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The Irish Land Acts, 1903 to 1909

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PREFACE.

THE Second Edition of this Supplement, which I have compiled with the kind permission of Lord Justice Cherry, using the previous edition as a basis, contains the Statutes and all Rules now in force dealing with Land Purchase in Ireland, passed or made since the third edition of Lord Justice Cherry's book on the Irish Land Law and Land Purchase Acts was published in 1902.

This volume is intended to replace the previous Supplement, which has been rendered obsolete by the numerous changes which have recently been made. Since 1906 four more Statutes have been added to the Irish Land Purchase Code; the latest—the Irish Land Act of 1909—has made many important alterations; the rate of purchase annuities has been increased, the bonus has been fixed upon a sliding scale, wide powers of Compulsory Purchase have been conferred upon the Estates Commissioners. Most of the original rules have been superseded by new rules embodying amendments and additions consequential upon legislative changes, or shown by experience to be desirable.

All the reported cases down to the end of June, 1910, decided on the Land Purchase Acts since 1902, are noted.

I have constructed Tables of purchase annuities for the new rate of annuity and the sliding scale of bonus. There is also included a specimen of a Final Schedule of Incumbrances, with rulings by the Examiner, showing how the various items in such a schedule are dealt with and vouched.

I desire to express my grateful thanks for much valuable help which I have received in my endeavour to make this edition as complete as possible.

T. HENRY MAXWELL.

4 MOUNT STREET CRESCENT,
July, 1910.

PREFACE TO THE FIRST EDITION

THE Third Edition of Mr Cherry's book on the Irish Land Law and Land Purchase Acts had not been a year published when the Irish Land Act, 1903, became law. That Act was followed in the year 1904 by an Amending Act, which dealt with the destination of the "bonus."

The present book is a Supplement to the previous volume so far as that work deals with Land Purchase.

Large and far-reaching changes have been made by the Act of 1903. The Land Commission cannot now refuse in the case of the sale of an estate to sanction advances to tenants holding at judicial rents, where the purchase annuity comes within the zone limits, the provisions of the Act of 1896 for the reinstatement of evicted tenants have been amplified; payment to the vendor in cash has been substituted for payment in stock; the guarantee deposit has been abolished, and the vendor may get a bonus of twelve per cent. on the purchase-money

The appointment of three members of the Land Commission as Estates Commissioners to deal with the purchase and resale of estates has, in effect, added one more tribunal to the Land Courts already in existence.

The notes to the Act of 1903 have almost entirely been compiled by Mr. Cherry, and he has constructed the Table of Purchase Annuities showing the particulars of sales which come within the limits prescribed by Section 1 of that Act.

I am responsible for the Notes to the Act of 1904, for the Note on the Practice in the Examiners' Chambers, for the Index and Table of Forms, and for bringing the volume through the press.

A list of the various Rules will be found in the Table of Contents. The arrangement of them has been a matter of difficulty, emanating as they do from at least ten different rule-making authorities.

The cases on Land Purchase reported down to the present date have all been noted.

The pagination of this supplement is consecutive with that of the Third Edition of Mr. Cherry's work. Frequent references to it, as well as abundant cross-references, are given, so as to insure that the particular section or topic sought shall be readily found. Every care has been taken to attain accuracy; it is hoped that the mistakes are few, and that they will be condoned by an indulgent profession.

T. HENRY MAXWELL.

4 MOUNT STREET CRESCENT,
31st January, 1906.

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Gokhale Institute of Politics and Economics, Poona 4.

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AUTHORISED FOR USE

IN

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Table of particulars of sales under the Land Purchase Acts, at **3½ per cent. Purchase Annuity,** showing the rate of Bonus payable where the rent is a **Judicial Rent fixed or agreed to before 15th August, 1896,** or a Non-judicial Rent, and showing sales which come within the limits or "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Act of 1903 Agreement made after 24th November, 1908.

(1) Percentage of reduction upon former rent to be gained by Tenant Purchaser	(2) Reduction in each pound of rent to be gained by Tenant Purchaser	(3) (4) * Approximate number of years' purchase of rent represented by the purchase money		(5) † Purchase Annuity to be paid by Tenant Purchaser instead of former rent of £100
		Without Bonus	With Bonus	
	s d.			£ s d
17 per cent.	3 5	23½	24⅛	(a) 83 0 0
17½ „	3 6	23¼	24¼	82 10 0
18 „	3 7	23½	24	82 0 0
19 „	3 9½	23¼	23¾	81 0 0
20 per cent	4 0	22¾	23⅜	80 0 0
21 „	4 2½	22½	23⅛	79 0 0
22 „	4 5	22¼	23	78 0 0
22½ „	4 6	22¼	23	77 10 0
23 „	4 7	22	22¾	77 0 0
24 „	4 9½	21¾	23	76 0 0
25 „	5 0	21½	22¾	75 0 0
26 „	5 2½	21¼	22⅜	74 0 0
27 „	5 5	20¾	22⅛	73 0 0
27½ „	5 6	20¾	22¼	72 10 0
28 „	5 7	20½	22¼	72 0 0
29 „	5 9½	20¼	22	71 0 0
30 „	6 0	20	21½	70 0 0
31 „	6 2½	19¾	21⅛	69 0 0
32 „	6 5	19½	21¼	68 0 0
32½ „	6 6	19¼	21⅛	67 10 0
33 „	6 7	19¼	21	67 0 0
34 „	6 9½	18¾	21	66 0 0
35 „	7 0	18½	20¾	65 0 0
36 „	7 2½	18¼	20½	64 0 0
37 „	7 5	18	20¼	63 0 0
37½ „	7 6	17¾	20⅛	62 10 0
38 „	7 7	17¾	20¼	62 0 0
39 „	7 9½	17½	19¾	61 0 0
40 „	8 0	17¼	19½	60 0 0
41 „	8 2½	16¾	19½	59 0 0
42 „	8 5	16½	19¼	58 0 0
42½ „	8 6	16½	19	57 10 0
43 „	8 7	16½	19	57 0 0
44 „	8 9½	16	18½	56 0 0
45 „	9 0	15¾	18¼	55 0 0

* The exact number of years' purchase, to two places of decimals, can be ascertained by taking the number of pounds in column 6 or 9, and placing a decimal point after the second figure.

(a) Purchase annuities must be calculated to an *even* number of pence, so as to avoid fractions of a penny in each half-yearly payment.

Table of particulars of sales under the Land Purchase Acts, at 3½ per cent. **Purchase Annuity,** showing the rate of Bonus payable where the rent is a **Judicial Rent fixed or agreed to before 15th August, 1896,** or a Non-judicial Rent, and showing sales which come within the limits or "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Act of 1903. Agreement made after 24th November, 1908.

(6) Purchase Price to be paid by Tenant in respect of rent of £100	(7) Rate of Bonus under Act of 1909	(8) Amount of Bonus to Landlord from Purchase Aid Fund	(9) Total amount to be received by Landlord for every £100 of rent	
(*b*) 2,371 8 7	3	71 2 10	2,442 11 5	These are outside "Zones"
2,357 2 10	3	70 14 3	2,427 17 1	
2,342 17 2	3	70 5 9	2,413 2 11	
2,314 5 8	3	69 8 7	2,383 14 3	
2,285 14 3	4	91 8 7	2,377 2 10	
2,257 2 10	4	90 5 9	2,347 8 7	
2,228 11 5	4	89 2 10	2,317 14 3	
2,214 5 8	4	88 11 5	2,302 17 1	
2,200 0 0	4	88 0 0	2,288 0 0	
2,171 8 7	6	130 5 9	2,301 14 4	
2,142 17 2	6	128 11 5	2,271 8 7	
2,114 5 8	6	126 17 2	2,241 2 10	
2,085 14 3	8	166 17 2	2,252 11 5	
2,071 8 7	8	165 14 3	2,237 2 10	
2,057 2 10	8	164 11 5	2,221 14 3	
2,028 11 5	8	162 5 9	2,190 17 2	
2,000 0 0	8	160 0 0	2,160 0 0	
1,971 8 7	10	197 2 10	2,168 11 5	
1,942 17 2	10	194 5 9	2,137 2 11	
1,928 11 5	10	192 17 2	2,121 8 7	
1,914 5 8	10	191 8 7	2,105 14 3	
1,885 14 3	12	226 5 9	2,112 0 0	
1,857 2 10	12	222 17 2	2,080 0 0	
1,828 11 5	12	219 8 7	2,048 0 0	
1,800 0 0	12	216 0 0	2,016 0 0	
1,785 14 3	14	250 0 0	2,035 14 3	
1,771 8 7	14	248 0 0	2,019 8 7	
1,742 17 2	14	244 0 0	1,986 17 2	
1,714 5 8	14	240 0 0	1,954 5 8	
1,685 14 3	16	269 14 3	1,953 8 6	These are outside "Zone" limits
1,657 2 10	16	265 2 10	1,922 5 8	
1,642 17 2	16	262 17 2	1,905 14 4	
1,628 11 5	16	260 11 5	1,889 2 10	
1,600 0 0	16	256 0 0	1,856 0 0	
1,571 8 7	18	282 17 2	1,854 5 9	

† The exact purchase price can be ascertained in any case by multiplying the amount of the purchase annuity by 100, and dividing the result by 3.5

(*b*) Advances are made in pounds only.

Table of particulars of sales under the Land Purchase Acts, at **3½ per cent. Purchase Annuity,** showing the rate of Bonus payable where the rent is a **Judicial Rent fixed or agreed to since the 15th August, 1896,** or the land is untenanted, and showing sales which come within the limits or "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Act of 1903. Agreement made after 24th November, 1908.

(1) Percentage of reduction upon former rent to be gained by Tenant Purchaser	(2) Reduction in each pound of rent to be gained by Tenant Purchaser	(3) * Approximate number of years' purchase of rent represented by the purchase money	(4)	(5) † Purchase Annuity to be paid by Tenant in respect of rent of £100
		Without Bonus	With Bonus	
	s d			£ s. d
10 per cent	2 0	25¾	26½	(a) 90 0 0
11 „	2 2½	25½	26¼	89 0 0
12 „	2 5	25¼	25¾	88 0 0
12½ „	2 6	25	25½	87 10 0
13 „	2 7	24¾	25¼	87 0 0
14 „	2 9½	24½	25¼	86 0 0
15 „	3 0	24¼	25¼	85 0 0
16 „	3 2½	24	25	84 0 0
17 „	3 5	23¾	25¼	83 0 0
17½ „	3 6	23½	25	82 10 0
18 „	3 7	23½	24¾	82 0 0
19 „	3 9½	23¼	24½	81 0 0
20 „	4 0	22¾	24⅓	80 0 0
21 „	4 2½	22½	24¼	79 0 0
22 „	4 5	22¼	24	78 0 0
22½ „	4 6	22¼	23½	77 10 0
23 „	4 7	22	23¾	77 0 0
24 „	4 9½	21¾	23¾	76 0 0
25 „	5 0	21½	23½	75 0 0
26 „	5 2½	21¼	23⅓	74 0 0
27 „	5 5	20¾	23¼	73 0 0
27½ „	5 6	20¾	23¼	72 10 0
28 „	5 7	20½	23	72 0 0
29 „	5 9½	20¼	22¾	71 0 0
30 „	6 0	20	22½	70 0 0
31 „	6 2½	19¾	22½	69 0 0
32 „	6 5	19½	22¼	68 0 0
32½ „	6 6	19½	22	67 10 0
33 „	6 7	19¼	22	67 0 0
34 „	6 9½	18¾	22	66 0 0
35 „	7 0	18½	21½	65 0 0
36 „	7 2½	18¼	21¼	64 0 0
37 „	7 5	18	20¾	63 0 0
37½ „	7 6	17¾	21	62 10 0
38 „	7 7	17¾	21¼	62 0 0
39 „	7 9½	17½	20½	61 0 0
40 „	8 0	17¼	20¼	60 0 0

* The exact number of years' purchase, to two places of decimals, can be ascertained by taking the number of pounds in column 6 or 9, and placing a decimal point after the second figure.

(*a*) Purchase annuities must be calculated to an *even* number of pence, so as to avoid fractions of a penny in each half-yearly payment.

Table of particulars of sales under the Land Purchase Acts, at 3½ **per cent. Purchase Annuity,** showing the rate of Bonus payable where the rent is a **Judicial Rent fixed or agreed to since the 15th August, 1896,** or the land is untenanted; and showing sales which come within the limits of "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Act of 1903 Agreement made after 24th November, 1908.

(6) Purchase price to be paid by Tenant in respect of rent of £100	(7) Rate of Bonus under Act of 1909	(8) Amount of Bonus to Landlord from Land Purchase Aid Fund	(9) Total amount to be received by Landlord for every £100 of rent	
£ s. d.		£ s d	£ s. d.	
(*b*) 2,571 8 7	3	77 2 10	2,648 11 5	
2,542 17 2	3	76 5 8	2,619 2 10	
2,514 5 8	3	75 8 6	2,589 14 2	
2,500 0 0	3	75 0 0	2,575 0 0	
2,485 14 3	4	99 8 7	2,585 2 10	
2,457 2 10	4	98 5 9	2,555 8 7	
2,428 11 5	4	97 2 10	2,525 14 3	
2,400 0 0	4	96 0 0	2,496 0 0	
2,371 8 7	6	142 5 9	2,513 14 4	
2,357 2 10	6	141 8 7	2,498 11 5	
2,342 17 2	6	140 11 5	2,483 8 7	
2,314 5 8	6	138 17 2	2,453 2 10	
2,285 14 3	8	182 17 2	2,468 11 5	
2,257 2 10	8	180 11 5	2,437 14 3	
2,228 11 5	8	178 5 9	2,406 17 2	
2,214 5 8	8	177 2 10	2,391 8 6	
2,200 0 0	8	176 0 0	2,376 0 0	
2,171 8 7	10	217 2 10	2,388 11 5	
2,142 17 2	10	214 5 8	2,357 2 10	
2,114 5 8	10	211 8 6	2,325 14 2	
2,085 14 3	12	250 5 8	2,335 19 11	
2,071 8 7	12	248 11 5	2,320 0 0	
2,057 2 10	12	246 17 2	2,304 0 0	
2,028 11 5	12	243 8 7	2,272 0 0	
2,000 0 0	12	240 0 0	2,240 0 0	
1,971 8 7	14	276 0 0	2,247 8 7	These are outside "Zone" limits
1,942 17 2	14	272 0 0	2,214 17 2	
1,928 11 5	14	270 0 0	2,198 11 5	
1,914 5 8	14	268 0 0	2,182 5 8	
1,885 14 3	16	301 14 3	2,187 8 6	
1,857 2 10	16	297 2 10	2,154 5 8	
1,828 11 5	16	292 11 5	2,121 2 10	
1,800 0 0	16	288 0 0	2,088 0 0	
1,785 14 3	18	321 8 7	2,107 2 10	
1,771 8 7	18	318 17 2	2,090 5 9	
1,742 17 2	18	313 14 3	2,056 11 5	
1,714 5 8	18	308 11 3	2,022 17 11	

† The exact purchase price can be ascertained in any case by multiplying the amount of the purchase annuity by 100, and dividing the result by 3 5.

(*b*) Advances are made in pounds only.

Table of particulars of sales, under the Land Purchase Acts, at **3¼ per cent. Purchase Annuity,** showing the amount of Bonus payable and showing Sales which come within the limits or "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Irish Land Act, 1903 Agreement made before 24th November, 1908.

Judicial Rent, when fixed, either for 1st or 2nd Term	(1) Percentage of reduction upon former rent to be gained by Tenant Purchaser	(2) Reduction in each pound of rent to be gained by Tenant Purchaser	(3) (4) * Approximate number of years' purchase of rent represented by the purchase money	
			Without Bonus	With Bonus
		s d		
After Aug 15, 1896	10 per cent	2 0	27½	31
Do.	11 „	2 2½	27¼	30¾
Do .	12 „	2 5	27	30¼
Do .	12½ „	2 6	27	30
Do . .	13 „	2 7	26¾	30
Do .	14 „	2 9½	26½	29½
Do . .	15 „	3 0	26	29¼
Do . .	16 „	3 2½	25¾	29
Do . .	17 „	3 5	25½	28½
Do	17½ „	3 6	25¼	28¼
Do	18 „	3 7	25	28¼
Do . .	19 „	3 9½	24¾	28
At any time .	20 per cent	4 0	24½	27½
Do . .	21 „	4 2½	24¼	27¼
Do .. .	22 „	4 5	24	27
Do. ..	22½ „	4 6	23¾	26¾
Do .	23 „	4 7	23½	26½
Do. . .	24 „	4 9½	23¼	26
Do. . .	25 „	5 0	23	25¾
Do. .. .	26 „	5 2½	22¾	25½
Do. . ..	27 „	5 5	22½	25¼
Do.	27½ „	5 6	22¼	25
Do. .	28 „	5 7	22	24¾
Do. .	29 „	5 9½	21¾	24½
Do.	30 „	6 0	21½	24
Before Aug. 15, 1896	31 per cent	6 2½	21¼	23¾
Do	32 „	6 5	21	23½
Do .	32½ „	6 6	20¾	23¼
Do .	33 „	6 7	20½	23
Do. .	34 „	6 9½	20¼	22¾
Do. .	35 „	7 0	20	22½
Do .. .	36 „	7 2½	19¾	22
Do .	37 „	7 5	19½	21¾
Do . .	37½ „	7 6	19¼	21½
Do. .. .	38 „	7 7	19	21¼
Do . .	39 „	7 9½	18¾	21
Do	40 „	8 0	18½	20½

* The exact number of years' purchase, to two places of decimals, can be ascertained by taking the number of pounds in column 6 or 8, and placing a decimal point after the second figure

(*a*) Purchase annuities must be calculated to an *even* number of pence, so as to avoid fractions of a penny in each half-yearly payment.

(*b*) Advances are made in pounds only.

Table of particulars of sales, under the Land Purchase Acts, at 3¼ **per cent. Purchase Annuity,** showing the amount of Bonus payable, and showing sales which come within the limits or "Zones," where the sanction of the sales, in the case of judicial tenancies, is mandatory, under the first Section of the Irish Land Act, 1903 Agreement made before 24th November, 1908.

(5) † Purchase Annuity to be paid by Tenant Purchaser instead of former rent of £100	(6) Purchase Price to be paid by Tenant in respect of rent of £100	(7) Bonus (12 p.c.) to Landlord from Land Purchase Aid Fund on purchase price	(8) Total amount to be received by Landlord for every £100 of rent
£ s. d.	£ s d	£ s. d.	£ s d
(*a*) 90 0 0	(*b*) 2,769 4 7	332 6 2	3,101 10 9
89 0 0	2,738 9 3	328 12 3	3,067 1 6
88 0 0	2,707 13 10	324 18 5	3,032 12 3
87 10 0	2,692 6 2	323 1 6	3,015 7 8
87 0 0	2,676 18 5	321 4 7	2,998 3 0
86 0 0	2,646 3 1	317 10 9	2,963 13 10
85 0 0	2,615 7 8	313 16 11	2,929 4 7
84 0 0	2,584 12 4	310 3 1	2,894 15 5
83 0 0	2,553 16 11	306 9 2	2,860 6 1
82 10 0	2,538 9 3	304 12 3	2,843 1 6
82 0 0	2,523 1 6	302 15 4	2,825 16 10
81 0 0	2,492 6 2	299 1 6	2,791 7 8
80 0 0	2,461 10 9	295 7 8	2,756 18 5
79 0 0	2,430 15 4	291 13 10	2,722 9 2
78 0 0	2,400 0 0	288 0 0	2,688 0 0
77 10 0	2,384 12 4	286 3 0	2,670 15 4
77 0 0	2,369 4 7	284 6 2	2,653 10 9
76 0 0	2,338 9 3	280 12 4	2,619 1 7
75 0 0	2,307 13 10	276 18 5	2,584 12 3
74 0 0	2,276 18 5	273 4 7	2,550 3 0
73 0 0	2,246 3 1	269 10 8	2,515 13 9
72 10 0	2,230 15 5	267 14 0	2,498 9 5
72 0 0	2,215 7 8	265 16 11	2,481 4 7
71 0 0	2,184 12 4	262 3 1	2,446 15 5
70 0 0	2,153 16 11	258 9 2	2,412 6 1
69 0 0	2,123 1 6	254 15 4	2,377 16 10
68 0 0	2,092 6 2	251 1 6	2,343 7 8
67 10 0	2,076 18 6	249 4 8	2,326 3 2
67 0 0	2,061 10 9	247 7 8	2,308 18 5
66 0 0	2,030 15 4	243 13 10	2,274 9 2
65 0 0	2,000 0 0	240 0 0	2,240 0 0
64 0 0	1,969 4 7	236 6 2	2,205 10 9
63 0 0	1,938 9 3	232 12 4	2,171 1 7
62 10 0	1,923 1 6	230 15 4	2,153 16 0
61 0 0	1,892 6 2	227 1 7	2,119 7 9
61 0 0	1,876 18 5	225 4 7	2,102 3 0
60 0 0	1,846 3 1	221 10 9	2,067 13 10

† The exact purchase price can be ascertained in any case by multiplying the amount of the purchase annuity by 100, and dividing the result by 3 25.

N B.—The figures in columns (2), (5), (6), and (7) have been taken, with kind permission, from the Table compiled for the Irish Landowners' Convention by the Secretary, G De L. Willis, Esq.

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IRISH LAND ACT 1903.

(3 ED. VII., CAP. 37.)

AN ACT TO AMEND THE LAW RELATING TO THE OCCUPATION AND OWNERSHIP OF LAND IN IRELAND AND FOR OTHER PURPOSES RELATING THERETO, AND TO AMEND THE LABOURERS (IRELAND) ACTS. [14*th August*, 1903.] (*n*)

BE it enacted, &c.

PART I.

LAND PURCHASE.

Purchase and Resale of Estates.

Sect. 1.
Advances for purchase of holdings where whole estates sold.

1.—(1) In the case of the sale (*k*) of an estate (*a*) whether to the Land Commission or otherwise, when application is made for an advance under the Land Purchase Acts of the whole purchase money (*l*) of a holding, and the Land Commission (*b*) are satisfied that the tenant is in occupation (*c*) of the holding, then, subject to the limitations (*d*) in the Land Purchase Acts on advances to tenants purchasing their holdings, the Land Commission (*b*) shall sanction the advance in the following cases (*e*), namely:—

a. In the case of the purchase of a holding subject to a judicial rent fixed or agreed to since the passing of the Act of 1896, if the purchase annuity created under this Act payable in respect of the advance will be not less than ten nor more than thirty per cent. below the existing rent; and

b. In the case of the purchase of a holding subject to a judicial rent fixed or agreed to before that date, if the said purchase annuity will be not less than twenty nor more than forty per cent. below that rent:

Provided that in the case of a holding subject to a judicial

Sect. 1.

rent fixed or agreed to before the passing of the Act of 1896, the Land Commission (*b*) may, if they think it equitable, and if the purchase agreement so provides, treat the holding, for the purposes of this section, as a holding subject to a judicial rent fixed since the passing of the Act of 1896 (*o*).

(2) If the foregoing provisions are not complied with, the Land Commission (*b*) may, subject to the limitations (*d*) in the Land Purchase Acts, sanction the advance (*f*), if they are satisfied with the security, and if, after giving all persons interested in the estate an opportunity of being heard (*g*), they consider the agreed price to be equitable having regard to the interests of all such persons as aforesaid (*m*).

(3) The Land Commission (*b*), if they think it expedient with a view to the improvement of the estate, may declare that, for the purposes of this section, a portion of a holding shall be deemed a holding (*h*), and in such case may apportion the rent of the holding between the portion proposed to be purchased and the remainder of the holding.

51 & 52 Vict. c. 49.

(*4*) *Notwithstanding any provisions to the contrary, contained in the Purchase of Land (Ireland) Amendment Act, 1888* (*c*), *an advance may be sanctioned under the provisions of the Land Purchase Acts not exceeding the sum of seven thousand pounds to one purchaser where, in the opinion of the Land Commission* (*b*), *it is expedient to make any such advance for the purpose of carrying out the sale of a holding to which the Land Law Acts apply* (*i*).*

(5) This section shall not apply in the case of holdings on congested estates (*j*), in respect of which the Land Commission (*b*) have given a certificate under section six of this Act, nor in the case of holdings on estates purchased by the Congested Districts Board.

Sub-sec. 1

This Section deals only with judicial tenancies. Its general effect is to make it mandatory upon the Land Commission to sanction advances under the Land Purchase Acts to the tenants of such tenancies, provided the following conditions are fulfilled:—

(1) That the lands sold are declared by the Estates Commissioners to be "fit

* Sub-section 4 is repealed save as regards advances in pursuance of purchase agreements entered into before the passing of the Act of 1909 (3rd Dec., 1909), Sec. 15 (3), of that Act (*post*, p. 1209).

to be regarded as a separate estate for the purposes of this Act." As to which, see note (*a*) below. See Sec. 98 (1) (*post*, p. 1166) Sect. 1.

(2) That an application is made for the whole of the purchase money; and

(3) That the price comes within the limits, popularly known as zones, mentioned in paragraphs *a* and *b* of Sub-sec. 1. See table giving particulars of the limits of these zones (*ante*, pp. xviii., xxiii.).

In order, however, that the mandatory provisions of this Section should apply, the judicial rent must be actual and operative at the date upon which the application for an advance is lodged with the Land Commission; in other words, the statutory term must have commenced to run. It is not sufficient that an agreement fixing a judicial rent has been filed: *Talbot Crosbie's Estate*, [1905] 1 I. R. 236, 570; 5 N. I. J. R. 97, 256; 39 I. L. T. R. 54. But where an agreement between a landlord and tenant fixing a fair rent was signed, and subsequently on the same day an agreement for sale was signed, an application to file the fair rent agreement was granted, the Estates Commissioners being at liberty before taking action on the purchase agreement to satisfy themselves of the *bona fides* of the transaction: *Coote* v. *Walsh*, [1906] 1 I. R. 48 (MEREDITH, J.).

Where a holding is not subject to a judicial rent, it may still be sold under the Land Purchase Acts; the advance of the *whole* or *part* of the purchase money by the Land Commission being discretionary in that case, as under the practice which prevailed before the passing of this Act. Such a sale, though not within the provisions of this Section, is regulated by Sec. 5, *post*; the "bonus" under Sec. 48 may be obtained in respect of such a sale if the entire estate of which it forms part is sold, and the remaining provisions of this Act apply to the case exactly as in the case of a judicial tenancy within the terms of this Section.

Inspection of holdings.

In case of a sale of an estate by landlord to tenant, if all the advances applied for come within the zone limits, the estate is visited by a surveyor, who reports as to the boundaries and areas of the holdings, occupation of tenants, labourers' cottages, ancient monuments, and generally as to matters other than security and equity of price.

In cases of judicial holdings outside the zone limits and non-judicial holdings, the estate is also visited by an inspector, who in such cases reports also as to security of the holding for the price agreed upon and as to equity of price to persons interested in the estate, other than the vendor, such as incumbrancers, remaindermen, and the like. See Instructions for guidance of Purchase Inspectors, issued by the Estates Commissioners, 9th March, 1906 and 12th Nov., 1908 (*post*, pp. 1322, 1343).

General scope of Land Purchase Acts.

It must be remembered that the Land Purchase Acts are much wider in their scope than the Land Law Acts; and apply to holdings which not only are debarred from having fair rents fixed, but which are altogether excluded from the Land Law Acts. Thus, townparks, pasture holdings, portions of a demesne let to tenants, and other holdings excluded from the Land Law Acts by Sec. 58 of the Act of 1881, or Sec. 5 of the Act of 1896, are not excluded from the Land Purchase Acts; and advances may be made for the sale of such holdings at the discretion of the Land Commission, as hitherto. See on this subject note to Land Purchase Act, 1885, Sec. 1 (*ante*, pp. 366–7).

Even houses in a town, if comprised in an estate which is mainly agricultural or pastoral, may be purchased under the provisions of this Act: *King Harman's Estate*, [1904] 38 I. L. T. R. 237.

Sect. 1.

Future tenancies (for definition of which see Land Act, 1881, Sec. 57, and note (*l*) thereto, *ante*, pp. 351-2) are in a slightly different position. They are within the provisions of the Land Law Acts, though in general excluded from the privilege of having a fair rent fixed. They have hitherto been on exactly the same footing as present tenancies under the Land Purchase Acts; but an important limitation on the amount of the advance in the case of such tenancies, if created after 1st Jan., 1901, was introduced by Sec 53 (*post*, p 1123). No advance can now be made if the tenancy, unless created by the Land Commission or Congested Districts Board, was created after 15th Sept., 1909: Act, 1909, Sec. 16 (*post*, p. 1210).

Meaning of "estate"

(*a*) The expression "estate" means "any lands which the Estates Commissioners may declare fit to be regarded as a separate estate for the purposes of this Act": Sec 98 (1) (*post*, p. 1166).

A provisional declaration cannot be made under Sec 98 (1). An unconditional declaration under that Section is a condition precedent to carrying out a sale under the Act of 1903. And where a declaration has been made the Estates Commissioners are precluded in "zone" cases from enquiring into the adequacy of the security: *Weir's Estate*, [1908] 1 I. R. 161; 42 I. L. T. R 35, and see notes to Sec. 98 (*post*, p. 1166). "The most important matter upon which the Estates Commissioners are bound to satisfy themselves is that the sale of the holdings on the terms arranged has been honestly made, and that there is no fraud or concealment."—Per FITZGIBBON, L.J.: *Weir's Estate*, at p. 179. And see *Nevin's Estate*, 40 I. L. T. R. 15

In determining whether lands proposed to be sold are "fit to be regarded as a separate estate" the Estates Commissioners must exercise a judicial discretion, and they cannot refuse to declare lands held under judicial tenancies an estate upon the ground, merely, that the security for the advance applied for is, in their opinion, insufficient: *Weir's Estate*, [1908] 1 I R. 161; disapproving of *In re Scottish Union Insurance Co.'s Estate*, [1906] 1 I. R. 42; 39 I. L. T. R. 258; 5 N. I. J. R 293 See also *Shaftesbury's Estate*, 40 I. L. T. R. 253.

The practice of the Estates Commissioners, as regards making the declaration that any particular block of lands offered for sale constitute an "estate," the inclusion or exclusion of particular holdings, the various matters which they take into consideration, and their powers of altering or amending a declaration once made, will be found fully set out in the extract from their *Ad Interim* Report in note (*a*) to Sec 98 (*post*, p 1167)

(*b*) The jurisdiction, powers and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners: Sec 23 (1) (*post*, p 1088).

Procedure

Proceedings for sale under the Act to persons other than the Land Commission are commenced by Originating Application in Form A (*post*, p 1259) If the sale is intended to be to the Estates Commissioners, the proceedings are commenced by an Originating Request in Form B (*post*, p. 1263). Maps must be lodged in both cases See Rules of 4th Nov., 1907, Nos. 2 and 10 (*post*, pp 1247-1249). As to agreements for purchase, see Rules 23-26 (*post*, pp. 1252-3) and Forms F and H (*post*, pp. 1268-1273) and No. 4 Rules 3rd May, 1910 (*post* p 1290), which prescribes Form F[1] (*post*, p. 1294) in case of "Future Purchase Agreements."

Tenants must be in occupation.

(*c*) "Tenant" is defined by the 57th Section of the Act of 1881 as a "person occupying land" (see *ante*, p. 342). Where part of the holding only is sublet

a tenant may still be deemed to be in occupation, if the subletting was made with the consent of the landlord (as to which, see *ante*, pp. 346-8), but if the entire holding is sublet, a sale under the Land Purchase Acts, if made at all, can only be made to the sub-tenants under Sec. 15, *post*: *King Harman's Estate*, 38 I. L. T. R. 237. "My decision is," says MEREDITH, J., in that case, "that the Act of 1903, while conferring the widest discretion upon the Estates Commissioners, was not intended to be, and cannot be, used as an Act for the perpetuation of the interest of the middleman either in town or country" (38 I. L. T. R., at p. 239).

Limitation on amount of advances.

. (*d*) The general limitation on the amount of an advance to any one purchaser under the Land Purchase Acts is £3,000. (Land Purchase Act, 1888, Sec. 2, *ante*, p. 451). £3,000 is now the limit, unless the tenant resides on the holding or uses it with the holding on which he resides, and the Land Commissioners consider a larger advance, not exceeding £5,000, may properly be sanctioned: Act 1909, Sec. 15. The Estates Commissioners are not bound to make advances which, together with previous advances, exceed £3,000, unless they consider it expedient: *Malone's Estate*, [1908] 1 I. R. 270; 42 I. L. T. R. 108. £7,000 might have been advanced under Sub-sec. 4 of this Section, which is now repealed, without prejudice, however, to agreements entered into before the passing of the Act of 1909.

If the Estates Commissioners have deemed it expedient to advance more than £3,000 for a holding under Sec. 2, Purchase of Land Amendment Act, 1888, *ante*, p. 451, and the full amount applied for is within the "zone" limits, they are not entitled to consider whether the holding is sufficient security for the amount applied for: *Cooper's Estate* (WYLIE, J.), [1910] 1 I. R. 52.

The words "any one purchaser" in Sec. 2 of the Act of 1888 (*ante*, p. 451) were held to refer to the individual. They do not include an assignee, and though the original purchaser assigned he could not obtain a further advance if he was originally advanced £3,000: *Spunner's Estate*, 38 I. L. T. R. 166. As much as £20,000, however, may be advanced to the owner of an estate for the repurchase by him of his demesne or other land in his occupation in the neighbourhood (Sec. 3, *post*, p. 1057). Advances under Sec. 2, Act 1903, *post*, to persons who were not tenants of the holdings purchased at the time of the purchase could not exceed £1,000, except under the circumstances mentioned in that Section. An advance in the case of a tenancy created after 1st Jan., 1901, cannot exceed £500, except under the special circumstances mentioned in Sec. 53 (1), Act 1903 (*post*, p. 1123). But this limitation does not apply to the case of a tenant purchasing a holding from which he, or his predecessor-in-title, had formerly been evicted (*ibid.*). Advances to tenants holding under Court lettings must not for the future exceed £1,000, except under special circumstances, when they may be raised to £2,000: Sec. 53 (2), Act 1903. This limitation does not, however, apply in the case of the sale of an estate as to which a request under Land Act, 1896, Sec. 40, issued prior to the passing of the Act of 1903: Sec. 53 (3).

Sales within the zones.

(*e*) Where advances are applied for in respect of holdings subject to judicial rents, whether fixed by the Court or by agreement filed in Court under Sec. 8 (6) of the Act of 1881, the Land Commission have no discretion, once they have declared the lands "fit to be regarded as a separate estate," to refuse to advance the full sums agreed upon, if the prices are within the limits of the zones, and the judicial rents are actual and operative: *Talbot Crosbie's Estate*, [1905] 1 I. R. 236 (L. C.), 570 (C. A.); 5 N. I. J. R. 97; 39 I. L. T. R. 54.

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No distinction is made, as is popularly supposed, between first term and second term rents The distinction is between judicial rents fixed before the 15th Aug, 1896 (the date upon which the Act of 1896 received the Royal Assent), and judicial rents (whether for the 1st or 2nd statutory term is immaterial) fixed after that date The table prefixed to this Act (*ante*, pp. xviii, xxiii) shows at a glance the limits of these zones.

Under the 17th Section of the Act of 1896 (*ante*, pp. 556-7) a landlord and tenant may, by agreement filed in the prescribed manner, alter the judicial rent of a holding. See Form 62D under Rules of January, 1897 (*ante*, p. 800) The parties may, in this manner, bring an agreement for sale within the zones where it would otherwise be outside them by simply increasing or reducing the amount of the rent payable under the tenancy, so as to make it bear the required ratio to the purchase annuity chargeable in respect of the price agreed upon Consents fixing fair rents can be filed at any time before the completion of the agreements for purchase. The latter, in order to be complete, must be signed by both landlord and tenant: *Coote* (*L.*), *Walsh* (*T*), 39 I. L. T. R 275.

But if the applications for advances are lodged before the filing of the agreements fixing fair rents the Estates Commissioners are not bound to sanction the advances. *Talbot Crosbie's Estate*, [1905] 1 I. R. 236, 570; 39 I. L. T. R. 54; 5 N I. J. R 97, 256 And if the entire transaction is not a *bona fide* one, the same result follows. (Per MEREDITH, J, *Coote* (*L*), *Walsh* (*T.*), [1906] 1 I. R. 48; 39 I. L. T. R, at p 276) "Every tenancy sold must be a real tenancy, and not a tenancy created conditionally or for the mere purpose of getting money from the State." (Per FITZGIBBON, L J, *Talbot Crosbie's Estate*, [1905] 1 I. R., at p. 585.)

In the interval between the signing of the agreement and the lands being declared an estate the tenant must be regarded as a purchaser in occupation of his holding. On this ground the landlord was held not liable to poor rate: *Earl Fitzwilliam* v. *Wicklow C. C*, 40 I. L. T. R 180. Until it is absolutely determined whether the agreement is to be carried out, it is to be treated as an effective agreement for sale, and in the intervening uncertain period it is to be acted upon as such (PALLES, C.B., *ibid*, 181) But see *In re Lynders*, [1910] 1 I. R. 231, 44 I. L. T. R 113.

An action for rent cannot be maintained after the purchase agreement has been signed: *Tighe* v. *Barron*, 41 I. L T. R. 64. Nor can a fair rent be fixed: *M'Gloin* v. *Irish Land Commission*, 41 I. L. T. R. 67.

Where a tenant agreed to pay one year's arrears of rent out of the purchase money, and gave a promissory note with a surety for another year's arrears to the agent, the King's Bench Division held on special case that the note was a contrivance to evade the 35th Section of the Act of 1896, was without consideration, and that the amount of it could not be recovered: *Nash* v. *Neazor*, [1908] 2 I. R. 46; 41 I L. T. R. 201.

Where the Land Commission purchase an estate, and expend money on the improvement of a holding comprised in it, any increase of price obtained by them, on resale to the tenant, in consequence of such improvement, is not to be taken into account for the purposes of this Section: Sec. 43 (4) (*post*, p 1108)

Sub-sec. 2.

(*f*) Sub-section 2 of this Section is very similar in its terms to Sec. 5 The distinction, apparently, is that this Sub-section applies to agreements for sales of judicial tenancies outside the zones; while Sec. 5 applies to agreements in respect of non-judicial tenancies. This, however, is not at all clear

(*g*) The words "after giving all persons interested in the estate an opportunity of being heard" do not occur in Sec. 5. They are taken, apparently, from Sec. 40 of the Act of 1896. All incumbrancers, remaindermen, and owners of superior interests in the lands agreed to be sold would appear to be entitled to object to the sale, under this Sub-section, where the holdings are judicial and the prices are outside the appropriate zones. Whether they are also so entitled in the case of non-judicial holdings remains to be decided. Sect. 1.

Rule 29 of the Rules of 4th Nov., 1907, deals with the publication of the notice to all persons interested required by this Sub-section (*post*, p. 1254). See form of notice (Form K), p. 1282. A register of persons interested in the estate is kept in every case. See Rules of 4th Nov., 1907, No. 46 (*post*, p 1257).

(*h*) Where there are holdings upon an estate so large that the purchase price would exceed the limit mentioned in Sub-sec. 4, a possible method of carrying out the sales under the Land Purchase Acts might be found by selling a portion of the holding to the tenant himself under this Sub-section, and the remainder to persons mentioned in Sec. 17 of the Act of 1909 (*post*, p. 1210). The tenant's consent would, of course, be required for such partition and sales. Sub-sec. 3.

(*i*) In *Goff's Estate* (17th Jan., 1906, not reported) Mr Commissioner Bailey has construed these words as meaning the fair rent provisions of the Land Law Acts. As to the different classes of holdings to which the Land Law Acts do not apply, see Land Act, 1881, Sec. 58; Land Act, 1896, Sec. 5, and notes to those Sections (*ante*, pp. 354–364 and 519–539). Sub-sec 4.

(*j*) For definition of a congested estate, see Sec. 6 (5) (*post*, p 1063). Sub-sec. 5.

(*k*) Section 1 (1) does not become operative until not only the estate but also the holding has been sold: *Gun's Estate*, 41 I. L. T. R. 140.

(*l*) Arrears of rent due may be added to the purchase money: *Crosbie's Estate*, [1907] 1 I. R. 116, 124, reversing MEREDITH, J, 40 I. L. T. R. 256, but as the total amount is the sum upon which the purchase annuity will be calculated, care should be taken that the price is not thus brought above the higher limit of the zone, otherwise the Land Commission may refuse to make the advance. As to payment to the landlord of arrears of rent out of the purchase money, see Sec. 24 (8) (*post*, p. 1093). Arrears of rent.

(*m*) The Estates Commissioners in exercising their discretion as to making an advance cannot take into consideration the effect their making it may have on the interest of a specific legatee under the original vendor's will: *Gowing's Estate*, 42 I. L. T. R. 56.

(*n*) Commencement of Act, 1st Nov., 1903, Sec. 102 (*post*, p. 1173).

(*o*) An agreement for purchase of a holding of which part was held under a fair rent order and the residue under an agreement for a future tenancy was tendered, and the Estates Commissioners considered the security insufficient. Two separate agreements were then tendered. The one for the portion in respect of which a fair rent had been fixed was within the zones. MEREDITH, J., held that it was for the Estates Commissioners to decide whether they would accept or reject the substituted agreement and decline to declare the lands an estate: *Le Blond's Estate*, 40 I. L. T. R. 188.

As to the jurisdiction of a Judge of the Chancery Division to direct an estate ordered to be sold in his Court to be sold to the tenants under the Land Purchase Acts, see *Hamilton* v *Byrne*, 40 I. L. T. R. 17.

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Advances for purchase of other portions of estate.

2.—*(1) In the case of the sale of an estate advances under the Land Purchase Acts may be made for the purchase of parcels thereof by the following persons:—*

a. A person being the tenant of a holding on the estate;

b. A person being the son of a tenant (a) of a holding on the estate;

c. A person being the tenant or proprietor of a holding not exceeding five pounds in rateable value, situate in the neighbourhood of the estate; and

d. A person who within twenty-five years before the passing of this Act was the tenant of a holding to which the Land Law Acts apply, and who is not at the date of the purchase the tenant or proprietor of that holding: Provided that in the case of the death of a person to whom an advance under this paragraph might otherwise have been made, the advance may be made to a person nominated by the Land Commission as the personal representative of the deceased person.

(2) Advances under this section shall not, together with the amount (if any) of any previous advance under the Land Purchase Acts then unrepaid by the purchaser, exceed one thousand pounds:

Provided that the limitation in this sub-section may, subject to the other limitations in the Land Purchase Acts, be exceeded where the Land Commission consider that a larger advance may be sanctioned to any purchaser without prejudice to the wants and circumstances of other persons residing in the neighbourhood.

(3) The Land Purchase Acts shall, subject to the provisions of this section, apply to the sale of a parcel of land in pursuance of this section, in like manner as if the same was a holding, and the purchaser was the tenant thereof at the time of his making the purchase, and the expression "holding" in those Acts shall include a parcel of land in respect of the purchase of which an advance has been made in pursuance of this section.

This Section has been repealed by Sec. 17, (4), of the Act of 1909, save as

regards the sale of any parcels of land in respect of which purchase agreements have been entered into before the passing of that Act. Any reference in any enactment to Sec. 2 of the Act of 1903 is to be construed as a reference to Sec. 17 of the Act of 1909 (*post*, p. 1211), which substantially re-enacts Sec. 2, *supra*.

(*a*) It was held that "the son of a tenant" in this Section might be the son of a Court tenant pending the matter, who himself would be entitled to purchase under Sec. 40, (2), of the Act of 1896 (*ante*, p. 580): *Lawless's Estate*, 39 I. L. T. R. 239.

See notes to Sec. 17, Act 1909 (*post*, p. 1211), and Labourers Act, 1906, Sec. 19 (*post*, p. 1180).

And see the Evicted Tenants Act, 1907 (*post*, p. 1183)

Advances to owners of estates.

3.—(1) Where the owner of an estate has entered into agreements under the Land Purchase Acts for the sale to persons other than the Land Commission of the estate, the Land Commission (*a*) may purchase from him any demesne (*c*) or other land in his occupation and adjacent to, or in the neighbourhood of, the estate at a price which in their opinion represents the selling value of that land, and in such case may resell the whole or any portion of that land to him; provided that the Land Commission (*a*) may, if they think it necessary for furthering the purposes of this Act, dispense with the condition in this sub-section that the land purchased and resold shall be adjacent to, or in the neighbourhood of, the estate.

(2) Where any land is so resold, or where a parcel of an estate purchased by the Land Commission (*a*) is resold to the vendor, or (in the case of an estate purchased from the land judge) to the former owner (*h*) of the estate or a person nominated by the Land Commission as his representative, an advance under the Land Purchase Acts may be made not exceeding in any case one-third of the aggregate amount of the purchase money of the holdings and other parcels of land comprised in the estate (*b*), or twenty thousand pounds, whichever is the less.

(3) In entering into agreements for the resale of any land to the vendor of an estate the Land Commission (*a*) shall have regard to the amount of land available for the enlargement of holdings where they consider such enlargement necessary.

(4) Where any land is resold in pursuance of this section a Judicial Commissioner may, if he thinks it equitable, on the application within the prescribed time (*g*) of any person who,

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at the date of the sale of the land to the Land Commission (*a*), was entitled to any estate in remainder or reversion in that land, order, upon such terms and conditions as he may think reasonable, that the land so resold shall devolve in accordance with the terms of the settlement (*d*) which at the date of the sale to the Land Commission affected it (*k*).

(5.) If the owner of any demesne or other land subject to settlement (*e*) and sold to the Land Commission does not repurchase the same within the prescribed time (*g*), the Land Commission may make an advance under this section to the trustees of the settlement, and in such case the land resold shall be held subject to the trusts of the settlement (*i*).

54 & 55 Vict. c. 66.

(6) Any land resold in pursuance of this section shall not be subject to the provisions of the Local Registration of Title (Ireland) Act, 1891, relating to the devolution of freehold registered land (*f*).

'This Section enables an advance to be made to a landlord under the Land Purchase Acts for the purchase of his demesne, "or other land in his occupation":—(1) Where he is selling his estate directly to the tenants or other persons named in Sec 17 of the Act of 1909 (*post* p. 1210); (2) Where he has sold his estate to the Estates Commissioners, and (3) Where the Estates Commissioners have purchased the estate from the Land Judge under the provisions of Sec. 7 (*post*, p 1066) An owner cannot, apparently, obtain an advance for the purchase of his demesne directly from the Land Judge unless he has become a tenant of it to the Court, in which case he is entitled to purchase as if he were an ordinary tenant (see Land Act, 1896, Sec 40 (2), *ante*, p. 580); and this appears to be so even though the estate is not insolvent He is, if a Court tenant and entitled to purchase, not within the limitations as to the amount of the advance to ordinary Court tenants imposed by Sec 53 (*post*, p. 1124), but he cannot obtain an advance of more than £5,000, and formerly of £7,000. See note (*d*) to Sec 1 (*ante*, p 1053, and *post*, p 1209). In a case which comes within this Section he may obtain an advance up to the sum of £20,000.

Where the advance which he is receiving for repurchase is less than the full amount of the purchase money, the balance may be secured, in the case of a solvent estate, by a memorandum of charge on the residue of the purchase money of the entire estate to be set out on the allocation schedule: *Ker Mahon's Estate*, 38 I. L. T. R 258.

(*a*) The jurisdiction, powers, and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners (Sec. 23 (1), *post*, p. 1088).

The Congested Districts Board, when they purchase an estate under their statutory powers, have similar authority to resell to the former owner under Sec. 76 (*post*, p. 1154), and see Sec. 53, Act 1909 (*post*, p. 1234).

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Amount of advance to vendor.

(*b*) In order to ascertain the amount which may be advanced to the vendor under this Sub-section, every parcel of land sold, including the demesne itself, must be taken into consideration; and the amount which may be advanced to the vendor in the event of the resale to him of the demesne or other land in his occupation is one-third of the aggregate amount of the purchase money of the holdings, parcels of land, and demesne itself, so purchased from him by the Land Commission: *Finlay's Estate*, 38 I. L. T. R 101. (MEREDITH, J.)—The term "estate" appears, therefore, to be used in this Sub-section as including the demesne, though in the first Sub-section it is used apparently as excluding it As to the meaning of an "estate" generally, see Sec. 98 and note (*a*) thereto (*post*, p. 1167).

"In estimating the amount which may be advanced to a vendor under Sec. 3 (2) for the repurchase of his demesne, the proceeds of former sales under the Land Purchase Acts cannot be taken into consideration." (*T E. L Clements' Estate.*) *Ad Interim* Report of Estates Commissioners [cd 2471], p 14.

(*c*) "Demesne" includes the mansion house or other buildings thereon (Sec. 98 (1), *post*, p. 1166).

Settlement affecting lands resold to vendor.

(*d*) Sub-section 4 gives jurisdiction to the Judicial Commissioner conversant with the facts, and requires the person entitled in remainder or reversion to elect within a prescribed time whether or not he will claim to have the resold land devolve according to the settlement. According to the ordinary equitable doctrine of graft, a person taking only a limited interest under a settlement cannot avail himself of the situation in which the settlement has placed him, to obtain for himself the exclusive benefit of any enlargement of the interest in the lands which are the subject of the settlement. This is so, even apart from the 53rd Section of the Settled Land Act, 1882, which expressly declares that a tenant-for-life exercising any power under the Act is in the position of a trustee for all parties entitled under the settlement. Thus it has been held that, according to the ordinary doctrine of a Court of Equity, it is impossible for the the tenant-for-life of a renewable leasehold interest to purchase the reversion otherwise than as a trustee for the person interested under the trusts of the settlement: *In re Lord Ranelagh's Will* (26 Ch. Div, 591). See also, judgment of ROMER, L.J., in *Biss* v. *Biss*, [1903] 2 Ch., at p 61. In the case of a tenant purchasing a holding under the Land Purchase Acts, the new interest vested in him is expressly declared to be a graft upon his previous interest in the holding by the 8th Section of the Act of 1885 (*ante*, p. 376), and the 14th Section of the Act of 1887 (*ante*, p. 419). See note (*c*) to the former Sections (*ante*, pp. 377–8), where the cases decided under it are fully noted, and reference made to the leading cases on the doctrine of grafts generally.

(*e*) The consent of the trustees of the settlement to a sale of the mansion house and demesne by a tenant-for-life is in general required under the Settled Land Act, 1890, Sec. 10; but it is not necessary in cases coming within this Act. See Sec. 17 (2) and note (*b*) thereto (*post*, pp 1082, 1083).

(*f*) See Sec. 84 to 87 of the Local Registration of Title Act, 1891 (*ante*, pp. 959–961). Sub-section 6 shows that the restrictions contained in Sec. 54 (*post*, p. 1127) do not apply to untenanted land repurchased by the owner: *In re Freeman*, [1907] 1 I. R. 444; 41 I. L. T. R. 178.

(*g*) The prescribed time for an application by any person entitled in remainder or reversion for an order regulating the devolution of the estate under this Section

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is six months from the date of the resale. Rules, 4th Nov., 1907, No. 31 (*post*, p. 1254).

(*h*) Where three co-owners were entitled to lands for the sale of which an absolute order had been made by the Land Judge, and one of the co-owners was tenant under the Court, and proposed to purchase by means of an advance under the Land Purchase Acts, WYLIE, J., held that no part of the advance was for land "resold to the vendor" and that the bonus was payable: *Tyrrell's Estate* [1909], 1 Ir. R. 152.

(*i*) A vendor died before advances for purchase of tenanted lands (which were subsequently sanctioned), were made, having devised all his real and personal property to his trustees and executors upon trust for sale. The Estates Commissioners had jurisdiction to sanction an advance for the repurchase of the demesne by the trustees: *Anderson's Estate*, [1908] 1 I. R. 537.

(*k*) The tenant-for-life under a settlement sold for the full value the entire estate to the Land Commission under Sec. 6 and repurchased the demesne; the remainderman was held not entitled to an order that the demesne should devolve in accordance with the trusts of the settlement under Sub-sec. 4. *Frosts' Estate*, 42 I. L. T. R 266. But an order that lands should so devolve was made in the *Earl of Desart's Estate*, [1909] 1 I. R. 397. And see *K'Eogh's Estate*, 44 I L. T R. 54

Advances to trustees.

4.—(1) In the case of the sale (*d*) of an estate (*a*) advances under the Land Purchase Acts may be made for the purchase, by any trustees (*b*) approved of by the Land Commission, of any parcel of the estate to be held subject to the provisions of this Act, for the purposes of turbary (*c*), pasturage, the raising of sand or gravel, the cutting or gathering of seaweed, the planting of trees (*c*), or the preservation of game, fish, woods or plantations, or for the purposes of the Labourers (Ireland) Acts, 1883 to 1896, as amended by this Act.

(2) An advance in pursuance of this section may be of such amount as the Lord Lieutenant may sanction.

It is the duty of the Purchase Inspector to report generally as to the turbary on the estate, and to suggest such regulations and schemes as he may think desirable, having regard to the provisions of this Section and Secs. 20 and 21, *post*. See Instructions to Inspectors, Nos. 24 and 25 (*post*, p. 1330). "Future Purchase Agreements" under this Section are to be in Form I[1] (*post*, p. 1299). See No. 4 Rules, 3rd May, 1910 (*post*, p. 1290).

(*a*) For definition of "estate," see Sec. 98, *post*, p. 1166, and form of agreement under this Section Form I Rules of 4th November, 1907 (*post*, p. 1277) and Form I[1].

(*b*) Trustees who purchase under this Sect. are to hold the lands for the purposes mentioned, under a scheme to be framed by the Lord Lieutenant, or approved of by him. See Sec. 20 (*post*, p. 1086).

The Department of Agriculture or any County or Rural District Council, or any other Body Corporate having power to acquire land may act as trustees:

Act 1909, Sec. 18 (*post*, p 1212). An advance for the purchase of parcels of an estate to be held for the purposes of the Labourers Acts may be made, under this Section, to a Rural District Council as trustees. See Sec. 20, Labourers Act, 1906 (*post*, p. 1180). Sects. 4-5

(*c*) The Land Commission had, prior to the passing of this Act, jurisdiction to purchase turf bog on an estate sold under the Land Purchase Acts, for the benefit of the tenant purchasers. See Turbary Act, 1891, and Rules thereunder (*ante*, pp. 456-7 and 913-916).

Land purchased for planting of trees may be released from grazing rights or other easements by the Land Commission: Act 1909, Sec. 19 (1) (*post*, p. 1213).

(*d*) Section 4 is applied to cases of sale by the Congested Districts Board by the Act of 1909, Sec. 18, (4) (*post*, p. 1213).

For Forms of Agreement between Vendor and Trustees as to turbary and conveyance of bog to trustees under this Section. See "Stubbs and Baxter's Irish Forms and Precedents," pp. 398 and 400.

Sanction of advances in cases not within zones

5. In the case of the sale of an estate (*a*) where an application for an advance, to which the provisions of subsection one of section one of this Act do not apply, is made, the Land Commission (*b*) may, subject to the limitations in the Land Purchase Acts (*c*), advance the whole or part (*d*) of the purchase money if they are satisfied with the security and are of opinion that, having regard to all the circumstances of the case, the agreed price is equitable (*e*).

Under the provisions of this Section sales may still be sanctioned under the Land Purchase Acts, with all the additional privileges conferred by this Act, of holdings not subject to judicial rents, provided that they form part of an "estate" sold under the Acts. Whether this Section applies also to judicial tenancies sold at prices either above or below the limits mentioned in Sec. 1 (1) seems to be doubtful. If it does, Sub-sec. 2 of Sec. 1 would appear to be unnecessary That Sub-section, it will be noted, requires the Land Commission, before sanctioning the advances, to give "all persons interested in the estate an opportunity of being heard." The present Section contains no such provision. The Estates Commissioners must, however, be satisfied that "the agreed price is equitable," as to which see note (*e*) below.

(*a*) For definition of "estate," see Sec. 98 (*post*, p. 1166).

(*b*) The jurisdiction, powers, and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners: Sec. 23 (1) (*post*, p. 1088).

(*c*) As to the general limitations on the amount of advances under the Land Purchase Acts, see Land Purchase Act, 1888, Sec. 2 (*ante*, p. 451), Sec 1, (4), of this Act (*ante*, p. 1050), and note (*d*) thereto (*ante*, p. 1053)

(*d*) Under Sec. 1 the advance must be of the whole of the purchase money. Under this Section part may be paid in cash, or remain due on mortgage, or otherwise. This may be found convenient in the case of holdings so large that the whole purchase money exceeds the limits of advance to any one purchaser under the Land Purchase Acts.

Sects. 5-6.

Where "the agreed price is equitable"

(e) There has been considerable discussion as to the extent of the jurisdiction conferred upon the Estates Commissioners by the last clause of this Section. Have they authority to consider the amount of the purchase money as between the vendor and purchaser, or only as between the vendor and other persons interested in the property, in deciding whether or not "the agreed price is equitable?" In *King Harman's Estate, Hayes, tenant*, [1905] 1 I. R. 448, 39 I. L. T. R. 219, a question was submitted to the Judicial Commissioner for his decision upon this point. It appeared that the tenant had erected valuable buildings upon the holding, and the Estates Commissioners had formed the opinion that the land alone, *apart from these buildings*, was not a sufficient security for the amount agreed to be paid for the holding. Under these circumstances they submitted a question to MEREDITH, J., whether they had jurisdiction or authority to enquire into or satisfy themselves of the equity of the price to the tenant purchaser, as well as to the other persons interested in the estate, before advancing the amount agreed upon, and he decided that they had no such jurisdiction in a case where the landlord and the tenant, both *sui juris*, and, acting freely and voluntarily, had entered into the contract, and there was no suspicion of fraud, duress, or compulsion, or other circumstances which would induce a court of equity to refuse to enforce the bargain which they had made. "In my opinion," said he, "the expression 'equitable' is here used in the sense well known to lawyers—in other words, the expression should be read in the light in which courts of equity regard transactions between persons entering into contracts. For example—If contracts for sale are entered into by a tenant-for-life, and he agrees to accept unfairly low prices, he would, I apprehend, be restrained from carrying out such contracts by a court of equity acting at the instance of the remainderman, so, also, prices obtained by any landlord by means of duress, or fraud, or unfair dealing, or compulsion (to give some instances of cases in which equity would be bound to interfere), would be inequitable as between landlord and tenant. Of course it follows that in all such cases the Estates Commissioners have full jurisdiction to act" ([1905] 1 I. R., at pp. 451-2).

The practice of the Estates Commissioners as regards the inspection of holdings coming within the provisions of this Section, and their inclusion within, or exclusion from, an "estate" sold under this Act, will be found fully stated in the notes to Sec. 1, *ante*, p. 1050, and to Sec. 98, *post*, p. 1166.

Purchase of estates by Land Commission.

6.—(1) Where the owner (*k*) of an estate (*b*) makes an application in the prescribed form (*a*) to the Land Commission requesting them to enquire into the circumstances of the estate with a view to the sale thereof under this Part of this Act, the Land Commission may, after due enquiry, propose to purchase the estate (*b*), and in estimating the price (*h*) shall have regard to the foregoing provisions of this Act in respect of advances, and to the prices which the tenants and other persons (*c*) are willing to give for the holdings and other parcels of land (*d*) comprised in the estate.

(2) If within the prescribed time (*e*) the owner of the estate agrees to sell the estate at the estimated price, and tenants of holdings on the estate, to the extent of not less than three-fourths in number and rateable value, undertake to purchase (*f*) from the Land Commission their holdings, or other designated parcels of land in lieu thereof, for the respective amounts on the basis of which the price of the tenanted (*l*) portion of the estate was estimated by the Commission, the Commission may agree to purchase the estate for the estimated price.

(3) The Lord Lieutenant may, under special circumstances and with the approval of the Treasury, dispense with the condition in the last preceding subsection as to undertakings to purchase holdings, where the Land Commission certify to him that they are of opinion that the resale of the estate can be effected without prospect of loss.

(4) In the case of a congested estate as defined by this section, if the Land Commission [*with the consent of the owner*] (*m*), certify to the Lord Lieutenant that the purchase and resale of the estate are desirable in view of the wants and circumstances of the tenants thereon, then the Land Commission may purchase the estate (*g*) for a price to be agreed upon, and in such case the conditions in this section as to resale without prospect of loss may be relaxed to such extent as the Lord Lieutenant may determine.

(5) The expression "congested estate" (*i*) means an estate not less than half of the area of which consists of holdings not exceeding five (*n*) pounds in rateable value, or of mountain or bog land, or not less than a quarter of the area of which is held in rundale or intermixed plots.

This Section, read in conjunction with Secs. 16, 18, 23, and 24, provides the new machinery for purchase of entire estates by the Estates Commissioners for the purpose of resale to the tenants, in lieu of the procedure under the repealed Sections of the Act of 1881.

Procedure.

The proceedings commence by an application "in the prescribed form" to the Land Commission (see Form B, under Rules of 4th Nov., 1907, *post*, p. 1263) to enquire into the circumstances of the estate with a view to a sale. A negotiator may then be nominated by the vendor with the approval of the Estates Commissioners (Sec. 23 (11), *post*, p 1089). And this negotiator, though practically an agent of the vendor, is to be paid by the Land Commission (*ibid.*). In the case

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of sales to the tenants directly, the negotiator, if any, is to be paid his percentage "out of the purchase money as part of the costs connected with the sale" (Sec. 23 (12), *post*, p. 1089). There is therefore a clear saving at the outset in selling directly to the Estates Commissioners.

Provisional agreements to purchase.

Provisional agreements to purchase have, in many cases, been entered into between landlords and tenants prior to the estates coming before the Commissioners.

Under the Instructions to Inspectors of February, 1904, these provisional agreements were indicated as one of the means by which the prices which the tenants were willing to pay could be ascertained, and the Inspector is to ascertain whether the tenants at the time of his inspection are willing to give the same, and if not, what prices. Where the Inspector is of opinion that the price should be a different amount, he is to report this, and should also report whether any tenant who refuses to purchase should be deemed to have accepted the offer under Sec 19 See Instructions to Inspectors, No. 37, 9th March, 1906 (*post*, p 1333).

The Commissioners form their own estimate of the prices of holdings and parcels, having regard to what the tenants are willing to give, and their offer for the estate is based on such prices

After the work of the negotiator is complete, the Estate Commissioners "may, after due enquiry," propose to purchase at a definite price. If the owner agrees to this price, it must then be ascertained that tenants of holdings on the estate, to the extent of not less than three-fourths in number and rateable value, are willing to purchase at the price proposed, and if so the Commission may then "agree to purchase the estate for the estimated price."

Agreement vesting arrears of rent in Commissioners

Up to this stage of the proceedings the landlord is entitled to recover rent from his tenants, and rent continues to accrue to him, but the agreement for purchase by the Estates Commissioners forthwith vests in them all rent and arrears then due by the tenants (Sec 18 (1), *post*, p. 1084), and from that date the former landlord's dealings with them, either for rent or interest, absolutely cease He is entitled to be paid, however, out of the purchase money, arrears of rent then due, "but not exceeding in any case one year's rent" (Sec. 24 (8), *post*, p 1093); and henceforward, until the land is vested in the Estates Commissioners, interest at the rate of 3½ per cent. upon the purchase money (Sec 18 (2), *post*, p 1084).

Advertisements are then published and notices issued to enable any person interested in the land to object to the sale being completed (Sec 16 (2), *post*, p. 1079)

After the objections, if any, to the sale have been disposed of the Estates Commissioners make an order vesting the estate in themselves in fee-simple (Sec. 16 (1), *post*, p. 1079)

Interest on purchase money

From the date of the vesting order, interest on the purchase money is payable also at 3½ per cent until the purchase money is distributed or invested, or "the closing day" is reached The "closing day" is a date to be fixed by the Estates Commissioners in the agreement for purchase, not more than 12 months from the date of the agreement (Sec. 25 (1,) *post*, p. 1098). Out of this interest, however, the annual income of all superior interests not redeemed and interest on all charges or incumbrances must be paid (Sec. 24 (5), *post*, p 1093), the residue only being payable to the former landlord

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When the "closing day" arrives, if the purchase money is not distributed or invested, interest at the rate of 3½ per cent. stops, unless the Land Commission are satisfied that it is not owing to any act or default of the person entitled to the purchase money that his title has not been established, or the amount of his claim invested (Sec. 25 (2), *post*, p. 1098), thenceforward he will be entitled only to interest "at the rate payable by the Land Commission to the National Debt Commissioners"—*i.e.*, 2¾ per cent. (*ibid*).

(*a*) The prescribed form is Form B, under Rules of 4th Nov., 1907 (*post*, p 1263) The jurisdiction of the Land Commission under this Section is to be exercised exclusively by the Estates Commissioners (Sec 23 (1), *post*, p. 1088).

What estates may be purchased.

(*b*) For definition of "estate," see Sec 98 (*post*, p 1166). As Sec. 29 of the Act of 1881 is still unrepealed, it is conceived that the Estates Commissioners cannot purchase a leasehold estate "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" (see *ante*, p. 316). But a covenant against alienation in the lease would not now, apparently, be any obstacle to the purchase (see Sec. 70, *post*, p. 1149). Section 40 of the Act of 1909 provides, however, that where an immediate landlord has not a sufficient interest to enable him to sell, the next superior landlord may sell to occupying tenants under the Acts

An estate purchased under this Section may include demesne lands, untenanted lands, and town tenancies, provided that it is "in the main agricultural or pastoral." See Sec. 10, *post*, and *King Harman's Estate*, 38 I. L. T. R. 103. It may also comprise holdings which are wholly sublet, whether they are, or are not agricultural in character. *King Harman's Estate* (No. 2), 38 I. L. T. R. 237.

(*c*) The "other persons" here referred to are either evicted tenants, sons of tenants, and other members of the classes named in Sec. 2 (*ante*, p. 1056), or subtenants, entitled to purchase under Sec. 15 (*post*, p. 1076); and see Act, 1909, Sec. 17 (*post*, p. 1210).

(*d*) The Estates Commissioners may purchase any untenanted land comprised in the estate under Secs 6 and 7: *King Harman's Estate*, 38 I. L. T. R 103; *White's Estate*, [1906] 1 I. R. 186, 193 (C. A), 40 I. L. T. R. 6 (MEREDITH, J.) affirmed by C. A., and *semble* per HOLMES, L J, under Sec 8 (*post*, p. 1069), they may, for the purposes of the Act, purchase untenanted land though not comprised in an estate: *White's Estate, ubi sup.*

(*e*) The time prescribed under this Section within which the vendor must signify to the Estates Commissioners that he agrees to sell his estate, or repurchase his demesne, as the case may be, is one month from the date of the notification to him of the terms upon which they propose to purchase or resell (Rules of 4th Nov., 1907, No. 30, *post*, p 1254). But the Commissioners have power to enlarge the time (Rule 50, *post*, p. 1258).

(*f*) If three-fourths of the tenants agree to purchase from the Estates Commissioners, the remaining tenants may be compelled to purchase under Sec. 19 (*post*, p. 1085).

(*g*) See Act 1909, Sec. 29 (*post*, p. 1218), which contains provisions as to money spent by the Land Commission on improvements of estates purchased by them.

(*h*) The estimated prices may be different from the prices which the tenants have

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agreed with the vendor to give, and though the prices which judicial tenants have undertaken are within the zones—the Estates Commissioners, though bound to have regard to such prices, are not bound to adopt them: *Gun's Estate*, [1908] 1 I. R. 111, 119; 41 I. L. T. R. 140, 244.

(*i*) Where an estate comprises one or more congested townlands they may be declared a separate estate: Act, 1909, Sec. 20 (2). And see as to applications dealing with lands in a Congested Districts County, No. 1, Rules 3rd May, 1910 (*post*, p. 1290).

(*k*) Where the owner purchased a tenancy, and then applied for an advance, it was refused, as he could not be both owner and tenant within the Land Purchase Acts: *Dunraven's Estate*, 40 I. L. T. R 159.

(*l*) The Estates Commissioners can purchase untenanted land under Sec. 6 or under Sec, 7: *White's Estate*, [1906] 1 I. R. 186, 193; 40 I. L. T. R 6.

(*m*) The Estates Commissioners may now make proposals for purchase of congested estates or untenanted lands without application by the owner (Sec. 42 (1), Act, 1909, *post*, p. 1226), and his consent is no longer required (Sec. 20, Act, 1909, *post*, p. 1214) The words in italics have been repealed (Act, 1909, 2nd Sch) See Sec. 43 and Part IV. of the Act of 1909 (*post*, pp. 1226 and 1237), as to compulsory purchase by the Estates Commissioners, and Sec. 60 of that Act as to compulsory purchase by the Congested Districts Board

(*n*) 'Seven' is substituted for 'five': Sec 20, Act, 1909

Sales in Court of Land Judge. 21 & 22 Vict c 49

7. Where it appears to the Land Commission (*a*) expedient to take steps with a view to the purchase, for the purposes of this Part of this Act, of an estate for the sale of which an absolute order has been made under the Landed Estates Court (Ireland) Act, 1858, the following provisions shall have effect:—

(1) The Land Judge may, at the request (*h*) of the Land Commission (*a*), cause the Commission to be furnished with such particulars and documents (*f*) as they may require respecting the estate, including a schedule in the prescribed form of the tenancies thereon and a statement of the superior interests (*b*) (if any) to which the estate is subject:

(2) The Land Commission, after causing the estate to be inspected, may, subject to the provisions of the last preceding section as to undertakings to purchase holdings and resale without prospect of loss, make an offer (*k*) to the Land Judge for the purchase of the estate, or of any part thereof, discharged from the claims of all persons who are interested in the estate,

whether in respect of superior (*b*) or intervening interests (*c*), or incumbrances, or otherwise, and the offer shall contain the following particulars:—

a. The land comprised in the offer;
b. The arrears of rent which are to be transferred to the Commission; and
c. The amount of the purchase money:

(3) The Land Judge, after giving such notice of the offer as he thinks fit, and after giving all parties interested in the estate an opportunity of being heard, shall, if he does not consider the offer sufficient, as soon as practicable, unless the offer is in the meantime withdrawn, put up for public auction the land specified therein discharged from all claims as aforesaid, but subject to the conditions mentioned therein as to arrears of rent or otherwise, and shall (*a*), unless he considers it unreasonable or unjust, having regard to the interests of any such party as aforesaid, sell the same to the highest bidder:

(4) Where an estate is sold in pursuance of this section the Land Judge shall have all the powers for the apportionment and redemption (*b*) of superior and intervening interests (*c*) conferred on him by the Land Purchase Acts:

(5) An order of the Land Judge declaring the Land Commission to be the purchasers of any land shall have the effect of an order vesting land in the Commission made by them under this Part of this Act (*d*), and shall also vest in them the right to collect and recover any arrears of rent specified in the order, and a certified copy thereof shall be transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the Land Commission shall thereupon be registered, under that Act, as the absolute owners of the land:

54 and 55 Vict. c. 66.

