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(1) Report from the Select Committee House  
of Lords on the Landlord and  
Tenant (Ireland) Act 1870 1872

X9 (1) : (2) . 34 . M 72+

(2) Report of His Majesty's Commissioners  
of inquiry into the working of  
the Landlord and Tenant (Ireland)  
Act 1870 and the Acts amending  
the same. 1881

X9 (1) (234) N81/—

*Brought from the Lords, 8 August 1872.*

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R E P O R T

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

ON THE

LANDLORD AND TENANT (IRELAND)  
ACT, 1870 ;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX, AND INDEX.

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*Ordered, by The House of Commons, to be Printed,  
9 August 1872.*

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[*Price 3 s. 10 d.*]

*Brought from the Lords, 8 August 1872.*

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X9(1):(2), 34, 1472+

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## R E P O R T.

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BY THE SELECT COMMITTEE appointed to inquire into the working of  
the LANDLORD AND TENANT (IRELAND) ACT, 1870, and to Report to  
the House :—

### ORDERED TO REPORT,

THAT the Committee have met and considered the subject-matter referred to them, and, for the purpose of prosecuting their investigation as to the working of the Irish Land Act, have examined witnesses, including several members of the judicial bench of Ireland, several chairmen of quarter sessions in Ireland, several attorneys and solicitors who have been conversant with proceedings under the Act, and others who, from their position as owners, occupiers, land agents, or managers of land, were deemed to have special means of affording information as to the subject of inquiry.

The Committee have also received a summary of returns furnished by the clerks of the peace in the various counties of Ireland, with reference to the number and the nature of cases under the Land Act, and the results of the decisions of the various tribunals before which they have been tried. This summary will be found in the Appendix.

In conducting this inquiry, the Committee has borne in mind that it was appointed, not to inquire and report as to any defects, real or supposed, in the Irish Land Act, 1870, but solely into its working. It has been found, however, impossible altogether to avoid touching on certain alleged obscurities in the Act itself, which are said to have interfered with its satisfactory working.

The principal objections taken to the Courts, as they exist under the Land Act, appear to be as follows :—

First. That the number of Chairmen of Counties, and the diversity of their judgments, render the primary tribunal unsatisfactory :—

Second. That the appeal to the Judge of Assize is, also, unsatisfactory, and that there should be an absolute right of further appeal from his decision to the Court for Land Cases Reserved :

Third. That the constitution of the Court for Land Cases Reserved is itself unsatisfactory, from the number of its judges, and the occasional and irregular character of its sittings.

The Committee have considered these objections, and they are of opinion upon the evidence before them, that it is not expedient to make any change in the constitution of the Tribunal of First Instance.

As to the jurisdiction of the Judge of Assize, objection has been raised to the exercise of his discretion in allowing or disallowing a further appeal, and it has been suggested that the suitor should have an absolute right to proceed to the Supreme Court. The Committee are prepared to recommend this alteration in the law. But if such an alteration were adopted it would be necessary to invest the Judge of Assize with power, at his discretion, to require security for costs.

**As to the Court for Land Cases Reserved:--**

The Committee think that the time has not arrived for the consideration of the questions which have been mooted in respect to it. It has only ruled a single case. No one has said that that case was not heard properly and decided justly ; and it seems impossible, under such circumstances,—before the Court has effectually begun that working which is the matter for inquiry, and in the absence of all experience justifying change,—to recommend the reform or the extinction of a tribunal so lately established by the Legislature.

Difficulties have arisen on the working of the Act on the following points :

(a.) Whether at the expiration of a lease, the Ulster custom is to prevail over the covenant and surrender in the lease.

(b.) Whether the Ulster usage is to be determined by the practice of the estate, or by that of a larger area.

(c.) Whether under the first section of the Act the outgoing tenant must elect whether he will claim under the Ulster custom, or under any of the other sections of the Act, before the hearing of the case.

(d.) Whether the Sections 9, 10, 14, and the whole of Section 18, apply to holdings affected by the usages of Ulster.

In conclusion, the Committee recommend that the Chairman should be empowered, at his discretion, and on such terms as he may direct, to reserve a case on matter of law directly for the Court of Land Cases Reserved.

And the Committee have directed the Minutes of Evidence taken before them, together with an Appendix, to be laid before your Lordships.

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ORDER OF REFERENCE.

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*Die Lunæ, 3° Junii 1872.*

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LANDLORD AND TENANT (IRELAND) ACT, 1870.

Moved, That a Select Committee be appointed to inquire into the working of the Landlord and Tenant (Ireland) Act, 1870; objected to; and, after debate, on question, *agreed to*, and Committee appointed accordingly—(The Viscount Lifford).

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*Die Jovis, 6° Junii 1872.*

---

LANDLORD AND TENANT (IRELAND) ACT, 1870.

The Lords following were named of the Committee: The Committee to meet Tomorrow at half-past Four o'clock, and to appoint their own Chairman:

Marquess of Salisbury.	Lord Brodrick.
Earl of Portsmouth.	Lord Somerhill.
Earl of Belmore.	Lord Wenlock.
Earl of Bandon.	Lord Lurgan.
Earl of Kimberley.	Lord Chelmsford.
Earl of Dartrey.	Lord Meredyth.
Viscount Lifford.	Lord Greville.
Lord Steward.	Lord Kildare.
Lord Digby.	

---

*Die Veneris, 7° Junii 1872.*

---

LANDLORD AND TENANT (IRELAND) ACT, 1870.

The Lord Silchester and the Lord Charlemont added to the Select Committee.

---

*Die Lunæ, 10° Junii 1872.*

---

LANDLORD AND TENANT (IRELAND) ACT, 1870.

