

1881. *Metropolitan Board of Works (Money) Act*, 1881. CH. 48, 49. 175

The Open Spaces (Metropolis) Act, 1877, 40 & 41 Vict. c. 35.

Metropolitan Commons Act, 1866, 29 & 30 Vict. c. 122.

" " " Amendment Act, 1869, 32 & 33 Vict. c. 107.

" " " 1878, 41 & 42 Vict. c. 71.

" " Supplemental Act, 1871 (Blackheath), 34 & 35 Vict. c. lvii.

" " " " 1871 (Shepherd's Bush), 34 & 35 Vict. c. lxiii.

" " " " 1872 (Hackney Commons), 35 & 36 Vict. c. xliii.

" " " " 1873 (Tooting Beck Common), 36 & 37 Vict. c. lxxxvi.

Metropolitan Board of Works Various Powers Act, 1875 (Tooting Graveney Common), 38 & 39 Vict. c. clxxix. sec. 14.

Hampstead Heath Act, 1871, 34 & 35 Vict. c. lxxvii.

Metropolitan Commons Supplemental Act, 1877 (Clapham Common and Bostall Heath), 40 & 41 Vict. c. cci.

Plumstead Common Act, 1878, 41 & 42 Vict. c. cxlv.

Wormwood Scrubs Act, 1879, 42 & 43 Vict. c. clx.

Metropolitan Commons Supplemental Act, 1881, (Brook Green, Eel Brook Common, &c.), c. xviii.

PART II.

Embankment Acts.

The Thames Embankment (North) Act, 1862, 25 & 26 Vict. c. 93., 26 & 27 Vict. c. 45.

Thames Embankment (South) Act, 1863, 26 & 27 Vict. c. 75.

" " Amendment Act, 1864, 27 & 28 Vict. c. cxxxv., 27 & 28 Vict. c. 61.

" " (North and South) Act, 1868, 31 & 32 Vict. c. cxi., 31 & 32 Vict. c. 43.

" " (Chelsea) Act, 1868, 31 & 32 Vict. c. cxxxv., 32 & 33 Vict. c. 134.

" " (North) Act, 1870, 33 & 34 Vict. c. xcii.

" " " " 1872, 35 & 36 Vict. c. lxvi.

" " (Land) Act, 1873, 36 & 37 Vict. c. 40.

" " (South) Act, 1873, 36 Vict. c. vii.

Charing Cross and Victoria Embankment Approach Act, 1873, 36 & 37 Vict. c. c.
Metropolitan Board of Works Various Powers Act, 1876 (Chelsea Embankment), 39 & 40 Vict. c. lxxix.

CHAPTER 49.

An Act to further amend the Law relating to the Occupation and Ownership of Land in Ireland, and for other purposes relating thereto. [22nd August 1881.]

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.

ORDINARY CONDITIONS OF TENANCIES.

1. The tenant for the time being of every holding, not herein- ^{Sale of}
after specially excepted from the provisions of this Act, may sell ^{tenancies.}
his tenancy for the best price that can be got for the same, subject

to the following regulations and subject also to the provisions in this Act contained with respect to the sale of a tenancy subject to statutory conditions :

- (1.) Except with the consent of the landlord, the sale shall be made to one person only :
 - (2.) The tenant shall give the prescribed notice to the landlord of his intention to sell his tenancy :
 - (3.) On receiving such notice the landlord may purchase the tenancy for such sum as may be agreed upon, or in the event of disagreement may be ascertained by the court to be the true value thereof :
 - (4.) Where the tenant shall agree to sell his tenancy to some other person than the landlord, he shall, upon informing the landlord of the name of the purchaser, state in writing there-with the consideration agreed to be given for the tenancy :
 - (5.) If the tenant fails to give the landlord the notice or information required by the foregoing sub-sections, the court may, if it think fit and that the just interests of the landlord so require, declare the sale to be void :
 - (6.) Where the tenancy is sold to some other person than the landlord, the landlord may within the prescribed period refuse on reasonable grounds to accept the purchaser as tenant :
- In case of dispute the reasonableness of the landlord's refusal shall be decided by the court : Provided that the landlord's objection shall be conclusive in the case of any tenancy in a holding where the permanent improvements in respect of which, if made by the tenant or his predecessors in title, the tenant would have been entitled to compensation under the provisions of the Landlord and Tenant (Ireland) Act, 1870, as amended by this Act, have been made by the landlord or his predecessors in title, and have been substantially maintained by the landlord and his predecessors in title, and not by the tenant or his predecessors in title :
- (7.) Where the tenancy is subject to any such conditions as are in this Act declared to be statutory conditions, and the sale is made in consequence of proceedings by the landlord for the purpose of recovering possession of the holding by reason of the breach of any of such conditions, the court shall grant to the landlord out of the purchase moneys payment of any debt, including arrears of rent, due to him by the tenant and compensation by way of damages for any injury he may have sustained from the tenant by breach of any of such conditions, except the condition relating to the payment of rent :
 - (8.) Where permanent improvements on a holding have been made by the landlord or his predecessors in title solely or by him or them jointly with the tenant or his predecessors in title, or have been paid for by the landlord or his predecessors in title, and the landlord, on the application of the tenant, consents that his property in such improvements shall be sold along with the tenancy, and the same is so sold accordingly, the purchase money shall be apportioned by the court as between the landlord's property in such improvements, and the tenancy, and the part of the purchase money so found to repre-

sent the landlord's property in such improvements (but subject to any set-off claimed by the tenant) shall be paid to the landlord; and such improvements so sold shall be deemed to have been made by the purchaser of the tenancy:

(9.) Where a tenant sells his tenancy to any person other than the landlord, the landlord may at any time within the prescribed period give notice both to the outgoing tenant and to the purchaser of any sums which he may claim from the outgoing tenant for arrears of rent or other breaches of the contract or conditions of tenancy. And

(a.) If the outgoing tenant does not within the prescribed period give notice to the purchaser that he disputes such claims or any of them the purchaser shall out of the purchase moneys pay the full amount thereof to the landlord; and

(b.) If the outgoing tenant disputes such claims or any of them, the purchaser shall out of the purchase moneys pay to the landlord so much (if any) of such claims as the outgoing tenant admits, and pay the residue of the amount claimed by the landlord into court in the prescribed manner.

Until the purchaser has satisfied the requirements of this sub-section, it shall not be obligatory on the landlord to accept the purchaser as his tenant:

(10.) Where any purchase money has been paid into court it shall be lawful for the landlord and also for the outgoing tenant and for the purchaser respectively to make applications to the court in respect of such purchase money; and the court shall hear and determine such applications and make such order or orders thereupon as to the court may seem just:

(11.) A tenant who has sold his tenancy on any occasion of quitting his holding shall not be entitled on the same occasion to receive compensation for either disturbance or improvements; and a tenant who has received compensation for either disturbance or improvements on any occasion of quitting his holding shall not be entitled on the same occasion to sell his tenancy:

(12.) The tenant of a holding subject to the Ulster tenant-right custom or to a usage corresponding to the Ulster tenant-right custom may sell his tenancy either in pursuance of that custom or usage, or in pursuance of this section, but he shall not be entitled to sell partly under the custom or usage and partly under the provisions of this section:

(13.) If the tenant of a tenancy subject to the Ulster tenant-right custom or to a usage corresponding to the Ulster tenant-right custom sells his tenancy in pursuance of this section, the tenancy, unless purchased by the landlord, shall continue to be subject to such custom or usage:

(14.) Where a sale of a tenancy is made under a judgment or other process of law against the tenant or for the payment of the debts of the deceased tenant, the sale shall be made in the prescribed manner, subject to the conditions of this section, so far as the same are applicable:

(15.) Any sum payable to the landlord out of the purchase moneys of the tenancy under this section shall be a first charge upon the purchase moneys :

(16.) A landlord, on receiving notice of an intended sale of the tenancy, may, if he is not desirous of purchasing the tenancy otherwise than as a means of securing the payment of any sums due to him for arrears of rent or other breaches of the contract or conditions of tenancy, give notice within the prescribed time of the sum claimed by him in respect of such arrears and breaches, such sum failing agreement between the landlord and tenant to be determined by the court, and should the tenant determine to proceed with the sale, may claim to purchase the tenancy for such sum if no purchaser is found to give the same or a greater sum ; and the landlord, if no purchaser be found within the prescribed time to give the same or a greater sum, shall be adjudged the purchaser of the tenancy at that sum.

Prohibition of subdividing and subletting.

2. The tenant from year to year of a tenancy to which this Act applies shall not, without the consent of the landlord in writing, subdivide his holding or sublet the same or any part thereof.

Agistment or the letting of land for the purpose of temporary depasturage, or the letting in conacre of land for the purpose of its 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 be deemed a sub-letting for the purposes of this Act.

Devolution of tenancies.

3. Where the tenant of a tenancy to which this Act applies has bequeathed his tenancy to one person only, and the personal representatives of the tenant have assented to the bequest, such person shall have the same claim to be accepted as tenant by the landlord as if the tenancy had been sold to him by the testator.

Where the tenant of any such tenancy has bequeathed his tenancy to more than one person or dies intestate, then, if his personal representatives serve notice on the landlord nominating some one of the legatees or persons entitled under the Statutes of Distribution to his personal estate, to succeed to the tenancy, such person shall have the same claim to be accepted by the landlord as if the tenancy had been sold to him by the testator or intestate, and in default of such notice the personal representatives shall, if the landlord requires a sale to be made, within twelve months after the death of the tenant sell the tenancy, and in case of their default the landlord may sell the same under the direction of the court.

Where the tenant of a tenancy dies intestate and without leaving any person entitled to his personal estate, or any part thereof, such tenancy shall pass to the landlord, subject, however, to the debts and liabilities of the deceased tenant.

Increase of rent to attract statutory conditions or enhance price on sale.

4. Where the landlord demands an increase of rent from the tenant of a present tenancy (except where he is authorised by the court to increase the same as hereafter in this Act mentioned) or demands an increase of rent from the tenant of a future tenancy beyond the amount fixed at the beginning of such tenancy, then,

(1.) Where the tenant accepts such increase, until the expiration of a term of fifteen years from the time when such increase was made (in this Act referred to as a statutory term) such

tenancy shall (if it so long continues to subsist) be deemed to be a tenancy subject to statutory conditions, with such incidents during the continuance of the said term as are in this Act in that behalf mentioned :

- (2.) Where the tenant of any future tenancy does not accept such increase and sells his tenancy, the same shall be sold subject to the increased rent, and in addition to the price paid for the tenancy he shall be entitled to receive from his landlord the amount (if any) by which the court may, on the application of the landlord or tenant, decide the selling value of his tenancy to have been depreciated below the amount which would have been such selling value if the rent had been a fair rent, together with such further sum (if any) as the court may award in respect of his costs and expenses in effecting such sale :
- (3.) Where the tenant does not accept such increase and is compelled to quit the tenancy by or in pursuance of a notice to quit, but does not sell the tenancy, he shall be entitled to claim compensation as in the case of disturbance by the landlord :
- (4.) The tenant of a present tenancy may in place of accepting or declining such increase apply to the court in manner hereafter in this Act mentioned to have the rent fixed.