(6) Where the Land Commission make an offer under this section for the purchase of an estate, the provisions of section forty of the Act of 1896 (*e*) shall be

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suspended and shall not have effect (*g*), in the case of that estate, unless and until the offer is withdrawn or the estate is put up for auction and not sold.

(*a*) The powers and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners (Sec 23 (1), *post*, p. 1088) If the estate is situated in a congested districts county similar powers of purchase are conferred upon the Congested Districts Board by Sec 77 (*post*, p. 1154)

(*b*) As to the powers of the Land Judge to redeem "superior interests," and as to what estates, &c., are included in the term, see Land Act, 1896, Sec 31 and notes thereto (*ante*, pp. 567–572). "Superior interests" now include "any reversion or estate expectant on the determination of an estate tail or a base fee, whether such reversion or estate is or is not vested in the Crown" (Sec 98 (2), *post*, p. 1167). As to the apportionment of Quit and Crown rents see Sec 61 and notes thereto (*post*, p. 1134).

(*c*) As to the meaning of "intervening interests," see Sec 15 (2) (*post*, p 1076)

(*d*) As to the effect of an order made by the Estates Commissioners vesting land in themselves, see Sec. 16 (1) (*post*, p 1079)

The operation of an order of the Land Judge is the same as a vesting order made by the Land Commissioners under Sec. 16 · *Lord Macnaghten's Estate*, 38 I. L T. R. 224 An order of the Land Judge vesting land in the Land Commission or in the Congested Districts Board is to be treated as an agreement entered into by the Commission or Board. And if prior to 24th Nov, 1908, the Land Judge has caused the Commission or Board to be furnished with particulars respecting the estate, then the agreement is deemed to be a "pending purchase agreement," and 12 per cent, and not the scale bonus, will be payable. See Act 1909, Sec. 6 (2) (*c*) (*post*, p 1203), and Sec 13 (a) (*post*, p 1207)

(*e*) In *Tottenham's Estate*, 38 I L T R 190, Ross, J, expressed an opinion that neither the provisions of this Section nor those of the 40th Section of the Act of 1896 cut down the powers of the Land Judge under the Landed Estates Court Act, 1858, to dispose of an estate in whatever way he thinks proper. He cannot, however, act upon considerations affecting the propriety of purchase by the Land Commission as distinguished from considerations affecting the sale of the estate to the best advantage: *Galway's Estate*, [1906] 1 I. R. 137, 40 I L T. R. 2 (C. A).

The Judge has power to sell in the same way as before these Acts, and to make reservations (such as reservations of game rights) wherever such are required.

(*f*) The "particulars and documents" which the Estates Commissioners request the Land Judge to furnish under this Section are those mentioned in Rule 32 of the Rules of 4th Nov, 1907 (*post*, p. 1254) It is mandatory on the Land Judge to furnish the information asked for, or all he has: *Galway's Estate*, [1906] 1 I. R. 137; 40 I. L. T. R. 2 (C A).

(*g*) The rights of Court tenants, or their sons, to purchase holdings or "parcels of land" upon the estate are not, however, affected by Sub-sec 6 of this Section: *Lawless' Estate*, 39 I. L. T. R. 239. See Land Act, 1896, Sec. 40 (2) (*ante*, p 580): Sec. 2, now repealed (*ante*, p 1056), and Sec. 53 (2) (*post*, p. 1124)

(*h*) Where lands are in the Land Judges' Court, and an absolute order for sale

has been made, the Land Commission is put in motion to issue a request by an application *ex parte*, by the solicitor having carriage, to the Land Judge for liberty to apply to the Land Commission to issue a request pursuant to this Section.

(*i*) It is mandatory on the Land Judge either to accept the offer of the Estates Commissioners or to put up the fee-simple of the lands for sale by public auction: *Galway's Estate*, 40 I. L. T. R. 66. The subject-matter of the Land Commission's offer and of the subsequent sale by auction must be the same; the lands cannot therefore be put up for sale in lots: *Madden's Estate*, [1907] 1 I. R. 351, 354 (C. A.); 41 I. L. T. R. 20.

(*k*) The offer of the Estates Commissioners must be capable of immediate acceptance, and one which will enable a test to be applied as between the offer and a subsequent sale by the Land Judge: *Williams' Estate*, [1909] 1 I. R. 41.

As to the remuneration of the Receiver see *Wolfe's Estate*, 41 I. L. T. R. 10 and notes to Sec. 23, (11) and (12) (*post*, p. 1089).

8. The Land Commission may purchase any untenanted land which they consider necessary for the purpose of facilitating the resale, or redistribution, of estates purchased, or proposed to be purchased, by them, and the foregoing provisions of this Act, with respect to advances for the purchase of parcels of land comprised in estates, shall apply in the case of the sale by the Commission of any parcel of such untenanted land.

See Rule 9, Rules 4th Nov., 1907 (*post*, p. 1248).

Purchase of untenanted lands.

On the general subject of the purchase of untenanted land the Estates Commissioners, in their *Ad Interim* Report [cd. 2471], p.12, point out that when the land does not form part of a tenanted estate under sale it can only be acquired by them under this Section, which limits the action of the Commissioners to the purchase of such untenanted land as they consider necessary to facilitate the sale or redistribution of estates purchased or proposed to be purchased by them under Secs. 6 or 7. But in *White's Estate*, [1906] 1 I. R. 186, 193 (C. A.); 40 I. L. T. R. 6, it was decided that the Estates Commissioners could purchase untenanted land under Sec. 7 and *semble* under Sec. 6. And see now Secs. 42 and 43, Act, 1909 (*post*, p. 1226).

Where the Estates Commissioners purchase any untenanted land they can resell it either to some of the classes mentioned in Sec. 17, Act 1909 (*post*, p. 1210), or to the former owner under Sec. 3 (*ante*, p. 1057). The 27th Section of the Act of 1881, which enabled the Land Commission to sell to the public parcels of land not purchased by tenants, is repealed by the Schedule to this Act (*post*, p. 1174). But the Estates Commissioners have power to make lettings of such lands, if unable to sell them: *Wallace's Estate*, 39 I. L. T. R. 262.

Section 43 (*post*, p. 1108) provides for the expenses of improvements upon estates and untenanted lands.

The amending Act of 1904, by its 1st Section, enables the bonus to be paid in respect of "untenanted land" purchased by the Estates Commissioners under this Section. See *post*, p. 1175; see also note (*b*) to Sec. 48 (*post*, p. 1112), and note (*a*) to Sec 98 (*post*, p. 1167).

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Limitations on spending powers of Land Commission.

9.—(1) There shall not be at any time vested in the Land Commission lands exceeding in the aggregate, according to the estimate of the Commission, as approved by the Treasury, the capital value of five million pounds in respect of which undertakings to purchase have not been received by the Commission.

(2) The Land Commission shall not in any one year enter into agreements involving the expenditure, on the purchase of congested estates (*a*), of sums which would in the aggregate exceed by more than ten per cent. the aggregate sums for which the Commission estimate that those estates can be resold by them (*c*): Provided that, for the purposes of this enactment, any money which the Land Commission have expended, or propose to expend, on the improvement (*b*) of those estates shall be deemed to be repayable in full out of the purchase money on resales, and shall not be included in the estimate in calculating the ten per cent.

(3) For the purposes of this section the acceptance by the Land Judge of an offer shall be deemed an agreement.

(*a*) As to the definition of "congested estates," and the powers of the Estates Commissioners to purchase them, see Sec. 6 (4) (5) (*ante*, p 1063), and Sec. 20, Act 1909 (*post*, p 1214).

(*b*) As to the improvement of such estates, see Secs 12 and 43 (*post*, pp. 1071 and 1108).

(*c*) The estimated loss on resales in any one year is also not to exceed a sum to be fixed by the Treasury for that year: Act 1909, Sec. 27 (*post*, p. 1218)

Exclusion of certain estates.

10. No estate shall be purchased by the Land Commission which is not in the main agricultural or pastoral.

For decisions as to what holdings are considered agricultural or pastoral, and what are not, see notes to Land Act, 1896, Sec. 5 (*ante*, pp 519–526).

Non-agricultural holdings comprised in an estate which is mainly agricultural may be purchased by the Estates Commissioners under Sec. 6: *King Harman's Estate*, 38 I. L. T. R 102 and 237, 4 N. I. J. R 165; *Walters' Estate*, [1906] 1 I. R 17, 39 I. L. T. R. 265, 5 N. I. J. R. 293 But see note (*a*) to Sec. 98 (*post*, p. 1167)

If the estate is mainly agricultural in character, it may be purchased, even though it may comprise incorporeal hereditaments, such as the tolls of a fair, in addition to town holdings and non-agricultural parcels of land: *Taffe's Estate*, 39 I. L. T. R. 214. And see Rules 13th Feb., 1906 (*post*, p. 1307).

Town holdings are not excluded from the Land Purchase Acts: Per WYLIE, J., *Congested Districts Board's Estate*, [1910] 1 I. R., p. 55, at p. 65. MEREDITH, J. held that this Section governed purchases by the Congested Districts Board under the powers conferred by Sec. 77 (*post*, p. 1154), as well as purchases by the Estates

Commissioners, and that if an estate was wholly non-agricultural it could not be purchased by either body: *Tuffe's Estate*, 39 I. L. T. R., at pp. 215–6. But WYLIE, J., held that there is nothing in any of the Acts to restrict the purchases of the Congested Districts Board to agricultural lands, but the Board is only empowered to acquire land for the purposes of Part II. of the Act of 1891 (*ante*, p. 486): *Congested Districts Board Estate, ubi. sup*, where the powers of the Board and their position with reference to the Land Purchase Acts and the Land Purchase Fund is considered.

As to guarantee deposit.

11. No guarantee deposit shall be made or retained in respect of an advance made in pursuance of the foregoing provisions of this Act.

Guarantee deposits were created by the 3rd Section of the Land Purchase Act, 1885, to secure the repayment of advances by tenant purchasers (see *ante*, pp. 369–371). By the 29th Section of the Land Act, 1896, power was given to the Land Commission to dispense with them in whole or in part (see *ante*, p 566), and they are now by this Section entirely abolished in the case of the sale of estates.

Provisions with respect to improvements.

12.—(1) The Land Commission (*a*) may take such steps (*e*) and execute, or cause to be executed, such works as may appear expedient for the benefit or improvement (*b*) of estates, or untenanted land, purchased or proposed to be purchased under this Act, or for the use or enjoyment thereof or generally for the purposes of this Act.

(2) For the purpose of carrying this section into effect the Land Commission (*a*) shall have all the powers for facilitating resales of land conferred on the Congested Districts Board by sections one and two of the Congested Districts Board (Ireland) Act, 1901 (*c*), as amended by this Act (*d*), and those sections, as so amended, shall apply accordingly, with the substitution of the Land Commission (*a*) for the Congested Districts Board:

1 Edw. 7, c. 34.

Provided that where, with the consent of a tenant, the area of his holding is altered, or he is put into possession of a new holding, the Land Commission (*a*) may order that such charges, liabilities, and equities as affect the tenant's interest in his former holding shall either continue to affect that holding, or be transferred to his altered or new holding:

Provided also, that the powers mentioned in section one of the said Act of 1901 shall not be exercised by the Land Commission (*a*) unless they certify to the Lord Lieutenant that those powers are necessary for the benefit or improvement of a congested estate.

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(*a*) The powers and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners (Sec 23 (1), *post*, p 1088).

(*b*) This is the only Section which authorises the Estates Commissioners to effect, or cause to be effected, improvement works; but under it they can advance money for the making of improvements, not only upon estates purchased by the Land Commission, but upon holdings purchased by the tenants directly from their landlords, under the 1st or 5th Section of this Act · *Wills-Sandford's Estate*, [1905] 1 I. R. 597; 39 I L T R. 237; 5 N I. J R. 281 These improvements are paid for out of the Reserve Fund established under Sec. 5, (2) (*b*), of the Purchase Act, 1891 (*ante*, p 462). When it is exhausted any money required by the Land Commission for the purposes of Sub-sec. 1, up to an amount approved by the Treasury in each year, is to be paid out of moneys provided by Parliament. Act 1909, Sec 28, (1) (*post*, p 1218)

As to the kinds of improvements which may be made under the powers hereby conferred, see also *Wills-Sandford's Estate*, [1905] 1 I. R. 597; 39 I. L. T. R. 237; 5 N. I. J. R. 281, where advances were made for drainage works, the building of dwelling-houses, and roofing out-offices

A free grant of money may be made to a tenant purchaser for the purpose of making such improvements, and to persons coming within Sec 2 (1) (*d*) (*ante* p 1056) (see now Sec. 17, Act 1909, *post*, p 1210), for purchase of stock and implements: *Lansdowne's Estate, No.* 2, [1906] 1 I. R. 493, 40 I. L. T. R. 62. And now expenses of improvements by the Land Commission on lands sold by landlord to tenant can be repaid by an additional purchase annuity which may be consolidated with the purchase annuity: Act 1909, Sec. 30 (*post*, p 1219) This could not have been done under the previous law. *Wills-Sandford's Estate*, [1905] 1 I. R. 597; 39 I. L T R. 237; 5 N. I. J. R. 281.

Where landlord and tenant agreed that in case advances under the Acts were made the landlord should pay specified sums to the tenants to enable them to improve their holdings, it was held that only the balance, after deducting these sums, might be advanced for the purchase of the holdings: *Crosbie's Estate*, [1906] 1 I. R. 515; 40 I. L. T. R. 115; and see *Listowel* v. *M'Auliffe*, 41 I. L. T. R. 163.

Section 43 (*post*, p 1108) provides for the expenses of such improvements by the Land Commission. Section 66 (*post*, p 1147) enables the Estates Commissioners to insure buildings against fire

(*c*) See these Sections (*ante*, pp. 606-7).

(*d*) See Sec. 82 (*post*, p. 1157).

(*e*) Whether the request mentioned in Sec. 82 (*post*, p. 1157) is or is not made: Act 1909, Sec 21 (*post* p. 1215).

Provision with respect to sporting rights and minerals. 43 & 44 Vict c. 47.

13.—(1) Where at the time of sale of any land to the Land Commission or to tenants or others the vendor has, subject to the provisions of the Ground Game Act, 1880, sporting rights, exclusive of the tenant (*a*), those rights may by agreement between the vendor and purchaser be either conveyed to the purchaser or be expressly reserved to the vendor (*b*), and in the absence of such agreement those rights shall be vested in the Land Commission (*c*), and the Land Commission may deal

with the same, subject to regulations (*i*) to be made by the Lord Lieutenant. Sect. 13.

(2) The expression "sporting rights" includes any right of hunting, shooting, fishing, and taking game or fish on any land, and the expression "game" has the same meaning as in section five of the Act of 1881 (*a*), and also includes deer.

(3) On the sale under the Land Purchase Acts of any land by the Land Commission (*c*), or of any land comprised in an estate by the owner of the estate, there shall be reserved, in the prescribed manner, to the Commission the exclusive right of mining and taking minerals, and digging and searching for minerals (*d*), on or under that land, and the said right shall be disposed of by the Commission (*c*) in manner hereafter to be provided by Parliament (*i*):

Provided that this section shall not apply—

a. to any demesne or other land resold in pursuance of section three of this Act; or

b. to any such right which constitutes a superior interest (*e*), or which is vested in the Crown; or

c. to any stone, gravel, sand (*g*), or clay:

Provided also, that where any such right reserved to the Land Commission (*c*) under this sub-section is at any time hereafter let, leased, sold, or demised by them, the vendor (or the person who would have been entitled thereto if the lands had not been sold) shall be entitled to receive twenty-five per cent. of any rent, purchase money, or other net profit received by the Land Commission (*c*) in respect of same, unless the Land Commission (*c*) shall have purchased from the person entitled to such percentage, his interest therein and the Land Commission (*c*) may purchase such interest at any time on such terms as may be sanctioned by the Treasury.

(4) Where any right mentioned in this section is so reserved, there shall be attached thereto a right to enter upon the land in respect of which the first-mentioned right may be exercised, and to authorise any persons so to do; but any person entering upon land in pursuance of this sub-section shall be liable to make reasonable amends and satisfaction for any damage done or occasioned thereby (*f*).

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(5) Any person authorised by or in pursuance of the last preceding sub-section to enter upon land for the purpose of exercising a sporting right shall have the same authority to prosecute for trespass in pursuit of game or fish as if he were the occupier of that land (*h*).

Sporting rights

(*a*) In the case of almost every statutory tenancy the landlord has "sporting rights, exclusive of the tenant"; it being the invariable practice of the Land Commission in fixing fair rents to make an order under the 5th Section of the Land Act, 1881, reserving the rights of shooting and fishing exclusively to the landlord. See that Section (*ante*, p. 249).

(*b*) A vendor may reserve sporting rights to himself, under this Section, for his own life, or for a term of years, or he may reserve sporting rights of one kind and grant others to the purchaser: *Earl of Bandon's Estate*, 38 I L. T. R. 160, 4 N. I. J R 231; *Devereux' Estate*, 38 I L T. R. 162; 4 N. I. J. R 231.

It appears that where the Land Commission purchase an estate under Sec. 7, with the sporting rights, they may deal with the latter in whatever manner they think right, and may reserve them upon resales to the tenants: per Ross, J., *Tottenham's Estate*, 38 I L. T R, at p. 191

Where these rights are of small value the Commission may permit them to be exercised by the tenant purchasers free of charge And where they are valuable the Land Commission can sell or lease them See Regulations, 20th March, 1907, St. R & O. 1907, No 240 (*post*, p. 1209), prescribing the manner in which sporting rights vested in the Commission are to be dealt with.

Section 99 (*post*, p. 1171) provides that nothing in this Act shall affect any sporting rights which are not in the possession or enjoyment of the vendor at the time of sale.

(*c*) The powers and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners (Sec. 23 (1), *post*, p. 1088).

Mineral rights

(*d*) The reservation of mineral rights under this Section must be made by express declaration and words inserted in the vesting order or fiated agreement: Rules of 4th Nov, 1907, No. 26 (*post*, p 1253).

(*e*) The Land Commission had no power to deal with the exclusive right of mining and taking minerals and of digging and searching for minerals, and could not let, lease or sell such rights: *Bandon's Estate*, 40 I. L. T. R. 192 But see now Irish Land Act, 1907 (*post*, p 1181)

This Section does not affect sporting or mineral rights which are not in the possession or enjoyment of the vendor, or mines or quarries which are being worked or developed by him at the time of sale See Sec. 99 (*post*, p 1171), and *Prior Wandesforde's Estate*, 38 I. L. T. R 168; 4 N. I. J. R. 229. Such rights cannot be compulsorily redeemed by the vendor (*Macnaghten's Estate*, 38 I. L. T. R. 224).

(*e*) Mines or minerals reserved to the grantor or lessor by a superior grant or lease, under which lands are held constitute a "superior interest" within the meaning of the Land Act, 1896, Sec. 31 (8) (*ante*, p. 568). See on this subject *Herbert's Estate*, [1897] 1 I. R. 476, and *Montgomery's Estate*, 31 I. L. T. R. 121, and notes to Sec. 99 (*post*, p. 1171). But in a sale under the Act of 1903 such rights cannot

be redeemed; and if by the terms of the purchase agreements the mineral rights are to be vested in the Land Commission and the sporting rights in the tenants, and it transpires that such rights, or either of them, are not in the enjoyment of the vendor, but reserved by some superior grant or lease, the matter must be set right either by procuring a consent from the purchasing tenants to take subject to such reservations, or by procuring a conveyance or sale of the reserved rights to the vendor in order to feed his agreements with the tenants. It sometimes happens that it is not discovered until after the agreements are fiated that such rights are reserved, and in such cases the practice is to require the vendor to procure the execution of a conveyance of the reserved rights before the redemption price of the rent is paid out and the entire purchase money distributed. Sects. 13-14.

(*f*) As to the construction put upon similar words in the 5th Section of the Land Act, 1881, see *Dolan* v. *Davis*, 32 L. R. I. 384; 27 I. L T. R 93, and note (*j*) to that Section (*ante*, pp. 254–5).

(*g*) Sand was held not to be a mineral in *Staples* v. *Young*, [1908] 1 I. R. 135; 42 I. L. T. R. 17 (C A.)

(*h*) As to game prosecutions by persons who are not occupiers of the land upon which the game has been shot, see 27 & 28 Vict, c. 67; 27 Geo. III., c. 35, s. 10 (Ir.); *Bruce* v. *M'Alister*, 8 L. R. Ir. 195; *Powell* v. *Castletown*, 30 L. R. I. 93; *Hope* v. *Callaghan*, 24 I. L. T. R. 5, and note (*p*) to Land Act, 1881, Sec. 5 (*ante*, pp. 256–7) Game prosecutions

14.—(1) Where any land, which is vested under the Land Purchase Acts in a purchaser, contains any ancient monument which, in the opinion of the Land Commission (*b*) is a matter of public interest, by reason of its historic, traditional, or artistic interest attaching thereto, they may, with the consent of the Commissioners of Public Works in Ireland, by order declare that the property in the monument shall not pass to the purchaser, and make an order (*a*) vesting the monument in those Commissioners. Reservation of ancient monuments.

(2) When any such order is made, the provisions of the Ancient Monuments Protection Act, 1882, with respect to the maintenance of, and access and penalties for injury to, ancient monuments, shall apply as if the monument were a monument under the guardianship of those Commissioners in pursuance of that Act. 45 & 46 Vict. c. 73.

(3) Where those Commissioners refuse to consent to the vesting of any such monument in them, the Land Commission (*b*) may, with the consent of the Council of the county within which the monument is situate, make an order vesting the monument in that council, and sub-section two of section 61 & 62 Vict. c. 37.

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nineteen of the Local Government (Ireland) Act, 1898, shall thereupon apply.

(4) In this section the expression "ancient monument" means any ancient or mediæval structure, erection, or monument, or any remains thereof.

Under Sec 11 of the Ancient Monuments Protection Act, 1882 (45 & 46 Vict, c 73), the expression "ancient monument" includes "the site of such monument and such portion of land adjoining the same as may be required to fence, cover in, or otherwise preserve from injury the monument standing on such site, also the means of access to such monument."

Many ancient monuments have been vested in the Board of Works under the Irish Church Act, 1869, and the Ancient Monuments Protection Acts, 1882 and 1892. The County Councils are also empowered by Sec. 19 of the Local Government Act, 1898, to take steps for the preservation of such monuments.

(*a*) An application under this Section may be made by the vendor or purchaser or by any public body or association interested in the preservation of ancient monuments Rules of 4th Nov, 1907, No. 42. (*post*, p. 1257).

(*b*) The jurisdiction of the Land Commission under this Section is to be exercised exclusively by the Estates Commissioners. (Sec. 23 (1), *post*, p 1088.)

Sub-tenancies and sub-divided holdings.

15.—(1) In the case of the sale of an estate the Land Commission may, if they think fit, declare (*h*) that any person who, as a subtenant (*a*), is in the exclusive occupation of a parcel of land comprised in the estate shall be deemed the tenant of that parcel, and that the parcel shall be deemed a holding.

(2) The Land Commission (*b*) shall in such case redeem the interests (in this part of this Act referred to as "intervening interests") intervening between the owner of the estate and the person in such exclusive occupation as aforesaid, at a price which, in default of agreement between the owner of the estate and the owner of the intervening interest within the prescribed time (*c*) shall be fixed by the Land Commission (*b*), and the redemption money shall be paid out of the purchase money of the estate, and be dealt with in like manner as if it were the redemption money of a superior interest, or in such other manner as appears to the Commission equitable: Provided that if the Land Commission (*b*) are of opinion that any intervening interest is of no appreciable value, they shall by order declare that interest to be extinguished.

(3) The foregoing provisions of this section shall not apply where any intervening interest is an interest sufficient to con-

stitute the owner thereof a person having power to sell (*d*) under the Land Purchase Acts to tenants. Sect. 15.

(4) Where a holding comprised in any such estate is held by joint tenants or tenants in common (*e*), or is subdivided between two or more persons, and the Land Commission (*b*) are satisfied that such tenants or persons are in the exclusive occupation of separate portions thereof, the Commission may, if they think fit, for the purpose of the foregoing provisions of this Act, declare that any such tenant or person shall be deemed the tenant of the parcel of land in his exclusive occupation, and that such parcel shall be deemed a holding, and may apportion the rent of the holding between such tenants or persons as the justice of the case may require

(5) Any person aggrieved by any decision of the Land Commission (*b*) under this section may in the prescribed manner appeal (*f*) to a Judicial Commissioner.

(6) For the purpose of the sale of an estate by the Land Judge to the Land Commission, the Land Judge shall have the powers (*i*) conferred on the Commission by this section (*g*), but no appeal shall lie from any decision of the Land Judge under this section.

(*a*) Only occupying tenants and the limited class of persons mentioned in Sec. 17, Act 1909, can purchase holdings under the Land Purchase Acts as amended by this Act. See *King Harman's Estate*, 38 I. L. T. R. 237, and note (*c*) to Sec. 1 (*ante*, p. 1052).

The object and effect of Sec. 15 seems to me (says WYLIE, J) to be perfectly clear. It gives the Commissioners power, if they think fit, to put a sub-tenant in a position to buy from the head landlord, by declaring him to be the tenant of the parcel of land which he occupies as sub-tenant, and that parcel of land to be a holding, so as to make the Land Purchase Acts apply to them, and this it seems to me they can do without the consent of the middleman and without regard to whether the middleman has sublet his own entire holding or only a part of it: *Moore Brabazon's Estate*, 42 I. L. T. R. 207.

Sales for cash to middlemen.

Middlemen, however, who have wholly sublet may, in certain cases, purchase for cash from the Estates Commissioners; thus, where a small part of lands proposed to be sold by a vendor had been acquired by a Rural District Council under the Labourers Acts, and was in the occupation of a labourer as a weekly tenant, it was held that it might be included in the estate purchased, and sold for cash to the District Council, though there was no power, in such a case, to advance money under the Land Purchase Acts either to the District Council or to the labourer to whom the plot was sublet: *Walters' Estate*, [1906] 1 I. R. 17; 5 N. I. J. R. 292 (MEREDITH, J.)

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Where an immediate landlord has not power to sell, the next superior landlord having sufficient interest may do so under Act 1909, Sec. 40 (*post*, p. 1225).

The impossibility of dealing directly with sub-tenants under the Land Purchase Acts formerly occasioned great difficulties in carrying out sales of entire estates, especially in cases coming within the 40th Section of the Act of 1896. See *Smith's Estate*, 3 I. W. L. R. 171, and note (*t*) to that Section (*ante*, p. 585). The plan most frequently adopted was to procure by consent of the parties a surrender of the middleman's interest to the head landlord, so that the sub-tenant should be deemed to hold under the latter directly; but the consent of the middleman is no longer necessary, provided his interest is not sufficient to constitute him an owner having power, himself, to sell under the Land Purchase Acts (see Sub-sec 3 and note (*a*) to Sec 17, *post*, p. 1082), and his interest may be compulsorily redeemed as an "intervening interest" under this Section. Apparently, any number of such interests intervening between the selling owner and the occupier can be so redeemed See, as to the operation of this Section generally, judgment of MEREDITH, J, in *King Harman's Estate*, 38 I. L T R. 237.

Intervening interests

In all cases in which declarations are made under this Section that sub-tenants shall be deemed tenants of holdings, copies of the declarations must be sent by registered letter to the vendor and to the owner of the intervening interest. See Rules of 4th Nov, 1907, No. 33 (*post*, p. 1255).

An order vesting the land in a sub-tenant, ordering payment, and attaching claims to the purchase money, discharges the sub-tenant from arrears of rent due to his immediate landlord · *Macfarlane* v. *Booth*, [1910] 2 I. R. 12.

(*b*) The powers of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners, subject to the right of appeal to the Judicial Commissioner given by Sub-sec. 5 (see Sec. 23 (1), *post*, p. 1088). Thus, apparently, the redemption price of an "intervening interest" will be fixed by the Estates Commissioners in the first instance, though that of a "superior interest" must be determined by the Judicial Commissioner (Sec. 64, *post*, p. 1141)

Questions as to whether any joint tenants, tenants in common, or sub-tenants in exclusive occupation of parcels of land, should be deemed tenants thereof, and at what price "intervening interest" should be redeemed, are, in the first instance, referred to a Purchase Inspector, whose duty it is to report upon them to the Estates Commissioners. See Instructions to Inspectors, Nos. 17 and 18 (*post*, p 1327-8)

(*c*) The "prescribed time" allowed for an agreement to be come to between the owner of the estate and the owner of the intervening interest as to the redemption price of the latter is one month from the date of the posting of the declaration that the sub-tenant shall be deemed a tenant of a holding (Rules of 4th Nov, 1907, No. 34, *post*, p. 1256) This time may be extended (Rule 50, *post*, p 1258)

(*d*) As to who are persons having power to sell under the Land Purchase Acts, see note (*a*) to Sec. 17 (*post*, p 1082).

(*e*) As to the rights of joint tenants and tenants in common, under similar circumstances, under the Land Law Acts, see Land Act, 1896, Sec. 5 (3) (*ante*, p. 518) The words "or is sub-divided between two or more persons" seem to have been introduced into this Section to meet the difficulty experienced in *Riversdale* v. *Gethings*, [1899] 2 I. R 81; 33 I. L. T. R. 1. See also Sec. 91 of this Act, (*post*, p 1163).

Sub-divided holdings.

(*f*) An appeal under this Section is by notice of motion served on all necessary parties through the notice office of the Land Commission within 14 days of the decision appealed from or the notification thereof. Rules of 4th Nov. 1907, No. 35 (*post*, p. 1256). Sect. 15-16. Appeals.

As to appeals and decisions on questions of law, see further, Sec. 23 (1) (*post*, p. 1088); Sec. 71 (*post*, p. 1150); Land Purchase Act, 1885, Sec. 22 (*ante*, p. 387); Land Purchase Act, 1891, Sec. 28 (8) (*ante*, p. 483), and Land Act, 1896, Sec 41 (*ante*, pp. 586–7).

(*g*) As to the sale of an estate by the Land Judge to the Estates Commissioners, see Sec. 7 (*ante*, p 1066).

Where a holding is sold by the Land Judge to a tenant, the sale may be deemed a sale by a landlord to a tenant under the Land Purchase Acts: Land Purchase Act, 1885, Sec. 4 (*ante*, p. 372).

(*h*) If by reason of such declaration a fresh purchase agreement is entered into, it is to be deemed a substituted agreement: Act 1909, Sec. 12 (1) (*post*, p. 1206), and the 12 per cent. bonus will be payable, an enactment which recognises and adopts the decision of WYLIE, J., in *Malone's Estate* (unreported).

(*i*) These powers may now be exercised by the Land Judge for the purpose of a sale by him to the Congested Districts Board Act, 1909, Sec. 55 (*post*, p. 1234).

16.—(1) The Land Commission (*a*) may, where they agree to purchase any land (*b*), make a vesting order (*c*) which shall be effectual to vest in the Commission (*i*) the fee simple of the land purchased, subject— Purchase agreement and vesting order.

a. to any public rights affecting the land;

b. to any sporting rights (*d*) reserved by the vendor;

c. to any maintenance charge under the Public Works Acts (*e*); and

d. to any interests of the tenants on the land, or of persons having claims upon those interests (*f*), and to any easements, rights, and appurtenances mentioned in section thirty-four of the Act of 1896; but, save as aforesaid, and subject to the provisions of this Act with respect to minerals, discharged from the claims of all persons who are interested in the land, whether in respect of superior (*g*) or intervening interests (*h*) or incumbrances or otherwise, and all such claims (*j*) shall, as from the date of the vesting order, cease as against the land and attach to the purchase money in like manner as immediately before the date of the order they attach to the land.

(2) At any time not less than two months before making a vesting order under this section the Land Commission (*a*) shall

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publish the prescribed advertisements (*k*), and shall serve such notices as they may think necessary stating their intention to make the order and the effect thereof, and any person interested in the land may, in the manner and within the time prescribed, show cause (*l*) against the vesting order being made, and in such case unless the cause shown is disallowed the order shall not be made.

(3) A certified copy of every vesting order under this section shall be transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the Land Commission shall thereupon be registered under that Act as the absolute owners of the land, discharged from all claims as herein-before provided.

54 & 55 Vict. c 66.

(*a*) The jurisdiction, powers, and duties of the Land Commission under this Section are to be exercised exclusively by the Estates Commissioners: Sec 23 (1) (*post*, p 1088).

Lettings of land by Estates Commissioners

Where unoccupied land becomes vested in the Estates Commissioners under this Section, the Commissioners are in the ordinary position of owners of that land, and subject to their primary duty to sell to persons coming within one of the classes named in Sec. 17, Act 1909 (*post*, p 1210), they may make lettings of the lands to outsiders in the same way as an ordinary proprietor would do: *Wallace's Estate*, 39 I L T. & S. J 235.

(*b*) See Sec 6 (*ante*, p. 1062) as to agreements to purchase by the Estates Commissioners, and as to purchase by them of estates for sale in the Land Judge's Court (Sec. 7, *ante*, p 1066) In the latter case an order by the Land Judge declaring them to be purchasers has the same effect as a vesting order under this Section (Sec. 7 (5), *ante* p 1067).

(*c*) As to vesting orders generally, see Land Purchase Act, 1885, Sec 8, and notes thereto (*ante*, p 375–7); and also Land Act, 1896, Secs 32 & 34 (*ante*, pp 572 and 574–5)

Where a vendor sold a strip of land to which he had not title, notice was given to the Land Commission, who, however, vested the lands in the tenant and made an order under Sec 24 (1) (*post*, p 1092) attaching claim to the purchase money the C. A. (FITZGIBBON, L.J, *dissenting*), held that the vesting order was valid and could not be altered "without injury to any person:" *Wilson's Estate*, 42 Ir. L. T. R. 122.

Sporting rights

(*d*) Sporting rights not in the possession or enjoyment of the vendor at the time of sale are not affected by a vesting order under this Section: *Macnaghten's Estate*, 38 I. L. T. R. 222 "But if these superior rights cannot be included in a vesting order made by the Land Commission vesting the fee-simple of the land in the Land Commission, it follows that when the Land Commission want to sell they cannot give to the purchaser any rights which they have not got. Accordingly, the measure of rights which the tenants can acquire cannot be greater than the measure of rights which the Land Commission have acquired under the vesting

order" (per MEREDITH, J.: *Macnaghten's Estate*, 37 I. L. T. R., at p. 224). See Sec. 99 of this Act (*post*, p. 1171). Sect. 16.

(*e*) A maintenance charge under the Drainage Maintenance Act, 1866, payable by instalments expiring on a fixed date, is a "maintenance charge under the Public Works Acts" within the meaning of Sub-section (1) of this Section: *Bingham's Estate*, 39 I. L. T. R. 232. A vesting order made by the Estates Commissioners must be made subject to such charge, as well as to the maintenance rate under the Act of 1842—the word "charge" in this Section embracing both a maintenance rate and a maintenance charge. Per MEREDITH, J.: *Bingham's Estate*, 39 I. L. T. R., at p. 233. It follows that neither the maintenance charge nor the maintenance rate will be redeemed, and neither of them will be provided for on the allocation schedule or schedule of incumbrances. But any arrears of maintenance rate due at the date of the vesting order will be placed on the schedule and discharged out of the purchase money. And see note on Board of Works' charges (*post*, p. 1438). Maintenance "charges."

(*f*) Where the tenant's estate is of such a duration as to render it liable to the payment of tithe rentcharge—as, *e g*, in the case of a tenant holding under a fee-farm grant—the tithe rentcharge, whether ecclesiastical or impropriate, is not a "superior interest" under Sec 31 of the Land Act, 1896, but is an interest of "persons having claims upon" the interest of the tenant within the meaning of this Sub-section. The tithe rentcharges in such a case are not claims affecting the estate of the vendor or the purchase money thereof, and need not be redeemed. The tenant purchaser's estate remains liable thereto after as before the sale under the Land Purchase Acts: *Pim's Estate*, 39 I. L. T R. 47. Tenant's tithe rentcharge.

(*g*) As to superior interests, see Land Act, 1896, Sec. 31, and notes thereto (*ante*, pp. 567–572), also Sec. 64 of this Act, and notes thereto (*post*, p. 1141).

(*h*) As to intervening interests, see Sec 15 (2) (*ante*, p. 1076).

(*i*) This Section only refers to an order vesting the lands in the Land Commission.

(*j*) If the purchase money is not sufficient to redeem or satisfy all claims they must be paid according to their proper priority. In the case of a renewal lease the redemption price of the rent is payable in priority to a claim for unpaid renewal fines: *Ryan's Estate*, [1908] 1 I. R. 467; 42 I. L. T. R. 222.

(*k*) Rule of 4th Nov., 1907, No. 36, prescribes the form of advertisement to be published. See this Rule (*post*, p. 1256). For form of advertisement, see Form M (*post*, p. 1284). A register of persons upon whom notices are to be served is kept for each estate. See Rules of 4th Nov., 1907, No. 46 (*post*, p. 1257).

All publications and advertisements directed by the Rules are made without charge to the vendor: Sec. 23, (13) (*post*, p. 1090); Rules of 4th Nov., 1907, No. 52 (*post*, p. 1259), and Rules of 2nd July, 1910, Order XIX. (*post*, p. 1376).

Within one month from the date of the order vesting the estate or land in the Land Commission an abstract of title should be lodged in the proper office, together with a certificate of the registration of the matter as a *lis pendens* and a draft allocation schedule. See Rules of 2nd July, 1910, Order IV., Rule 3 (*post*, p. 1362). As to proceedings for the distribution of the purchase money, see Sec. 24 (*post*, p. 1092), and Rules of 2nd July, 1910, Order IX. (*post*, pp. 1368–1371). Procedure.

(*l*) As to applications by way of cause shown against the making of a vesting order see Rules of 4th Nov., 1907, No. 37 (*post*, p. 1256).

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Persons whom Land Commission may deal with as owners.

17.—(1) Where any person proposing to sell land under the foregoing provisions of this Act gives *primâ facie* evidence (*e*) that he is a person having power to sell (*a*) under the Land Purchase Acts, and satisfies the Land Commission that for not less than six years immediately preceding he or his immediate predecessor in title has been, personally or by an agent, in receipt of the rents or profits of the land, he may, if the Land Commission think fit, subject to such conditions with respect to advertisements and notices as may be prescribed (*f*), be dealt with as the owner of the land for all purposes other than the distribution of purchase money, or the payment of any percentage out of the Land Purchase Aid Fund established under this Act, without any further investigation of his title.

(2) Where any person not under disability (*c*) satisfies the Land Commission that he is the limited owner (*d*) of any land, he may, if the Land Commission think fit, be dealt with as the owner of the land for the purposes aforesaid, whether there is or is not a trustee of the settlement for the purposes of the Settled Land Acts, 1882 to 1890, and whether the consent (*b*) of such trustee (if any) has or has not been obtained.

Persons who have power to sell under the Land Purchase Acts

(*a*) The persons having power to sell under the Land Purchase Acts comprise absolute owners in fee-simple, or in fee-farm, tenants-for-life, and other limited owners of such estates under the settled Land Acts (see Settled Land Act, 1882, Sec 58, *ante*, pp. 953–4). A person entitled after a trust for accumulation to the income of lands for life was held by WYLIE, J., to have the powers of a tenant-for-life and entitled to the bonus: *Wood's Estate*, 44 I. L. T. R. 51. Absolute and similarly limited owners of leasehold estates, where the lease is for lives or years renewable for ever, or for a term of years of which not less than sixty are unexpired at the time of the sale being made. See Landlord and Tenant Act, 1870, Sec. 33 (*ante*, pp. 191–2), and Land Purchase Act, 1885, Secs. 5 and 6 (*ante*, pp. 373–5), and Land Act, 1887, Sec. 34 (*ante*, p. 445). Every sale under the Act of 1903 by a tenant-for-life is a sale under the Settled Land Acts; and accordingly a successor-in-title of a vendor who had died after purchase agreements had been lodged, but before the advances were sanctioned, was allowed to carry on the proceedings in his own name: *Estate of Viscount Massereene*, 40 I. L. T. R. 16. A clause against alienation in any lease or fee-farm grant does not now prevent sales under the Land Purchase Acts. See Sec. 70 of this Act (*post*, p. 1149). A tenant-for-life who has assigned his life estate may sell and is entitled to the bonus as the assignee is not a vendor: *Kerr's Estate*, 42 I. L. T. R. 103. But if the life estate is so incumbered that the tenant-for-life receives none of the rents and profits, and has assigned it on that account, the bonus will be added to the purchase money;

Cramer Roberts' Estate, [1908] 1 I. R. 222 (C.A.), reversing WYLIE, J., [1907] 1 I. R. 483; and see *Singleton's Estate*, 40 I. L. T. R. 175.

A person having only a *spes successionis* upon the bankruptcy of a person in insolvent circumstances is not a person having a power to sell: *Chichester's Estate*, 42 I. L. T. R. 57.

Trustees for sale or with power of sale, bodies corporate, and trustees for charities, have also power to sell under the Land Purchase Acts: Land Purchase Act, 1891, Sec. 14 (*ante*, pp. 469–470) Mortgagees, *in possession*, with power of sale, are also similarly entitled: Land Act, 1896, Sec. 42 (*ante*, p. 587). But no bonus is payable to them on sale under Sec. 48 (*post*, p. 1111). As to the power of sale when the owner is a minor or a lunatic, see note (*c*), *post*.

(*b*) The consent of the trustees of the settlement to a sale by a tenant-for-life under the Settled Land Acts is not required in ordinary cases. All that is necessary is that notice should be served upon them: Settled Land Act, 1882, Sec. 45. But, apart from this Section, their consent is required for the sale of the principal mansion house on any settled land, and "the pleasure grounds, and park, and lands (if any) usually occupied therewith": Settled Land Act, 1890, Sec. 10.

(*c*) The property of persons under disability can be sold under the Land Purchase Acts in certain cases. That of minors, by the trustees of the settlement, if there are any, and if there are none, then by persons appointed by the Court to exercise on their behalf the powers of sale of a tenant-for-life under the Settled Land Acts. See Settled Land Act, 1882, Secs. 59 and 60 (*ante*, p. 954); *Greenville's Estate*, 11 L. R. I. 138; *In re M'Clintock*, 27 L. R. I. 462; *Countess of Dudley's Estate*, 35 Ch. Div. 338, and notes to Act, 1885, Sec. 13 (*ante*, p. 382) As to the "bonus" in such a case, see Land Act, 1904, Sec. 3 (*post*, p. 1176). Persons under disability.

The property of lunatics may be sold under Sec. 26 (*post*, p. 1100).

Where a tenancy is in occupation of a minor or lunatic a guardian may be appointed. See No. 39 Rules, 4th Nov., 1907 (*post*, p. 1256).

Trustees for the purposes of the Settled Land Act were appointed by ROSS, J., as Judicial Commissioner: *Waring Johnston's Estate*, 40 I. L. T. R. 232.

(*d*) For definition of the expression "limited owner," see Landlord and Tenant Act, 1870, Sec. 26 (*ante*, p. 189), and Sec. 33 of the same Act (*ante*, p. 192).

Application in writing, to continue proceedings upon the death of the vendor or proposed purchaser, may be made under No. 49 Rules, 4th Nov, 1907 (*post*, p. 1258) Continuing proceedings on death of vendor.

Where the vendor, who was an absolute owner, died before the lands had been declared an "estate" the executor of the vendor was given liberty to continue the proceedings: *Meade Estate*, 40 I. L. T. R. 124. But where the vendor being a tenant-for-life died after the purchase agreements were lodged and before the advances were sanctioned, it was held that his successor-in-title is entitled to carry on the proceedings: *Massereene's Estate*, 40 I. L. T. R. 16. And see now Sec. 35, Act 1909, which enables the Land Commission to appoint an administrator of a deceased applicant for an advance (*post*, p. 1222).

Where an agreement for sale was enforceable against the vendor at the date of her death, WYLIE, J., held that the Estates Commissioners could not refuse to sanction the advance on the ground that a specific bequest of the lands would be thereby adeemed: *Gowing's Estate*, 42 I. L. T. R. 56. The lands being leaseholds for years the executors were the proper persons to carry on the proceedings, *ibid.*

The vendor, an absolute owner, died after the purchase agreements had been

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lodged. The purchase money and bonus were paid out by WYLIE, J., to the administrator with the annexed of the vendor: *Armstrong's Estate, continued in the name of Orpen*, 41 I. L T. R 15. And had the vendor been a tenant-for-life the bonus would have been paid to his executor, the purchase money, of course, going to the trustees: *Powell's Estate*, [1908] 1 I. R 15; 41 I. L. T R 210.

(*e*) *Prima facie* evidence of the vendor's power to sell is given by the lodgment of a certificate signed by counsel in Form T, prescribed by Rules, 4th Nov., 1907, see Rules 17–22 (*post*, p. 1251), and memorandum with reference to the investigation of title by counsel approved by WYLIE, J. (*post*, p. 1472).

For scale of fees payable to counsel for certificate under this Section, approved by the Bar Council see *post*, p. 1475

Within one month from the date of the certificate of the Estates Commissioners that they think fit to deal with the vendor as the owner of the land being sold, an abstract of title should be lodged in the Land Commission, together with a certificate of the registration of the matter as a *lis pendens*, and a draft final schedule of incumbrances See Rules of 2nd July, 1910, Order IV., Rule 3 (*post*, p 1362)

As to subsequent proceedings for the distribution of the purchase money, see Sec. 24 (*post*, p. 1092), and Rules of 2nd July, 1910, Order IX. (*post*, p 1368).

(*f*) The form of advertisement required is Form E (*post*, p. 1267). As to the publication thereof, notices, &c, see Rules of 4th Nov, 1907, No. 20 (*post*, p. 1252). The advertisement is published without charge to the vendor (Rule 52, *post*, p 1259).

Rents and profits recoverable by Land Commission.

18.—(1) The rents and profits of any land agreed to be purchased by the Land Commission (*d*), together with any interest under section thirty-five of the Act of 1896, which interest shall be at a rate of not less than three and a half per cent. per annum (*a*), and, subject to the provisions of this section, any arrears (*f*) of rent due at the date of the purchase agreement, and not remitted by the Commission, shall from the date of the agreement be payable to and recoverable by the Commission (*e*) in like manner as if they were instalments of purchase annuities charged upon holdings.

(2) Interest on the purchase money (*g*), at the rate of three and a half per cent. per annum, shall be paid by the Land Commission to the person in receipt of the rents of the lands at the date of the agreement, or such other person as may appear to the Land Commission to be entitled thereto, from the date of the agreement (*c*) until the land is vested in the Commission (*b*):

Provided that if the land does not become vested in the Land Commission the foregoing provisions of this section shall cease to have effect as from the date on which the Commission certify that the sale cannot be completed, and an account shall be rendered by the Commission as between the moneys received

by them and any interest paid by them under those provisions, and the balance (if any) certified by the Commission shall be paid by or to them accordingly, and the certificate shall be conclusive of the matters stated therein. Sects. 18 19.

(3) Section thirty-five of the Act of 1896 shall, subject to the provisions of this section, apply with the necessary modifications to the case of an agreement with the Land Commission for the purchase of a holding.

Interest on purchase money.

(*a*) The 35th Section of the Land Act, 1896, does not specify any rate of interest payable by the purchasing tenant between the date of the agreement and the vesting order. It is still necessary to specify a rate in agreements for sale by landlords to tenants directly, as this Sub-section is confined to agreements for the purchase of land by the Land Commission. See notes to Land Act, 1896, Sec. 35 (*ante*, p. 576). The time from which interest runs is the true date of the agreement according to its construction: *Wilson's Estate*, 40 I. L T. R. 13.

Agreements signed by the tenants in June and by the landlord in July by arrangement between the parties were dated 1st May, 1905. This last was held to be the true date from which interest ran: *Nugent* v. *Wilson*, 42 I. L. T. R. 248.

As to the application of that Section in proceedings for sales to tenants in the Land Judge's Court, see Sec. 57 (*post*, p. 1131).

(*b*) The same rate of interest is payable, after the Land is vested in the Land Commission (Sec. 24 (2), *post*, p. 1092), until the "closing day" (Sec. 25, *post*, p. 1098).

(*c*) Where the Estates Commissioners make a proposal to purchase an estate under Sec. 6, on certain conditions, and the proposal is accepted by the owner, they are bound to carry out the arrangement in its entirety when the conditions are fulfilled, and the vendor is entitled, under this Section, to interest on the purchase money as from the date contemplated by the proposal before which the conditions should be fulfilled: *Tottenham's Estate*, 39 I. L. T. R. 264.

(*d*) The Land Commission cannot now, except with the consent of the Congested Districts Board, purchase land situate in a Congested Districts County, except for land required for the Evicted Tenants Act, 1907: Act 1909, Sec. 58, (1) (*post*, p. 1235).

(*e*) Where the Congested Districts Board purchase an estate or untenanted land the rents and profits are recoverable by the Board under this Section: Act 1909, Sec. 56 (*post*, p. 1235).

(*f*) The Inspector should inquire and report in the case of each holding as to the amount of arrears due. See Instructions to Inspectors, Part II., No. 38 (*post*, p. 1334).

(*g*) The owner of any superior or intervening interest or any incumbrancer at any time before the land is vested in the purchaser, may apply to the Land Commission for payment in respect of the annual income of his claim: Act 1909, Sec. 36 (*post*, p. 1222).

Power to declare certain tenants to be purchasers.

19. Where an estate is purchased by the Land Commission and tenants on the estate to the extent of three-fourths in number and rateable value have agreed to purchase their holdings, the Estates Commissioners may, if, having regard to the circumstances of the case, they think it expedient, order that the remaining tenants, or any of them, shall be deemed to have accepted the offers made to them (*b*), and the Land

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Purchase Acts shall apply accordingly, where the tenant could have obtained an advance of the entire purchase money, and the Land Commission could have offered in the prescribed manner (*a*) to make the advance.

This power of compelling a minority of tenants to purchase exists only where the estate is sold to the Estates Commissioners under Sec 6 (*ante*, p. 1062).

Similar power of compulsion was given to the Land Judge by the 40th Section of the Act of 1896 See Sub-sec 1 of that Section (*ante*, p 580). The Section is now extended to sales by the Congested Districts Board: Act 1909, Sec. 54 (*post*, p. 1234).

(*a*) The prescribed manner in which the offer of the Land Commission to make the advance is communicated to a tenant who has not agreed to purchase is by Form N (*post*, p 1286). See Rules of 4th Nov., 1909, No. 38 (*post*, p 1256).

(*b*) After such an order there is no jurisdiction to fix a fair rent. *M'Gloin* v. *Irish Land Commission*, 41 I. L. T. R 67

Schemes for user of land by trustees.

20.—(1) Where any land is purchased by means of an advance under the Land Purchase Acts by any trustees for the purpose mentioned in section four of this Act, the trustees shall hold the land upon such terms and conditions and with such rights and powers as may be specified in a scheme (*a*) framed by the Lord Lieutenant or approved of by him, and any such scheme shall contain provisions for the appointment of new trustees, and for an appeal to the Lord Lieutenant by any person aggrieved by any action or omission of any trustees in carrying the scheme into effect, and for enabling the Lord Lieutenant, on the hearing of any such appeal, to make such order as may appear to him just.

(2) Where any land so purchased is not required for any of the purposes aforesaid it may be disposed of for any public purposes approved of by the Lord Lieutenant (*b*).

Where it is desirable that advances should be made to trustees under Sec. 4 (*ante*, p 1060) the Purchase Inspector who visits the estate should furnish such particulars in his report as will enable the Lord Lieutenant to frame or approve of a scheme. See Instructions to Inspectors, No. 25 (*post*, p 1330) For Form of Scheme see "Stubbs and Baxter's Irish Forms and Precedents," p. 404.

Where an advance is made to a Rural District Council under Sec. 20, Labourers Act, 1906 (*post*, p. 1180), the scheme is settled under the Labourers Acts and this Section does not apply.

(*a*) Where land is purchased by the Department of Agriculture the scheme is to be settled by the Department Act, 1909, Sec. 18, (2) (*post*, p 1213).

(*b*) This Section is applied to sales to the Congested Districts Board by Act 1909, Sec 18 (4) (*post*, p. 1213)

Regulations as to turbary on holdings.

21.—(1) In the case of the sale of an estate where portion of a holding consists of bog, and the purchaser had not an ex-

clusive right of turbary before such sale, the Land Commission may (*b*) make regulations authorising the cutting or making of turf on that bog by any occupiers (*c*) of land in the neighbourhood of the said holding for whose requirements such turf appears to be necessary, upon such terms, as to payment or otherwise, as may appear to them to be just, and those regulations may confer a right to enter upon any land for the purpose aforesaid.

(2) Regulations under this section (*a*) shall secure that the cutting or making of turf will not prevent the future reclamation of the bog, and that sufficient turf and pasturage will be left for the use of the proprietor of the holding for a reasonable period

(3) Regulations under this section (*a*) shall provide that any person entering upon any land under their authority shall make reasonable amends and satisfaction for any damage done or occasioned thereby.

(4) Any regulations under this section (*a*) may provide for the punishment of any breach of them by a fine not exceeding five pounds, recoverable in a summary manner.

The Land Commission cannot authorise cutting of turf on the holding of a tenant vested in him without any reservation of turbary rights by other occupiers of land in the neighbourhood: *King Harman's Estate*, [1908] 1 I. R. 202; 43 I. L. T. R. 231.

As to tenants' rights of turbary upon their holdings, see Landlord and Tenant Act, 1860, Sec. 29; Land Act, 1881, Secs. 5 and 17, and notes to these Sections (*ante*, pp. 59–61, 255–6, and 293). See also Turbary Act, 1891 (*ante* pp. 456–7).

The 78th Section of this Act confers similar powers upon the Congested Districts Board of making regulations as to cutting turf, &c., in the case of estates purchased by them (see *post*, p. 1155).

(*a*) As to the regulations under this Section, see Rules of 4th Nov., 1907, Nos. 43 and 44 (*post*, p. 1257).

(*b*) The powers vested in the Land Commission by this Section can only be exercised at the sale as part of the terms of the sale. The Land Commission cannot make regulations subsequently: *King Harman's Estate*, 43 I. L. T. R. 231.

See Sec. 4 of this Act as to advances to trustees for the purposes of turbary (*ante*, p. 1060), and Sec. 18, Act, 1909 (*post*, p. 1212), which enables the Department of Agriculture, or any County or Rural District Council, to purchase a parcel of an estate under Sec. 4 of the Act of 1903.

(*c*) An agricultural labourer who is tenant to a District Council of a cottage and plot is deemed an occupier within this Section. See Labourers Act, 1906, Sec. 24 (*post*, p. 1180).

Power of Land Commission to determine disputes between proprietors of holdings.

22. On the application in the prescribed manner of any proprietors of holdings purchased under the Land Purchase

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Acts, the Land Commission may, at the request of the parties interested, if they think fit, determine all questions which may arise respecting the boundaries of the holdings, easements, or appurtenances, claimed by any of such proprietors against any other proprietors or tenants of holdings.

This Section has been extended to apply to disputes between tenants of holdings, where purchase agreements have been entered into or negotiations for sale are pending: Act, 1909, Sec. 22 (*post*, p. 1215).

Applications for the determination of disputes under this Section should be made in Form O[1] (*post*, p. 1305). They must be signed by all parties interested, and then forwarded to the Commissioners: Rules of 3rd May, 1910, No 7 (*post*, p. 1291).

Similar power of determining disputes as to boundaries, easements, &c, was conferred upon the Land Commission by the 31st Section of the Land Purchase Act, 1891; but the jurisdiction could only be exercised "for the purposes of the sale" (see *ante*, p. 484) This Section is more general in its terms

Certain powers and duties of Land Commission to be exercised by Estates Commissioners

23.—(1) The jurisdiction, powers, and duties of the Land Commission under the foregoing provisions of this Act shall be exercised and performed exclusively by three members of the Commission (in this Act referred to as "the Estates Commissioners") to be nominated or appointed as herein-after mentioned. Any question of law (*a*) may, if the Estates Commissioners think fit, and shall on the application of any person interested, be referred for the decision of a Judicial Commissioner, unless the Estates Commissioners certify in writing that the application is frivolous.

(2) Any person aggrieved by any refusal of the Commissioners so to refer any such question may, in the manner prescribed by rules under section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any enactment, and within the time prescribed by the Judicial Commissioner (*h*), apply to the High Court, or any judge thereof, for an order requiring the Commissioners so to refer the question, and the decision of the High Court or judge upon any such application shall be final (*b*).

(3) One of the Estates Commissioners shall be an existing member of the Land Commission, to be nominated by the Lord Lieutenant, and the others shall be persons to be appointed by His Majesty, by warrant under the Royal Sign Manual, as additional members of the Land Commission.

(4) The persons so appointed shall be paid out of money provided by Parliament an annual salary of two thousand pounds.

Sub-section 5, which regulated the tenure of the Estates Commissioners, is repealed by Sec. 16 of the Evicted Tenants Act, 1907 (*post*, p. 1194). They now hold by the same tenure as County Court Judges: Sec. 16 (2) (*post*, p. 1194). Sect. 23.

(6) Whenever a vacancy occurs in the office of a person so nominated or appointed by his death, resignation, inability to act, or otherwise, or of any person appointed in his place, His Majesty may, if he thinks fit, by warrant under the Royal Sign Manual, appoint some person to fill the vacancy.

(7) The two vacancies occurring next after the commencement of this Act in the number of the members of the Land Commission, other than the Judicial Commissioner, or an Estates Commissioner, shall not be filled.

(8) The Estates Commissioners, in carrying the foregoing provisions of this Act into effect, shall be under the general control of the Lord Lieutenant, and shall act in accordance with such regulations (*e*) as may be made by him from time to time.

(9) For the purpose of assisting the Estates Commissioners in carrying the aforesaid provisions into effect the Lord Lieutenant may, after consultation with the Land Commissioners, nominate such officers of the Land Commission, and may, with the consent of the Treasury as to number and remuneration, appoint or authorise the employment of such other persons as may be necessary, and the remuneration of those persons shall be paid as part of the expenses of the Land Commission.

(10) Such officers and other persons shall perform such duties as may be assigned to them by the Estates Commissioners.

(11) Sales of estates to the Estates Commissioners and sales by those Commissioners to tenants and others may be negotiated by any land agents, solicitors, or land clerks nominated with the approval of the Estates Commissioners by the vendors (*f*), or in the absence of such nomination, may be negotiated by any persons approved by those Commissioners, at a fixed price or percentage, according to a scale to be settled (*g*) by the Estates Commissioners with the assent of the Treasury and such price or percentage shall be paid as part of the expenses of the Land Commission.

(12) Where in the case of the sale of an estate to persons

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other than the Land Commission an agent has been employed by the vendor to negotiate the sale such sum as may be sanctioned by the Estates Commissioners may, with the consent of such vendor, be paid to that agent out of the purchase money as part of the costs connected with the sale (*c*).

(13) The Judicial Commissioner and the Estates Commissioners may, subject to the approval of the Lord Lieutenant, and after consultation with the President of the Incorporated Law Society of Ireland, make rules (*h*) for carrying into effect the foregoing provisions of this Act, and those rules shall among other things provide for the making of such investigations and the performance of such other duties, by the aforesaid officers and persons, as may be requisite and practicable, with a view to limiting the costs and expenses (*d*) of persons applying to the Land Commission to purchase land in pursuance of those provisions, and the expression "prescribed" in those provisions means, unless the context otherwise requires, prescribed by those rules.

(14) Periodical reports of the proceedings of the Estates Commissioners shall be made by them, in such form and at such times as the Treasury may prescribe, and those reports and all rules under the last preceding sub-section shall be laid before Parliament as soon as may be after they are made

(*a*) The determination of any question of law may be transferred by the Judicial Commissioner to any Division or Judge of the High Court. See Sec. 71 (*post*, p. 1150), and Supreme Court Rules, 1905, Nos. 4 to 9 (*post*, p. 1320). If not so transferred, the decision of the Judicial Commissioner, under this Section, is not, as was at first thought, final and conclusive, for an appeal lies to the Court of Appeal in all Land Purchase cases upon a question of law under Sec. 22 of the Act of 1885 (*ante*, p. 387), and this right of appeal is not taken away by Sec 24 of this Act: *Talbot Crosbie's Estate*, [1905] 1 I. R. 570, 5 N. I. J. R. 256 (C. A.): *White's Estate*, 40 I. L. T. R. 6 (C A). See Sub-secs. 12 and 13 of Sec. 24 and notes (*m*) and (*n*) thereto (*post*, p. 1094)

Appeals.

(*b*) As to appeals from a refusal by the Estates Commissioners to refer a question of law to the Judicial Commissioner, see Rules of Supreme Court, 1905, Order 54c (*post*, p. 1320), and Land Commission Rule of 4th Dec., 1903 (*post*, p. 1355).

The Judicial Commissioner has no power to award costs in connection with questions submitted to him by the Estates Commissioners under this Section: *Walters' Estate*, [1906] 1 I. R. 17; 39 I. L. T. R 265.

Cost of Sale.

(*c*) The costs of the sale of an incumbered or settled estate have, up to the present, been allowed, in the Land Purchase Department, out of the purchase money in priority to all claims, except those for the redemption value of superior interests.

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In the ordinary case of a tenant-for-life selling settled land under the powers conferred by the Settled Land Acts, the costs are payable out of the purchase money: *Re Beck*, 24 Ch. Div. 608. The 21st Section of the Settled Land Act, 1882, provides that capital money arising under the Act may be applied, among other modes, "(x.) in payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions, of this Act" (see *ante*, p. 951); and as the tenant-for-life when selling is in the position of a trustee (see Settled Land Act, 1882, Sec. 53), he is considered entitled to be repaid his costs and expenses in the same way as an ordinary trustee selling under a power of sale would be.

Allowance of costs to tenant-for-life.

In the allowance of costs to the tenant-for-life, the Courts have placed a rather liberal interpretation upon the clause of the 21st Section of the Settled Land Act, 1882, quoted above. "It must be observed," says STIRLING, J. (*In re Llewellin*, 37 Ch. Div., at p. 326), "that what is allowed is the payment of costs, charges and expenses, not merely 'of,' but also 'incidental to the exercise of any of the powers' of the Act, and I have to determine what force is to be given to the words 'incidental to.' It seems to me that if any meaning is to be attached to them it is that the tenant-for-life is to have not merely his costs, charges and expenses which directly and necessarily arise out of the exercise of the powers and provisions of the Act, but also those which, without being a direct or necessary consequence of that exercise, are incurred casually or incidentally in the course of that exercise" And accordingly the learned judge allowed to a tenant-for-life, solicitor and client costs of an unsuccessful action brought against him by a remainderman to restrain him from proceeding with the sale, to be paid out of the capital money subject to the trusts of the settlement, over and above the party and party costs which he had recovered from the remainderman: *In re Llewellin*, 37 Ch. Div. 317. Similarly, where a number of persons together constituted the tenant-for-life for the purposes of the Settled Land Acts, and four of them employed separate solicitors to look after their interests, in addition to a solicitor employed by them all to conduct the sale, it was held by the Court of Appeal that the costs incurred by these separate solicitors must be paid out of the proceeds of sale: *Smith* v. *Lancaster*, [1894] 3 Ch. 439, The costs even of an unsuccessful attempt by a tenant-for-life to sell have been allowed out of capital money: *In re Smith's Settled Estates*, [1891] 3 Ch. 65. But, on the other hand, the costs of obtaining the concurrence of mortgagees of the life estate were disallowed by the Court of Appeal in *Cardigan* v. *Curzon-Howe*, 41 Ch. D. 375.

Where a solicitor acts in selling his own estate he is not entitled to costs: *Fair's Estate*, 41 Ir. L. T. R. 112.

Where a vendor has agreed to pay his agent a percentage on the "bonus" as well as on the purchase money, the percentage on the bonus will not be placed upon the schedule as payable to the agent out of the purchase money, not being part of the costs connected with the sale: *Ayre's Estate*, 38 I. L. T. R. 164.

Negotiation fee.

No negotiation fee is payable out of the purchase money for negotiating sales to the Congested Districts Board: *Armstrong's Estate*, [1907] 1 I. R. 361; 41 I. L. T. R. 164. *Quære*, whether a fee is in such a case payable under Sec. 23 (11), see Sec. 79 (2)? (*post*, p. 1156).

A negotiator who was also trustee for the purposes of the Settled Land Acts was held entitled, notwithstanding, to the fee agreed upon: *Galbraith's Estate*, 43 I. L. T. R. 248.

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Costs consequent upon dealings with negotiation fees (such as mortgaging them) will not be allowed out of the purchase moneys: *Knox's Estate*, 43 I. L. T. R. 248.

(*d*) In order to carry out the intention of Sub-sec. 13, as to limiting the costs and expenses of vendors, Rules of 4th Nov, 1907, No. 52, provides that no fees shall be payable in respect of any duties performed by the officers of the Commission under these Rules, or for the filing of any document; and that all publications and advertisements are to be made without charge to the vendor (see *post*, p 1259).

(*e*) See regulations, 13th Feb, 1906 (*post*, p. 1307) as to town holdings, evicted tenants and improvement loans, and as to priority of business of Estates Commissioners, 15th Feb, 1910 (*post*, p. 1348).

See also Regulations as to Instructions to Inspectors, 5th March, 1906, and Instructions to Inspectors given pursuant thereto, 9th March, 1906 (*post*, p. 1322)

(*f*) In Land Judges' cases the receiver is the proper person to negotiate for sales to the tenants, and he gets remuneration fixed by the Judge in each case: *Wolfe's Estate*, 41 I. L. T. R. 10, see *Rae's Estate*, 40 I. L. T. R. 90.

(*h*) Rules 4th Nov., 1907, St. R. & O, 1907, No. 837, have been made pursuant to this Sub-section (*post*, p. 1247).

Purchase Money of Estates.

Distribution of purchase money.

24.—(1) In the case of the sale of an estate to persons other than the Land Commission, so soon as the holding or parcel of land comprised in the estate is vested in the purchaser, the Land Commission shall, in pursuance of sub-section one of section fourteen of the Act of 1887, pay the purchase money into the Bank of Ireland (*i*), and make an order attaching claims to the purchase money, which shall be as effectual for that purpose as a vesting order made by the Land Commission vesting land in them (*a*).

(2) Where land is vested in the Land Commission by a vesting order made by them, or where money is paid into the Bank of Ireland as aforesaid, the Commission shall, subject to the provisions of this Act, pay interest on so much of the purchase money as is for the time being undistributed, at the rate of three and a half per cent. per annum, from the date of the order, or the payment into the Bank, as the case may be, until the whole of the purchase money is distributed (*b*) and the said interest shall be paid to the person in receipt of the rents of the land at the date of the agreement for sale, or such other person as may appear to the Land Commission to be entitled thereto.

(3) If in the case of an estate sold to persons other than the Land Commission, the dividends upon the investments repre-

senting the purchase money are insufficient for the payment of the said interest, the deficit shall be paid out of the purchase money (*c*).

(4) For the purpose of giving effect to this enactment, the Land Commission may, if they think fit, in the case of a terminable charge (*d*), satisfy the same by the investment in any securities in which trustees are by law authorised to invest trust money of a capital sum the annual income of which will be sufficient to satisfy the annual amount of the charge.

(5) The owner of any superior or intervening interest (*e*), or any incumbrancer, may at any time apply to the Land Commission for an order that payment in respect of the annual income (*f*) of his claim be made to him, out of the interest on the purchase money, or the dividends upon the investments representing the purchase money, as the case may be, and in such case the Commission, if they are satisfied that the justice of the case so requires, may make the order accordingly. In this sub-section the expression "the annual income" shall include the annual amount payable in respect of the premiums on any policy of insurance where those premiums are charged upon land.

(6) The Land Commission shall, as soon as practicable, distribute the purchase money to the persons entitled thereto whose claims upon that money have been ascertained (*o*), and for the purpose of such distribution may ascertain in the prescribed manner the amount or value of any such claim, and discharge, redeem, or satisfy the same out of the said money (*g*) and any charge or incumbrance may be paid off (*p*), notwithstanding any direction, proviso, or covenant to the contrary contained in any instrument (*h*).

(7) After the vesting order, or the payment into the Bank of Ireland, as the case may be, has been made, no proceedings shall be taken, without leave of the Land Commission, in respect of any claim against the purchase money, or the income thereof.

(8) In the case of the sale of an estate, where at the date hereinafter mentioned arrears (*s*) of rent were due (*r*) in respect of any holding on the estate, a sum equivalent in amount to those arrears, but not exceeding in any case one year's rent, shall be paid out of the purchase money to the

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person who would have been entitled to receive those arrears for his own use (*i*). The aforesaid date shall be, in the case of an estate purchased by the Land Commission, the date of the agreement for that purchase, and, in the case of an estate purchased by other persons, the date of the agreement for the purchase of the holding.

(9) The Land Commission may cause their officers to make such investigations, and perform such other duties, as may be requisite and practicable, for the purpose of ascertaining title to and distributing the purchase money (*j*), and such ascertainment and distribution shall, to such extent as may be sanctioned by the Treasury, be made without charge to the persons entitled to the purchase money, and for the purposes aforesaid all searches directed by the Land Commission in the Local Registration of Title Office and Registry of Deeds and Registry of Judgments shall be made without charge.

(10) The Land Commission shall have, and may, without application being made to them, exercise, for the purpose of facilitating the completion of sales under this Act, including the distribution of purchase money, all the powers in that behalf conferred on them by the Land Purchase Acts in the case of sales from landlords to tenants (*k*).