The evidence taken before the Select Committee from time to time, to be printed for the use of the Members of this House; but no copies thereof to be delivered, except to Members of the Committee, until further order.

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*Die Lunæ, 17° Junii 1872.*

---

LANDLORD AND TENANT (IRELAND) ACT, 1870.

The Lord O'Hagan added to the Select Committee.

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*Die Veneris, 28° Junii 1872.*

---

LANDLORD AND TENANT (IRELAND) ACT, 1870.

The Earl of Stradbroke added to the Select Committee in the place of the Earl of Dartrey.

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LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH  
SITTING OF THE COMMITTEE.

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*Die Veneris, 7<sup>o</sup> Junii 1872.*

LORDS PRESENT :

Earl of Portsmouth.	Lord Brodrick.
Earl of Belmore.	Lord Somerhill.
Earl of Bandon.	Lord Wenlock.
Earl of Kimberley.	Lord Lurgan.
Earl of Dartrey.	Lord Chelmsford.
Viscount Lifford.	Lord Greville.
Lord Steward.	Lord Kildare.
Lord Digby.	

Order of Reference read.

It is proposed that the Lord Chelmsford do take the Chair.

The same is agreed to, and the Lord Chelmsford takes the Chair accordingly.

The course of Proceeding is considered.

*Ordered*, That the Committee be adjourned till Friday next, Eleven o'clock.

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*Die Veneris, 14<sup>o</sup> Junii 1872.*

LORDS PRESENT :

Marquess of Salisbury.	Lord Silchester.
Earl of Belmore.	Lord Charlemont.
Earl of Bandon.	Lord Somerhill.
Earl of Kimberley.	Lord Wenlock.
Earl of Dartrey.	Lord Lurgan.
Viscount Lifford.	Lord Chelmsford.
Lord Steward.	Lord Meredyth.
Lord Digby.	Lord Greville.
Lord Brodrick.	Lord Kildare.

The Lord CHELMSFORD in the Chair.

Order of adjournment read.

Order of the House of Friday last, That the Lord Silchester and the Lord Charlemont be added to the Select Committee, read.

Order of the House of Monday last, That the Evidence taken before the Select Committee from time to time be printed for the use of the Members of this House, but that no copies thereof be delivered, except to Members of the Committee, until further Order, read.

The Proceedings of the Committee of Friday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *Thomas Lefroy*, Q.C., Mr. *Robert Johnston*, Q.C., and Mr. *James Hamilton*, Q.C.

*Ordered*, That the Committee be adjourned till Tuesday next, Eleven o'clock.

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*Die Martis, 18<sup>o</sup> Junii 1872.*

## LORDS PRESENT :

Marquess of Salisbury.	Lord Silchester.
Earl of Portsmouth.	Lord Charlemont.
Earl of Bandon.	Lord Somerhill.
Earl of Kimberley.	Lord Wenlock.
Earl of Dartrey.	Lord Lurgan.
Viscount Lifford.	Lord Chelmsford.
Lord Steward.	Lord Meredyth.
Lord Digby.	Lord Greville.
Lord Brodrick.	Lord Kildare.

The Lord CHELMSFORD in the Chair.

Order of adjournment read.

Order of the House of yesterday, That the Lord O'Hagan be added to the Select Committee, read.

The Proceedings of the Committee of Friday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *William Bence Jones*, Mr. *William O'Connor Morris*, Mr. *John Hancock*, Mr. *Hugh Boyle*, and Mr. *Courtenay Newton*.

*Ordered*, That the Committee be adjourned till Thursday next, Eleven o'clock.

*Die Jovis, 20<sup>o</sup> Junii 1872.*

## LORDS PRESENT :

Marquess of Salisbury.	Lord Silchester.
Earl of Portsmouth.	Lord Charlemont.
Earl of Belmore.	Lord Somerhill.
Earl of Bandon.	Lord Lurgan.
Earl of Dartrey.	Lord Chelmsford.
Viscount Lifford.	Lord Meredyth.
Lord Steward.	Lord Greville.
Lord Digby.	Lord Kildare.
Lord Brodrick.	Lord O'Hagan.

The Lord CHELMSFORD in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Tuesday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *Charles Townshend* and Mr. *Samuel Adair*.

*Ordered*, That the Committee be adjourned till To-morrow, Twelve o'clock.

*Die Veneris, 21 Junii 1872.*

## LORDS PRESENT :

Marquess of Salisbury.	Lord Somerhill.
Earl of Belmore.	Lord Wenlock.
Earl of Kimberley.	Lord Lurgan.
Earl of Dartrey.	Lord Meredyth.
Viscount Lifford.	Lord Greville.
Lord Digby.	Lord Kildare.
Lord Brodrick.	Lord O'Hagan.
Lord Charlemont.	

It is moved that in the absence of the Lord Chelmsford, at any sitting of the Committee, the Lord O'Hagan do take the Chair.

The same is agreed to, and the Lord O'Hagan takes the Chair accordingly.

Order of adjournment read.

The Proceedings of the Committee of yesterday are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *James Murland*, Major *James Hamilton*. The Viscount *Lifford* being present is also examined.

*Ordered*, That the Committee be adjourned till Monday next, Twelve o'clock.

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*Die Lunæ, 24<sup>o</sup> Junii 1872.*

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LORDS PRESENT :

Marquess of Salisbury.	Lord Charlemont.
Earl of Belmore.	Lord Somerhill.
Earl of Bandon.	Lord Wenlock.
Earl of Kimberley.	Lord Lurgan.
Earl of Dartrey.	Lord Chelmsford.
Viscount Lifford.	Lord Meredyth.
Lord Steward.	Lord Greville.
Lord Digby.	Lord Kildare.
Lord Brodrick.	Lord O'Hagan.