5. A tenant shall not, during the continuance of a statutory term in his tenancy, be compelled to pay a higher rent than the rent payable at the commencement of such term, and shall not be compelled to quit the holding of which he is tenant except in consequence of the breach of some one or more of the conditions following (in this Act referred to as statutory conditions) ; that is to say,

Incidents of
tenancy subject
to statutory
conditions.

- (1.) The tenant shall pay his rent at the appointed time :
- (2.) The tenant shall not, to the prejudice of the interest of the landlord in the holding, commit persistent waste by the dilapidation of buildings or, after notice has been given by the landlord to the tenant not to commit or to desist from the particular waste specified in such notice, by the deterioration of the soil :
- (3.) The tenant shall not, without the consent of his landlord in writing, subdivide his holding or sublet the same or any part thereof, or erect or suffer to be erected thereon, save as in this Act provided, any dwelling-house otherwise than in substitution for those already upon the holding at the time of the passing of this Act :

Agistment or the letting of land for the purpose of temporary depasturage, or the letting in conacre of land for the purpose of its 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 be deemed a sub-letting for the purposes of this Act.

- (4.) The tenant shall not do any act whereby his tenancy becomes vested in an assignee in bankruptcy :
- (5.) The landlord, or any person or persons authorised by him in that behalf (he or they making reasonable amends and satisfaction for any damage to be done or occasioned thereby), shall

have the right to enter upon the holding for any of the purposes following (that is to say) :

Mining or taking minerals, or digging or searching for minerals ;

Quarrying or taking stone, marble, gravel, sand, brick clay, fire clay, or slate ;

Cutting or taking timber or turf, save timber and other trees planted by the tenant or his predecessors in title, or that may be necessary for ornament or shelter, and save also such turf as may be required for the use of the holding ;

Opening or making roads, fences, drains, and watercourses ;

Passing and re-passing to and from the sea shore with or without horses and carriages for exercising any right of property or royal franchise belonging to the landlord ;

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

Hunting, shooting, fishing, or taking game or fish, and if the landlord at the commencement of the statutory term so requires, then as between the landlord and tenant the right of shooting and taking game, and of fishing and taking fish shall belong exclusively to the landlord, subject to the provisions of the Ground Game Act, 1880, and the provisions of the Act twenty-seventh and twenty-eighth Victoria, chapter sixty-seven, shall extend where such right of shooting and taking game belongs exclusively to the landlord as though such exclusive right were reserved by the landlord to himself by deed. The word "game" for the purposes of this subsection means hares, rabbits, pheasants, partridges, quails, landrails, grouse, woodcock, snipe, wild duck, widgeon, and teal ;

And the tenant shall not persistently obstruct the landlord, or any person or persons authorised by him in that behalf as aforesaid, in the exercise of any right conferred by this subsection.

During the continuance of a statutory term, all mines and minerals, coals and coal pits, subject to such rights in respect thereof as the tenant, under the contract of tenancy subsisting immediately before the commencement of the statutory term, was lawfully entitled to exercise, shall be deemed to be exclusively reserved to the landlord ;

(6.) The tenant shall not on his holding, without the consent of his landlord, open any house for the sale of intoxicating liquors.

Nothing contained in this section shall prejudice or affect any ejectment for nonpayment of rent instituted by a landlord whether before or after the commencement of a statutory term, in respect of rent accrued due for a holding before the commencement of such term.

During the continuance of a statutory term in a tenancy, save as herein-after provided, the court may, on the application of the landlord, and upon being satisfied that he is desirous of resuming the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate, including the use of the ground as building ground, or for the

benefit of the labourers in respect of cottages, gardens, or allotments, or for the purpose of making grants or leases of sites for churches or other places of religious worship, schools, dispensaries, or clergymen's or schoolmasters residences, authorise the resumption thereof by the landlord upon such conditions as the court may think fit, and require the tenant to sell his tenancy in the whole or such part to the landlord upon such terms as may be approved by the court, including full compensation to the tenant.

Provided that the rent of any holding subject to statutory conditions may be increased in respect of capital laid out by the landlord under agreement with the tenant to such an amount as may be agreed upon between the landlord and tenant.

Amendment of Law as to Compensation for Disturbance.

6. There shall be repealed so much of section three of the Landlord and Tenant (Ireland) Act, 1870, as provides for the scale of compensation, and so much of the same section as declares that in no case shall the compensation exceed the sum of two hundred and fifty pounds, and so much of the same section as declares that a tenant in a higher class of the scale may at his option claim compensation under a lower class, and so much of the same section as prohibits tenants of holdings valued at such sums as are in the said section mentioned, and making such claims for compensation for disturbance as are in the said section mentioned, from being entitled to make separate or additional claims for improvements other than permanent buildings and reclamation of waste land, and the said section three shall hereafter be read as if from such section were omitted the words "for the loss which the court shall find " to be sustained by him by reason of quitting his holding," so that the said section shall be read as providing that the tenant therein mentioned shall be entitled to such compensation as the court, in view of all the circumstances of the case, shall think just, subject to the scale of compensation herein-after mentioned.

Repeal of
33 & 34 Vict.
c. 46. s. 3 (in
part) and s. 13.

The compensation payable under the said section three in the case of a tenant disturbed in his holding by the act of a landlord after the passing of this Act shall be as follows in the case of holdings—

Where the rent is thirty pounds or under, a sum not exceeding seven years rent :

Where the rent is above thirty pounds and not exceeding fifty pounds, a sum not exceeding five years rent :

Where the rent is above fifty pounds and not exceeding one hundred pounds, a sum not exceeding four years rent :

Where the rent is above one hundred pounds and not exceeding three hundred pounds, a sum not exceeding three years rent :

Where the rent is above three hundred pounds and not exceeding five hundred pounds, a sum not exceeding two years rent :

Where the rent is above five hundred pounds, a sum not exceeding one year's rent.

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 rent of his holding was reduced to the sum (or where two sums are mentioned, the higher sum) stated in such lower class.

From and after the passing of this Act the thirteenth section of the Landlord and Tenant (Ireland) Act, 1870, shall be and the same is hereby repealed.

Amendment of Law as to Compensation for Improvements.

Amendment of
33 & 34 Vict.
c. 46. as to
compensation
for improve-
ments.

7. A tenant on quitting the holding of which he is tenant shall not be deprived of his right to receive compensation for improvements under the Landlord and Tenant (Ireland) Act, 1870, by reason only of the determination by surrender or otherwise of the tenancy subsisting at the time when such improvements were made by such tenant or his predecessors in title, and the acceptance by him or them of a new tenancy.

Where in tracing a title for the purpose of obtaining compensation for improvements, it appears that an outgoing tenant has surrendered his tenancy in order that some other person may be accepted by the landlord as tenant in his place, and such other person is so accepted as tenant, the outgoing tenant shall not be precluded from being deemed the predecessor in title of the incoming tenant by reason only of such surrender of tenancy by him.

The court, in adjudicating on a claim for compensation for improvements made before any such change of tenancy or of tenants, shall take into consideration all the circumstances under which such change took place, and shall admit, reduce, or disallow altogether such claim as to the court may seem just.

A flax scutching mill otherwise suitable to the holding on which it is erected shall not be deemed to be unsuitable to the holding on which it is erected by reason only that it is available for purposes beyond those of the holding on which it is situate.

PART II.

INTERVENTION OF COURT.

Determination
by court of
rent of present
tenancies.

8. (1.) The tenant of any present tenancy to which this Act applies, or such tenant and the landlord jointly, or the landlord, after having demanded from such tenant an increase of rent which the tenant has declined to accept, or after the parties have otherwise failed to come to an agreement, may from time to time during the continuance of such tenancy apply to the court to fix the fair rent to be paid by such tenant to the landlord for the holding, and thereupon the court, after hearing the parties, and having regard to the interest of the landlord and tenant respectively, and considering all the circumstances of the case, holding, and district, may determine what is such fair rent,

(2.) The rent fixed by the court (in this Act referred to as the judicial rent) shall be deemed to be the rent payable by the tenant as from the period commencing at the rent day next succeeding the decision of the court.

(3.) Where the judicial rent of any present tenancy has been fixed by the court, then, until the expiration of a term of fifteen

years from the rent day next succeeding the day on which the determination of the court has been given (in this Act referred to as a statutory term), such present tenancy shall (if it so long continue to subsist) be deemed to be a tenancy subject to statutory conditions, and having the same incidents as a tenancy subject to statutory conditions consequent on an increase of rent by a landlord, with this modification, that, during the statutory term in a present tenancy consequent on the first determination of a judicial rent of that tenancy by the court, application by the landlord to authorise the resumption of the holding or part thereof by him for some purpose having relation to the good of the holding or of the estate, shall not be entertained by the court, unless—

(a.) Such present tenancy has arisen at the expiration of a judicial lease, or of a lease existing at the time of the passing of this Act, and originally made for a term of not less than thirty-one years; or

(b.) It is proved to the satisfaction of the court that before the passing of this Act the reversion expectant on the determination of a lease of the holding was purchased by the landlord or his predecessors in title with the view of letting or otherwise disposing of the land for building purposes on the determination of such lease, and that it is *bonâ fide* required by him for such purpose.

(4.) Where an application is made to the court under this section in respect of any tenancy, the court may, if it think fit, disallow such application where the court is satisfied that on the holding in which such tenancy subsists the permanent improvements in respect of which, if made by the tenant or his predecessors in title, the tenant would have been entitled to compensation under the provisions of the Landlord and Tenant (Ireland) Act, 1870, as amended by this Act, have been made by the landlord or his predecessors in title, and have been substantially maintained by the landlord and his predecessors in title, and not made or acquired by the tenant or his predecessors in title.

(5.) On the occasion of any application being made to the court under this section to fix a judicial rent in respect of any holding which is not subject to the Ulster tenant-right custom, or an usage corresponding to the Ulster tenant-right custom, the landlord and tenant may agree to fix, or in the case of dispute the court may fix, on the application of either landlord or tenant, a specified value for the tenancy; and, where such value has been fixed, then if at any time during the continuance of the statutory term the tenant gives notice to the landlord of his intention to sell the tenancy, the landlord may purchase the tenancy on payment to the tenant of the amount of the value so fixed, together with the value of any improvements made by the tenant since the time at which such value was fixed, but subject to deduction in respect of any damage caused by dilapidation of buildings or deterioration of soil since the time at which the value was so fixed.