(11) For the purposes of this section, the Land Commission shall, in addition to any other powers which they possess, have all the powers vested in the High Court by virtue of sections seventy-eight and seventy-nine of the Lands Clauses Consolidation Act, 1845 (*l*), and those sections shall apply to the Land Commission with such modifications as may be prescribed as if purchase money distributable under this section were money paid or deposited under those sections.

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(12) Proceedings by the Land Commission under this section shall not be removed into any Court, or be restrained by any court, and save as provided by this section and section forty-one of the Act of 1896, no appeal shall lie from any decision of the Land Commission (*m*).

(13) An appeal shall lie to the Court of Appeal from any decision under this section given by a Judicial Commissioner (*n*), or to which he is a party, and the decision of the Court of Appeal on any question other than one of law shall be final.

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(a) See Sec. 16 (*ante*, p. 1079).

Interest on purchase money.

(b) All agreements made by the Estates Commissioners or the Congested Districts Board for the purchase of land must comply with the terms of Sub-sec. 2 as to payment of interest on the purchase money: *Blake's Estate*, 39 I. L. T. R. 45. As to interest from the date of the agreement to the events mentioned in this Sub-section, see Sec. 18, and note (a) thereto (*ante*, p. 1085). The interest may be reduced to 2¾ per cent. on "the closing day." See Sec. 25 (*post*, p. 1098).

(c) This Sub-section is applied to cases of sales to the Land Commission by Act, 1909, Sec. 26. It has no application in the case of a sale to the Congested Districts Board. See note to Section 79 (*post*, p. 1156).

(d) Terminable annuities may also be redeemed as superior interests. See Land Act, 1896, Sec. 31, and note (s) thereto (*ante*, p. 571).

A sum was retained and invested to secure a life annuity charged upon the lands sold, though the annuitant asked to be redeemed: *Stapleton Cotton's Estate*, 42 I. L. T. R. 63.

Where an annuitant is restrained from anticipation and the annuity is redeemed a capital sum should be set apart sufficient to produce the annuity: *Dolling's Estate*, [1906] 1 I. R. 379, 380; 40 I. L. T. R. 123.

In some cases, on the application of the parties interested, the Judge on allocation has fixed the amount of the redemption price of a terminable annuity at a sum sufficient to purchase annuity for the annuitant in some approved insurance company, and on the company undertaking to provide the annuity the redemption price has been paid out to them.

As to the rights of a dowress to have one-third of the price retained and the interest paid to her for life, see *Dooner's Estate*, 44 I. L. T. R. 145.

(e) As to superior interests, see Land Act, 1896, Sec. 31, and notes thereto (*ante*, pp. 567–572); see also Secs. 61 to 64 (*post*, pp. 1134, 1141), Sec. 98 (2) (*post*, p. 1167), and Rules of 2nd July, 1910, Order VIII. (*post*, p. 1366).

As to "intervening interests," see Sec. 15 (2) (*ante*, p. 1076).

(f) As to the procedure upon applications for the payment of the annual income under this Sub-section, see Rules of 2nd July, 1910, Order IX., Rule 10 (*post*, p. 1371). When the "closing day" arrives the income may be reduced to interest at the rate of 2¾ per cent. per annum, calculated upon the redemption price of superior and intervening interests, and upon the capital sum due to incumbrancers. See Sec. 25 (2) (*post*, p. 1098).

(g) As to procedure for distribution of purchase money, see Rules of 2nd July, 1910, Order IX. (*post*, p. 1368). Special powers are conferred by Sec 62 (*post*, p. 1138), in certain cases, for distribution of purchase money without regard to superior interests, and by Sec. 63 (*post*, p. 1140), where the redemption prices of such interests are small, for the payment out of same, without incurring the expense of making title thereto.

Incumbrances to be paid off.

(h) An incumbrance may be paid off in the Land Purchase Department without notice to the incumbrancer, even though the mortgage deed contains an express covenant to give notice, the course of the proceedings in the Court being deemed sufficient notice to all incumbrancers: *Kennedy's Estate*, 32 I. L. T. R. 115 (MEREDITH, J.). This is so, even where the sale is carried through, and the purchase money distributed within six months from the date of the filing of the

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originating application or originating request as the case may be. A mortgagee on being paid off is only entitled to interest calculated up to the date of payment, and cannot claim interest as compensation for absence of notice in a case where the mortgage deed provides for notice for a certain period prior to repayment: *Talbot's Estate*, 38 I L T. R 211 (MEREDITH, J). This Sub-section applies to a covenant in a mortgage on a superior interest which is being redeemed: *Ball's Estate* (WYLIE, J.), 4th July, 1910. See Act 1896, Sec. 31 (7) (*ante*, p. 568).

(*i*) The added arrears, though part of the purchase money, continue to be the property of the tenant-for-life, subject to all proper outgoings payable by him; and accordingly interest payable by the tenant purchasers upon the added arrears was paid through the Land Commission to the tenant-for-life, and after his death to his executrix: *Ashbrook's Estate*, [1909] 1 I R. 157, 165 (C. A.); 43 I. L. T. R. 160. The person entitled to such arrears is also entitled to a proportionate amount of the subsequent interest on the purchase money payable by the Land Commission: *Ashbrook's Estate*, *ubi sup.*

Particulars of any claims for payment of arrears of rent out of the purchase money, under Sub-sec. 8 of this Section, should be stated on the final schedule lodged with the abstract of title. See Rules of 2nd July, 1910, Order IV, Rule 3 (*post*, p. 1362).

(*j*) See note as to rulings on title and vouching claims (*post*, p 1438)

(*k*) For the powers conferred on the Land Commission by the Land Purchase Acts, see Land Purchase Act, 1885, Secs 10 to 13 (*ante*, pp. 379–382); Land Purchase Act, 1887, Secs 14 to 16 (*ante*, pp. 418–428); Land Purchase Act, 1889, Sec. 2 (*ante*, p 454); Land Purchase Act, 1891, Secs. 17 & 18 (*ante* pp 472–3): and Land Act, 1896, Secs 33 and 37 (*ante*, pp 573–4 and 577–8).

Lands Clauses Consolidation Act, 1845, Secs. 78 and 79.

(*l*) The 78th Section of the Land Clauses Consolidation Act, 1845, provides for the investment of money deposited (the terms of it will be found set out in the notes to Sec. 25 (4) of this Act (*post*, p 1100) The 79th Section provides that "If any question arises respecting the title to the lands in respect whereof such moneys shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the Court, and unless the contrary be shown as aforesaid, the parties so in possession, and all persons claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly." For a summary of the cases decided under that Section, see Browne and Allen on Compensation, pp 192–3.

The procedure to be adopted upon a summary application for the distribution of the purchase money under the powers conferred by this Sub-section is laid down in the Rules of 2nd July, 1910, Order IX., Rules 4 to 8 (*post*, pp. 1368, 1370) If the Examiner is unable to give the necessary certificate that the case is one for such summary distribution a final schedule of incumbrances must be prepared and settled in accordance with the Rules of 17th May, 1901 (*ante*, pp. 869–870), and the Directions of 16th Jan, 1901 (*ante*, pp. 901–4).

Appeals to the Court of Appeal.

(*m*) Section 41 of the Land Act, 1896 (*ante*, p. 586), deals only with appeals from one member of the Land Commission to the Judicial Commissioner, or to a Court

composed of three Commissioners. There is no provision in it dealing with appeals to the Court of Appeal. The Section which originally conferred jurisdiction to appeal from the Land Commission to the Court of Appeal in cases arising under the Land Purchase Acts was Sec. 22 of the Act of 1885 (*ante*, p 337), which remains unrepealed save so far as relates to proceedings under this Section : *Talbot Crosbie's Estate*, [1905] 1 I. R. 570 (C. A). The right of appeal conferred by Sec. 48 of the Land Act, 1881, did not apply to the portion of the Act dealing with Land Purchase (Part V.), and only existed in other cases by leave of the Land Commission. An order of the Court of Appeal in such cases was, by the same Section, declared to be "final and conclusive," so that no appeal was permitted to the House of Lords. Under the 22nd Section of the Land Purchase Act, 1885 (*ante*, p 387), it was always considered that no leave from the Land Commission was necessary in order to take a decision under the Land Purchase Acts to the Court of Appeal, and it was also assumed that the decision of the Court of Appeal in such cases was not "final and conclusive," as an appeal, in one case at all events, was taken to the House of Lords and the decision of the Court of Appeal in Ireland reversed, *Fullerton* v. *Provincial Bank of Ireland*, [1903] A. C 309 ; [1902] 1 I. R. 23 ; 37 I. L. T R 188. There is no note in any of the reports of this case of any question having been raised as to the right to appeal to the House of Lords, so that appeals in Land Purchase cases were not, apparently, restricted in any way by the provisions of Sec 48 of the Act of 1881 (*ante*, p. 333).

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To the House of Lords.

(*n*) The right of appeal conferred by Sub-sec 13 would appear to be general in its scope. Though it exists only "from any decision *under this Section*," yet the preceding Sub-sections are so general in their terms as practically to cover the whole of the proceedings of the Judicial Commissioner for the distribution of the purchase money. Thus it has been held that an appeal lies from an order fixing the redemption price of a superior interest, such as impropriate tithe rent-charge ; *Kemmis' Estate*, [1904] 1 I. R 500 ,38 I. L. T. R. 241 ; 5 N. I. J. R. 17 ; for, though the jurisdiction to redeem such a charge was originally conferred by the 15th Section of the Land Act, 1887 (*ante*, pp. 420–1), the duty to do so also arises under the 6th Sub-section of this Section. A similar right of appeal exists from the Land Judge where he makes an order determining the redemption price of a superior interest under the powers conferred by Sec. 31 (4) of the Act of 1896 (*ante*, pp 567–8) and the 64th Section of this Act (*post*, p. 1141) : *Leader's Estate*, [1904] 1 I. R. 368 ; 38 I. L. T. R. 197 ; 5 N. I. J. R. 21.

In what cases an appeal lies "under this Section"

Whether the right of appeal conferred by this Section is in any way restricted by the terms of the 48th Section of the Act of 1881 (*ante*, p. 333) remains to be decided. It would appear that it is not, and that the two Sections are quite independent of each other, otherwise it might be argued that the right of appeal under the earlier Act in fair rent cases was entirely taken away by Sub-sec. 12 of this Section.

The concluding words of Sub-sec. 13, providing that the decision of the Court of Appeal "on any question *other than one of law* shall be final" seem to assume that an appeal will lie to the House of Lords upon a question of law. See judgment of FITZGIBBON, L.J., in *Talbot Crosbie's Estate*, [1905] 1 I. R., at pp. 584–5. Such an appeal, as has been mentioned in the previous note, has been held to lie before the passing of this Act. See *Fullerton* v *Provincial Bank of Ireland*, [1903] A. C. 309 ; [1902] 1 I. R. 23 ; 37 I. L. T. R. 188.

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Under Sec. 22 of Land Purchase Act, 1885.

It may be necessary to point out that the right of appeal conferred by this Section does not apply to an order made by a Judicial Commissioner determining a question of law referred to him by the Estates Commissioners under Sec. 23; but the general right of appeal conferred by Sec 22 of the Act of 1885 (*ante*, p 387) is available in such cases See *Talbot Crosbie's Estate*, [1905] 1 I. R. 236, 570; 5 N. I. J. R. 256, and notes to Sec. 23 (*ante*. p. 1090).

An appeal lies to the House of Lords from an order of the Court of Appeal on appeal from a decision of the Land Judge under Sec. 31 (4) of the Act of 1896: *De Vesci* v. *O'Connell*, [1908] A C. 298 [1908] 1 I. R. 452; 42 I. L. T. R. 182.

(*o*) If the purchase money is not sufficient to redeem or satisfy all, they must be paid according to their proper priorities. In the case of a renewable lease the redemption price of the rent is payable in priority to claims for unpaid renewal fines: WYLIE, J., *Ryan's Estate*, [1908] 1 I. R. 467; 42 I L. T. R. 222.

See as to distribution without regard to superior interests on foot of which no claims have been made for twenty years: Sec 62 (*post*, p. 1138)

See directions, 27th Feb, 1909 (St R & O, 1909, No 196*), as to dispensing with notice of vouching and allocation where more than one allocation (*post*, p 1359), and as to distribution on summary application Rules of 2nd July, 1910, Or IX, r. 5 (*post*, p. 1369)

(*p*) MEREDITH, J, has decided that *Lloyd* v *Lloyd*, [1903] 1 Ch. 385, does not apply to proceedings under the Land Purchase Code, and mortgagees are not entitled to more than six years' arrears of interest prior to the payment of the purchase money into the Bank: *Houlin's Estate*, 40 I. L. T. R 207.

(*r*) "Arrears of rent due" means which accrued up to the gale day preceding the date of the agreement for sale, and do not include an apportioned part between that gale day and the date of the agreement: *Bandon's Estate*, [1908] 1 I. R. 120 (C A.), 41 I. L. T R. 234

(*s*) Arrears of rent may be included in estimating the purchase price of the holdings, and the bonus is payable on the full amount of the purchase money: *Crosbie's Estate*, No 2, [1907] 1 I R 116, 124 (C. A), 40 I L T. R. 256.

(*t*) As to postponement of payment of estate duty where a vendor dies before the purchase money has been paid see Finance Act, 1910, 10 Ed. VII, c. 8, Sec. 61 (4).

Closing day

25.—(1) Where an order is made by the Land Commission attaching claims (*c*) to the purchase money, or where an agreement for the purchase of land is entered into by the Land Commission, the order or agreement, as the case may be, shall specify a date, in this Act referred to as "the closing day," being not more than twelve months from the date of the order or agreement.

(2) If on the closing day the title of any person whose claim has been so attached to the purchase money, whether as vendor, or incumbrancer, or owner of a superior or intervening interest, is not established, and if a portion of the purchase money equivalent to the amount of his claim has not been invested in pursuance of the powers conferred by sub-section one of section fourteen of the Act of 1887, then, until his title is established,

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interest in respect of the claim shall not be payable out of the purchase money or recoverable under any agreement or covenant at a higher rate than the rate payable by the Land Commission to the National Debt Commissioners in respect of outstanding advances (*a*):

Provided that this sub-section shall not apply in any case where the Land Commission are satisfied that it is not owing to any act or default of such person that his title is not established and the amount of his claim invested as aforesaid.

For the purpose of this enactment interest shall be calculated on the redemption price of a superior or intervening interest.

(3) If any person interested in the purchase money, by himself or any agent or solicitor, is guilty of any delay in taking any step in the proceedings for the ascertainment of claims which it is his duty to take, or which he has been ordered to take, and such delay is, in the opinion of the Land Commission, inexcusable, the Commission may by Order deprive him of the whole or any part of the interest to which he would have been entitled under the foregoing provisions of this Act.

(4) Notwithstanding anything in this section any vendor or incumbrancer may apply to the court to invest the purchase money, pending distribution, in any of the securities from time to time authorised by law for the investment of trust funds (*b*).

In commenting on this and the preceding Section in *Blake's Estate*, 39 I. L. T. R. 45, MEREDITH, J., says :—"According to my reading of the Act and the Sections I have referred to, the intention of the Legislature was that both in Land Commission cases and in Congested Districts Board cases the 'closing day' should be fixed at such legitimate and proper time as would enable the title of all persons interested in the purchase money to be really investigated by the Land Commission, and that down to that date the Land Commission on the one hand, and the Congested Districts Board on the other, should be bound to pay interest at 3½ per cent. on the purchase money, or on so much thereof as for the time being remains undistributed. I do not say that they should not be bound to pay interest at that rate after the 'closing day,' because the provisions of Sec. 25 (2) with regard to the payment of interest at a rate different to that of 3½ per cent. apply only in cases where there has been inexcusable delay. Neither the Land Commission nor the Congested Districts Board can escape payment of interest at the rate of 3½ per cent. after 'closing day' unless there has been neglect or default or inexcusable delay" ; 39 I. L. T. R., at p. 47.

(*a*) The rate was 2¾ per cent. under Sec. 36 of the Act of 1903 (*post*, p. 1104). The rate has been increased to 3 per cent. by the Act of 1909, Sec. 1 (1) (*post*. p. 1197), as regards advances for future purchase agreements. As to interest on the

Sects. 25-26. purchase money prior to the "closing day," see Secs 18 (1) and 24 (2) (*ante*, pp 1084, 1092)

(*b*) For a list of securities now authorised by law for the investment of trust funds, see notes to Land Purchase Act, 1891, Sec. 19 (*ante*, pp. 474–477), and see Sec 38 : Act, 1909 (*post*, p 1223).

The 78th Section of the Lands Clauses Consolidation Act, 1845, as to investment of moneys deposited under that Act, is made applicable to the Land Commission in proceedings under the Land Purchase Acts by Sec. 24 (11) of this Act. It provides that "Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in *England* or the Court of Exchequer in *Ireland* may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claims to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit"

(*c*) An order attaching claims under Secs 15 and 16 and this Section discharges a sub tenant who purchases, from arrears of rent due to his immediate landlord : *Macfarlane* v. *Booth*, [1910] 2 I. R 12

Sale of lunatic's estate.

26. Where a person who would otherwise be entitled to sell land under the Land Purchase Acts is a lunatic, the Lord Chancellor may order the land to be sold as if the sale was required for one of the purposes mentioned in section sixty-three of the Lunacy Regulation (Ireland) Act, 1871, and that section shall apply accordingly

34 & 35 Vict., c 22

Section 63 of the Lunacy Act, 1871, is as follows :—

Lunatic's property may be sold, mortgaged, &c, for debts, maintenance, &c

"Where it appears to the Lord Chancellor intrusted as aforesaid to be just and reasonable, or for the lunatic's benefit, he may order that any estate or interest of the lunatic in land or stock either in possession, reversion, remainder, contingency, or expectancy, be sold, or charged by way of mortgage, or otherwise disposed of, as may to him seem most expedient, for the purpose of raising money to be applied, and may accordingly order that the money when raised be applied for or towards all or any of the purposes following :

(1) The payment of the lunatic's debts or engagements ;

(2) The discharge of any incumbrance on his estates ;

(3) The payment of any debt or expenditure incurred or made after inquisition or authorised by the Lord Chancellor, intrusted as aforesaid to be incurred or made for the lunatic's maintenance or otherwise for his benefit ;

(4) The payment of or provision for the expenses of his future maintenance ;

(5) The payment of the costs of applying for, obtaining, and executing the inquiry, and of opposing the same ;

(6) The payment of the costs of any proceeding under or consequent on the inquisition, or incurred under order of the Lord Chancellor intrusted as aforesaid, and,

(7) The payment of the costs of any such sale, mortgage, charge, or other disposition as is hereby authorised to be made. Sects 26-27.

And the committee of the estate may and shall, in the name and on behalf of the lunatic, execute, make, and do all such conveyances, deeds, transfers, and things relative to any such sale, mortgage, charge, or other disposition as aforesaid, and for effectuating this present provision, as the Lord Chancellor intrusted as aforesaid shall order."

Property of persons of unsound mind.

Where the proposed tenant purchaser under the Land Purchase Acts is a lunatic or person of unsound mind, the Judicial Commissioner may make an order appointing a guardian of such person under the powers conferred by the 61st Section of the Landlord and Tenant Act, 1870 (*ante*, p. 205) as incorporated by Sec. 38 of the Land Act, 1881 (*ante*, pp. 326-7)., and see Rules 4th Nov , 1907, Nos. 39 and 40 (*post*, p. 1256). As to the procedure necessary in such a case, in order to comply with Sec. 68 of the Lunacy Regulation Act, 1871, see General Order issued by the Lord Chancellor, Feb. 8, 1905, which will be found fully set out in the Report of *Pounden and Vandeleur's Estate*, 39 I. L. T. R. 96.

Where the property of a person of unsound mind is taken charge of by the Lord Chancellor under the 68th Section of the Lunacy Regulation Act, 1871, there is no inquisition, and the person is "not so found by inquisition." Under Sec. 15 of the same Act the person must be found lunatic either by a jury or by the Lord Chancellor.

As to the sale of minors' property, see notes to Sec. 17 (2) (*ante*, p. 1082). And as to the disposition of the "bonus" in the event of the sale of either lunatic's or minors' property under the Act, see Land Act, 1904, Sec. 3 (*post*, p. 1176).

General Finance.

Substitution of cash payments for guaranteed land stock.

27. Advances for the purpose of the Land Purchase Acts shall, in the case of agreements entered into after the passing of this Act (*a*), be made by means of money and not by means guaranteed land stock; and any sums required for those purposes shall be issued out of a special fund, to be under the control of the National Debt Commissioners, and to be called the "Irish Land Purchase Fund."

This Section, which practically repealed the 1st Section of the Land Purchase Act, 1891 (*ante*, p. 458), and restored the system of cash advances as administered under the Acts of 1870, 1881 and 1885, has itself been practically repealed by the Act of 1909, Sec. 3 (*post*, p. 1198), which gives power to make advances by Guaranteed Stock.

The Act of 1909, Sec. 2 (*post*, p. 1198), gives power to raise new guaranteed three per cent. stock, and provides for investment by savings bank depositors in such stock.

(*a*) "Agreements entered into after the passing of this Act" mean agreements entered into after 14th Aug, 1903, notwithstanding that Sec. 102, *post*, provided that the Act should come into operation on the 1st Nov., 1903: *Clarke's Estate*, 4 N. I. J. R. 1 (C. A.).

See note to Sec. 4, Act, 1909 (*post*, p 1201), as to regulations by the Lord

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Lieutenant allocating the money available in each financial year for advances and priority of cases of "pending purchase agreements."

Raising of new 2¾ per cent. Stock

28.—(1) For the purpose of raising the money required for the Irish Land Purchase Fund, the Treasury may by warrant addressed to the Bank of England, or Bank of Ireland, direct the creation of a new capital stock (to be called "Guaranteed two and three-quarters per cent, stock," and in this Act referred to as "the stock") consisting of perpetual annuities, yielding dividends at the rate of two and three-quarters per cent. per annum on the nominal amount of the capital.

(2) The annuities shall be payable by equal half-yearly or quarterly dividends at such times in each year as may be fixed by the warrant first creating the stock.

(3) The stock shall not be redeemable until after the expiration of thirty years from the commencement of this Act, but on and after that date shall be redeemable, after three months notice published in the London Gazette and in the Dublin Gazette, at the rate of one hundred pounds sterling for every one hundred pounds of stock, together with the payment of all arrears of interest.

(4) Any sums raised by means of the stock, after providing for the expenses of issue, shall be carried to the credit of the capital account of the Irish Land Purchase Fund.

(5) The stock may be issued at such times, in such amounts, and subject to such conditions as to payment of deposits and instalments, and the issue of scrip certificates carrying dividends, and otherwise, as the Treasury direct.

See Treasury Rules, 16th July, 1910, *post*, p. 1478.

Charge on Consolidated Fund

29.—(1) The dividends on the stock shall be paid out of the income of the Irish Land Purchase Fund, and if that income is insufficient, shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(2) Any sums so paid out of the Consolidated Fund shall be treated as a temporary advance to the Irish Land Purchase Fund, and shall be made good out of the Guarantee Fund.

Temporary borrowing by National Debt Commissioners.

30. Instead of issuing stock, the Treasury may authorise the National Debt Commissioners to borrow temporarily for the purposes of the Irish Land Purchase Fund, on such terms as the Treasury may approve, and any sums so authorised to

be borrowed may be lent by the National Debt Commissioners out of any cash balance in their hand available for investment, or by the Bank of England, or Bank of Ireland, and shall be repaid out of the next subsequent issue of the stock, or out of any money standing to the credit of the capital account of the Irish Land Purchase Fund. The interest on any money so borrowed shall be charged on the income of the Irish Land Purchase Fund in like manner as dividends on stock.

And see Sec. 5 of the Act of 1909 (*post*, p. 1201).

Transfer of stock.

31. The stock shall be transferable in the books of the Bank of England and the Bank of Ireland in like manner as other stock transferable under the National Debt Act, 1870, and shall be subject to the provisions of that Act, and any enactment amending that Act, so far as is consistent with the tenor of this Act.

33 & 34 Vict., c. 71

Remuneration of Banks of England and Ireland.

32. For the purpose of calculating the annual sums payable to the Bank of England and the Bank of Ireland for the management of the National Debt, the stock shall be considered as part of the National Debt inscribed in the books of the Bank of England and the Bank of Ireland, but the annual sums so payable shall be paid as part of the expenses of the Land Commission.

Accounts of National Debt Commissioners.

33. Accounts of the receipts and expenditure of the Irish Land Purchase Fund, both as regards capital and income, shall be kept by the National Debt Commissioners, and those accounts shall be audited by the Comptroller and Auditor-General, and the accounts when audited shall be laid before Parliament.

Employment of balances by National Debt Commissioners.

34.—(1) Any money for the time being standing to the credit of the capital or income account of the Irish Land Purchase Fund may be applied in payment of any sums charged on that Fund, or for advances under this Act.

(2) Any balance standing to the credit of the capital or income account of the Irish Land Purchase Fund may be temporarily invested by the National Debt Commissioners in manner approved by the Treasury.

Land Commission Accounts.

35.—(1) For the purposes of this Act, the Land Commission shall keep such accounts, containing such particulars and entries as the Treasury may direct, and shall furnish those

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accounts to the Treasury as and when required by the Treasury.

(2) The accounts of the Land Commission shall be audited in such manner as the Treasury may prescribe.

Repayment by Land Commission to National Debt Commissioners.

36.—(1) Interest at the rate of two and three-quarters per cent. (*a*) per annum shall be paid by the Land Commission to the National Debt Commissioners on all sums advanced under this Act by the National Debt Commissioners to the Land Commission and not certified by the Commissioners to have been repaid.

(2) Where advances are made by the Land Commission the Land Commission shall, until the advances are ascertained to have been repaid, pay to the National Debt Commissioners in respect of those advances ten shillings per cent. per annum, which shall be treated as a sinking fund for accumulation, and for this purpose shall be credited to the capital account of the Irish Land Purchase Fund, and applied to the purchase of the stock, or invested in further advances under this Act, or temporarily invested in the purchase of securities approved by the Treasury.

(3) Where the Land Commission purchase any land, no sums on account of sinking fund shall be payable until the Land Commission has disposed of that land to purchasers, or until the expiration of five years from the vesting of the land in the Commission, whichever shall be the sooner, but during any period which may intervene, between the expiration of the five years and the disposal of the land, payments on account of sinking fund shall be made at the rate of ten shillings per cent. per annum.

(4) If at any time the said annual payments shall be in arrear for forty days, the amount in arrear shall be charged on, and forthwith made good out of, the Guarantee Fund.

(5) Payments by the Land Commission under the preceding sub-sections shall be made at such times in each year as may be prescribed by the Treasury.

(6) Where, by reason of any stock having been issued at a discount, the sums payable in any financial year by the Land Commission under this section, in respect of advances to them of money raised by means of stock, are insufficient to pay the dividends on the total amount of the stock outstanding,

together with ten shillings per cent. on the portion of the stock representing the advances on which such ten shillings per cent. is payable by the Land Commission, the amount of the deficiency (*b*), shall be made good out of the Guarantee Fund (*c*).

(7) Where, by reason of the issue of any stock at a premium, the sums payable in any financial year by the Land Commission under this section, in respect of advances to them of money raised by means of stock, are more than sufficient to pay the dividends on the total amount of the stock outstanding, together with ten shillings per cent. on the portion of the stock representing the advances on which such ten shillings per cent. is payable by the Land Commission, the surplus shall be applied in the first instance in repaying, in manner prescribed by the Treasury, to the Guarantee Fund any sum paid out of that fund under the preceding sub-section, and any balance shall be carried to a reserve account, and applied in or towards discharging any future liability of the Guarantee Fund under the preceding sub-section, or to such other purposes connected with the Irish Land Purchase Fund as the Treasury may approve.

(*a*) Three per cent. is payable under the Act of 1909, Sec. 1 (2) (*post*, p. 1197), as respects advances made for future purchase agreements.

(*b*) "Deficiency" here means deficiency in income. See *Kildare County Council* v. *The King*, [1909] 2 I. R. 189, PALLES, C.B. at p. 236.

(*c*) This charge on the Guarantee Fund is to extend only to the amount of the Ireland Development Grant, which forms part of the cash portion of the Guarantee Fund; Act of 1909, Sec. 7 (1). Loss due to issue of three per cent. stock for money, for which interest is payable by the Land Commission to the National Debt Commissioners at 2¾ per cent., is to be made good in the same way: Act, 1909, Sec. 7 (2) (*post*, p. 1204).

See Treasury Rules, 16th July, 1910, *post*, p. 1478.

Drafts on Land Purchase Fund.

37. The Lord Lieutenant, with the approval of the Treasury, may make regulations for the purpose of determining the persons entitled to draw on the Irish Land Purchase Fund on behalf of the Land Commission, and the manner in which drafts may be made.

Allocation of portion of Irish development grant to land purchase.

38. If by any Act passed in the present session (*a*), provision is made for an Ireland development grant, the following provisions shall have effect:—

Out of this grant a sum of twenty thousand pounds shall in each financial year be paid to the Congested Dis-

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tricts Board, and a sum of fifty thousand pounds shall, in each financial year, up to and including the year ending on the thirty-first day of March nineteen hundred and seven, be carried to the income account of the Irish Land Purchase Fund, and the residue of the grant during the period aforesaid, and subsequently the whole grant, shall form part of the cash portion of the Guarantee Fund. So far as any portion of the amount so credited to the Guarantee Fund is required for the purpose of making good any deficiency in respect of the issue at a discount of any stock issued under this Act, that portion shall be applied for that purpose next before the grant described, in section five of the Act of 1891, as the Irish Probate Duty Grant, and now represented by the death duty grant payable under section nineteen of the Finance Act, 1894, and any portion of the remainder required for the purposes of the Guarantee Fund shall be applied thereto next after the agricultural grant under the Local Government (Ireland) Act, 1898.

See Treasury Rules, 16th July, 1910, *post*, p. 1480.

(*a*) The Ireland Development Grant Act, 1903 (3 Edw. VII, c. 23), provides £185,000 per annum to be paid out of money to be provided by Parliament.

Trinity College Dublin

39.—(1) There shall be paid to the public trustee out of the Ireland Development Grant, subject to the provisions of the last preceding section, the sum of five thousand pounds per annum for the account of Trinity College, Dublin.

(2) The said sum shall be applied by the public trustee in indemnifying the college against any loss of income arising from the redemption under the Land Purchase Acts of any superior interest owned by the college, that is to say, the difference between the annual income payable in respect of the superior interest and the annual income of the investment in which the redemption money of the superior interest is invested.

(3) Any portion of the said sum of five thousand pounds which in any year is not required to make good loss of income to the college, and any accrued interest thereon, shall be invested by the public trustee, and may be applied in any subsequent year to make good future loss.

(4) The investment of the redemption money of any superior

interest owned by the college shall be made and may only be varied in accordance with the advice of the public trustee.

In fixing the redemption price of a head rent payable by a vendor of land to Trinity College, this Section is not to be taken into consideration for the purpose of diminishing the amount of the redemption price. The head rent should be redeemed according to the same rules as are applied in other cases (as to which see notes to Sec. 64, *post*, p. 1141). The special circumstance of Trinity College being obliged to utilise the redemption price when paid to them as an income-producing fund is also to be excluded from consideration: *Close's Estate*, [1905] 1 I. R. 207, 371; 39 I. L. T. R. 26; 5 N. I. J. R. 89

Amendment of law relating to Guarantee Fund. 61 & 62 Vict. c. 37

40.—(1) After the thirty-first day of March next after the passing of this Act, there shall be paid to the Guarantee Fund (*a*), in respect of the cash portion thereof, the agricultural grant under the Local Government (Ireland) Act, 1898, and the said grant shall be applicable to the purposes of the cash portion of the said Guarantee Fund next after the death duty grant payable under section nineteen of the Finance Act, 1894.

57 & 58 Vict. c. 30.

62 & 63 Vict. c. 50.

(2) The annual sum payable under paragraph *b* of section fifteen of the Agriculture and Technical Instruction (Ireland) Act, 1899, shall form part of the contingent portion of the Guarantee Fund, and shall be available for the purposes thereof next after the grant substituted for the grant in aid of the cost of maintenance of pauper lunatics.

(3) Instead of the limit of twenty-five times the share of a county in the Guarantee Fund imposed by sub-section one of section nine of the Act of 1891 (*b*), there shall be substituted the limit of thirty times such share.

(4) Instead of the limit of fifty times the share of a county in the Guarantee Fund imposed by sub-section one of section one of the Purchase of Land (Ireland) Act, 1901 (*c*), there shall be substituted the limit of sixty times such share.

1 Edw. 7, c. 8.

See Treasury Rules, 16th July, 1910, *post*, p. 1479.

(*a*) The Guarantee Fund was established by the 5th and 6th Sections of the Land Purchase Act, 1891 (see *ante*, pp. 461–465). Certain changes were made in it by the 58th Section of the Local Government Act, 1898 (see Vanston's Local Government, pp. 65–7).

(*b*) See Land Purchase Act, 1891, Sec. 9 (1) (*ante*, p. 465).

(*c*) See Land Purchase Act, 1901, Sec. 1 (*ante*, p. 605).

Power to adapt previous provisions.

41. The power of making rules conferred on the Treasury by the Land Purchase Acts shall extend to the making of rules for carrying the financial provisions of this Act into effect, and

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for adapting to the requirements of this Act such provisions of the Land Purchase Acts, passed prior to this Act, as relate to finance.

Treasury Rules as to Land Purchase Accounts were made under the powers conferred by this Section on the 16th July, 1910. (See *post*, p. 1478)

A return made to Parliament of all rules and regulations made by the Treasury under the Irish Land Purchase Acts, 1891 to 1909, and not wholly repealed, giving the dates and references to the gazette or other official publication where the same may be found, is printed *post*, p 1476.

The principal provisions of the Land Purchase Acts relating to finance are:—Land Act, 1881, Secs. 34 (5) and 56 (*ante*, pp. 322 and 341); Land Purchase Act, 1891, Secs. 15, 27, and 40 (*ante*, pp. 470–1, 481, and 492–3), Congested Districts Board Act, 1894, Sec. 1 (4) (*ante*, pp 506–7), Land Act, 1896, Sec 25 (2) (*ante* p. 564), and Land Purchase Act, 1901, Sec. 1 (*ante*, p. 605), and Irish Land Act, 1909, Secs. 1–14 (*post*, pp 1197, 1209)

Power to invest in stock.

42. All persons, including the National Debt Commissioners, shall have the like power of investing in the stock as they have in consolidated stock.

Provisions for expenses of improvements.

43.—(1) The Treasury may, on the request of the Land Commission, direct the advance out of the reserve fund (*c*) established under paragraph *b* of sub-section two of section five of the Act of 1891, of such sums as the Land Commission may certify to be required for the benefit or improvement (*a*) by them of estates and untenanted land (*d*).

(2) The Land Commission may at any time repay to the said reserve fund any portion of the amount so advanced.

* (3) *Regulations made by the Treasury may provide that where the Land Commission have expended money on the improvement of an estate, and in consequence have sold parcels of that estate at an enhanced price* (*e*) *to tenants or others, the National Debt Commissioners may advance to the Land Commission, for repayment to the reserve fund, such sums as represent the increase of price consequent on the improvements* (*b*).

(4) Where the Land Commission have expended money on the improvement of a holding, any increase of price obtained by them, in consequence of any improvements (*b*) effected on the holding, shall not be taken into account for the purposes of section one of this Act.

* Sub-section 3 has been repealed by Sec 29 (3), Act, 1909, (*post*, p 1219).

This Section is the complement of Sec. 12 (1). It finances the earlier Section : *Wills Sandford's Estate*, [1905] 1 I. R. 597 ; 39 I. L. T. R 237 ; 5 N. I. J. 28 , *Lansdowne's Estate*, [1906] 1 I. R. 493 , 40 I. L. T. R. 62.

(*a*) See Sec. 12 (*ante*, p. 1071) as to the powers of the Land Commission to execute works for the improvement of estates

The Estates Commissioners have jurisdiction to make free grants out of the reserve fund to persons coming within the repealed Sec. 2 (1) (*d*) of the Act of 1903 (*ante*, p 1056) (see now Sec. 17 (1) (*c*) of the Act of 1909, *post*, p 1210), for the purchase of stock and implements : *M. Lansdowne's Estate*, [1906] 1 I. R. 493 ; 40 I. L. T. R 62. But there is no jurisdiction to make advances for the benefit of holdings which have not been sold : *Stawell's Estate*, 41 I. L. T. R. 228.

The Land Commission may now agree with a tenant purchaser for repayment by an additional annuity, of money expended for the improvement of a holding sold or agreed to be sold by a landlord : Act, 1909, Sec 30 (*post*, p. 1219)

(*b*) "Improvements" means in the Section itself manifestly more than improvement works ; it means steps taken for the benefit of the estate as well as works executed or caused to be executed in respect of which advances are made by way of loan or otherwise to the tenants (per MEREDITH, J.) : *Wills-Sandford's Estate*, [1905] 1 I. R., at p. 600 , 5 N. I. J. R., at p 284.

Expense incurred or compensation payable under the Evicted Tenants Act, 1907, is to be paid out of the reserve fund, or if the fund is insufficient as part of the expenses of the Land Commission, see Sec. 5 (1) of that Act (*post*, p 1190).

(*c*) When the reserve fund is exhausted it is to cease to exist as a separate fund, and any payments which otherwise would be made to it are to be paid into the Exchequer ; Act, 1909, Sec. 28 (2) (*post*, p. 1218). And any money required by the Land Commission under Sec. 12 (1) of this Act is, up to an amount approved by the Treasury in each year, to be paid out of moneys provided by Parliament ; Act, 1909, Sec. 28 (1) (*post*, p. 1218).

(*d*) See Sec. 8 (*ante*, p. 1069) as to the powers of the Estates Commissioners to purchase untenanted land.

(*e*) *Re*, the enhanced price consequent on improvements : *Warden's Estate* [1906] 1 I. R 434.

Section **44**, which provided for sale of congested estates at a loss, is repealed by the Act of 1909, see now Sec. 29 of that Act (*post*, p 1219).

As to the purchase and resale of congested estates, see Sec. 6 (4) (*ante*, p 1063)

Repayments by Purchasers.

Payments to Land Commission in respect of advances.

45. As regards advances under the Land Purchase Acts in pursuance of agreements entered into after the passing of this Act—

(1) Every advance shall be repaid, in the manner and at the times prescribed by the Treasury, by means of a purchase annuity (*a*) calculated at the rate of three pounds five shillings (*c*) for every hundred pounds of the advance, and so in proportion for any less sum :

2. The purchase annuity shall be paid until the whole of the advance in respect of which it is payable is ascer-

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tained in manner prescribed by the Treasury to have been repaid:

(3) Section twenty-five of the Act of 1896 (*b*), relating to the mode of calculating purchase annuities, shall not apply.

Land subject to a purchase annuity is to be treated as real property for the purposes of Sec. 6 (8) of the Finance Act, 1894, relating to the payment of estate duty by instalments. See Finance Act, 1910, 10 Ed. VII., c. 8, Sec. 61 (3). And in ascertaining whether the gross value of any property does not exceed £300, so as to be liable only to a fixed duty under Sec. 16 of the Finance Act of 1894, the value is to be taken subject to any charge created for the purpose of securing unpaid purchase money, or for securing an advance made or to be made for the purchase thereof, Sec 61 (2)

Rules made by the Treasury under this Section on 16th July, 1910, provide (No 14) that the annuities shall be payable by equal half-yearly instalments on 1st June and 1st Dec. in each year. (See *post*, p. 1487)

(*a*) For a definition of "purchase annuity," see Land Purchase Act, 1891, Sec. 42 (*ante*, p. 494) Moneys hereafter advanced by the Land Commission to tenant purchasers for the purpose of improvements under Sec. 12 (*ante*, p 1071) can now be repaid by means of purchase annuities under Sec. 30 (1) of the Act of 1909 (*post*, p. 1219).

(*b*) Section 25 of the Act of 1896 (*ante*, pp 563-5) provided for three decennial reductions in the amount of the annuity, according as the principal was repaid; but the annuity for the first ten years under that Section was at the rate of 4 per cent per annum.

(*c*) "Three pounds ten shillings" is substituted by Sec 1 (1), Act, 1909, in case of future purchase agreements (*post*, p. 1197).

Redemption of purchase annuities.

46.—(1) Every purchase annuity under this Act, or any part thereof at any time outstanding, may be redeemed in whole or in part by the person liable to pay that annuity by payment to the Land Commission of the difference between the accumulated sinking fund and the sum sufficient (after payment of interest to date) to purchase the requisite amount of stock, such amount to be determined in accordance with rules made by the Treasury.

(2) Where a purchase annuity or any part thereof is redeemed the National Debt Commissioners shall, in manner prescribed by the Treasury, cancel the aforesaid amount of the stock.

(3) Any rules under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament.

See Treasury Rules of 16th July, 1910, Nos. 19 to 21 (*post*, p. 1490-91), as to the method of ascertaining the amount to be paid for redeeming a purchase annuity under this Section. Sects. 46-48.

As to redemption of annuities under the Acts previously in force, see Landlord and Tenant Act, 1870, Sec. 51 (*ante*, pp. 200-1); Land Act, 1881, Sec. 28 (3) (*ante*, pp. 315-6); Land Purchase Act, 1885, Sec. 4 (*ante*, p. 372); and Land Purchase Act, 1891, Sec. 2 (*ante*, p. 459).

Land Purchase Aid Fund.

Land Purchase Aid Fund.

47.—(1) There shall be established, as part of the Irish Land Purchase Fund, a fund to be called the "Land Purchase Aid Fund," and there shall, in each financial year, be paid out of that fund to the Land Commission such sums as the Treasury, on the request of the Land Commission, may sanction, [*provided that the total of the sums so paid shall not exceed twelve million pounds*] (*a*).

(2) The sums required for the Land Purchase Aid Fund shall be raised by the issue of guaranteed two and three-quarters per cent. stock (*b*) as by this Act provided, and a sum sufficient to pay the dividends on the amount of stock issued for the purposes of this section, together with ten shillings per cent. per annum by way of sinking fund, shall be paid in each year to the Irish Land Purchase Fund out of money provided by Parliament.

(3) The provisions of this Act with reference to the repayment of advances by the Land Commission to the National Debt Commissioners shall not apply to advances under this section.

See Treasury Rules of 16th July, 1910, No. 24, as to dividends and sinking fund on stock issued for the purposes of the Land Purchase Aid Fund (*post*, p. 1491).

(*a*) The words in italics are repealed by Sec. 6 (3), Act, 1909 (*post*, p. 1203).

(*b*) Or now by the issue of guaranteed three per cent stock, Act, 1909, Sec. 2 (1) (*post*, p. 1198).

Allocation of Fund.

48.—(1) For the purpose of aiding the sale (*i*) of estates under this Act (*p*), the Land Commission may (*c*), in the prescribed manner and at the prescribed time (*j*), out of advances by the National Debt Commissioners from the said fund, pay to the vendor (*d*) of each estate (*b*) sold a sum (*a*) calculated at the rate of twelve per cent. (*s*) on the amount of the purchase money (*t*) advanced under the Land Purchase Acts.

Provided that, where an estate (*r*) is so incumbered (*f*) that

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the vendor is not entitled to receive for his own use any part of the rents or profits thereof, or where the percentage is payable in respect of an estate sold by the Land Judge (*e*), the percentage shall be added to the purchase money and shall not be paid to the vendor.

(2) In estimating the amount of the purchase money on which the percentage is to be payable, the price of any land resold to the vendor of an estate shall be excluded (*m*).

(3) *After the expiration of five years from the commencement of this Act, and thereafter at each quinquennial period, the Treasury may revise the percentage for the purpose of adjusting the relation between the unexpended balance of the fund and the claims which may be made upon it, and in such case the revised percentage shall apply to all agreements for the purchase of estates entered into* (*l*) *after the date of its publication.**

(4) This section shall not apply to any estate sold by the Land Judge where the estate (*n*) is so circumstanced (*k*) that it would, independently of the Act of 1896, be sold without the consent of the owner as to price (*g*), or to any estate so circumstanced (*k*) in respect of which an absolute order for sale by the Land Judge was in force at the date of the passing of this Act, or to any estate sold by a mortgagee in possession (*h*).

"Bonus" on purchase money of estates

(*a*) This "percentage," as it is called in Sec. 17 (*ante*, p. 1082), on the amount of the purchase money payable to the vendor under this Section out of the Land Purchase Aid Fund is popularly known as the "Bonus," though that word is not used to describe it either here or in any other Section of the Act Throughout the Act it is always treated as having an independent existence, distinct from the purchase money of an estate (see judgment of Ross, J., *Marquis of Ely's Estate*, [1904] 1 I R, at p 82) And see Article in 44 I L. T. (Mis), p. 111, where the cases on this section are collected

Pursuant to Sub-sec 3, now repealed, the percentage was fixed by the Treasury at 3 per cent, and some vendors have been paid a bonus at that rate. See *Dublin Gazette*, 24th Nov., 1908

But in the case of agreements entered into after 24th Nov, 1908, the bonus is now regulated on a sliding scale, increasing as the number of years' purchase decreases: Act, 1909, Sec 6 (*post*, p. 1202); but the twelve per cent bonus is made payable where purchase agreements have been entered into or are deemed to have been entered into on or before 24th Nov., 1908 See Act, 1909, Sec 6 (2) (*post*, p 1203).

(*b*) The "bonus" is calculated upon "the amount of the purchase money

* This Sub-section is repealed by the Act of 1909, 2nd Schedule (*post*, p. 1245).

advanced under the Land Purchase Acts," provided an "estate" is sold under this Act. Sect. 48.

For definition of "estate," see Sec. 98, *post*, and note thereto, p. 1166. An application for a payment of the bonus cannot be entertained unless the Estates Commissioners, in cases which come within their jurisdiction, declare, under that Section, that the lands which are the subject-matter of the sale are fit to be regarded as a separate estate for the purposes of the Act. A similar declaration must be made by the Congested Districts Board in cases where they are the purchasers: *Leonard's Estate*, 38 I. L. T. R. 204. In such applications notice need not be served on the Treasury unless by direction of the Judicial Commissioner: *Burke's Estate*, 38 I. L. T. R. 258. The estate may be sold either directly to the tenants under Secs. 1 and 5, or to the Estates Commissioners for the purpose of resale to the tenants "and other persons" under Sec. 6; or (in the case of sales by the Land Judge) under Sec. 7. It is the gross value of the estate that is taken as the basis of calculation; excluding only, under Sub-sec. 2, the price of any land resold to the vendor. No deduction is made for the redemption price of head rents or rentcharges, intervening interests (*Holmes' Estate*, 41 I. L. T. R. 164), or for incumbrances, provided the latter are not sufficient, under Sub-sec. 4, to exclude the estate altogether from the benefit of the bonus. But the vendor is not entitled to the bonus on the redemption price of a charge affecting only the tenant's interest in the lands sold, even though the parties have agreed that it should be paid out of the purchase money: *Ryan's Estate*, 39 I. L. T. R. 220. Basis of calculation, gross value of estate.

An estate may comprise *untenanted* as well as *tenanted* land. Where the owner is selling directly to his tenants, he may sell "parcels" of the untenanted land to the various classes of persons named in Sec. 17, Act, 1909, (*post*, p. 1210), and advances under the Land Purchase Acts may be made for the purpose of completing these sales. Where he is selling to the Estates Commissioners under Sec. 6, as the latter are directed in making their offer to have regard "to the prices which the tenants *and other persons* are willing to give for the holdings *and other parcels of land* comprised in the estate" an estate so purchased may consist, in part at least, of untenanted lands: *White's Estate*, 40 I. L. T. R. 6 (C. A.); and the bonus in such a case would be calculated upon the entire purchase money. Any possible doubts upon the matter have been removed by Sec. 1 of the Act of 1904 (*post*, p. 1175). On sale of untenanted lands.

Under Sec. 8 (*ante*, p. 1069), the Estates Commissioners may also purchase "any untenanted land" "which they consider necessary for the purpose of facilitating the resale or redistribution of estates purchased or proposed to be purchased by them." Section 1 of the Act of 1904 now provides that any land wholly or partly untenanted, sold to the Land Commission or the Congested Districts Board, may be regarded as an estate for the purpose of the payment of the "bonus" under this Section, see *post*, p. 1175. There is nothing in the meaning of the word "estate" to confine it either wholly or partly to tenanted land, and untenanted land when purchased by the Estates Commissioners under Sec. 8 must be resold by them under the Land Purchase Acts in precisely the same manner as if it had been purchased under Sec. 6 or Sec. 7.

(*c*) There is not any discretion in the Land Commission to refuse the bonus in any case which comes within this Section; and the bonus will be payable according to the provisions of Sec. 6, Act, 1909, in the case of every estate sold under this Act, except in the cases specially mentioned in Sec. 48 (2) and (4). This view was

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adopted by MEREDITH, J., in *King Harman's Estate*, 38 I. L. T. R. 102. "I think," he says, "the word 'may' in Sec. 48, according to the principle laid down in *Sweeney* v *Lord Ashtown*, and in *Julius* v. *Bishop of Oxford*, imposes a duty on the Land Commission which must be fulfilled, provided the circumstances pointed to in the Statute exist" (38 I. L. T. R., at p. 104).

"Vendor" includes every person who can sell under Land Purchase Acts.

(*d*) The Act contains no definition of the term "vendor" In the *Marquis of Ely's Estate*, [1904] 1 I. R 66; 38 I. L T. R. 49, it was argued on behalf of the tenant-for-life that in this Section the term was confined to persons beneficially entitled to receive the rents and profits of the estate. This contention was based upon the language used in the last clause of Sub-sec. 1, which appears only to contemplate the case of a vendor entitled to receive the rents for his own use. ROSS, J., however, refused to adopt this view, and held, on the contrary, that the term vendor as used in this Section includes all classes of persons or bodies corporate who can sell land under the Land Purchase Acts, whether as beneficial owners, or trustees express or constructive. This was followed by MEREDITH, J., in *King Harman's Estate*, 38 I. L. T. R. 102, and all doubt upon the subject is now removed by Sec 2 of the Act of 1904 (see *post*, p. 1175). As to who are persons "having power to sell under the Land Purchase Acts," see note (*a*) to Sec. 17 (*ante*, p. 1082).

Where the vendor is entitled to sell by reason of his beneficial interest in the property he is entitled, under Sec. 3 of the Act of 1904 (*post*, p 1176), to retain the bonus "as his own proper moneys for his own use and benefit."

Where a vendor had assigned one undivided third of his interest in the estate to trustees, but provided for his right to exercise his powers as tenant-for-life, he was held entitled to the entire bonus: *Singleton's Estate*, 40 I. L. T. R. 175, and see *Kerr's Estate*, 42 I. L. T R 103

A testator devised lands to trustees with a trust for accumulation for payment off of a mortgage, and after payment thereof directed the income to go to *S* during her life, with remainder to her daughters, WYLIE, J., held that *S* was a person having the powers of a tenant-for-life within Sec. 58 (1) vi. of the Settled Land Act, 1882 (*ante*, p 954), and that *S* was entitled to the bonus: *Wood's Estate*, 44 I. L. T. R. 51.

Tenant-for-life.

Much doubt arose as to the right to the bonus of a tenant-for-life selling under the powers conferred by the settled Land Acts, but those doubts were set at rest by the passing of the Land Act of 1904, Sec. 3 of which provides that where the vendor is a tenant-for-life the "bonus" shall, subject to the enactments contained in this Section, "be retained by him as his own proper moneys for his own use and benefit, free and discharged from all claims upon the lands sold, or the purchase money thereof, and from any trust affecting the same" (see *post*, p. 1176).

Land Act, 1904, Sec. 3.

Special provision is made by the same Section for the allocation of the bonus in the case of the sale of property belonging to a lunatic, person of unsound mind, or infant, and where a husband and wife are together exercising the powers of a tenant-for-life under Sec. 61 of the Settled Land Act, 1882 (see *post*, p. 1176)

Where vendor is a trustee.

In cases of express trustees for sale, trustees with a power of sale, persons appointed under the Settled Land Acts to exercise the powers of an infant owner, the Committee of a lunatic, trustees for charitable or public purposes, and other cases where the vendor occupies a purely fiduciary capacity, the bonus is to be held "on the trusts affecting the purchase money": Act, 1904, Sec. 2 (*post*, p. 1175).

(*e*) Where the estate is sold by the Land Judge, the percentage, when payable is to be "added to the purchase money." The cases in which the bonus is not payable at all are dealt with in note (*g*) to Sub-sec 4 (*post*, p. 1116), and it is assumed that the bonus is payable in respect of all estates sold by the Land Judge to tenants under the Land Purchase Acts, except those mentioned in Sub-sec. 4. See judgment of MEREDITH, J., in *Minhear's Estate*, 38 I. L. T. R at p. 216.

Estates may be sold by the Land Judge to tenants in three different ways:—

(1) Under the power conferred by Sec. 4 of the Act of 1885 (*ante*, p 372), which provides that "where a holding is sold by the Land Judge to the tenant of that holding, the sale may, for the purpose of advances under this Act and of guarantee deposits under this Act, be deemed to be a sale by a landlord to a tenant." This was the usual procedure before the passing of this Act The tenant in such cases applied for an advance in Form 34 or 34A, provided by the Land Commission Rules of March, 1897 (*ante*, p. 892); and the subsequent procedure to complete the sale in the Land Judge's Court was regulated by the Regulations of 18th Sept, 1896 (*ante*, pp. 622–640), and the Rules of 10th Jan., 1902 (*ante*, pp. 654–6) Form 34A is prescribed by Rule 9 of the latter rules (*ante*, p. 655). See *Boyle's Estate*, [1909] 1 I. R., p. 278, where the sale was held not to be a sale under the Act of 1903, the Estate Commissioners not having declared it a "separate estate," and no bonus was payable.

(2) Estates may be sold by the Land Judge to the Estates Commissioners for the purpose of resale to tenants and other persons under Sec. 7 of this Act (*ante*, pp. 1066, 1068).

(3) Estates may still be sold under Sec. 40 of the Act of 1896. In the majority of cases under that Section no bonus would be payable (see Sub-sec. 4 and note (*g*) thereto, *post*, p. 1116). There may be cases, however, where a perfectly solvent estate comes within Sec. 40, owing to a Receiver having being appointed over it, and in that event it is conceived the bonus would be payable.

On application by the tenant-for-life, with the consent of the incumbrancers, ROSS, J., dismissed a petition, so as to enable the tenant-for-life to sell to the tenants out of Court. This order was made notwithstanding the opposition of the remaindermen, who were thus deprived of the "bonus": *Marquis of Ely's Estate*, [1905] 1 I. R. 413; 5 N. I. J. R. 228.

Bonus, when added to purchase money.

(*f*) The last clause of Sub-sec. 1 provides that the bonus is to be added to the purchase money in two cases—(1) Where the estate is sold by the Land Judge, and (2) where it is "so incumbered that the vendor is not entitled to receive for his own use any part of the rents or profits thereof." Solvency as to income at the date of the sale is the test of title to the bonus: *Carroll's Estate*, [1906] 1 I. R. 661, [1907] 1 I. R. 148 (C. A.); *Bandon's Estate*, *ib*, p. 226; *Barton's Estate*, 43 I. L. T. R. 189, 268 (C. A.). The affidavit upon an application for payment of the bonus to the vendor should contain an averment that the rental exceeds the outgoings. The appointment of a receiver for the purpose (*inter alia*) of paying off arrears of interest, the existence of which made the estate at the date of the sale temporarily insolvent, was held not to bring the case within the proviso: *Bandon's Estate*, [1907] 1 I. R. 226.

A tenant-for-life under a settlement of a settled estate, being unable to discharge incumbrances thereon, assigned his life interest to his wife in consideration of her

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undertaking to discharge the incumbrances and to indemnify him against them. The husband and wife subsequently sold as vendors; it was held by the C. A., reversing WYLIE, J., that the case came within the proviso to Sec. 48 (1), and that the bonus should be added to the purchase money: *Cramer Robert's Estate*, [1908] 1 I. R. 222

An estate, it will be noticed, may be perfectly solvent as to capital, though coming within the terms of the proviso, where, for instance, there are mortgages bearing a high rate of interest, or life annuities, payable to persons advanced in years, the redemption value of which would be consequently small. In such cases the bonus must be added to the purchase money, even though this may not be necessary for the purpose of discharging the incumbrances.

Where, in the case of a solvent estate, portion of the lands comprised therein only are sold, and the proceeds of such sale are insufficient to discharge the incumbrances affecting the whole, the portion sold is not "so incumbered" as to come within the latter clause of this Sub-section, and the vendor is entitled to be paid the "bonus" on the purchase money advanced: *Warburton's Estate*, 39 I. L. T. R 200, 5 N. I J R 272 (MEREDITH, J)

Insolvent estates.

(*g*) Sub-section 4 excludes from the benefit of the bonus any estate sold by the Land Judge and any estate in respect of which an absolute order for sale by the Land Judge was in force on the 14th Aug, 1903, "where the estate is so circumstanced that it would, independently of the Act of 1896, be sold without the consent of the owner as to price" These latter words are somewhat obscure, and for their interpretation we are thrown back upon the practice of the Landed Estates Court and of the Land Judge's Court prior to the passing of the Act of 1896. Very similar language is used in the 40th Section of the latter Act (see *ante*, p 579), and in interpreting it ROSS, J., has laid down that "according to the practice of the Court an estate would only be sold without the consent of the owner as to price in cases where the equity of redemption was valueless" (*In re Grogan's Estate*, [1896] 1 I R, at pp. 616–7). In laying down this rule he was guided by the judgment of FLANAGAN, J, in *Domvile's Estate* (I. R. 11 Eq. 1), where that learned judge says: "I never sell property here relying merely on my own judgment, and without consulting the parties whom I consider interested in the proceeds of sale—that is to say, in the case of incumbered estates, the persons representing the incumbrancers, and in the case of perfectly solvent estates, the owners of the estates." The test, according to this judgment, would appear to be whether or not the owner is interested in the proceeds of sale, which is not quite the same as that applied by ROSS, J, in *Grogan's Estate*, [1896] 1 I. R. 614. There may be cases where, though the estate *per se* is insolvent, yet the owner is interested in obtaining as good a price for it as possible. Where, for instance, mortgages are charged upon two estates, and one only is included in the absolute order for sale, the latter may be totally insufficient to discharge all the incumbrances, but yet the owner may be interested in obtaining as large a price as possible for it in order to preserve the other estate for himself. It would seem that in such cases this Sub-section would not deprive the estate of the bonus.

Where the owner, *quâ* owner, was not entitled to any residue, but *quâ* incumbrancer was entitled to a first charge the bonus was held payable to him: *Holmes' Estate*, [1907] 1 I. R. 1, 139; 40 I. L. T. R. 247; 41 I. L. T. R. 29; but this decision has been nullified by Sec. 31, Act, 1909 (*post*, p. 1220)

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Again, if portion of an estate only is insolvent, the bonus may be payable on the entire purchase money. Thus, in *Minhear's Estate*, 38 I. L. T. R. 215, where an absolute order for sale had been made under the Partition Acts of an estate of which two undivided third parts were insolvent, and the remaining third was solvent, it was held by MEREDITH, J., that the bonus was payable upon the entire purchase money. See *Howlin's Estate*, [1906] 1 I. R. 300; 40 I. L. T. R. 99.

The 40th Section of the Act of 1896 applies to all estates over which a Receiver has been appointed, whether they are solvent or insolvent. It is obvious, therefore, that where such estates are solvent the bonus is payable under this Section if the sale can be said to be the sale of an estate "under this Act," and as there are numerous provisions of this Act affecting the procedure under Sec. 40 of the Act of 1896 (see, for instance, Secs. 53, 57 and 58), it would appear that every sale under that Section after this Act came into operation is, partly at least, a sale "under this Act." If, therefore, lands sold under the 40th Section of the Act of 1896 be declared an "estate" as defined by Sec. 98 (*post*, p. 1166), and the estate is a solvent one, over which a receiver has been appointed, it would appear that the bonus can be claimed in respect of it. See *Boyle's Estate*, [1909] 1 I. R. 278 (C. A.); 43 I. L. T. R. 187.

No bonus is paid in respect of an estate sold by the Land Judge unless a certificate from the Registrar of his Court is produced that the case does not come within this Sub-section: *Colclough's Estate* (unreported), see 39 I. L. T. & S. J., p. 213.

(*h*) No bonus is payable in respect of any estate sold by a mortgagee in possession. As to the powers of mortgagees to sell lands under the Land Purchase Acts, see Land Act, 1896, Sec. 42, and notes thereto (*ante*, p. 587).

(*i*) There was originally some doubt as to whether the costs should be paid out of the bonus. The practice now is that where the costs are taxed they are paid out of the purchase money. Where they are paid under an agreement fixing a commission to be calculated both on purchase money and bonus the practice is to pay out of the purchase money the commission calculated on it, and out of the bonus the commission so far as it is calculated on it.

Settled estates.

In the ordinary case of a tenant-for-life selling under the Settled Land Acts the costs of the sale are payable out of the capital money, subject to the trusts of the settlement (see Settled Land Act, 1882, Sec. 21 (*x*), *ante*, p. 951). And where the sale is by auction, the trustees are at liberty to repay to the tenant for-life out of the purchase money a proper sum paid by him to the auctioneer for his charges, in addition to the ordinary solicitor's costs: *In re Beck*, 24 Ch. Div. 608. The "price or percentage" payable to an agent for negotiating sales under this Act is also expressly stated "in the case of the sale of an estate to persons other than the Land Commission" to be "payable out of the purchase money as part of the costs connected with the sale": Sec. 23 (12) (*ante*, p. 1089). See further as to costs of sale, note to that Sub-section.

(*j*) The "prescribed time" for the payment of the bonus is the time of the allocation of the purchase money, unless a Judicial Commissioner otherwise orders. See Rules of 2nd July, 1910, Order X., Rule 5 (*post*, p. 1372). Particulars of any claim for same should be set out on the draft final schedule of incumbrances under Order IV., Rule 3, of the same Rules (*post*, p. 1362).

(*k*) *i.e.*, Insolvent at the date when it is actually sold: *Barton's Estate*, [1909]

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1 I. R 205, 43 I L. T R. 189, 268, not at the date of the passing of the Act of 1903.

(*l*) A proposal for sale provided that the date of the agreement to purchase should be the date on which the Land Commission should declare that the statutory conditions and the conditions of the proposal had been fulfilled. It was held that "the date of the agreement," within Sec 48 (3), was the acceptance of the proposal, or at latest the date when it was lodged with the Land Commission: *Pollok's Estate*, [1909] 1 I. R 109, 43 I. L T R. 156.

(*m*) See *Tyrrell's Estate*, [1909] 1 I. R. 152, 43 I. L. T. R 181, and p. 1057, *ante*.

(*n*) Not the lands, but the interest of some particular owner in the lands An absolute order for sale by the Land Judge was in force in respect of an estate which was insolvent both as to capital and income. In 1904 a portion of the estate was sold by the Land Judge to *C C.* sold to the tenants, and was solvent as to income, but the purchase money was insufficient to redeem a Board of Works loan. Ross, J., held that the bonus was payable to *C.'s* executors, which they took absolutely excluding the Board of Works: *Carroll's Estate*, [1906] 1 I. R. 661; 40 I L T. R 231 (App); 41 I. L. T R. 30

Upon the question whether a completed contract had been concluded before the expiration of the first quinquennium so as to entitle the vendor to a bonus at the rate of 12 per cent., see the cases cited in note (*c*) to Sec. 6 of the Act of 1909 (*post*, p. 1203), and Sec 12 of that Act (*post*, p. 1206).

Assignment of bonus, or purchase money.

Any person having an assignment of the bonus or purchase money, or a good charge upon it, should apply to the Registrar to have his name placed on a register of dealings with purchase money and percentage which is kept for that purpose

For form of mortgage of bonus see Stubbs' and Baxter's Irish Forms and Precedents, p. 389.

(*p*) "Sales under the Land Purchase Acts" is a *genus*, one distinct species of which consists of "sales under this Act" for the purpose of Sec. 48 (1), and the test whether any particular sale comes within the *species* and carries the right to bonus is whether the lands sold have been declared a separate estate by the Estates Commissioners: *Boyle's Estate*, [1909] 1 I. R. 278, per FITZGIBBON, L.J., at p. 289 (C. A.), affirming Ross, J., *ib.*, p. 120; 43 I. L. T. R. 135, 187.

Fees and Stamps.

Registration fees.

49. No fee shall be payable in the Local Registration of Title Office on the registration of the ownership of any land purchased by the Land Commission or the Congested Districts Board, or for any land certificate issued to the Commission or Board, or any purchaser from them.

Stamp duty

50. No stamp duty shall be payable on any order or instrument made or issued under the Land Purchase Acts, or Part Two of this Act, whereby any land in respect of which an advance is made under those enactments is vested in any

person, or is conveyed, or agreed to be conveyed to any person.

This exemption has been extended to any instrument the stamp duty on which is payable as expenses of the Land Commission: Act 1909, Sec. 10 (3) (*post*, p. 1206).

Trustees.

Enlargement of powers of trustees as to investment of purchase money.

51.—(1) *Where any land purchased by means of an advance under the Land Purchase Acts is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the trustees of the settlement may notwithstanding anything contained in the settlement, on the request of the tenant for life, and without the consent of any other person, invest the purchase money or any part thereof not only in any investment in which trustees are by any Act authorised to invest trust funds (a), but also in—*

a. Bonds, debentures, or mortgages secured upon rates or taxes (c) levied under the authority of any Act of Parliament or Provisional Order by any municipal corporation or other local authority in the United Kingdom which shall be authorised to borrow on such security;

b. Ground rents arising out of hereditaments in the United Kingdom and not exceeding in amount one-fourth part of the annual value at a rack rent of the premises out of which such ground rents issue;

c. Debentures or mortgages of railway companies in the United Kingdom incorporated by Act of Parliament;

d. Stocks or shares of any tramway or light railway dividends upon which are guaranteed under the Tramways (Ireland) Acts, 1860 to 1900;

e. Bonds, debentures, or mortgages secured upon any investments in which trustees are authorised by this or any other Act to invest trust funds;

f. Debentures or fully-paid shares or stocks of any railway (d) which for the ten years immediately preceding the date of investment has paid a dividend on its ordinary shares:

Provided that the sufficiency of any such investments as are hereinbefore in this section recited to

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realise the sum invested therein upon the death of the tenant for life or the termination of the trust shall be secured to the satisfaction of the public trustee under this Act; and also in—

40 & 41 Vict. c 57.

g Any investment authorised by the rule-making authority under section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any enactment.

(2) *That authority shall cause to be published from time to time in the Dublin Gazette a list of such investments as may for the time being be authorised by them for the investment of purchase money under this section (b).*

(3) *A trustee shall not incur any liability by reason of any investment made in pursuance of the powers conferred by this section.**

(4) In the case of all proceedings in relation to any lands sold under the Land Purchase Acts, or any charges thereon, or any moneys realised thereby, if it appears to the Court that a trustee is or may be personally liable for any breach of trust, whether the transaction alleged to be a breach of trust occurred before or after the passing of this Act, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed such breach, then the court may (*e*) relieve the trustee, either wholly or partly, from personal liability for the same (*c*).

* Sub-sections 1, 2, and 3 of this Section are repealed by Act 1909, Sec 38 (5), (*post*, p. 1225), which authorises certain investments with and certain other investments without the consent of the Public Trustee.

(*a*) The 19th Section of the Land Purchase Act, 1891, authorises the investment of the proceeds of the sale under the Land Purchase Acts, not only in any security authorised by the Settled Land Acts, but also "in any other securities the investment in which is consented to by the person who, next after the then tenant-for-life and his or her wife or husband, is entitled to the money for his life, or for any greater interest" (see *ante*, pp 473–4). See also the extended list of investments now authorised for trust funds by the Trustee Act, 1893, and Colonial Stock Act, 1900 (*ante*, pp 474–477), and Sec. 21 of the Settled Land Act, 1882, which regulates the investment or other application of capital trust money arising under the Settled Land Acts (*ante*, pp. 950–1)

It was held in *Prentice's Estate*, 40 I. L. T. R. 244, that the securities authorised by Sec 51 of the Act of 1903 are not available for the investment of the redemp-

tion moneys of superior interests. In that case the redemption price of a well-secured annuity was fixed at a sum which, if invested in India securities authorised by Sec. 65 of the Landed Estates Court Act, 1858, would yield the annual amount of the annuity. Sects. 51-52.

(*b*) By Order dated 21st Jan., 1904, now embodied in Or. LXII., r. 71, R. S. C., 1905, the Stocks, Funds, and Securities specified therein were authorised by the Rule-making Authority of the Supreme Court for the investment of purchase money under this Section. See *post*, p. 1399. Investments authorised by Rules of Supreme Court.

(*b*) As to procedure by a trustee in order to obtain relief under Sub-sec. 4 of this Section, see Rules of 2nd July, 1910, Order XII. (*post*, p 1373).

(*c*) The word "mortgage," as defined in the Conveyancing Act, 1881, Sec. 2, includes "any charge on any property for securing money or money's worth." This very wide definition has been held by the Court of Appeal, in the case of *Blacker Douglas' Trusts*, [1905] 1 I. R. 532; 5 N I. J. R. 297, to apply to the construction of the present Section; and that Court accordingly held, reversing the decision of PORTER, M.R. [1905], 1 I. R. 532; 5 N. I. J. R 285), that an investment in Kingstown Township 3½ per cent. Stock was authorised by Sub-sec. (a) of this Section, though the Stock referred to was not secured by any specific charge upon property, but its payment was only enforceable by an application to the Court to appoint a Receiver over the township rates ([1905] 1 I. R. 532; 5 N. I. J. R. 297). Mortgages

(*d*) It was held that the words "fully-paid Shares or Stocks of any railway" in clause (f) included ordinary as well as preference shares or stock (*per* PORTER, M.R.): *Blacker Douglas' Trusts*, 5 N. I. J. R. 285, affirmed by C. A. (*dis.* FITZGIBBON, L.J.), [1905] 1 I. R. 532, 5 N. I. J. R. 297.