The Lord CHELMSFORD in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. Justice *Morris*, Mr. Justice *Fitzgerald*, Mr. Justice *Barry*, Mr. *Hugh Lane*, and Mr. *Robert Donnell*.

*Ordered*, That the Committee be adjourned till Friday next, Twelve o'clock.

---

*Die Veneris, 28<sup>o</sup> Junii 1872.*

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LORDS PRESENT :

Marquess of Salisbury.	Lord Silchester.
Earl of Belmore.	Lord Charlemont.
Earl of Bandon.	Lord Somerhill.
Earl of Kimberley.	Lord Wenlock.
Earl of Dartrey.	Lord Lurgan.
Viscount Lifford.	Lord Meredyth.
Lord Steward.	Lord Greville.
Lord Digby.	Lord Kildare.
Lord Brodrick.	Lord O'Hagan.

The Lord O'HAGAN in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Monday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Lord Chief Justice *Monahan*, Mr. Justice *Lawson*, Mr. *John Dinnen*, and Mr. *Edward Gardner*.

*Ordered*, That the Committee be adjourned till Wednesday the 10th of July, Twelve o'clock.

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*Die Mercurii, 10<sup>o</sup> Julii 1872.*

## LORDS PRESENT :

Earl of Portsmouth.	Lord Silchester.
Earl of Belmore.	Lord Charlemont.
Earl of Bandon.	Lord Somerhill.
Earl of Stradbroke.	Lord Wenlock.
Earl of Kimberley.	Lord Lurgan.
Viscount Lifford.	Lord Chelmsford.
Lord Steward.	Lord Meredyth.
Lord Digby.	Lord Greville.
Lord Brodrick.	Lord O'Hagan.

The Lord CHELMSFORD in the Chair.

Order of the House of 28th of June, that the Earl of Stradbroke be added to the Committee in the place of the Earl of Dartrey, read.

Order of adjournment read.

The Proceedings of the Committee of 28th June, read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *Michael Henry*, the Rev. *John Rogers*, Mr. *Thomas De Moleyns*, Q.C. Mr. *James Coffey*, Q.C., and Mr. *Samuel McElroy*.

*Ordered*, That the Committee be adjourned till Friday next, Twelve o'clock.

*Die Veneris, 12<sup>o</sup> Julii 1872.*

## LORDS PRESENT :

Earl of Belmore.	Lord Somerhill.
Viscount Lifford.	Lord Wenlock.
Lord Steward.	Lord Lurgan.
Lord Digby.	Lord Chelmsford.
Lord Brodrick.	Lord Meredyth.
Lord Silchester.	Lord Greville.
Lord Charlemont.	Lord O'Hagan.

The Lord CHELMSFORD in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Wednesday last are read.

The following Witnesses are called in, and examined (*vide* the Evidence), viz., Mr. *Robert Donnell*, Mr. *James Johnston*, and Mr. *Robert Wilson*.

*Ordered*, That the Committee be adjourned till Wednesday next, Twelve o'clock.

*Die Mercurii, 17<sup>o</sup> Julii 1872.*

## LORDS PRESENT :

Marquess of Salisbury.	Lord Charlemont.
Earl of Portsmouth.	Lord Somerhill.
Earl of Belmore.	Lord Wenlock.
Earl of Bandon.	Lord Lurgan.
Earl of Kimberley.	Lord Chelmsford.
Viscount Lifford.	Lord Meredyth.
Lord Steward.	Lord Greville.
Lord Digby.	Lord Kildare.
Lord Brodrick.	Lord O'Hagan.
Lord Silchester.	

The Lord CHELMSFORD in the Chair.

The Proceedings of the Committee of Friday last are read.

The following proposed Draft Reports are laid before the Committee :

Proposed DRAFT REPORT by the Earl of *Belmore* and the Viscount *Lifford* —

“ 1. The Committee has met, and has taken evidence from judges, chairmen of counties, barristers, solicitors, land agents, and other persons interested in the land question.

“ 2. In conducting this inquiry, the Committee has borne in mind that it was appointed, not to inquire and report as to any defects, real or supposed, in the Irish Land Act, 1870, itself, but solely into its working. In an inquiry into the working of the Act, it has been found, however, impossible altogether to avoid touching on points in the Act itself, which make it so difficult in its operation that it is thus described by one of the witnesses, Mr. J. Hamilton, the Chairman of the County of Sligo, who says, ‘ Well, in the first place, I concur with Mr. Johnston and Mr. Lefroy in saying that it was very much against our wish that this jurisdiction was imposed upon us. We saw the extreme difficulty in the Bill whilst it was passing through the House. There is a studied absence of technical language, so that we are really left to consider an Act of Parliament conceived in the loosest and most popular language. There is an amount of discretion given to us which is very disagreeable to exercise. The Act opens a field, in my opinion, for prejudice and weakness, which makes it a very difficult Act to administer.’

“ 3. We have therefore inquired—

“ First, into the administration of the Act.

“ Secondly, into any obscurities and points in which it may have failed to give effect to the known intentions of the Legislature.

“ 4. The administration of the Act being confided to 33 judges of Civil Bill Court, with appeal to each of 12 judges of assize, it is obvious that even granting the ability of those who administer this law, great doubts might arise, and a greater conflict of opinion among them.

“ 5. These have arisen chiefly on the following points:—

“ (a.) Whether at the expiration of a lease, the Ulster custom, or any charges which may be induced hereafter in other parts of Ireland under the 9th Clauses of the Act, dominate over the covenant and surrender in the lease.

“ (b.) As to how Ulster usages are to be ascertained, whether by large areas including many properties, or by the custom of the particular estate.