(6.) Subject to rules made under this Act, the landlord and tenant of any present tenancy to which this Act applies, may, at any time if such tenancy is not subject to a statutory term, or if the tenancy is subject to a statutory term, then may, during the

last twelve months of such term, by writing under their hands, agree and declare what is then the fair rent of the holding; and such agreement and declaration on being filed in court in the prescribed manner, shall have the same effect and consequences in all respects as if the rent so agreed on were a judicial rent fixed by the court under the provisions of this Act.

(7.) A further statutory term shall not commence until the expiration of a preceding statutory term, and an alteration of judicial rent shall not take place at less intervals than fifteen years.

(8.) During the currency of a statutory term an application to the court to determine a judicial rent shall not be made except during the last twelve months of the current statutory term.

(9.) No rent shall be allowed or made payable in any proceedings under this Act in respect of improvements made by the tenant or his predecessors in title, and for which, in the opinion of the court, the tenant or his predecessors in title shall not have been paid or otherwise compensated by the landlord or his predecessors in title.

(10.) The amount of money or money's worth that may have been paid or given for the tenancy of any holding by a tenant or his predecessors in title, otherwise than to the landlord or his predecessors in title, shall not of itself, apart from other considerations, be deemed to be a ground for reducing or increasing the rent of such holding.

Equities to be administered by court between landlord and tenant.

9. Where the court, on the hearing of an application of either landlord or tenant respecting any matter under this Act, is of opinion that the conduct of either landlord or tenant has been unreasonable, or that the one has unreasonably refused any proposal made by the other, the court may do as follows:

It may refuse to accede to the application, or may accede to the same, subject to conditions to be performed by either landlord or tenant, or may impose on either party to the application the payment of the costs or the greater part of the costs of any proceedings, and generally may make such order in the matter as the court thinks most consistent with justice.

PART III.

EXCLUSION OF ACT BY AGREEMENT.

Judicial Leases.

Lease approved by court during its continuance to exclude provisions of the Act.

10. The landlord and tenant of any ordinary tenancy and the landlord and proposed tenant of any holding to which this Act applies which is not subject to a subsisting tenancy, may agree, the one to grant and the other to accept a lease for a term of thirty-one years or upwards (in this Act referred to as a judicial lease), on such conditions and containing such provisions as the parties to such lease may mutually agree upon, and such lease, if sanctioned by the court, after considering the interest of the tenant, and where such lease is made by a limited owner, the interest of all persons entitled to any estate or interest in the holding subsequent to the estate or interest of such limited owner, shall be deemed to be sub-

stituted for the former tenancy, if any, in the holding; and the tenancy shall during the continuance of such lease be regulated by the provisions of that lease alone, and shall not be deemed to be a tenancy to which this Act applies.

At the expiration of a judicial lease made to the tenant of a present tenancy and for a term not exceeding sixty years the lessee shall be deemed to be the tenant of a present ordinary tenancy from year to year at the rent and subject to the conditions of the lease, so far as such conditions are applicable to such tenancy.

Fixed Tenancies.

11. The landlord and tenant of any tenancy may agree that such tenancy shall become a fixed tenancy within the meaning of this Act, and such fixed tenancy upon being established shall be substituted for the tenancy previously existing in the holding, and shall not be deemed to be a tenancy to which this Act applies.

Present
ordinary
tenancy con-
verted into
fixed tenancy.

12. A fixed tenancy shall be a tenancy held upon such conditions as may be agreed upon between the landlord and tenant establishing such tenancy, and in the case of a landlord who is a limited owner the court shall approve after considering the interest of all persons entitled to any estate or interest in the holding subsequent to the estate or interest of such limited owner, subject to the following restrictions; that is to say,

Conditions of
fixed tenancy.

(1.) The tenant shall pay a fee-farm rent which may or may not be subject to re-valuation by the court at such intervals of not less than fifteen years as may be agreed upon between the landlord and tenant, the rent on any such re-valuation being such as the court, after hearing the parties, and having regard to the interests of the landlord and tenant respectively, and considering all the circumstances of the case, holding, and district, shall determine to be fair; and

(2.) The tenant shall not be compelled to quit his holding except on breach of some one or more of the conditions in this Act declared to be statutory conditions.

PART IV.

PROVISIONS SUPPLEMENTAL TO PRECEDING PARTS.

Miscellaneous.

13. (1.) Where proceedings are or have been taken by the landlord to compel a tenant to quit his holding, the tenant may sell his tenancy at any time before but not after the expiration of six months from the execution of a writ or decree for possession in an ejectment for nonpayment of rent and at any time before but not after the execution of such writ or decree in any ejectment other than for nonpayment of rent; and any such tenancy so sold shall be and be deemed to be a subsisting tenancy notwithstanding such proceedings, without prejudice to the landlord's rights, in the event of the said tenancy not being redeemed within said period of six months; and, if any judgment or decree in ejectment has been obtained before the passing of this Act, such tenant may within the

Regulations as
to sales and
application to
court to fix
rent.

same periods respectively apply to the court to fix the judicial rent of the holding, but subject to the provisions herein contained such application shall not invalidate or prejudice any such judgment or decree, which shall remain in full force and effect.

(2.) Where the sale of any tenancy is delayed by reason of any application being made to the court or for any other reasonable cause, the court may, on the application of the tenant, and on such terms and conditions as the court may direct, enlarge the time during which the tenant may exercise his power of sale, or in case of ejectment for nonpayment of rent redeem the tenancy.

(3.) Where any proceedings for compelling the tenant of a present tenancy to quit his holding shall have been taken before or after an application to fix a judicial rent and shall be pending before such application is disposed of, the court before which such proceedings are pending shall have power, on such terms and conditions as the court may direct, to postpone or suspend such proceedings until the termination of the proceedings on the application for such judicial rent; and the pendency of any such proceedings for compelling the tenant to quit his holding shall not interfere with the power of the court to fix such rent, or with any right of the tenant resulting from the rent being so fixed; and in such case any order made by the court for fixing the rent shall operate in the same manner as if such order had been made on the day of the date of application.

Provided, that proceedings shall not be taken by a landlord to compel a tenant to quit his holding for breach of any statutory condition, save as follows:

(a.) Where the condition broken is a condition relating to payment of rent, then by ejectment subject to the provisions of the statutes relating to ejectment for non-payment of rent; and

(b.) Where the condition broken is any other statutory condition, then by ejectment founded on notice to quit.

(4.) Where a notice to quit is served by a landlord upon a tenant for the purpose of compelling the tenant to quit his holding during the continuance of a statutory term in his tenancy in consequence of the breach by the tenant of any statutory condition other than the condition relating to payment of rent, the tenant may, at any time before the commencement of an ejectment founded on such notice to quit, apply to the land commission, and after the commencement, or at the hearing of any such ejectment, may apply to the court in which the ejectment is brought, for an order restraining the landlord from taking further proceedings to enforce such notice to quit.

If the land commission or court to which such application is made are of opinion that adequate satisfaction for the breach of such condition can be made by the payment of damages to the landlord, and that the tenant may justly be relieved from the liability to be compelled to quit his holding in consequence of such breach, the commission or court may make an order restraining further proceedings on the notice to quit, upon the payment by the tenant of such sum for damages as they shall then, or after due inquiry, award to the landlord in satisfaction for the breach of the statu-

tory condition, together with the costs incurred by the landlord in respect to the notice to quit and the proceedings subsequent thereto.

If the land commission or court are of opinion that no appreciable damage has accrued to the landlord from the breach of such condition, and that the tenant may justly be relieved as aforesaid, they may make an order restraining further proceedings on the notice to quit, upon such terms as to costs as they may think just.

(5.) The service of a notice to quit, to enforce which no proceedings are taken by the landlord, or the proceedings to enforce which are restrained by the court, shall not operate to determine the tenancy.

(6.) A tenant compelled to quit his holding during the continuance of a statutory term in his tenancy, in consequence of the breach by the tenant of any statutory condition, shall not be entitled to compensation for disturbance.

14. The court on being satisfied that the tenant of any holding within the jurisdiction of the court has died, and that the tenancy of such tenant ought to be sold under this Act, and that there is no legal personal representative of such tenant, or no legal personal representative whose services are available for the purpose of selling the tenancy, may, on such terms and conditions, if any, as they may think fit, appoint any proper person to be administrator of the deceased tenant, limited to the purposes of such sale, and such limited administrator shall, for the purpose of selling the tenancy, 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 deceased tenant.

Limited administration for purposes of sale.

Such limited administrator shall pay to the landlord, out of the purchase money, any sums due to the landlord by the deceased tenant in respect of his tenancy, and may pay the residue of the purchase money to a general administrator (if any) or into court.

15. If in the case of any holding the estate of the immediate landlord for the time being is determined during the continuance of any tenancy from year to year, whether subject or not subject to statutory conditions, the next superior landlord for the time being shall, for the purposes of this Act, during the continuance of such tenancy stand in the relation of immediate landlord to the tenant of the tenancy, and have the rights and be subject to the obligations of an immediate landlord.

Provision for determination of estate of immediate landlord.

16. A tenancy for a year certain created after the passing of this Act shall, for the purposes of this Act and of the Landlord and Tenant (Ireland) Act, 1870, be deemed to be a tenancy from year to year.

Provision as to certain small tenancies.

A tenant holding under a tenancy less than a yearly tenancy created after the passing of this Act shall have the same rights under this Act as a yearly tenant, except where land is let merely for temporary convenience or to meet a temporary necessity.

17. Where the tenant of a holding by virtue of his tenancy exercises, in common with other persons, over uninclosed land a right of pasturing or turning out cattle or other animals, or exercises a right of cutting and taking turf in common with other

Provision as to certain claims of pasturage and turbary.

persons (which other persons, together with the tenant, are in this section referred to as commoners), then if such holding becomes subject to a statutory term the court may, during the continuance of such term, on the application of the landlord, or of any commoner, by order restrain the tenant from exercising his right of pasture or cutting or taking turf in any manner other than that in which it may be proved to the court that he is, under the circumstances and according to the ordinary usage which has prevailed with the express or implied consent of the landlord amongst the commoners, reasonably entitled to exercise the same.

Letting for labourers cottages not to be within the restrictions of Act.

18. Any person prohibited under this Act from letting or sub-letting a holding may, after service of the prescribed notice upon the landlord, with the sanction of the court, and with power for the court to prescribe such terms as to rent and otherwise as the court thinks just, let any portion of land in a situation to be approved by the landlord, or failing such approval to be determined by the court, with or without dwelling-houses thereon to or for the use of labourers *bonâ fide* employed and required for the cultivation of the holding, and such letting shall not be deemed to be a sub-letting within the meaning of this Act, or to be a letting prohibited by this Act; and notwithstanding such sub-letting the tenant shall for the purposes of this Act be deemed to be still in occupation of the holding.