Colonial and foreign railways were held to be included within the powers of investment conferred by clause (f), provided they were owned by companies created by and incorporated under the law of the United Kingdom: *Blacker Douglas' Trusts*, [1905] 1 I. R. 532; 5 N. I. J. R. 297, the Court of Appeal reversing, on this point, the decision of PORTER, M.R. (5 N. I. J. R. 285). Colonial and foreign railway stocks.

See now Sec. 38 of the Act of 1909 (*post*, p. 1223).

(*e*) The application is made by motion on notice. See Rules, 2nd July, 1910, Order XII. (*post*, p. 1373).

52.—(1) For the purpose of the Land Purchase Acts there shall be a public trustee. Public trustee.

(2) The public trustee shall be a corporation under that name, with perpetual succession and an official seal, and may sue and be sued under that name.

(3) The Lord Lieutenant shall appoint a fit person to the office of public trustee to hold that office during pleasure.

(4) The public trustee shall, out of money provided by Parliament, be paid such salary as the Treasury may sanction.

(5) The public trustee may employ such officers and persons as, subject to the sanction of the Treasury, he may find necessary for the purposes of this Act, and those officers and persons

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shall be remunerated at such rates and in such manner as the Treasury may sanction, and the expenses of and incidental to the office of public trustee shall be paid as part of the expenses of the Land Commission.

(6) No fees shall be payable to the public trustee for any services rendered by him under this Act.

(7) The public trustee shall not incur any liability by reason of any act or thing done by him in good faith in pursuance of the provisions of this Act

(8) The public trustee may hold property jointly with any person or corporation aggregate or sole, and under that name may be entered in the books of any company or person as holder, either alone or jointly with any person, of stock, shares, or securities entered in such books.

(9) The order of the public trustee given under his seal shall be a necessary and sufficient authority to any such company or person for the transfer of any such stock, shares, and securities, so far as respects the interest of the public trustee.

(10) Where any settled land has been purchased by means of an advance (*a*) under the Land Purchase Acts, and there is no trustee of the settlement (*b*), the public trustee may be appointed by the Land Commission to be trustee of the settlement.

(11) Where the trustees of any such settlement refuse or neglect to invest the purchase money in any securities authorised in pursuance of the last preceding section, the tenant for life may apply to the Land Commission to substitute the public trustee for those trustees, and the Land Commission may by order make such substitution accordingly (*c*).

(12) The trustees of any such settlement may apply to the Land Commission to be discharged from their trust, and that the public trustee be appointed in their place, and the Land Commission may, if they think fit, make an order accordingly.

(13) Where the public trustee is appointed trustee of any settlement under the provisions of this section, the Land Commission may make such further or other orders as may be necessary for the purpose of vesting the trust funds in him, or otherwise as the circumstances of the case may require.

(14) The powers conferred on the Land Commission by the foregoing provisions of this section may be exercised by the

Land Judge in any case where the purchase money of land sold under the Land Purchase Acts is distributable or has been distributed by him, and those provisions shall apply accordingly with the substitution of the Land Judge for the Land Commission. Sect. 52-53.

(15) Rules (*d*) may be made by the Land Judge and the Land Commission with the approval of the Lord Lieutenant for the purpose of carrying this section into effect, and for regulating the exercise of the powers and duties of the public trustee, and in particular may provide that the trustee shall, on the request of any person proposing to sell an estate, give an estimate of the probable financial effect of such sale.

(*a*) The jurisdiction of the Land Commission is limited to appointing trustees for the purpose of carrying out sales under the Land Purchase Acts: *Carysfort's Estate*, 39 I. L. T. R. 57; 5 N. I. J. 100.

(*b*) Query: Are the words "there is no trustee of the settlement," to be taken literally, or do they mean "where there is no trustee competent to give a receipt?" See Sec. 60, Settled Land Act, 1882 (*ante*, p. 954).

(*d*) See Public Trustee Rules (*post*, pp. 1400, 1407).

Miscellaneous.

53. Notwithstanding anything in the Land Purchase Acts imposing a limit on advances the following provisions shall have effect:— Limitation on advances in certain cases.

(1) If the tenancy (*f*) in a holding was created after the first day of January in the year nineteen hundred and one (*a*) an advance in respect of the purchase of the holding shall not, together with the amount (if any) of any previous advance under the Land Purchase Acts then unrepaid by the purchaser, exceed five hundred pounds: Provided that, in the case of a holding situate in an administrative county, or in a riding of any such county, which does not comprise a congested districts county, the said limitation may, subject to the other limitations in the Land Purchase Acts, be exceeded where the Land Commission consider that a larger advance may be sanctioned to any purchaser without prejudice to the wants and circumstances of other persons residing in the neighbourhood: Provided also that this section shall not apply

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to the case of a former tenant (*b*), or a person nominated by the Land Commission as his personal representative, purchasing his former holding, or part thereof, or to the case of a tenancy created by the Congested Districts Board.

(2) No advance under the Land Purchase Acts shall be sanctioned by the Land Commission to any one purchaser of land held under a letting made by any Court, or Judge (*c*), exceeding the sum of one thousand pounds, save where the land is resold to the vendor (*d*) of an estate: Provided that the limit in this sub-section may, where the Land Commission consider it expedient under the circumstances mentioned in the preceding sub-section, be extended to two thousand pounds

(3) Nothing in this section shall affect any estate as to which a request by the Land Judge issued to the Land Commission under the said section forty (*e*) prior to the passing of this Act.

(*a*) Except as contained in this Section, there was no restriction in the Land Purchase Acts as to the date when a tenancy commenced or as to the time it had been in existence before an advance could be made to the tenant for purchase. See notes to Land Purchase Act, 1885, Sec 1 (*ante*, pp. 366–7)

Now, no advance can be made if the tenancy was created after 15th Sept., 1909, unless created by the Land Commission or by the Congested Districts Board: Act 1909, Sec. 16 (*post*, p. 1210)

Evicted tenants.

(*b*) By Sec. 2 of this Act (now repealed) (*ante*, p. 1056) evicted tenants were enabled to become purchasers of "parcels of land" of which they might not previously have been in possession at all; and Sec. 53 which gives them, on being reinstated in their former holdings, the same rights of purchase as if their tenancies had never been determined.

See now the Evicted Tenants Act, 1907 (*post*, p. 1183), and Sec. 17, Act 1909 (*post*, p. 1210)

A tenant, pending a Land Judge's matter from 1900, remained in possession after the petition was dismissed in 1902. WYLIE, J., held that the tenancy was created after 1st Jan., 1901, but that the tenant was a "former tenant" within this Section: *Ruttledge's Estate*, [1908] 1 I. R. 18; 41 I. L. T R. 233.

Court tenants

(*c*) This Sub-section very considerably restricts the rights conferred upon Court tenants by the 40th Section of the Act of 1896 (see *ante*, p. 580). In strict law tenants holding under the Court by leases "pending the matter" are not tenants at all. The legal estate vested in the owner is not bound by the lease, though the Court, so long as the owner remains subject to its jurisdiction, will restrain the owner from exercising his strict legal rights Once the cause terminates, however,

the lessee under the Court ceases to have any right to the possession of the lands as against the former owner or the purchaser as the case may be, and the latter may obtain possession by an injunction, without being put to the expense of an ejectment: *O'Connell* v *O'Callaghan*, 3 Ir. Eq. R. 199.

The sale of the lands also determines Court leases, even though they may have been granted for a term of seven years "pending the matter," as is usually the custom, and the sale takes place before the expiration of the term. The purchaser is entitled to immediate possession on the completion of the purchase: *Creed* v *Creed*, 3 Ir. Eq. R. 207. But the former Court tenant is treated as a tenant at will, and under the old law was entitled to emblements: *O'Connell* v. *O'Callaghan*, 3 Ir. Eq. R. 199. Whether he is now entitled to continue in possession until the last gale day of the current year in lieu of emblements under the 34th Section of the Landlord and Tenant Act, 1860, seems to be a little doubtful (see note to that Section, *ante*, p. 67).

A Court tenancy may be determined before the expiration of the term for which it was granted, not only by the determination of the cause, or the sale of the lands, but even by an order discharging the receiver, though the cause remains pending for other purposes. In *Beechey* v. *Smyth*, 11 L R. I. 88, a receiver appointed by the Court was discharged from over portion of the lands containing forty-three acres, with the consent of the only remaining incumbrancer, but without notice to a tenant under the Court who held the forty-three acres with other portions under lease "pending the cause," and it was held by CHATTERTON, V.-C, "that the order discharging the receiver from the forty-three acres had the effect of determining the Court tenancy *in that portion of the lands*, and that the owner was entitled to an apportioned rent in respect of the residue of the lands comprised in the lease." "I am of opinion," says CHATTERTON, V.-C., "that where the possession of the Court by its receiver finally ceases, the cause *quoad* such tenants ceases to be pending. It could not be contended that, if portion of the lands over which a receiver has been appointed are sold in this Court for payment of incumbrances, the purchaser is not entitled to an injunction to put him into possession discharged from such tenancies, though the cause may continue pending as to the unsold lands. Again, where all the lands are sold, and still the cause remains pending to dispose of questions as to rights to the proceeds of the sale, it could not be maintained that the tenancies are to continue till the end of the seven years' term, if such questions so long remain undisposed of. The only reasonable meaning that, in my opinion, can be given to the words 'pending the cause' is so long as the possession assumed by the Court for the purposes of the cause shall continue. That can continue only while the receiver remains over the lands which are the subject of such tenancies" (11 L. R. I., at. pp. 92–93).

Where, therefore, the Estates Commissioners purchase estates in the Court of the Land Judge under Sec. 7 (*ante*, p. 1066), the position of Court tenants in occupation of large holdings on the estate, who are unable to supplement by a payment in cash the comparatively small amount which may, for the future, be advanced to them under this Section, to enable them to purchase, will not be a very favourable one.

See further, as to the position of Court tenants generally, notes to Landlord and Tenant Act, 1860, Sec. 4 (*ante*, p. 13), and Sec. 34 (*ante*, p. 67); to Land Act, 1881, Sec. 58 (*ante*, pp. 361–2), and to Land Act, 1896, Sec. 40 (*ante*, p. 586).

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In *Clarke's Estate*, 4 N. I J. R 1, an agreement entered into by a Court tenant to purchase for £1,000 between 14th Aug, 1903, when the Act passed, and 1st Nov, 1903, when by force of the 102nd Section, *post*, it came into operation, was held by the Court of Appeal to come within the prohibition of this Section.

Where an estate in possession held under lease for a term of 170 years was for sale in the Land Judge's Court, it was proposed by the petitioner to divide it up into lots and to offer for sale by auction a yearly tenancy pending the matter in each lot at a fixed rent, together with the benefit of an agreement to purchase under the Land Purchase Acts at a fixed number of years purchase of this rent. On an objection being made by the landlord (whose head rent would have been compulsorily redeemed under the scheme) to this proposal being carried out, Ross, J, refused to sanction it : *Fleetwood Rynd's Estate*, [1905] 1 I. R. 363; 39 I L T. R. 70; 5 N I J R 136.

(*d*) By the "vendor" is meant here, apparently, the owner of the estate, though in a sale by the Land Judge, the Judge, and not the owner, is strictly speaking, the vendor. In Sec. 3 (2) the distinction is clearly recognised between the *vendor* in the Land Commission and the *former owner* in the Land Judge's Court (see *ante*, p 1057).

(*e*) "The said Section forty" apparently refers to Land Act, 1896, Sec. 40, though that Section or Act is not previously referred to in this Section.

Tenancies "created" after Jan 1st, 1901

(*f*) Every tenancy sold must be a real tenancy and not conditional, or for the purpose of getting money from the State The question of *bona fides* is one of fact for the Estates Commissioners : *Nevin's Estate*, 40 I. L. T. R. 15.

Some difficulty may arise in determining when the tenancy in a holding is "created" in a case where, though the occupation of a tenant is continuous, a change is made in his position as regards his landlord. Thus, where a tenant being in occupation of two distinct holdings entered into an agreement and declaration under Sec. 17 of the Land Act, 1896, consolidating the holdings and fixing a fair rent and a statutory term, it was held by the King's Bench Division that the agreement and declaration operated as a surrender of the old tenancies and as a demise of a new tenancy : *Donovan* v. *Hurley* (4 N. I J. & L. G. R. 81). *Quære*— If this took place after 1st Jan., 1901, would the tenant be prevented from obtaining an advance of more than £500 under this Section ? Again, if the tenant of a future tenancy enters into an agreement and declaration for the creation of a present tenancy in the holding after that date, does the same result follow ? It would seem to be prudent for tenants to avoid such agreements, having regard to the decision in *Donovan* v. *Hurley* (*ubi supra*). On the other hand, it may be argued that, as a tenancy can only be determined legally by the landlord resuming possession under Sec 20 of the Land Act, 1881 (see notes to that Section, *ante*, pp 296–7), the old tenancies, in both these cases, would continue to subsist for the purpose of purchase See further as to when a tenancy is said to be "created" : *Howell* v. *Briscoe*, 20 I. L T. R. 16; 21 I. L. T. R. 73, and note (*j*) to Land Act, 1881, Sec. 57 (*ante*, p. 350).

Where a tenancy has been created since 1st Jan., 1901, and an advance exceeding £500 is applied for, it is the duty of the Purchase Inspector, in his report, to state whether in his opinion this limitation should be exceeded, giving his reasons in accordance with the terms of Sub-sec. 1. See Instructions to Inspectors, No. 16 (*post*, p 1327).

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Restrictions on sub-division and incumbrance of holding

54.—(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 after the commencement of this Act made any advance under the Land Purchase Acts, the following conditions (*a*) shall be imposed, that is to say:—

a. The holding shall not be subdivided (*h*) or let without the consent of the Land Commission, and if the proprietor subdivides or lets the holding, or any part thereof, without such consent, the Land Commission may cause the holding to be sold:

b. Where the title of the holding is divested from the proprietor by bankruptcy (*i*), the Land Commission may cause the holding to be sold:

c. Where on the decease of the proprietor the holding would, by reason of any devise, bequest, intestacy, or otherwise, become subdivided or vested in more than one person, the Land Commission may require the holding to be sold within twelve months (*b*) after they become aware of the death of the proprietor, to some one person, and if default is made in so selling the holding, the Land Commission may cause the holding to be sold:

Provided that the Land Commission instead of requiring or causing a holding to be sold, may, in the prescribed manner (*c*) and on the prescribed request (*d*) by any person interested, nominate some person interested in the holding to be the proprietor of the holding, and provide for the satisfaction of the claims of other persons interested, including any creditors of the deceased, by charging them upon the holding or otherwise.

(2) Not more than one person shall, without the consent of the Land Commission, be registered as the owner of the holding under Part IV. of the Local Registration of Title (Ireland) Act, 1891. 55 & 56 Vict. c. 66.

(3) The proprietor of the holding shall not, without the consent of the Land Commission, mortgage (*j*) or charge the holding, or any part thereof, for any sum or sums exceeding in the aggregate ten times the amount (*k*) of the purchase annuity payable in respect of the holding or part upon the making of the advance, and every instrument of mortgage or

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charge (*e*) on a holding or part thereof by which the holding or part is charged with any larger sum shall be null and void as to the excess. Where part of a holding is mortgaged or charged, the Land Commission shall, for the purpose of this enactment, estimate the amount of the purchase annuity payable in respect of that part. The consent of the Land Commission under this enactment may, in the case of a charge created by a will, be given at any time whether before or after the death of the testator.

(4) Every instrument of mortgage or charge on the holding executed after the commencement of this Act other than a charge under any Public Works Act shall be registered under the Local Registration of Title (Ireland) Act, 1891, as a burden (*f*) affecting that holding, and if not so registered within three months from the date of execution by the mortgagor or chargeant, or, in the case of a charge created by will or codicil, within [(*l*) *six months from the death of the testator*] shall be null and void.

54 & 55 Vict. c 66

(5) Sub-sections two and three of section thirty of the Act of 1881 (*g*), as amended by any enactment, shall apply to proceedings under this section.

(*a*) See additional conditions imposed by Act, 1909, as to the total amount of advances to any one purchaser which can be outstanding and as to cutting down trees, Sec. 32 (*post*, p 1220)

The conditions of this Section are similar to those provided by the 30th Section of the Act of 1881, which, it must be remembered, is still in force, and applies to holdings purchased under this Act (see *ante*, pp. 317–320). There is, however, here no restriction upon alienation, as there was by the 44th Section of the Act of 1870 (see *ante*, pp. 196–7).

When the whole of the advance has been repaid the conditions imposed by this Section, as well as those imposed by Sec. 32 of the Act of 1909, cease to apply. See Sub-sec. 4 of that Section (*post*, p. 1221).

Sub-division on death of proprietor.

(*b*) Clause *d* of Sub-sec. 1 of Sec. 30 of the Act of 1881 (*ante*, p. 318) enables the Land Commission similarly, on sub-division by death, to require the holding to be sold "within twelve months after the death of the proprietor." It was held, *In re Pettigrew*, [1901] 1 I. R. 163, that the Commission might put the Section in force, although more than twelve months had elapsed since the death of the proprietor. The time, however, it will be noted, in this Section runs only from the date when "they become aware of the death."

(*c*) Order XI. of the Rules of 2nd July, 1910 (*post*, p. 1372), lays down the prescribed manner of applications for the nomination of a person interested in a holding as proprietor thereof in lieu of sale upon the decease of the former proprietor.

(*d*) For Form of the prescribed request, see Form 3 to Rules of 2nd July, 1910 (*post*, p. 1378). Sect. 54.

(*e*) The power of mortgaging or charging a holding is considerably restricted by Sub-sec. 3 of this Section, though it was not restrained, except where the mortgage amounted to a subletting, by the Act of 1881. Restriction on power to mortgage or charge a holding.

(*f*) The following are the provisions of the Local Registration of Title Act, 1891 (54 & 55 Vic., c. 66), as to the creation and effect of charges upon registered land :—

By Sec. 40 it is provided that—

"(1) A registered owner of land may, subject to the provisions of this Act, charge the land with the payment of money either with or without interest, and either by way of annuity or otherwise, and the owner of the charge shall be registered as such.

"(2) There shall be executed on the creation of a charge, otherwise than by will, an instrument of charge in the prescribed form, or in such other form as may appear to the registering authority to be sufficient to charge the land, but until the owner of the charge is registered as such, that instrument shall not confer on the owner of the charge any interest in the land.

"(3) On registration of the owner of the charge the registering authority shall deliver to him a certificate of charge in the prescribed form.

"(4) On registration of the owner of a charge on land for the payment of any principal sum of money with or without interest, the instrument of charge shall operate as a mortgage by deed within the meaning of the Conveyancing Acts, 1881, 1882, and the registered owner of the charge shall, for the purpose of enforcing his charge, have all the rights and powers of a mortgagee under a mortgage by deed.

"(5) On registration of the owner of a charge by way of annuity, the owner of the charge shall have such remedies for recovering and compelling payment of the annuity as are described in Sec. 44 of the Conveyancing and Law of Property Act, 1881.

"(6) If the registered owner of a charge on land sells the land in pursuance of any of his powers, his transferee shall be registered as owner of the land, and thereupon the registration shall have the same effect as registration on a transfer for valuable consideration by a registered owner.

"(7) When it is expressed in the instrument of charge that any person covenants for payment of the principal sum charged, there shall be implied a covenant by that person with the registered owner for the time being of the charge to pay the sum charged and interest (if any) thereon at the time and rate specified in the certificate of charge, and also a covenant, if the sum or any part thereof is unpaid at the time so specified, to pay interest half-yearly at the specified rate on so much of the principal sum as for the time being remains unpaid."

And as to equitable deposits, by Sec. 81 (5), that—

"Subject to any registered rights the deposit of a land certificate or certificate of charge shall, for the purpose of creating a lien on the land or charge to which the certificate relates, have the same effect as a deposit of the title deeds of land or of a charge thereon has heretofore had."

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(*g*) See these Sub-sections of the 30th Section of the Act of 1881, and notes thereto (*ante*, pp 318–320)

(*h*) The restriction on sub-division contained in this Section does not apply to lands repurchased by an owner under Sec 3 (*ante*, p. 1057): *Local Registration of Title Act and Freeman*, [1907] 1 I. R. 444, 41 I L. T. R. 178.

(*i*) A bankrupt applied to the Estates Commissioners to be reinstated in a holding as the personal representative of an evicted tenant; he was registered as owner in fee; the official assignees intervened. The C. A. held that the land vested in them under Sec 268 of the Bankruptcy Act, 1857, its operation not being interfered with by Sec. 54 (1): *Doyle, a Bankrupt*, [1906] 2 I. R 538; 40 I. L T R 202 (C. A)

(*j*) Sub-section 3 does not invalidate a judgment mortgage: *Re Roulston*, [1909] 1 I. R 306; nor does it apply to an equitable mortgage by deposit of title deeds: *National Bank* v. *Diffely*, 44 I. L T. R. 19

(*k*) *Semble*, this statutory limit applies to principal only: *Re Roulston*, *ubi sup.*

(*l*) Now twelve months from probate or administration with will annexed, Irish Land Act, 1907, 7 Edw. VII, c. 38, s. 2 (*post*, p. 1182).

Effect of compulsory sale of holding.

55. Where a holding is put up for sale by or at the instance or with the consent of the Land Commission, the holding shall be sold subject to the purchase annuity (if any) and any charge under any Public Works Acts, but discharged from all other claims or incumbrances of all persons whomsoever who are interested in the holding, and all such claims shall as from the date of the sale cease as against the holding and attach to the purchase money in like manner as immediately before the date of the sale they attached to the holding.

As to sales of holdings by the Land Commission, see Land Purchase Act, 1885, Sec. 15, and notes thereto (*ante*, p 384), Land Act, 1887, Sec. 18, and notes thereto (*ante*, pp. 428–9); Land Purchase Act, 1891, Sec. 25, and notes thereto (*ante*, p. 480); Land Act, 1896, Sec. 38, and notes thereto (*ante*, p. 578).

As to the distribution of the proceeds of the sale, by the Land Commission, of a holding which is subject to a purchase annuity, see Order II., Rules 27th Feb., 1909, St. R. & O., 1909, No. 196 (*post*, p. 1357).

As to sales in Congested Districts, Land Purchase Act, 1891, Sec. 37 (5) (*ante*, p. 489), see also the incorporated Sections of the Conveyancing Act, 1881 (*ante*, pp. 947–9).

The Land Commission, whenever they are entitled to cause a holding to be sold, can apply to the High Court for an order to put them into possession under the 25th Section of the Land Purchase Act, 1891 (*ante*, p. 480). See Rules and Forms thereunder (*ante*, pp. 612–613).

Where a holding has been sold by, or at the suit of, the Land Commission, they may issue an order to the sheriff to put the purchaser into possession. See Land Act, 1887, Sec. 21 (*ante*, p. 430); Land Purchase Rules of March, 1897, Order XLVIII. (*ante*, pp 865–6), and Forms 45 and 46 (*ante*, pp. 897–8).

Where a holding is put up for sale and not sold, the Commission may now also issue an order to the sheriff to put any person nominated by them into possession (Sec. 65, *post*, p. 1146).

Maps and information to be furnished to Land Commission

56.—(1) The Commissioner of Valuation and Boundary Surveyor shall—

a. furnish the Land Commission with such maps as they may request to be furnished with; and

b. so soon as he is aware of the subdivision or letting of a holding in respect of which an advance under the Land Purchase Acts has been made, give information to the Land Commission in the prescribed manner of such letting or subdivision.

(2) When any collector of poor rate becomes aware of any subdivision or letting of any such holding he shall, as soon as may be, give information thereof to the Commissioner of Valuation and Boundary Surveyor.

(3) The district registrar of births and deaths shall, as soon as he is aware of the death of any person who was at the time of his death the proprietor of any such holding, situate in whole or in part within his district, give information to the Land Commission in the prescribed manner of such death.

(4) Every district registrar and collector of poor rates who wilfully neglects to comply with the requirements of this section shall be liable on summary conviction to a fine not exceeding two pounds.

(5) The Lord Lieutenant may make rules for carrying into effect the objects of this section, and those rules (*a*) while in force shall have effect as if enacted in this Act.

(*a*) See Rules 29th Aug, 1904, St. R. & O., 1904, No. 1,542, as to furnishing information of death of tenant purchaser to the Land Commissioner and information as to subdivision to the Commissioner of Valuation (*post*, p. 1408).

Liability for interest on purchase money in case of proceedings before Land Judge.

57. Section thirty-five of the Act of 1896 (*a*) shall apply in the case of sales to tenants under the Land Purchase Acts in proceedings before the Land Judge, with the following modifications:—

(1) The date on which interest on the purchase money shall begin to be repayable shall be—

a. where the sales are being effected under section forty of the Act of 1896 (*b*), the date of the order of the

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Land Judge directing the offers of the sale of the holdings to be made to tenants;

b. Where the sales are being effected under other provisions of the Land Purchase Acts, the date of the order of the Land Judge accepting the offer of the tenants:

(2) Such interest shall be calculated on so much of the purchase money as is being advanced by the Land Commission, and shall be paid to and be collected and recoverable by the Land Commission, and sub-section two of section thirty-five of the Act of 1896 shall apply accordingly with the substitution of the date of the said order of the Land Judge for the date of the agreement in the said sub-section mentioned, and with the modifications in this section mentioned.

(3) The portion of such interest not liable to be applied under section twenty of the Act of 1887 (*c*), shall be paid to such person, or lodged to such account, as the Land Judge may direct:

(4) Where an offer of the Land Judge for a sale of a holding to the tenant thereof is accepted, not more than one year's arrears of rent shall be recoverable from that tenant (*d*):

(5) For the purposes of this section the word "landlord" in sub-section two of section thirty-five of the Act of 1896 shall include a receiver appointed in any action or matter.

(*a*) See Land Act, 1896, Sec. 35, and notes thereto (*ante*, pp. 575–6), and as to the application of that Section in cases where estates are purchased by the Estates Commissioners, Sec. 18 (3) (*ante*, p. 1085).

(*b*) See Land Act, 1896, Sec. 40 (*ante*, pp. 579–581).

(*c*) See Land Act, 1887, Sec 20 (*ante*, pp. 429–430).

(*d*) As to the tenant's liability to pay rent and arrears in proceedings under the 40th Section of the Act of 1896, see *Blake's Estate*, 37 I. L. T. R. 37; 3 N. I. J. R. 170, and note (*l*) to that Section (*ante*, p 585).

Arrears of rent recoverable.

The meaning of Sub-sec. 4 of this Section is not clear. The offer of the Land Judge to sell under the 40th Section of the Act of 1896 must be an offer to sell the fee-simple of the holding, "discharged from the arrears of rent then due," and the words "then due" have been held by the Court of Appeal to refer to the date of the communication of the offer to the tenants by the Land Commission: *Blake's Estate*, 37 I L. T R 37; 3 N. I. J. R. 170.

Where the Land Judge accepted the offer of the tenant and the tenant agreed to pay interest on the advance for twelve months preceding the acceptance of the offer, such interest was recoverable as "not more than one year's arrears of rent": *Wolfe's Estate*, 41 I L. T. R. 72

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Amendment of 59 & 60 Vict c. 47, s 40, with respect to report of Land Commission and certain Court lettings

58.—(1) The report mentioned in paragraph (*a*) of sub-section one of section forty of the Act of 1896 shall be made by one commissioner instead of two commissioners, and, where the Land Judge refers such report to the Land Commission for reconsideration, the same shall be reconsidered by three commissioners, who shall have power to confirm or vary the same or to make a new report, but, save as provided by this section, the terms and conditions contained in the report shall not be varied without the consent of the Land Judge.

(2) Paragraph (*b*) of sub-section one of the said section forty shall not, unless the Land Judge so directs, apply in the case of a person in occupation under a letting, made by the Land Judge or Receiver Judge, of a holding comprising demesne land or land suitable for building sites in the neighbourhood of a town or village.

(3) Where the Land Commission report that they cannot sanction advances in respect of three-fourths in number and rateable value of the holdings on an estate, the Land Judge may, if he thinks fit, make an order declaring that the provisions of the said section forty shall not apply to that estate, and that section shall thereupon cease to apply.

[Until this Act passed the 40th Section of the Act of 1896 was deemed to apply to all classes of agricultural holdings, whether excluded from the Land Law Acts or not. See note (*l*) to the Section referred to (*ante*, pp. 585–6). See, however, *Harrison's Estate*, [1900] 1 I. R. 139; 33 I. L. T. R. 137.]

Power to dispense with requirements respecting rights, boundaries, easements, &c.

21 & 22 Vict. c. c. 72.

59. For the purpose of facilitating sales under the Land Purchase Acts, the Land Judge may, if he thinks fit, subject to such conditions as may be prescribed by rules under section twenty-three of the Act of 1896, dispense with all or any of the requirements in sections fifty-four, fifty-five, and sixty-one of the Landed Estates Court (Ireland) Act, 1858, with respect to the ascertainment of rights, easements, and boundaries.

The object aimed at by this Section has been already partly secured by the 34th Section of the Act of 1896. (See *ante*, pp. 574–5.)

Power to ratify exchange of land in certain cases. 21 & 22 Vict. c. 49

60.—(1) Where, in the course of proceedings for the sale under the Landed Estates Court (Ireland) Act, 1858, or the Land Purchase Acts, of an estate, it appears that the owner or any tenants of holdings on the estate are in occupation of portions of an adjoining estate, and that the owner or any

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tenants of holdings on the adjoining estate are in occupation of portions of the first mentioned estate, whether such exchange of occupation is the result of an agreement or is occasioned by the alteration of the course of a stream, or otherwise, the Land Judge or the Judicial Commissioner, as the case may be, may, if he thinks it expedient, with the consent of the owners of the respective estates, or on notice in the prescribed manner to the owners and giving them an opportunity of being heard, make an order ratifying the exchange (*a*), and the order or a map or plan annexed thereto shall show the lands given and taken in exchange respectively.

(2) The land taken upon any such exchange shall be deemed to be held by the same tenure, and shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts and be subject to the same rents, conditions, charges, and incumbrances, as the land given upon such exchange would have stood limited upon and been subject to if the order had not been made; and the land given upon such exchange shall be deemed to be held by the same tenure, and shall without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same rents, conditions, charges, and incumbrances as the land taken upon such exchange would have stood limited upon and been subject to if the Order had not been made.

(3) All rights and remedies for recovery of rents payable in respect of either portions of the lands so exchanged shall be exerciseable in respect of, and may be pursued against, the lands given or taken upon such exchange, as the case may be, in the same manner as they might theretofore have been exercised or pursued against the lands originally liable thereto.

(*a*) The procedure to be followed, in order to obtain an order of ratification of exchange of land under Sub-sec 1 of this Section, is prescribed for the Land Commission by Rules of 2nd July, 1910, Order XIII. (*post*, p. 1373), and for the Land Judge's Court by Rules of 13th Feb., 1905 (*post*, p. 1390).

Apportionment of quit and Crown rents

61.—(1) If any land the subject of proceedings for sale (*e*) under the Land Purchase Acts is liable, in conjunction with other lands, to any quit rent, or other perpetual rent payable to the Crown, the Commissioners of Woods may apportion

such rent upon or amongst the several lands liable to the payment thereof, or upon or amongst any part or parts of those lands in exoneration of the remainder thereof, or may charge the whole of any such rent on any part of the lands charged therewith in exoneration of the remainder of those lands.

(2) For the purpose of apportionment or exclusive charge under this section, when any such rent or any portion thereof has been for a period of not less than twenty years, or is under the provisions of any contract, paid in respect of any lands, such rent, or portion thereof, as the case may be, shall be deemed to be charged on those lands whether originally so charged or not (*a*).

(3) Every such apportionment or exclusive charge shall be binding on the Crown and on every person, and the apportioned parts of any such rent, or any such rent so exclusively charged, shall thenceforth be issuing out of and chargeable upon the lands whereon the same may be apportioned or exclusively charged (*b*).

(4) No such apportionment or exclusive charge shall in any manner prejudice or affect any reversion or remainder of the Crown in any lands originally charged with any such rent so apportioned or exclusively charged, nor shall the sale of any apportioned part of a rent, or of a rent so exclusively charged, or of any interest of the Crown in reversion or remainder in the same land, affect the right or interest of the Crown in any other part of the lands originally charged with any rent so apportioned or exclusively charged, either as regards the part of any rent charged upon those lands and remaining unsold, or the interest in remainder or reversion, of the Crown in those lands, or otherwise.

(5) Where such appointment or exclusive charge has been made a certificate shall be issued under the hand of the Commissioners of Woods, setting forth the terms thereof, and that certificate shall be conclusive evidence of those terms, and of the liability of the lands mentioned therein, to the rent or part of a rent so exclusively charged or apportioned thereon. A duplicate of the certificate shall be deposited in the Public Record Office in Dublin.

(6) The Commissioners of Woods may remit for the determination, under the powers conferred by any existing enact-

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ment, of the Land Judge or a Judicial Commissioner, any case under this section involving a question of law, or other question which those commissioners are unwilling to determine (*c*).

(7) Rules for the purpose of this section shall be made by the Commissioners of Woods, with the approval of the Lord Chancellor, the Land Judge, and the Judicial Commissioner (*d*).

Presumption of lost deed to explain payments of quit rents

(*a*) It is a general principle of the law to give effect to whatever has been established for a considerable period of time, and to presume a legal origin where there is a long-continued usage, even though such usage may be at variance with the express terms of deeds purporting to regulate the rights of the parties. "The law presumes that what has been notoriously done and acquiesced in for a great number of years has been done of right and not of wrong; and if a deed, a licence, or an agreement were necessary to enable it to be done of right, it will presume the existence at some time of such deed, licence, or agreement." Per Ross, J., *Bomford's Estate*, [1904] 1 I. R., at p. 479. In that case it appeared that lands were held under fee-farm grants of 1708 and 1710, which contained express covenants by the grantors to pay the quit rent. Notwithstanding these covenants, however, the quit rent had, since 1780, been, as a matter of fact, paid by the owners of the grantees' interest. The Court of Appeal held, affirming the judgment of Ross, J, that, in the absence of any explanation of these payments being made by parties not liable thereto for so long a period, a lost grant must be presumed rendering them liable to make them: *Bomford's Estate*, [1904] 1 I. R. 474. This decision was not made under this Section, but the principle of it is clearly recognised by Sub-sec 2 as to apportionment.

Similarly where quit rents had been paid in certain proportions for a period of more than forty years, MEREDITH, J., presumed the existence of a lost deed between the parties dividing the rents in such proportions: *Blake's Estate*, 6 I. W. L. R. 54.

Exclusive charge, when made.

But it must be shown that the payments actually made were made "in respect of" some particular lands, other than those being sold in the matter, otherwise no exclusive charge can be made under this Section. Thus, where a large landed proprietor and his predecessors-in-title had, through inadvertence, continued to pay a Crown rent long after their interest in the lands comprised in the patent had determined, but it did not appear that the Crown rent was paid in respect of any particular lands other than those sold in the matter, it was held by MEREDITH, J., that no order of exclusive charge could be made under this Section: *Keating's Estate*, 39 I. L. T. R. 235, following an unreported decision of Ross, J., in *Murphy's Estate* (22nd July, 1904).

Apportionment of quit and Crown rents.

(*b*) The Land Commission has power under the 15th Section of the Land Act, 1887 (*ante*, pp. 420–1), to apportion quit and Crown rents, but not without the previous consent of the Commissioners of Woods and Forests. Similar power is conferred on the Land Judge by Sec. 68 of the Landed Estates Court Act, 1858 (*ante*, p. 940). But under the Rules of 13th Feb., 1905, Order III., r. 1 (*post*, p 1391), no application for the apportionment of a quit or Crown rent can be made to the Land Judge without special leave. See also Crown Lands Act, 1894 (57 & 58 Vic., c. 43); Sec. 12; *In re Marti*, [1900] 2 I. R. 259; *Blake's Estate*, 6 I. W. L. R. 58; *Longworth's*

Estate, 7 I. W. L. R. 57; and note (*e*) to Land Act, 1887, Sec. 15 (*ante*, p. 423).

No application to the Land Commission for the apportionment of any quit rent or other perpetual rent payable to the Crown, to which the provisions of this Section apply, can now be made without the leave of the Commissioner. Rules of 2nd July, 1910, Order VIII., rule 2 (*post*, p. 1366).

(*c*) As to the procedure for the determination of a question of law remitted to the Land Judge or a Judicial Commissioner by the Commissioners of Woods under this Section, see, as to the former, Rules of 13th Feb., 1905 (*post*, p. 1391), and, as to the latter, Rules of 2nd July, 1910, Order VIII., rule 3 (*post*, p. 1366).

(*d*) Rules under this Section were issued by the Commissioner of Woods on 17th Oct., 1903 (see *post*, p. 1394). See also Rules, 22nd April, 1907, St. R. & O., 1907, No. 378 (*post*, p. 1396).

(*e*) The Crown Lands Act, 1906 (6 Edw. VII., c. 28), Sec. 8, provides that "the powers relating to the apportionment and charging of quit rents and other perpetual rents payable to the Crown in respect of land in Ireland conferred on the Commissioner of Woods by Sec. 61 of the Irish Land Act, 1903, may at the request of the owner of any land liable to any such rent, be exercised by the Commissioners, although no part of the land liable to the rent is the subject of proceedings for sale under the Land Purchase Acts as defined by the Irish Land Act, 1903, and the said Section shall apply accordingly."

Section 9 of the same Act provides that after the expiration of sixty years from the time when such rent was last received the right of the Crown to the rent and arrears shall be extinguished.

As to Crown Land Revenues generally, see 42 I. L. T., p. 156.

As to apportionment of tithe rentcharge upon a division of lands by sale or otherwise, the Irish Church Act Amendment No. 2, 1872 (35 & 36 Vic., c. 90), Sec. 6 (4), provides as follows:—"It shall and may be lawful for any owner or his legal representatives at any time after the passing of this Act, upon a division of the lands held by him or them, either by sale or otherwise (except by lease or demise at a rack rent), to make an application in writing to the Commissioners signifying the desire of such applicant that the tithe rent-charges, payable half-yearly, and chargeable on such lands by said statement [*i.e.*, a statement, 1st Nov., 1871, under the seal of the Commissioners, of amount of annual tithe rentcharges and of the owners chargeable therewith], or the annual rent-charges substituted for them under Sec. 32 of the principal Act [*i.e.*, the Irish Church Act, 1869] or Sec. 7 of this Act, then charged or chargeable on such lands by the merging order issued by the Commissioners, pursuant to the said Section, shall be divided and apportioned upon parts of such lands, or shall be charged upon certain of such lands, exempting the residue from any liability in respect of the said rentcharge, and thereupon in each and every such case the said Commissioners shall, and they are hereby authorised and required, by order, to divide or apportion the whole or any part of the said tithe rentcharges, or rentcharges in lieu thereof, as aforesaid, in such manner and proportions as by such application may be required, regard being had to the security of the several parts or proportions of such rentcharges, and after such apportionment the tithe or other rentcharges so apportioned shall be charged and payable in such parts and proportions and chargeable only upon such proportions of the said lands as shall be so declared by the Commis-

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sioners' order to be liable to the payment thereof respectively, and said original merging order and all apportionment orders under seal of the Commissioners, shall be deemed and shall be conclusive evidence of the liability to the said rentcharge of the land set forth in said orders respectively."

By Sec. 7 the Commissioners are empowered to sell any rentcharge in lieu of tithes vested in them to the owner of the land charged therewith for twenty-two and a half years' purchase of such rentcharge less poor rates.

As to superior interest where security sufficient.

62.—(1) Where any land sold under the Land Purchase Acts is subject, in conjunction with other lands, to any superior interest (*a*), and the Court is satisfied that, for a period of not less than twenty years prior to the sale, no payment has been made in respect of that interest (*f*) by the owner of the land sold, and that the other lands subject thereto are a sufficient security (*g*) therefor, the purchase money of such land may be distributed without regard thereto (*b*).

(2) Where in the like case the Court is satisfied that, for a period of not less than twenty years prior to the sale, payment in respect of a portion only of the superior interest has been made by the owner of the land sold, and that the other lands are a sufficient security for the balance thereof, the purchase money of the land sold may be distributed without regard to that balance.

(3) Where (*h*) in the like case (*i*) the Court is satisfied that the land sold is entitled to be indemnified (*c*) against any claim in respect of a superior interest by other lands, and that the other lands are a sufficient security therefor, the Court may, upon such terms (if any) and in such manner as appears equitable, exclusively charge (*d*) the whole of the superior interest upon the other lands.

(4) The foregoing provisions of this section shall apply with the necessary modifications to any superior interest or portion thereof affecting the land sold, or to the redemption money of such interest or portion, as if the same were land sold.

(5) This section shall not apply to any reversion or estate expectant on the determination of an estate tail or a base fee which is vested in the Crown (*e*).

(*a*) As to "superior interests" generally, see Land Act, 1896, Sec. 31, and notes thereto (*ante*, pp. 567–572); and as to their apportionment and redemption, see Land Act, 1887, Secs. 15 and 16, and notes thereto (*ante*, pp. 420–428). The redemption price for the future will in all cases be fixed by the Judicial Commis-

sioner or the Land Judge, as the case may be, the cumbrous procedure by arbitration under the latter Section being abolished by Sec. 64 (*post*, p. 1141). Sect. 62.

Arrears of rent due to an immediate landlord were held by PALLES, C.B., to be a superior interest: *Burchael* v. *Coyle*, 37 I. L. T. R. 176. But see *Macfarlane* v. *Booth*, [1910] 2 I. R. 12, where the Court declined to decide the point.

Where a superior interest is "of no appreciable value," the purchase money may be distributed without regard to it: Land Act, 1896, Sec. 31 (5). See cases cited in note (*h*) to that Section (*ante*, p. 571). Similar power exists where there is a contingent liability of no appreciable value: Land Act, 1896, Sec. 33 (3) (*ante*, p. 573).

A claim on foot of a superior interest, such as tithe rentcharge, which is barred by the Statute of Limitations, may be disallowed on allocation, though no order can be made under this Section or under Sec. 31 of the Act of 1896: *Marquis of Waterford's Estate*, 5 N. I. J. R. 144. Superior interest barred by Statute of Limitations

As to the payment of the redemption price of superior interests where the amount is small, see Sec. 63 (*post*, p. 1140).

(*b*) An application to have the purchase money distributed without regard to a superior interest under this Sub-section should be made by motion on notice. For procedure in the Land Judge's Court, see Rules of 13th Feb., 1905, Order III., rule 4 (*post*, p. 1391). In the Land Commission the procedure is regulated by Order VIII., rule 5, of the Rules of 2nd July, 1910 (*post*, p. 1367).

The Section applies to ecclesiastical tithe rentcharge, notwithstanding the 7th Section of the Tithe Rentcharge Act, 1900: *Hartigan's Estate*, 38 I. L. T. R 214. It applies also to lay or impropriate tithe rentcharge: *O'Conor's Estate*, 38 I. L. T. R. 256.

As to apportionment of tithe rent-charge upon a division of lands by sale or otherwise, see Irish Church Act, 1872 (35 & 36 Vic., c. 90), Sec. 6 (4) (*ante*, p. 1137), note *f*. As to presumption of release of unpaid rent in certain cases see Act, 1909, Sec. 41 (*post*, p. 1225).

(*c*) Where portion of lands charged with a superior interest was entitled to be indemnified against the entire head rent or charge by another portion, considerable difficulty formerly arose, on the sale of either portion to the tenants under the Land Purchase Acts, in adjusting the rights of all the parties Where the *indemnified lands* were sold, power was conferred by Sec 33 (4) of the Act of 1896 if the superior interest was apportioned and the apportioned part redeemed to vest in the former owner of the indemnified lands the right to receive the proportion of the superior interest so redeemed "in like manner as if he had purchased the same." Sale of indemnified lands.

The House of Lords, in *De Vesci* v. *O'Connell*, [1908] A. C. 298; [1908] 1 I R. 452, on appeal from the C. A.; [1907] 1 I. R. 311, *sub nom Thompson's Estate*, restored the decision of ROSS, J., *ib.* 191, and held the owner of the purchase money entitled as between him and the owner of the indemnifying lands to the proportion of the annuity, rentcharge or rent so redeemed. The payment of the redemption price creates, in favour of the payer, a rent on the indemnifying lands equal to the portion of the rent which has been redeemed. It ranks after the unredeemed portion of the head rent.

For form of order making provision for the future payment of the rent, see *Kennedy's Estate*, [1902] 1 I. R. 364; 34 I. L. T. R. 212. Where the incumbrancers

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are not paid in full, as in *Mulchinock's Estate*, [1903] I. R 142, the first unpaid incumbrancer will be declared entitled to the proportion of the rent redeemed subject to redemption by the mortgagor.

The procedure under Sec. 33 (4) of the Act of 1896 (*ante*, p. 573), it is conceived must still be adopted where, in the opinion of the Court, the indemnifying lands are *not* a sufficient security for the entire rent or charge. If the indemnifying lands are a sufficient security for the entire rent or charge, the simpler procedure of this Sub-section may be resorted to.

Indemnifying lands

As to the rights of the parties in the converse case, when the *indemnifying lands* are being sold, see *D'Arcy Irvine's Estate*, [1903] 1 I R 41; 36 I L. T R 213; 3 N. I J R 64; 5 Greer 123.

Procedure

(*d*) As to the procedure for obtaining an order for an exclusive charge under this Section in the Land Judge's Court, see Rules of 13th Feb., 1905, Order III., rule 4 (*post*, p. 1391); and in the Land Commission, Rules of 2nd July, 1910, Order VIII, rule 5 (*post*, p. 1367); and as to the circumstances under which such an order will be made, see *O'Keeffe's Estate*, 39 I. L T. R. 83. Evidence of the value of the indemnifying lands is required: *Doran's Estate*, 39 I. L. T. R. 230; 5 N. I J. R. 263

Crown reversions.

(*e*) A crown reversion, expectant on the determination of an estate tail or a base fee, can now, however, be redeemed as a "superior interest" See Sec. 98 (2) and note thereto (*post*, p 1167). Formerly the vendor was obliged to purchase it at a price fixed by the Commissioners of Woods and Forests. See note (*k*) to the Land Act, 1896, Sec. 31 (*ante*, p. 572); *Fischer's Estate*, [1901] 1 I. R. 377; *Murphy's Estate*, 34 I. L T R 42 (C. A.); and *Re Costello*, 33 I. L. T. R. 73.

(*f*) An averment to this effect is essential in the affidavit grounding the application for an order under this Section

Where lands sold under the Act of 1903 had been held by the vendor under a fee-farm grant reserving one penny a year if demanded, and certain superior interests affected the lands, but nothing had been paid in respect of these superior interests or of the said rent, the purchase money was paid out to the vendor's personal representative: *Nevin's Estate*, 40 I. L T. R. 184

(*g*) The rental of the other lands should be verified.

(*h*) Sub-section 3 applies to cases where payment has been made within twenty years: *Birmingham's Estate*, 41 I. L. T. R. 16

(*i*) The Sub-section applies only where the lands sold and the other lands are subject to the same superior interest: *Boland's Estate*, [1907] 1 I. R 21; 40 I. L. T. R. 260.

Superior interests not exceeding certain amounts

63.—(1) Where any superior interest, or an apportioned part thereof, is redeemed under the Land Purchase Acts, and the redemption price does not exceed thirty pounds, it may be paid to the person in possession (*a*) or in receipt of the income of the superior interest for his own benefit, or, in case of the incapacity of such person, to the guardian, committee, husband, or trustee, as the case may be, of such person.

(2) If the redemption price exceeds thirty pounds, but does

not exceed one hundred pounds (*d*), it may be paid to the person in possession or in receipt of the income of the superior interest, or to trustees to be appointed or approved by the Land Commission, or the Land Judge, as the case may be, upon the undertaking in the prescribed manner (*c*) of such person, or of such trustees, to apply the redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890 (*b*).

(*a*) As to the vouching of title to superior interests, see Rules of March, 1897, Order XX., rule 16 (*ante*, p. 834), and directions 27th Feb., 1909, St. R. & O., 1909, No. 196* (*post*, p 1359)

In the case of small amounts within the limit of this Sub-section it is probable that the necessity of making title will be dispensed with.

In many instances it has transpired that several superior interests (rents or impropriate tithe rentcharges) redeemed in different estates were held under one common title and subject to the same incumbrances. In such cases an account has been opened in the books of the Accountant entitled "In the matter of the fee-farm and other rents [and impropriate tithe rentcharges] formerly payable to *A. B.*," and the redemption prices of all such superior interests are transferred to that matter, and are distributed on a schedule prepared therein after title has been shown. In such cases redemption prices not exceeding the amounts mentioned in this Section are usually transferred to the credit of the matter so constituted and disposed of therein.

(*b*) See Settled Land Act, 1882, Sec. 21 (*ante*, pp. 950–1).

(*c*) For prescribed form in the Land Judge's Court, see Appendix to Rules of 13th Feb., 1905 (*post*, p. 1392), and in the Land Commission, see Rules of 2nd July, 1910, Order VIII., rule 6 (*post*, p. 1367), and Form 1 prescribed by that Rule (*post*, p. 1377).

(*d*) The owner of an intervening superior interest is entitled to the costs of proving his title, though after redeeming a head superior interest the net sum coming to him does not exceed £100: *Leader's Estate*, 44 I. L. T. R. 66.

Amendment of 50 & 51 Vict. c. 33, s. 16 (3), as to fixing redemption price

64. Notwithstanding anything in sub-section (3) of section sixteen of the Act of 1887, if the parties do not within the prescribed time (*a*) agree upon the redemption price of a superior interest, that price shall be determined by the Judicial Commissioner or the Land Judge as the case may be.

*Jurisdiction to apportion and redeem tithe rentcharge, head rents, &c., was first conferred upon the Land Commission by Land Act, 1887, Secs. 15 and 16 (*ante*, pp. 420–428). Similar powers were conferred upon the Land Judge by Sec. 31 (4) of the Act of 1896 (*ante*, pp. 567–8). He has power to review an order fixing a redemption price of an annuity under that Section by virtue of the Landed Estates Court Act, 1858, Sec. 39: *Ogilby's Estate*, 5 N. I. J. R. 210.

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An application for apportionment or redemption will not be heard until the advance has been made.

Compulsory redemption of superior interest.

All superior interests, as defined by Land Act, 1896, Sec 31 (8) (*ante*, p. 568), and Sec 98 (2) of this Act (*post*, p. 1167), can now be redeemed compulsorily at a price to be fixed by the Judicial Commissioner or the Land Judge, except quit and crown rents, the price of which is fixed by the Commissioner of Woods with the authority of the Treasury. Twenty-five years' purchase has usually been accepted. A crown reversion can, however, be redeemed without the consent of the Commissioner of Woods: *Paul's Estate*, 40 I L. T R. 23.

Under Sec 16 (3) of the Act of 1887, the owner of the superior interest was entitled to require the price of any annuity, rentcharge, or rent to be fixed by arbitration. The last paragraph of that Sub-section is now repealed by the Schedule to this Act There was no such right to arbitration in respect of crown rents, quit rents, or tithe rentcharges under Sec. 15 of the same Act. (See *ante*, pp. 420-1)

Principles of valuation.

In *Leader's Estate*, [1904] 1 I R. 368; 38 I. L. T. R. 197; 5 N. I. J. R. 21, the principles to be followed in fixing the redemption price of a superior interest were fully considered by the Court of Appeal on an appeal from an order of Ross, J., fixing the redemption price of a head rent of £94 8s 6d. at 27½ years' purchase The Court of Appeal held that the redemption price of the rent ought to be fixed at the price or sum which appears, upon the due consideration of all the circumstances of the case, of the selling prices of similar interests, of the value of money, and of the fact that the redemption is compulsory, to be the fair value thereof. But that the amount of the said price ought not to be affected by the consideration of indemnifying the owner of the said rent against loss of income by reason of the difference between the annual amount of the said rent and the annual income of any investment or class of investments in which the redemption money might be invested.

In the subsequent case of *Close's Estate*, [1905] 1 I. R. 207, 371; 39 I. L. T. R. 26 (L.C.); 5 N. I. J. R 89, 249 (C A.), the principles upon which the purchase price of a head rent should be fixed, upon compulsory redemption, under the Land Purchase Acts were again fully considered both in the Land Commission and in the Court of Appeal. The main contention put forward by the owners of the head rent (Trinity College) in that case was that the purchase price to be paid for a superior interest should be such a sum as would enable the owner to purchase an investment equally secure, producing an income equal to that of the superior interest, together with a small addition by reason of the purchase being compulsory. To this contention the Court of Appeal assented, PALLES, C.B., saying that he saw nothing in it inconsistent with the principles laid down in *Leader's Estate*, [1904] 1 I. R. 368; 38 I L. T. R 197; 5 N. I. J. R. 21. "I have no hesitation in stating my opinion," said he, "that the principle of valuation to be adopted in all cases of compulsory purchase should be uniform, unless a special intention to the contrary is apparent from the Act imposing the obligation to sell, and that as no such special intention is shown by either the Lands Clauses Acts or our Land Purchase Acts, the principle of valuation under the latter should be identical with that which has been well established under the former. The foundation of that principle was not any particular words in the Lands Clauses Acts That which was to be ascertained under them was, as is pointed out by

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the EARL OF HALSBURY, L.C., in *The Inland Revenue Commissioners* v. *Glasgow and South Western Railway* (12 App. Cas. 315), 'the *value* of the lands so to be purchased.' Here, as there, the expropriated owner is to receive the *value* of that of which he has been deprived; and the principle of valuation is that which is mentioned by FITZGIBBON, L.J., in *Leader's Estate*, [1904] 1 I. R. 368, as applicable there; that which I understand to be that insisted upon by Mr. Ronan, that the price is to be the purchase money of an *equally secure investment*, which would produce an annual *return* to the owner *equal to his annual income*, this purchase money to be increased by a small addition by reason of the purchase being compulsory. Were the thing in question such that something practically identical with it could be obtained at a money price—in other words, were it something for which there is an open market—the *value* would be the price at which that identical thing could be obtained in the market. When, as is admitted to be the case here, there is no market for the particular thing, but that thing consists of money—viz., a rent or annuity—the price must be that of a thing similar in all material respects—*i.e.*, similar in amount and similar in security" ([1905] 1 I. R., at pp. 380–381).

The subject-matter to be valued, however, is the estate in the lands sold of which the owner of the head rent was seised at the moment of the sale, not, as was contended by the appellants in *Close's Estate* (*ubi sup.*), a perpetual annuity payable out of the purchase money lodged in Court of an amount equal to the appellants' previous income (*per* PALLES, C B., [1905] 1 I. R., at p. 381).

The special circumstances of a particular owner and the limitations he is under as to the application or investment of the purchase money are not matters to be taken into consideration in fixing the redemption price of a superior interest. This was held to be so by the Court of Appeal as regards Trinity College in *Close's Estate*, [1905] 1 I. R. 207, 371; 39 I. L. T. R. 26; 5 N. I. J. R. 89, 249. So, also, it was held by MEREDITH, J., that the fact that the superior interest was in settlement was not a reason for giving a higher price than if the person entitled thereto were an absolute owner: *St. George's Estate*, 5 N. I. J. R. 105.

Where the redemption price of a head rent was consented to by the trustees of a settlement, but objected to by the tenant-for-life, the Court fixed the price without regard to the consent: *Taylor's Estate*, 41 I. L. T. R. 85.

Receivers' fees of 6d. in the pound, which had been provided for in a fee-farm grant, but which had never been paid from the date of the grant in 1851, were disregarded in fixing the redemption price, WYLIE, J., stating that he would, if necessary, presume a deed of release: *Gallwey's Estate*, 42 I. L. T. R. 55.

Where rent has been apportioned between lands sold and other lands liable, in estimating the security for the purpose of fixing the redemption price, the Court will treat it as a separate rent issuing out of the lands on which it has been apportioned: *Strong's Estate*, [1906] 1 I. R. 550; 40 I. L. T. R. 200.

The personal covenant by the original grantee to pay the rent, if of appreciable value, is an element to be taken into consideration in fixing the redemption price: *Strong's Estate, ubi sup.*

Actual prices fixed.

The actual price fixed in each case depends mainly upon the margin of security. If the amount of the head rent or rentcharge to be redeemed is small in comparison to the net rental or poor law valuation of the lands, a high price will be fixed. Thus, twenty-six years' purchase of a well-secured head rent was allowed

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by MEREDITH, J., in the case of *Scottish Equitable Assurance Society's Estate*, 5 N. I. J R. 141, twenty-seven and a half years' purchase was given in *Prentice's Estate*, 40 I. L T. R. 244.

In *St George's Estate*, 5 N. I. J. R 105, on the other hand, where the margin of security was comparatively narrow, the redemption price of a fee-farm rent of £340 was fixed at £8,000, being about twenty-three and a half years' purchase.

Where a renewable lease provided penalties for non-payment of renewal fines the owners were held entitled to the penalties, and on redemption were not compelled to accept only the septennial fines accrued since the vesting of the lessor's interest · *Marshall's Estate*, 41 I L. T. R. 220.

In fixing the redemption price of an annuity by way of jointure or otherwise, the element of compulsion should be taken into account in the same manner as in redeeming head rents: *Redmond's Estate*, 38 I. L. T. R 248. The principle is a general one applying to all kinds of superior interests.

But see, as to the price of land compulsorily acquired under the Act of 1909, Sec 63 (2) of that Act (*post*, p. 1239)

'On redemption of a terminable fixed annuity the price need not necessarily be sufficient to buy a Government annuity of similar amount: *Smith's Estate*, 41 I. L T R. 51.

A vendor is not entitled to be recouped out of the purchase money for payment on account of capital made by him in respect of a terminable fixed annuity under the Irish Church Act, 1869: *Gunning-Moore's Estate*, 40 I. L. T. R. 224. But see *Gore Booth's Estate*, [1910] Ir. R. 139.

Impropriate tithe entcharges

Having regard to the principles laid down in *Leader's Estate*, [1904] 1 I. R. 368; 38 I. L T. R 197; 5 N I. J R. 21, MEREDITH, J., in *Kemmis' Estate*, *Porter's Estate* and *Sandford's Estate*, [1904] 1 I. R. 496; 38 I. L. T. R. 209, on an application to fix the redemption price of certain impropriate tithe rentcharges, where evidence was given of the enhanced market value of tithe rentcharges similarly situated, fixed the redemption price at twenty-two years' purchase, and pointed out that the rule for fixing the price of twenty years' purchase, which he had previously laid down in *Fitzgerald's Estate*, [1902] 1 I. R. 444, was not inflexible. In *Kemmis' Estate* an appeal was taken from the decision to the Court of Appeal by the owner of the tithe rentcharge, who was not satisfied even with the enhanced price awarded to him, and that Court being of opinion that the learned Judge had not sufficiently considered the Treasury Rule fixing the redemption price of ecclesiastical tithe rentcharge at twenty-two and a half years' purchase, and the inconvenience caused by compulsory redemption of such charges in small and uneven amounts, and holding that they had the same jurisdiction to entertain the appeal from the Judicial Commissioner of the Land Commission as from the Land Judge in *Leader's Estate*, [1904] 1 I. R 368; 38 I. L. T. R. 197, followed their own order in the latter case, and remitted the consideration of the redemption price to MEREDITH, J. (*Kemmis' Estate* (C. A.), [1904] 1 I. R. 500, 38 I. L. T. R. 241; 5 N. I. J. R. 17). The redemption price of the tithe rentcharge was afterwards fixed by MEREDITH, J., at a little over twenty-three years' purchase: [1904] 1 I. R., at p 512, which the C. A refused to disturb (39 I. L. T. R. 9).

As to how tithe rentcharge, which prior to the sale was chargeable upon the tenant's or grantee's interest, is dealt with, see *Pim's Estate*, 39 I. L. T. R. 47, and notes to Sec. 16 (*ante*, p. 1081).

The costs of redemption of superior interests are payable along with the price out of the purchase money of the inheritance: *Hughes' Estate*, 40 I. L T. R. 167. Where insufficient money had been retained to pay such costs the Court directed the balance to be paid by the vendor: *Dooner's Estate*, 42 I. L. T. R. 104; and see *Innes' Estate*, 40 I. L T. R. 214. But in *Hughes' Estate*, *ubi sup*, the owner was estopped from claiming this. Costs of redemption

In *Leader's Estate*, [1904] 1 I. R. 368, the Court of Appeal held that they had jurisdiction to hear an appeal and determine any question of principle arising on the fixing of the redemption price, though they ought not to interfere when the only question involved was one of amount "The primary jurisdiction," says FITZGIBBON, L.J., "to fix the redemption price of superior interests for the purposes of the Land Purchase Acts is vested either in the Land Commission or in the Land Judge. To which Court the exercise of this jurisdiction falls in any particular case depends upon the way in which the estate has come into Court In both cases the jurisdiction is the same, and the legal basis for fixing the price is also the same. . . Without holding that this Court has not jurisdiction to fix the price upon an appeal, it certainly ought not to interfere with an order merely fixinga price unless it has reason to believe that the Court which is possessed of the primary jurisdiction to fix the price has acted upon some erroneous principle or has been affected by some evidence, or supposed evidence, not legally admissible". *Leader's Estate*, [1904] 1 I. R, at pp. 371–2 And HOLMES, L J., in the same case, says:—"Although this Court has, in my opinion, jurisdiction to hear an appeal from an order of the Land Judge fixing the price of a head rent that must be redeemed under the provisions of the Land Purchase Acts, we ought not to interfere where the only question is one of amount involving no matter of legal principle" ([1904] 1 I R., at p 374) Appeal from order fixing redemption price.

In *Close's Estate*, [1905] 1 I R. 371, the same Court, however, took a somewhat broader view of their jurisdiction as regards the actual fixing of the redemption price of head rents, and determined for themselves that the price fixed by MEREDITH, J., was correct. See judgment of PALLES, C.B., [1905] 1 I R, at pp. 388–9.

Prior to the hearing of *Leader's Estate* the Court of Appeal had in *Bateman's Estate*, 4 N. I. J. R. 137, declined to lay down, as a matter of law, that the passing of the Land Act of 1903 and the scale of prices mentioned in the 1st Section (*ante*, p. 1049) constrained the Land Judge to fix a higher price for the redemption of tithe rentcharges than that which was usual before the passing of the Act.

The jurisdiction of the Judicial Commissioner or the Land Judge, as the case may be, to redeem a head rent is not ousted by the fact that the rent issues out of some incorporeal hereditament, such as the tolls of a town, as well as out of agricultural holdings which have been sold under the Land Purchase Acts, for the word "lands" occurring in the 16th Section of the Land Act, 1887 (*ante*, p. 424), must be read as interpreted by the definition of the word in the 1st Section of the Landlord and Tenant Act, 1860 (see note to that Sec., *ante*, p. 3), and includes tenements of every tenure, whether agricultural or non-agricultural, corporeal or incorporeal: *Taffe's Estate*, 5 N. I. J. R. 101, reported as *O'Farrell's Estate*, 39 I. L. T. R. 89. Rent issuing partly out of incorporeal hereditament.

The title to the redemption price of a superior interest should be shown by affidavit, concisely and clearly giving the effect of each document rather than a Title to redemption price.

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detailed abstract of its contents. The affidavit should state how it is proposed that the fund should be applied, and the several matters mentioned in rule 2 of Directions of 27th Feb., 1909, St. R. & O., 1909, No. 196* (*post*, p. 1359). Before making any affidavit or lodging any documents in cases in the Land Judge's Court where the redemption money is under £100, an application should be made to an Examiner for directions, and no abstract of title can be received without the permission in writing of an Examiner.

Where the estate which constitutes the superior interest is in settlement, the Land Commission has power to appoint trustees of the settlement for the purposes of the Settled Land Acts to receive the redemption price: *In re Garde's Estate*, [1904] 1 I. R. 237, overruling *In re Dames-Longworth's Estate*, 26 I. L. T. & S. J. 521

(*a*) The "prescribed time" for the parties to agree as to the redemption price is in the Land Commission one month from the date of the order for redemption. See Rules of 2nd July, 1910, Order VIII., rule 4 (*post*, p. 1366).

But the Judge, if the materials are stated in the affidavit and the parties consent, when making the order for redemption, will at the same time fix the redemption price.

Procedure

As to procedure on redemption of superior interests generally, see Rules of March, 1897, Order XX, rules 11, 12, 16, 17, and 18 (*ante*, pp. 832–4). Fourteen days only from the date of the order for redemption is allowed in the Land Judge's Court. See Rules of 13th Feb., 1905, Order III., rule 3 (*post*, p. 1391), and Directions 27th Feb., 1909, St. R. & O., 1909, No. 196* (*post*, p. 1359)

Power to Land Commission to obtain possession of holding.

65. Where the Land Commission have put up for sale by public auction a holding which they are entitled to cause to be sold, and the holding has not been sold, the Commission may issue an order to the sheriff to put any person nominated by them in possession of the holding, and the order shall be executed by the sheriff in like manner as a writ for the delivery of possession.

For the prescribed procedure under this Section, see Rules of 4th Dec., 1903, Order XIV. (*post*, p. 1374). Hitherto the Land Commission had power only, where the holding had been sold, to issue an order putting *the purchaser* into possession. See Land Act, 1887, Sec. 21, and notes thereto (*ante*, p. 430); Rules of March, 1897, Order XLVIII. (*ante*, pp. 865–6), and Forms 45 and 46 thereunder (*ante*, pp. 897–8

The Land Commission, in any case in which they are entitled to cause a holding to be sold, may, prior to a sale, obtain from the High Court an order to put them into possession. See Land Purchase Act, 1891, Sec. 25 (*ante*, p. 480), and Rules and Forms thereunder (*ante*, pp. 612–613). They cannot, however, enter into possession of a holding unless the tenant is in default in the payment of his purchase annuity. *Antrim Land, Building and Investment Co.* v. *Stewart*, [1904] 2 I. R 357 (C. A.). The power of sale may be exercised where the purchase annuity is in arrear for forty days: Land Act, 1887, Sec 18 (*ante*, p. 428). The holding

may be sold in lots: Land Act, 1896 (Sec. 38 *ante* p. 578). See further, as to the effect of a sale upon incumbrances charged upon the holding, Sec. 55 of this Act and notes thereto (*ante*, p. 1130). Sects. 65 67.

Fire insurance on buildings on land sold under Purchase Acts.

66.—(1) Where the Estates Commissioners or the Congested Districts Board have erected or improved any buildings on any land in respect of which an advance is made under the Land Purchase Acts the Land Commission may if they think fit insure the buildings against loss or damage by fire and may keep the same insured until the advance has been repaid.

(2) The Land Commission shall pay the premiums on any policy of insurance effected in pursuance of this section, and those premiums shall be a charge on the land purchased and the amount of each such premium shall be collected by the Commission from the purchaser of the land and shall be recoverable in like manner as a purchase annuity.

As to the powers of the Estates Commissioners to execute improvements, see Sec. 12 (*ante*, p. 1071); and as to similar powers of the Congested Districts Board, see Sec. 72 (3) (*post*, p. 1151). Section 43 (*ante*, p. 1108) makes provision for the expenses of such improvements. And see now Act of 1909, Sec. 28 (*post*, p. 1218).

Amendment of 59 & 60 Vict c. 47, s. 38 (3), with respect to apportionment of annuity and guarantee deposit.

67.—(1) The powers for the apportionment of an annuity, or the discharge of portion of a holding from liability in respect of an annuity conferred by sub-section three of section thirty-eight of the Act of 1896 (*a*), may be exercised where the holding was sold or subdivided before the passing of the Act of 1896.

(2) Where the Land Commission exercise the power of apportionment conferred by the said sub-section three, either as amended or not, they may apportion in the same proportions the guarantee deposit (if any) retained to secure the repayment of the advance (*b*), and such last-mentioned apportionment may be made without the consent of the owner of the guarantee deposit.

(3) Where any land upon which portion of a purchase annuity has been charged by the Land Commission is conveyed to the proprietor of a holding subject to a purchase annuity, that holding and the land so conveyed shall be deemed one holding, and the said annuity and portion shall be

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payable in such manner and subject to such conditions as may be prescribed (*c*).

(*a*) See Land Act, 1896, Sec 38 (*ante*, p 578)

(*b*) See, as to guarantee deposits, Sec 68, *post*, and notes thereto.

(*c*) Sub-section 3 is not to apply unless the Land Commission deem it expedient: Act, 1909, Sec. 33 (*post*, p 1222).

Extension of 59 & 60 Vict c 47, s 29 (2), to guarantee deposits under any of Purchase Acts

68. —(1) Sub-section two of section twenty-nine of the Act of 1896 (which enables the Land Commission to pay the person entitled thereto the whole or any part of a guarantee deposit) shall apply to any such deposit made or retained in respect of advances under any of the Land Purchase Acts.

(2) Subsection three of the said section twenty-nine is hereby repealed.

The system of securing the repayment of advances by guarantee deposits was first established by the Land Purchase Act, 1885 See Sec 3 of that Act (*ante*, pp 369-370) The 23rd Section of the Act of 1891 provided that in every case of an advance of more than three-fourths of the purchase money, the Commission should retain a guarantee deposit (see *ante*, p 479) Section 29 of the Act of 1896 enabled them to dispense with it, either wholly or partially, and to repay to the person entitled thereto either the whole or part of what had been retained under the Acts of 1891 (see *ante*, p 566). This power is now extended to guarantee deposits retained in respect of advances made under any of the Land Purchase Acts

Provisions in case of death, &c, of applicant for an advance

69.—(1) Where an advance under the Land Purchase Acts has been made for the purchase of any land an order of the Land Commission charging the land shall be valid and effectual notwithstanding that the applicant for the advance may have died (*c*).

(2) Where the applicant for the advance has died (*d*), and there is no legal personal representative of such applicant, or no legal personal representative whose services are available for the sale under the Land Purchase Acts, the Land Commission may, on such terms and conditions (if any) as they may think fit, appoint any proper person to be administrator of the deceased applicant limited to the purposes of that sale, and such limited administrator (*a*) shall, for those purposes, represent the deceased applicant in the same manner as if the applicant had died intestate and administration had been duly granted to such limited administrator of all the personal estate and effects of the deceased applicant.

(3) General Rules under sub-section two of section twenty-three of the Local Registration of Title (Ireland) Act, 1891 (*b*), shall provide for the registration of the owner of the land in any case to which this section applies. 54 & 55 Vict. c. 66.