“ (c.) Whether under the first section of the Act the outgoing tenant must elect whether he will claim under the Ulster custom, or under any of the other sections of the Act, before or after the hearing of the case.

“ (d.) In case of a tenant dying intestate, who is in legal occupation of the farm.

“ (e.) It is in evidence before the Committee that great doubts exist whether the Sections 9, 10, 14, and the whole of 18, apply to holdings afforded by the usages of Ulster, and that the satisfactory working of the Act has been much hindered by this uncertainty, and by the unfounded expectations it has raised.

“ 6. That it was the intention of the Legislature that all these clauses should apply to Ulster as to the rest of Ireland, is in the recollection of your Lordships, even if it were not shown by statements in the House of Commons and in this House, made by the Attorney General, Sir Roundell Palmer, and the Earl Granville.

“ 7. This doubtful state of the law has encouraged extravagant expectations on the part of the tenants in some parts, especially in the north of Ireland.

“ 8. Two cases have been brought to the notice of the Committee in which appeals from the Civil Bill Judge to the Judge of Assize, although heard more than 15 months ago, are still undecided.

“ 9. There seems to be a doubt as to how the sale by the Bankruptcy Court of the interest of a tenant from year to year in his holding affects the rights of the landlord.

“ 10. Many of the witnesses, including three out of the five judges, and five out of the six chairmen of quarter sessions examined, concur in the expediency of a change in the administration of the Act, of one kind or other, to meet these difficulties, and various suggestions have been made.

“ 11. As to the constitution of the Court of First Instance, we found a great variety of opinion.

“ 12. Several suggestions have been made to us for an improved court.

“ (a.) A special circuit court to be created *ad hoc*.

“ (b.) A circuit court of First Instance for the hearing of cases exceeding a certain

Mr. J. Hamilton.

Mr. Justice Morris,  
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to 1277; Mr. U.  
Townsend.

Mr. T. Lefroy, q.c., 34 to 54, 195; Mr. J. Hamilton, 336; Mr. Bence Jones, 527, 528, Mr. F. Adair, 1018 to 1021; Mr. O'Connor Morris, 538, 539, 573; Mr. Hugh Boyle, 698, 699, 730; Mr. J. Morland, 1201, 1202; Mr. Justice Morris, 1400 to 1406; Mr. Justice Fitzgerald, 1503.

Mr. Justice Lawson,  
1777-1799; Mr. De  
Moleyns, q.c., 2212;  
Mr. Coffey, q.c., 2290.

tain sum in amount, with an appeal direct to the Court of Land Cases Reserved; being at the same time itself a court of appeal (instead of the going Judge of Assize), from the present chairman's court, in cases of less amount, such new court to consist of Judges of the Landed Estates Court, strengthened by the addition of a third Judge.

“(c.) A court consisting of three chairmen sitting together, and going a circuit in the counties to which they may severally belong.

“ 13. With regard to the appeal, it has been represented that owing to the limited time at the disposal of the Judges of Assize in each town, the appeals are liable to be hurried over. There is also a difference of opinion as to whether an appeal to the Court of Land Cases Reserved, should be at the discretion of a single Judge or of both the Judges of Assize.

“ 14. The question whether appeals should be as of right, or at the discretion of the Judge, has also engaged our attention; an appeal on an important point of law has been refused by the Lord Chief Justice of the Common Pleas.

“ 15. On the one hand, Mr. Justice Lawson, Mr. Justice Morris, Mr. de Moleyns, and Mr. Coffey, would give the power to the Chairman to state a case directly to the Court of Land Cases Reserved, and that either litigant should be entitled to claim the exercise of this power as of right. On the other hand, Mr. Justice Fitzgerald is of opinion that such a privilege would lead to frivolous and vexatious appeals.

“ 16. It has, however, been suggested that this danger might be met by making it imperative on the party appealing to give ample security for costs.

“ 17. All the witnesses examined, with hardly an exception, concurred in an opinion that it will be greatly for the advantage both of landlord and tenant that precedents should be established as rapidly as possible to guide both judges and chairman in this difficult matter. The Committee do not understand how this can be accomplished in cases submitted to the separate jurisdiction of 33 chairmen of quarter sessions, with a separate appeal to 12 judges, except by decisions on appeal to a superior court; the possible expense of this to the tenant has been urged as an objection. To obviate this the Committee suggests not that a rehearing of the case be allowed beyond the court of assize, but that it be the duty of the judge of assize to have the evidence before him taken down verbatim, and to transmit it in case of appeal to the court above.

“ 18. Another course has been suggested, viz., that on questions of law, the chairman should, at the instance of either litigant, state a case for the Court of Land Cases Reserved, without the intervention of an appeal to the going Judge of Assize.

“ 19. Numerous witnesses have expressed the opinion that this Court as at present constituted, consisting as it does of four Judges of the Court of Chancery and 12 Common Law Judges, is much too numerous and cumbersome, and that there is likely to be a want of individual responsibility in such a court. Some witnesses suggest a smaller court, consisting of five or six Judges, whilst others would prefer the Court of Appeal in Chancery, strengthened by the addition for this purpose of a Common Law Judge.

“ 20. In conclusion, the Committee recommends—

“ I. That in all cases either party may appeal, as of right, from the Judge of Assize to the Court above, with the restriction as to evidence above mentioned, on giving substantial security for costs.

“ II. That in all cases of eviction, the eviction and the consequent claim of the tenant, should be heard and decided on simultaneously by the same Court.

“ III. That as regards the Court of First Instance, where the claims do not exceed in amount 400*l.* or 500*l.*, the decision should be left, as at present, to the Chairman, and that all claims for a higher amount should be sent at once to the Judge of Assize.

