants have derived title each from the other, the earlier in such succession shall be deemed to be the predecessor of the later, and the later in such succession shall be deemed to be the successor of the earlier.

Partial
exemption
of certain
tenancies.

12. A tenant of a holding which is not proved to be subject to the Ulster tenant-right custom or such other usage as aforesaid, whose holding, or the aggregate of whose holdings, in Ireland is valued under the Acts relating to the valuation of rateable property in Ireland at an annual value of not less than fifty pounds, shall not be entitled to make any claim for compensation under any provision of this Act in cases where the tenant has contracted in writing with his landlord that he will not make any such claim.

Restriction
as to com-
pensation in
certain cases
of assign-
ment.

13. Where the holding in respect of which compensation is claimed under section three of this Act is held under a tenancy from year to year existing at the time of the passing of this Act, and such tenancy is assigned without the consent of the landlord, and the landlord does not accept the assignee as his tenant, no compensation shall be payable by the landlord under the said section in any of the cases following :

- (1.) Where the rent of such holding is in arrear at the time of such assignment so as to render the tenant liable to eviction for nonpayment of rent, and such arrear is due by the tenant :
- (2.) Where such holding forms part of an estate upon which the assignment of holdings without the consent or approval of the landlord is contrary to or not warranted by the practice prevalent upon such estate :
- (3.) Where the Court shall be of opinion that the refusal of the landlord to accept such assignee as tenant is a reasonable refusal :

Provided always, that the transmission of a tenancy by bequest to the husband or wife, or to any one child or grandchild, or to any one brother or sister, or to any one child or grandchild of a brother or sister of the tenant, or the devolution of a tenancy by operation of

law upon an intestacy or marriage, shall not be deemed an assignment within the meaning of this section. A.D. 1870.

14. Where it is proved to the Court that the tenant of any holding held under a tenancy from year to year existing at the time of the passing of this Act is evicted by the landlord by reason of the persistent exercise by such tenant of any right not necessary to the due cultivation of his holding, and from which such tenant is debarred by express or implied agreement with his landlord, such eviction shall not be deemed a disturbance of the tenant by the act of the landlord; or where the tenant of any holding so held as last aforesaid at the time of the passing of this Act is evicted by the landlord by reason of the tenant's unreasonable refusal to allow the landlord, or any person or persons authorised by him in that behalf, he or they making reasonable amends and satisfaction for any injury to be done or occasioned thereby, to enter upon the holding for any of the purposes following, that is to say,

Eviction in certain cases not to be deemed a disturbance.

Mining or taking minerals;

Quarrying or taking stone, marble, gravel, sand, or slate;

Cutting or taking timber or turf;

Opening or making roads, drains, and watercourses;

Viewing or examining the state of the holding and all buildings or improvements thereon;

Hunting, shooting, or fishing, or taking game or fish;

Such eviction shall not be deemed a disturbance of the tenant by the act of the landlord, unless it shall be shown that the landlord is persisting in such eviction after such refusal has been withdrawn by the tenant.

15. No compensation shall be payable under the preceding provisions of this Act in respect of—

Exemption of certain lands.

- (1.) Any demesne land, or any holding ordinarily termed "townparks" adjoining or near to any city or town which shall bear an increased value as accommodation 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

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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.

Proceedings
by tenant 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.

Proceedings
by landlord
in respect of
claims.

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.

Equities
between
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.

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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.

Order of Court to be in writing, &c.

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.

Provision in case of derivative estates in the same holding.

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 Restriction
 on eviction
 of tenant.

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.

Court to
 mean Civil
 Bill Court
 or Court of
 Arbitration.

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,

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.

Civil Bill
 Court.

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 ejectment 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.

A.D. 1870.

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.

Court of
Arbitration.

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 tribunal 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 removable by certiorari.

Powers of limited Owners.

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

Interpretation 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 propor-

Agreement by limited owner.

A.D. 1870. tion 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.

Power of limited owner to grant leases.

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 :

- (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. A.D. 1870.

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. Effect of lease by limited owner.

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. Leasing powers of Act to be cumulative.

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:— Rules for carrying first part of Act into effect.

- (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:
- (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:

A.D. 1870. 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.

Advances to landlords for compensation for improvements.

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.

Advances to landlords for improvement of waste lands.

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 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.

Advances to tenants for purchase of holdings.

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. A.D. 1870.

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

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 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 Landed Estates Court to afford facilities for purchases by

A.D. 1870.
 occupying
 tenants. 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.

Advances to
 facilitate
 purchases
 of entire
 estates.

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.

Advances
 charged
 on estate
 by way of
 annuity.

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 rentcharges 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.

A.D. 1870.
Recovery of annuity.

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.

Arrears of annuity.

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.

Power of owner to redeem annuity.

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.

Power of Board to commute and compromise.

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.

A.D. 1870. **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.

As to issues of moneys to the Board by Treasury. **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.

Repayment to Consolidated Fund of moneys advanced.

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.

Duty of Civil Bill Court as to charging orders.

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.

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.

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.

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Regulations
as to notice
to quit.

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.

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.

Administra-
tion on death
of tenant.

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.

Provision as
to married
women.

A.D. 1870.

Provision
as to other
persons
under dis-
ability.

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 authorised 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.

Additional
sittings of
Civil Bill
Court.

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.

Additional
salaries to
judges and
officers of
Civil Bill
Courts.

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.

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

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.

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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 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 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.

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

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 authorised to collect the same may give notice in writing to

A.D 1870. — 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.

Exception
as to county
cess levied
in certain
cases.

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.

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

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 the 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.

Tenancies
at will.

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 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.

A.D. 1870.

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:

A.D. 1870. 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.

Agricultural
or pastoral
holdings
only subject
to this Act.

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.

Short title.

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

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 arbitrator, 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 the 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.

A.D. 1870.

(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 10 <i>l.</i> of annuity.*	Term unexpired.	Redemption money to be paid in respect of each 10 <i>l.</i> 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 3½ 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.