Provided, that the land comprised in each letting shall not exceed half an acre in extent, and that where the holding contains not more than twenty-five acres of tillage land, the number of such lettings shall not exceed one, and that where the holding contains more than twenty-five acres of tillage land, but not more than fifty acres of such land, the number of such lettings shall not exceed two; and so in proportion to the acreage of tillage land in the holding after fifty acres.

Power of court, on application for the determination of a judicial rent, to impose conditions as to labourers cottages.

19. Where an application is made to the court for the determination of a judicial rent in respect of any holding, the court, if satisfied that there is a necessity for improving any existing cottages or building any new cottages, or assigning to any such cottage an allotment not exceeding half an acre, for the accommodation of the labourers employed on such holding, may, if it thinks fit, in making the order determining such rent, add thereto the terms as to rent and otherwise on which such accommodation for labourers is to be provided by the person making the application.

Where upon any such application the court requires the tenant of the holding to improve any existing cottage, or to build any new cottage, such tenant shall be deemed to be a person to whom a loan may be made under the Landed Property Improvement (Ireland) Acts for the improvement or building of dwellings for labourers, as if such person were an owner within the meaning of the seventh section of the Act of the session of the tenth and eleventh years of the reign of Her present Majesty, chapter thirty-two; but any such loan may be made for a less sum than the sum of one hundred pounds.

Rules as to determination of tenancy.

20. A tenancy to which this Act applies shall be deemed to have determined whenever the landlord has resumed possession of the holding either on the occasion of a purchase by him of the tenancy,

or of default of the tenant in selling, or by operation of law, or reverter, or otherwise. Provided that:

- (1.) The surrender to the landlord of a tenancy for the purpose of the acceptance or admission of a tenant or otherwise by way of transfer to a tenant shall not be deemed to be a determination of the tenancy:
- (2.) Where the landlord has resumed possession of a tenancy from a present tenant, he may, if he thinks fit so to do, reinstate such tenant in his holding as a present tenant; and thereupon such tenancy shall again become subject to all the provisions of this Act which are applicable to present tenancies; Provided always, that the landlord and tenant may at the time of such reinstatement agree on the rent to be paid by such tenant, and in such case such agreement shall have the same effect as if the rent so agreed on were a judicial rent fixed by the court under the provisions of this Act;
- (3.) Where a present tenancy in a holding is purchased by the landlord from the tenant in exercise of his right of pre-emption under this Act, and not on the application or by the wish of the tenant, or as a bidder in the open market, then if the landlord within fifteen years from the passing of this Act re-lets the same holding to another tenant, the same shall be subject from and after the time when it has been so re-let, to all the provisions of this Act which are applicable to present tenancies;
- (4.) A tenant holding under the Ulster tenant-right custom, or a usage corresponding to the Ulster tenant-right custom, shall be entitled to the benefit of such custom, notwithstanding any determination of his tenancy by breach of a statutory condition or of an act or default of the same character as the breach of a statutory condition.

Whenever a present tenancy is sold in consequence of a breach by the tenant, after the passing of this Act, of a statutory condition, or, in the case of a tenancy not subject to statutory conditions, of an act or default on the part of a tenant, after the passing of this Act, which would, in a tenancy subject to such conditions, have constituted a breach thereof, the purchaser or his successors in title in such tenancy shall not at any time thereafter be entitled to apply to the court under this Act to fix a judicial rent for the holding; but this provision shall not prejudice or affect the right of such purchaser or his successors to hold at such judicial rent during the residue of such statutory term, if any, as the holding may then be subject to, under the provisions of this Act.

21. Any leases or other contracts of tenancy existing at the date of the passing of this Act, except yearly tenancies and tenancies less than yearly tenancies, which said existing leases and contracts of tenancies (except as aforesaid) are in this section referred to as existing leases, shall remain in force to the same extent as if this Act had not passed, and holdings subject to such existing leases shall be regulated by the lawful provisions contained in the said leases, and not by the provisions relating to tenancies in that behalf contained in this Act: Provided that at the expiration of such existing leases, or of such of them as shall expire within sixty years

Provisions as
to existing
leases.

after the passing of this Act, the lessees, if bonâ fide in occupation of their holdings, shall be deemed to be tenants of present ordinary tenancies from year to year, at the rents and subject to the conditions of their leases respectively, so far as such conditions are applicable to tenancies from year to year; but this provision shall not apply where a reversionary lease of the holding has been bonâ fide made before the passing of this Act; and provided also that where it shall appear to the satisfaction of the court that the landlord desires to resume the holding for the bonâ fide purpose of occupying the same as a residence for himself, or as a home farm in connexion with his residence, or for the purpose of providing a residence for some member of his family, the court may authorise him to resume the same accordingly, in the manner and on the terms provided by the fifth section of this Act with respect to the resumption of a holding by a landlord: Provided always, that if the holding so resumed shall be at any time within fifteen years after such resumption re-let to a tenant, the same shall be subject, from and after the time of its being so re-let, to all the provisions of this Act which are applicable to present tenancies.

On the termination of any such existing lease in any holding which if it had been held from year to year would have been subject to the Ulster tenant-right custom, or any usage corresponding therewith, the person who would have been entitled to make a claim under the first or second section of the Landlord and Tenant (Ireland) Act, 1870, in respect of the same holding shall be entitled to do so notwithstanding that the holding was held under any such lease, but this proviso shall not apply to leases in which there is contained a provision expressly excluding the Ulster tenant-right custom or a usage corresponding therewith.

In any case in which the court shall be satisfied that since the passing of the Landlord and Tenant (Ireland) Act, 1870, the acceptance by a tenant from year to year of a lease of his holding containing terms which, in the opinion of the court, were at the time of such acceptance unreasonable or unfair to the tenant, having regard to the provisions of the said Act, was procured by the landlord by threat of eviction or undue influence, the court may, upon the application of the tenant made within six months after the passing of this Act, declare such lease to be void as and from the date of the application or order, and upon such terms as to costs or otherwise as to the court shall seem just; and thereupon the tenant shall as and from such date be deemed to be the tenant of a present ordinary tenancy from year to year at the rent mentioned in such lease. Any person aggrieved by the decision of the court in any proceedings under this section may, by leave of the court, which leave shall be granted unless the court shall consider the appeal frivolous or vexatious, appeal to Her Majesty's Court of Appeal in Ireland, and the decision of the said Court of Appeal shall be final and conclusive.

Extent of Power to contract out of Act.

22. A tenant whose holding or the aggregate of whose holdings is valued under the Act relating to the valuation of rateable property in Ireland at an annual value of not less than one hundred

33 & 34 Vict.
c. 46.

Contracts inconsistent with Act, how far void.

and fifty pounds, shall be entitled by writing under his hand to contract himself out of any of the provisions of this Act or of the Landlord and Tenant (Ireland) Act, 1870.

Where the tenancy in a holding subject to the Ulster tenant-right custom or to any corresponding usage, has been purchased by the landlord from the tenant by voluntary purchase before the passing of this Act, then, if at the date of the passing of this Act the owner of any such holding is in actual occupation thereof, it shall be lawful, in the case of the first tenancy created in the holding after the passing of this Act, for the parties to the contract creating the same, by writing under their hands, to provide that such tenancy shall be exempt from the provisions of section one of this Act.

Save as in this section mentioned any provision contained in any lease or contract of tenancy or other contract made after the passing of this Act, which provision is inconsistent with any of the foregoing provisions of this Act or with any of the provisions of the Landlord and Tenant (Ireland) Act, 1870, shall be void.

Limited Owner.

23. A landlord being a limited owner, as defined by the twenty-sixth section of the Landlord and Tenant (Ireland) Act, 1870, may exercise under the foregoing provisions of this Act any powers which he might exercise if he were an absolute owner, with this exception, that except in the case of a body corporate, commissioners, or other like body, a limited owner shall not grant a judicial lease or create a fixed tenancy without the sanction of the court. Any fines or principal moneys arising from the exercise of such powers shall be dealt with in manner provided by the Lands Clauses Consolidation Acts hereafter in this Act defined with respect to the purchase money or compensation coming to parties having limited interests. Powers of limited owner.

In the case of any holding subject to mortgage the prescribed notice of any agreement between landlord and tenant for granting a judicial lease or creating a fixed tenancy of such holding under the foregoing provisions of this Act, shall be served upon the mortgagee, and the mortgagee shall be entitled to intervene in such proceedings in the prescribed manner and subject to the prescribed conditions.

PART V.

ACQUISITION OF LAND BY TENANTS, RECLAMATION OF LAND, AND EMIGRATION.

Acquisition of Land by Tenants.

24. (1.) The land commission, out of moneys in their hands, may, if satisfied with the security, advance sums to tenants for the purpose of enabling them to purchase their holdings, as follows, that is to say,— Advances to tenants by commission for purchase of holdings.

(a.) Where a sale of a holding is about to be made by a landlord to a tenant in consideration of the payment of a principal sum,

the land commission may advance to the tenant for the purposes of such purchase, any sum not exceeding three fourths of the said principal sum.

- (b.) Where a sale of a holding is about to be made by a landlord to a tenant in consideration of the tenant paying a fine and engaging to pay to the landlord a fee farm rent, the land commission may advance to the tenant for the purposes of such purchase, any sum not exceeding one half of the fine payable to the landlord.

Provided that no advance shall be made by the land commission under this section on a holding subject to a fee farm rent, where the amount of such fee farm rent exceeds seventy-five per cent. of the rent which, in the opinion of the land commission, would be a fair rent for the holding.

(2.) Sales by landlords to tenants may on the application of either landlord or tenant be negotiated and completed through the medium of the land commission at a fixed price or percentage, according to a scale to be settled from time to time by the land commission with the consent of the Treasury.

(3.) Where an estate is subject to incumbrances, or any doubt arises as to the title, the land commission, if satisfied with the indemnity or terms given by the landlord, may themselves indemnify the tenant against any such incumbrances, or any right, title, or interest adverse to or in derogation of the title of the landlord, and any such indemnity of the land commission shall be a charge upon the Consolidated Fund or the growing produce thereof.

Power to limited owner to sell holding and leave one-fourth of price of holding on mortgage.