“ 21. The Committee commend these several matters to the attention of the House in a future Session.”

Proposed DRAFT REPORT by the Lord O'Hagan:—

“ 1. The Committee, for the purpose of prosecuting their investigation as to the working of the Irish Land Act, have examined witnesses, including several members of the Judicial Bench of Ireland, several chairmen of quarter sessions in Ireland, several attorneys and solicitors who have been conversant with proceedings under the Act, and others who, from their position as occupants or managers of land in Ireland, were deemed to have special means of affording information as to the subject of inquiry.

“ 2. The Committee have also received returns furnished by the clerks of the peace in the various counties of Ireland, with reference to the number and the nature of cases under the Land Act, and the results of the decisions of the various tribunals before which they have been tried.

“3. A summary of these returns will be found in the Schedule attached to this Report.

“4. The Committee have not held themselves at liberty, under the terms of the reference to them, to consider, generally, the provisions of the Irish Land Act, with a view to suggestions for their modification or repeal. They have confined their attention to its practical working, and especially to the arrangement and action of the Courts of First Instance and Appeal.

“5. The objections taken to those Courts, as they exist under the Land Act, appear to be substantially as follows:—

“First. That the number of Chairmen of Counties, and the diversity of their judgments, render the primary tribunal unsatisfactory:—

“Second. That the appeal to the Judge of Assize is, also, unsatisfactory, and that there should be an absolute right of further appeal from his decision to the Court for Land Cases Reserved:—

“Third. That the constitution of the Court for Land Cases Reserved is itself unsatisfactory, from the number of its judges, and the occasional and irregular character of its sittings.

“6. The Committee have considered these objections, and they are of opinion that the weight of evidence is in favour of maintaining the present tribunal of First Instance, as being at once cheap and efficient, and securing the convenient trial of cases in the various localities, before judges who possess local knowledge and enjoy the general confidence of the community.

“7. As to the jurisdiction of the Judge of Assize, some objection has been raised to the exercise of his discretion in allowing or disallowing a further appeal, and it has been suggested that the suitor should have an absolute right to proceed to the Supreme Court. The Committee are not prepared to recommend this alteration in the law.

“No case has been made as to any imperfection or inefficiency in the Assize tribunal, and it has not been suggested that the rulings on circuit have not been satisfactory, and should all discretion be taken from the judge, and either party allowed to appeal at his own will, there would be danger, on the one side, of frivolous and vexatious proceedings,—if security for costs were not required;—and, on the other,—if it were—of denial of justice to a suitor unable to supply such security.

“8. As to the Court for Land Cases Reserved:—

“The Committee think that the time has not arrived for the consideration of the questions which have been mooted in respect to it. It has only ruled a single case. No one has said that that case was not heard properly and decided justly; and it seems impossible, under such circumstances,—before the Court has effectually begun that working which is the matter for inquiry, and in the absence of all experience justifying change,—to recommend the reform or the extinction of a tribunal so lately established by the Legislature, after the fullest deliberation.

“9. The only change which, with its present limited experience of the working of the Act, your Committee are in a position to recommend is, that the Chairman should be empowered, at his discretion, to reserve a case on matter of law directly for the Court of Land Cases Reserved.”

It is moved by the Earl of Belmore that the Draft Report proposed by the Earl of Belmore and the Viscount Lifford be now read.

An Amendment is moved by the Lord O'Hagan to leave out the words “the Earl of Belmore and the Viscount Lifford,” for the purpose of inserting the words “the Lord O'Hagan.”—Objected to.

On Question, That the words proposed to be left out stand part of the Resolution—

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Earl of Belmore.  
Earl of Bandon.  
Viscount Lifford.  
Lord Digby.  
Lord Brodrick.  
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Lord Charlemont.  
Lord Somerhill.  
Lord Chelmsford.

Not Contents.  
Earl of Portsmouth.  
Earl of Kimberley.  
Lord Steward.  
Lord Wenlock.  
Lord Lurgan.  
Lord Meredyth.  
Lord Greville.  
Lord Kildare.  
Lord O'Hagan.

(The Draft Report proposed by the Earl of Belmore and the Viscount Lifford is hereinafter referred to as Draft Report A, and that proposed by the Lord O'Hagan as Draft Report B.)

Paragraph 1, of Draft Report A., is read, and negatived.

Paragraph

Paragraph 1, of Draft Report B., is read and agreed to, with Amendments, and adopted as part of the Report.

Paragraph 2, of Draft Report A., is read, and postponed.

Paragraphs 2 and 3, of Draft Report B., are read, and agreed to, with Amendments, and the said paragraphs as amended are adopted as paragraph 2 of the Report.

Paragraph 2, of Draft Report A., is further considered, and amended.

It is then moved by the Earl of Kimberley, to leave out from the word "itself," in line 5, to the end of the paragraph. Objected to.

On Question, That the words proposed to be left out stand part of the paragraph :

Contents.	Not Contents.
Marquess of Salisbury	Earl of Portsmouth.
Earl of Belmore.	Earl of Kimberley.
Earl of Bandon.	Lord Steward.
Viscount Lifford.	Lord Charlemont.
Lord Digby.	Lord Wenlock.
Lord Brodrick.	Lord Lurgan.
Lord Silchester.	Lord Chelmsford.
Lord Somerhill.	Lord Meredyth.
	Lord Greville.
	Lord Kildare.
	Lord O'Hagan.

It is then moved by the Marquess of Salisbury, after the word "on," in line 5, to insert the words "certain obscurities."

An Amendment is thereupon moved by the Earl of Kimberley, to insert the word "alleged" after the word "certain," in the proposed Amendment. Objected to.