(*a*) The procedure for the appointment of a limited administrator under this Section is prescribed by Order XIX of the Rules of 2nd July, 1910 (*post*, p. 1376). See also Sec 35, Act, 1909 (*post*, p. 1222); and No. 9, Rules 3rd May, 1910 (*post*, p. 1291).

No guarantee deposit is to be retained in respect of advances for the purchase of an entire estate under this Act (Sec. 11, *ante*, p 1071).

As to the jurisdiction of the Land Commission to appoint a limited administrator for the purpose of a sale of a tenancy under the Land Act, 1881, see Sec. 14 of that Act, and notes thereto (*ante*, pp. 286–7).

(*b*) See Local Registration of Title Act, 1891, Sec. 23 (*ante*, p. 957).

(*c*) Where a vendor died after the purchase agreement, but before sanction of the advance, the purchase money and bonus were paid to his executor by WYLIE, J.: *Armstrong's Estate*, continued in name of *Orpen*, 41 I. L. T. R 15, the property being converted into personalty See *Doyle's Estate*, [1907] 1 I. R 204, 41 I. L. T. R. 47; and *Settled Land Act and Longworth*, 43 I. L T. R. 33.

(*d*) The provisions of Sub-sec 2 now apply where the applicant dies before the advance is made: Act, 1909, Sec. 35.

Removal of restraints on alienation

70. For the purposes of a sale under the Land Purchase Acts, all covenants, agreements, and conditions in any lease or fee-farm grant prohibiting, restraining, or tending to restrain the alienation of any land held thereunder, shall be deemed to be wholly void and inoperative, and so much of section thirty-three of the Landlord and Tenant (Ireland) Act, 1870 (*a*), and section twenty-nine of the Act of 1881 (*b*) as requires the waiver or determination of such prohibition is hereby repealed. 33 & 34 Vict. c. 46.

This Section was apparently intended to render obsolete the decision of the Court of Appeal in *M'Naul's Estate*, [1902] 1 I. R. 114; 36 I. L. T. R. 45. In that case it appeared that a fee-farm grant made in the year 1852 contained a covenant (copied from the original lease for lives renewable for ever), by which the grantee covenanted to pay an additional rent if he, or his heirs or assigns, assigned or demised the lands without the grantor's consent to a person or persons other than the child or grandchild of the person so alienating or demising same. The owner of the lands under the fee-farm grant afterwards sold to a tenant under the Land Purchase Acts, and upon proceeding to redeem the fee-farm rent as a superior interest it was held by the Court of Appeal, reversing the decision of MEREDITH, J., and overruling the decision in *Billing* v. *Welch* (I. R. 6 C. L. 88), that the covenant was valid, and that regard should be had to it in fixing the redemption price of the fee-farm rent. At a subsequent stage of the case it was held by MEREDITH, J., that the additional rent became payable upon the execution of the vesting order, and that, therefore, the entire additional rent, and not the mere prospective liability

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thereto. was to be redeemed as an existing superior interest out of the purchase money, [1903] 1 I. R. 250; 37 I. L. T. R. 49. It will be observed that it is only "for the purposes of a sale under the Land Purchase Acts" that such provisions are rendered void; they may, notwithstanding this Section, possibly be held to be capable of having a redemption price fixed upon them, though they are not to prevent the sale.

Somewhat similar provisions to those contained in this Section are enacted by the 51st Section of the Settled Land Act, 1882, rendering nugatory any provision attempting to prevent a tenant-for-life exercising the power of sale conferred by that Act.

(*a*) See Landlord and Tenant Act, 1870, Sec. 33 (*ante*, p. 191).

(*b*) See Land Act, 1881, Sec. 29 (*ante*, p 316)

Questions of law.

71. The determination of any question of law arising under the Land Purchase Acts may, on the application of any person interested, or without such application with the consent of the Lord Chancellor, be transferred by the Judicial Commissioner, if he thinks fit, in such manner as Rules under the Judicature (Ireland) Acts, 1877 to 1897, may direct (*a*), from the Land Commission to any Division or Judge of the High Court, and any such determination shall have the effect of and be subject to the same right of appeal as a final order of the High Court

Any Commissioner in carrying the Land Purchase Acts into effect may submit a question of law for the hearing and determination of the Judicial Commissioner. See Land Purchase Act, 1891, Sec. 28 (8) (*ante*, p. 483), and Rules of March, 1897, Order XXXV. (*ante*, pp. 853–4).

A question of law arising before the Estates Commissioners is similarly under this Act to be referred for the decision of the Judicial Commissioner (Sec. 23 (1), *ante*, p 1088).

The power of transfer to the High Court conferred by this Section would appear to apply in both these cases. An appeal then lies, under this Section, to the Court of Appeal and House of Lords. Section 24 (13) of this Act, however, gives a right of appeal to the Court of Appeal from any decision of the Judicial Commissioner as to the distribution of the purchase money of estates. See that Section and notes thereto (*ante*, p. 1094)

Application to transfer to the King's Bench Division was refused in *Lansdowne's Estate*, 40 I. L. T. R. 61 · see also *Clanricarde's Estate*, 42 I. L. T. R. 66.

There might be questions in which the Land Commission was involved which ought not to be decided by the Judicial Commissioner, but which it would be proper to refer to an independent tribunal. But, as a general rule, questions of law should be determined by the Judicial Commissioner subject to an appeal to the Court of Appeal: WYLIE, J., *Clanricarde's Estate*, *ubi sup.*

An appeal lies to the House of Lords from the decision of the Court of Appeal on questions arising on the distribution of purchase money under the Land Purchase

Acts. See *Fullerton* v. *Provincial Bank of Ireland*, [1903] A. C. 309; [1903] 1 I. R. 483; 37 I. L. T. R. 188. Sects. 71-72.

(*a*) See Rules of Supreme Court (Ireland), 1905, Order LIV. A. C., rules 2 to 7 (*post*, p. 1320).

PART II.

Congested Districts.

Advances to Congested Districts Board.

72.—(1) The sums required by the Congested Districts Board for advances for the purchase of land (*a*) shall (*b*) be paid to them out of advances made by the National Debt Commissioners to the Land Commission under this Act, and all payments so made shall be deemed to be advances made to the Land Commission for the purposes of the Land Purchase Acts, and shall be treated accordingly.

(2) Until the Congested Districts Board have disposed of the land so purchased by them to purchasers under the Land Purchase Acts, interest shall be paid by the Board to the Land Commission at the rate of two and three-quarters per cent. (*c*) per annum on all sums so advanced, and for the time being outstanding, in such amounts and at such times as may be prescribed: Provided that if after the expiration of five years any land so purchased has not been disposed of, payments on account of sinking fund, at the rate of ten shillings per cent. per annum, shall be made by the Board to the Commission. All such interest and sinking fund payments shall be a charge on and paid out of the annual income of the Board.

(3) Regulations made by the Treasury may provide that where the Congested Districts Board have expended money on the improvement of an estate, and in consequence have sold parcels of that estate at an enhanced price to tenants or others, the National Debt Commissioners may advance to the Land Commission, for repayment to the Congested Districts Board, such sums as represent the increase of price consequent on the improvements.

Procedure in Congested Districts Board cases

The usual procedure in the case of a sale to the Congested Districts Board is as follows:—When particulars have been furnished to the Board the estate is inspected by the Board's inspector, and a formal offer is made by the Board to purchase the lands, discharged from superior and intervening interests and incumbrances, but, subject to any public rights affecting the lands, to any maintenance charge under the Public Works Acts, and to the interests of the tenants in

Sect. 72. occupation and of persons having claims on these interests When this offer has been accepted by the agent or person acting on behalf of the vendor, a preliminary agreement, which is an echo of the offer, is executed between the Board and the vendor The offer and preliminary agreement provide that the Board are to be entitled to all rent and arrears of rent remaining due or falling due on a specified date and to all rents accruing from that date. The Board go into possession as soon as the preliminary agreement has been signed and before the lands are vested in them Interest, payable to the vendor, on the purchase money runs from an agreed date, usually the date that the Board take possession or enter into receipt of the rents The preliminary agreement contains a power of attorney from the vendor to the Board to enable them to enforce payment of rents, accept surrenders, make lettings, sign notices to quit, and to institute ejectment proceedings

Contemporaneously with the preparation of the preliminary agreement the originating request prescribed by Rule 3 (*post*, p 1248), in form (*post*, p 1263) is prepared, and must be lodged in duplicate with the Congested Districts Board

A resolution determining to buy, and declaring the lands "fit to be regarded as a separate estate," is then adopted by the Board. The originating request, together with a certified copy of this resolution, is sent by the Congested Districts Board to the Estates Commissioners The title to the lands is then investigated by the Estates Commissioners, as in ordinary Land Commission cases. As soon as the title has been passed the Land Commission prepare and send to the Board a draft of the agreement to purchase under Sec 79 of the Act of 1903 (*post*, p 1155), and this draft is sent by the Board's solicitor to the solicitor for the vendor If no material alterations are made, it is engrossed and executed by all parties If material alterations are made the Estates Commissioners may have to be consulted When the final agreement has been executed the vesting order (after publication of advertisements required by rule 36 of the Rules of 4th Nov, 1907, *post*, p 1256) is prepared by the Land Commission Act, 1896, Sec 32 (*ante*, p 572) The investigation of the title to the purchase money and the distribution of it follow the usual practice of the Land Commission

The principal practical difference between the procedure of the Congested Districts Board and that of the Estates Commissioners is that the Board go into possession in ordinary cases as soon as the preliminary agreement between the vendor and the Board has been executed The Estates Commissioners do not take possession until the tenants have signed agreements to purchase The Congested Districts Board, on the other hand, frequently find it necessary to alter and rearrange holdings, and therefore do not permit binding agreements to be made by the vendor and his tenants which might preclude or render difficult the exercise of this power. Until the Congested Districts Board become the landlords of the lands acquired (see Congested Districts Board Act, 1893, Sec 2, *ante*, p 505) alterations of boundaries and rearrangements are not in general made. The agreements to purchase holdings are made by the Board with the tenants of the holdings as finally arranged by the Board See, as to the Board's powers for amalgamation of holdings and migration and emigration of any occupier, Purchase Act, 1891, Secs, 37, 38 and 39 (*ante*, pp 488–491), Sec. 44 Land Act, 1896 (*ante*, p 589)

(*a*) As to the power of the Congested Districts Board to purchase land, see Congested Districts Board Act, 1893, Sec. 2 (*ante*, p 505), and *Congested Districts Board's Estate*, [1910] 1 I. R. 55.

As to the redemption of superior interests and incumbrances affecting land so purchased, see Congested Districts Board Act, 1899, Sec. 2 (*ante*, p. 603).

The Congested Districts Board cannot buy any land held under a lease for a term of years of which less than sixty are unexpired at the time of the sale, unless they hold or buy the reversion expectant upon the determination of such lease: Land Act, 1896, Sec 43 (7) (*ante*, p 588). Nor can they purchase an estate from the Land Judge unless it is in the main agricultural or pastoral. The restriction imposed by Sec 10 (*ante*, p 1070) applies to purchases by them as well as to purchases by the Estates Commissioners: *Taffe's Estate*, 39 I. L. T. R. 214.

(*b*) This Section is mandatory, subject to the limitations contained in Sec. 2 (1) of the Congested Districts Board Act, 1893 (*ante*, p. 505), and Sec. 43 (7) Act, 1896 (*ante*, p. 588).

(*c*) Three per cent. as regards advances for future purchase agreements: Act, 1909, Sec. 1 (2) (*post*, p. 1197).

As to guarantee Fund in a Congested districts county.

73. For the purposes of the Guarantee Fund (*a*) a congested districts county (*b*) shall cease to be separated from the county in which it is geographically situate, and the local grants, under the accounts headed "Model Schools and National Schools," shall form part of the contingent portion of that fund throughout the whole administrative county, and the interest on the Church Surplus Grant shall cease to form part of that fund in any electoral division of the county.

(*a*) See, as to the Guarantee Fund, Land Purchase Act, 1891, Secs. 5 and 6 (*ante*, pp. 461–465), and Guarantee Fund Apportionment Regulations, 24th Nov., 1904, St. R. & O., 1904, No 1743.

(*b*) For definition of a congested districts county, see Land Purchase Act, 1891, Sec. 36 (*ante*, pp. 487–8) Sub-sections 3, 4, 5, and 6 of that Section are repealed by the Schedule to this Act.

For list of congested district counties, see now Sec 46, Act, 1909 (*post*, p 1230), and appendix.

Limit as to untenanted land vested in Board.

74. There shall not be at any time vested in the trustees of the Congested Districts Board (*a*) untenanted lands exceeding in the aggregate, according to the estimate of the Land Commission as approved by the Treasury, the capital value of thirty times the interest on the Church Surplus Grant.

(*a*) The Board is incorporated by Sec. 44 of the Act of 1909 (*post*, p. 1228) and by Sub-sec. 4 the powers and duties of the trustees are transferred to the Board.

Sales by Congested Districts Board to certain tenants.

75. —(1) *Where the Congested Districts Board purchase land for the benefit of a congested districts county they may sell under the Land Purchase Acts any parcels thereof, which are not required for tenants of holdings in that county, to any tenants or proprietors of holdings, not exceeding five*

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pounds in rateable value, on an estate adjacent to or in the neighbourhood of that land, or to any sons of such tenants.

(2) *The provisions of this Act with respect to the application of the Land Purchase Acts to parcels of land shall apply in the case of the sale of any such parcel.*

This Section is repealed by Sec. 53 (3) Act, 1909 (*post*, p. 1234), save as regards sales of parcels of land purchased by the Board before the passing of the Act of 1909 (3rd Dec, 1909). The Land Commission cannot now enter into agreements for the purchase of any land situated in a congested districts county, save with the consent of the Board, except for the purposes of the Evicted Tenants Act, 1907 : Act, 1909, Sec 58 (1) (*post*, p. 1235).

Limit of advance in case of vendor re-purchasing

76.—(1) Where a parcel of an estate (*a*) purchased by the Congested Districts Board is resold to the vendor or to the trustees of a settlement, an advance under the Land Purchase Acts may be made to him, not exceeding in any case one-third of the purchase money of the estate, or twenty thousand pounds, whichever is the less (*b*).

(2) Sub-section four and sub-section six of section three of this Act shall apply in the case of any land in respect of which an advance is made in pursuance of this section.

(*a*) For definition of an "estate," see Sec. 98 (*post*, p. 1166).
(*b*) See Sec. 3 (*ante*, p 1057).

Estates in Court of Land Judge and amendment of law as to registration of land purchased by Board

77.—(1) For the purpose of the purchase by the Congested Districts Board of an estate from the Land Judge, the provisions of this Act with respect to the powers and duties of the Land Judge in relation to an offer of the Land Commission (*a*), shall apply with the substitution of the Congested Districts Board for the Land Commission.

(2) An order of the Land Judge declaring the Congested Districts Board to be purchasers of any land shall have the effect of a conveyance made by him, and shall also vest in the Board the right to collect and recover any arrears of rent specified in the order, and a certified copy of the order shall be transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the trustees (*b*) of the Board shall thereupon be registered under that Act as the absolute owners of the land.

54 & 55 Vict c 66.

(*a*) See Congested Districts Board Act, 1899, Sec. 1 (*ante*, p. 1603); also Sec. 7 of this Act and notes thereto (*ante*, pp. 1066–1068).

Where an offer is made by the Congested Districts Board for the purchase of an estate from the Land Judge, under this Section, the application of Sec. 40 of the Act of 1896 to the case is suspended by virtue of Sec. 7 (6) (*ante*, p. 1067): *Trustees of Burke's Estate*, 38 I. L. T. R. 198. In such a case the duty rests upon the Congested Districts Board, not upon the Estates Commissioners, of determining whether the lands purchased constitute an "estate," so as to entitle the vendor to the "bonus." See *Leonard's Estate*, 38 I. L. T. R. 204, and notes to Sec. 98 (*post*, p. 1167). Untenanted land sold to the Congested Districts Board may be regarded as an "estate" for the purpose of the payment of the "bonus": Land Act, 1904, Sec. 1 (*post*, p. 1175).

(*b*) The Board is incorporated by Sec. 44 of the Act of 1909, and by Sub-sec. 4 the powers and duties of the trustees are transferred to the Board (*post*, p. 1228).

Regulations as to turbary on estates purchased by Board.

78. The Congested Districts Board shall have, in the case of an estate purchased by them, all the powers with respect to regulations authorising the cutting or making of turf on holdings conferred on the Land Commission by the provisions in that behalf of Part One of this Act (*a*), and those provisions shall apply accordingly with the substitution of the Congested Districts Board for the Land Commission.

(*a*) See Sec. 21, and notes thereto (*ante*, p. 1086).

The chief land inspector of the Congested Districts Board has, however, no right under the 5th Section of the Act of 1881, or otherwise, to authorise adjoining tenants to enter upon the holding of another tenant of the Board without his consent and cut turf thereon. Such authority must be given by the Board itself in writing, and under strict regulations as to the manner of such cutting: *Congested Districts Board* v. *Gavaghan*, 38 I. L. T. R. 228 (FitzGibbon, L.J.)

By Sec. 18 (4) of the Act of 1909 (*post*, p. 1213), Section 4 of this Act (*ante*, p. 1060), which provides for advances to trustees for purposes of turbary, &c., is applied to cases of sales by the Congested Districts Board.

Purchase of land by Board

79.—(1) The Congested Districts Board may enter into agreements for the purchase of land (*e*) from any person who may be certified by the Estates Commissioners to be a person who may be dealt with as the owner of the land (*a*) in accordance with the provisions of Part One of this Act or otherwise, and those Commissioners shall, in such manner as may be prescribed by rules to be made by the Lord Lieutenant (*c*) prepare all such agreements and make orders consequential thereon vesting land in the trustees (*f*) of the Congested Districts Board.

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(2) Where a vesting order is made in pursuance of this section the purchase money shall be distributed by the Land Commission in like manner as if it were the purchase money of land vested in the Commission, and all the provisions of Part One of this Act with respect to the distribution of the purchase money (*b*) of land so vested shall apply accordingly.

The powers of the Congested Districts Board are derived from the Congested Districts Act, 1893 (*ante*, p 505) This Section does not confer any new power of purchase It merely prescribes the manner in which sales are to be carried out: *Longfield's Estate*, 41 I L T R 124

When preparing agreements under this Section, the Estates Commissioners must provide in the first instance for the payment of interest at the rate of 3½ per cent per annum by the Congested Districts Board on the purchase money until the whole of the purchase money is distributed Such interest cannot be taken out of the corpus of the purchase money, as Sec. 24 (3) has no application in the case of a sale to the Congested Districts Board. The Board cannot, by an agreement with the vendor of an estate, limit their liability as to the payment of interest on the purchase money to a date other than that upon which the entire of the purchase money is distributed. but they are entitled to have credit as against such interest for any sums which would accrue from the investment of the purchase money as and from the date of such investment up to the date of its actual distribution: *Blake's Estate*, 39 I L T R 45

In *Congested Districts Board's Estate* [1910], 1 Ir. R 55, WYLIE, J, held that there is nothing in any of the Acts to restrict the purchases of the Board to agricultural lands, but the Board is only empowered to acquire land for the purposes of Part II. of the Act of 1891 (*ante*, p 486). See note to Sec 10 (*ante*, p. 1070) But see *Taffe's Estate*, 39 I L. T. R. 214.

A "bonus" under Sec 48, *ante*, is payable to the vendor in cases of sales to the Congested Districts Board under this Section: *Burke's Estate*, 38 I L. T R. 258 In such cases it is the province of the Congested Districts Board, not of the Estates Commissioners, to determine whether the lands are fit to be regarded a separate estate under Sec 98 (1), *post* *Leonard's Estate*, 38 I. L. T. R. 204

(*a*) As to the persons who may be dealt with as owners of land by the Estates Commissioners, see Sec 17, and notes thereto (*ante*, p 1210); and as to procedure subsequent to the agreement for sale, see Rules of 2nd July, 1910, Order IV, rule 3 (*post*, p. 1362)

(*b*) As to the distribution of purchase money, see Secs 24 and 25, and notes thereto (*ante*, pp 1092–1098), and Rules of 2nd July, 1910, Order IX (*post*, p. 1368).

(*c*) Rules and Forms have been issued under this Section by the Lord Lieutenant on the 25th March, 1904, and 19th April, 1910, St R & O, 1910, No. 423 (*post*, pp 1414–1429), regulating the purchase of land by the Congested Districts Board,

(*e*) Where the Board enter into an agreement under this Section for the purchase of an estate or untenanted land, the provisions of Sec 18 of the Act of 1903 apply, subject to the modifications made by Sec. 56 of the Act of 1909 (*post*, p 1235).

(*f*) See now Act, 1909, Sec 44, by which the Board is incorporated (*post*, p. 1229).

(*g*) A condition providing for adjustment in the event of any discrepancy in the

rental was held to apply equally to vendor and purchaser, and the Board was held bound to compensate the vendor for extra value received. A further advance for the extra purchase money was therefore sanctioned: *Fallon's Estate*, [1906] 1 I. R. 510; 40 I. L. T. R. 71.

Provisions with respect to sanction of advances

80. Where an application is made to the Land Commission for an advance under the Land Purchase Acts to a person purchasing any land from the Congested Districts Board, and that Board certify that the land is in their opinion sufficient security for the repayment of the advance, the Land Commission shall sanction the advance.

The effect of this Section is to transfer from the Land Commission to the Congested Districts Board the discretionary power, conferred by the Land Purchase Acts previously in force, of deciding whether an advance may be made to a purchaser; of what amount the advance shall be; and how far the security therefor is sufficient.

Where the necessary certificate is given the Land Commission are by this Section absolved and prohibited from inquiring into the character of the holding or the sufficiency of the security, and the advance applied for must be made The Section is mandatory on the Land Commission, provided the applicant for the advance is in occupation of the holding or of a "parcel" to which the Land Purchase Acts apply. *Congested Districts Board Estate*, [1910] 1 I. R 55, at p. 65.

Apart from this Section the Board, in respect of land acquired by it, is in the same position with reference to the Land Purchase Acts as any other landlord. It can, therefore, sell to occupying tenants of holdings or to purchasers of parcels to which the Acts apply. What they cannot sell under the Acts they can sell for cash: *Congested Districts Board's Estate*, [1910] 1 I R. 55, at p. 64

Irrecoverable arrears of annuities to be paid out of interest on Church Surplus Grant.

81. If at any time the arrears of any purchase annuity payable in respect of an advance, sanctioned in pursuance of a certificate of the Congested Districts Board, are declared by the Land Commission to be irrecoverable, that Board shall pay, out of the interest on the Church Surplus Grant, to the Land Purchase Account, the amount of those arrears.

As to guarantees by the Congested Districts Board to the Land Commission to make good any defaults by tenants purchasing from them, see Congested Districts Board Act, 1894, Sec. 1 (*ante*, p. 506). These guarantees appear to be rendered unnecessary by this Section.

Amendment of 1 Edw. 7, c. 34, as to request by tenants, and order respecting charges, &c.

82.—(1) The Congested Districts Board may exercise the powers conferred on them by section one of the Congested Districts Board (Ireland) Act, 1901 (*a*), on a request (*b*) made by not less than three-fourths in number and rateable value of the tenants of holdings situate on any townlands which would

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(2) The provisions of the said section one as to an order of the county court respecting charges, liabilities, and equities affecting a tenant's interest in a holding shall apply where, with the consent of a tenant, the area of his holding is altered, or he is put into possession of a new holding by the Congested Districts Board. (*c*)

(*a*) See Congested Districts Board Act, 1901, Sec 1 (*ante*, pp. 606-7), and County Court Rules thereunder, issued 24th Feb, 1902 (*post*, pp. 1430-1435).

(*b*) These powers can now be exercised without request: Act, 1909, Sec. 21 (*post*, p. 1215)

(*c*) County Court Rules, dated 20th Dec., 1904, prescribing the procedure and requiring the charges, liabilities, and equities to be set out in a schedule to the application have been rendered obsolete by Sec. 23 (4) of the Act of 1909 (*post*, p. 1216).

Resumption of holdings by Congested Districts Board

83. The resumption of a holding during the continuance of a statutory term by the Congested Districts Board may be authorised under sub-section six of section five of the Act of 1881 (*a*) for the purposes of migration or the enlargement of holdings, in addition to the purposes specified in that sub-section.

(*a*) See the Section referred to (*ante*, pp. 249-250).

Under Secretary to be member of Board

84. The Under Secretary to the Lord Lieutenant shall be ex-officio a member of the Congested Districts Board in lieu of the member of the Land Commission nominated under sub-section one of section thirty-four of the Act of 1891.

Repeal of 62 & 63 Vict c 50, s 18.

85. Section eighteen of the Agriculture and Technical Instruction (Ireland) Act, 1899, which makes provision with respect to congested districts counties, is hereby repealed.

PART III.

Land Law.

As to Land Commissioners

86.—(1) The Lord Chancellor may nominate any Judge of the High Court, other than the Lord Chief Justice and the Master of the Rolls, to act, for the time specified by him, as an additional Judicial Commissioner of the Land Commission for the purpose of hearing appeals under the Land Law Acts (*a*), and the Judge so nominated shall, during that time,

have the same jurisdiction as the Judicial Commissioner appointed under the Act of 1881.

(2) A Judge of the High Court appointed before the first day of January one thousand nine hundred and two shall not without his own consent be nominated under this section.

(3) The Honourable Gerald FitzGerald, one of the Land Commissioners, shall, for the purposes of the Land Law Acts and Land Purchase Acts, but not further or otherwise, in addition to his existing powers (*b*), have all the jurisdiction and powers of a Judicial Commissioner, with the same rank and tenure of office as if he had, at the commencement of this Act, been appointed a Judicial Commissioner under the Act of 1881, and shall be entitled to a superannuation allowance calculated on a salary of two thousand five hundred pounds and otherwise in accordance with the provisions of the Superannuation Acts, 1834 to 1892.

(4) The Right Honourable Frederick Stringer Wrench shall, if he is nominated as an Estates Commissioner, be paid, in addition to his present salary, a salary of five hundred pounds out of money provided by Parliament.

(5) Murrough O'Brien, esquire, one of the Land Commissioners, and the two Estates Commissioners appointed by His Majesty, shall be entitled to superannuation allowance in accordance with the provisions of the Superannuation Acts, 1834 to 1892.

(*a*) Power to nominate Judges of the High Court to act as Judicial Commissioners for the purposes of the Land Purchase Acts was conferred by the Land Purchase Act, 1891, Sec. 28 (4), (5) and (6) (*ante*, p. 482).

(*b*) As to the tenure, jurisdiction, and salaries of the Land Commissioners, see Land Act, 1881, Secs. 41, 46 and 53 (*ante*, pp. 329, 331-2, and 341); Land Purchase Act, 1885, Sec. 17 (*ante*, pp. 385-6); Land Purchase Act, 1891, Sec. 28 (*ante*, pp. 481-3); and Land Commissioners (Ireland) Salaries Act, 1892 (55 & 56 Vic, c. 45).

Constitution of sub-commission.

87. A sub-commission shall, for the purpose of hearing any application under the Land Law Acts, consist of one legal assistant commissioner and one lay assistant commissioner.

As to the constitution and powers of Sub-Commissions, see Land Act, 1881, Sec. 43 (*ante*, p. 330).

Appeals under Land Law Act.

88.—(1) Any person aggrieved by any order made, under the Land Law Acts, by one Commissioner, not being a Judicial

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Commissioner, or by a sub-commission, may apply for a re-hearing (*a*) to the Land Commission, and that Commission may confirm, modify, or reverse such order.

(2) All appeals under section forty-seven of the Act of 1881 or re-hearings under this section, and all re-hearings in pursuance of requisitions under section forty-four of the Act of 1881, shall be heard and determined by one Judicial Commissioner, with the assistance of one specially qualified lay assessor, who shall hear the evidence and, on the application of either of the parties, inspect the holding, and report thereon to the Judicial Commissioner in the prescribed manner.

(3) On the hearing of the appeal, or on any re-hearing notice of which is lodged after the commencement of this Act, evidence which could have been, but was not, produced in the court below, shall be admitted on special grounds only, and not without special leave of the Judicial Commissioner who hears the appeal or re-hearing

(4) In the case of any appeal or re-hearing, where an issue of fact is raised which was raised before the court below, and the Judicial Commissioner who hears the appeal or re-hearing is satisfied that the appellant did not produce before that court material evidence on that issue which was in his possession or within his procurement, he may order the appellant to pay the whole, or such portion as he may think fit, of the costs of the appeal or re-hearing.

(5) Rules under section fifty of the Act of 1881 may be made by the Judicial Commissioners with the approval of the Lord Chancellor with respect to the proceedings under this section in appeals and re-hearings (*b*), and those rules shall among other things provide for an ad valorem scale of fees to be paid on notices of appeal or re-hearing.

(*a*) As to appeals and re-hearings under the Land Law Acts, see Land Act, 1881, Secs. 44 and 47 (*ante*, pp 330 and 332). Portions of both Sections are repealed by the Schedule to this Act. See also Land Act, 1896, Sec. 22 (*ante*, p 565).

There is little difference between an appeal and a re-hearing. The former term is used where the Court of primary jurisdiction is the County Court, the latter, where it is the Land Commission.

(*b*) See Rules of 23rd April, 1904 (*post*, pp. 1498–1499) By these, Rules 79, 81, 85 and 89 of the General Rules of 2nd Jan , 1897 (*ante*, pp. 735–738) are repealed. New forms of notices of re-hearing and appeal are prescribed (Forms 71A and 72A) (*post*, pp. 1500–1501); also *ad valorem* scale of fees upon these notices (*post*, p 1499).

Orders for framing lists of assessors.

89 General orders may be made by the Judicial Commissioners, with the approval of the Lord Lieutenant and the Treasury, for the framing of lists of persons of skill and experience in agriculture to act as assessors under this Part of this Act, and for the ascertainment of their functions and remuneration, and every person for the time being named in any such list shall give his attendance according to general orders (*a*).

(*a*) See General Order dated 7th Nov., 1903 (*post*, p. 1494).

Variable head rents.

90. Where, by reason solely of the non-publication of the average prices of produce in the Dublin Gazette, it has become impossible, in the absence of other provision, to determine the amount by which any variable rent, calculated upon an average of prices, should be varied, sections 2 and 3 of the Tithe Rentcharge (Ireland) Act, 1900, shall apply as from the commencement of this Act in the case of such variable rents, and the words "tithe rentcharge" in the said sections shall be deemed to include any variable rent as aforesaid.

63 & 64 Vict. c. 58

Church Temporalities Acts.

This Section provides for the automatic variation in amount of fee-farm rents payable under perpetuity grants made under the Church Temporalities Acts, according to the percentage of variation in the amount of judicial rents as ascertained by the Land Commission pursuant to the Tithe Rentcharge Act, 1900.

The moment Sec. 90 is applied the rent is by virtue of the statute varied: *Hillhouse* v. *Tyndall*, [1908] 1 I. R. 446; see also *Denny* v. *Wright*, [1906] 2 I. R 465. In *Carson* v. *Jameson*, [1908] 2 I. R 308, the rent was not variable, because the rent reserved did not depend upon the average annual amount of the renewal fines, which in that case were a fixed and ascertained sum.

The first of the Church Temporalities Acts (3 & 4 Wm. IV, c. 37) enabled all tenants holding immediately from bishops, or other ecclesiastical corporations sole, or from the Ecclesiastical Commissioners in Ireland, to purchase conveyances of perpetual estates in their lands, subject to fee-farm rents. This privilege was extended to sub-tenants by the 30th Section of 4 & 5 Wm. IV., c. 90, where the immediate tenants declined to purchase. And Sec. 1 of 6 & 7 Wm. IV, c. 99, empowered an inferior tenant to apply to his immediate landlord, who had acquired a perpetuity for a conveyance of a perpetual estate in the lands to him, subject to a similar fee-farm rent. It was provided by the 142nd Section of the first Act (3 & 4 Wm. IV., c. 37) that the fee-farm rent might be varied, on the application in the prescribed manner to the Commission by either party, every seven years, according to the increase or decrease in the average price of wheat or oats for the preceding seven years, to be ascertained from the *Dublin Gazette*. This Section was made applicable to sub-grants by the 5th Section of 6 & 7 Wm. IV., c. 99.

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The *Dublin Gazette*, however, after 1st Sept., 1887, ceased to publish the average prices of corn, the advertisement therein only stating the maximum and minimum prices, and in consequence it was held by the Court of Appeal, in *Reg* (*Metge*) v. *Chairman and Justices of Meath*, [1898] 2 I. R 592, that tithe rentcharge similarly variable in amount according to the average price of corn could not, in consequence of the omission of the publication of average prices by the *Dublin Gazette*, be varied at all. Following this decision the Tithe Rentcharge (Ireland) Act, 1900, was passed, the 2nd and 3rd Sections of which are as follow :—

Ascertainment and publication of percentage of variation in judicial rents 44 & 45 Vict c 49.

"2—(1) As soon as possible after the passing of this Act the Land Commission shall ascertain, from the appendices to their reports as presented to Parliament in pursuance of Section fifty-five of the Land Law (Ireland) Act, 1881, by what amount in each county during the period commencing with and including the year covered by the annual report, dated the twentieth day of September, one thousand eight hundred and eighty-six, and ending with that presented last before the passing of this Act, the rents of holdings in respect of which judicial rents have been fixed for a first statutory term, whether by order or by agreement, have, for the entire of such period, been varied by the fixing of such judicial rents, and shall certify the average percentage which such variation represents.

"(2) The Land Commission shall similarly ascertain and certify for each county in respect of every subsequent period of fifteen years the average percentage of variation of judicial rents payable during a second or subsequent statutory term as compared with the judicial rents payable during the last preceding statutory term

"(3) The Land Commission shall publish their certificates under this Section in such manner for giving information to all persons interested as they think most convenient

"(4) A copy of every certificate of the Land Commission under this Section shall be published in the *Dublin Gazette*.

"(5) The production of a printed copy of the *Dublin Gazette*, purporting to be published by the Queen's authority, and containing the publication of any certificate of the Land Commission under this Section, or of a sealed copy issued by the Land Commission of any such certificate, shall be evidence of the contents of such certificate, and of the date thereof, and that it has been duly made.

"(6) The Land Commission shall keep a record in their office of all certificates made by them under this Section.

Variation of tithe rentcharges.

"3—(1) During the period of fifteen years, dating from the first day of November next after the passing of this Act, the sum payable in respect of every gale accruing due after that date of any tithe rentcharge payable out of hereditaments situate in any county shall be deemed to be varied, from the amount at which it stood on the twenty-second day of August, one thousand eight hundred and eighty-four, in accordance with the average percentage of variation of rents declared by the certificate of the Land Commission to have taken place with respect to such county by the fixing of judicial rents for a first statutory term, and shall be payable accordingly.

"(2) During each subsequent period of fifteen years the like variation shall be deemed to be made in all tithe rentcharges from the amount at which they

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respectively stood immediately before the commencement of such period, in accordance with the average percentage of the variation of judicial rents certified by the Land Commission for the period of fifteen years terminating last before the commencement of each such first-mentioned period respectively, and all tithe rentcharges shall be payable accordingly.

"(3) After the passing of this Act no variation shall be made in any tithe rentcharge, save in accordance with the provisions of this Act"

In *Irish Land Commission* v *Massereene*, [1904] 2 I. R. 502, it was held by the King's Bench Division that a gale of rent which accrued due upon the 1st of Nov., 1903 (the day on which this Act came into operation), was not variable under this Section.

Trinity College Leasing Act.

Rents payable under grants in perpetuity made in accordance with the provisions of the Trinity College Dublin Leasing and Perpetuity Act, 1851 (14 & 15 Vic., c. cxxviii., L. & P.), are similarly variable according to the average price of oats, wheat, mutton, beef, and butter, but inasmuch as that Act provides (Sec. 12) that, in the absence of official returns, the average prices shall be ascertained by the arbitrator in not less than ten towns of the greatest population in Ireland, and the rents varied accordingly, and it is still possible, therefore, to determine the amount by which the rents reserved by them should be otherwise varied, it would appear that these Trinity College grants are not affected by this Section.

Sub-divided holdings

91. In the construction of sub-section three of section five of the Act of 1896, the words "tenants in common" shall be deemed to include two or more persons between whom the holding is divided.

In the application of the 3rd Sub-section of the Land Act, 1896, Sec. 5 (*ante*, p. 518), the words "joint tenants or tenants in common" received from the Courts a strictly legal construction. It was held that there must, at some time, have been unity of possession between the co-owners in order that the Sub-section should be put in force, and that the assignee of part of a holding, who had never had any privity of estate, title, or possession with the occupiers of other parts, had no *locus standi* under it: *Riversdale* v. *Gethins*, [1899] 2 I. R. 81; 33 I. L. T. R. 1; 1 Greer 97 (see *ante*, p. 541). It was held also that the joint tenancy or tenancy in common must be existing at the date of the application, though the farm was worked and occupied separately, so that where a partition had been made between the joint tenants some years prior to the application, and each had thenceforward held his own portion, both legally and actually, in severalty, the Section did not apply: *Sheehan* v. *Martin*, 37 I. L. T. R. 25; 3 N. I. J. R. 138. The object of the present Section appears to be to make the Sub-section referred to applicable to the case of *any* two or more persons between whom a holding is divided; but it seems somewhat doubtful whether the wording of it is sufficient for this purpose.

Amendment of 44 & 45 Vict. c 49, s. 50 (3), as to time within which address may be presented.

92 The period within which an address may be presented in respect of rules under section fifty of the Act of 1881, or under that section as amended by any enactment, shall be forty days instead of one hundred days.

PART IV.

AMENDMENT OF LABOURERS (IRELAND) ACTS, 1883 TO 1896.

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Extension of Acts to agricultural workers

93. The expression "agricultural labourer" in the Labourers (Ireland) Acts, 1883 to 1896, and this Act shall include any person (other than a domestic or menial servant) working for hire in a rural district whose average wages, in the year preceding the lodgment of any representation under the Labourers (Ireland) Acts, 1883 to 1896, affecting him, do not exceed two shillings and sixpence a day and who is not in occupation of land exceeding one quarter of an acre.

For definition of "agricultural labourer," see Labourers (Ireland) Act, 1886 (49 & 50 Vic, c. 59), Sec. 4 The definitions contained in the previous Acts of 1883 and 1885 (46 & 47 Vict, c 60, Sec. 21, and 48 & 49 Vict, c. 77, Sec. 23) are repealed.

Locality suggested by signatories of representation to be taken into consideration

94. Before a sanitary authority provide in any improvement scheme for the erection of new buildings in any locality other than that suggested by the persons who signed the representation in pursuance of which the scheme is framed, they shall take into consideration the wishes of those persons as specified in the representation.

As to the requisites of an improvement scheme by a sanitary authority, see Labourers (Ireland) Act, 1883 (46 & 47 Vict, c 60), Sec. 6.

See also Labourers (Ireland) Act, 1886 (49 & 50 Vict., c. 59), Sec. 12, which considerably extends the powers of compulsory purchase of land for the purpose of allotments

Compensation to agricultural labourers for wrongful dismissal in certain cases.

95. Where any agricultural labourer has made, or concurred in the making of, a representation under the Labourers (Ireland) Acts, 1883 to 1896, and within twelve months thereafter is dismissed from his employment, he may apply to the county court judge for compensation, on the ground that he has been dismissed by reason of his having made, or concurred in making, the representation, and, if in the opinion of the county court judge he was dismissed for the reason aforesaid, the county court judge may award him compensation not exceeding three months' wages.

Scheme under Labourers Acts to be framed by Land Commission

96.—(1) Where the Land Commission have purchased an estate, or where application is made to the Commission to sanction advances for the purchase of holdings comprised in an estate, they shall make inquiry as to whether accommodation is needed for labourers on the estate, and, if of opinion that such accommodation is needed, they shall frame a scheme providing therefor (*a*).

(2) Every such scheme shall be forwarded to the Local Government Board for Ireland and the council of the rural district in which the land comprised in the scheme is situate, and shall be deemed a representation made to the council under the Labourers (Ireland) Acts, 1883 to 1896, and those Acts shall apply accordingly.

(*a*) See Instructions to Inspectors, issued 9th March, 1906, No 32 (*post*, p. 1331),

There is no power under the Act of 1903 or any of the Land Purchase Acts to advance money for the purchase of labourers' plots either to a Rural District Council or to a weekly tenant. But it was decided that the Estates Commissioners had jurisdiction to include lands held by a Rural District Council under a statutory letting, wholly sublet to weekly tenants, and to vest them in the Rural District Council provided the purchase money was paid in cash to the credit of the matter: *Walters, Greenwood & French's Estate*, [1906] 1 I. R. 17. But now the Labourers (Ireland) Act, 1906 (6 Ed. VII., c. 37), Sec. 16, enacts that the Land Commission may, on the recommendation of the Local Government Board, make advances not exceeding £4,200,000 to Rural District Councils for the provision of labourers' cottages and allotments under the Labourers Acts, every such advance being repayable in like manner as an advance under the Land Purchase Acts. And see Act 1909, Sec. 11 (*post*, p. 1206).

Representation under Labourers Acts.

97. A representation under the Labourers (Ireland) Acts, 1883 to 1896, shall mean a representation signed by not less than six persons, each one of whom is either rated for the relief of the poor within the sanitary district or is included in the definition of an agricultural labourer contained in the said Acts as amended by this Act.

The Labourers (Ireland) Act, 1883 (46 & 47 Vict., c. 60), required the representation to be signed by "not less than twelve persons rated for the relief of the poor within the sanitary district" (Sec. 5).

The Act of 1891 (54 & 55 Vict., c. 71) allowed agricultural labourers, as defined by the 4th Section of the Act of 1886 (49 & 50 Vict., c. 59), to be substituted for ratepayers, the minimum number of signatories being still, however, twelve. This Section now reduces the number to six, who may be either ratepayers or agricultural labourers as defined by the 4th Section of the Act of 1886 and Sec. 93 of this Act (*ante*, p. 1164).

Representations may be amended at any time if informal by adding the proper signatures: Labourers (Ireland) Act, 1896 (59 & 60 Vict., c. 53), Sec 1. (3).

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PART V.

SUPPLEMENTAL.

Definitions.

98. In this Act, unless the context otherwise requires—

(1) The expression "estate" (*a*) in Part One of this Act means any lands which the Estates Commissioners may declare fit to be regarded as a separate estate for the purposes of this Act, and the said expression in Part Two of this Act has the same meaning, with the substitution of the Congested Districts Board for the Estates Commissioners:

The expression "prescribed" in any case not otherwise provided for, means prescribed by rules made by the Land Commission in the manner directed by sub-section six of section twenty-nine of the Act of 1891:

The expression "demesne" (*b*) includes any mansion house or other buildings thereon:

The expression "vesting order" includes fiat (*c*):

The expressions "Registry of Deeds" and "Registry of Judgments" have the same meanings respectively as in the Local Registration of Title (Ireland) Act, 1891:

54 & 55 Vict. c 66

The expression "the Land Purchase Acts" (*d*) includes Part Three of the Act of 1896, the Purchase of Land (Ireland) Act, 1901, the Purchase of Land (Ireland), No. 2, Act, 1901, and Part One of this Act:

1 Edw 7, c 30

The expression "The Land Law Acts" means the Land Law Acts as defined by the Act of 1896 and Part One of that Act (*e*).

The expression "the Act of 1881" means the Land Law (Ireland) Act, 1881:

44 & 45 Vict c 49.

The expression "the Act of 1885" means the Purchase of Land (Ireland) Act, 1885.

48 & 49 Vict. c 73.

The expression "the Act of 1887" means the Land Law (Ireland) Act, 1887:

50 & 51 Vict. c. 48

The expression "the Act of 1891" means the Purchase of Land (Ireland) Act, 1891: and

54 & 55 Vict. c. 48

The expression "the Act of 1896" means the Land Law (Ireland) Act, 1896.

59 & 60 Vict. c. 47

The expression "the Public Works Acts" means the Drainage and Navigation (Ireland) Acts, 1842 to 1857; the Drainage and Improvement (Ireland) Acts, 1863 to 1892 (*f*); the Fisheries (Ireland) Act, 1846; the Landed Property and Improvement (Ireland) Act, 1847, and any Act or enactment extending, amending, applying, or incorporating the said Acts or any of them or any part thereof; and the Drainage Maintenance Act, 1866.

(2) The expression "superior interest" (*g*) in the Land Purchase Acts, shall include any reversion or estate expectant on the determination of an estate tail or a base fee (*h*), whether such reversion or estate is or is not vested in the Crown (*i*).

(*a*) The definition of the term "estate" here given is similar to that contained in Sec. 57 of the Land Act, 1881 (*ante*, p. 343).

"A judicial determination and declaration by the Estates Commissioners under Sec. 98 (1), that lands are fit to be regarded as a separate estate for the purposes of the Act of 1903, is a condition precedent to putting the provisions of the Act into execution for the purpose of carrying out a sale of any lands. In short, the declaration under Sec. 98 (1) is the foundation of the jurisdiction to proceed with the consideration of the application for advances, and with other steps towards the sale of the lands. In order to determine whether they are to make the judicial declaration that the lands are fit to be regarded as a separate estate, it is within the power, and it is the duty, of the Estates Commissioners to make every enquiry and to obtain all information which can be reasonably considered material." . . . "The scope of the enquiry includes the title and tenure of the lands, as well as their character, situation and physical quality, and it includes also the relation between the parties interested as purchasing tenants and a selling landlord. . . . The most important matter upon which the Estates Commissioners are not only at liberty, but bound, to satisfy themselves, is that 'the sale of the holding' (being a real holding on the terms alleged) is honestly made and carried out for the agreed price, and that there is no fraud or concealment."

A provisional declaration essential to jurisdiction is illegal. "The first thing to be done after the filing of the originating application is, after all preliminary enquiries material to guide their judicial discretion have been made, to declare the lands, or such part of them as the Commissioners think right, an estate for the purposes of the Act: WALKER, C, *Weir's Estate*, [1908] 1 I. R. p. 175–6. In *Rex (Vaugh)* v. *Estates Commissioners*, 44 I. L. T R., 157 (the K.B. Div) MADDEN and WRIGHT, J.J (LORD O'BRIEN, L.C.J., *dissenting*), made absolute a conditional order for *mandamus* to the Commissioners to hear the proposed vendor before declining to declare his lands to be a "separate estate."

The Estates Commissioners have no power, without the consent of the vendor, to

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exclude part of the lands comprised in an originating application lodged with them, and to declare the residue an estate and proceed to conclude the sale thereof to the tenants: *Heuson and Penrose's Estate*, 42 I L. T. R 48.

The Estates Commissioners have no jurisdiction to take any definite step with regard to the sale before making the declaration save what they may consider material and necessary for the purpose of arriving at a determination whether the lands are to be regarded as a separate estate for the purposes of the Act: *Weir's Estate, ubi sup.*

In the case of judicial tenancies within the zones, the effect of Sec. 1 (1) is to make a certain fixed proportion between the agreed price and the previously fixed judicial rent, conclusive evidence for the purposes of the Act, that the price is fair The Estates Commissioners "shall" make the advance, and consequently they have no jurisdiction or right to require information for the purpose of refusing to make it on the ground that the security is insufficient: *Weir's Estate*, [1908] 1 I R., p. 161, judgment of FITZGIBBON, L.J, at p 180 (disapproving of *Scottish Union and National Insurance Co*, [1906] 1 I R 42) But that answer, given on the facts of *Weir's Estate*, must not be taken to imply that similar or any other questions may not, under other circumstances, be relevant to the question whether other lands are or are not fit to be regarded as a separate estate for the purposes of the Act

The bonus is only payable upon the sale of an estate as here defined: *Boyle's Estate*, [1909] 1 I R 120, 278 (C A), 43 I L T. R. 135, 187; and see notes to Sec. 48 (*ante*, p 1112).

The Estates Commissioners, in their *Ad Interim* report, dated the 10th April, 1905 [cd 2471, pp. 2-3], state that their practice as regards the declaration that lands comprised in an application are fit to be regarded as a "separate estate," or the refusal so to declare them, has been as follows:—

Declaration that lands are "fit to be regarded as a separate estate"

"In many cases the owners of lands have asked the Commissioners whether they would be likely to declare certain lands to be a 'separate estate' before such owners undergo the expense of filing a formal originating application and entering into negotiations with their tenants for purchase. As a rule, the Commissioners have been able, from an examination of the rental and estate map, to intimate to the owner whether they would be prepared to regard, or would refuse to regard, the lands proposed to be sold as a 'separate estate' for the purposes of the Act, and thus the cases in which applications have been actually lodged and in which the Commissioners have subsequently refused to regard the lands as a 'separate estate' have been few, since, where the Commissioners were not prepared to regard any particular lands as a 'separate estate,' they so informed the vendor before formal applications were lodged. Where the property proposed to be sold as a 'separate estate' consists of a townland or a number of adjacent townlands in a compact block, the Commissioners have generally intimated to the owners that they would be willing to declare such lands to be a 'separate estate,' even though the owner may have other lands adjacent, or at a distance, which he does not propose to sell at the same time; but the Commissioners generally insist on all the lands included in the block being in the first instance comprised in the estate It would obviously delay sales to no purpose to insist on the whole of a large property situated, it may be, in different counties being brought in for sale at one time and included in one application

"Where the lands comprised in the application consist of a single holding, or

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where the vendor desires to leave out of the sale a considerable number of chequered holdings situated within the ambit of the block, or where he has untenanted lands in his occupation which may be required for the purpose of enlarging holdings, and has not included them in the lands proposed to be sold as an estate, or where the estate is badly congested and the holdings are manifestly inadequate security for the prices agreed upon, and there are no apparent means of improving or enlarging them, the Commissioners have refused to declare the lands to be a 'separate estate' for the purposes of the Act.

"But in 'zone' cases the Commissioners cannot refuse to declare the lands an estate on the ground of inadequacy of security": *Weir's Estate*, [1908] 1 I. R. 161 (C. A.).

Where the Congested Districts Board purchase lands under Sec 77 or Sec. 79 (*ante*, pp. 1154 and 1155), it is their duty, not that of the Estates Commissioners, to declare that the lands are "fit to be regarded as a separate estate" so as to entitle the vendor to the "bonus" under Sec 48: *Leonard's Estate*, 38 I. L. T R. 204; see also *Burke's Estate*, 38 I. L. T. R. 258. They may legally declare lands to be one estate which are purchased by them in separate lots at different times, provided the purchase substantially constitutes one transaction: *Taffe's Estate*, 39 I. L. T. R. 214.

"Estate" may comprise untenanted lands.

An "estate" within the meaning of this definition may comprise untenanted as well as tenanted lands: *White's Estate*, 40 I. L. T. R. 6 (C. A.) The former may be sold to the different classes of persons, including evicted tenants, mentioned in Sec 17, Act 1909 (*post*, p. 1210). Section 6 also, which deals with the purchase of estates by the Estates Commissioners, evidently contemplates that portions of them may be untenanted. It speaks in Sub-sec. 1 of "the prices which the tenants and other persons are willing to give for the holdings and *other parcels of land* comprised in the estate," and in Sub-sec. 2 of the "tenanted *portion* of the estate."

The Estates Commissioners may purchase land which is wholly untenanted under Sec. 8 (*ante*, p. 1069). Such land can be declared a "separate estate" for the purpose of securing the bonus under Sec. 48 (see Land Act, 1904, Sec. 1, *post*, p. 1175) if the Estates Commissioners think fit. There is nothing in the meaning of the word "estate" *per se* to confine it to tenanted or partly tenanted land.

On lands wholly sublet.

Parcels of land, and even houses situated in a town which are wholly sublet, may be included in an "estate" within the meaning of the definition here given, but the advances for the purchase of such holdings, if made at all, must be made to the sub-tenants who are in occupation, under Sec. 15 (*ante*, p. 1077). Middlemen cannot purchase under this or any other of the Land Purchase Acts: *King-Harman's Estate*, 38 I. L. T. R. 237; and see *Congested Districts Board Estate*, [1910] 1 I. R. 55, at p. 65. Where, however, the sub-tenants are not persons to whom advances can be made under the Land Purchase Acts, as in the case of labourers' plots acquired by a District Council under the Labourers Acts, cash purchases by the middleman may be arranged with the Estates Commissioners: *Walter's Estate*, [1906] 1 I. R. 17; 5 N. I. J. R. 293; 39 I. L. T. R. 265.

The expression "estate" is to have the meaning here given to it "unless the context otherwise requires," according to the opening words of the Section. In Sec. 7 the word "estate" means the lands comprised in an absolute order for sale by the Land Judge: *White's Estate*, *per* HOLMES, L J., *ubi sup* Sub-section 2

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speaks of the Land Commission making an offer to the Land Judge "for the purchase of the estate *or of any part thereof*." The term seems to have the same meaning in the first part of Sub-sec 4 of Sec. 48.

(*b*) As to the purchase by the Estates Commissioners of demesnes and their resale to the former owners, see Sec. 3 and notes thereto (*ante*, pp. 1057-1060).

(*c*.) As to "fiats," see Land Act, 1896, Sec. 32 (*ante*, p. 572).

Land Purchase Acts.

(*d*) The Land Purchase Acts, as defined by the Acts of 1891 and 1896 and this Section, include the Landlord and Tenant Act, 1870 (Parts II. and III.), the Landlord and Tenant Act, 1872, the Land Act, 1881 (Parts V., VI., and VII.), the Tramways and Public Companies Act, 1883 (Part II.); the Land Purchase Act, 1885; the Land Act, 1887 (Parts II and IV.); the Land Purchase Acts, 1888, 1889, and 1891, the Redemption of Rent Act, 1891, the Land Act, 1896 (Parts II, III., and V.), the Land Purchase Acts, 1901, and Part I. of this Act.

The Evicted Tenants Act, 1907, is to be construed with Part I. of the Act of 1903, and may be cited with the Land Purchase Acts. See Evicted Tenants Act, 1907, Sec 20 (*post*, p 1194), and Evicted Tenants Act, 1908 (*post*, p. 1196)

Parts I, II, and IV., of the Act of 1909 are to be construed with the Land Purchase Acts. Sec. 68, Act 1909 (*post*, p. 1242). And see Land Purchase Act, 1891, Sec 42 (*ante*, p 494), and Land Act, 1896, Sec 48 (1) (*ante*, p 591)

(*e*) For definition of "Land Law Acts," see Land Act, 1896, Sec 48 (1), and note (*c*) thereto (*ante*, pp. 592-3), and Sec. 68, Act 1909 (*post*, p. 1242).

(*f*) For a list of the Acts constituting what is commonly known as the Irish Drainage Code, see note to Landlord and Tenant Act, 1870, Sec. 36 (*ante*, p 193).

Superior interests

(*g*) For definition of "superior interests," see Land Act, 1896, Sec 31 (8), and note (*i*) thereto (*ante*, pp. 568 and 571), and as to their apportionment and redemption, Land Act, 1887, Secs. 15 and 16 (*ante*, pp. 420-428): Land Act, 1896, Sec. 31, and notes thereto (*ante*, pp. 567-572), and Sections 61 to 64 of this Act (*ante*, pp. 1134, 1146)

Under the definition contained in the Act of 1896 a "superior interest" included a reversion expectant on the determination of a lease for lives or years renewable for ever, or for a term of years of which not less than sixty were unexpired at the date of the sale (Sec 31 (8), *ante*, p 568), but an estate in remainder was not included, and was for the first time brought within the definition by this Section. This did not, however, prevent sales taking place under the Land Purchase Acts, for in almost every case either the estate in remainder could be barred under the Fines and Recoveries Act (4 & 5 Wm. IV, c. 92), or the owner of the estate in possession, subject to the remainder, could sell the fee as a limited owner under the Settled Land Acts See Settled Land Act, 1882, Sec. 58 (*ante*, pp. 953-4).

A yearly payment made for use of a right of way by the owners of lands sold to the owners of lands traversed was held to be a superior interest which should be redeemed: *Villiers Stuart's Estate*, 41 I. L T. R. 179

Base fee

(*h*) "The expression 'Base Fee' shall mean exclusively that estate in fee-simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred": Irish Fines and Recoveries Act, 1834 (4 & 5 Wm. IV., c. 92), Sec. 1. A base fee is created by a disentailing deed when the consent of the protector of the settlement, though necessary, is not obtained (see 4 & 5 Wm. IV., c. 92, Sec. 32); or when the remainder or reversion is vested in the Crown, as to which see next note.

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Crown reversions and remainders

(*s*) The law as to remainders and reversions vested in the Crown is different in England and Ireland. In England a tenant in tail can, by an ordinary disentailing deed, bar the Crown remainder or reversion in the same way as he can that of a subject, except in cases coming within 34 & 35 *Hen.* VIII., c. 20. (See 3 & 4 Wm. IV., c. 74, Secs. 15 and 16). But in Ireland this is only so as regards the title of the Crown "to any reversion or remainder created or reserved by any settlement or will, and which reversion or remainder shall have come or shall hereafter come to the Crown in consequence of the attainder of any person to whom the forfeited reversion or remainder was previously to such forfeiture limited by any settlement or will, *but not in any other case, or where the title to the Crown shall have accrued by any other means*" (4 & 5 Wm. IV., c. 92, Sec. 12).

Crown reversions expectant on the determination of leases for lives renewable for ever or terms of years of which not less than sixty are unexpired at the date of the sale come within the compulsory powers of redemption conferred by Sec. 31 of the Act of 1896. (See note to that Section, *ante*, p. 572.) But the reversion of the Crown in a vendor's estate sold in the Land Purchase Department, held under patent for the lives of the grantee from the Crown and his heirs male, was held not to be within that Section: *In re Fischer's Estate*, [1901] 1 I. R. 377 The power of redemption in such a case could only, prior to the passing of this Act, have been carried out, *with the consent of the Crown*, under the Landed Estates Court Act, 1858, Sec. 68 (*ante*, pp. 940–1). Though Crown reversions and remainders, are now made subject to compulsory powers of redemption as superior interests by this Section, they are still excluded from the operation of Sec. 62 of this Act (*ante*, p. 1138).

For other cases in which questions as to Crown reversions and remainders have been raised under the Land Purchase Acts, see *Marquis of Ormonde's Estate*, 28 I. L. T. R. 73; *Re Costello*, 33 I. L. T. R. 73; and *Murphy's Estate*, 34 I. L. T. R. 42.

99. Nothing in this Act shall affect—

Sporting rights, minerals, and water.

a. Any sporting rights, mineral rights (*a*), or water rights which are not in the possession or enjoyment of the vendor (*c*) at the time of sale (*d*);

b. Any mine or quarry which is being worked (*b*) or developed by the vendor at the time of sale; or

c. Any right to water power in actual use by the vendor at the time of sale.

(*a*) Sporting and mineral and water rights excluded from the operation of the Act by this Section cannot be compulsorily redeemed by the vendor even though they constitute superior interests under Sec. 31 of the Act of 1896; and in the case of the sale of an estate under this Act, they are outside the operation of the vesting order: *Macnaghten's Estate*, 38 I. L. T. R. 222. For form of vesting order where such rights are reserved, see *Stephens' Estate*, 39 I. L. T. R. 107; see also Secs. 13 and 16 and notes thereto (*ante*, pp. 1072–1075 and 1079–1080).

Where a fee-farm grant contained a covenant that in the event of mines and quarries being leased or worked by the grantee, the grantor should receive a rent

Sects 99-100. equal to one moiety of any royalty, MEREDITH, J, held that the vendor could retain his interest in the covenant in question by excluding from the sale the mines and quarries and the covenant in relation thereto: *Ranfurly's Estate*, [1906] I I R. 169. See form of clause of exclusion, at p. 171 *ib.*

(*b*) Where it appeared that there were underlying a vendor's estate valuable seams of coal, portions of which had been for a long time, and still were being, worked, it was held by MEREDITH, J, that the Estates Commissioners were justified in permitting the vendor to make a general reservation of all mineral rights, mines or quarries, on or under any part of the estate, and that the fact that the coal mines were being actually worked excluded the provisions of the 13th Section (*ante*, p. 1072), and rendered it unnecessary that any of the mineral rights should be reserved to the Land Commission: *Prior Wandesforde's Estate*, 38 I. L. T R 168, 4 N. I J. R. 229.

(*c*) Where the vendors had leased mines, and after the lodgment of the originating application had assigned the reversion, it was held that the mines were excluded from the sale: *Edinburgh Life Assurance Co Estate*, 41 I L T. R. 60.

(*d*) "Time of sale" means date of agreement for sale: *Lyle's Estate*, 41 I. L T. R 112.

Stone, gravel, sand, and clay are not excepted from the operation of this Section as they are from that of Sec 13: *Stephens' Estate*, 39 I. L T. R 107. But see note to that case (*ib.*, p 108).

Construction

100. — (1) Part One of this Act shall be construed as one with the Land Purchase Acts (*a*) and may be cited with those Acts.

(2) Part Two of this Act shall be construed as one with the Congested Districts Board (Ireland) Acts (*b*) and may be cited with those Acts.

(3) Part Three of this Act shall be construed as one with the Land Law Acts (*c*) and may be cited with those Acts.

(4) Part Four of this Act shall be construed as one with the Labourers (Ireland) Acts, 1883 to 1896 (*d*), and may be cited with those Acts.

(*a*) For a list of the Acts comprised in the "Land Purchase Acts," see note (*d*) to Sec. 98 (*ante*, p. 1166).

(*b*) The Congested Districts Board Acts comprise—Land Purchase Act, 1891, Part II (*ante*, pp. 486-493); Public Works Loan Act, 1892, Sec. 4 (*ante*, p. 962); the Congested Districts Board Acts, 1893 and 1894 (*ante*, pp. 505-7); Land Act, 1896, Part IV. (*ante*, pp 587-590), the Congested Districts Board Acts, 1899 and 1901 (*ante*, pp. 603-4 and 606-8), and Part II. of this Act. See also Act 1909, Part III., which is by Sec 68 to be construed as one with the Congested Districts Board Acts.

Land Law Acts.

(*c*) The Land Law Acts comprise those mentioned in the definition clause (Sec. 48) of the Act of 1896 (*ante*, p 592), together with Part I of that Act (see Sec. 98, *ante*), Part III of this Act, and Part V. of the Act of 1909. See Sec. 68 of that Act (*post*, p. 1242). They do not include the Landlord and Tenant Act,

1870, though portions of this Act are included in the definition of Land Purchase Acts. See note (*c*) to Land Act, 1896, Sec. 48 (*ante*, p 593), and note (*d*) to Sec. 98 of this Act (*ante*, p. 1170).

(*d*) The Labourers (Ireland) Acts, 1883 to 1896, comprise the following statutes :—46 & 47 Vict , c. 60 ; 48 & 49 Vict , c 77 ; 49 & 50 Vict., c. 59 , 54 & 55 Vict., c. 71 ; 55 Vict., c. 7 ; 59 & 60 Vict., c.53 , and Part IV. of this Act (Secs. 93 to 97, *ante*). Labourers Acts.

101. This Act may be cited as the Irish Land Act, 1903. Short title

102. This Act shall come into operation on the first day of November nineteen hundred and three. Commencement of Act.

The 27th Section of the Act, however, applies to all agreements "entered into after the passing of this Act"—*i.e*, after the 14th of Aug , 1903. See *Clarke's Estate*, 4 N. I. J. R. 1 (C. A.), and *ante*, p. 1101.

103. The Acts specified in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule. Repeals.

Schedule.

SCHEDULE.

ACTS REPEALED.

Section 103

Session and Chapter	Short Title	Extent of Repeal
44 & 45 Vict., c. 49.	The Land Law (Ireland) Act, 1881.	Section twenty-six so far as unrepealed except sub-section five. In sub-section five from "The land commission may" to the end of the sub-section Section twenty-seven Section thirty-four so far as unrepealed except sub-section five. Section forty-four from "with this" to the end of the section. Section forty-seven from "all appeals" to "Judicial Commissioner."
48 & 49 Vict., c. 73.	The Purchase of Land (Ireland) Act, 1885.	Section five down to "for an advance" Section seven.
50 & 51 Vict., c. 33.	The Land Law (Ireland) Act, 1887.	In section sixteen from "if the parties consent" to "apply to the Land Commission."
54 & 55 Vict., c. 48.	The Purchase of Land (Ireland) Act, 1891.	Section three. In sub-section one of section thirty-four, from "a member" to "forestry" and the words "the Chief Secretary when absent shall be "replaced by the Under Secretary to the "Lord Lieutenant." Sub-sections three, four, five, and six of section thirty-six.
54 & 55 Vict., c 71.	The Labourers (Ireland) Act, 1891.	Section three.
59 & 60 Vict., c 47.	The Land Law (Ireland) Act, 1896.	In section twenty-nine sub-section three. In section forty-three, sub-sections one to five, save as regards agreements for purchase made before the passing of this Act
62 & 63 Vict., c. 18.	The Congested Districts Board (Ireland) Act, 1899.	Section three, save as regards agreements for purchase made before the passing of this Act.
1 Edw. 7. c. 3.	The Purchase of Land (Ireland) Act, 1901.	In section one sub-sections two and three

IRISH LAND ACT, 1904.

(4 ED. VII., CAP. 34.)

Sects. 1-2.

Amendment of 3 Edw. 7, c. 37, s 48, as to untenanted lands.

1. Any land wholly or partly untenanted sold to the Land Commission (*a*) or the Congested Districts Board (*b*) may be regarded as an estate (*c*) for the purpose of the payment of any percentage under Section forty-eight of the Irish Land Act, 1903.

(*a*) The Land Act, 1903, Sec. 8 (*ante*, p. 1069), empowers the Land Commission to purchase untenanted land for the purpose of facilitating the resale or redistribution of estates purchased or proposed to be purchased by them.

As to purchase by the Land Commission of a holding in a Congested District, see Sec. 37 (3) (4) of the Purchase of Land Act, 1891 (*ante*, p. 489). And see Sec. 58, Act 1909 (*post*, p. 1235), which prohibits such purchases by the Land Commission, save with the consent of the Board or for the purposes of the Evicted Tenants Act, 1907 (*post*, p. 1183).

(*b*) The Congested Districts Board is empowered to acquire land by the Congested Districts Board Act, 1893 (*ante*, p. 505); the Congested Districts Board Act, 1894 (*ante*, pp. 506, 507), incorporating (by Sec. 2) the compulsory powers given by the Lands Clauses Acts, and the Land Act, 1903, Secs. 77 and 79 (*ante*, pp. 1154–1155). Section 74 of the latter Act (*ante*, p. 1153) prescribes the limit as to the value of untenanted land which may be vested in the Congested Districts Board at any one time.

The Board cannot now purchase any land not situated in a Congested Districts County: Act 1909, Sec. 57 (*post*, p. 1235). For the Congested Districts Counties, see Act 1909, Sec. 46 (*post*, p. 1230).

(*c*) See as to meaning of "estate," Land Act, 1903, Sec. 98 (1), and notes thereto (*ante*, p. 1166). Before the passing of this Act there was some doubt as to whether a "bonus" was payable in respect of the purchase of untenanted land, under the 48th Section of the Act of 1903. See notes to that Section (*ante*, p. 1113).

As to payment and application of percentage.

2. The percentage mentioned in the said Section forty-eight may subject to the enactments contained in the proviso to Sub-section one and in Sub-section four thereof, be paid to any vendor, other than the Congested Districts Board, whether such vendor (*a*) is a person entitled to a beneficial

Sects. 2-3.

interest in the land sold, or is a trustee or other person not so entitled, and, save as hereinafter provided, shall be held by him on the trusts (if any) affecting the purchase money.

(*a*) In *Ely's Estate*, [1904] 1 I. R 66, Ross, J., held that the term "Vendor" in Sec. 48 (1) of the Act of 1903 applies to all classes of persons who can sell under the Land Purchase Acts, and includes trustees, express or constructive (*ib.*, p 83).

Special provisions as to tenants for life persons under disability, &c

3.—(1) Where the vendor is a tenant for life (*d*) or a person having the powers of a tenant for life under the Settled Land Acts, 1882 to 1890 (*a*), the percentage shall, subject to those enactments of the said Section forty-eight mentioned in the last preceding Section, be retained by him as his own proper moneys for his own use and benefit, free and discharged from all claims upon the lands sold, or the purchase money thereof, and from any trust affecting the same (*b*)

Provided that where the vendor is a person exercising any power of sale on behalf of a lunatic (*c*), person of unsound mind, or infant (*d*), or where the vendor is a lunatic, or person of unsound mind, selling pursuant to any order made by the Lord Chancellor, the percentage shall be held for the use and benefit of the same persons, or upon the same trusts, as the case may be, as if the lunatic, person of unsound mind, or infant, as the case may be, were not under any disability.

Provided also that where the vendors are husband and wife exercising together the powers of a tenant for life under section Sixty-one of the Settled Land Act, 1882, the percentage shall be retained by them jointly for their own use and benefit, free and discharged from all claims and trusts as aforesaid.

45 & 46 Vict. c 38

(2) The expression "lunatic" in this Section has the same meaning as in the Lunacy Regulation (Ireland) Act, 1871.

34 & 34 Vict. c 22

Persons having power to sell under S L Acts

(*a*) See Sec 58 Settled Land Act, 1882, 45 & 46 Vic., c. 38 (*ante*, p. 953). Each of the following persons, when his estate or interest is in possession, has the powers of a tenant for life under that Act.—

A tenant in tail.

A tenant in fee-simple with an executory limitation over.

A person entitled to a base fee although the reversion is vested in the Crown.

(As to Crown reversions, see Land Act, 1903, Sec. 98 (2), and notes thereto, *ante*, p 1167)

Sect. 3.

A tenant for years determinable on a life, not holding merely under a lease at a rent.

A tenant for the life of another not holding merely under a lease at a rent.

A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life.

A tenant in tail after possibility of issue extinct.

A tenant by the curtesy.

A person entitled to the income of land under a trust for payment thereof to him for his own or any other life.