25. A landlord of a holding, being a limited owner as defined by the twenty-sixth section of the Landlord and Tenant (Ireland) Act, 1870, may by agreement, subject to the provisions of the Lands Clauses Consolidation Acts (except so much of the same as relates to the purchase of lands otherwise than by agreement), sell and convey such holding to the tenant, and may exercise to the same extent as if he were an absolute owner the power of permitting any sum not exceeding one-fourth in amount of the price which the tenant may pay as purchase money, to remain as a charge upon such holding secured by a mortgage, and in case of any advance being made by the land commission under the provisions of this Act to the tenant for the purchase of such holding any such mortgage shall be subject to any charge in favour of the land commission for securing such advance; and any such mortgage and the principal money secured thereby shall be deemed to be part of the purchase money or compensation payable in respect of the purchase of such holding, and shall be dealt with accordingly in manner provided by the Lands Clauses Consolidation Acts; and in the construction of the said Acts for the purposes of this section the expression "the special Act" shall be construed to mean this Act, and the expression "the promoters of the undertaking" shall be construed to mean the tenant.

Purchase of estates by commission and re-sale in parcels to tenants.

26. (1.) Any estate may be purchased by the land commission for the purpose of reselling to the tenants of the lands comprised in such estate their respective holdings, if the land commission are satisfied with the expediency of the purchase, and are further

satisfied that a competent number of the tenants are able and willing to purchase their holdings from the land commission.

(2.) The sale by the land commission of a holding to the tenant thereof may be made either in consideration of a principal sum being paid as the whole price (whether paid immediately or by means of such advance as in this part of this Act mentioned) or in consideration of a fine and of a fee farm rent, with this qualification, that the amount of the fee farm rent shall not exceed seventy-five per cent. of the rent which in the opinion of the land commission would be a fair rent for the holding.

(3.) For the purposes of this section a competent number of tenants means a body of tenants who are not less in number than three fourths of the whole number of tenants on the estate, and who pay in rent not less than two thirds of the whole rent of the estate, and of whom a number, comprising not less than one half of the whole number of tenants on the estate, are able and willing to pay the whole price of their holdings, either immediately or by means of such advances as in this part of this Act mentioned.

The condition as to three fourths of the number of tenants may be relaxed on special grounds with the consent of the Lords Commissioners of the Treasury, but so that in no case less than half the number of tenants shall be able and willing to purchase.

(4.) The land commission may advance to a tenant proposing to pay the whole price of his holding any sum not exceeding seventy-five per cent. of the said price, and to a tenant purchasing subject to a fee farm rent a sum not exceeding one half of the amount of the fine payable by the tenant.

(5.) In sales by the land commission to tenants in pursuance of this section, a separate charge shall not be made for any expenses relating to the purchase, sale, or conveyance of the property, but such expenses shall be included in the price or fine payable by the purchaser.

The land commission may, if they are satisfied with the indemnity or terms offered or given by the vendor, purchase for the purposes of this section an estate subject to incumbrances, or an estate subject to any right, title, or interest adverse to or in derogation of the title of the vendor, and the land commission may indemnify any person to whom they may sell any holding under this section against any such incumbrances or the enforcement of any such right, title, or interest, and such indemnity shall be a charge on the Consolidated Fund or the growing produce thereof.

27. Where the land commission have purchased an estate, they may sell any parcels which they do not sell to the tenants thereof in such manner as they think fit, in consideration either of a principal sum as the whole price, or of a fine and a fee farm rent, or partly in one way and partly in the other.

Sale to public of parcels not purchased by tenants.

The land commission may advance to any purchaser of a parcel under this section, on the security of such parcel, one half of the principal sum paid as the whole price or of the fine.

The provisions of this part of this Act with respect to the charges for expenses and to the mode in which sales are to be made and to the indemnity which the land commission may give to the purchaser shall, except so far as the land commission otherwise

direct, apply to the sale of a parcel in pursuance of this section in like manner as if the purchaser had been the tenant of the holding at the time of his making the purchase.

Terms of re-
payment of
advances made
by commission.

28. (1.) Any advance made by the land commission for the purpose of supplying money for the purchase of a holding from a landlord or of a holding or parcel from the land commission, shall be repaid by an annuity in favour of the land commission for thirty-five years of five pounds for every hundred pounds of such advance, and so in proportion for any less sum.

33 & 34 Vict.
c. 46.
35 & 36 Vict.
c. 32.

(2.) Every such advance shall be secured to the commission either in such manner as may be agreed on between the commission and the person to whom the advance is made, and as the commission think sufficient, or in manner provided by Part III. of the Landlord and Tenant (Ireland) Act, 1870, as amended by the Landlord and Tenant (Ireland) Act, 1872, in like manner in all respects as if the same were such an advance as is mentioned in those Acts, and as if the land commission were the Board therein mentioned, and as if the person receiving the advance were a tenant or purchaser therein mentioned.

(3.) Any person liable to pay an annuity in this section mentioned may redeem the same, or any part thereof, or may pre-pay any instalments thereof in such manner and on such terms as is provided by section fifty-one of the Landlord and Tenant (Ireland) Act, 1870, or in such other manner, and on such other terms, as the Treasury may from time to time approve, having regard to the due repayment of the loan and the protection of the land commission against loss by the said loan.

Provision as
to purchases
and sales by
land commis-
sion.

29. (1.) The land commission shall not purchase a leasehold estate under this part of this Act, unless the lease is for lives or years renewable for ever, or is for a term of years of which not less than sixty are unexpired at the time when the sale is made, or unless the land commission have purchased some greater right or interest in the estate in which the leasehold would be merged: Provided that—

(a.) This part of this Act shall not empower the owner of a leasehold holding under a lease containing a prohibition against alienation to sell such leasehold unless such prohibition is determined or is waived; and

(b.) Nothing in this section shall prevent the purchase of an estate by reason only of a small part thereof being leasehold.

(2.) Any body corporate, public company, trustees for charities, commissioners or trustees for collegiate or other public purposes, or any person having a limited interest in an estate or any right or interest therein, may sell the same to the land commission, and for the purpose of the purchase by the land commission of any estate or any right or interest therein the Lands Clauses Consolidation Acts (except so much as relates to the purchase of land otherwise than by agreement) shall be incorporated with this Act, and in construing those Acts for the purposes of this section the "special Act" shall be construed to mean this Act, and "the promoters of the undertaking" shall be construed to mean the land commission, and "land" shall be construed to include any right or interest in land.

(3.) For the purpose of this Act "the Lands Clauses Consolidation Acts" means the Lands Clauses Consolidation Act, 1845, as amended by the Lands Clauses Consolidation Acts Amendment Act, 1860. 8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.

(4.) Any sale of a holding to a tenant by a landlord, also any sale to a tenant of a holding by the land commission in pursuance of this part of this Act, may be made either in pursuance of Part II. of the Landlord and Tenant (Ireland) Act, 1870, or in such manner as the land commission may think expedient; and for the purpose of the application of the said Part II., "price" in section thirty-two of the Landlord and Tenant (Ireland) Act, 1870, shall be deemed to include a fine and a fee farm rent as well as a principal sum, and the enactments relating to the distribution of the price shall apply with the necessary modifications.

30. (1.) As between the land commission and the proprietor for the time being of any holding for the purchase of which the land commission have advanced money in pursuance of this part of this Act, the following conditions shall be imposed so long as such holding is subject to any charge in respect of an annuity in favour of the land commission; that is to say, Conditions annexed to holdings whilst subject to advances.

(a.) The holding shall not be subdivided or let by such proprietor without the consent of the land commission until the whole charge due to the land commission has been repaid:

(b.) Where the proprietor subdivides or lets any holding or part of a holding in contravention of the foregoing provisions of this section, the land commission may cause the holding to be sold:

(c.) Where the title to the holding is divested from the proprietor by bankruptcy, the land commission may cause the holding to be sold:

(d.) Where, on the decease of the proprietor, the holding would by reason of any devise, bequest, intestacy, or otherwise, become sub-divided the land commission may require the holding to be sold within twelve months after the death of the proprietor to some one person, and if default is made in selling the same, the land commission may cause the same to be sold.

(2.) The land commission may cause any holding which under this section they can cause to be sold, or any part of such holding, to be sold by public auction or private contract, and subject to any conditions of sale they may think expedient, and after such notice of the time, place, terms, and conditions of such sale, as they think just and expedient; and the land commission may convey such holding to the purchaser in like manner in all respects as if the holding had been vested in the land commission.

(3.) The land commission shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due to them in respect of the holding, and in redemption on the terms specified in section fifty-one of the Landlord and Tenant (Ireland) Act, 1870, of any annuity charged on the said holding, in favour of the commission, or of so much thereof as remains unpaid, and of all expenses incurred by the land commission in relation to such sale or otherwise with respect to the holding, and shall pay the

balance to the persons appearing to the land commission to be for the time being entitled to receive the same.

Provided, that in respect of any holding which is subject to any charge in respect of an annuity in favour of the Board of Works, created in pursuance of the Landlord and Tenant (Ireland) Act, 1870, the said Board may, if they shall see fit, at any time during the continuance of such charge, upon the application of the person for the time being liable to pay the same, declare such holding to be subject to the conditions imposed by this Act on a holding subject to any charge in respect of an annuity in favour of the land commission; and thenceforth so much of the forty-fourth and forty-fifth sections of the said Landlord and Tenant (Ireland) Act, 1870, as prohibits, without the consent of the Board, the alienation, assignment, sub-division, or sub-letting of a holding charged as in the said section mentioned, and declares that in the event of such prohibition being contravened the holding shall be forfeited to the Board, and also so much of section two of the Landlord and Tenant (Ireland) Act, 1872, as relates to the sale of holdings in lieu of forfeiture, shall, as to the holding in respect of which such a declaration has been made, be repealed, and the conditions imposed by this Act on a holding subject to any charge in respect of an annuity in favour of the land commission shall apply to the holding in respect whereof the said declaration has been made in the same manner as if the said conditions had been made applicable to the said last-mentioned holding by the said Acts of one thousand eight hundred and seventy and one thousand eight hundred and seventy-two, and the said Board had thereby been authorised to enforce the said conditions.

Reclamation of Land, and Emigration.

Reclamation of
land.

31. (1.) The Treasury may authorise the Board of Works to advance from time to time out of any moneys in their hands to companies, if they are satisfied with the security, such sums as the Treasury think expedient for the purpose of the reclamation or improvement of waste or uncultivated land or foreshores, drainage of land, or for building of labourers dwellings, or any other works of agricultural improvement.

(2.) The Treasury may authorise the Board of Works to make advances for like purposes to an occupier of land, when satisfied that the tenancy or other security which he may have to offer is such as to insure repayment of principal and interest within such number of years as the Treasury may fix, or when the landlord joins the occupier in giving such security.

Any advance to an occupier under this sub-section shall be subject to the provisions of the Landed Property Improvement (Ireland) Acts, so far as the Treasury may declare the same to be applicable, and shall have priority over all charges and incumbrances whatever upon the tenancy of such occupier, except rent, unless the landlord is a party to the advance, and agrees to postpone the rent to it; but before such advance is made one month's previous notice thereof shall be given in a newspaper circulating in the district within which the said holding is situated, and in such other manner as the Board of Works may prescribe; and such advance shall not

have priority over any charge or incumbrance of which the Board of Works may have had notice in writing given them before making the advance.