On Question, That the word "alleged" stand part of the Amendment :

Contents.	Not Contents.
Earl of Portsmouth.	Marquess of Salisbury.
Earl of Kimberley.	Earl of Bandon.
Lord Steward.	Viscount Lifford.
Lord Wenlock.	Lord Digby.
Lord Lurgan.	Lord Brodrick.
Lord Chelmsford.	Lord Silchester.
Lord Meredyth.	Lord Charlemont.
Lord Greville.	Lord Somerhill.
Lord Kildare.	
Lord O'Hagan.	

It is then moved by the Lord Chelmsford to insert after the word "itself," in line 5, the words "which are said to have interfered with its satisfactory working."—Agreed to.

Moved that this paragraph as amended be adopted as part of the Report.—Agreed to.

Paragraphs 3 and 4, Draft Report A., are read, and negatived.

Paragraph 4, Draft Report B., are agreed to, read, and negatived.

Paragraph 5, Draft Report B., is read, and amended, and adopted as part of the Report.

Paragraph 6, Draft Report B., is read, and amended.

It is then moved by the Lord Somerhill, after the words "upon the evidence before them," to insert the words, "and without further experience." The Amendment is negatived.

Paragraph 7, Draft Report B., is read, and amended.

It is then moved by the Marquess of Salisbury to leave out the word "not" from line 4.

Objected to.—On Question, That, the word proposed to be left out stand part of the paragraph :

Contents.	Not Contents
Earl of Portsmouth.	Marquess of Salisbury.
Earl of Kimberley.	Earl of Belmore.
Lord Steward.	Earl of Bandon.
Lord Wenlock.	Viscount Lifford.
Lord Lurgan.	Lord Digby.
Lord Meredyth.	Lord Silchester.
Lord Greville.	Lord Charlemont.
Lord O'Hagan.	Lord Somerhill.

The numbers being equal : Resolved in the negative.

It is then moved by the Marquess of Salisbury to insert after the word "law," in line 5, the following words: "but if such an alteration were adopted, it would be necessary to invest the Judge of Assize with power, at his discretion, to require security for costs."—Agreed to.

On Question, That the paragraph, as amended, stand part of the Report:

Contents.	Not Contents.
Marquess of Salisbury.	Earl of Portsmouth.
Earl of Belmore.	Earl of Kimberley.
Earl of Bandon.	Lord Steward.
Viscount Lifford.	Lord Wenlock.
Lord Digby.	Lord Lurgan.
Lord Silchester.	Lord Meredyth.
Lord Charlemont.	Lord Greville.
Lord Somerhill.	Lord O'Hagan.
Lord Chelmsford.	

Paragraph 8, of Draft Report B., is read, and amended, and adopted as part of the Report.

Paragraph 5, Draft Report A., is read.

It is moved by the Earl of Belmore to leave out the first line, and to insert the following words in lieu thereof: "Difficulties have arisen in the working of the Act on the following points."

Objected to.—On Question, That the words proposed to be inserted stand part of the paragraph:

Contents.	Not Contents.
Marquess of Salisbury.	Earl of Portsmouth.
Earl of Belmore.	Earl of Kimberley.
Earl of Bandon.	Lord Steward.
Viscount Lifford.	Lord Wenlock.
Lord Digby,	Lord Lurgan.
Lord Brodrick.	Lord Meredyth.
Lord Silchester.	Lord Greville.
Lord Charlemont.	Lord O'Hagan.
Lord Somerhill.	
Lord Chelmsford.	

Sub-section (a). It is moved by the Earl of Belmore to omit this Sub-section.

Objected to.—On Question,

Resolved in the negative.

The paragraph is further amended. Moved that the paragraph as amended stand part of the Report:

ted to.—On Question:

Contents.	Not Contents.
Marquess of Salisbury.	Earl of Portsmouth.
Earl of Belmore.	Earl of Kimberley.
Earl of Bandon.	Lord Steward.
Viscount Lifford.	Lord Wenlock.
Lord Digby.	Lord Lurgan.
Lord Brodrick.	Lord Meredyth.
Lord Silchester.	Lord Greville.
Lord Charlemont.	Lord O'Hagan.
Lord Chelmsford.	

Paragraphs 6 and 7, of Draft Report A., are read, and negatived.

Paragraph 8, of Draft Report A., is read.

On Question, That it stand part of the Report:

Contents.	Not Contents.
Marquess of Salisbury.	Earl of Portsmouth.
Earl of Belmore.	Earl of Kimberley.
Earl of Bandon.	Lord Steward.
Viscount Lifford.	Lord Wenlock.
Lord Digby.	Lord Lurgan.
Lord Brodrick.	Lord Chelmsford.
Lord Silchester.	Lord Meredyth.
Lord Charlemont.	Lord Greville.
Lord Somerhill.	Lord O'Hagan.

The numbers being equal: Resolved in the negative.

Paragraphs



Paragraphs 9 to 19 inclusive, of Draft Report A., are read, and negatived.

Paragraph 9, of Draft Report B., is read, and amended.

Paragraph 20, of Draft Report A., is read, and amended.

Sub-section 1 is negatived.

It is moved that Sub-section 2, as amended, stand part of the Report. Objected to. On Question—

Contents.	Not Contents.
Earl of Belmore.	Marquess of Salisbury.
Earl of Bandon.	Earl of Portsmouth.
Viscount Lifford.	Earl of Kimberley.
Lord Digby.	Lord Steward.
Lord Brodrick.	Lord Silchester.
Lord Charlemont.	Lord Wenlock.
Lord Somerhill.	Lord Lurgan.
	Lord Chelmsford.
	Lord Meredyth.
	Lord Greville.
	Lord O'Hagan.