It will be observed that all owners of an estate less than the fee-simple are here included, except a dowress and a lessee at a rent

Owners of leasehold estates

Under the Land Purchase Acts a lessee for lives or years renewable for ever, or for a term of years, of which not less than sixty are unexpired at the time of the sale being made, can sell the *fee simple* of the lands to the occupying tenants thereof; the "superior interests" being redeemed out of the purchase money. See Landlord and Tenant Act, 1870, Sec. 33 (*ante*, p. 192), Land Act, 1896, Sec. 31, and notes thereto (*ante*, pp. 567–572). Even a clause prohibiting or restraining alienation in the lease does not now prevent the lessee from selling to his tenants under the Land Purchase Acts. See Land Act, 1903, Sec 70 (*ante*, p. 1137)

Dowress

The case of a widow entitled to dower out of the lands of her deceased husband is, it would appear, a *casus omissus* both from the Settled Land Acts and the Land Purchase Acts The estate of a dowress is not a "superior interest" which can be redeemed by the heir-at-law A dowress is a co-owner, entitled to one-third of the lands for her life, and on sale, one-third of the purchase money will be retained, the crown duties payable on her death being ultimately paid thereout. See *Dooner's Estate*, 44 I. L. T. R. 145.

Trusts for sale

(*b*) By the combined effect of Sec. 63, Settled Land Act, 1882, and Secs 6 and 7 of Settled Land Act, 1884, absolute trusts for sale can be executed by trustees in the same manner as before the passing of the Settled Land Act, 1882, but the tenant-for-life may apply to the Court for leave to exercise the statutory powers When such leave is granted the powers of the trustees will be suspended. See Hood and Challis' Conveyancing and Settled Land Acts, 7th Ed, p. 345. If the tenant-for-life, as such, can sell, without obtaining the leave of the Court, he is entitled to the bonus: *Babington's Estate*, 5 N. I. J. R 239; 39 I. L. T. R. 224

But leave to sell under Sec. 7 (2) of the Settled Land Act, 1884, will not be given as a matter of course. The Acts of 1903 and 1904 have not altered the law in Ireland in this respect. The Court must be satisfied that the sale, if carried out, will be for the benefit of all persons interested under the settlement: *Iever's Settlement*, [1904] 1 I. R. 492, 39 I. L. T. R. 110, *Settled Land Act and Tuthill*, [1907] 1 I. R. 305. The trustees were given their costs out of the proceeds of sale.

The destination of the bonus depends on whether such leave be given or withheld, for in the former case the tenant-for-life will be the vendor, and this Section entitles him to retain the bonus for his own use and benefit, while in the latter case Sec. 2 will be applicable, and the bonus must, accordingly, be held on the trusts affecting the purchase money.

Where a person who is, under Sec. 63 of the Settled Land Act, 1882, to be deemed a tenant-for-life applies under Sec. 7 (2) of the Settled Land Act, 1884, for leave to sell, the Court will not refuse the application merely because the bonus under

Sect. 3.

Sec 48 of the Land Act of 1903 will, if he is the vendor, and not the trustees, be paid to him as his absolute property. *In re Ievers's Settlements, ubi sup.*

By the first part of Sec 48 of the Act of 1903 it is clearly enacted in the case of every estate, whether solvent or insolvent, pecuniary inducement is to be given to owners of estates to induce them to sell to their tenants, subject to the exceptions established by Sub-sec. 4 · *Carroll's Estate*, [1906] 1 Ir. R. 661.

In *Marquis of Ely's Estate*, [1904] 1 I R. 66, before the passing of the Act of 1904, Ross, J., held that the percentage, where the vendor was tenant-for-life only or a trustee for sale, was bound by the trust of the settlement. Discussing the nature of the bonus he says (p 82):—"It is quite clear from numerous Sections that the purchase money is distinct from the bonus. In certain cases only it is expressly directed to be added to the purchase money, and not to be paid to the vendor; in all other cases it is treated as having an independent existence" And he held (p. 86) that "a Court of Equity ought not to allow the tenant-for-life to appropriate this by-product of the sale to his own use It must fasten a trust upon it in his hands and compel him to hold it for all other parties who take under the settlement as well as for himself."

Bonus, how far bound by covenant to settle after-acquired property.

In *In re Lady Annally's Trusts*, 92 L. T. 13, 53 W R. 150, KEKEWICK, J., had to decide whether the bonus was an estate or interest in the land upon the sale of which it became payable, and he says. "Is the bonus an estate or interest in that land?" It is not an estate, of course, in the strict sense of the word. It is paid by the State out of a fund provided for the purpose. It is never repaid, and there is no liability upon anybody to repay it. It is a gift from the State to the vendor, so that it cannot be said to come out of the land; and, of course strictly, it is not an interest in the land." In that case the question was whether the bonus was captured by a covenant in Lady Annally's personalty settlement to settle after acquired property, but expressly excepting the real estates settled, by a realty settlement "or Lady Annally's estate or interest therein." It was held that the bonus on the sale of the real estate was not subject to the covenant to settle after acquired property because it was an interest in the real estate, and as such specifically excepted from the operation of the covenant MEREDITH, J., on allocation in the same case, said that though he was bound to act on the decision of KEKEWICH, J., the matter being *res judicata*, yet in any future case he should deem it his duty carefully to consider the matter: 5 N. I. Jur. 118.

In *Power's Estate*, [1907] I I. R 51, a settlement contained a covenant that all real and personal property "not hereinbefore settled" to which the lady or the intended husband in her right at any time during the coverture should become entitled, whether in possession, reversion, or otherwise, should be assured and transferred to the trustees, to be held upon the same trusts as the settled funds. WYLIE, J., followed *Annally's Estate, ubi sup*, and held that the bonus was payable to the lady as tenant-for-life for her own use, and was not captured by the clause in the settlement. In *Tremayne* v. *Rashleigh*, [1908] 1 Ch. 681, EVE, J., adopting the view taken of the nature of the bonus in *Annally's Trusts, ubi sup*, and *Power's Estate, ubi sup.*, held that the bonus was not merely a by-product of the applicant's life estate, but was an interest in the settled hereditaments accruing to her when the Act of 1903, as interpreted by the Act of 1904, came into operation on 1st Nov., 1903, and that the bonus was caught by the covenant But in *Shelton's Estate*, [1910] 1 I. R. 161, WYLIE, J considered that *Tremayne* v. *Rashleigh, ubi sup*,

is not only contrary to the decisions in *Annally's Estate, ubi sup.*, and *Power's Estate, ubi sup.*, but is directly opposed to the provisions of Sec. 3 (1) of the Act of 1904.

(*c*) As to the sale of a lunatic's estate, see Land Act, 1903, Sec. 26, and notes thereto (*ante*, p. 1100), and Settled Land Act, 1882, Sec. 62 (*ante*, p. 955)

Infant's property

(*d*) An infant seised of or entitled in possession to land for any estate or interest is deemed tenant-for-life, and the land is settled land under Settled Land Act, 1882, Sec. 59 See Williams' Vendor and Purchaser, 1906 Ed., Vol. II., p. 793. The property of an infant, which is in settlement, can be sold by the trustees, if there are any. If there are none, then persons can be appointed by the Court to exercise on the infant's behalf the power of a tenant-for-life—Settled Land Act, 1882, Sec. 60, see also Land Act, 1903, Sec. 17, and note (*c*) thereto (*ante*, p. 1083). See as to the powers of the Land Commission to appoint trustees under the Settled Land Acts, Purchase of Land Act, 1885, Sec. 13 (*ante*, pp. 382 and 383), and Land Purchase Act, 1891, Sec. 19 (3) (*ante*, p. 474). Where application is made to the Lord Chancellor to appoint trustees to exercise the powers of a tenant-for-life on behalf of an infant ward of Court, the summons should be entitled "In the Matter of the Settled Land Acts, 1882 to 1890," and in the minor matter.

Freehold registered land.

Where freehold land registered under the Local Registration of Title Act, 1891, is settled by the will of a testator dying after 31st Dec., 1891, and there are no trustees of the settlement, the executors proving the will are by the 84th Sec., Sub-sec (4), of that Act (see *ante*, p. 960), and for the purposes of that Act, deemed to be trustees of the settlement, unless and until trustees of the settlement are appointed. "Settlement" and "trustees of the settlement" in that Act have the same meanings as in the Settled Land Acts, 1882 to 1889 (Local Registration of Title Act, Sec. 95).

Construction and citation. 3 Edw. 7, c 37.

4. This Act shall be construed as one with the Irish Land Act, 1903, and may be cited with the Land Purchase Acts, and the said Act of 1903 shall be construed and shall take effect from the date of its passing as if this Act had then formed part thereof.

Sects. 19, 20, 24.

19 An advance under section 2 (*a*) of the Irish Land Act, 1903, may be made for the purchase of a parcel of land comprised in an estate by an agricultural labourer who has, for a period of not less than five years immediately preceding the date of the advance, resided on the estate or in the immediate neighbourhood thereof: Provided that any pre-existing tenancy under the Labourers Acts of the applicant for the advance shall be determined before the advance is made and that the applicant has paid all rent due by him in respect of such tenancy.

(*a*) See now Sec. 17, Act 1909 (*post*, p 1210).

20. An advance for the purchase of a parcel of an estate to be held for the purposes of the Labourers Acts may be made under section four (*a*) of the Irish Land Act, 1903, to a rural district council as trustees within the meaning of that section, and in such case an improvement scheme under the Labourers Acts with respect to the parcel of land shall be made, and the provisions of those Acts relating to an improvement scheme where it is not proposed that any land shall be taken compulsorily shall apply, and the provisions of section twenty (*b*) of the Irish Land Act, 1903, relating to schemes shall not apply.

(*a*) *Ante*, p. 1060 (*b*) *Ante*, p. 1086

24. An agricultural labourer who is a tenant to a district council of a cottage and plot or of an allotment under the Labourers Acts in the neighbourhood of such a holding as is referred to in section twenty-one (*a*) of the Irish Land Act, 1903, shall be deemed for the purposes of turbary to be an occupier of land in that neighbourhood.

(*a*) *Ante*, p. 1087.

IRISH LAND ACT, 1907.

(7 ED. VII., CAP. 38.)

AN ACT TO MAKE PROVISION WITH RESPECT TO THE DISPOSAL OF MINING RIGHTS UNDER SECTION THIRTEEN OF THE IRISH LAND ACT, 1903, AND TO AMEND SECTION FIFTY-FOUR OF THAT ACT. [28*th August*, 1907.]

Be it enacted, &c.

Sect. 1
As to disposal of mining rights.

1.—(1) The Irish Land Commission may let, lease, sell, or demise to any person in such manner and subject to such conditions as they may think proper, and at the best rent (*b*) or price, as the case may be, which may be obtainable, any exclusive right of mining or taking minerals, or digging or searching for minerals, reserved to them under section thirteen (*a*) of the Irish Land Act, 1903. 3 Edw 7, c. 37

(2) For the purpose of ascertaining the value of any such right, the Commission may, either alone or in association with any other persons, after having given to the occupier of the land in respect of which the right is to be exercised at least one month's notice by registered letter, addressed to him at his last-known place of abode, and subject to the provisions of sub-section four of the said section thirteen (*a*) as to compensation, enter upon the land and make such borings and other experiments as, in the opinion of the Commission, appear necessary or desirable.

(3) Out of the profits arising from any disposition of any such right made by the Land Commission there shall be paid any expenses incurred under the authority of this Act in relation to such right, and any sums advanced out of the reserve fund mentioned in section forty-three (*c*) of the said Act of 1903 for payment of those expenses shall be repaid to that fund, and the net profit remaining shall, after deduction of the percentage provided for in subsection three of section thirteen (*a*) of the said Act be paid into and form part of that fund.

(4) The powers conferred upon the Irish Land Commission

Sects. 1-3.

by this section shall only be exercised with the approval of the Judicial Commissioner and after having, where practicable, ascertained the views of the person entitled to the aforesaid percentage.

(5) Not less than one month before any disposition is made under this section of any right, the Commission shall publish, in a newspaper circulating in the locality where the right is to be exercised, a notice stating their intention to make a lease or sale, as the case may be, and inviting offers from any persons wishing to exercise the right.

(*a*) See *ante*, p 1072. And see Sec. 37 of the Act of 1909 (*post*, p 1223)

(*b*) A royalty rent variable with the price or value of the minerals gotten may be reserved: Act, 1909, Sec. 37 (2) (*post*, p. 1223)

(*c*) *Ante*, p 1108.

Amendment of 3 Edw 7, c 37, s. 34 (4) with respect to charges created by will or codicil.

2.—(1) The period limited with respect to the registration, in pursuance of subsection four of section fifty-four (*a*) of the Irish Land Act, 1903, of a charge on a holding created by will or codicil shall be twelve months from the date of the grant of probate of the will, or letters of administration with the will annexed, as the case may be, and the said section shall have effect as if the said period of limitation were substituted therein for the period of six months from the death of the testator.

(2) Such registration if not previously effected by some other person shall, within the time limited by this section, be effected, for the benefit of the owner of the charge, by the person becoming beneficially entitled to the holding on the death of the testator.

(*a*) *Ante*, p. 1128.

Short title

3. This Act may be cited as the Irish Land Act, 1907.

EVICTED TENANTS (IRELAND), ACT 1907.

(7 ED. VII., CAP. 56.)

AN ACT TO FACILITATE THE PROVISION OF LAND FOR CERTAIN EVICTED TENANTS IN IRELAND AND FOR OTHER PURPOSES CONNECTED THEREWITH, AND TO MAKE PROVISION WITH RESPECT TO THE TENURE OF OFFICE BY THE ESTATES COMMISSIONERS. [28*th August*, 1907.]

Be it enacted, &c.

Sect. 1.

Power to acquire land compulsorily.

1.—(1) If it appears to the Estates Commissioners that it is expedient to acquire any land for the purposes of this Act, and if they have offered (*a*) to the person appearing to them to be the owner of the land a price which appears to them to represent the value thereof, and he has not within the prescribed time (*d*) accepted the offer, they may, subject to the provisions as to appeal contained in this Act, acquire that land compulsorily for those purposes in accordance with the provisions of this Act, and shall declare any land so acquired to be an estate.

(2) The expression "the purposes of this Act" means the provision of parcels of land for—

(a) evicted tenants to whom this Act applies, that is to say, persons mentioned in paragraph (d) of subsection one of section two of the Act of 1903 (*e*), who, or whose predecessors, were evicted from their holdings before the passing of the said Act in consequence of proceedings taken by or on behalf of their landlords, and who made application to the Estates Commissioners before the first day of May nineteen hundred and seven to be put in occupation of holdings, and whom those Commissioners consider to be fit and proper persons to become purchasers under the Land Purchase Acts, not exceeding two thousand in all; and

Sect. 1.

(b) new tenants to whom this Act applies, that is to say, tenants, and persons nominated by the Estates Commissioners as personal representatives of tenants, or holdings formerly occupied by evicted tenants to whom this Act applies.

(3) No tenanted land (*b*) shall be acquired compulsorily unless it is in the occupation of a new tenant to whom this Act applies, and unless the Estates Commissioners, having regard to all the circumstances of the case, holding, and district, and to the cost involved, consider it expedient that the evicted tenant should be reinstated as a purchaser of that land: Provided (*c*) that no tenanted land shall be acquired compulsorily which is in the possession or occupation of a bonâ fide tenant using or cultivating the same as an ordinary farmer in accordance with proper methods of husbandry.

(4) No land shall be acquired compulsorily which is subject to an annuity for the repayment of an advance under the Land Purchase Acts.

(5) For the purposes of this enactment a person shall be deemed to be a tenant notwithstanding that he may have agreed to purchase his holding, if the agreement was entered into after the first day of May nineteen hundred and seven, and if the holding has not become vested in him as a purchaser under the Land Purchase Acts (*f*).

See as to duration of Act, Sec 19 (*post*, p 1194)

(*a*) The Estates Commissioners are bound to make an independent offer to the owner under Sec 1 as a condition precedent to putting in operation the machinery provided for the compulsory acquisition of lands under Sec. 2 of the Act · *Rex (Clanricarde)* v *Estates Commissioners*, [1909] 2 I R 543, 556; 43 I L T. R. 221.

Sec 1 contains the statement of the principle of the Act, Sec. 2 creates the machinery and defines the *modus operandi* for acquiring land compulsorily under the Act. But the relation between the Section is only to be discovered by marking the distinction between acquiring land *generally* under Sec 1 (1) and acquiring land *compulsorily* under Sec 2. Per FITZGIBBON, L J.: *Rex (Clanricarde)* v. *Estates Commissioners*, at p 574, *ubi sup*

(*b*) In *Young's Estate*, 43 I L T R 13, lands actually occupied by a fee-farm grantee were held to be tenanted lands within Sec 1 (3); but where such lands had been sublet by the fee-farm grantee and evicted, and the grantee went into occupation, were held not tenanted land: *Fitzmaurice's Estate*, [1909] 1 I. R. 81; 43 I L. T R. 65 But see now Sec. 67, Act 1909 (*post*, p 1242).

To include in the offer lands, portion of which are tenanted, is unlawful, and proceedings on this ground were stayed: *Beecher's Estate*, 43 I. L. T. R 244.

(*c*) The Court of Appeal (reversing WYLIE, J.) held that the prohibition against the compulsory acquisition of land by the Estates Commissioners contained in Sub-sec. 3 of Sec. 1 could not be waived by the consent of the tenant alone: *Marquis of Clanricarde's Estate*, [1908] 1 I. R. 423, 434; 42 I. L. T. R. 128, 166. In the same case it was held by WYLIE, J., that the compulsory power of the Estates Commissioners could only be exercised for the purpose of reinstating the tenant formerly evicted from the holding. The Evicted Tenants Act, 1908 (*post*, p. 1196). now, however, enacts that the proviso at the end of Sub-sec. 3 of Sec. 2 shall not apply where the tenant consents in writing to the compulsory acquisition of the land.

(*d*) One month from the making of the offer, E. T. Rules, 24th Oct, 1907, Rule 4 (*post*, p 1313).

(*e*) *Ante*, p 1056 This Section has been repealed and replaced by Sec 17, Act 1909 (*post*, p 1210)

(*f*) See as to the position of a tenant purchaser in the interval between the signing of the purchase agreement and the declaration that the lands are a separate estate: *Earl Fitzwilliam* v. *Wicklow C. C.*, 40 I. L. T. R. 180 (PALLES, C B), as explained in *Re Lynder's Contract*, [1910] 1 I. R 231; 44 I. L. T. R. 113.

Provisions respecting acquisition of land and purchase money

2. Where it is proposed that any land shall be acquired compulsorily under this Act—

(1) The Estates Commissioners shall publish a notice (*a*) to that effect in the "Dublin Gazette" containing the prescribed particulars with respect to the land, and calling upon any persons interested in the land, who may object to the acquisition thereof under this Act, to lodge in the office of the Land Commission, within the prescribed period (*b*), a statement of the grounds of their objection:

(2) A copy of the aforesaid notice shall be served by the Estates Commissioners as soon as may be, in the prescribed manner (*f*), upon the person who appears to them to be the owner of the land, and upon all persons known or believed by them to be interested therein:

(3) At any time after the publication of the aforesaid notice, any inspectors and other persons appointed by the Estates Commissioners may enter upon the land, and do all such things as may be necessary for the purpose of enabling the Commissioners to determine whether the land is suitable for the purposes of this Act and to estimate the price thereof:

(4) If it appears to the Estates Commissioners, after considering the report of their inspectors and any objec-

Sect. 2.

tions to the acquisition of the land lodged as aforesaid, that the land is suitable for the purposes of this Act, and that no valid objection (*o*) has been raised to such acquisition, they may, if they think fit, make an offer (*e*) to the person appearing to them to be the owner of the land for the purchase thereof at such price as appears to them primâ facie to be a reasonable price:

(5) The Estates Commissioners shall, upon making such offer, give notice in the prescribed manner (*f*) to all persons known or believed by them to be interested in the land of their intention to acquire the same at the aforesaid price, unless within the prescribed period (*d*) a petition is presented to the Land Commission by any person interested praying that the land shall not be so acquired without further inquiry:

(6) If no petition has been presented, or if every such petition has been withdrawn, the purchase money shall, within six months after the expiration of the time limited for the presentation of petitions, be paid into the Bank of Ireland by the Land Commission (*c*) and the Estates Commissioners shall make an order vesting the land in the Land Commission:

(7) If a petition has been presented, and has not been withdrawn, the petition and all questions arising thereon, shall, subject to the provisions of section twenty-three of the Act of 1903 with respect to questions of law, be heard and determined by the Estates Commissioners, or any two of them, and their decision shall, subject to the provisions of this section, be final (*g*):

(8) Any person aggrieved by any determination of the Estates Commissioners fixing the price (*h*) of the land proposed to be acquired, may within the prescribed time (*i*), appeal to the Judicial Commissioner, who shall hear in the prescribed manner and determine the appeal (*q*):

44 & 45 Vict. c. 49

(9) The powers conferred upon the Land Commission by section forty-eight of the Land Law (Ireland) Act, 1881 (*k*), may be exercised by the Judicial Commis-

sioner in the case of all proceedings coming before him in pursuance of the last preceding subsection:

(10) The powers and duties of the Judicial Commissioner under this section shall not be exercised and performed by any other judge appointed as an additional Judicial Commissioner save during the absence through illness of the Judicial Commissioner:

(11) Any person aggrieved by any determination of the Estates Commissioners of a question arising under the provisions of this Act imposing restrictions on the acquisition of land may, within the prescribed time (*l*), appeal, at his option, either to the Judge of Assize of the county in which the land is situate, or to a Judge of the King's Bench Division of the High Court placed on a rota for the purposes of this Act:

(12) The Judge shall have power to hear and determine all questions of law and fact arising on any such appeal (other than a question of law referred to the Judicial Commissioner under section twenty-three of the Act of 1903), and may make such order as to costs as he may think fit, and his decision on all questions heard by him shall be final:

(13) Rules of the Supreme Court shall provide for the forming of a rota (*n*) for the purposes of this Act, and for the procedure to be adopted on the hearing of any such last-mentioned appeals, and for the consolidation and transfer where necessary of such appeals:

(14) Subject to the determination of all questions arising on the petition, the purchase money shall, within the prescribed time (*m*), be paid into the Bank of Ireland, and the vesting order shall be made, unless the Estates Commissioners, within the prescribed time (*m*), serve a notice on the person appearing to them to be the owner of the land that they do not intend to make the order.

(*a*) The form of notice is prescribed by Rule 1 of the Rules under the Act dated 24th October, 1907 (*post*, p. 1313) Form, *post* p. 1316.

(*b*) One month from the publication of the notice in the *Dublin Gazette*: Rule 3.

(*c*) Purchases under this Act must be financed in accordance with Part I. of the Act 1909 (*post*, p. 1197)—*i.e.*, by payment in cash, or 2½ per cent. stock, at the

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option of the vendor, where the statutory pending purchase agreement within the meaning of the latter Act and in £3 per cent. stock in case of future purchase agreements.

Sec 64, Act 1909 (*post*, p. 1240), does not apply to land compulsorily acquired under the Evicted Tenants Act: *Marquis Conyngham's Estate*, [1910] 1 Ir. R. 76; 44 I L. T R. 64

(*d*) One month from the making of the offer Evicted Tenant Rules, 24th October, 1907, Rule 4 (*post*, p 1313)

(*e*) The offer is to be headed —Offer under Sec. 2 (4) of the Evicted Tenants (Ireland) Act, 1907

(*f*) See Evicted Tenants Rules, 24th October, 1907 (*post*, p 1314), Rule 5.

Form of notice, No. 2, Schedule to Evicted Tenants Rules (*post*, p. 1317). A copy of the notice is to be filed in the Land Commission office, and to be open to inspection by persons interested.

Value of lands how ascertained

(*g*) In *White's Estate*, [1909] 1 I. R 35, WYLIE, J, confirmed on appeal the value fixed by the Estates Commissioners of lands compulsorily acquired by them. The method of ascertaining the value of such lands is discussed in that case, where twenty-three and a half years' purchase of the gross fair rent was awarded The same rule as in fixing the redemption price of a superior rent was apparently applied in that case—*i e*, the owner's right is to be measured by such a sum as when invested would produce an equal income equally well secured, together with something added for compulsory purchase But see as to this latter element, Act 1909, Sec 63, Sub-sec 2 (*post*, p. 1239)

(*h*) A bonus is payable on the price fixed: *White's Estate*, [1908] 1 I R, at p 36

(*i*) An appeal to the Judicial Commissioner as to price may be lodged within fourteen days with the Estates Commissioners, and such appeal may be listed for hearing any time after fourteen days from the lodgment of the notice: Evicted Tenants Rules, 24th October, 1907, No 6 (*post*, p. 1314)

(*k*) (*Ante*, p 333)—*i e*, power to determine questions of law and fact, to state a case, to enforce attendance of witnesses, to issue commission for examination of witnesses, to punish for contempt, to make and enforce orders to carry out Act.

(*l*) Fourteen days from the date of such determination: Evicted Tenants Rules, 24th October, 1907, Rule 7 (*post*, p 1314), and Rules of the Supreme Court, Or. LIX., Rule 14 (*post*, p. 1319).

The evidence on such appeal is given *viva voce*, Order LIX., Rule 16.

The notice of appeal must state whether the whole or part of the order is appealed from, and must specify the grounds of appeal· Rule 13 Rule 18 requires notices, affidavits, &c, to be headed in the King's Bench Division and affidavits to be filed in that Division.

Applications for consolidation or transfer of appeals are to be made on four clear days' notice, and if the appellant applies, the notice is to be served on the Registrar to the Estates Commissioners, and must be supported by affidavit: Rule 92, which also provides for service of copies, &c.

(*m*) Six months from the determination by the Estates Commissioners if no appeal, or if appeal is withdrawn six months from such withdrawal: Evicted Tenants Rules, 24th October, 1907, Rule 8 (*post*, p 1314) Or in case an appeal has been taken, then unless such appeal is withdrawn, the prescribed time for payment into bank, or service of notice that the Estates Commissioners do not intend

to make such order, is six months from the date of the final determination of the matter in dispute in such appeal: Evicted Tenants Rules, Rule 9 (*post*, p. 1314).

(*n*) See Rules of Supreme Court, 27th November, 1908, St R. & O., 1908, No. 1149: Rules for forming Rota of Judges, and as to appeals under this Act (*post*, p. 1318).

(*o*) A decision of the Estates Commissioners overruling an objection is a judicial decision from which an appeal lies: *Hind's Case*, 43 I. L. T. R 75, and see *Rex (Clanricarde)* v. *Estates Commissioners*, [1909] 2 I. R, judgment of FITZGIBBON, J, at p. 570.

Publication of proceedings and returns.

3—(1) The Estates Commissioners shall publish particulars of all cases in which an evicted tenant, or a person nominated by them to be the personal representative of a deceased evicted tenant, has been or may be hereafter, with their assistance, reinstated as a purchaser of his or his predecessor's former holding or provided with a new parcel of land under the Land Purchase Act.

(2) Such particulars shall be in the form of a quarterly return, which shall be laid before Parliament as soon as may be after it is made, and shall contain such particulars of each case as may be prescribed (*a*), including the particulars set forth in the schedule to this Act, if and so far as it may be practicable to furnish the same.

The prescribed particulars are to be those set forth in the Schedule to the Act and any other matters as in any particular case the Estates Commissioners may consider desirable: Evicted Tenants Rules, 24th October, 1907, No. 10 (*post*, p. 1315).

Power to determine tenancies.

4.—(1) Where the Estates Commissioners have acquired any tenanted land under this Act, they may serve in the prescribed manner a notice on any new tenant thereon which shall have the effect of determining the tenancy in the holding in his occupation as from the date mentioned in the notice, not being less than six months from the service thereof and ending either on the first day of May or on the first day of November.

(2) Unless the new tenant has applied for compensation as hereinafter mentioned, the Estates Commissioners, shall, within three months from the service of the aforesaid notice, offer to put the new tenant forthwith into possession of a parcel of land which will be subject to an annuity under the Land Purchase Acts not exceeding in amount the rent payable by him for the said holding, and which is, in the opinion

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of the Estates Commissioners, of not less value, in respect of the land comprised therein, than the value of the land comprised in the said holding, and which, in the opinion of the said Commissioners, is as suitably provided with buildings and other requirements as the said holding, and shall at the same time offer to such new tenant such sum as may be reasonably necessary to cover any expense or loss incidental to the removal of himself and his family as well as of his crops, stock, and other chattels to such parcel of land.

(3) If the new tenant is dissatisfied with the parcel of land offered to him, or refuses to enter into possession thereof, the Estates Commissioners shall, after hearing him, or giving him an opportunity of being heard, award such sum as appears to them to be full compensation for his interest in the said holding in like manner as if the holding had been resumed by the landlord under the powers in that behalf conferred by section five of the Land Law (Ireland) Act, 1881 (*c*).

(4) Where the new tenant applies within the prescribed time for compensation (*a*) under the last preceding subsection, the Estates Commissioners may, if they think proper, award him such compensation without having offered to put him into possession of a parcel of land.

(5) A tenant to whom compensation has been awarded under this section shall not be compelled to quit his holding until the amount of compensation due to him has been paid or deposited in the prescribed manner (*b*).

(6) Where a new tenant is put into possession of a parcel of land the Estates Commissioners may order that such charges, liabilities and equities as affected the tenant's interest in the former holding, shall either continue to affect that holding or be transferred to the said parcel of land.

(*a*) At any time before an offer to put him into possession of a parcel has been made. Evicted Tenants Rules, 24th October, 1907, Rule 11 (*post*, p. 1315).

(*b*) See Rule 12, as to credit to which compensation money is to be lodged. Payment out is applied for on affidavit stating the nature and particulars of the applicant's claim, and is made on the Order of a Commissioner.

(*c*) *Ante*, pp. 249, 250.

Expenses in relation to improvement of land, &c

5.—(1) Any expenses incurred or compensation payable by the Estates Commissioners in relation to land acquired under this Act in the exercise of the powers conferred by section

twelve of the Act of 1903 (*a*), or by the provisions of this Act relating to the determination of tenancies, shall be paid out of the reserve fund mentioned in section forty-three (*b*) of the Act of 1903, and, if and so far as that fund is insufficient, shall be paid as part of the expenses of the Land Commission.

(2) Regulations under subsection three of the said section forty-three (*b*) may provide for the repayment to the account of the expenses of the Land Commission of any money paid under the foregoing provisions of this section as part of the expenses of the Land Commission and recovered by way of an increase of price on resale.

(3) All costs and expenses necessarily and properly incurred by any person in respect of a petition, hearing, or appeal under this Act, or by any person having a claim upon the purchase money of land acquired under this Act in the ascertainment of the title to and distribution of that money, shall be paid, as part of the expenses of the Land Commission, to the person who incurred such costs or expenses.

(*a*) *Ante*, p. 1071. (*b*) *Ante*, p. 1108.

Power to incur loss on resales.

6. If the amount of the purchase money of any land acquired by the Estates Commissioners under this Act is greater than the total amount of the purchase money at which the land could, in the opinion of the Estates Commissioners, if unimproved, be reasonably resold for the purposes of this Act, the Lord Lieutenant may authorise the Estates Commissioners to incur loss on such resale, to such extent as may be determined by him with the assent of the Treasury, and the amount of that loss shall be paid out of the Land Purchase Aid Fund and credited to the Irish Land Purchase Fund in redemption of an equal amount of the original advance: Provided that the total amount paid out of the Land Purchase Aid Fund under this section shall not exceed one hundred thousand pounds.

Restriction on the acquisition of land

7. No untenanted land shall be acquired compulsorily under this Act which is or forms part of any demesne, home farm, town park, within the meaning of the Land Law (Ireland) Acts, garden or pleasure ground, or which is the property of a railway or canal company, and which is, or may be,

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required for the purposes of their undertaking; and in the exercise of the powers for the compulsory acquisition of land conferred by this Act the Estates Commissioners shall, in the case of untenanted land, avoid all interference with the demesne and amenity of residence of the owner of the land, or with any home farm or land immediately adjoining and customarily occupied with his residence, and land shall be selected with due regard to the general situation and convenience of any other property of the owner so as not to diminish the value thereof.

See the corresponding Section in the Act of 1909, Sec. 62 (*post*, p. 1237).

Alternative site

8. The owner of any land proposed to be acquired under this Act may offer to sell any other land as an alternative, and the Estates Commissioners shall consider any such offer

Saving of sporting rights.

9. Where any land is compulsorily acquired under this Act all sporting rights theretofore vested in the owner of the land shall, if he so desires, be expressly reserved to him.

Incorporation of 8 Vict. c. 18, s 91.

10. Section ninety-one of the Lands Clauses Consolidation Act, 1845, which makes provision in case of refusal to deliver possession of lands, is hereby incorporated with this Act, and in construing the said section as so incorporated this Act shall be deemed to be the special Act and the Estates Commissioners shall be deemed to be the promoters of the undertaking.

Restraint on transfer of holdings and protection in case of bankruptcy, &c

11.—(1) So long as a parcel of land, provided out of land acquired under this Act, and sold to an evicted tenant, is subject to an annuity under the Land Purchase Acts, the interest of the purchaser in the land shall not be transferred on a voluntary sale without the consent of the Land Commission.

(2) No parcel of land purchased by an evicted tenant under the Land Purchase Acts, shall be made available in any bankruptcy, or by any other process or proceeding of law, to pay, satisfy, or discharge, in whole or in part, any debt contracted or incurred by such evicted tenant prior to the date on which the parcel of land became vested in him.

Protection of farm stock, &c

12. No farming stock or other chattels provided for an evicted tenant by means of a grant or loan under the Act of

1903, shall be made available in any bankruptcy, or by any other process or proceeding of law, to pay, satisfy, or discharge, in whole or in part, any debt contracted or incurred by such evicted tenant prior to the date on which the parcel of land purchased by him became vested in him. Sects. 12-15.

13. Advances under the Land Purchase Acts may be made for the purchase of parcels of land by any new tenants to whom this Act applies, in like manner as if they were mentioned in section two of the Act of 1903 (*a*). Advances to new tenants

(*a*) Now repealed and replaced by Sec. 17, Act 1909 (*post*, p. 1210).

14. Any land acquired under this Act which is not required for the purposes of this Act, after having been offered to the person from whom it was acquired, may, if the offer is not accepted by him within the prescribed time (*b*), be sold under the Land Purchase Acts to any person mentioned in section two of the Act of 1903 (*a*). Surplus lands.

(*a*) Now repealed and replaced by Sec. 17, Act 1909 (*post*, p. 1210).
(*b*) 14 days from the date of the offer, Rule 24, May, 1909 (*post*, p. 1317).

15. The Land Purchase Acts shall apply, in the case of land acquired under this Act, in like manner as if the land were purchased by agreement, with the necessary modifications, and in particular the date of the payment of the purchase money into the Bank of Ireland shall be substituted for the date of the purchase agreement, and the provisions of section fourteen of the Land Law (Ireland) Act, 1887 (*a*), with respect to money paid into the Bank of Ireland, shall apply where money is so paid under this Act, and, in the application of section twenty-three of the Act of 1903, the foregoing provisions of this Act shall be substituted for the provisions of that Act specified in the said section. Application of Acts

(*a*) *Ante*, p. 418, under which the lands are released and claims attached to the purchase-money

In every case in which land is acquired by the Estates Commissioners under the Evicted Tenants Act, it must be deemed to be acquired by agreement for the purposes of Part I. of the Act of 1909—*i. e.*, for the purposes of the financial provisions of that Act: *Marquis Conyngham's Estate*, [1910] 1 I. R. 76; 44 I. L. T. R. 64. And see Sec. 13 (*c*), Act 1909 (*post*, p. 1208).

Sects. 16-20.

Tenure of office by Estates Commissioners.

16.—(1) The Estates Commissioners shall hold office by the same tenure as if they were county court judges in Ireland.

(2) Subsection five of section twenty-three of the Act of 1903 is hereby repealed.

Expenses of improvement in case of land sold to evicted tenant by owner of estate.

17.—(1) Regulations (*b*) made by the Treasury may provide that where the Land Commission have expended money on the improvement of a parcel of land sold by the owner of an estate to a person mentioned in subhead (*d*) of subsection (1) of section two of the Act of 1903 (*a*), and the value of the said parcel has in consequence been increased, the National Debt Commissioners may advance to the Land Commission for repayment to the reserve fund mentioned in section forty-three of the Act of 1903 such sum as represents the increase of value consequent on the improvement, and such advance shall be repaid by the tenant purchaser as if it were an advance made under the Land Purchase Acts for the purchase of the said parcel.

(2) The annuity payable in respect of an advance made in pursuance of this section shall, in accordance with regulations made by the Treasury, be consolidated and made payable with the purchase annuity payable in respect of the purchase money of the parcel of land.

(*a*) Now repealed and replaced by Sec. 17, Act 1909 (*post*, p. 1210).
(*b*) *Post*, p. 1478.

Power to Congested Districts Board to assist evicted tenants.

18. The Congested Districts Board for Ireland may, out of any funds at their disposal, make a free grant to any tenant reinstated by them in a holding, his tenancy in which had been determined, for the purpose of assisting him to rebuild or repair any buildings on the holding, or to purchase stock or seed

Duration of Act

19. The provisions of this Act conferring powers for the acquisition of land and for the determination of tenancies shall continue in force for four years after the passing of this Act, and as regards any matters then pending before the Court of Appeal or the Judicial Commissioner until the said matters are finally determined.

Short title, &c

20. This Act may be cited as the Evicted Tenants (Ireland) Act, 1907, and shall be construed as one with Part One of the Irish Land Act, 1903, in this Act referred to as "the Act of 1903," and may be cited with the Land Purchase Acts.

3 Edw. 7, c. 37.

SCHEDULE.

Sect. 3.

PARTICULARS OF DECISIONS AND RETURNS.

COUNTY	Name of Estate on which former holding is situate	Name of Tenant	Townland on which former holding is situate	Date of Eviction	Annual rent of former holding at date of eviction (as stated in tenant's application)	Annuity payable on purchase holding	Expenditure sanctioned out of Reserve Fund				Area		Poor Law Valuation	
							Advances repayable as part of Land Purchase Annuities	Free Grants not repayable			Former Holding	New Holding	Former Holding	New Holding
							Buildings and other improvements	Buildings and other improvements	Stock, farm implements	Compensation to outgoing tenants on surrendering holdings				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)

EVICTED TENANTS (IRELAND) ACT, 1908.

(8 ED. VII., CAP. 22.)

AN ACT TO AMEND SECTION ONE OF THE EVICTED TENANTS (IRELAND) ACT, 1907, WITH RESPECT TO THE COMPULSORY ACQUISITION OF TENANTED LAND. [1*st August*, 1908.]

BE IT enacted, &c

Sects 1-3.

Amendment of 7 Edw 7, c 56, s 1, as to tenanted land

1. The proviso at the end of subsection (3) of section one of the Evicted Tenants (Ireland) Act, 1907, shall not apply in any case where the tenant consents in writing to the compulsory acquisition of the land by the Estates Commissioners: Provided that the tenant shall sign such consent in the presence of two witnesses present at the same time, who shall attach their names thereto, and, when so signed and witnessed, that the said consent shall be filed as a record in the office of the Land Commission (*a*).

(*a*) The Estates Commissioners proceeded to acquire compulsorily for the purposes of the Act tenanted lands without valid consents within the Amending Act of 1908. An objection was made to their jurisdiction on the ground of the invalidity of the consents The Court of Appeal held that in the circumstances they had no jurisdiction to proceed further or to submit any questions of law to the Judicial Commissioner, and that a writ of prohibition ought to issue to prevent them from continuing the proceedings already taken: *Rex* (*Clanricarde*) v. *Estates Commissioners*, [1909] 2 I. R. 542, 556; 43 I L. T. R. 221

Construction.

7 Edw 7, c 56

2. This Act shall be construed as one with the Evicted Tenants (Ireland) Act, 1907, and the said Act of 1907 shall be construed and take effect from the date of its passing as if this Act had then formed part thereof.

Citation

3. This Act may be cited as the Evicted Tenants (Ireland) Act, 1908, and may be cited with the Evicted Tenants (Ireland) Act, 1907, as the Evicted Tenants (Ireland) Acts, 1907 and 1908.

IRISH LAND ACT, 1909.

(9 ED. VII., CAP. 42.)

AN ACT TO AMEND THE LAW RELATING TO THE OCCUPATION AND OWNERSHIP OF LAND IN IRELAND, AND FOR OTHER PURPOSES RELATING THERETO. [*3rd December*, 1909.]

Be it enacted, &c.

PART I.

LAND PURCHASE FINANCE.

Sect. 1.

Alteration of amount of purchase annuity and of rate of interest payable to National Debt Commissioners. 3 Edw. 7. c. 37.

1.—(1) In the case of advances made in pursuance of future purchase agreements (*a*), three pounds ten shillings shall be substituted for three pounds five shillings as the rate of the purchase annuity under section forty-five of the Irish Land Act, 1903 (*b*), in this Act referred to as the Act of 1903.

(2) So far as respects advances made for future purchase agreements, the rate of interest to be paid by the Land Commission to the National Debt Commissioners under section thirty-six (*c*), and by the Congested Districts Board to the Land Commission under section seventy-two (*d*), of the Act of 1903, shall be three per cent per annum, instead of two-and-three-quarters per cent. per annum.

(3) The National Debt Commissioners shall, in the accounts kept by them of the Irish Land Purchase Fund, distinguish between advances made in pursuance of pending purchase agreements and advances made in pursuance of future purchase agreements (*a*).

A result of the increase in the rate of purchase annuity to 3¼ per cent. is that a considerably smaller capital advance will be necessary to affect any given reduction, upon the former rent paid by the purchasing tenant, than was requisite to affect the same reduction when the annuity was 3¼ per cent. And accordingly an advance which is within the zones at the old rate may be outside the zones under the new rate. Tables showing the zone limits and particulars of sales at 3¼ per cent. and bonus at 12 per cent. under the Act of 1903 will be found *ante*, pp. xii.-xiii., and at 3¼ per cent. with the sliding scale bonus under the Act of

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1909, where the rent has been fixed since 15th Aug, 1896, at pp. xiv.-xv., *ante*, and where the rent has been fixed before 15th Aug, 1896, at pp. xvi.-xvii., *ante* From these tables it will be seen that where the rent has been fixed since 15th Aug, 1896, any reduction which would carry more than a 12 per cent. bonus brings the advance outside the zone limits while in cases where the rent has been fixed before 15th Aug., 1896, any reduction which would carry less than a 4 per cent. bonus, or more than a 14 per cent bonus, produces a like result It will also be observed that, at the points where the rate of bonus changes, a fractionally less number of years' purchase gives not only the higher rate of bonus, but with the bonus produces a slightly larger total amount of purchase money. Thus a reduction of 2s. 7d. in the pound, equal to 24¾ years' purchase (approximately) of a rent of £100 fixed since Aug., 1896, gives £2,485 14s. 3d, and bonus £99 8s. 7d, total £2,585 2s 10d., while a reduction of 2s. 6d, equal to 25 years' purchase, produces £2,500, which with bonus of £75 comes to £2,575

(*a*) See Sec. 13 (*post*, p. 1207). (*b*) *Ante*, p 1109.
(*c*) *Ante*, p. 1104. (*d*) *Ante*, p. 1151.

Power to raise new guaranteed three per cent stock, and provision as to investment by savings bank depositors in stock.

2.—(1) The power of the Treasury to create stock (*a*) for the purpose of raising money required for the Irish Land Purchase Fund (including the Land Purchase Aid Fund) shall include power to create a new capital stock to be called guaranteed three per cent. stock, and the Treasury may at any time create for that purpose either guaranteed two-and-three-quarters per cent. (*a*) stock or guaranteed three per cent. stock, as they think fit.

(2) The provisions of the Act of 1903 relating to stock shall apply to guaranteed three per cent. stock created under this section as they apply to the guaranteed two-and-three-quarters per cent. stock created under that Act, with the substitution of three per cent. for two-and-three-quarters per cent. as the rate of dividend, and of thirty years from the passing of this Act for thirty years from the commencement of the Act of 1903 as the period after the expiration of which the stock is redeemable.

(3) The definition of Government stock in subsection two of section five of the Savings Bank Act, 1893, shall be read as if stock issued under the Act of 1903 or this Act were included in the First Schedule to the said Savings Bank Act, 1893 (*b*).

56 & 57 Vict. c. 69.

(*a*) Sec. 47 (2) gave power to issue 2¾ per cent. stock (*ante*, p. 1111)

(*b*) This enables investments in Guaranteed Land Stock to be made through the Post Office Savings Bank.

Power to make advances by guaranteed stock under certain circumstances.

3.—(1) Notwithstanding anything in section twenty-seven of the Act of 1903 (*a*), advances for the purposes of the Land

Purchase Acts may, subject to the provisions of this section, be made in whole or in part by means of stock in the manner and under the circumstances for which provision is made by this section.

(2) For the purpose of carrying into effect pending purchase agreements (*b*), advances may, if the vendor agrees (*c*), be made by means of the issue to the prescribed persons, in the prescribed manner, and subject to the prescribed conditions, of such an amount of guaranteed two-and-three-quarters per cent. stock as, at the market price of the day of issue (as certified in the prescribed manner), is equivalent to the sum to be be advanced if that price is not below ninety-two pounds (ex-dividend) for an amount of stock of the nominal value of a hundred pounds, or, if the stock is below that price, by the issue of such an amount of stock as would be equivalent to the sum to be advanced if the stock were at that price.

(3) For the purpose of carrying into effect future purchase agreements (*b*), advances may, if the Treasury think fit so to direct, be made by means of the issue of an amount of guaranteed three per cent. stock equal in nominal amount to the sum to be advanced and carrying dividends as from the date of the advance.

(4) Stock issued in pursuance of this section as the equivalent of an advance shall, as between the vendor and the purchaser, be accepted by the vendor as the equivalent of the corresponding amount of purchase money, and a vendor, although he is not an absolute owner, may agree to advances being made by stock under this section for the purpose of carrying out any pending purchase agreements (*b*), and any person having power to sell under the Land Purchase Acts, although he is not an absolute owner, may enter into any future purchase agreement (*b*), notwithstanding that the purchase money may be payable in stock in pursuance of this section instead of in cash.

(*a*) *Ante*, p. 1101. (*b*) Sec. 13 and note thereto (*post*, p. 1207).

(*b*) See note to Sec. 4 (*post*) as to allocation of money available in each financial year for advances and priority of cases of pending purchase agreements.

(*c*) It is only to vendors in pending purchase agreements that the option of taking cash or 2¾ per cent. stock is given.

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The following table, compiled for the Irish Land Owners' Convention, is inserted here with kind permission, shows the effect of

PAYMENTS IN 2¾ PER CENT. STOCK IN LIEU OF CASH.

If the market price of that stock was 92, or any price below 92, then, for every £100 of purchase money, the vendor would be given £108 14s. in 2¾ per cent. stock, because £108 14s. in stock, if sold at 92, would realise exactly £100.

If the market price of the stock were higher than 92, then, for every £100 of purchase money, the vendor would receive such an amount of stock as, if sold at such higher price, would produce £100. Examples :—

If the market price were	The vendor would receive 2¾ per cent. stock of the nominal or face value of
93	£107 10 6
94	106 7 8
95	105 5 3
96	104 3 4
97	103 1 10
98	102 0 10
99	101 0 2

If a vendor accepts stock at any market price below 92, and sells it at that price, then, on each £100 of purchase money, he loses the difference between £100 and the sum which would be produced by the sale of £108 14s. 0d. at such price below 92. Examples :—

If £108 14s stock were sold at	It would produce in cash	And the vendor would lose on each £100
91	£98 18 0	£1 2 0
90	97 16 4	2 3 8
89	96 14 8	3 5 4
88	95 13 1	4 6 11
87	94 11 4	5 8 8
86	93 9 6	6 10 6
85	92 7 10	7 12 2
84	91 6 2	8 13 10
83	90 4 5	9 15 7
82	89 2 9	10 17 3
81	88 1 1	11 18 11
80	86 19 4	13 0 8

The foregoing figures do not cover brokerage payable by the vendor.

Regulations as to priority.

4.—(1) Regulations may be made by the Lord Lieutenant for determining the priority in which advances, whether by means of money or of stock, or partly by means of money and partly by means of stock, may be sanctioned or made, and for

allocating as between different classes of sales the amounts from time to time available for advances (*a*).

(2) The regulations shall provide that, in determining the priority as between sales of the same class, regard shall be had, so far as is reasonably practicable, to the dates at which proceedings for the respective sales were commenced, or, in cases where proceedings are transferred from one class to another, to the dates of the respective transfers.

(3) Every regulation made under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(*a*) See Regulations, dated 15th February, 1910 (*post*, p. 1348). During the year commencing 1st April, 1910, of the money—*i.e.*, cash—available for advances, four-tenths is allocated for sales under Secs. 1-5 of the Act of 1903, where the advances are to be made in money alone; four-tenths for similar sales where the advances are to be made partly by means of money and partly by means of stock; one-tenth is allotted for carrying out all other Land Commission Sales, for which advances in money are required or made; and one-tenth for sales for purposes of the Congested Districts Board for which advances in money are required or made.

For the purpose of determining priorities in pending purchase agreements (see Sec. 13 of this Act, *post*, p. 1207), three principal registers are to be kept in the Estates Commissioners offices—(1) a Principal Register of Direct Sales; (2) a Principal Register of Sales to the Estates Commissioners for sales under Secs. 6, 7 and 8 of the Act of 1903; (3) a Principal Register of Sales to the Congested Districts Board. Two subsidiary registers to each of the principal registers are also to be kept—one for Sales for Part Money and Part Stock, and the other for Sales for All Stock. A vendor may apply to be placed on a subsidiary register according as he desires to be paid partly in money and partly in Stock, or wholly in Stock. And the cases are to be entered in the Subsidiary Registers in the relative order of priority of such cases according to the Principal Register from which they have been respectively removed.

Whether a vendor would gain or lose priority by accepting payment partly in money and partly in Stock, or apply for all Stock, would depend on the amount of Stock which may be issued in any year.

Future sales when advances are made in 3 per cent. Stock are to be proceeded with so far as practicable in the order of priority in which the agreements to purchase are lodged.

Where the vendor's estate is under the jurisdiction of the Chancery Division—*e.g.*, where the sale is being made in an administration action, or in an action by mortgagees, the direction of the Chancery Judge should be obtained whether payment partly in money and partly in Stock, or wholly in Stock, should be applied for.

Temporary borrowing by bills or bonds.

5.—(1) Any money which may be raised by the creation of stock under the Act of 1903 or this Act may be temporarily

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raised (*a*) by the issue of bills or bonds in such form and for such period not exceeding seven years, and bearing such rate of interest not exceeding three per cent., as the Treasury may determine.

(2) The interest on or in respect of any such bills or bonds shall be charged and paid in the same manner as the dividends on stock under section twenty-nine of the Act of 1903 (*b*), and the provisions of that Act respecting the income account of the Irish Land Purchase Fund shall apply as if the interest on or in respect of the bills or bonds were dividends on stock.

(3) The principal money of any such bills or bonds shall, subject to the provisions of this Act, be repaid out of the Irish Land Purchase Fund, and, if the Capital Account of that Fund is insufficient, shall be charged on and payable out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

Stock or fresh bills or bonds may be issued for the purpose of raising the principal money required when necessary.

(4) Subsections (6) and (7) of section thirty-six (*c*) of the Act of 1903 (which relate to the deficiency arising from the issue of stock at a discount and the surplus arising from the issue of stock at a premium) shall apply in the case of the issue of bills or bonds under this section shall apply in the case of the issue of stock.

(*a*) And see Sec. 5, Act 1903 (*ante*, p 1061).
(*b*) *Ante*, p 1102. (*c*) *Ante*, p. 1104.
See Treasury Rules, 16th July, 1910 (*post*, p. 1479).

Amendment of provisions as to percentage.

6.—(1) The percentage payable under section forty-eight (*a*) of the Act of 1903 shall be calculated at the rates specified in the First Schedule to this Act (*j*), and for the purposes of that section, the percentage of the rates so specified shall be deemed to be the percentage under that section:

Provided that the percentage payable on the purchase money of an estate, which consists of or includes lands in respect of which there are purchase agreements entered into (*c*), or deemed in pursuance of this section to have been entered into, on or before the twenty-fourth day of November nineteen hundred and eight, shall (so far as the percentage is payable in respect of the purchase of those lands) be calculated at the

rate of twelve per cent. instead of being calculated under this section (*d*). Sect. 6.

(2) An agreement for the purchase of any estate or land, though not entered into on or before the twenty-fourth day of November nineteen hundred and eight, shall be deemed, for the purposes of this section, to be a purchase agreement entered into on or before that date, where on or before that date—

(a) the vendor has lodged an originating request in manner provided by rules made under the Act of 1903 with a view to the purchase of the estate or land by the Land Commission under section six (*e*) of that Act or by the Congested Districts Board under section seventy-nine of that Act (*f*); or

(b) the vendor has accepted a preliminary estimate of price made by the Land Commission with a view to the purchase of the estate or land under sections six (*e*) or eight of the Act of 1903, or entered into a preliminary agreement with the Congested Districts Board with a view to the purchase of the estate or land under section seventy-nine (*f*) of that Act; or

(c) the Land Judge in the course of proceedings in which the estate or land is eventually sold to the Land Commission under section seven (*g*), or to the Congested Districts Board under section seventy-seven (*h*), of the Act of 1903, has caused the Commission or Board (*k*) to be furnished with particulars and documents respecting the estate or land in pursuance of either of these sections; or

(d) the Estates Commissioners have made an offer for the purchase of the estate or land under subsection (4) of section two of the Evicted Tenants (Ireland) Act, 1907 (*i*). 7 Edw. 7, c. 56.

(3) So much of section forty-seven of the Act of 1903 (*b*) as limits the total of the sums payable to the Land Purchase Aid Fund to twelve million pounds shall cease to have effect.

(*a*) *Ante*, p. 1111. (*b*) *Ante*, p. 1111.

(*c*) Upon the question whether a completed contract had been concluded before the expiration of the first quinquennium, so as to entitle the vendor to a bonus at the rate of 12 per cent., see *Pollok's Estate*, [1909] 1 I. R. 109; 43 I. L. T. R. 156; *Fetherstonhaugh's Estate*, [1909] 1 I. R. 232; 43 I. L. T. R. 176; *Dunalley's Estate*,

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[1909] 1 I. R. 338, where it was held that the contracts were so concluded and *Blackwood's Estate*, [1909] 1 I. R 382, 389; 43 I. L. T. R. 158, and *Roper Caldbeck's Estate*, 43 I. L. T. R. 260, where only 3 per cent. was held payable.

As to agreements substituted for agreements which had been lodged in time, see Act 1909, Sec. 12 (1) (*post*, p. 1206).

(*d*) This Section is not retrospective, so as to include cases where the rights of the parties have been finally determined by an order of the Court correctly made before the passing of the Act. See *Knox's Estate*, [1910] 1 I. R. 66; 44 I. L. T R. 59, where WYLIE, J., had declared a bonus of 3 per cent. payable before this Act had passed

(*e*) *Ante*, p. 1062. (*f*) *Ante*, p 1155. (*g*) *Ante*, p. 1066. (*h*) *Ante*, p. 1154. (*i*) *Ante*, p. 1185.

(*j*) See Treasury regulations, dated 15th February, 1910, for ascertaining the number of years purchase represented by the advance—(1) in the case of purchase of untenanted land, and (2) where the amount advanced is less than the purchase money, for the purpose of the application of the bonus scale in the First Schedule to this Act (*post*, p. 1477).

(*k*) In *Pringle's Estate*, [1910] 1 I. R. 183, WYLIE, J., held that where the Land Judge has, on or before 24th Nov., 1908, caused particulars to be furnished either to the Land Commission or Congested Districts Board, and the estate is eventually sold to either of those bodies, the condition entitling the vendor to a 12 per cent. bonus is complied with.

Provision as to making good deficiency in respect of stock issued at a discount.

7.—(1) The charge on the Guarantee Fund for any deficiency in respect of the issue of stock or bills or bonds at a discount (*a*) shall extend only to the amount of the Ireland Development Grant which forms part of the cash portion of that fund; and the deficiency, so far as is not made good out of that amount, shall be made good out of moneys provided by Parliament.

(2) Any deficiency in respect of interest or sinking fund, arising by reason of money being raised by means of three per cent. stock for the purposes of advances in respect of which interest is payable by the Land Commission to the National Debt Commissioners at the rate of two-and-three-quarters per cent. only, shall be made good in the same manner (*b*) as a deficiency arising in respect of the issue of stock at a discount is to be made good under subsection (6) of section thirty-six of the Act of 1903, as amended by this section (*a*).

(*a*) This charge was imposed by Sec. 36, Sub-sec. 6, Act 1903 (*ante*, p. 1104).

(*b*) *I e.*, out of the Guarantee Fund.

See Treasury Rules, 16th July, 1910 (*post*, p. 1479).

Bonus dividend to be treated as expenses of issue of stock.

8.—(1) Where stock is created for the purposes of the Land Purchase Acts, and issued under conditions which provide that the money to be raised thereby shall be paid up by instal-

ments, dividends may be paid on the total nominal amount of the stock from any date fixed at the time of issue, although the instalments, or some or one of them, may not have been payable until after that date; and, if the amount so paid by way of dividend exceeds the sum which would have been payable on the portion of the stock representing the money actually paid up, the difference shall be treated as part of the expenses of the issue of the stock.

(2) This section shall apply to any stock created and issued since the first day of July nineteen hundred and eight, as well as to stock issued after the passing of this Act.

Advance dividends.

9.—(1) Any person to whom an advance is made after the passing of this Act shall pay on the first gale day on which any payment in respect of the advance is due (in addition to the interest, or instalment of purchase annuity, due on that day), interest on the advance in respect of the period between the said gale day and the day on which the next dividends are payable in respect of the stock issued under the Act of 1903 or this Act.

(2) The interest payable shall be at the rate at which the Land Commission pay interest to the National Debt Commissioners in respect of the advance (*b*), and shall be recoverable (*a*) as if it were part of the purchase annuity.

(*a*) See Act 1887, Sec. 18 (*ante*, p. 428), and notes to Sec. 55, Act 1903 (*ante*, p. 1130)

(*b*) See Sec. 1 (2) of this Act (*ante*, p. 1197), and Sec. 36 (1), Act 1903 (*ante*, p. 1104).

Remission of stamp duty.
6 Edw. 7, c. 37.

10.—(1) The exemption from stamp duty given by section twenty-three of the Labourers (Ireland) Act, 1906 (*a*) shall extend to any stamp duty payable on any mortgage or other security given by a rural district council in respect of an advance by the Irish Land Commission under section sixteen of that Act (*c*), or payable under section eight of the Finance Act, 1899, in respect of such an advance as being loan capital within the meaning of that section.

62 & 63 Vict. c. 9.

(2) The Commissioners of Inland Revenue may remit any such duty which has become payable since the commencement of the Labourers (Ireland) Act, 1906, and return any such duty which has been paid since that date and before the passing of this Act.

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(3) The exemption from stamp duty under section fifty of the Act of 1903 (*b*) shall extend to any instruments the stamp duty on which is payable as expenses of the Land Commission in the same manner as it applies to the instruments mentioned in that section.

(*a*) That Section provides that "No stamp duty shall be payable on any agreement, deed, receipt, or other instrument made or issued under the Labourers Acts, whereby any land acquired for the purposes of those Acts is vested in a District Council, or relating to the letting of cottages or land in pursuance of those Acts"

(*b*) *Ante*, p. 1118.

(*c*) See note to Sec. 96, Act 1903 (*ante*, p. 1165).

Repayment of advances under Labourers (Ireland) Act, 1906. 6 Edw. 7, c. 37

11.—Advances made under section sixteen of the Labourers (Ireland) Act, 1906 (which are by virtue of that section repayable in like manner as advances under the Land Purchase Acts) (*a*) shall, whether made before or after the passing of this Act, be repayable in like manner as advances made in pursuance of pending purchase agreements, and, as respects all such advances, the rate of interest paid by the Land Commission to the National Debt Commissioners shall be two-and-three-quarters per cent. per annum.

(2) The payment charged on the Ireland Development Grant under section seventeen of the Labourers (Ireland) Act, 1906, shall, so far as that grant is insufficient to meet the payment, be defrayed out of moneys provided by Parliament instead of being charged upon that grant: Provided that the total amount of the payment to be charged on the said grant, or to be defrayed out of moneys provided by Parliament, shall not exceed twenty-eight thousand pounds in any year.

(*a*) See note to Sec 96, Act 1903 (*ante*, p. 1165).

Substituted Agreements.

12.—(1) Where by reason of the death of the purchaser or the transmission of the purchaser's interest in a holding, or in pursuance of a declaration of the Land Commission under section fifteen of the Act of 1903 (*b*) with respect to a subtenancy or a sub-divided holding, or in consequence of any direction of the Land Commission, a fresh purchase agreement is entered into in substitution for an original purchase agreement previously made, any such fresh agreement shall, for the purposes of this Part of this Act, be deemed to be substi-

tuted for the original agreement, and, whenever lodged with the Land Commission, to have been lodged with the Land Commission at the date on which the original agreement was so lodged (*a*).

(2) Where a vendor at the request of the Land Commission enters into an agreement with the Land Commission or the Congested Districts Board for the sale to them of an estate consisting of or including lands which he has proposed to sell to persons other than that Commission or Board, and in respect of which purchase agreements have been lodged with the Land Commission on or before the twenty-fourth day of November nineteen hundred and eight, the percentage payable on the purchase money of the estate, or on that portion thereof which represents the purchase money of those lands (in the case of an estate comprising other lands) shall, so far as the purchase money or the portion of the purchase money is not in excess of the aggregate of the purchase money fixed by the original agreements, be calculated in the like manner, and the purchase annuities payable on the re-sale of those lands shall be payable at the like rate, as if the agreement for the sale of the estate has been entered into on or before the twenty-fourth day of November nineteen hundred and eight.

(*a*) This Sub-section adopts a decision of WYLIE, J., in *Malone's Estate* (unreported). See an Article on the Bonus in 44 I. L. T. (Mis.) 111, where the cases are collected.

(*b*) *Ante*, p. 1076.

Interpretation.

13. In this Part of this Act, unless the context otherwise requires,—

(a) The expression "pending purchase agreements" (*c*) means agreement lodged with the Land Commission on or before the fifteenth day of September nineteen hundred and nine, or entered into on or before that date by or with the Land Commission or the Land Judge or the Congested Districts Board;

(b) The expression "future purchase agreements" means agreements lodged with the Land Commission or entered into by or with the Land Commission or the Land Judge or the Congested Districts Board after that date (*e*):

Provided that purchase agreements entered into

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at any time on the re-sale by the Land Commission or Congested Districts Board—

(i) of land purchased or agreed to be purby them on or before the fifteenth day of September nineteen hundred and nine; or

(ii) of land being land in respect of which, or comprised in an estate in respect of which, a purchase agreement, though not actually entered into on or before the twenty-fourth day of November nineteen hundred and eight, is deemed for the purposes of the provisions of this Part of this Act relating to the percentage payable under the Act of 1903, to have been entered into on or before that date (*d*);

shall be treated for the purposes of this Part of this Act as pending purchase agreements and not as future purchase agreements;

(c) An order of the Land Judge under section seven (*a*) or section seventy-seven (*b*) of the Act of 1903 vesting any land in the Land Commission or the Congested Districts Board, and an order of the Estates Commissioners vesting land in the Land Commission under section two of the Evicted Tenants (Ireland) Act, 1907, shall for the purposes of this Part of this Act be treated as an agreement entered into by that Commission or Board as the case may be;

7 Edw. 7 c. 56.

(d) The expression "prescribed" means prescribed by the Treasury.

(*a*) *Ante*, p. 1066 (*b*) *Ante*, p 1154.

(*c*) See as to sales to the Land Commission or Congested Districts Board of lands agreed to be sold to other persons before 24th November, 1908, Sec 12 (*ante*, p. 1207).

Where the occupying tenants of an estate signed offers under Form 34A to purchase their holdings from the Land Judge prior to September 15, 1909, which offers were accepted on November 4, 1909, the agreements were held to be future agreements within the definition in Sec. 13, Sub-sec. 1, and the purchase money therefore payable at 3½, not 3½, per cent. As the tenants were unwilling to agree to the advanced rate, liberty to re-open negotiations was given by Ross, J.: *Stanley's Estate*, 44 I. L. T. R 18.

(*d*) I think, says WYLIE, J., in *Pringle's Estate*, [1910] 1 I. R. 183, it is clear from Sec. 13b II that in any case where a vendor on a sale to the Land Commission or Congested Districts Board is entitled to 12 per cent. bonus, agreements

for resale are to be treated as pending purchase agreements. But it is, I think, equally clear from Sec. 3 (3) and Sec. 13 (b) that, though the vendor will in such a case be entitled to a 12 per cent. bonus, and though the tenant purchase annuities will be at 3¼ per cent., yet as between the vendor and the Congested Districts Board the agreement will be a "future purchase agreement," and must be financed accordingly.

(*e*) In direct Sales, Form F[1], and in Sales between Vendor and Trustees, Form I[1] are prescribed by No. 4 Rules 3rd May, 1910 (*post*, p. 1290).

Power to make rules.

14. The power of making rules conferred on the Treasury by the Land Purchase Acts shall extend to the making of rules for carrying the provisions of this Part of this Act into effect, and for adapting to the requirements of this Act such provisions of the Land Purchase Acts or any other enactment passed prior to this Act as relate to land purchase finance.

A Parliamentary return dated 14 April, 1910, giving dates and references to all rules then in force made by the Treasury under the Land Purchase Acts is printed (*post*, p. 1476).

See Irish Land Finance Rules, *post*, p 1478.

PART II.

Land Purchase.

Limitation on amount of advances to tenant purchasers.

15.—(1) No advance exceeding the sum of three thousand pounds (*c*) shall be sanctioned under the Land Purchase Acts to any tenant, in pursuance of an agreement for the purchase of a holding entered into after the passing of this Act, unless—

(a) the tenant resides on the holding, or such holding is ordinarily used with the holding on which the tenant resides; and

(b) The Land Commission consider that an advance of a larger amount not exceeding five thousand pounds may properly be sanctioned.

(2) A person shall be deemed to reside on a holding within the meaning of this section if he occupies a house in the immediate neighbourhood for the purpose of working or managing the holding.

51 & 52 Vict. c. 49.

(3) Section two of the Purchase of Land (Ireland) Amendment Act, 1888 (*a*), and subsection (4) of section one of the Act of 1903 (*b*), shall cease to have effect save as regards

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advances in pursuance of purchase agreements entered into before the passing of this Act.

(*a*) *Ante*, p. 451. (*b*) *Ante*, p. 1050.

(*c*) As to limitation on amount of advances, see notes to Secs. 1 and 53, Act 1903 (*ante*, pp. 1049, 1123).

No advance can be made if the tenancy, unless created by the Land Commission or Congested Districts Board, was made after 15th September, 1909: Sec 16 of this Act, *post*.

Prohibition of advance.

16.—(1) No advance shall be made under the Land Purchase Acts in respect of the purchase of a holding if the tenancy was created after the fifteenth day of September in the year nineteen hundred and nine (*a*).

(2) This section shall not apply to tenancies created by the Land Commission or by the Congested Districts Board.

(*a*) As to limitation on advances in certain cases, see Act 1903, Sec. 53, and notes thereto (*ante*, p. 1123).

Advances for purchase of parcels of land.

17.—(1) In the case of the sale of an estate to the Land Commission (*a*), advances under the Land Purchase Acts may be made for the purchase of parcels thereof by the following persons:—

(a) A person being the tenant or proprietor of a holding not exceeding ten pounds in rateable value (*b*);

(b) A person who has surrendered his holding for the purpose of relieving congestion;

(c) A person who, within twenty-five years before the passing of the Act of 1903, was the tenant of a holding to which the Land Law Acts apply, and who is not at the date of the purchase the tenant or proprietor of that holding (*c*), or, in case such person is dead, a person nominated by the Land Commission as his personal representative; and

(d) Any person to whom in the opinion of the Land Commission, after adequate provision has been made to satisfy the requirements of the persons mentioned in the preceding paragraphs of this subsection, an advance ought to be made:

(2) Advances under this section shall not, together with the amount (if any) of any advance under the Land Purchase

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Acts, which has been made, and is then unrepaid by the purchaser, or for which an application by the purchaser is pending, exceed one thousand pounds: Provided that the limitation in this subsection may, subject to the other limitations in the Land Purchase Acts, be exceeded, where the Land Commission consider that a larger advance may be sanctioned to any purchaser without prejudice to the wants and circumstances of other persons residing in the neighbourhood (*d*).

(3) The Land Purchase Acts shall, subject to the provisions of this section, apply to the sale of a parcel of land in pursuance of this section in like manner as if the same was a holding and the purchaser was the tenant thereof at the time of his making the purchase; and the expression "holding" in those Acts shall include a parcel of land in respect of the purchase of which an advance has been made in pursuance of this section.

(4) Section two of the Act of 1903 shall cease to have effect save as regards the sale of any parcels of land in respect of which purchase agreements have been entered into before the passing of this Act, and, save as aforesaid, any reference in any enactment to that section shall be construed as a reference to this section.

This Section substantially re-enacts Sec. 2 of the Act of 1903 (*ante*, p 1056), which is repealed as regards future transactions by Sub-sec. 4.

It was decided that where the Estates Commissioners purchased an estate comprising untenanted lands, their first duty was to sell such untenanted lands to persons coming within the provisions of Sec. 2 of the Act of 1903. If such persons are not available, they have power to make lettings of the land in the same manner as an ordinary proprietor would do: *Wallace's Estate*, 39 I. L T R. 262.

Sales to persons other than tenants of parcels of land.

Section 2 of the Act of 1903 and this Section considerably extend the scope of the Land Purchase Acts by enabling advances to be made for the purchase of "parcels of land" by persons who are not at the time of the purchase occupying tenants thereof. The privileges of the original Ashbourne Act of 1885 were (except in the case of the Land Commission selling the residue of an estate which they were unable to sell to the tenants) strictly confined to occupying tenants. The first extension of this class was to evicted tenants, by the 13th Section of the Act of 1891 (*ante*, p 469), which Section was, however, limited in its operations to agreements made within six months from the passing of the Act, and though re-enacted by the 46th Section of the Act of 1896 for a further period of one year, it has long ceased to be in operation.