(3.) The Board of Works shall not make to any company in pursuance of this section any advances exceeding in the whole the sums which such company may, within such period as may be determined by the Board of Works, have advanced or expended out of their own moneys for some one of the purposes of this section, nor any advances without proper security that those advances shall be expended for such purposes as aforesaid in addition to the sums advanced or expended by the company out of their own moneys.

(4.) Advances made by the Board of Works to a company in pursuance of this section shall be made repayable within such periods and at such rate of interest as are set forth in a minute of the Treasury made on the sixteenth day of August, one thousand eight hundred and seventy-nine, with reference to loans to which section two of the Public Works Loans Act, 1879, applies, or as the Treasury may from time to time fix in pursuance of that section, and save as regards such periods and rate of interest the enactments relating to loans made by the Board of Works for the like purposes to those above in this section mentioned shall, so far as is consistent with this section, apply in like manner as if an advance under this section were a loan made in pursuance of those enactments. 42 & 43 Vict. c. 77.

32. The land commission may from time to time, with the concurrence of the Treasury, and on being satisfied that a sufficient number of people in any district desire to emigrate, enter into agreements with any person or persons having authority to contract on behalf of any state or colony or public body or public company with whose constitution and security the land commission may be satisfied, for the advance by the commission by way of loan, out of the moneys in their hands, of such sums as the commission may think it desirable to expend in assisting emigration especially of families and from the poorer and more thickly populated districts of Ireland. Such agreements shall contain such provisions relative to the mode of the application of the loans and the securing and repayment thereof to the commission, and for securing the satisfactory shipment, transport, and reception of the emigrants, and for other purposes, as the commission with the concurrence of the Treasury approve. Such loans shall be made repayable within the periods and at the rate of interest within and at which advances by the Board of Works for the purpose of the reclamation or improvement of land are directed by this Act to be made repayable: Provided always, that there shall not be expended by virtue of the authority hereby given a greater sum than two hundred thousand pounds in all, nor a greater sum than one-third part thereof in any single year. Emigration.

Supplemental Provisions.

33. The Treasury may from time to time, as they think fit, issue the sums required for advances or purchases of estates by the land commission under this part of this Act not exceeding the sums annually granted by Parliament for the purpose; and sections Supply of money to land commission for purposes of Act.

40 & 41 Vict.
c. 27.

twelve, thirteen, fourteen, and fifteen of the Public Works Loans (Ireland) Act, 1877, shall apply in like manner as if they were herein enacted, with the substitution of "Land Commission" for "the Commissioners of Public Works," and as if the said sums required by the land commission were the loans in the said sections mentioned.

Proceedings of
commission.

34. (1.) The land commission before buying any estate shall reasonably satisfy themselves that a resale can be effected without loss.

(2.) The land commission upon purchasing any estate shall certify to the Treasury that they are satisfied with the matters of which they are by this section, or by any other provision of this part of this Act, required to be satisfied before such purchase, and such certificate shall be conclusive evidence to any purchaser that they were so satisfied and that the purchase was made in accordance with this Act.

(3.) An advance made by the land commission to a purchaser of a holding or of any parcel of land, in respect of any one purchase by him under this Act whether from the landlord or from the land commission, shall not exceed three thousand pounds, unless the commission report to the Treasury that by reason of special circumstances they deem it expedient to make an advance not exceeding five thousand pounds, in which case they may make such advance with the approval of the Treasury.

(4.) The land commission shall, from time to time, by sale by auction, or in such other manner as may be allowed by the Treasury, dispose of all fee farm rents for the time being vested in them.

(5.) The land commission shall in purchasing estates, in making advances, in dealing with the funds that come into their possession, and in accounting for the same, and generally in the performance of their duties under this part of 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 from time to time report as the Treasury may direct all matters which may be transacted by the land commission.

(6.) All sums received by the commission as repayments of any advance, and all sums received by the commission for fees, percentages, rents, or otherwise shall, except so far as they may be applied under directions from the Treasury in payment of expenses, be paid into the Exchequer.

Transfer of
purchase
powers of
Board of
Works to land
commission.

35. All powers exercisable by the Board of Works under the Landlord and Tenant (Ireland) Act, 1870, and the Landlord and Tenant (Ireland) Act, 1872, in relation to the purchase by tenants of their holdings shall, after the passing of this Act, and subject to the provisions of this Act, be transferred to and may be exercised by the land commission, and the said Acts and any enactments amending the same so far as they relate to the matter aforesaid shall be construed as if the land commission were substituted for the Board: Provided that this section shall not affect or interfere with any of the powers of the Board of Works in relation to any transactions which are completed before the passing of this Act or which the Board declare are being carried into effect at the passing of this Act.

36. In fixing the purchase moneys, fines, rents, fees, per-centages, and other sums to be charged or made payable to the land commission in respect of transactions under this part of this Act care shall be taken to fix the same in such manner as to make the amount resulting therefrom, as nearly as can be estimated, not less than the amount required to defray the expenses.

Rule as to fixing per-centages, purchase-moneys, &c.

PART VI.

COURT AND LAND COMMISSION.

Description of Court and Proceedings.

37. (1.) The expression "The Court" as used in this Act shall mean the civil bill court of the county where the matter requiring the cognizance of the court arises.

Court to mean civil bill court.

(2.) 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.

(3.) Any proceedings which might be instituted before the civil bill court may, at the election of the person taking such proceedings, be instituted before the land commission, and thereupon the land commission shall, as respects such proceedings, be deemed to be the court.

(4.) Where proceedings have been commenced in the civil bill court any party thereto may, within the prescribed period, apply to the land commission to transfer such proceedings from the civil bill court to the land commission; and thereupon the land commission may order the same to be transferred accordingly.

(5.) The court shall have jurisdiction in respect of all disputes between landlords and tenants arising under this Act.

(6.) In determining any question relating to a holding, the court may direct an independent valuer to report to the court his opinion on any matter the court may desire to refer to such valuer, such report to be accompanied with a statement, if so directed, of all such facts and circumstances as may be required for the purpose of enabling the court to form a judgment as to the subject-matter of such report. The court may or may not, as it thinks fit, adopt the report of such valuer, and it may make such order with respect to the costs incurred in respect of such report as it thinks just.

38. There shall be incorporated with this Act the following provisions of the Landlord and Tenant (Ireland) Act, 1870, as if the purposes therein referred to included the purposes of this Act; that is to say,

Incorporation of certain provisions of 33 & 34 Vict. c. 46.

- (1.) Section twenty-three, relating to the powers of the judge of the civil bill court; and section twenty-five, relating to the court of arbitration;
- (2.) Section forty, relating to the apportionment of rents, and in that section rents shall include any rent payable to the Crown;
- (3.) Section fifty-nine, relating to administration on death of tenant;
- (4.) Section sixty, containing provisions as to married women;

(5.) Section sixty-one, containing provisions as to other persons under disability ;

(6.) Section sixty-two, relating to additional sittings of civil bill court ;

(7.) Section sixty-four, relating to power to appoint a substitute in civil bill court if judge cannot attend.

Exceptional provisions for certain officers. 40 & 41 Vict. c. 56.

39. There shall be paid, out of moneys to be provided by Parliament, to clerks of the peace appointed to their office before the fourteenth day of August one thousand eight hundred and seventy-seven, and who have not accepted any permanent office under the County Officers and Courts (Ireland) Act, 1877, and also to clerks of the Crown and peace who, under the provisions of the sixteenth section of the said Act have elected to continue to practise as solicitors, such annual sums, by way of remuneration for any additional duties imposed on them by this Act, as the Lord Lieutenant, with the consent of the Treasury, may direct.

Notwithstanding the conditions imposed by any other Act upon the grant of a pension to a county court judge, it shall be lawful for the Lord Lieutenant, with the concurrence of the Lord Chancellor and of the Treasury, at any time before the first day of January one thousand eight hundred and eighty-four, to grant to any county court judge now entitled to practise at the bar who shall show to the satisfaction of the Lord Lieutenant and the Treasury that the discharge of the additional duties imposed on him by this Act would deprive him of professional emoluments which, if this Act had not been passed, he would have received, such special retiring pension, not exceeding two-thirds of his salary, as having regard to the circumstances of each case, shall appear to the Lord Lieutenant and the Treasury to be reasonable.

Arbitration.

Reference to arbitration.

40. Any matter capable of being determined by the court under this Act, may, if the parties so agree, be decided by arbitration, and an arbitration shall be conducted by the court of arbitration in manner provided by the Landlord and Tenant (Ireland) Act, 1870, and where the amount of rent is decided by arbitration, such rent shall for the purposes of this Act be deemed to be the judicial rent.

Appointment and Proceedings of Land Commission.

Constitution of land commission.

41. A land commission shall be constituted under this Act consisting of a judicial commissioner and two other commissioners.

The judicial commissioner, and every successor in his office, shall be a person who at the date of his appointment is a practising barrister at the Irish bar of not less than ten years standing.

The judicial commissioner for the time being shall forthwith on his appointment become an additional judge of the Supreme Court of Judicature in Ireland with the same rank, salary, tenure of office, and right to retiring pension as if he had been appointed a puisne judge of one of the common law divisions of the High Court of Justice.

He may be required by order of the Lord Lieutenant in Council to perform any duties which a judge of the said Supreme Court of

Judicature is by law required to perform ; but, unless so required, he shall not be bound to perform any of such duties.

The first judicial commissioner shall be Mr. Serjeant O'Hagan.

If any vacancy occurs in the office of the judicial commissioner by death, resignation, incapacity, or otherwise, Her Majesty may, by warrant under the Royal Sign Manual, appoint some other qualified person to fill the vacancy.

The two commissioners, other than the judicial commissioner, shall respectively hold their offices for seven years next succeeding the passing of this Act.

If during the said period of seven years a vacancy occurs in the office of any of such other commissioners by death, resignation, incapacity, or otherwise, Her Majesty may by warrant under the Royal Sign Manual appoint some other fit person to fill such vacancy, but the person so appointed shall hold his office only until the expiration of the said period of seven years.

The first commissioners, other than the judicial commissioner, shall be Mr. Edward Falconer Litton and Mr. John E. Vernon.

42. The land commission under this Act shall be a body corporate, with a common seal, and a capacity to acquire and hold land for the purposes of this Act, and shall be styled "The Irish Land Commission." Incorporation
of commission.

Judicial notice shall be taken by all courts of justice of the corporate seal of the land commission, and any order or other instrument purporting to be sealed with it shall be received as evidence without further proof.