It is moved that Sub-section 3 stand part of the paragraph. Objected to. On Question—

Contents.	Not Contents.
Earl of Belmore.	Marquess of Salisbury.
Earl of Bandon.	Earl of Portsmouth.
Lord Brodrick.	Earl of Kimberley.
	Viscount Lifford.
	Lord Steward.
	Lord Silchester.
	Lord Charlemont.
	Lord Somerhill.
	Lord Wenlock.
	Lord Lurgan.
	Lord Chelmsford.
	Lord Meredyth.
	Lord Greville.
	Lord O'Hagan.

It is moved by the Earl of Belmore to insert the following paragraphs in the Report :

As it is not improbable that the duties and jurisdiction of the chairmen of counties will shortly be necessarily extended, we think that when such a change is made, the objections which have been taken as to the danger of conflicting decisions, arising from the numbers of the chairmen, may be in some measure met by grouping certain counties together, and decreasing the numbers of the chairmen.

Should this be done, we would suggest that chairmen should cease to practise at the Bar, and that their salaries and status should be raised and equalised in a manner commensurate with the increased duties which would be cast upon them.

Objected to.—On Question, Resolved in the negative.

The Report, as agreed to, is read.

*Ordered*, That the Lord in the Chair do make the said Report to the House.

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MINUTES OF EVIDENCE.

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## APPENDIX TO REPORT.

### PAPERS REFERRED TO IN REPORT.

#### No. 1.

Royal Commission on Landlord and Tenant Act, 1870,  
5, Ely-place, Dublin.

DEAR SIR,—In reply to your communication, dated \_\_\_\_\_, offering to assist this Commission in its inquiry, I am directed to ask you kindly to send me a brief statement of the Heads of the Evidence you would wish to give, or of the points which you desire to bring to the notice of the Commissioners, for their information, and in order to guide them in examination, should they decide to require your evidence.

I have the honour to be, faithfully yours,

GEORGE YOUNG, Secretary.

#### No. 2.

#### LANDLORD AND TENANT (IRELAND) ACTS INQUIRY COMMISSION.

HEADS OF INQUIRY as to the *Actual Condition, Customs, and Circumstances* of particular *Districts* or *Estates*.

- |   |   |
|---|---|
| 1. PERSONAL.  | 4. RENTS.                                 |
| 2a. ULSTER TENANT-RIGHT.                                | 5. IMPROVEMENTS.                          |
| 2b. SALE AND DISPOSITION OF HOLDINGS OUTSIDE<br>ULSTER. | 6. PURCHASE BY TENANTS OF THEIR HOLDINGS. |
| 3. LEASES.  | 7. WASTE LAND.                            |
|   | 8. LAND ACT, 1870.                        |

#### I.—PERSONAL.

1. Name and address.
2. Occupation and nature of connexion (if any) with the land, as owner, agent, tenant-farmer, &c.
3. Acreage of estate, agency, or holding with which you are connected.
4. For what district or estate are you prepared to give evidence?

on the expiration of their leases? Has any change taken place in this respect?

8. Are there many or any cases where from the size of the farm, the length of the lease, the fact of the landlord making the improvements, or other circumstances, the Ulster Tenant-right custom does not apply?

9. Do you suggest any alterations in or amendments of the existing law as it affects holdings under the Ulster custom?

#### II a.—ULSTER TENANT-RIGHT.

1. Does the Ulster Tenant-right custom exist in your district? State whether universally, generally, or on some estates only.
2. What do you understand by the Ulster custom?
3. What is the usual selling rate of the tenant-right, per year's purchase of the rent, or per acre?
4. What are the causes which generally influence the selling rate?
5. Are there any "office rules or local regulations" affecting the Ulster custom on any of the estates in your district? If so, state them, and say how long they have been in existence.
6. When the price of the tenant-right is limited, is it common for money to pass, beyond the limit fixed?
7. Was it usual before the Land Act, 1870, for leaseholders to obtain the benefit of the Ulster custom

#### II. b.—SALE AND DISPOSITION OF HOLDINGS.

(For districts and estates outside Ulster.)

1. Do outgoing tenants sell their holdings in your district? State whether universally, generally, or here and there only?
2. Are such sales increasing or decreasing in frequency?
3. On quitting voluntarily, in ordinary times, how many years' purchase of the rent can a selling tenant generally obtain?
4. Does the landlord recognise sales?
5. Does he forbid them? If so, does he make an allowance to the outgoing tenant?
6. Does he claim a right of pre-emption?
7. Does he insist on choosing the purchaser?

8. Does he exercise a veto on the purchaser, and on what grounds is it generally exercised?

9. Does he fix a limit on the purchase-money, and to what extent?

10. Is it common for money to pass, beyond the limit fixed?

11. Is the rent generally raised on the occasion of a purchase?

12. Does the landlord recognise a right in the tenants to charge their holdings, or to dispose of them by will?

13. Are there many or any cases where from the size of the farm, the length of the lease, the fact of the landlord making or contributing to the improvements, or other circumstances, the absence of the power to sell is completely established, and accepted as satisfactory by the tenants?

14. Is the recognition by landlords of the right of sale on the increase?

15. Are rents generally higher or lower when the right of sale exists?

16. What have been the effects of the section in the Act of 1870 (s. 7), which gives compensation in respect of incoming payments?

17. Has its operation been neutralized or evaded in any way?

18. How far has the section in the Act of 1870 (s. 3), which gives compensation for disturbance been effectual to check evictions in your district?