Another extension of the class of purchasers under the Land Purchase Acts was made by the 40th Section of the Act of 1896. By Sub-sec. 2 of that Section a person in occupation of a "parcel of land," under a letting by the Land Judge or Receiver

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Judge, was enabled to purchase same under the Land Purchase Acts, though he was not in strict law an occupying tenant or entitled to an advance under the Land Purchase Acts: *Lawrence's Estate*, [1896] 2 I. R 347. Section 53 of the Act of 1903 limited the rights of such persons considerably (see *ante*, pp. 1123, 1124).

The only other case in which, up to the Act of 1903, advances under the Land Purchase Acts could be made for the purchase of lands, of which the purchaser was not previously tenant, was where an advance was made to a tenant to increase the size of his holding under the Land Purchase Act, 1889 (*ante*, p. 453). The additional land purchased could not, however, exceed ten acres in extent or be valued at more than £10 per annum rateable valuation. See Sec. 3 of that Act (*ante*, p 454) For form of agreement for the sale of a parcel of land under this Section, see Form H prescribed by the Rules of 4th Nov, 1907 (*post*, p 1273).

(*a*) The words "to the Land Commission" were not contained in the repealed Section (see *ante*, p. 1056) A result of this alteration would seem to be that advances cannot in future be made where untenanted land is sold direct by an owner, to the classes of persons mentioned in this Section, or to an agricultural labourer under Sec 19 of the Labourers Act, 1906 (*ante*, p. 1180).

The express mention of a son of a tenant of a holding on the estate is omitted, but Clause (*d*) of the present Section gives power to include any person to whom an advance ought to be made

(*b*) The rateable value is increased from "five" pounds in Sec. 2 (1) (*c*) to "ten," but the restriction to tenants or proprietors of holdings "situate in the neighbourhood of the estate" is now omitted

Clause (*b*) of Sub-sec 1 is new.

Evicted tenants

(*c*) The provisions of this Section [Sub-sec. (1) (*c*)] and of Sec. 2 of the Act of 1903, as to evicted tenants [Sub-sec (1) (*d*)] are not limited in point of time, and although the amount of an advance to any one such purchaser is limited to £1,000, by Sub-sec 2 this limit may be exceeded at the discretion of the Estates Commissioners, and an advance made to an evicted tenant of the same amount as to an occupying tenant See notes to Sec 1 (4) of this Act (*ante*, p 1055)

The evicted tenant purchasing under this Section need not, as under the Acts of 1891 and 1896, necessarily purchase his former holding If that has been re-let, or is otherwise not available, he may purchase any other unoccupied land included in an estate sold under the provisions of this Act, either from the Estates Commissioners or from the landlord directly · *White's Estate*, 40 I. L. T. R. 6; and this apart from the sale of the estate from which he has been evicted: *Downes Martin's Estate*, E. CC. (17th January, 1906, not reported). See also the Evicted Tenants Act, 1907, Sec. 3 (1) (*ante*, p 1189).

Advances exceeding £1,000.

(*d*) In case an advance of more than £1,000 (or more than £500 where the tenancy was created since 1st January, 1901) is applied for under this Section it is the duty of the Purchase Inspector, in his report, to state whether in his opinion this limitation should be exceeded, giving his reasons, in accordance with the terms of Sub-sec. 2. See Instructions to Inspectors, No. 16 (*post*, p. 1327).

No advance can be made when the tenancy was created (except by the Land Commission or Congested Districts Board) after 15th Sept., 1909: Sec. 16 of this Act (*ante*, p. 1210)

Trustees for the purposes of turbary, pasture, &c.

18.—(1) It shall be lawful for the Department of Agriculture and Technical Instruction for Ireland, or the Council of

any county or of any rural district, to purchase any parcel of land of an estate under section four of the Act of 1903 (*a*) for any of the purposes mentioned in that section, and the said Department or any such council, or any other body corporate having power to acquire land, may act as trustees for those purposes, and may obtain advances for the purchase.

(2) Where any land is purchased by the said Department or a county council or rural district council under this section, the scheme (*b*) for the user of the land mentioned in section twenty of the Act of 1903 shall be framed or approved of by the Department, and the requirements of that section with regard to the framing or approval of the scheme by the Lord Lieutenant shall not apply.

(3) Where land is purchased by a county council or rural district council under this section, the amounts required for payment of the instalments of the purchase annuity shall be raised in the case of the county council as a county at large charge, and in the case of the rural district council as a district charge.

(4) It is hereby declared that the provisions of section four and of section twenty of the Act of 1903 (*b*), as amended by this section, apply as well in the case of the sale of an estate to the Congested Districts Board as in the case of the sale of an estate to persons other than the Congested Districts Board.

(*a*) *Ante*, p. 1060. And see Instructions to Inspectors, Nos. 24 and 25 (*post*, p. 1330).

For form of conveyance of bog to trustees for tenant purchasers, see Stubbs and Baxter's Irish Forms and Precedents, p. 400.

(*b*) See as to schemes for user of land by trustees Secs. 4 and 20, Act 1903 (*ante*, pp. 1060, 1086). For form of scheme, see Stubbs and Baxter's Irish Forms and Precedents, p. 404. And see Sec. 21, Act 1903 (*ante*, p. 1086), and Sec. 78 (*ante*, p. 1155), in cases of purchase by the Congested Districts Board. See also Labourers Act, 1906, Sec. 20 (*ante*, p. 1180).

Facilities for the planting and preservation of woods.

19.—(1) Where a parcel of an estate is purchased or proposed to be purchased by trustees under section four (*a*) of the Act of 1903 for the purpose of the planting of trees or the preservation of woods or plantations, and the parcel is subject to any grazing or other rights or easements appurtenant to holdings on the estate, the Land Commission may, if they think fit, on the application of the trustees, make an order releasing that parcel from all or any of those rights and ease-

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ments upon such terms as to compensation and otherwise as may be agreed upon by the parties interested or, in default of agreement, may be determined by the Land Commission; and any such order shall be effectual to release the parcel from those rights and easements in the manner and to the extent therein specified.

(2) Where any land is resold to the owner of an estate in pursuance of section three (*b*) or section seventy-six (*c*) of the Act of 1903, and the land is subject to any such rights or easements as aforesaid, the Land Commission may on the application of the owner exercise the powers conferred on them by the last preceding subsection as regards those rights and easements, if and so far as they are satisfied that the land, or portion thereof is required by the owner for any of the said purposes.

(3) The Land Commission, on the application in the prescribed manner (*d*) of any landlord who is desirous of selling an estate under the Land Purchase Acts, if they are satisfied that it is desirable that the landlord should be authorised to resume a portion of a holding upon the estate for the purpose of planting trees or preserving woods or plantations or growing timber, and that the value of the holding will not be materially diminished by reason of the resumption, may authorise the landlord to resume that portion upon such terms as may be approved of by the Land Commission, including full compensation to the tenant, and may make an order accordingly apportioning the rent and discharging that portion of the holding from the tenancy.

(*a*) *Ante*, p 1060 And see Instructions to Inspectors, No. 25 (*post*, p. 1330).
(*b*) *Ante*, p. 1057. (*c*) *Ante*, p 1154
(*d*) See No 5, Rules, 3rd May, 1910 (*post*, p. 1291)

Congested estates

20.—(1) In subsection (5) of section six of the Act of 1903 (which defines a congested estate) "seven pounds" shall be substituted for "five pounds"; and the consent of the owner required by subsection (4) of that section shall cease to be required (*b*).

(2) Where an estate not being a congested estate within the meaning of the said section as so amended comprises within its area one or more congested townlands, the Land Commission, or, in the case of townlands situated in a congested

district county, the Congested Districts Board, may declare all or any one or more of such townlands to be a separate estate (*a*) for the purposes of the Land Purchase Acts, and such townland or townlands shall thereupon be deemed for those purposes to be a separate congested estate. Sects. 20-22.

(3) An estate which consists exclusively of one or more congested townlands shall be deemed to be a congested estate.

(4) The expression "congested townland" means a townland in which more than one-half of the holdings are—

(a) congested holdings; or

(b) holdings whose aggregate rateable value when divided by their number gives a sum of less than seven pounds for each holding:

The expression "congested holding" means—

(a) a holding not exceeding seven pounds in rateable value; or

(b) a holding held in rundale or intermixed plots.

(*a*) As to declaring lands a "separate estate," see Notes to Sec. 98, Act 1903 (*ante*, p. 1167).

(*b*) See notes to that Section (*ante*, p. 1063), and Sec. 42 (1), of this Act (*post*, p. 1226).

Power for facilitating re-sales. 1 Edw. 7, c. 34.

21. The powers for facilitating re-sales conferred on the Congested Districts Board by section one of the Congested Districts Board (Ireland) Act, 1901 (*a*), and on the Land Commission by section 12 of the Act of 1903 (*b*), may be exercised whether the request (*c*) mentioned in the said section one or in section eighty-two (*d*) of the Act of 1903 is or is not made.

(*a*) *Ante*, p. 606 (*b*) *Ante*, p. 1071.

(*c*) I.e., a request by three-fourths in number and rateable value of the tenants that the Board should determine the tenancy of any tenant.

(*d*) *Ante*, p. 1157.

Power of Land Commission to determine disputes between tenants of holdings.

22. The powers of the Land Commission under section twenty-two of the Act of 1903 (*a*) to determine disputes between proprietors of holdings may be exercised on the application, in the prescribed manner, (*b*) of any tenants on an estate in respect of which purchase agreements have been entered into or negotiations for sale are pending, and the provisions

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(*a*) *Ante*, p 1087.

(*b*) See No 7 Rules, 3rd May, 1910, and Form O[1] (*post*, pp. 1291 and 1305).

Power to exchange tenancies.

23.—(1) When an estate is purchased or agreed to be purchased by the Land Commission or the Congested Districts Board, any person having power under the Land Purchase Acts to enter into an agreement for the purchase of a holding on the estate shall have power in the prescribed manner (*c*) to enter into an agreement with the Land Commission or the Congested Districts Board, as the case may be, for the exchange of the holding for any other holding which is in the opinion of the Commission or the Board of not less value than the original holding, and to surrender the original holding to the Commission or the Board accordingly.

(2) Upon the surrender of a holding by any person under this section, all charges, liabilities, and equities affecting the tenant's interest in the holding shall, without any conveyance or order, be transferred to the interest acquired by that person in the new holding.

(3) The lands comprised in the original holding shall, notwithstanding the surrender of the holding, continue to be subject to all easements and profits a prendre to which they were subject at the time of the surrender.

(4) For the purpose of any application or order under subsection (6) of section one of the Congested Districts Board
1 Edw. 7, c 34 (Ireland) Act, 1901 (*a*), with respect to charges, liabilities, and equities affecting the tenant's interest in a holding, it shall not be necessary to specify the several charges, liabilities, and equities, or any of them

(5) When a holding to which any charges, liabilities, or equities have been transferred, whether under this section or
1 Edw. 7, c. 34. under section one of the Congested Districts Board (Ireland) Act, 1901 (*a*), is sold under the Land Purchase Acts, the particulars to be transmitted to the registering authority pursuant to section thirty-two of the Act of 1896 (*b*) shall include particulars of the original holding from which the charges, liabilities, or equities have been transferred, and, where the registering authority in any such case dispenses with the ascertainment of burdens, the note which he is required to

make under subsection three of section twenty-nine of the Local Registration of Title (Ireland) Act, 1891, shall contain such modifications or additions as may be necessary for the purpose of protecting any transferred charges, liabilities, or equities.

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54 & 55 Vict. c. 66.

(*a*) *Ante*, p. 607. By the Act of 1903, Sec. 82, (2) (*ante*, p. 1158), Sec. 1 of the Congested Districts Board Act, 1901, which applied in the case of compulsory migration of tenants, is applied where with the consent of a tenant the area of his holding is altered, or he is put into possession of a new holding by the Board. Sub-section 6 of Sec. 1 of the Act of 1901 enabled the County Court to order that the charges, liabilities and equities affecting a tenant's interest in his former holding should either continue to affect that holding or be transferred to his new holding. The County Court Rules of 20th December, 1904, required that the notice of application under this Sub-section should contain a schedule setting out the charges, liabilities and equities affecting the holding, and in whom they were vested, and provided for notice being served on such parties as the Court might direct, and for such searches and investigation of title as might be necessary. This procedure, which in many cases involved great expense and delay, has now been rendered unnecessary. Under the present Act the liabilities affecting the former holding whatever they are, without being ascertained, may be transferred to the new holding. This Section thus enables the Congested Districts Board to transfer equities as the Land Commission can do under Sec. 12 of the Act of 1903 (*ante*, p. 1071).

(*b*) *Ante*, p. 572.

(*c*) See No. 8 Rules, 3rd May, 1910, and Form Z (*post* pp. 1291 and 1306).

Amendment of 59 & 60 Vict. c. 47, s. 35

24. Where the tenant of any holding charged with the repayment of any moneys expended or to be expended by the Land Commission or the Congested Districts Board in erecting or improving buildings (*b*) on the holding enters into an agreement with the Commission or the Board for the purchase of the holding under the Land Purchase Acts, he shall not by reason of anything contained in section thirty-five of the Act of 1896 (*a*) be discharged from liability in respect of that charge.

(*a*) *Ante*, p. 575.

(*b*) As to the powers of the Land Commission to execute works for improvement of estates, see Secs. 12 and 43 of Act 1903 (*ante*, pp. 1071, 1108).

Certain powers and duties of Land Commission to be exercised by Estates Commissioners.

25. The jurisdiction, powers, and duties of the Land Commission under the foregoing provisions of this Part of this Act shall be exercised and performed exclusively by the Estates Commissioners (*a*).

(*a*) As to the jurisdiction and powers of the Estates Commissioners, see Sec. 23, Act 1903 (*ante*, p. 1088).

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Investment of purchase money on sales to Land Commission

26. Where an estate is vested in the Land Commission by a vesting order made by them, the purchase money may be paid into the Bank of Ireland and invested in like manner as if the estate had been sold to persons other than the Land Commission, and the provisions of subsection three of section twenty-four of the Act of 1903 (*a*) shall apply in the case of every sale to the Land Commission where the purchase money has been invested under this section.

(*a*) *Ante*, p. 1093

Restriction on amount expended by Land Commission on purchase of congested estates

27. Without prejudice to any restriction under subsection (2) of section nine of the Act of 1903 (*a*), the Land Commission shall not in any one year enter into agreements for the purchase of congested estates which will involve, according to their estimates, a total loss on the re-sale of the estates of a greater sum than that which may be fixed by the Treasury for that year.

(*a*) Section 9 of the Act of 1903 (*ante*, p. 1070) restricts the amount of land which may be vested in the Land Commission at any one time, in respect of which purchase agreements have not been received, to an estimated aggregate capital value of five million pounds.

Provision of money for expenditure on improvements by Land Commission, and closing of reserve fund.

28.—(1) When the reserve fund established under paragraph (*b*) of subsection (2) of section five of the Act of 1891 (*a*) is exhausted, any money required by the Land Commission for the exercise of their powers under subsection (1) of section twelve of the Act of 1903 (*b*) shall, up to an amount approved by the Treasury in each year, be paid out of moneys provided by Parliament.

(2) The said reserve fund shall, when it is exhausted, cease to exist as a separate fund, and any sums, which under any Act or otherwise are to be paid into that reserve fund, shall be paid into the Exchequer.

(*a*) *Ante*, p. 462.

(*b*) *Ante*, p. 1071. And see Sec. 43 of the Act of 1903 (*ante*, p. 1108), and notes thereto.

Provision as to money spent by Land Commission on improvements of estates purchased by them

29.—(1) Regulations made by the Treasury may provide that where the Land Commission have expended money on the improvement of an estate (*a*) purchased by them, and on the re-sale of the estate the sums realised by them exceed the sum

originally advanced from the Irish Land Purchase Fund for the purchase of the estate, the National Debt Commissioners may advance to the Land Commission a sum equal to the excess, or, if that sum exceeds the amount expended by the Land Commission on the improvements, a sum equal to the amount so expended, for repayment to the reserve fund if that fund has not been exhausted, and, if that fund has been exhausted, for repayment to the Exchequer.

(2) Where the amount realised by the Land Commission on the re-sale of a congested estate, or of an estate not being a congested estate on the improvement of which the Land Commission have expended money, is less than the sum originally advanced from the Irish Land Purchase Fund for the purchase of the estate, the deficiency in the case of a congested estate, and, in the case of an estate not being a congested estate, so much of the deficiency as does not exceed the amount so expended on improvements, shall be charged or remain charged, as the case requires, upon the reserve fund, if that fund has not been exhausted, and, if that fund has been exhausted, or so far as that fund is not sufficient for the purpose, shall be paid out of moneys provided by Parliament, and credited in manner directed by the Treasury to the Irish Land Purchase Fund.

(3) Subsection (3) of section forty-three of the Act of 1903 shall cease to have effect.

(*a*) As to the powers of the Land Commission to execute works for improvements of estates, see Secs. 12 and 43, Act 1903 (*ante*, pp. 1071, 1108). Section 30 of this Act *post*, enables amounts advanced for improvements to be repaid by an additional purchase annuity.

Expense incurred or compensation payable under the Evicted Tenants Act, 1907 (*ante*, p. 1183), is to be paid out of the Reserve Fund, or if that fund is insufficient, as part of the expenses of the Land Commission: [Sec. 5 (1) Evicted Tenants Act, 1907 (*ante*, p. 1190).

Expenses of improvements by Land Commission on land sold by landlord to tenant.

30.—(1) Where the Land Commission deem it expedient to expend any money on the improvement of a holding sold or agreed to be sold by a landlord to a tenant, they may, in accordance with regulations to be made by the Treasury, enter into an agreement with the tenant for the repayment of the money so expended in the same manner as if such money was

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advanced under the Land Purchase Acts for the purchase of the holding, and the said money shall be repaid by an additional annuity accordingly.

(2) So far as circumstances admit the additional annuity shall, in accordance with regulations to be made by the Treasury, be consolidated and made payable with the purchase annuity.

(3) Regulations made by the Treasury may provide that, where the repayment of any money expended by the Land Commission is secured by an additional annuity under this section, the National Debt Commissioners may advance to the Land Commission the said money for repayment to the reserve fund if that fund has not been exhausted, and, if that fund has been exhausted, for repayment to the Exchequer.

See Sec 12, Act 1903 (*ante*, p 1071), and Sec. 43 of the same Act (*ante*, p 1108). Under Rules, 13 Feb., 1906 (*post*, p 1308), the Estates Commissioners might refer an application for improvement loan to the Commissioners of Public Works, or deal with the matter themselves

Amendment of 3 Edw 7, c 37, s. 48 (4).

31. For the purposes of subsection (4) of section forty-eight of the Act of 1903 (*a*), an estate shall be deemed to be so circumstanced that it would, independently of the Act of 1896, be sold without the consent of the owner as to price if the consent of the person who is owner would not be required in his capacity as owner, notwithstanding that his consent might be required in the capacity of incumbrancer or some other capacity (*b*).

(*a*) *Ante*, p 1112

(*b*) This Section renders obsolete the decision in *Holmes' Estate*, [1907] 1 I. R. 1, 139; 40 I. L. T. R. 247.

Amendment of 3 Edw 7, c 37, s 54

32.—(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, after the passing of this Act, made any advance under the Land Purchase Acts, the following conditions shall be imposed in addition to the conditions mentioned in section fifty-four (*a*) of the Act of 1903, namely:—

(a) The proprietor shall not without the consent of the Land Commission acquire by purchase any other

holding for the purchase of which an advance has been made under the Land Purchase Acts if the amount of that advance then outstanding when added to the amount of the advance or advances made in respect of the holding or holdings then held by the proprietor, would exceed the sum of seven thousand pounds, and, if any proprietor acquires any holding in violation of this condition, the Land Commission may cause that holding to be sold:

(b) The proprietor shall not, without the consent in writing in the prescribed form (*c*) of the Department of Agriculture and Technical Instruction for Ireland, cut down or uproot, or permit to be cut down or uprooted, any tree (other than a fruit tree or osier) upon the holding which is necessary for the ornament or shelter of the holding; and, if any such tree is cut down or uprooted in violation of this condition, the proprietor shall be guilty of an offence under this Act, and shall be liable on summary conviction to a penalty not exceeding five pounds for each tree so cut down or uprooted, unless he satisfies the Court that he received the prescribed consent.

(2) Where, after the passing of this Act, a tenant enters into an agreement for the purchase of his holding under the said Acts, the foregoing condition with respect to the cutting and uprooting of trees shall, as from the date of the agreement, apply to the holding in like manner as if the advance had been made, unless and until the application for an advance is refused or withdrawn.

(3) Subsection (2) and subsection (3) of section thirty (*b*) of the Act of 1881, as amended by any enactment, shall apply to any sale by the Land Commission under this section.

(4) When the whole of the advance made for the purchase of a holding under the Land Purchase Acts has been repaid, the conditions imposed by this section, or by section fifty-four of the Act of 1903 (*a*), shall cease to have effect as regards the holding or the proprietor thereof.

(*a*) *Ante*, p. 1127.

(*b*) *Ante*, p. 318. Sec. 30, Sub-sec. 2, enables the Land Commission, where they

Sects. 32-36. cause any holding to be sold for breach of statutory conditions, to sell by public auction or private treaty, and Sub sec. 3 provides for the application of the proceeds.

(c) See No 6 Rules, 3rd May, 1910 (*post*, p 1291) and Form (*post*, p 1304).

Application of 3 Edw 7, c 37, s. 67 (3).

33. Subsection (3) of section sixty-seven of the Act of 1903 (*a*) shall not apply to any land or holding subject to a purchase annuity unless the Land Commission deem it expedient, having regard to the situation, size, and character of such land or holding, to apply the provisions of the said subsection thereto.

(*a*) *Ante*, p. 1147.

Recovery of Interest

34. The Land Commission, where interest on the purchase-money of any holding is payable to them, shall have for the recovery of such interest the same remedies as they have for the recovery of unpaid instalments of a purchase annuity (*a*).

(*a*) Section 18 of the Act of 1887 (*ante*, p 428) enables the Land Commission in default of payment of any instalment to exercise the powers of sale and other powers conferred on mortgagees by the Conveyancing Act, 1881. And see Sec. 55, Act 1903, and notes thereto (*ante*, p. 1130).

Extension of 3 Edw 7, c 37, s. 69 (2)

35. The provisions of subsection (2) of section sixty-nine of the Act of 1903 (*a*) (relative to the appointment by the Land Commission of an administrator of a deceased applicant for an advance) shall apply in any case where the applicant dies before the advance is made (*b*).

(*a*) *Ante*, p 1148

(*b*) See as to continuing proceedings on death of a vendor, notes to Sec. 17, Act 1903 (*ante*, p. 1083). And as to the appointment of an administrator No 9 Rules, 3rd May, 1910 (*post*, p 1291) and Or. XIX, 2nd July, 1910 (*post*, p 1376).

Payments out of interest on purchase money before vesting

36 Where interest on the purchase money of any land agreed to be sold under the Land Purchase Acts is payable—

(a) to the Land Commission under section thirty-five (*a*) of the Act of 1896; or

(b) by the Land Commission (*b*) or Congested Districts Board under section eighteen of the Act of 1903 as extended by this Act,

the owner of any superior or intervening interest or any incumbrancer may, at any time before the land is vested in the purchaser or purchasers, apply to the Land Commission for an order that payment in respect of the annual income of his

claim be made to him (*c*) out of the interest on the purchase money, and in such case the Commission, if they are satisfied that the justice of the case so requires, may make the order accordingly.

(*a*) *Ante*, p. 575.

(*b*) See Sec. 18, Act of 1903 (*ante*, p. 1084).

(*c*) Such an order will, however, not be made unless the applicant is not being paid by the vendor: *Robinson's Estate*, 44 I. L. T. R. 49.

Amendment of 7 Edw. 7, c 38.

37.—(1) The powers conferred on the Land Commission by section one of the Irish Land Act, 1907 (*a*), for the purpose of the disposal of the mining rights mentioned in that section shall include a power to demise such rights to any person by way of take note or prospecting lease for any term not exceeding two years, at such rent and upon such conditions as the Land Commission think proper, with an option to the lessee to take a reversionary lease upon the like or such other terms as may be agreed on.

(2) On any demise under the said Act of 1907 as amended by this section, a royalty rent variable according to the price or value of the minerals gotten, or a fixed rent, or both, may be reserved to the Land Commission.

(3) It shall not be obligatory upon the Land Commission to publish the advertisement mentioned in subsection (5) of section one (*a*) of the said Act on granting any such reversionary lease, if an advertisement has been published pursuant to that subsection before the execution of the take note or prospecting lease.

(*a*) *Ante*, p. 1182.

Powers of investment.

38.—(1) Where any land purchased by means of an advance under the Land Purchase Acts is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the trustees of the settlement may, on the request of the tenant for life, notwithstanding anything in the settlement to the contrary, invest the purchase money, or any part thereof, in the following manner (that is to say):—

(a) With the sanction of the Public Trustee—

(i) in any of the public stocks or funds or Govern-

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ment securities of any foreign government or state; or

(ii) in mortgages, bonds, debentures, or debenture stock charged upon the undertaking of any railway company in the United States of America, Mexico, the Argentine Republic, or Canada, which has, during each of the five years last past before the date of investment, paid a dividend on its preference stock (if any) or its ordinary stock;

(b) and without such sanction—

(i) in the mortgages, bonds, debentures, or debenture stock of any railway company in the United Kingdom incorporated by special Act of Parliament, which has, during each of the five years last past before the date of investment, paid a dividend on its preference stock (if any) or its ordinary stock, or in the preference stock of any such railway company which has, during a like period, paid a dividend on its ordinary stock;

(ii) in the stocks or shares of any tramway or light railway, dividends upon which are guaranteed under the Tramways (Ireland) Acts, 1860 to 1900; or

(iii) in the stock, mortgages, bonds, debentures, or debenture stocks issued or to be issued by the council of any county or urban district in the United Kingdom under the authority of any Act or Provisional Order;

and may from time to time, subject to the like conditions, vary any such investment.

(2) The Public Trustee, in any case in which his sanction is required for an investment under this section, shall, before sanctioning the investment, satisfy himself that there is a reasonable probability that the investment will, if realised on the death of the tenant for life or the termination of the trust, produce an amount not less than the sum invested; and the Public Trustee shall not incur any liability on account of any sanction given or withheld by him in good faith.

(3) The powers of investment conferred upon trustees by this section shall be in addition to any powers of investment con-

ferred on them by the terms of the settlement or by Act of Parliament (*b*), and such last-mentioned powers may be exercised notwithstanding anything to the contrary in the settlement.

(4) A trustee shall not incur any liability by reason of any investment made by him in exercise of the powers conferred by this section.

(5) Subsections (1), (2), and (3) of section fifty-one (*a*) of the Act of 1903 shall cease to have effect.

(*a*) *Ante*, p. 1119.

(*b*) *See List of Investments authorised under Sec. 51, Act 1903 (now in part repealed). That list is identical with that prescribed by R. S. C., Or. LXII., r. 71, for investment of cash under the control of the High Court, and see also note (a), p. 1120, ante.*

Examiners of title

39. A barrister-at-law or solicitor shall not be deemed to have retired from practice by reason of his having been temporarily appointed and having acted as an examiner of the Land Commission under the provisions of the Land Purchase Acts.

Provision as to immediate landlords not having power to sell.

40. Where the immediate landlord of any holding or holdings has not an interest sufficient to constitute him a person having power to sell to tenants under the Land Purchase Acts, the next superior landlord having such an interest shall be deemed to be a person having power to sell to occupying tenants under the said Acts, notwithstanding that the said holding or holdings constitute the whole estate of such superior landlord, and section fifteen of the Act of 1903 (*a*) shall apply accordingly.

(*a*) As to sales by middlemen for cash, and the mode in which intervening interests might be dealt with, see Sec. 15, Act 1903, and notes thereto (*ante*, pp. 1077–8).

Presumption of release of unpaid rent in certain cases.

41.—(1) Where any land sold under the Land Purchase Acts is subject to any rent reserved under a lease, and no payment on foot of such rent has been made for a period of forty years prior to such sale, such rent shall, for the purposes of such sale and the distribution of the purchase money, be deemed to have been released.

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(2) Where portions of any such rent have become vested in different owners, this section shall apply to any portion of such rent as if it was a separate rent.

The period of limitation fixed by 3 & 4 Will. IV., c. 27, s. 2, does not apply to rent reserved by an indenture of demise: *Grant* v. *Ellis*, 9 M. & W. 113, and the same rule applies to the twelve years' limit fixed by 37 & 38 Vict., c. 57, s. 1: *Donegan* v. *Neill*, 16 L. R. Ir. 309; *Archbold* v. *Scully*, 9 H. L. C. 360; hence the necessity for this Section.

Proposals for purchase by Estates Commissioners

42.—(1) The Estates Commissioners may make proposals and enter into negotiations for the purchase, under section six of the Act of 1903 (*a*), of any estate (*b*) not situated in a congested districts county, notwithstanding that an application has not been made to them by the owner under that section.

(2) For the purpose of enabling the Estates Commissioners to ascertain the boundaries, extent, and character of any congested estate (*b*) or untenanted land which they propose to purchase and to estimate the price to be offered for the same, any inspectors or other persons appointed by the Commissioners may, after notice sent by post to the person who appears to the Commissioners to be the owner thereof, enter upon the estate or untenanted land and make all such inquiries and do all such things as may be necessary for the purpose aforesaid.

(*a*) *Ante*, p 1062.

(*b*) The power of the Estates Commissioners to acquire compulsorily *any* estate not situated in a congested districts county on failure of negotiations for purchase would appear to be confined to Congested Estates and untenanted land. Their power to enter and inspect is limited to such lands by Sub-sec. 2. And see Sec 43 (1) of this Act, *post*. Sub-section 4 of Sec. 6 of the Act of 1903 (*ante*, p 1063) enabled the Estates Commissioners to acquire a congested estate with the consent of the owner. Such consent is, however, no longer necessary. The powers of the Congested Districts Board to acquire compulsorily "any estate or untenanted land" situated in a congested districts county are not confined to congested estates. See Sec. 60 of this Act (*post*, p. 1236).

Procedure of the Estates Commissioners on failure of negotiations for purchase

43—(1) Where negotiations have been entered into or proposals have been made for the purchase under the Land Purchase Acts of any congested estate or untenanted land (*c*) not situated in a congested districts county and no agreement has been arrived at, the Estates Commissioners may, if in their opinion it is desirable that the estate or untenanted land should be purchased for the purpose of relieving congestion,

send in the prescribed manner (*a*) to the person who appears to them to be the owner a final offer in writing for the purchase of the estate or untenanted land (*d*).

(2) The final offer shall contain the following particulars:—

(a) A description of the estate or untenanted land to which the offer relates;

(b) The amount of the price which the Estates Commissioners are willing to give for the estate or untenanted land, subject—

(i) to any public rights affecting the estate or untenanted land;

(ii) to any maintenance charges under the Public Works Acts (*f*); and

(iii) in the case of an estate, to any interests of the tenants or of persons having any claims upon those interests, and to any easements, rights, and appurtenances mentioned in section thirty-four of the Act of 1896:

but save as aforesaid, and subject to the provisions of the Act of 1903 with respect to minerals, discharged from the claims of all persons who are interested in the estate or untenanted land, whether in respect of superior or intervening interests or incumbrances or otherwise; and

(c) The time within which the offer may be accepted.

(3) If within the time specified in that behalf in the final offer, the offer is accepted in writing by any person who within the prescribed period (*e*) satisfies the Estates Commissioners that he may be dealt with as the owner of the estate or untenanted land under section seventeen of the Act of 1903 (*b*), the offer and acceptance shall, as from the date upon which the Estates Commissioners certify that they are so satisfied, have the same effect as an agreement for the purchase of the estate or untenanted land under the said Act as amended by this Act, and the like consequences shall ensue, and the like proceedings shall be carried on, as in the case of such an agreement, save that the advance for the purpose of the purchase shall, notwithstanding anything to the contrary in this Act, be made by means of money and not by means of stock, except in cases where the vendor agrees to accept in lieu

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of cash an amount of guaranteed three per cent. stock equal in nominal amount to the sum to be advanced, and carrying dividends as from the date of the advance, and the Estates Commissioners agree that the advance shall be made in that manner.

(4) If the said offer is not accepted as aforesaid, the Estates Commissioners may, if they think fit, proceed to acquire the estate or untenanted land compulsorily in manner provided by Part IV. of this Act (*a*).

(5) In estimating the price to be named in the final offer, the Estates Commissioners shall have regard to the provisions of the Act of 1903, as amended by this Act, in respect of advances, and to the prices which the tenants and other persons are willing to give for the holdings (if any) and parcels of land comprised in the estate or untenanted land.

(*a*) *Post*, p 1237. (*b*) *Ante*, p. 1082.

(*c*) As to powers of Estates Commissioners, see note (*b*) to Sec. 42 (*ante*, p. 1226)

(*d*) The corresponding provision in the case of failure of negotiations by the Congested Districts Board is Sec 60 (*post*, p. 1236). See as to mode of service of the offer, No. 10, Rules, 3rd May, 1910 (*post*, p. 1292).

(*e*) One month from the time specified in the final offer within which such offer may be accepted, No 11, Rules, 3rd May, 1910 (*post*, p. 1292).

(*f*) See as to maintenance charges and their priority, note (*post*, p. 1438).

PART III.

Congested Districts.

Incorporation of the Congested Districts Board

44.—(1) From and after the appointed day the Congested Districts Board for Ireland shall be a body corporate, bearing the name of the "Congested Districts Board for Ireland," with a capacity to acquire and hold land and to sue and be sued by its corporate name.

(2) The Board shall have an official seal, which shall be officially and judicially noticed, and such seal shall be authenticated by the signature of a permanent member (*d*) of the Board or of the secretary.

(3) In the execution or performance of any power or duty conferred upon or transferred to the Board, by or in pursuance of any enactment, the Board shall adopt and use the style and seal of the Congested Districts Board for Ireland.

(4) The powers and duties of the trustee of the Congested

Districts Board for Ireland under any enactment shall on the appointed day be transferred to the Board. Sects. 44-45.

(5) Subsection (3) of section thirty-four (*a*) of the Act of 1891 (*a*) and subsections (2) and (3) of section two (*b*) of the Congested Districts Board (Ireland) Act, 1893, shall cease to have effect as from the appointed day (*c*). 57 & 57 Vict. c 35.

(*a*) *Ante*, p. 486. This dealt with the constitution of the Board.

(*b*) *Ante*, p. 505. This Section enabled trustees appointed thereunder to hold land and securities and other property in trust for the Board.

(*c*) 6th January, 1910.

(*d*) Section 51 (*post*, p. 1232) gives the Lord Lieutenant power to regulate and define the powers and duties of the permanent members. See Regulations, 8 Jan., 1910, issued pursuant to this Section (*post* p. 1411).

45.—(1) From and after the appointed day (*a*), the Congested Districts Board shall consist of the following members:— Reconstitution of the Board

(a) The Chief Secretary, the Under Secretary to the Lord Lieutenant, and the Vice-President of the Department of Agriculture and Technical Instruction for Ireland, who shall be ex-officio members:

(b) Nine members appointed by His Majesty (in this Act referred to as appointed members):

(c) Two paid members appointed by His Majesty (in this Act referred to as permanent members).

(2) An appointed member shall hold office for five years, and shall be eligible for re-appointment. On a casual vacancy occurring by reason of the death, resignation, or incapacity of an appointed member or otherwise, the person appointed by His Majesty to fill the vacancy shall continue in office until the member in whose place he was appointed would have retired, and shall then retire.

(3) Each of the permanent members shall hold office during pleasure, and shall be paid by the Board out of the funds at their disposal an annual salary of two thousand pounds:

Provided that a permanent member shall not be removed from his office except by an Order in Council, and any such Order shall be laid before each House of Parliament forthwith; and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent forty days on

Sects 45-47.

which that House has sat after any such Order is laid before it praying that the Order may be annulled, His Majesty in Council may annul the Order, and it shall thenceforth be void.

(4) Every existing member of the Congested Districts Board who is not an ex-officio member, or is not appointed under or in pursuance of this section, shall cease to hold office on the appointed day (*a*).

(*a*) 6th January, 1910

Congested Districts Counties and local authorities.

46.—(1) For the purposes of the Congested Districts Board (Ireland) Acts, as amended by this Act, each of the following administrative counties, that is to say, the counties of Donegal, Sligo, Leitrim, Roscommon, Mayo, Galway, and Kerry, shall be a congested districts county, the six rural districts of Ballyvaghan, Ennistymon, Kilrush, Scariff, Tulla, and Killadysert in the county of Clare, shall together form one congested districts county, and the four rural districts of Bantry, Castletown, Schull, and Skibbereen, in the county of Cork, shall together form one congested districts county.

(2) No electoral division shall, after the passing of this Act, be or form part of a congested districts county constituted under this section (*a*).

(*a*) Section 3 of the Congested Districts Board Act, 1901 (*ante*, p. 608), enabled the Lord Lieutenant by Order in Council to declare that land purchased by the Board, before or after the Act, elsewhere than in a congested districts county, should be treated as part of such congested districts county, as he might determine.

Several of such outside lands orders have from time to time been made. See St. R. & O., 1906 No 932; 1907 No. 798; 1908 No. 704, but all the lands which have been so brought in are, in fact, within the Congested Districts Counties as defined in Sec 46. Section 3 of the Act of 1901 is not expressly repealed. Section 57 (*post*, p 1235) provides that the Board shall not purchase land which is not situated in a Congested Districts County.

In the Appendix a list is given showing the electoral divisions comprised in the rural districts enumerated in this Section.

Is the effect of Sub-sec. 2 of this Section and Sec 57 impliedly to repeal Sec 3 of the Act of 1901 ? It is submitted that this is not so, and that the power to declare outside lands to be part of a Congested Districts County remains unaffected.

Transfer of certain powers and duties of the Board to the Department of Agriculture.

47. The powers and duties of the Congested Districts Board under any enactment, so far as they relate to any of the following matters; namely:—

(a) The provision of seed potatoes or seed oats; (*a*)

(b) Agricultural instruction or practical husbandry; or

(c) The aiding and developing of forestry or the breeding of live stock or poultry; (*a*)

shall on the appointed day be transferred to the Department of Agriculture and Technical Instruction for Ireland (*b*) (in this Part of this Act referred to as the Department) and shall from that day cease to be exercised or performed by the Board.

(*a*) See Sec. 39, Purchase Act, 1891 (*ante*, p. 491).

(*b*) This Department was established in 1899 by 62 & 63 Vict., c. 50.

Consultative Committee for purposes of fisheries.

48. For the purpose of advising the Department and the Congested Districts Board with a view to the co-ordination of the administration of the business of the Department and the Board respectively in relation to the aiding and developing of sea fisheries in areas in which they have concurrent powers or duties, there shall be a consultative committee consisting of six members, of whom three shall be nominated by the Department, and three shall be nominated by the Board.

Provision of money for Board and Department of Agriculture.

49. As from the appointed day (*a*), an annual sum of one hundred and sixty-three thousand seven hundred and fifty pounds shall be paid out of moneys provided by Parliament as follows:—

Out of that sum an annual sum of nineteen thousand pounds shall be paid to the Department for the purpose of the exercise of the powers and the performance of the duties transferred to the Department under this Act, and the residue shall be paid to the Congested Districts Board:

Provided that at any time after the expiration of five years from the appointed day (*a*) the Lord Lieutenant may, on the application of the Department or the Board, from time to time direct that the amount payable to the Department for the purpose aforesaid shall be increased or reduced, and the increased or reduced amount shall as from the date fixed by the Lord Lieutenant be the amount payable to the Department under this section.

(*a*) 6th January, 1910.

Sects. 50-51.

Provisions consequential on transfer of powers and duties.

50.—(1) Where any powers and duties are transferred by this Part of this Act from one authority to another authority—

(i) all property, whether real or personal (including easements and rights and things in action), held by or in trust for or vested in the first authority for the purpose or by virtue of those powers and duties, shall without any conveyance or assurance pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and

(ii) the latter authority shall hold the property for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions, for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act; and

(iii) all debts and liabilities of the first authority incurred by virtue of those powers and duties shall become debts and liabilities of the latter authority; and

(iv) in any proceedings relating to those powers and duties, and pending at the time of the transfer to which the first authority is a party, the latter authority shall be substituted for the first authority, and the proceedings shall not abate by reason of the substitution; and

(v) any reference to the first authority in any enactment, order, instrument, contract, or other document, in relation to those powers or duties, shall, so far as is necessary for the exercise of those powers or the discharge of those duties, be construed as a reference to the latter authority.

(2) The expression "authority" in this section means the Congested Districts Board, the Department, and the trustees of the Congested Districts Board.

Orders in Council

51.—(1) The Lord Lieutenant, by Order in Council, may do all or any of the following things (that is to say):—

(i) Regulate the proceedings and meetings (including quorum) of the Congested Districts Board; (*a*)

(ii) Regulate and define the powers and duties of the permanent members; (*a*)

(iii) Make such regulations as appear to him necessary or expedient for carrying into effect this Part of this Act.

(2) An Order of the Lord Lieutenant in Council under this section shall be laid before both Houses of Parliament as soon as may be after it is made, and, if within the next subsequent forty days on which either House has sat that House presents an address to His Majesty praying that any such Order may either in whole or in part be annulled, His Majesty in Council may annul the same either in whole or in part as the case may require, and the Order or part so annulled shall thenceforth become void without prejudice to the validity of any proceedings taken under the same in the meantime:

Provided that where any Order or any part thereof is so annulled, the Lord Lieutenant in Council may within six months thereof make another Order in place of the Order or part so annulled, subject nevertheless to be laid before Parliament, and to be annulled by His Majesty in Council in manner above mentioned, and so on as often as the case requires.

(*a*) See Regulations, dated 8th Jan., 1910 (*post*, p. 1411).

Grant of superannuation allowances by Congested Districts Board

52.—(1) It shall be lawful for the Congested Districts Board, with the approval of the Treasury, to grant to any permanent member of the Board on retirement such superannuation or other allowance (if any) as he would have been qualified for under the provisions of the Superannuation Acts, 1834 to 1892, or any Acts amending the same, if he were retiring from the permanent Civil Service of the State. Any such allowance shall be payable out of the funds at the disposal of the Board: Provided that, where a permanent member was at the time of his appointment a permanent Civil Servant of the State, such portion of the allowance as the Treasury determine to be properly payable in respect of his previous service in that capacity shall be payable in the same manner as a superannuation or other allowance under those Acts.

(2) The Congested Districts Board may, with the approval of the Treasury, make a scheme providing for the grant of pensions or gratuities, according to the scale and subject to the conditions (so far as applicable) prescribed by the Super-

Sects. 52-55.

annuation Acts, 1834 to 1892, or any Acts amending the same, to such officers or persons employed by them, not being otherwise pensionable, as may be from time to time approved by the Treasury; and the Board may pay to any such officers or persons out of the funds at their disposal such pensions or gratuities under the scheme as the Treasury may sanction in each case.

Sales of parcels of land by Congested Districts Board.

53.—(1) The Board may sell any parcels of any land purchased by them after the passing of this Act to any tenants or proprietors of holdings in a congested districts county, or to any herdsmen employed on or in connection with the land.

(2) The provisions of this Act with respect to the application of the Land Purchase Acts to parcels of land shall apply in the case of the sale of any parcel of land under this section.

(3) Section seventy-five of the Act of 1903 (*a*) shall cease to have effect, save as respects sales of parcels of land purchased by the Board before the passing of this Act.

(*a*) *Ante*, p. 1153.

Extension of 3 Edw. 7, c. 37, s 19, to sales by the Congested Districts Board

54. Where an estate is purchased by the Congested Districts Board, and tenants on the estate to the extent of three-fourths in number and rateable value have agreed to purchase their holdings, the Board may order that the remaining tenants or any of them shall be deemed to have accepted the offers made to them by the Board in any case where, under section eighty of the Act of 1903 (*a*), the tenant could have obtained an advance of the entire purchase money and the Land Purchase Acts shall apply accordingly.

(*a*) *Ante*, p. 1157—*i e*, in any case in which the Board should certify that the land was in their opinion sufficient security for the repayment of the advance. A similar power is given to the Land Commission by Sec. 19, Act 1903 (*ante*, p 1085)

Extension of 3 Edw. 7, c. 37, s. 15 (6), to sales to the Congested Districts Board

55. The powers conferred on the Land Judge by sub-section (6) of section fifteen of the Act of 1903 (*a*) (which relates to sub-tenancies and subdivided holdings) for the purposes of the sale of an estate by the Land Judge to the Land Commission may be exercised by the Land Judge for the purposes of the sale of an estate by him to the Congested Districts Board.

(*a*) *Ante*, p. 1077.

Sects. 56-58.

Rents and profits recoverable by the Congested Districts Board.

56. Where, after the passing of this Act, the Congested Districts Board enter into an agreement under section seventy-nine of the Act of 1903 (*a*), for the purchase of an estate or untenanted land, the provisions of section eighteen (*b*) of that Act (which relates to rents and profits recoverable by the Land Commission) shall apply in like manner as they apply in the case of land agreed to be purchased by the Land Commission, subject to the following modifications (that is to say):—

(*a*) The Congested Districts Board shall be substituted for the Land Commission;

(*b*) All rents and profits and arrears of rent payable to the Board shall be recoverable by the Board in like manner as if the Board were the owner of the estate or untenanted land.

(*a*) *Ante*, p. 1155. (*b*) *Ante*, p. 1084.

Restrictions on purchases by the Board.

57. The Congested Districts Board shall not, after the passing of this Act, enter into an agreement for the purchase of any land which is not situated in a congested districts county.

See note to Sec. 46 (*ante*, p. 1230).

Restrictions on sales of land in congested districts counties.

58.—(1) The Land Commission shall not, after the passing of this Act, enter into an agreement for the purchase of any land situated in a congested districts county (*b*), save with the consent of the Congested Districts Board: Provided that this subsection shall not apply in the case of any land required for the purposes of the Evicted Tenants (Ireland) Act, 1907 (*a*).

7 Edw. 7, c. 56.

(2) No congested estate (*c*) situated in a congested districts county shall, after the passing of this Act, be sold under the Land Purchase Acts, to persons other than the Congested Districts Board without the consent of that Board, which consent shall not be withheld unless the Board undertake to enter into an agreement or to send a final offer for the purchase of the estate within one year: Provided that this subsection shall not apply in the case of any sale of a congested estate in pursuance of an originating application or request lodged before the passing of this Act.

See *Pringle's Estate* [1910] 1 I. R. 183.

(*a*) *Ante*, p. 1183.

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(*b*) Section 46 (*ante*, p 1230) enumerates the Congested Districts Counties

(*c*) Congested estate is defined by Sec. 6, (5), of the Act of 1903 (*ante*, p. 1063), as amended by Sec 20 (1), of this Act (*ante*, p 1214)

Power to enter and inspect land with a view to purchase

59. For the purpose of enabling the Congested Districts Board to ascertain the boundaries, extent, and character of any land which they propose to purchase under the Land Purchase Acts and to estimate the price to be offered for the same, any inspectors or other persons appointed by the Board may, after notice sent by post to the person who appears to the Board to be the owner thereof, enter upon the land and make all such inquiries and do all such things as may be necessary for the purpose aforesaid.

Procedure of the Board on failure of negotiations for purchase.

60.—(1) Where negotiations have been entered into or proposals have been made for the purchase under the Land Purchase Acts of any estate or untenanted land situated in a congested districts county, and no agreement has been arrived at, the Congested Districts Board may, if they think fit, send in the prescribed manner (*e*) to the person who appears to them be the owner a final offer in writing for the purchase of the estate or untenanted land.

(2) The provisions of Part II. of this Act with respect to the particulars to be inserted in a final offer (*a*) sent by the Estates Commissioners shall apply in the case of a final offer sent by the Congested Districts Board under this section, with the substitution of the Congested Districts Board for the Estates Commissioners, and the provisions of Part II. of this Act with respect to the acceptance of a final offer (*f*) sent by the Estates Commissioners shall apply in the case of the acceptance of a final offer sent by the Congested Districts Board, with the substitution of section seventy-nine (*b*) of the Act of 1903 for section seventeen of that Act (*c*).

(3) If the final offer is not accepted in accordance with the foregoing provisions of this section, the Congested Districts Board may, if they think fit, send to the Estates Commissioners a requisition calling upon the Estates Commissioners to take steps to acquire the estate or untenanted land compulsorily in manner provided by Part IV. of this Act (*d*).

(*a*) Sec. 43, (2) (*ante*, p. 1227)

(*b*) *Ante*, p. 1155. (*c*) *Ante*, p. 1082. (*d*) *Post*, p. 1237.

(*e*) See as to mode of service of the offer No. 10, Rules, 3rd May, 1910 (*post*, p. 1292). Sects. 60-62.

(*f*) See No. 11, Rules, 3rd May, 1910 (*post*, p. 1292).

PART IV.

Compulsory Purchase.

Publication of notices

61.—(1) The Estates Commissioners in any case where they propose to acquire compulsorily an estate or untenanted land—

(a) in respect of which a final offer has been sent by them and has not been accepted in manner provided by this Act (*a*); or

(b) in respect of which they have received a requisition under this Act from the Congested Districts Board (*b*),

shall publish in the Dublin Gazette a notice containing particulars of the final offer of the Land Commisison or the Congested Districts Board as the case may be, and stating that the Estates Commissioners intend to purchase the estate or untenanted land described in the final offer at the price named in such offer, unless within the prescribed time an application is made under this Part of this Act to the Judicial Commissioner by any person interested in the estate or untenanted land.

(2) A copy of the final offer and of the aforesaid notice shall as soon as possible be served in the prescribed manner (*c*) by the Estates Commissioners upon all persons known or believed by them to be interested in the estate or untenanted land.

(*a*) See Sec. 43 (*ante*, p. 1226).

(*b*) See Sec. 60 (3) (*ante*, p. 1236).

(*c*) No. 10, Rules, 3rd May, 1910 (*post*, p. 1292).

Power to restrain compulsory acquisition of land.

62.—(1) If any person interested in the estate or untenanted land objects to the acquisition of the same under this Part of this Act on the ground (*c*)

(a) that other land sufficient and equally suitable for the purposes for which the estate or untenanted land is proposed to be acquired is available for purchase by the Commissioners or Board, as the case may be, by voluntary agreement at a reasonable price; or

(b) that the estate or untenanted land consists of or includes land in the occupation of the owner which is, or forms part of, a park, garden, pleasure ground,

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32 & 33 Vict. c. 42.

recreation ground, demesne, or home farm, or was purchased under the provisions of the Irish Church Act, 1869, for a sum not exceeding two thousand pounds; or

(c) that the estate or untenanted land consists of or includes land which has been purchased under the Land Purchase Acts (*d*), or is the property of a local authority, or is held by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking; or

(d) that, if the estate or untenanted land is acquired as proposed, other land of the owner adjoining the estate or untenanted land will be injuriously affected:

he may, within the prescribed time and in the prescribed manner (*a*), apply to the Judicial Commissioner for an order restraining the Estates Commissioners from acquiring the estate or untenanted land, or any specified part or parts of the same under this Part of this Act.

(2) The Judicial Commissioner shall hear in the prescribed (*b*) manner and determine all applications coming before him under this Part of this Act, and for that purpose shall have and may exercise the powers conferred on the Land Commission by subsections (1), (3), and (4) of section forty-eight of the Act of 1881 (*e*), and may, if the justice of the case so requires, amend the final offer by excluding therefrom any part or parts of the lands therein described, or (with the consent of the owner and the body by whom the final offer was sent) by including therein any other lands of the owner.

(3) Where a final offer (*f*) is amended by the Judicial Commissioner under this section, the body by whom the offer was sent may make such consequential amendments in the offer as appear to them to be necessary, and the offer as amended in pursuance of this section shall be deemed to be the final offer for the purpose of any subsequent proceedings under this Part of this Act.

(4) There shall be an appeal to the court of appeal from any decision of the Judicial Commissioner under this section, and the decision of the court of appeal shall be final.

(5) An order of the Judicial Commissioner or the court of appeal restraining the Estates Commissioners from acquiring

land under this Part of this Act shall remain in force for five years after it is made. Sects. 62-63.

(6) The expression "owner" in this section means any person having power under the Land Purchase Acts to sell the estate or untenanted land.

(*a*) One month from publication in the *Dublin Gazette* of the notice required by Sec. 61 (1), No. 12, Rules, 3rd May, 1910 (*post*, p. 1292).

(*b*) Evidence is to be given *viva voce* unless otherwise directed. The application is by 14 days' notice of motion, No. 14, Rules, 3rd May, 1910 (*post*, p. 1293).

(*c*) Compare Sec. 7 of the Evicted Tenants Act, 1907 (*ante*, p. 1191).

(*d*) A similar provision is contained in the Evicted TenantsAct, 1907, Sec. 1 (4) (*ante*, p. 1184).

(*e*) *Ante*, pp. 332-334—*i.e.*, determining questions of law and fact, enforcing attendance of witnesses, &c.

(*f*) As to the final offer and its contents, see Sec. 43 (*ante*, p 1227), and Sec. 60 (*ante*, p. 1236).

63.—(1) Subject to any application to the Judicial Commissioner under the last preceding section, and to the final determination of all questions arising thereon, any person interested in the estate or untenanted land who is dissatisfied with the price named in the final offer may apply, within the prescribed time (*a*) and in the prescribed manner (*a*), by way of objection to the Judicial Commissioner to fix the price to be paid for the estate or untenanted land, and, subject to the provisions of this section, the price shall be fixed by the Judicial Commissioner accordingly. Applications as to price.

(2) In fixing the price to be paid for an estate or untenanted land, regard shall be had to the fair value of the same to the owner, but no additional allowance shall be made in respect of the purchase being compulsory.

(3) The costs and expenses of and incidental to any application under this Part of this Act shall be at the discretion of the Judicial Commissioner, and the Judicial Commissioner may, if he thinks fit, order the same to be paid by the Land Commission or the Congested Districts Board.

(*a*) One month from date of publication in the *Dublin Gazette* of the notice required by Sec. 61 (1). And where an application is made under Sec. 62 one month from the date of the final determination of all questions arising on such application: No. 13, Rules, 3rd May, 1910 (*post*, p. 1292): The application is made by 14 days' notice of motion: No. 14, Rules, 3rd May, 1910 (*post*, p. 1293).

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Completion of purchase.

64. Subject to any application to the Judicial Commissioner under this Part of this Act, and the final determination of all questions arising thereon, the price named in the final offer (*a*) or fixed as the case may be under this Part of this Act shall be deemed to be the purchase money of the estate or untenanted land, and shall, within the prescribed time (*b*), be paid into the Bank of Ireland, and the purchase shall be completed, and the purchase money distributed in like manner, and all the like consequences shall ensue, as if the estate or untenanted land had been purchased by the Land Commission or the Congested Districts Board, as the case may be, by agreement entered into under the Act of 1903 as amended by this Act, upon the date of the payment of the purchase money into the Bank.

This Section does not apply to compulsory acquisition of lands under the Evicted Tenants Act, 1907: *Marquis Conyngham's Estate*, 44 I. L. T. R. 64

(*a*) As to particulars to be given in final offer, see Sec. 43 (*ante*, p. 1226).

(*b*) Where no application is made under Sec. 62 the time is six months after the time prescribed for such an application. Where such an application is made, but is withdrawn, the time is six months after such withdrawal. Where an an application is made and not withdrawn, the time is six months after the final determination of all questions arising on such application: No. 15, Rules, 3rd May, 1910 (*post*, p. 1293).

PART V.

Land Law.

Future tenants.

65.—(1) Where a present tenancy (*a*) was determined at any time before the passing of this Act, the Land Commission may, subject to the provisions of the Land Law Acts, on the application in the prescribed manner (*c*) of any tenant in occupation of the lands comprised in the said present tenancy or of any portion of those lands, being either—

(a) the person who was the tenant of the original holding at the time when the present tenancy was determined, or

(b) if such person is dead, a person who would have been entitled, whether under the will or as one of the next-of-kin or issue of the said tenant, to the said holding or any distributive share therein had the present tenancy therein not been determined:

fix the fair rent in respect of the said lands or portion in like manner as if the applicant was a present tenant of the same, and the statutory term resulting from the fixing of such fair rent shall not, nor shall the tenancy, be determined by the expiration of any lease or tenancy existing at the date of such application, but shall continue in like manner as if such lease or tenancy were an existing lease within the meaning of the Act of 1881. Sects 65-66

(2) Any provision in any contract of tenancy or other instrument in any way prohibiting, restraining, or tending to prevent the fixing of a fair rent in respect of any holding to which this section applies, shall be void.

(3) Where a present tenancy has been sold under a writ of execution and assigned by the sheriff to the landlord, or a trustee for the landlord, the tenancy shall, for the purposes of this section, be deemed to have been determined.

(4) In this section the expression "prescribed" means prescribed by rules made by the Land Commission under section fifty of the Act of 1881 as amended by any subsequent enactment, and the expression "present tenancy" includes any existing lease (*b*) within the meaning of the Act of 1881, and any tenancy which was determined at any time between the first day of January eighteen hundred and seventy-nine and the passing of the Act of 1881 (*a*).

(*a*) A present tenancy is defined by Sec 57 of the Act of 1881 (*ante*, p. 342) as a tenancy subsisting at the passing of that Act, 22nd Aug, 1881, or created before 1st Jan, 1883, in a holding in which a tenancy was subsisting at the time of the passing of that Act. And by Sec 17 of the Act of 1896 (*ante*, p. 556) a landlord and tenant may at any time agree, subject to the prescribed rules and conditions, to the creation of a present tenancy.

(*b*) See Sec. 21, Act 1881 (*ante*, p 300).

(*c*) See form of Originating Notice, No. 80 (*post*, p. 1502), prescribed by Rule 16th, December, 1909 (*post*, p. 1502).

PART VI.

SUPPLEMENTAL.

66. In this Act, unless the context otherwise requires,— Definitions.

The expression "prescribed," in any case not otherwise provided for, means prescribed by rules made by the Judicial Commissioner and the Estates Commissioners

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in the manner directed by subsection (13) of section twenty-three of the Act of 1903;

The expression "the Land Purchase Acts" includes the Land Purchase Acts as defined by the Act of 1896 and the Act of 1903, the Irish Land Act, 1907, and Parts I, II, and IV. of this Act;

7 Edw. 7, c. 38

The expression "the Land Law Acts" means the Land Law Acts as defined by the Act of 1903 and Part V. of this Act;

14 & 45 Vict. c. 49

The expression "the Act of 1881" means the Land Law (Ireland) Act, 1881;

50 & 51 Vict c. 33

The expression "the Act of 1887" means the Land Law (Ireland) Act, 1887;

54 & 55 Vict. c. 48.

The expression "the Act of 1891" means the Purchase of Land (Ireland) Act, 1891;

59 & 60 Vict c. 47

The expression "the Act of 1896" means the Land Law (Ireland) Act, 1896;

3 Edw. 7, c. 37.

The expression "the Act of 1903" means the Irish Land Act, 1903;

The expression "the Judicial Commissioner" means the Judicial Commissioner appointed under the Act of 1881; and

The expression "appointed day" means such day as the Lord Lieutenant may appoint (*a*).

(*a*) The Lord Lieutenant by Order, dated 5th Jan., 1910, has appointed 6th Jan., 1910.

Untenanted land.

67. Land in the occupation of a person holding under a fee farm grant or a lease for lives renewable for ever, or a lease for a term of years of which not less than sixty are unexpired, shall, for the purposes of the Evicted Tenants (Ireland) Act, 1907, be deemed to be untenanted land (*a*).

(*a*) This abrogates the decision in *Young's Estate*, 43 I. L. T. R. 13. See note (*b*) to Sec. 1, Evicted Tenants Act, 1907 (*ante*, p. 1184).

Construction

68. Parts I., II., and IV. of this Act shall be construed as one with the Land Purchase Acts, and may be cited with those Acts (*a*).

Part III. of this Act shall be construed as one with the

Congested Districts Board (Ireland) Acts, and may be cited with those Acts (*b*). Sects. 68-70.

Part V. of this Act shall be construed as one with the Land Law Acts, and may be cited with those Acts (*c*).

(*a*) For list of Land Purchase Acts, see note (*d*) to Sec. 98, Act 1903 (*ante*, p. 1170).

(*b*) For list of Congested Districts Board (Ireland) Acts, see note (*b*) to Sec. 100, Act 1903 (*ante*, p. 1172).

(*c*) For list of Land Law Acts, see Sec. 98, Act 1903, and note (*e*) thereto (*ante*, pp. 1172-1173).

69. This Act may be cited as the Irish Land Act, 1909. Short title

70. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule. Repeals.

Schedule.

Section 6.

FIRST SCHEDULE.

(1) The percentage shall be a percentage on the amount advanced in respect of each holding and parcel of land comprised in the estate, and shall be calculated according to the number of years' purchase represented by the advance upon the following scale:—

Number of years' purchase represented by the Advance		Rate of Percentage
(1) Where the Rent is a Judicial Rent fixed or agreed to since the passing of the Act of 1896, or the Land is untenanted	(2) Where the Rent is a Judicial Rent fixed or agreed to before the passing of the Act of 1896, or a Non Judicial Rent	
26 and upwards	24 and upwards	Nil
25 and under 26	23 and under 24	3
24 „ 25	22 „ 23	4
23 „ 24	21 „ 22	6
22 „ 23	20 „ 21	8
21 „ 22	19 „ 20	10
20 „ 21	18 „ 19	12
19 „ 20	17 „ 18	14
18 „ 19	16 „ 17	16
Under 18	Under 16	18

(2) In cases where an estate is purchased by the Estates Commissioners or the Congested Districts Board, and the advance is made in respect of the estate as a whole, the advance shall, for the purpose of the application of the scale, be apportioned between the holdings and parcels of land comprised in the estate in such manner as the Estates Commissioners or the Congested Districts Board, as the case may be, direct.

(3) In the case of the purchase of a parcel of untenanted land, and in any case where the amount advanced is less than the purchase money, the number of years' purchase represented by the advance shall be calculated in manner prescribed by the Treasury, regard being had in the case of untenanted land to the fair annual value of the land to the owner.

SECOND SCHEDULE.

Schedule.

Section 70.

ACTS REPEALED.

Session and Chapter	Short Title	Extent of Repeal
51 & 52 Vict. c. 49	The Purchase of Land (Ireland) Amendment Act, 1888	Section two, save as regards advances in pursuance of purchase agreements entered into before the passing of this Act
54 & 55 Vict. c. 48	The Purchase of Land (Ireland) Act, 1891	Section thirty-four, from "consisting" to the end of the Section, as from the appointed day
56 & 57 Vict. c. 35	The Congested Districts Board (Ireland) Act, 1893	Subsections (2) and (3) of Section two
3 Edw. 7, c. 37	The Irish Land Act, 1903	In Section one, Sub-section (4), save as regards advances in pursuance of purchase agreements entered into before the passing of this Act Section two, save as regards sales of parcels of land in respect of which purchase agreements have been entered into before the passing of this Act In Sub-section (4) of Section six, the words "with the consent of the owner" Sub-section (3) of Section forty-three Section forty-four In Sub-section (1) of Section forty-seven, from "provided" to end of Sub-section Sub-section (3) of Section forty-eight Sub-sections (1), (2), and (3) of Section fifty-one Section seventy-five, save as regards sales of parcels of land purchased by the Congested Districts Board before the passing of this Act

RULES AND FORMS.

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

IRISH LAND ACT, 1903 (SECTIONS 1 TO 23).

RULES DATED THIS FOURTH DAY OF NOVEMBER, 1907.

(Statutory Rules and Orders, 1907. No. 837.)

Rules of 4th Nov, 1907.

IN pursuance of the provisions of Section 23 (13) of the Irish Land Act, 1903, the Judicial Commissioner and the Estates Commissioners, with the approval of His Excellency the Lord Lieutenant, and after consultation with the President of the Incorporated Law Society of Ireland, hereby order that the following Rules shall come into operation forthwith and, until further order, be in force in relation to all proceedings for the purpose of carrying into effect the provisions of Sections One to Twenty Three of the said Act.

INITIATION OF PROCEEDINGS.

1. The Provisional Rules under the Irish Land Act, 1903, Sections 1 to 23, are hereby rescinded, but in any case in which documents have been prepared before the date of these present rules in accordance with the said provisional rules, application may be made to the Estates Commissioners within 21 days from the date of these rules for liberty to use the said documents, and the Commissioners may grant such leave where it appears to them reasonable so to do.

2. Proceedings under the Irish Land Act, 1903, by a Vendor for the sale of an Estate to persons other than the Land Commission shall be commenced by an Originating Application in Form "A" in the Appendix hereto, with such variations as the nature of the case may require, and shall be accompanied by a Map or Maps as prescribed in these Rules.

For Form A, see *post*, p. 1259.

Rules of 4th Nov, 1907.

3. Application by a Vendor to the Land Commission to inquire into the circumstances of an Estate with a view to the purchase of the Estate from him shall be made by an Originating Request in Form "B" in the Appendix hereto, with such variations as the nature of the case may require, and shall be accompanied by a Map or Maps as prescribed in these Rules.

For Form B, see *post* p 1263.

4. Originating Applications and Originating Requests shall be verified by the Affidavit of the Vendor or Vendors, or, if the Commissioners shall permit, by one of the Vendors or his or their Land Agent or Solicitor, and if by the Land Agent or Solicitor he shall state his means of knowledge and why the Statement is verified by him and not by the Vendor, and such applications and requests shall be on post paper bookwise with a parchment back

5 Each Originating Application and Request shall be endorsed with the name and registered place of business of the Vendor's Solicitor, and with an address within the municipal boundary of the City of Dublin where notices, orders and other documents may be sent to him.

6. No Originating Application or Request shall, without the leave of the Commissioners, be received comprising any land in respect of which proceedings for sale or declaration of Title are pending before the Land Judge.

7 When a person desires to sell under the provisions of the Irish Land Act, 1903, an Estate, part or the whole of which is comprised in an Originating Statement already lodged in the Land Commission, he shall refer in the Originating Application or Request to such previous proceedings in the Land Commission stating how far such proceedings went, and what part (if any) of the lands comprised in such Statement were vested. He shall also state whether or not the lands, or any part thereof, have been previously the subject of proceedings for sale under the Irish Land Act, 1903.

8. Originating Applications and Requests shall be lodged in the Office of the Estates Commissioners, and shall be marked with a record number indicating the order in which they have been received.

9. Proposals by persons desiring to sell to the Land Commission any untenanted land under Section 8 of the said Act may in the first instance be made to the Commissioners by letter containing full particulars, including the tenure thereof, and whether the same is subject to any Land Purchase Annuity, and accompanied by a map and schedule of areas prepared so far as practicable in accordance with Rules 10 to 16,

and stating the tenement valuation of the lands proposed to be sold, and, if they so desire, the price suggested. Rules of 4th Nov., 1907.

SURVEYS AND MAPS.

10. With every Originating Application or Request, the Vendor shall lodge a Map of the lands,* hereinafter called "The Estate Map," drawn upon the *latest edition* of an Ordnance map on the six-inch scale, neatly mounted on strong linen with bound edges.

11. Before the Estate Map is lodged, the exterior boundaries wherever undefined, of the holdings or parcels for sale, and more particularly the boundaries of new divisions of turbary and mountain pasture, shall be so marked on the ground as to be readily identifiable.

12. The Estate Map shall unless by special permission of the Commissioners be accompanied by:—

(*a*) An affidavit, in Form V, by a competent professional Surveyor (or by a Vendor, his Agent or other person qualified to undertake estate surveying and mapping) stating the deponent visited the lands and walked and examined in detail all the boundaries, that the several holdings,† sub-holdings, plots, parcels of land and demesne, proposed to be sold, are correctly defined on the ground and marked on the said Estate Map; and that the schedule of areas is correct. The affidavit shall also set forth any ancient monuments (as referred to in the 14th Section of the Irish Land Act, 1903) that exist upon the said lands.

For Form V, see *post*, p. 1288.

(*b*) An index map or maps on a County Index Ordnance sheet indicating, by a colour wash of green, the general position of the estate for sale, and by a colour wash of red the position of other lands (if any) owned by the Vendor which he does not propose to sell, and which are situate within 10 miles of the estate for sale.

* Where the Ordnance Survey Department has prepared, for proceedings in the Land Judges' Court, a map and statement of areas for the estate, such map and statement may *prima facie* be accepted; subject to such verification, survey and amendment as may be required to bring the record up to date.

† Where a holding consists of a number of plots or parcels adjoining one another only the external boundary of the holding as a whole need ordinarily be shown. But where a holding consists of plots or parcels separated from one another, the external boundary of each such separate plot or parcel should be shown.

Rules of 4th Nov, 1907.

(c) A schedule of areas which shall be in the Form D, or in such other form as the Commissioners may from time to time prescribe, and in which shall be shown the area of each plot or parcel of land bearing a separate map-number, as well as the total area of each holding. The figures in the schedule shall be totalled by townlands separately and summarised at end, and the schedule shall be countersigned by the Vendor, his Negotiator, or the Solicitors having carriage of sale, and certified to agree with the statement thereof contained in the Originating Application or Originating Request.

For Form D, see *post*, p. 1267. Form C is Schedule of Tenancies, for which see *post*, p. 1266

(d) A Certificate (a) from the proper officer of the Local Registration of Title Office that the several boundaries marked thereon do not conflict with the boundaries of any adjacent lands already registered under the Local Registration of Title Act, 1891.

(a) The fee for this certificate is five shillings, with an additional fee of one shilling for each townland exceeding three No greater fee than £2 to be charged or taken for any one certificate. See St R & O., 1908, No 1191, *post*, p 1311.

Originating Applications and Requests shall not be received until the Map, Schedule of Areas, and Affidavit have been accepted by the proper officer as *prima facie* suitable and correct.

13. Upon every Estate Map the boundaries shall be neatly and clearly indicated in *waterproof* colours as follows —

(a) The external boundary of the estate (or of groups of townlands if more than one map be lodged), to be a broad edging of carmine or vermilion. Townland boundaries within the estate to be shown by a similar, but narrower, edging of the same colour.

(b) The holdings to be outlined in green.

(c) The demesne and untenanted land which the Vendor desires to sell and not repurchase to be edged yellow.

(d) The demesne and parcels of land which the Vendor desires to sell and repurchase to be edged blue.