43. The Lord Lieutenant may from time to time, with the consent of the Treasury as to number, appoint and by Order in Council remove assistant commissioners, who shall have the prescribed qualifications and hold office for the prescribed times. Appointment
of assistant
commissioners.

The central office of the land commission shall be in Dublin, but they may hold sittings in any other part of Ireland.

The land commission may form sub-commissions in any province, particular district or districts of Ireland, and such sub-commissions shall consist of such number of the said assistant commissioners or of a commissioner and one or more assistant commissioners as the land commission may think fit, and the land commission may delegate to any sub-commission such of the powers, except as to appeals, by this Act conferred upon the land commission, as they think expedient, and may from time to time revoke, alter, or modify any powers so delegated to a sub-commission.

44. Any power or act by this Act vested in or authorised to be done by the land commission, except the power of hearing appeals, may be exercised or done by any one member of the land commission or by any sub-commission, with this qualification, that any person aggrieved by any order of one commissioner, or by any order of a sub-commission, may require his case to be reheard by all three commissioners sitting together, except in the case of the illness or unavoidable absence of any one commissioner, when any such case may be heard by two commissioners sitting together; provided that neither of such two commissioners be the commissioner before whom the case was originally heard. Quorum of
commission.

Appointment
of officers.

45. The land commission may from time to time, with the consent of the Lord Lieutenant, appoint and remove a solicitor and a secretary, and such officers, agents, clerks, and messengers as they, with the consent of the Treasury, and subject to such regulations as the Treasury may from time to time prescribe, deem necessary for the purposes of this Act.

They may also, with the consent of the Treasury, employ such actuaries, surveyors, and other persons as they may think fit for the purpose of enabling the land commission to carry into effect any of the provisions of this Act.

Salaries of
commission.

46. There shall be paid to each of the commissioners, other than the judicial commissioner, a salary not exceeding three thousand pounds a year, and to the assistant commissioners, secretary, officers, and other persons above mentioned such salaries or remuneration as the Lord Lieutenant may, with the consent of the Treasury, determine.

The salaries of the commissioners, other than the Judicial Commissioner, and of the assistant commissioners, and of all persons employed by the land commission, and all expenses incurred by the land commission in carrying into effect this Act, not otherwise provided for, shall be paid out of moneys provided by Parliament.

Appeal to land
commission.

47. Any person aggrieved by the decision of any civil bill court with respect to the determination of any matter under this Act or under the Landlord and Tenant (Ireland) Act, 1870, may appeal to the land commission, and such commission may confirm, modify, or reverse the decision of the civil bill court. All appeals to the land commission under this Act shall be heard by all three commissioners sitting together, except in the case of illness or unavoidable absence of any one commissioner, when any appeal may be heard by two commissioners sitting together, one of whom shall be the Judicial Commissioner.

The land commission may determine any appeal in Dublin or may proceed to any place or places in Ireland for the purpose of from time to time determining the same.

33 & 34 Vict.
c. 46.

The twenty-fourth section of the Landlord and Tenant (Ireland) Act, 1870, is hereby repealed. All appeals under the said section pending at the time of the passing of this Act are hereby transferred to the land commission; and all further proceedings thereon shall be taken in the prescribed manner.

Powers of
commission.

48. (1.) For the purposes of this Act the land commission shall have full power and jurisdiction to hear and determine all matters, whether of law or fact, and shall not be subject to be restrained in the execution of their powers under this Act by the order of any court, nor shall any proceedings before them be removed by certiorari into any court.

(2.) The land commission may of its own motion, or shall on the application of any party to any proceeding pending before it, unless it considers such application frivolous and vexatious, state a case in respect of any question of law arising in such proceedings, and refer the same for the consideration and decision of Her Majesty's Court of Appeal in Ireland.

The land commission may also, in case it thinks fit, permit any party aggrieved by the decision of the land commission in any

proceedings to appeal in respect of any matter arising in such proceedings to Her Majesty's Court of Appeal in Ireland; provided that no appeal from the land commission to the Court of Appeal in Ireland shall be permitted in respect of any matter arising under Part V. of this Act, or in respect of any decision as to the amount of fair rent, or any question of value or of damages, or any matter left in the discretion of the land commission.

The decision of the said Court of Appeal on any such question so referred to it shall be final and conclusive.

(3.) The land commission with respect to the following matters; that is to say,

- (a.) Enforcing the attendance of witnesses, (after a tender of their expenses,) the examination of witnesses orally or by affidavit, and the production of deeds, books, papers, and documents; and
 - (b.) Issuing any commission for the examination of witnesses; and
 - (c.) Punishing persons refusing to give evidence or to produce documents, or guilty of contempt in the presence of the land commission or any of them sitting in open court; and
 - (d.) Making or enforcing any order whatever made by them for the purpose of carrying into effect the objects of this Act;
- shall have all such powers, rights, and privileges as are vested in the Chancery Division of the High Court of Justice in Ireland for such or the like purposes, and all proceedings before the land commission shall in law be deemed to be judicial proceedings before a court of record.

(4.) In determining any question relating to a holding the commission may direct an independent valuer to report to it his opinion on any matter the commission may desire to refer to such valuer, such report to be accompanied with a statement, if so directed, of all such facts and circumstances as may be required for the purpose of enabling the commission to form a judgment as to the subject matter of such report. The commission may or may not, as it thinks fit, adopt the report of such valuer, and it may make any such order with respect to the costs incurred in respect of such report as it thinks just.

(5.) The land commission may review and rescind or vary any order or decision previously made by them, or any of them; but save as by this Act provided every order or decision of the said commission shall be final: Provided always, that any order or decision made by three members of the land commission shall not be reviewed, rescinded, or varied, except by three members of the land commission.

Nothing in this section shall authorise the land commission to determine any question or to exercise any power of a judge in relation to any purchase of an estate by them, or to the purchase of a holding through the medium of the land commission.

49. Where the land commission or any sub-commission hold sittings elsewhere than in Dublin, such land commission or sub-commission may use the courthouses commonly used for civil bill purposes or for the holding of courts of petty sessions, and the officers of the civil bill courts shall, in the prescribed manner and at

Power for land commission and sub-commissioners to employ officers and servants of civil bill court.

the prescribed times, be bound to attend the sittings of the said land commission and sub-commissions, and to perform analogous duties to those which they perform in the case of a sitting of the civil bill court.

Rules for
carrying Act
into effect.

50. (1.) The land commission shall from time to time circulate forms of application and directions as to the mode in which applications are to be made under this Act, and may from time to time make, and when made may rescind, amend, or add to, rules with respect to the following matters, or any of them :

- (a.) The proceedings on the occasion of sales under this Act :
- (b.) The proceedings on the occasion of applications to fix judicial rents under this Act and the withdrawal of such applications :
- (c.) The proceedings in the civil bill court under this Act :
- (d.) The consolidation of cases and the joinder of parties :
- (e.) The security (if any) to be given by applicants to, or persons dealing with, the commission :
- (f.) The proceedings in appeals under this Act :
- (g.) The proceedings in respect of cases stated for the decision of Her Majesty's Court of Appeal in Ireland under this Act :
- (h.) The proceedings on the occasion of applications for transfer of cases from the Civil Bill Court to the land commission under this Act :
- (i.) The qualifications and tenure of office of assistant commissioners :
- (j.) The forms to be used for the purposes of this Act :
- (k.) The scale of costs and fees to be charged in carrying 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 :
- (l.) The attendance and discharge of duties by the officers of the civil bill courts before the land commission and sub-commissions when holding sittings under this Act :
- (m.) The mode in which consents on the part of the land commission or of any landlord, tenant, or other person may be signified under this Act :
- (n.) The service of notices on mortgagees and persons interested, and any other matter by this Act, or any part of any Act incorporated herewith, directed to be prescribed :
- (o.) As to any other matter or thing, whether similar or not to those above mentioned, in respect of which it may seem to the land commission expedient to make rules for the purpose of carrying this Act or any part of any Act incorporated herewith into effect.

(2.) Any rules made in pursuance of this section shall be judicially noticed in all courts of Her Majesty's dominions.

(3.) 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 ; and if an Address is presented to Her Majesty by either House of Parliament within the next subsequent one hundred days

on which the said House shall have sat praying that any such rule may be annulled, Her Majesty may thereupon by Order in Council annul the same, and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

(4.) The Public Offices Fees Act, 1879, shall apply to fees payable under this Act. 42 & 43 Vict. c. 58.

51. The making of rules and orders prescribing and regulating the mode of service of civil bill processes in ejectment, and for recovery of rent, is hereby declared to be within the provisions of the seventy-ninth section of the County Officers and Courts (Ireland) Act, 1877; and, notwithstanding any other enactment, the service of such processes in the manner prescribed by such rules or orders shall be valid and sufficient. Service of civil bill processes and limitation of costs. 40 & 41 Vict. c. 56.

Whenever an action for the recovery of rent not exceeding twenty pounds or for the recovery of land, whether for nonpayment of rent or for overholding, is brought in the High Court of Justice in Ireland, in any case in which the plaintiff in such action could have sued for the recovery of such rent or land in a civil bill court, the plaintiff in such action shall not be entitled to any costs, unless the judge before whom such action is tried, or the divisional court to which such action is attached, shall by order declare the said plaintiff entitled to costs.

52. Subject to rules made under this Act, it shall be lawful for the party to any proceeding before the land commission or any sub-commission, or, with the leave of such commission or sub-commission, for the father or husband of such party, or for a solicitor of the Supreme Court of Judicature in Ireland (but not a solicitor retained as an advocate by such first-mentioned solicitor), or for a barrister retained by or on behalf of such party and instructed by his or her solicitor, but without any right of exclusive audience or pre-audience, to appear and address such commission or sub-commission and conduct the case subject to such rules and regulations as may be from time to time prescribed. Appearance of parties before commission and sub-commission.

53. No person being a member of the land commission other than the judicial commissioner, or being an assistant commissioner or employed by the land commission, shall by reason of such membership or employment acquire any right to compensation, superannuation, or other allowance on abolition of office or otherwise. Existence of land commission not to create vested interests.

54. No person being a member of, or holding office under, the land commission, or being an assistant commissioner, shall, during the time that he holds his office, be capable of being elected a member of or sitting in the Commons House of Parliament. Disqualification for seat in Parliament.

55. The land commission shall once in every year after the year one thousand eight hundred and eighty-one make a report to the Lord Lieutenant as to their proceedings under this Act, and every such report shall be presented to Parliament. Annual report by land commission.