19. Has its operation been neutralized or evaded in any way?

20. Are the limits of the scale of compensation reasonable?

21. Has this section led tenants to mortgage or charge their holdings, in order to secure money they have borrowed?

### III.—LEASES.

1. Do leases exist in your district? State whether universally, generally, or here and there only?

2. Are leases increasing or decreasing since the Land Act?

3. For what term are leases usually given?

4. Are leases generally held at reduced or advanced rents, as compared with yearly tenancies?

5. Is any fine paid on taking a lease?

6. Is it common to re-value the rent on the expiration of a lease?

7. Were the conditions of leases before the Land Act generally the same as of those given by the same landlord at present, or in what respects different?

8. Are leases to any extent being introduced which bar the operation of the Land Act, 1870, or any of its provisions?

9. Do tenants readily accept leases?

10. Is the condition of the leaseholders, and their farming, superior or the contrary to that of the yearly tenants?

### IV.—RENTS.

1. What proportion does the Tenement Valuation generally bear in your district to a fair rent?

2. Has raising of rent been on the increase since the Act of 1870?

3. At what intervals is it usual for rents to be re-valued?

4. Is arbitration ever or often resorted to as a means of settling the rent?

5. Is distress for rent often resorted to?

### V.—IMPROVEMENTS.

1. What improvements are generally made by landlords in your district?

2. What improvements are generally made by tenant?

3. In case of co-operation in improvement, what is the part usually undertaken by each?

4. Has the Act of 1870 encouraged or checked tenants' improvements?

5. Has it encouraged or checked improvements by landlords?

6. Have many or any cases occurred in your district where an outgoing tenant has obtained insufficient compensation for his improvements?

7. Have the provisions of the Act of 1870 in respect of compensation for improvements been neutralized or evaded in any way?

### VI.—PURCHASE BY TENANTS OF THEIR HOLDINGS

1. Have there been in your district any sales to tenants of their holdings by agreement out of court?

2. Have there been any such sales in the Landed Estates Court?

3. Have any difficulties been experienced in carrying out such sales?

4. Have there been any difficulties in obtaining the statutory advances from the Board of Works?

5. What is the present condition of any such purchasing tenants as compared with the yearly tenants about them?

6. To what extent (if any) have they mortgaged or incumbered their holdings since purchase?

7. To what extent (if any) have they subdivided?

8. Can you suggest any measures for amending these clauses and rendering them more effectual?

9. Is it desirable that further legislative measures should now be taken (beyond those contained in the Land Act, with any suggested amendments) for the establishment of tenants as owners in fee of farms? Give reasons

10. If so, in what manner should such establishment be attempted? and on what terms, either of payment by tenants, compensation to landlords, or otherwise?

11. Should waste land or land already reclaimed be selected for such establishment?

12. Should any such regulations as those of the Land Act which forbid alienation, assignment, sub-letting, or subdividing, or any of them, either temporarily or in permanence, be enforced upon purchasing tenants?

### VII.—WASTE LAND

1. What do you understand by waste land?

2. To what extent has waste land been reclaimed by tenants in your district within living memory?

3. Is the reclamation of waste land now progressing or decreasing?

4. Is there much land still waste which is capable of profitable reclamation?

### VIII.—LAND ACT, 1870.

1. Has any unfairness resulted in your district from the exception in the Land Act, 1870, of (a) Demesne Land (b) Town Parks and (c) large pasture farms from the holdings in respect of which compensation may be claimed?

2. Are there any and what descriptions of holdings in your district, now excepted, to which it is desirable to extend the benefit of the Act of 1870?

3. Has the section in the Act of 1870 which divides the Grand Jury Cess between landlord and tenant (65) been effectual to any extent in your district?

4. Are express contracts common for payment by the tenant of the entire Cess?

5. Has the section (68) which excuses the payment of rent for land covered by a public road been effectual to any extent in your district?

6. Do you suggest any alterations in or amendments of the existing law regulating the relation of landlord and tenant?

## No. 3.

Royal Commission on Landlord and Tenant Act, 1870,  
5, Ely-place, Dublin.

SIR,—The inclosed Forms suggest the principal points on which the Commissioners desire information. Witnesses desiring to give evidence are requested to communicate in writing to the Commissioners the subjects on which they feel best qualified to give information, either in the form of answers to these questions or in any other form they please.

It must be understood that the Commissioners will not confine themselves in the examination of witnesses to the contents of these papers, which are not intended as exhaustive of the topics of inquiry.

Communications in writing will not be published, and are chiefly sought for as a guide to the Commissioners in the selection of witnesses. Further copies of the Forms may be had on application to me at 5, Ely-place, Dublin.

I am, yours faithfully,

GEORGE YOUNG, Secretary.

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No. 4.

Royal Commission on Landlord and Tenant Act, 1870,  
5, Ely-place, Dublin

SIR,—I am directed by the Commissioners to transmit to you the inclosed statements given in evidence before them. It is a rule with the Commissioners, whenever a statement is made by a witness which may appear prejudicial to any person, to make the party affected aware of the fact, and of the nature of the statement. The Commissioners will be ready to hear your evidence in reference to these statements, if desired, or to print with the evidence a statement from yourself in reply thereto. If you prefer to attend the Commission for this purpose, you are requested to bring with you a statement in writing of the reply or explanation you wish to make, which may be embodied in the evidence. An answer is requested at your earliest convenience.

I have the honour to be, faithfully yours,

GEORGE YOUNG, Secretary

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THE QUEEN'S PRINTING OFFICE,  
FOR HER MAJESTY'S STATIONERY OFFICE.

# REPORT

OF

HER MAJESTY'S COMMISSIONERS OF INQUIRY

INTO

THE WORKING OF THE

LANDLORD AND TENANT (IRELAND) ACT, 1870,

AND THE

ACTS AMENDING THE SAME.

---

Presented to both Houses of Parliament by Command of Her Majesty.

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