56. The land commission shall from time to time prepare in such form and at such times as the Treasury from time to time direct accounts of their receipts and expenditure, and within six months after the expiration of the year to which the accounts relate the land commission shall transmit the same to the Con- Audit of account of land commission.

troller and Auditor General to be audited, certified, and reported upon in conformity with the regulations from time to time made by the Treasury for that purpose, and the accounts, with the reports of the Controller and Auditor General thereon, shall be laid before the House of Commons not later than three months after the date on which they were transmitted for audit if Parliament be then sitting, and if not sitting, within fourteen days after Parliament next assembles.

Provided, that the regulations made by the Treasury under this section shall be laid before the House of Commons within one month of the date thereof, if Parliament be then sitting, and, if not, then within fourteen days after Parliament next assembles, and that such regulations shall not have effect until they have lain for thirty days upon the Table of the House.

PART VII.

DEFINITIONS, APPLICATION OF ACT, AND SAVINGS.

Definitions.

57. In the construction of this Act the following words and expressions shall have the meaning hereby assigned to them, unless there be something in the context repugnant thereto; that is to say,

“Lord Lieutenant” includes the Lords Justices or any other Chief Governor or Governors of Ireland for the time being:

“Treasury” means the Commissioners of Her Majesty’s Treasury:

“Board of Works” means the Commissioners of Public Works in Ireland:

“County” includes a riding of a county:

“Contract of tenancy” means a letting or agreement for the letting of land for a term of years or for lives, or for lives and years, or from year to year:

“Tenant” means a person occupying land under a contract of tenancy, and includes the successors in title to a tenant.

Where the tenant sub-lets part of his holding with the consent of his landlord he shall, notwithstanding such sub-letting, be deemed for the purposes of this Act to be still in occupation of the holding.

“Landlord” means the immediate landlord or the person for the time being entitled to receive the rents and profits or take possession of the land held by his tenant, and includes the successors in title to a landlord:

“Holding” during the continuance of a tenancy means a parcel of land held by a tenant of a landlord for the same term and under the same contract of tenancy, and, upon the determination of such tenancy, means the same parcel of land discharged from the tenancy:

“Tenancy” means the interest in a holding of a tenant and his successors in title during the continuance of a tenancy; and “rent of a tenancy” means the rent for the time being payable by such tenant or some one or more of his successors:

“Present tenancy” means a tenancy subsisting at the time of the passing of this Act or created before the first day of January one thousand eight hundred and eighty-three in a

holding in which a tenancy was subsisting at the time of the passing of this Act, and every tenancy to which this Act applies shall be deemed to be a present tenancy until the contrary is proved:

"Future tenancy" means, except as aforesaid, a tenancy beginning after the passing of this Act:

"Ordinary tenancy" means a tenancy to which this Act applies, and which is not a tenancy subject to statutory conditions, or a judicial lease, or a fixed tenancy:

"Sale," "sell," and cognate words include alienation, and alienate, with or without valuable consideration:

"Ejectment" includes action for recovery of land:

"An estate" means any lands which the land commission may by order declare fit to be purchased as a separate estate for the purposes of this Act:

"Prescribed" means prescribed by rules made in pursuance of this Act:

"Landed Property Improvement (Ireland) Acts" means the Act of the session of the tenth and eleventh years of the reign of Her present Majesty, chapter thirty-two, intituled "An Act to facilitate the improvement of landed property in Ireland," and any Acts amending or extending the same.

Any words or expressions in this Act which are not hereby defined, and are defined in the Landlord and Tenant (Ireland) Act, 1870, shall, unless there is something in the context of this Act repugnant thereto, have the same meaning as in the last-mentioned Act, and the Landlord and Tenant (Ireland) Act, 1870, except in so far as the same is expressly altered or varied by this Act or is inconsistent therewith, and this Act shall be construed together as one Act.

58. This Act, with the exception of so much thereof as amends the Landlord and Tenant (Ireland) Act, 1870, in respect of compensation for improvements, and with the exception of Part Five of this Act, shall not apply to tenancies in— Tenancies to which the Act does not apply.

- (1.) Any holding which is not agricultural or pastoral in its character, or partly agricultural and partly pastoral; or
- (2.) Any demesne land, or any land being or forming part of a home farm or any holding ordinarily termed "town-parks" adjoining or near to any city or town which bears an increased value as accommodation land over and above the ordinary letting value of land occupied as a farm, and is in the occupation of a person living in such city or town, or the suburbs thereof; or
- (3.) 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 at an annual value of not less than fifty pounds; or
- (4.) 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; or
- (5.) Any holding which the tenant holds by reason of his being a hired labourer or hired servant; or

- (6.) Any letting in conacre or for the purposes of agistment or for temporary depasturage; or
- (7.) Any holding let to the tenant during his continuance in any office, appointment, or employment, or for the temporary convenience or to meet a temporary necessity either of the landlord or tenant: Provided that any such letting made after the passing of this Act shall be by contract in writing, which shall express the purpose for which such letting is made;
- (8.) Any cottage allotment not exceeding a half of an acre;
- (9.) Any "glebe" as defined by the Act of thirty-eighth and thirty-ninth Victoria, chapter forty-two, which now is, or hereafter shall be held or occupied by any "ecclesiastical persons" as by the same Act defined, and no such ecclesiastical person shall in respect of such glebe be entitled to make any claim for compensation under any of the provisions of the Landlord and Tenant (Ireland) Act, 1870, or of this Act.

Arrears of rent
how dealt
with.

59. Where it appears to the court, on the joint application of the landlord and tenant of any holding valued under the Acts relating to the valuation of rateable property in Ireland at a sum not exceeding thirty pounds a year—

That the tenant has paid the whole (or such sum as the landlord may be willing to accept as the equivalent of the whole) of the rent payable in respect of the year of the tenancy expiring on the gale day next before the passing of this Act, and that antecedent arrears are due, the land commission may make, in respect of such antecedent arrears, an advance of a sum not exceeding one year's rent of the holding, and not exceeding half the antecedent arrears, and thereupon the court shall by order declare the holding to be charged with the repayment of the advance to the land commission, by a rent-charge payable half-yearly during the fifteen years from the date specified in the order, and calculated at the rate of eight pounds ten shillings a year for every hundred pounds of the advance.

Whenever in the case of any tenant evicted for nonpayment of rent since the first day of May one thousand eight hundred and eighty, the landlord agrees to re-instate such tenant on the terms in this section set forth, this section shall apply as if such tenant had not been so evicted from his holding.

The charge declared by the order as aforesaid shall have priority over all charges affecting the holding except quit-rent and Crown rent and sums payable to the Commissioners of Public Works or the Commissioners of Church Temporalities in Ireland, and the landlord for the time being of the holding shall pay to the land commission the sum for the time being due on account of such rent-charge.

Every half-yearly amount of such rentcharge shall be deemed to be an addition to the half-year's rent of the holding (whether a judicial rent or otherwise) due from the tenant to the landlord, and may be recovered by the landlord accordingly.

On the order of the court being made as aforesaid in relation to any holding, all arrears of rent due in respect of that holding on or

prior to the gale day next before the passing of this Act shall be deemed to be absolutely released.

The landlord and tenant may agree that any rent paid by the tenant during the twelve months immediately preceding the passing of this Act shall be deemed, for the purposes of this section, to have been paid in respect of the rent due for the then current year, and not in respect of arrears of rent.

Where arrears of rent in respect of a holding are due to some person or persons besides the landlord, the advance made by the land commission under this section shall be rateably distributed by the court amongst the persons entitled thereto.

An application for an advance under this section shall not be made after the twenty-eighth day of February one thousand eight hundred and eighty-two.

The omission or refusal by either landlord or tenant of any holding to join with the other of them in obtaining a loan from the land commission under this section shall not prejudice any other application or proceeding which either of them may make or institute under this Act or the Landlord and Tenant (Ireland) Act, 1870, in relation to the holding.

The land commission may make advances for the purpose of this section out of any moneys for the time being in their hands for the purposes of this Act.

The land commission shall at such time after the expiration of each period of twelve months as the Treasury may from time to time appoint, make up an account showing for the said period of twelve months the amount of all such payments due to them in respect of rentcharges payable to them under this section as they have failed to recover at the expiration of the said period (in this section referred to as payments in arrear), and the Commissioners of Church Temporalities in Ireland shall, out of any moneys at their disposal, pay to the land commission any sums appearing from such account to be due to the land commission. Any such payment by the Commissioners of Church Temporalities in Ireland shall not discharge any person indebted to the land commission in respect of any payments in arrear, and it shall be the duty of the land commission to take any proceedings they may be advised for the recovery of payments in arrear, and to repay to the Commissioners of Church Temporalities in Ireland any sums so recovered.

60. Any application which a tenant is authorised by this Act to make to the court shall, if made to the court on the first occasion on which it sits after the passing of this Act, have the same operation as if it had been made on the day on which this Act comes into force; and any order made upon such application shall be of the same effect as if it had been made on the day on which this Act comes into force, unless the court otherwise directs; and the person by whom such application is made shall, if the court thinks just, be in the same position and have the same rights in respect of his tenancy as he would have been in and would have had if the application had been made on the day on which this Act comes into force.

Saving in case of inability to make immediate application to court.

Application of
Act.
Short title of
Act.

61. This Act shall not apply to England or Scotland.

62. This Act may be cited for all purposes as the Land Law (Ireland) Act, 1881.

CHAPTER 50.

An Act to apply the sum of Twenty-one million six hundred and ninety-five thousand seven hundred and twelve pounds out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand eight hundred and eighty-two.

[22nd August 1881.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and 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:

Issue of
21,695,712*l.*
out of the Con-
solidated Fund
for the service
of the year
ending 31st
March 1882.

Power to the
Treasury to
borrow.

1. The Commissioners of Her Majesty's Treasury for the time being may issue out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and apply towards making good the supply granted to Her Majesty for the service of the year ending on the thirty-first day of March one thousand eight hundred and eighty-two, the sum of twenty-one million six hundred and ninety-five thousand seven hundred and twelve pounds.

2. The Commissioners of the Treasury may borrow from time to time, on the credit of the said sum, any sum or sums not exceeding in the whole the sum of twenty-one million six hundred and ninety-five thousand seven hundred and twelve pounds, and shall repay the moneys so borrowed, with interest not exceeding five pounds per centum per annum, out of the growing produce of the Consolidated Fund at any period not later than the next succeeding quarter to that in which the said moneys were borrowed.

Any sums so borrowed shall be placed to the credit of the account of Her Majesty's Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such fund is available.

Short title.

3. This Act may be cited as the Consolidated Fund (No. 4) Act, 1881.

CHAPTER 51.

An Act to explain the Wild Birds Protection Act, 1880.

[22nd August 1881.]

43 & 44 Vict.
c. 35.

WHEREAS under section three of the Wild Birds Protection Act, 1880, a person who within the period therein mentioned exposes or offers for sale, or has in his control or possession any wild