(e) Any other lands within 5 miles from the estate for sale, demesne or otherwise, which the Vendor owns but does not desire to sell to be edged burnt sienna distinguishing with a colour wash of yellow any untenanted land thereon.

(*f*) Small areas, such as labourers' plots, proposed to be excluded from the estate to be shown by a complete colour-wash of carmine or vermilion. Larger areas to be edged as for an external boundary and marked "Excluded."

The colours, while distinctive and permanent, should not be so dark as to unnecessarily obscure the features of the Ordnance sheet.

14. Where the holdings, plots or parcels of land, in whole or part, are so small or so intermixed that they cannot be clearly and accurately indicated on the 6-inch scale, enlargements on the scale of 1/2500, 5 feet or 10 feet shall be made, or an Ordnance map on a larger scale than the 6-inch shall be used. Where new turbary applotments (high bog or cut-away) are either numerous or of very small extent, a special turbary map on the 25-inch scale, clearly showing the new divisions as marked on the ground with the consent of the parties, shall ordinarily be lodged.

15. Estate maps shall be prepared and furnished by townlands or groups of townlands, and in every case the names of the adjoining townlands shall be shown upon the map. Each separate map on the 6-inch scale shall not ordinarily be less than 12 inches by 12 inches in size, and, save for special reasons, shall not exceed 18 inches by 18 inches.

16. At any stage of the proceedings, prior to the vesting of the holdings, the Commissioners may reject any map or schedule of areas which appears to them incorrect, insufficient or unsuitable; and may require a fresh survey to be made, and map and schedule to be prepared at the expense of the Vendor or other person responsible for the preparation of the rejected documents.

PRIMA FACIE EVIDENCE THAT THE VENDOR IS A PERSON HAVING POWER TO SELL UNDER THE LAND PURCHASE ACTS.

17. In every case whether the Originating Application or Originating Request has or has not been lodged at the date of these rules, save where the Commissioners shall otherwise direct, *prima facie* evidence of the Vendor's power to sell where not already given shall be given by the lodgment of a certificate signed by Counsel in the Form T in the Appendix hereto and of such documents as are by Rule 18 required to be lodged.

For Form T, see *post*, p. 1288.

See Memorandum with reference to the investigation of title by counsel, approved by WYLIE, J., *post*, p. 1472.

A Scale of Fees payable to counsel for certificate as to *prima facie* evidence of title was adopted by the Bar Council on 14th Dec., 1907, see *post*, p. 1475.

Rules of 4th Nov., 1907.

18. Such certificate may be lodged with or at any time after the lodgment of the Originating Application or Originating Request, or, at latest, within two months after the date of a notice from the Commissioners requiring such lodgment, and at or within 14 days after the lodgment of Counsel's certificate the documents referred to therein and in the Second Schedule to the Originating Application or Request shall be lodged if this has not been already done.

19 If the production is required of the Original of any Deed or Document not in the possession of the Vendor relating to lands comprised in any Originating Application or Request the Commissioners may order any person having the custody of such Deed or Document to produce or lodge the same on such terms as to lien, costs, or otherwise, as they may think to be just.

20 As soon as the *prima facie* evidence that the Vendor is a person having power to sell under the Land Purchase Acts is considered satisfactory the Land Commission shall publish an advertisement in the Form "E," with such variations as the nature of the case may require, in the *Dublin Gazette*, or otherwise as the Commissioners may direct, and shall by registered letter transmit a notice in the same form to each of the persons appearing to be interested in the Estate or to such of them as the Commissioners think fit.

For Form E, see *post*, p 1267.

21. After the time mentioned in such advertisements and notices has elapsed the Commissioners may, unless some valid reason has been shown in the meantime why they should not do so, deal with the Vendor as the owner of the land for the purposes referred to in Section 17 of the Irish Land Act, 1903.

22. A certificate that the Commissioners think fit to deal with the Vendor as the owner of the land for the purposes aforesaid shall be prepared, which shall specify the lands to which it applies, the advertisements and notices which have been published and transmitted, and the documents and evidence acted upon.

AGREEMENTS FOR PURCHASE IN DIRECT SALES UNDER SECTIONS 1 TO 5.

23. Agreements for Purchase between Vendor and Purchaser of a holding shall be in the Form "F," and those between Vendor and Purchaser of a parcel of land shall be in the Form "H," and those between Vendor and Trustees under Section 4 of the said Act shall be in the Form "J" with such variations as the nature of the case may

require, and at the time of signing any such agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such copy shall endorse on the original agreement a certificate of the date of giving the same. Any application that the agreement be not received by the Land Commission, and the interest in lieu of rent payable thereunder put into collection, shall be made within one month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the agreement and by a statement in writing setting forth the reasons for such application.

For Forms F, H, and I, see *post*, pp 1268, 1273, 1277

The form of agreement "F," *post*, p. 1268, in the case of sales between vendor and tenant prescribed by this rule, does not violate the rule against perpetuities, though no time limit is fixed within which it is to be carried out: *Doyle's Estate*, [1907] 1 I. R. 204.

24. Application for advances in pursuance of agreements for purchase shall be made by endorsement on the agreements.

25. All such Agreements shall be on stout writing medium paper and shall be endorsed with the Record Number, County and Name of Vendor and Purchaser. They shall be signed by the Vendor and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners no agreement shall be received after the next rent gale day following the date of the agreement.*

26. The reservation of mineral rights under Section 13 (3) of the said Act shall be made by express declaration in the fiated agreement or words inserted in the vesting order or otherwise as the Commissioners may direct.

Undertakings to Purchase from the Land Commission.

27. Undertakings under Section 6 (2) and under Section 7 (2) to purchase holdings or parcels of land from the Land Commission, at the prices estimated by the Commissioners and undertakings by the Vendor of an estate to repurchase lands from the Land Commission shall be in such forms as the Commissioners shall furnish in each separate case after the proposed terms of sale have been settled between the Land Commission and the Vendor of the estate.

* The date of the agreement is that from which it purports, on the face of it, to take effect.

Rules of 4th Nov, 1907.

28. All such undertakings shall be on stout writing medium paper and shall be endorsed with the Record Number, County, and the name of the Vendor. They shall be signed by the persons undertaking to purchase or by some persons thereunto lawfully authorised on their behalf, and shall be prepared in accordance with the directions annexed to the several forms

ADVANCES IN CASES WHERE THE PROVISIONS OF SECTION 1 (2) APPLY.

29. In cases to which the provisions of Section 1 (2) of the Irish Land Act, 1903, apply, Notice to all persons interested of their intention to make such proposed advance shall be published in Form "K," with such variations as the nature of the case may require, by the Commissioners in the *Dublin Gazette*, or otherwise, as they may direct, and Notice of the proposed advance shall be given by them by registered letter in the said form to all persons interested in the Estate so far as known to the Commissioners.

For Form K, see *post*, p 1282

PURCHASE BY THE COMMISSION OF ESTATES, DEMESNES, OR OTHER LANDS

30 The time within which the Vendor shall signify to the Commissioners that he agrees to sell an Estate or other lands at the price estimated by them and the time within which the Vendor shall signify to the Commissioners that he agrees to repurchase any Demesne or other land shall be one month from the date of the notification to him by the Commissioners of the terms upon which they propose to purchase such estate and to purchase and resell such Demesne or other lands, and and if within the said month, or such extended time as the Commissioners may allow, the Vendor does not notify to the Commissioners that he accepts the terms aforesaid he shall be deemed to have refused to sell such Estate and to repurchase such Demesne or other land.

31. The time within which any person entitled in remainder or reversion to any land resold to the Vendor shall apply to the Judicial Commissioner that the lands so resold shall devolve in accordance with the terms of a Settlement shall be six months from the date of such resale.

ESTATES IN LAND JUDGES' COURT.

32. When it appears expedient to the Commissioners to take steps with a view to the purchase of an Estate for the sale of which an absolute

order has been made under the Landed Estates Court (Ireland) Act, 1858, or Acts amending or extending the same, the Commissioners shall in the first instance request the Land Judge to cause them to be furnished with the following particulars and documents.

(*a*) Where a rental has been settled of the Estate which is the subject of such Request, two copies of such rental, one of which shall be attested and have a Sealed Map annexed. The rentals shall be free from corrections and interlineations, and in all cases shall be accurately totted, and shall be accompanied by a certified summary on Form "L^1," of the particulars of the Estate compiled from the rental, with such variations as the nature of the case may require, and a statement of the superior interests to which the Estate is subject, *or*

(*b*) Where no rental of such Estate has been so settled a certified rental prepared by such person and in such manner as the Land Judge may direct, containing particulars of all tenanted and untenanted lands comprised in the Estate, with Schedules in the Forms "L^1" and "L^2," with such variations as the nature of the case may require, and a statement of the superior interests to which the Estate is subject.

(*c*) The Surveyor's Report and Map, if there has been a survey, or if there has been no survey, or if the survey is not of recent date, a map and schedule of areas prepared as prescribed in 10 to 16 of these Rules.

(*d*) A copy of the last account passed by the Receiver, where there is a Receiver, or by the Agent, as the case may be, showing to what date the rent has been paid in each case, and setting out the reference numbers corresponding to the reference numbers of the plots as shown on the attested or certified rental as the case may be.

(*e*) A certificate of the existing tenement valuation.

(*f*) Any other document which the Commissioners may from time to time deem necessary.

For Forms L^1 and L^2, see *post*, pp. 1283, 1284.

SUB-TENANTS.

33. Where the Commissioners declare, pursuant to the provisions of Section 15 of the Irish Land Act, 1903, that a sub-tenant of a parcel

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of land shall be deemed a tenant and that such parcel of land shall be deemed a holding, a copy of such declaration shall be sent by the Commissioners by registered letter to the Vendors' Solicitor and the Owner of the intervening interest, or to his Solicitor if he has one.

34. The time within which the Vendor and the Owner of an intervening interest may notify to the Commissioners their agreement as to the price of the intervening interest shall be one month from the date of the posting of the declaration mentioned in the last preceding rule.

35. Any person aggrieved by a decision of the Commissioners under Section 15 of the Irish Land Act, 1903, may appeal to a Judicial Commissioner by Notice of Motion served on all necessary parties through the Notice Office of the Commission within fourteen days of such decision or the notification thereof.

Orders Vesting Land in the Land Commission.

36. Before any order vesting any land in the Land Commission is made by the Commissioners, they shall publish in the *Dublin Gazette* or otherwise, as they may direct, advertisements in Form "M," with such variations as the nature of the case may require, and notice in the said form shall be given by registered letter to such of the parties interested in such land as the Commissioners may think necessary.

For Form M, see *post*, p. 1284.

37. An application by any person interested in any land by way of cause shown against the making of such vesting order shall be made by notice to the Commissioners, and the time within which such application shall be made shall be two months from the date of the publication of the notice of the intention of the Land Commission to make such order.

Manner of Making Offers under Section 19.

38. An offer by the Commissioners where they have purchased an Estate to make an advance to a Tenant who has not agreed to purchase shall be made on notice in Form "N," with such variations as the nature of the case may require, served on him personally, or by registered letter.

For Form N, see *post*, p. 1286.

Minors and Lunatics.

39. When the person in occupation of and paying rent for a holding held under a contract of tenancy is a minor, or a person of unsound

mind, not so found by inquisition, the Commissioners may appoint a guardian of such person for the purpose of any proceedings under the Land Purchase Acts, and may from time to time change such guardian.

40. It shall be the duty of any person who shall under the foregoing rule be appointed guardian of a person of unsound mind to lodge within ten days from the date of his appointment with the Registrar in Lunacy a copy of the order appointing him such guardian, and to apply to the Lord Chancellor for such order (if any) as may be required.

DETERMINATION OF DISPUTES RESPECTING BOUNDARIES, &c.

41. [*Rule No.* 41 *is rescinded by No.* 7, *Rules* 3*rd May*, 1910 (*post*, *p.* 1291).]

ANCIENT MONUMENTS.

42. Where any land proposed to be sold under the Land Purchase Acts contains any ancient Monument, application to the Commissioners with a view to having the same dealt with under the provisions of Section 14 of the Irish Land Act, 1903, may be made by the Vendor or Purchaser, or by any public body or association interested in the preservation of same.

TURBARY ON HOLDINGS.

43. Regulations made by the Commissioners in pursuance of Section 21 of the said Act shall be in writing and shall be deposited in the Record Office of the Land Commission, and copies thereof shall be sent to such persons as the Commissioners may direct, and certified copies may be obtained by any parties interested.

44. Any such regulations may provide for the punishment of any breach thereof by a fine not exceeding Five Pounds recoverable in a summary manner.

SANCTION OF ADVANCE.

45. The Commissioners' sanction or refusal to sanction an advance applied for shall be signified by a certificate endorsed upon the application.

REGISTER OF PERSONS INTERESTED IN THE ESTATE.

46. There shall be kept for each Estate a Register of the persons upon whom the Commissioners direct notice to be served of the intention of the Commissioners to deal with a Vendor as the Owner of the Estate and also of any other persons who may apply to be heard as, or appear to be, persons interested in the Estate.

Rules of 4th Nov., 1907.

ENTITLING AND FILING OF DOCUMENTS.

47. All statements, notices, orders, affidavits, consents, undertakings, certificates and other documents for the purpose of any proceeding, shall unless otherwise directed by Rule, be headed " Irish Land Commission—Estates Commissioners," and be endorsed with the Record Number, and shall be entitled " Estate of A.B.," or, if the Vendor or Vendors be a trustee or trustees for sale or with power of sale, " Estate of A.B. and C.D., trustees for sale (*or*, with power of sale) under the Will dated of E.F. deceased (*or*, of the Estate of E.F. under Indenture dated

DELAY IN CONDUCT OF PROCEEDINGS.

48. If any case appears not to have been prosecuted with due diligence, the vendor having the carriage of the proceedings or his solicitor shall be required by notice in writing to attend before the Commissioners to explain the reason of the delay The Commissioners may, if they think fit, transfer the carriage to some other party interested, and order the transfer of all papers or documents connected with the case, or may dismiss the proceedings, and in either case may make such order as may seem right as to costs.

CHANGE OF PARTIES BY DEATH, &C.

49. A person claiming to be entitled to have the proceedings continued in his name by reason of the death of the vendor, or proposed purchaser, or transmission or change of his interest, shall make written application to the Commissioners enclosing proper evidence in support of the application.

TIME.

50. In the computation of time for the purposes of these Rules the word " month " shall mean calendar month, and the period of a month shall not be extended by reason of any intervening holiday, but when the time limited is a fortnight or any less period, the time so limited shall be extended by any intervening holiday or holidays except Sundays.

The computation of time by days shall be exclusive of the first and inclusive of the last day.

Whenever the time limited expires on a Sunday or other holiday it shall be extended to the next day on which the offices of the Commissioners shall be open.

The Commissioners shall have power to enlarge or abridge the time appointed by these Rules for doing any act, or taking any proceedings, upon such terms, if any, as the justice of the case may require, and any such enlargement may be applied for and ordered after the expiration of the time appointed or allowed.

CONSTRUCTION OF TERMS.

51. In these Rules, unless the context shall otherwise require, Commissioners shall mean Estates Commissioners.

NO FEES TO BE CHARGED BY OFFICERS OF ESTATES COMMISSIONERS.

52. With a view to limiting the costs and expenses of Vendor no fees shall be payable under these Rules in respect of any duties performed by the officers of the Commissioners, nor shall there be charged any office fee for the filing of any document, and all publications and advertisements directed by the foregoing Rules shall be made without charge to the Vendor.

(Signed)

J. O. Wylie.
Fredk. S. Wrench.
Ml. Finucane.
W. F. Bailey.

FORM "A."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Originating Application.

Estate of *A.B.*, County

[*Omit any portions of this form which are not applicable to the facts of the case.*]

I, *A.B.*, of in the County of [*the address of the vendor must be given in full*], aged 21 years and upwards, hereby make oath and say as follows:—

1. I have been advised that I am within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the Estate and Lands, particulars of which are set forth in the First Schedule hereunto annexed, which estate and Lands are shown on the Map lodged herewith.

2. I am now and have been from the year . . . personally or by an Agent in receipt of the rents and profits of the said Estates and Lands. [*If the Vendor has not been 6 years in possession he should here state the name of his immediate predecessor-in-title and the period during which such predecessor was in receipt of the rents and profits.*]

Rules of 4th Nov. 1907.

Form A.

3. $\frac{\text{I am}}{\text{I am not}}$ the owner of other lands in the neighbourhood of the Estate and lands included in the First Schedule [*If the Vendor owns other lands he should give short particulars of same, stating where they are situate, their distance from the lands proposed to be sold and shortly the reason for their proposed exclusion. If such reason or reasons cannot be shortly stated, refer clearly to the Schedule of Areas, and set out therein, and as a separate part thereof, the excluded lands and the reasons for their exclusion See Rules* 12 (*b*) *and* 13 (*e*) *as to showing the excluded lands on maps*]

4 I apply that the lands mentioned in the [*specify the portions which the Vendor desires to have regarded a separate estate*] part or parts of the said First Schedule hereto may be declared fit to be regarded as a separate Estate for the purposes of the Irish Land Act, 1903, and I apply that the Land Commission may purchase the Demesne and lands in my occupation mentioned in the part of the First Schedule

5 In the Fourth Schedule hereunto annexed I have set forth the particulars of so much of the Demesne lands and other lands in my occupation as I am desirous of re-purchasing from the Irish Land Commission.

6. As *prima facie* evidence of my power to sell the said Estate and lands mentioned in the said First Schedule, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed, and to the certificate of Counsel intended to be lodged herewith or hereafter.

7. The said Estate and lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests, and to the sporting, mineral, and water rights therein referred to, and except as therein mentioned the said estate and lands are not subject to any superior interests or to any sporting, mineral, or water rights.

8 I am the absolute owner of the said estate and lands,

or I am the owner as tenant-for-life of the said estate and lands under a settlement *or* will dated , and C.D. of and E F. of are the trustees for the purposes of the Settled Land Acts of the said settlement *or* will, *or* there are no trustees for the purposes of the Settled Land Acts,

or We are trustees for sale of the said estate and lands under settlement dated

or We are trustees with a power of sale of the said estate and lands under settlement dated

or as the case may be.

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the estate and lands, other than owners of superior interests and the rights referred to in the First Schedule, and short particulars of the nature of their interest or claim.

10. The particulars set forth in the accompanying Schedule of Tenancies now produced to me and marked before swearing this Affidavit, are true and correct in every particular to the best of my knowledge, information and belief. The several tenants named in the said Schedule are in actual occupation of the lands specified opposite to their respective names, and save as in the said Schedule mentioned, the said estate and lands are not subject to any fee-farm grant, lease, or tenancy.

[For form of Schedule of Tenancies, see Form C, *post*, p. 1266]

Rules of 4th Nov., 1907.

Form A.

11. The lands comprised in the said First Schedule do not contain any Ancient Monument as defined by the 14th Section of the Irish Land Act, 1903, save [*give short description of any such monument*]

12. There are not any proceedings pending in any Court in relation to the said lands or any part thereof save

13. There have not been any previous proceedings for the sale of the said lands or any part thereof under the Land Purchase Acts save

14. I propose that £ or £ per cent. on the purchase money or such sum as the Commissioners shall sanction shall be paid out of the purchase money under the provisions of Sec. 23 (12) of the said Act to of [*the full name and address of the negotiator must be given*] whom I nominate to negotiate the proposed sale.

15. I desire that any interest payable under Sec 35 (2) of the Land Law (Ireland) Act, 1896, shall be paid to

SCHEDULE I.

[1] Denominations (Ordnance Survey Names), Barony and County	[2] Total Quantity of land, Statute Measure, proposed to be sold in each Denomination	[3] Tenement Valuation of land proposed to be sold in each Denomination	[4] Reference on Map lodged	[5] Tenure by which the lands are held and particulars of superior interest and of sporting, mineral, and water rights, and the names and addresses of the persons entitled thereto

Note.—Divide this Schedule into parts specifying:—(*a*) Tenanted lands. (*b*) Lands proposed to be dealt with as parcels under Sec. 2 of the Act. (*c*) Demesne lands. (*d*) Other lands in the occupation of the Vendor which he requests the Land Commission to purchase. The different parts of the Schedule should be distinctly marked off from each other, and headed with the appropriate headings, and should be separately totted and summarised at foot of Schedule to show total area of land proposed to be sold.

Lands owned by the Vendor which he does not propose to sell are not to be set out in this Schedule.

SCHEDULE II.

Deeds or other Documents relied on as *prima facie* evidence that the Vendor is a person having power to sell under the Land Purchase Acts.

Rules of 4th Nov., 1907.

Form A.

DIRECTIONS.

If an abstract of title has been prepared it may be utilised. If not the Vendor should specify a Conveyance to him or his predecessor-in-title, and also the last settlement, will, or other document showing extent and nature of his interest; and if the estate and lands, or any portions thereof, are held under fee-farm grant or lease, the Vendor should specify the same irrespective of date. The Vendor should also be prepared to give evidence by affidavit or otherwise to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the Vendor he should state in whose custody they are. Note Rule 19 as to obtaining an order for the production or lodgment of the originals.

SCHEDULE III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interest, and the Sporting, Mineral and Water Rights mentioned in Schedule I.

The addresses must be given in all cases. An incorrect address may involve considerable delay.

Name	Address	Short particulars of Interest or Claim
	PART I. Persons interested in remainder or as cestui que trust, &c.	
	PART II. Incumbrancers, &c.	

SCHEDULE IV.

Particulars of the Demesne or other Lands held in Occupation by Vendor which he is desirous of repurchasing from the Land Commission

Denominations (Ordnance Survey Names) Barony and County	Quantity of Land, *Statute Measure*	Tenement Valuation, *Houses and Land separately*	Reference Number on Map	State when and how the Demesne and other lands came into Vendor's occupation
	A R P	£ s d.		

Note—Divide this Schedule into parts specifying (*a*) Demesne; (*b*) other Lands in vendor's occupation

Sworn before me this
day of
in the County of
and I know the Deponent.

Rules of 4th Nov., 1907.

Form B.

FORM "B."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Originating Request.

Estate of *A.B.*, in the County of

[*Omit any portions of this form which are not applicable to the facts of the case.*]

I, *A.B.*, of in the County of

[*the address of the vendor must be given in full*], aged 21 years and upwards, hereby make oath and say as follows :—

1. I have been advised that I am, within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the estate and lands, particulars of which are set forth in the First Schedule hereunto annexed, which estate and lands are described in the Map lodged herewith.

2. I am now, and have been from the year . . . personally, or by an Agent, in receipt of the rents and profits of the said estate and lands. [*If the Vendor has not been six years in possession he should here state the name of his immediate predecessor-in-title and the period during which such predecessor was in receipt of the rents and profits.*]

3. $\frac{\text{I am}}{\text{I am not}}$ the Owner of other lands in the neighbourhood of the Estate and lands included in the First Schedule. [*If the vendor owns other lands, he should give short particulars of same, stating where they are situate, their distance from the lands proposed to be sold, and shortly the reason for their proposed exclusion. If such reason or reasons cannot be shortly stated, refer clearly to the Schedule of Areas and set out therein and as a separate part thereof, the excluded lands and the reasons for their exclusion. See Rules* 12 (*b*) *and* 13 (*e*) *as to showing the excluded lands on maps.*]

4. I apply to the Land Commission to enquire into the circumstances of the said Estate with a view to the Sale thereof under the said Act, and I apply that the same may be declared fit to be regarded as a separate estate for the purposes of such Sale.

5. In the Fourth Schedule hereunto annexed I have set forth particulars of so much of the Demesne lands and other lands in my occupation as I am desirous of repurchasing from the Land Commission, with the acreage and Tenement Valuation of same.

6. As *prima facie* evidence of my power to sell the said estate and lands, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed, and to the certificate of Counsel intended to be lodged herewith or hereafter.

7. The said Estate and lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests, and to the Sporting, Mineral, and Water Rights therein referred to, and except as therein mentioned, the said Estate and lands are not subject to any superior interests or to any Sporting, Mineral, or Water Rights.

8. I am the absolute Owner of the said Estate and lands,

or I am the Owner as tenant-for-life of the said estate and lands under a

Rules of 4th Nov, 1907.

Form B.

Settlement *or* Will dated and *C.D* of and *E.F.* of are the trustees for the purposes of the Settled Land Acts of the said Settlement *or* Will, *or* there are no trustees for the purposes of the Settled Land Acts,

or We are Trustees for Sale of the said Estate and lands under settlement dated

or We are Trustees with a power of Sale of the said Estate and lands under settlement dated

or As the case may be

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the said Estate and lands other than the owners of superior interests and the rights referred to in the First Schedule, and short particulars of the nature of their interest or claim.

10. The particulars set forth in the accompanying Schedule of Tenancies [*see Form C*], now produced to me and marked before swearing this Affidavit are true and correct in every particular to the best of my knowledge, information and belief. The several tenants named in the said Schedule are in actual occupation of the lands specified opposite to their respective names and save as in the said Schedule mentioned the said Estate and lands are not subject to any fee-farm grant, lease, or tenancy.

11 The lands comprised in the said First Schedule do not contain any Ancient Monument as defined by the 14th Section of the Irish Land Act, 1903, save [*give short descriptions of any such monument*]

12 There are not any proceedings pending in any Court in relation to the said lands or any part thereof save

13 There have not been any previous proceedings for the sale of the said lands or any part thereof under the Land Purchase Acts save

14. Subject to the approval of the Estates Commissioners, I desire to nominate Mr. of to negotiate the sales [*The full name and address of the negotiator must be given*]

15 I desire that any interest payable under the provisions of Secs. 18 and 24 of the Irish Land Act, 1903, shall be paid to

SCHEDULE I.

(1) Denominations (Ordnance Survey Names), Barony and County	(2) Total Quantity of land, Statute Measure, proposed to be sold in each Denomination	(3) Tenement Valuation of land proposed to be sold in each Denomination	(4) Reference on Map lodged	(5) Tenure by which the Estates and land are held and particulars of superior interests, and of sporting, mineral and water rights and the names and addresses of the persons entitled thereto

Note—Divide this Schedule into parts specifying:—(*a*) Tenanted lands·

(*b*) Lands proposed to be dealt with as parcels under Sec 2 of the Act. (*c*) Demesne land; and (*d*) other lands in the occupation of the Vendor. The different parts of the Schedule should be distinctly marked off from each other, and headed with appropriate headings, and should be separately totted and summarised at foot of Schedule to show total area of land proposed to be sold. Rules of 4th Nov., 1907 — Form B.

Lands owned by the Vendor which he does not propose to sell are not to be set out in this Schedule.

SCHEDULE II.

Deeds or other Documents relied on as *prima facie* Evidence of Title

DIRECTIONS.

If an abstract of title has been prepared it may be utilised. If not the vendor should specify a Conveyance to him or his predecessor-in-title, and also the last Settlement or Will or other document showing extent and nature of his interest; and if the Estate and Lands, or any portions thereof, are held under fee farm grant or lease the Vendor should specify the same irrespective of date. The Vendor should also be prepared to give evidence by affidavit or otherwise to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the vendor he should state in whose custody they are. Note Rule 19 as to obtaining an order for the production or lodgment of the originals.

SCHEDULE III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interests, and the Sporting, Mineral, and Water Rights mentioned in Schedule I.

The addresses must be given in all cases. An incorrect address may involve considerable delay.

Name	Address	Short particulars of Interest or Claim
	PART I. Persons interested in remainder or as cestui que trust, &c.	
	PART II. Incumbrances, &c.	

Rules of 4th Nov, 1907.

Forms B and C.

SCHEDULE IV.

Particulars of the Demesne and other Lands in Occupation of the Vendor which he is desirous of repurchasing from the Land Commission.

Denominations (Ordnance Survey Names) Barony and County	Quantity of Land, Statute Measure	Tenement Valuation, Houses and Land, separately	Reference Numbers on Map	State when and how the Demesne and other lands came into Vendor's occupation
	A R P.	£ s d.		

Note.—Divide this Schedule into parts specifying (*a*) Demesne, (*b*) other lands in the Vendor's occupation.

Sworn before me this
day of 19
at
in the County of
and I know the Deponent.

Gokhale Institute of Politics and Economics, Poona 4.

FORM "C."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Schedule of Tenancies referred to in Originating Application or Originating Request.

Estate of..... . . . . County of..... ....

Record No. E C.. .. ..

[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]
Reference Number on Map	Denomination (Ordnance Survey Names) Electoral Division Barony and County	Names of Tenants	Acreage	Rent *	If Judicial give date of Order or Agreement and Record Number. If not Judicial state shortly particulars of contract of tenancy	Arrears of rent actually due on Gale Day before the date of the application or request whether remitted or not	State amount of rent actually paid by the tenant during the 5 years before the date of the Application or Request	Gale Day	Give date of creation of tenancy in each case, if date not known state whether it was created before or after 1881, and if it was created since 14th August, 1903, state whether or not any fine or payment was made on account of the creation of such tenancy
			A R P	£ s d		£ s d	£ s d		

Note.—Columns 4, 5, 7 and 8 should be accurately totted.

* The tenement valuation of each holding must also be set out, see Provisional Rules, 3rd May, 1910 (*post*, p. 1290).

Rules of 4th Nov., 1907.

Forms D and E.

FORM "D."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

SCHEDULE OF AREAS.

Estate of..... County.....

Record No. E.C.....

Reference Numbers on Map	Tenants' Names	Area, Statute Measure A. R. P.	Tenure and other Remarks
	Townland of		

Where more than one map is lodged a separate schedule should be prepared for each map and the maps and schedules should be endorsed with corresponding numbers 1, 2, 3, &c.

The area of each holding, part of a holding, parcel, &c., in question, which bears a separate map-number, must be separately computed by the Surveyor and entered in this Schedule, as well as the gross area of each holding. The Schedule should be prepared by townlands, and, when practicable, the areas should be set forth as working up to the latest revised townland areas as set out on the ordnance map in whole or part, thus: (*a*) total of areas in the estate for sale as detailed, (*b*) areas within the ambit of the property of the Vendor but excluded from sale, (*c*) balance of townland area, (*d*) total townland area. The Schedule should be countersigned by the Vendor or his negotiator or the solicitors having carriage of sale, in further confirmation of its arithmetical accuracy and conformity with the Rules.

[For form of affidavit required by Rule 12, *ante*, verifying this Schedule, see *post*, p. 1288.]

FORM "E."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Record No. E.C.....

Estate of..... County.....

TAKE NOTICE that the said claiming as is proceeding to sell Estate at to the tenants thereof and other persons (or the Land Commission as the case may be) in fee-simple, reserving thereout to the

Rules of 4th Nov., 1907.

Irish Land Commission the exclusive right of mining and taking minerals and digging and searching for minerals on or under the said Estate.

Forms E and F.

and that the Land Commission intend, without any further investigation of title, within days from this date, unless some valid reason is shown in the meantime why they should not do so, to deal with the said as the owner of the said lands for all purposes other than the distribution of the purchase money or the payment of any percentage out of the Land Purchase Aid Fund established under the Irish Land Act, 1903

Signed

By Order of the Estates Commissioners.

Dated this day of 190 .

N B —Any person interested in the Estate will, on application at the Office of the Estates Commissioners, be furnished with information as to the amount of the purchase money of the estate (or of the several holdings thereon as the case may be)

FORM "F"

AGREEMENT between Vendor and a Tenant for Sale of a Holding

IRISH LAND COMMISSION

ESTATES COMMISSIONERS

Estate of .. . .

AN AGREEMENT made the day of 19 , between of , the Vendor of the Holding described in the First Schedule hereto and of , the Tenant in occupation of the said holding.

1. In case an Estate comprising the said holding shall be sold under the provisions of the Irish Land Act, 1903, the vendor hereby agrees to sell and the tenant hereby agrees to purchase the said holding for the sum of pounds (£). [*Fill in amount of purchase money in words and figures.*]

2. The tenant shall apply in the prescribed form to the Irish Land Commission for an advance of the sum of pounds (£) for the purpose of such purchase to be repaid as provided by the Irish Land Act, 1903.

3 The sum of pounds (£) being the balance of the purchase money (if any) over the amount of the advance under the Land Purchase Acts is to be paid in cash into Court

4 The said holding is now held by the said tenant who has been residing on and in occupation of same since . . . at the annual rent of £ payable under [*state shortly particulars of the contract of tenancy, state when tenancy was created, and if judicial, give date of Order or Agreement and Record Number. If the tenant does not reside on the holding state where he resides and how far from the holding*].

5. The said holding shall be vested in the tenant in fee-simple subject as hereinafter mentioned and as provided by the Irish Land Act, 1903. [*If the holding is subject to maintenance and drainage charges, which will affect the holding after purchase, a statement to that effect should be inserted*]

Rules of 4th Nov., 1907.

Form F.

6. Subject to the provision hereinafter contained the exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission. [*See the instruction at the end of this form as to the way in which mineral and water rights are to be dealt with when not to be vested in the Land Commission.*]

7. The sporting rights within the meaning of the Irish Land Act, 1903, if any, to which the Vendor is entitled over and upon the said holding exclusive of the tenant shall be :—[*See the instructions at the end of this form as to the way in which sporting rights, not in the possession or enjoyment of the vendor at the time of sale are to be dealt with.*]

(*a*) Reserved to Vendor.

or (*b*) Vested in the Tenant.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

8. Interest on the purchase money shall be payable to the Irish Land Commission at the rate of per cent. per annum from the date of this Agreement up to the date of the advance and after that date until the day from which the purchase annuity begins at the rate of £2 15s. 0d. per cent. per annum.

9. The sale shall be carried out by means of a Vesting Order.

10. Nothing in this Agreement shall prejudice or affect any Sporting Rights, Mineral Rights, or Water Rights which are not now in the possession of the Vendor, or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said holding (or on the holding of in the townland of) or any right to water power now in actual use by the Vendor, and the holding shall be vested in the tenant subject and without prejudice to any such right.

11. The sum herein stated as the purchase money of the said holding $\frac{\text{does}}{\text{does not}}$ include a sum other than the true purchase money of the holding. [*If it does, state what sums are so included.*]

FIRST SCHEDULE.

County..... Barony..... Electoral Division.....

Reference Number on Map	Ordnance Survey Names of Townlands [each on a separate line]	Area in Statute Measure of the portion of the holding in each Townland	Tenement Valuation
		A. R. P.	£ s d.

Rules of 4th Nov, 1907.

Form F.

Signed by the Vendor in the presence of	Signature of the Vendor,. . . . ...
Name, ...	Postal Address,... ....
Address, ...	
Occupation, ...	
Signed by the Tenant in the presence of *(the Agreement having first been read and explained to him in my presence)* * and I know the Tenant.	Signature of Tenant,.... . ...
Name, ...	Postal Address,. ....
Address, ...	
Occupation, ...	Occupation or Description,..... . ..

I, the above mentioned Tenant say :—

The particulars in the foregoing Agreement and Schedule are true to the best of my knowledge and belief.

There is not any person in occupation of said holding or of any part thereof as Tenant or otherwise save as mentioned in the following Schedule :—

SECOND SCHEDULE.

Reference Number on Map	Names of the Persons in occupation as Under-Tenants or otherwise	Area in Statute Measure of portion sublet	Rent (if any) payable by such occupiers	Tenure or nature of occupancy
		A R P.	£ s d	

I have not obtained from or applied to the Irish Land Commission for an advance of any sum for the purchase of any land save as follows :—

nor is there any advance under the Land Purchase Acts now repayable by me save as follows :—

Signature of Tenant.... ....

Signed by the Tenant in the presence of

(the Agreement having first been read and explained to him in my presence) *

and I know the Tenant.

Name, ...

If the Tenant wishes to be represented in the proceedings by a Solicitor, he

* The words in italics may be struck out unless the Tenant is illiterate.

must be so represented at his own expense; if so, here insert the name and address of such Solicitor.

Name,.. ....

Address, ...

Name and address of the Vendor's negotiator—

....

....

Any application that the Agreement be not received by the Land Commission and the interest in lieu of rent payable thereunder put into collection, shall be made within one month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application.

TO BE ENDORSED ON FOLD OF AGREEMENT.

, of , hereby certify that a copy of the within Agreement as signed by the within Purchaser was given to him on the day of 19 .

Signature of person giving the copy. ... .

APPLICATION FOR AN ADVANCE TO BE ENDORSED ON FOLD OF AGREEMENT.

I, , the within named tenant, hereby apply to the Irish Land Commission for an advance of the sum of pounds (£) [*fill in amount of advance in words and figures*] for the purchase of the holding the subject of the within Agreement, to be repaid by an annuity of £ payable as by the Irish Land Act, 1903, provided

The sum of pounds (£) being the balance of the purchase money (if any over the amount of the advance under the Land Purchase Acts) is to be paid in cash into Court. [*Strike out if tenant applies for an advance of the whole purchase money.*]

Signature of Tenant,. ....

Signed by the Tenant in the presence of

(*the Application having first been read and explained to him in my presence*),*

and I know the Tenant.

Name,..... .....

Address, ...

Occupation,.... ....

Directions as to the Preparation of the Agreement and Application for an Advance.

The Agreement and Application for an Advance should be neatly and accurately prepared without any blanks, and all words and clauses not applicable to the case must be struck out, otherwise it cannot be received. Any alterations made in the Agreement or Application for an Advance or words struck out should be initialled by the parties to the Agreement or Application for an Advance.

When females are parties to the Agreement or Application for an Advance, they should be described either as "Spinster," "Widow," or "Wife of ."

The purchase money and the advance must be in pounds only.

* The words in italics may be struck out unless the tenant is illiterate.

Rules of 4th Nov, 1907.

Form F.

The holding must be vested in fee-simple subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Secs 13, 16, and 99 of the said Act.

Where the mineral rights constitute a superior interest, or are vested in the Crown, or where mineral, sporting, or water rights are not in the possession or enjoyment of the Vendor at the time of sale, they should be reserved to the Owner thereof, as such rights cannot be compulsorily redeemed.

The following clause is suggested as a precedent for such a reservation.—

> "The Mineral, Sporting and Water Rights excepted or reserved under a Fee-farm Grant, dated, &c. (or under a lease dated, &c.), or under any Superior Grant or Lease affecting the holding are reserved to his heirs and assigns or other the person or persons entitled thereto his or their heirs and assigns"

As a general rule sporting rights reserved to a head landlord by the fee-farm grant under which the Vendor holds the lands for sale are concurrent rights, and in such cases the Vendor may also be entitled to sporting rights within the meaning of the Irish Land Act, 1903, exclusive of the tenant. If this is the case, Clause 7 should state in what way the last rights are to be dealt with.

If in the case of a holding subject to a judicial rent fixed or agreed to before the passing of the Act of 1896, the parties agree that the holding should be treated as a holding subject to a judicial rent fixed since the passing of the Act of 1896 the following clause should be inserted in the Agreement:—

> "It is hereby agreed that the Irish Land Commission may if they consider it equitable, treat the said holding as a holding subject to a judicial rent fixed since the passing of the Land Law (Ireland) Act, 1896."

The Agreement must be signed by both Vendor and Tenant or by some persons thereunto lawfully authorised on their behalf, and the Application for an Advance must be signed by the tenant or by some person thereunto lawfully authorised on his behalf Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the Tenant should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, or such other person as may be approved by the Estates Commissioners, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Tenant or Purchaser.

The attention of all parties is particularly requested to the following rules with reference to Agreements for purchase made by the Estates Commissioners which must be strictly observed:—

> "23. Agreements for purchase between Vendor and Purchaser of a holding shall be in the Form 'F,' and those between Vendor and Purchaser of a Parcel of Land shall be in the Form 'H,' and those between Vendor and Trustees under Sec 4 of the said Act shall be in the Form 'I,' with such variations as the nature of the case may require, and at the time of signing any such agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such copy shall endorse on the original Agreement a certificate of the date of giving the same. Any application that the Agreement

Rules of 4th Nov., 1907.

Forms F and H.

be not received by the Land Commission and the interest in lieu of rent payable thereunder put into collection, shall be made within one month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application."

"24. Applications for advances in pursuance of Agreements for purchase shall be made by endorsement on the Agreement."

"25. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County, and Name of Vendor and Purchaser. They shall be signed by the Vendor and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners, no Agreement shall be received after the next rent gale day following the date of the Agreement."

N.B.—No Stamp Duty is payable on the Agreement or Application for an Advance

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FORM "H."

AGREEMENT BETWEEN VENDOR AND PURCHASER FOR SALE OF A PARCEL OF AN ESTATE.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of..... .... County..... .....

AN AGREEMENT made the day of 19 , between of the Vendor of the parcel of land described in the Schedule hereto and of the Purchaser of the said parcel of land.

1. In case an Estate of which the said parcel of land forms a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and the Purchaser hereby agrees to purchase the said parcel of land heretofore in the occupation of the Vendor for the sum of pounds (£). [*Fill in the amount of the purchase money in words and figures*]

2. The Purchaser shall apply in the prescribed form to the Irish Land Commission for an advance of the sum of pounds (£) for the purpose of such purchase to be repaid as provided by the Irish Land Act, 1903.

3. The sum of pounds (£), being the balance of the purchase money, if any, over the amount of the advance under the Land Purchase Acts is to be paid in cash into Court.

4. The said parcel of land shall be vested in the Purchaser in fee-simple, subject as hereinafter mentioned and as provided by the Irish Land Act, 1903. [*If the parcel is subject to maintenance and drainage charges which will affect the parcel after purchase, a statement to that effect should be inserted*]

Rules of 4th Nov., 1907. Form H.

5 The exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission [*See the instructions at the end of this form as to the way in which mineral and water rights are to be dealt with when not to be vested in the Land Commission.*]

6. The Sporting rights within the meaning of the Irish Land Act, 1903, if any, to which the Vendor is entitled over and upon the said parcel of land shall be :—

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Purchaser.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

[*See the instructions at the end of this form as to the way in which sporting rights, not in the possession or enjoyment of the Vendor at the time of sale, are to be dealt with*]

7. Interest on the purchase money shall be payable to the Irish Land Commission from the date of the advance until the day from which the purchase annuity begins at the rate of £2 15s. 0d. per cent per annum.

8 The Purchaser is to be put into possession on a day not later than the date of the advance.

9. A fine has not been taken or agreed on with respect to the sale of the said parcel [*If a fine has been taken or agreed on state amount*]

10. Nothing in this Agreement shall prejudice or affect any Sporting Rights, Mineral Rights, or Water Rights which are not now in the possession of the Vendor, or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said parcel (or on the holding of , in the townland of) or any right to water power now in actual use by the Vendor, and the parcel shall be vested in the Purchaser subject and without prejudice to any such right.

SCHEDULE.

County .. .. Barony . . .. Electoral Division . . ..

Reference Number on Map	Ordnance Survey Names of Townlands (each on a separate line)	Area in Statute Measure of the portion of the parcel of land in each Townland	Tenement Valuation
		A R P.	£ s d.

Rules of 4th Nov., 1907.

Form H.

Signed by the Vendor in the presence of	Signature of the Vendor,..... .....
Name, ...	Postal Address,..... ....
Address, ...	
Occupation, ...	
Signed by the Purchaser in presence of	Signature of Purchaser,.....
(*the Agreement having first been read and explained to him in my presence*),* and I know the Purchaser.	
Name, ...	Postal Address, ...
Address, ...	
Occupation, ...	Occupation or Description, ...

I, *A B.*, the above-named Purchaser, say as follows :—

1. The particulars stated in the foregoing Agreement and Schedule are true to the best of my knowledge and belief.

2. I am a [*here insert words bringing Purchaser within one of the classes of persons qualified to purchase a parcel*].

3. I have not obtained from or applied to the Irish Land Commission for an advance of any sum for the purchase of any land, nor is there any advance under the Land Purchase Act now repayable by me save as follows :—

Signature of Purchaser,..... ....

If the Purchaser wishes to be represented in the proceedings by a Solicitor, he must be so represented at his own expense, and if so, here insert the name and address of such Solicitor.

Name, ...
Address,. ... .

Name and address of Vendor's negotiator :—

.....
....

Any application that the Agreement be not received by the Land Commission shall be made within one month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application.

TO BE ENDORSED ON FOLD OF AGREEMENT.

I, , of , hereby certify that a copy of the within Agreement as signed by the within Purchaser was given to him on the day of 19 .

Signature of person giving the copy.....

APPLICATION FOR AN ADVANCE TO BE ENDORSED ON FOLD OF AGREEMENT.

I, , the within named purchaser, hereby apply to the Irish Land Commission for an advance of the sum of pounds (£) [*fill in*

* The words in italics may be struck out unless the Purchaser is illiterate.

Rules of 4th Nov., 1907. Form H.

amount of advance in words and figures] for the purchase of the parcel, the subject of the within agreement, to be repaid by an annuity of £ payable as by the Irish Land Act, 1903, provided

The sum of pounds (£) being the balance of the purchase money (if any over the amount of the advance under the Land Purchase Acts) is to be paid in cash into Court [*Strike out if tenant applies for an advance of the whole purchase money*]

Signature of Purchaser, ...

Signed by the Purchaser in the presence of

(*the Application having been first read and explained to him in my presence*) *

and I know the Purchaser

Name, ...

Address, ...

Occupation, ...

Directions as to the Preparations of the Agreement and Application for an Advance.

The Agreement and Application for an Advance should be neatly and accurately prepared without any blanks, and all words and clauses not applicable to the case must be struck out, otherwise it cannot be received Any alterations made in the Agreement or Application for an Advance or words struck out should be initialled by the parties to the Agreement or Application for an Advance.

When females are parties to the Agreement or Application for an Advance, they should be described either as "Spinster," "Widow," or "Wife of ."

The purchase money and the advance must be in pounds only

The parcel of land must be vested in fee-simple, subject to the provisions of the Irish Land Act, 1903, and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Secs 13, 16, and 99 of the said Act

Where the mineral rights constitute a superior interest, or are vested in the Crown, or where mineral, sporting, or water rights are not in the possession or enjoyment of the Vendor at the time of sale, they should be reserved to the Owner thereof, as such rights cannot be compulsorily redeemed

The following clause is suggested as a precedent for such a reservation:—

> "The Mineral, Sporting and Water Rights excepted or reserved under a Fee-farm Grant, dated, &c. (or under a lease dated, &c.), or under any Superior Grant or Lease affecting the holding are reserved to his heirs and assigns or other the person or persons entitled thereto his or their heirs and assigns"

As a general rule sporting rights reserved to a head landlord by the fee-farm grant under which the Vendor holds the lands for sale are concurrent rights, and in such cases the Vendor may also be entitled to sporting rights within the meaning of the Irish Land Act, 1903, exclusive of the tenant If this is the case Clause 6 should state in what way the last rights are to be dealt with.

* The words in italics may be struck out unless the Purchaser is illiterate.

Rules of 4th Nov., 1907.

Forms H and I.

The Agreement must be signed by both Vendor and Purchaser, or by some persons thereunto lawfully authorised on their behalf, and the Application for an Advance must be signed by the Purchaser or by some persons thereunto lawfully authorised on his behalf. Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the purchaser should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, or such other person as may be approved by the Estates Commissioners, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Purchaser

The attention of all parties is particularly requested to the following rules with reference to Agreements for purchase made by the Estates Commissioners which must be strictly observed:—

"23. Agreements for purchase between Vendor and Purchaser of a holding shall be in the Form 'F,' and those between Vendor and Purchaser of a Parcel of Land shall be in the Form 'H,' and those between Vendor and Trustees under Section 4 of the said Act shall be in the Form 'I,' with such variations as the nature of the case may require, and at the time of signing any such agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such copy shall endorse on the original Agreement a certificate of the date of giving the same. Any application that the Agreement be not received by the Land Commission and the interest in lieu of rent payable thereunder put into collection, shall be made within one month of the time of the signing thereof by the Purchaser and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application."

"24. Applications for advances in pursuance of Agreements for purchase shall be made by endorsement on the Agreement."

"25. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County, and name of Vendor and Purchaser. They shall be signed by the Vendor and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners, no Agreement shall be received after the next rent gale day following the date of the Agreement"

N.B.—No Stamp Duty is payable on the Agreement or Application for an Advance.

FORM "I."

AGREEMENT FOR SALE BY VENDOR TO TRUSTEES FOR THE PURPOSE MENTIONED IN SECTION 4 OF THE IRISH LAND ACT, 1903

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS

Estate of..... .... County. . ...

AN AGREEMENT made the , day of 19 , between

of the Vendor of the parcel of land described in the Schedule hereto,

Rules of 4th Nov., 1907.

Form I.

and *A.B*, of and *C.D.*, of being Trustees approved of by the Irish Land Commission for the purpose hereinafter mentioned.

1. In case an Estate of which the said parcel of land forms a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and the Purchasers hereby agree to purchase the said parcel of land heretofore in the occupation of for the sum of pounds (£). [*Fill in the amount of the purchase money in words and figures*]

2. The Purchasers shall apply in the prescribed form to the Irish Land Commission for an advance of the sum of pounds (£) for the purpose of such purchase to be repaid as provided by the Irish Land Act, 1903.

3. The sum of pounds (£) being the balance of the purchase money, if any, over the amount of the advance under the Land Purchase Acts is to be paid in cash into Court.

4 The said parcel of land shall be vested in the Purchasers in fee-simple, subject as hereinafter mentioned and as provided by the Irish Land Act, 1903 [*If the parcel is subject to maintenance and drainage charges which will affect the parcel after purchase, a statement to that effect should be inserted.*]

5 The exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same, is hereby reserved to and shall be vested in the Land Commission. [*See the instructions at the end of this form as to the way in which mineral and water rights are to be dealt with when not to be vested in the Land Commission*]

6 The sporting rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said parcel of land shall be:

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Purchasers

or (*c*) In the absence of agreement vested in the Irish Land Commission.

[*See the instructions at the end of this form as to the way in which sporting rights not in the possession or enjoyment of the Vendor at the time of sale are to be dealt with*]

7 Interest on the purchase money shall be payable to the Irish Land Commission from the date of the advance until the day from which the purchase annuity begins at the rate of £2 15s 0d. per cent. per annum.

8 The Purchasers are to be put into possession on a day not later than the date of the advance

9. A fine has not been taken or agreed on with respect to the sale of the said parcel. [*If a fine has been taken or agreed on state amount*]

10. It is hereby agreed that the said *A.B* and *C D.* shall hold the said parcel of land for the purpose of [*see Sec. 4 specifying the purpose*] and on the terms and conditions and with such rights and powers as may be specified in a scheme to be settled, pursuant to the provisions of Sec 20 of the Irish Land Act, 1903

11 Nothing in this Agreement shall prejudice or affect any sporting rights, mineral rights, or water rights which are not now in the possession of the Vendor or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said parcel (or on the holding of in the townland of), or any right to water power now in actual use by the Vendor, and the parcel shall be vested in the Purchasers subject and without prejudice to any such right.

SCHEDULE.

Rules of 4th Nov., 1907.

Form L.

County..... Barony..... Electoral Division.....

Reference Number on Map	Ordnance Survey Names of Townlands (each on a separate line)	Area in Statute Measure of the portion of the parcel of land in each Townland	Tenement Valuation
		A. R. P.	£ s d.

Signed by the Vendor in the presence of
Name,.....
Address,.....
Occupation,.....

Signature of Vendor,.....

Postal Address,.....

Signed by the Purchasers in presence of
and I know the Purchasers.
Name,.....
Address,.....
Occupation,.....

Signatures of Purchasers,.....

.....

Postal Address,.....

Occupation or Description,.....

If the Purchasers wish to be represented in the proceedings by a Solicitor, they must be so represented at their own expense, and if so, here insert the name and address of such Solicitor.

Name,.....

Address,.....

Name and address of Vendor's negotiator—

.....

Rules of 4th Nov, 1907.

Form I.

Any application that the Agreement be not received by the Land Commission shall be made within one month of the time of the signing thereof by the Purchasers and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application.

TO BE ENDORSED ON FOLD OF AGREEMENT.

I, of , hereby certify that copies of the within Agreement as signed by the within Purchasers were given to them on the day of 19 ,

Signature of person giving the copy .....

APPLICATION FOR AN ADVANCE TO BE ENDORSED ON FOLD OF AGREEMENT.

We, , the within named Purchasers, hereby apply to the Irish Land Commission for an advance of the sum of pounds (£) [*fill in the amount of advance in words and figures*] for the purchase of the parcel, the subject of the within Agreement, to be repaid by an annuity of £ , payable as by the Irish Land Act, 1903, provided

The sum of pounds (£) being the balance of the purchase money (if any over the amount of the advance under the Land Purchase Acts) is to be paid in cash into Court [*Strike out if Purchasers apply for an advance of the whole purchase money*]

Signatures of Purchasers. .....

Signed by the Purchasers in the presence of .....

and I know the Purchasers.

Name, ...

Address, ...

Occupation, ...

Directions as to the Preparation of the Agreement and Application for an Advance.

The Agreement and Application for an Advance should be neatly and accurately prepared without any blanks, and all clauses not applicable to the case must be struck out, otherwise it cannot be received Any alterations made in Agreement or Application for an Advance, or words struck out, should be initialled by the parties to the Agreement or Application for an Advance.

When females are parties to the Agreement or Application for an Advance, they should be described either as "Spinster," "Widow," or "Wife of ."

The purchase money and the advance must be in pounds only.

The parcel of land must be vested in fee-simple, subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Secs 13, 16, and 99 of the said Act

Where the mineral rights constitute a superior interest, or are vested in the Crown, or where mineral, sporting, or water rights are not in the possession or enjoyment of the Vendor at the time of sale, they should be reserved to the Owner thereof, as such rights cannot be compulsorily redeemed.

The following clause is suggested as a precedent for such a reservation :—

"The Mineral, Sporting and Water Rights excepted or reserved under a Fee-Farm Grant, dated, &c. (or under lease dated, &c.), or under any Superior Grant or Lease affecting the holding are reserved to his heirs and assigns or other the person or persons entitled thereto his or their heirs and assigns."

As a general rule sporting rights reserved to a head landlord by the fee-farm grant under which the Vendor holds the lands for sale are concurrent rights, and in such cases the Vendor may also be entitled to sporting rights within the meaning of the Irish Land Act, 1903, exclusive of the tenant If this is the case Clause 6 should state in what way the last rights are to be dealt with.

The Agreement must be signed by both Vendor and Purchasers, or some person thereunto lawfully authorised on their behalf and the application for an Advance must be signed by the Purchasers, or by some persons thereunto lawfully authorised on their behalf.

Trustees or limited owners selling under the provision of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the purchasers should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, or such other person as may be approved by the Estates Commissioners, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Purchasers.

The attention of all parties is particularly requested to the following rules with reference to Agreements for purchase made by the Estates Commissioners which must be strictly observed :—

"23. Agreements for purchase between Vendor and Purchaser of a holding shall be in the Form 'F,' and those between Vendor and Purchaser of a Parcel of Land shall be in the Form 'H,' and those between Vendor and Trustees under Section 4 of the said Act shall be in the Form 'I,' with such variations as the nature of the case may require, and at the time of signing any such agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such a copy shall endorse on the original Agreement a certificate of the date of giving the same. Any application that the Agreement be not received by the Land Commission and the interest in lieu of rent payable thereunder put into collection, shall be made within one month of the time of the signing thereof by the Purchaser and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application."

"24. Applications for advances in pursuance of Agreements for purchase shall be made by endorsement on the Agreement."

"25. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County, and name of Vendor and Purchaser. They shall be signed by the Vendor and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms.

Rules of 4th Nov., 1907. Forms I and K.

Save with the consent of the Commissioners, no Agreement shall be received after the next rent gale day following the date of the Agreement."

N.B.—No Stamp Duty is payable on the Agreement or Application for an Advance

FORM "K"

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS

Record No E C . .. . County . .. .

Estate of *A B.*

WHEREAS, on the Sale of the above Estate, it is proposed that advances shall be made by the Irish Land Commission to the Tenants named in the following Schedule.

AND WHEREAS such proposed advances do not comply with the provisions of Section 1 (1), of the Irish Land Act, 1903.

NOTICE IS HEREBY GIVEN that on the day of at o'clock the Estates Commissioners will, at 25 Upper Merrion Street, Dublin, consider such proposed advances and will hear any application that may be made by or on behalf of any persons interested in the said Estate with reference to the same, and will then determine whether they are satisfied with the security and whether the proposed prices are equitable, having regard to the interests of all such persons as aforesaid

SCHEDULE

Townland	Barony	Tenant	Judicial Rent	Date when fixed	Purchase Money and Advance

Signed,

Dated this day of 19 .

Note—If you have no objection to offer to the proposed sale it is not necessary for you to attend.

IRISH LAND COMMISSION

Form "L¹"

ESTATES COMMISSIONERS.

ESTATE OF

Owner;
Petitioner.

Summary compiled from Rental lodged in above matter.

Denomination, Ordnance Survey Names, Barony and County	Tenanted Lands				Untenanted Land		Demesne and other Lands to be Repurchased		Tenancies created since 1st January, 1901			Court Lettings		
	No. of Tenants	Area	Rent	Valuation	Area	Valuation	Area	Valuation	Area	Rent	Valuation	Area	Rent	Valuation
		A. R P	£ s. d	£ s	A R P	£ s	A. R. P	£ s.	A. R P	£ s d.	£ s.	A. R. P	£ s d.	£ s. d.
TOTAL.														

Total Area of Estate } A. R. P.

I have compared this Schedule with the attested or certified Rental lodged in this matter, and certify that it correctly sets out the particulars of the Estates offered to the Estates Commissioners.

The former owner of the Estate is in occupation of the lands proposed to be repurchased.

Dated day of 19

Solicitor having Carriage.

Rules of 4th Nov., 1907. Form L¹.

Rules of 4th Nov, 1907.

Forms L² and M.

FORM "L²."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of .....Owner.

... .Petitioner

SCHEDULE OF TENANCIES

[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]
Reference Number on Map	Denominations (Ordnance Survey Names), Electoral Division, Barony and County	Names of Tenants, including Court Tenants and Tenants holding under temporary agreements	Acreage	Rent	If Judicial give date of Order or Agreement and Record Number If not Judicial state shortly particulars of contract of tenancy	Arrears of rent actually due up to last gale day whether remitted or not	State amount of rent actually paid by the Tenant during the last 6 years	Gale Days	State whether the tenancy has or has not been created since 1st January, 1901, and whether the Tenant holds under a letting made by a Court or Judge
			A. R P.	£ s d		£ s. d.	£ s d.		

FORM M.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Record No. E C . . . .

Estate of .. . . County..... ....

[*If there is no demesne there need only be one part to this Schedule*]

TAKE NOTICE, that unless cause is shown to the contrary within two months from this date the Land Commission intend to make an Order vesting the Estate, Demesne and lands referred to in the first part of the Schedule hereunto annexed in the Land Commission. The said order will have the effect of vesting the said Estate, Demesne and lands in the Land Commission in fee-simple subject as follows:—

(*a*) To any public right affecting the lands.

(*b*) To the Sporting rights reserved by the Vendor [*Omit if not the case*]

(*c*) To any maintenance charge under the Public Works Acts.

(*d*) To any interests of the Tenants on the lands or of persons having claims upon those interests and to any easements, rights and appurtenances mentioned in Sec. 34 of the Land Law (Ireland) Act, 1896. Rules of 4th Nov., 1907. Form M.

and subject also to the provisions of Sec. 99 of the Irish Land Act, 1903, but save as aforesaid discharged from the claims of all persons interested in the lands, which claims shall from the date of such vesting order cease as against the lands, and attach to the Purchase Money thereof in like manner as immediately before the date of the order they attached to the lands.

And Take Notice that on the Sale of the said Estate the Land Commission proposed to resell to the said *A.B.* the Demesne and lands mentioned in the second part of the said Schedule, and that he $\frac{\text{agreed to}}{\text{refused to}}$ repurchase the same.

Schedule.

Part 1.

The Estate, Demesne and other lands Purchased by the Land Commission.

Townland, Barony, County	Area		
	A.	R.	P

Part 2.

Demesne and other lands offered to the Vendor.

Townland, Barony, County	Area		
	A	R	P.

Signed,

.....

Dated this day of 19 . .

Rules of 4th Nov, 1907.

Form N.

FORM "N."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Record No E C .. .. County.. .. . .

Estate of the Irish Land Commission, formerly the Estate of

The Irish Land Commission hereby repeat the offer already made to sell to you the holding described in the Schedule hereto for the sum of pounds (£), and hereby offer to make an advance of the said sum of pounds (£) to you for the purpose of such purchase; such sum to be repaid by an annuity of £ payable as is by the Irish Land Act, 1903, provided

This offer, if accepted, should be returned by you to the Irish Land Commission within fourteen days after the date upon which it shall be communicated to you by them, and if not so returned the Estates Commissioners may order that you be deemed to have accepted such offer

The said parcel of land to be vested in you in fee-simple subject as hereinafter mentioned and as provided by the Irish Land Act, 1903.

The exclusive right of mining and taking minerals within the meaning of the said Act to be reserved to and vested in

The Sporting rights within the meaning of the Irish Land Act, 1903, to which was entitled over and upon the said parcel of land to be:—

(*a*) Reserved to the said .

or (*b*) Vested in you

or (*c*) In the absence of Agreement vested in the Irish Land Commission.

There shall be payable to the Irish Land Commission interest on the Purchase Money at the rate of £3 10s 0d. per cent. per annum from the date on which the Land Commission agreed to purchase the Estate up to the date of the advance and after that date until the day on which the purchase annuity begins, at the rate of £2 15s. 0d. per cent. per annum.

Nothing in this offer shall prejudice or affect any Sporting Rights, Mineral Rights, or Water Rights which are now in the possession of the Vendor or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said holding (or on the holding of in the townland of), or any right to water power now in actual use by the Vendor, and the holding shall be vested in the tenant subject and without prejudice to any such right

SCHEDULE.

Rules of 4th Nov., 1907.

Form N.

County..... Barony..... ..... Electoral Division.....

Reference to Map	Ordnance Survey Names of Townlands (each on a separate line)	Area Statute Measure of the portion of each Town land to be sold	Rent payable by tenants	Tenure of Tenant
		A R. P.	£ s d	

To Mr..... ..... .

.. ..

....

I ACCEPT THE FOREGOING OFFER.

Signed by the Tenant in the presence of .
(*the foregoing having first been read and explained to him in my presence*),*
and I know the Tenant.
Name, ...
Address, ...
Occupation, ...

Dated this.. ..... day of..... 19

Signature of Tenant,. . ...

Postal Address, ...

Occupation or Description..... . . . ..

A female should be either described as "Spinster," "Widow," "Wife of ," as the case may be.

Rules of 4th Nov, 1907.

Forms

FORM "T."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Certificate of Counsel.

Record No E C . ...

Estate of . . . . . County .. ..

From a perusal of the documents mentioned in the 2nd Schedule to the Originating (Application)/Request in the matter, and of the further documents necessary to give *prima facie* evidence of title within the meaning of Sec. 17 of the Irish Land Act, 1903, stated in the Schedule hereto, I certify that, in my opinion —

1. The above-mentioned Vendor is a person having power to sell the lands described in the 1st Schedule to the said Originating (Application)/Request under the Land Purchase Acts [*If any consent is required state whose*]

2. That the nature of the interest of the Vendor in the said lands, the tenure under which the same are held, and the particulars of superior interests and of the persons interested in the Estate and lands are, so far as appears from the documents above referred to, in said Originating (Application)/Request correctly stated

[*If not correctly stated in the Originating Application or request state the true facts.*]

3 That, so far as aforesaid, except as shown in the said Originating (Application)/Request the said lands are not subject to any Sporting Rights, Mineral Rights, or Water Rights. [*State them if not referred to in the Originating Application or Request.*]

Signed

Counsel.

THE SCHEDULE ABOVE REFERRED TO

N.B —Where the Originating Application or Request has not received a Record Number at the date of the giving of the Certificate, Counsel should identify the Application or Request referred to, by his signature.

FORM "V"

AFFIDAVIT OF SURVEYOR

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Record No E.C.

Estate of .... County . .. .

I, , of (here state full postal address), aged years (next briefly state qualifications for land survey and mapping work) make oath and say :—

1. That I have endorsed my name and the letter upon a map of the lands of (here set forth the townlands concerned), in the Barony of and

Rules of 4th Nov., 1907.

Form V.

County of

2. That during the month of 19 , I visited the said lands and walked and otherwise examined in detail the exterior boundaries of each plot of land proposed to be sold, or which is indicated by a separate number or sub-number on the said map, as well as the boundaries of such other lands, demesne, parcels, &c., as are comprised in the said estate; that the said boundaries are clearly defined on the said lands, and have been properly surveyed by me and accurately marked on the said map as they existed on the ground at the time of my survey; that enlargements of the map have been made where necessary; and that in other respects the map conforms to the Rules of the Estates Commissioners according to my knowledge and belief.

3. That I have endorsed my name upon the Schedule of Areas marked ; that I have made an independent computation of the area of each plot, holding or parcel of land which is separately numbered on the map and entered in the said Schedule of Areas; and that the lands, areas and reference numbers entered in the Schedule correspond with the said map, and are true and correct according to my knowledge and belief.

4. That the undermentioned ancient monuments (as referred to in the 14th Section of the Irish Land Act, 1903) exist upon the said lands. [*If there are none state so.*]

Sworn before me this
day of 19 ;
at , in the County of
, and I know the
Deponent.

IRISH LAND COMMISSION—ESTATES COMMISSIONERS.

PROVISIONAL RULES DATED 3RD MAY, 1910, UNDER SECTION 23 (13) OF THE IRISH LAND ACT, 1903.

Rules of 3rd May., 1910.

PROVISIONAL RULES UNDER THE IRISH LAND ACT, 1903, AND THE IRISH LAND ACT, 1909, SUPPLEMENTAL TO AND AMENDING THE RULES OF THE ESTATES COMMISSIONERS, DATED 4TH NOVEMBER, 1907.

1. No Originating Application dealing with land situated in a Congested Districts County shall be received, unless accompanied either by (*a*) an Affidavit by the Vendor or his Solicitor, stating that the land included in such Originating Application is not a Congested Estate as defined in Section 6 of the Irish Land Act, 1903, as amended by Section 20 of the Irish Land Act, 1909, and that the said lands do not consist exclusively of one or more Congested townlands, as defined in Section 20 of the Irish Land Act, 1909, or, if it is a Congested Estate, by (*b*) the consent of the Congested Districts Board that the lands may be sold under the Land Purchase Acts to persons other than the Board.

2. With every Originating Application or Request, the Vendor shall lodge a Certificate showing the existing tenement valuation, obtained from the Office of the Commissioner of Valuation and Boundary Surveyor.

3. The tenement valuation of each holding shall be set out in the Schedule of Tenancies referred to in the Originating Application and Originating Request prescribed by the Estates Commissioners' Rules of the 4th November, 1907.

4. "Future Purchase Agreements" within the meaning of the Irish Land Act, 1909, between Vendor and Purchasers for the sale of holdings in Direct Sales under Sections 1-5 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, shall be in the Form F[1] and those between Vendors and Trustees under Section 4 of the Irish Land Act, 1903, shall be in Form I[1] to these Rules, with such variations as the nature of the case may require.

Except as aforesaid the Provisions of Rules 23–26 of the Estates Commissioners' Rules dated the 4th November, 1907, shall apply to Agreements on Forms F[1] and I[1]. Rules of 3rd May., 1910.

5. An application by any landlord who is desirous of selling an estate under the Land Purchase Acts to resume a portion of a holding upon the estate for the purposes of planting trees or preserving woods or plantations or growing timber shall be by motion before the Estates Commissioners on notice to the tenant of the holding and to such other persons as may appear to the Estates Commissioners to be interested parties. Such motion shall be entitled "In the matter of the Landlord's Estate" if such matter is then pending before the Estates Commissioners, but if not, then such notice shall be entitled "In the matter of the Irish Land Act, 1909, Section 19, and in the matter of *A. B.* a Landlord who is desirous of selling an Estate under the Land Purchase Acts and of resuming a portion of a holding upon the Estate for the purposes of planting trees or preserving woods or plantations or growing timber." Section 19 (3).

6. The Consent of the Department of Agriculture and Technical Instruction for Ireland to the cutting down, or uprooting of any tree (other than a fruit tree or osier) upon a holding, which is necessary for the ornament or shelter of the holding shall be on Form D. A. to these Rules with such variations as the nature of the case may require. Section 32 (1), (b) and (2).

7. Applications by proprietors of holdings purchased under the Land Purchase Acts, and by tenants on an estate in respect of which purchase agreements have been entered into or negotiations for sale are pending, to determine questions respecting the boundaries of the holdings, easements, or appurtenances, shall be on Form O[1] to these Rules with such variations as the nature of the case may require, and, after being signed by all parties interested, shall be forwarded to the Commissioners who will communicate with such proprietors, tenants and parties, the time and mode in which they will proceed, if they think fit so to do, to enquire into and determine the question in dispute. Rule 41 of the Rules of the 4th November, 1907, is hereby rescinded. Section 22.

8. An Agreement by a person having power under the Land Purchase Acts to enter into an agreement for the purchase of a holding with the Land Commission, or the Congested Districts Board, as the case may be, for the exchange of such holding for any other holding shall be on Form Z to these Rules with such variations as the nature of the case may require. Section 23

9. In sales pending before the Estates Commissioners an application to appoint a proper person to be administrator of a deceased applicant for an advance limited to the purposes of sale, where the said applicant Section 35.

Rules of 3rd May, 1910.

has died before the advance is made, shall be made to the Estates Commissioners and shall be supported by an affidavit proving the death of the deceased applicant for the advance, whether he made a will, whether representation to him has been raised, and generally the reasons why a limited administrator should be appointed, and by evidence of the fitness of the proposed administrator, and, unless the application is made on his behalf, evidence of his consent to administer.

Sections 43 (1), 60 (1) and 61 (2).

10. The final Offer of the Estates Commissioners, or the Congested Districts Board, as the case may be, referred to in Sections 43 and 60 of the Irish Land Act, 1909, for the purchase of an Estate or untenanted land pursuant to the provisions of the said Act shall be sent, and copies of the final offer and of any notice required by the said Act shall be served in any one or more of the following ways, namely :—

(*a*) By delivery of the same personally to the person to be served or, if such person is absent abroad or cannot be found, to his Solicitor or Agent, or

(*b*) By leaving the same at the usual or last known place of abode of the person to be served, or

(*c*) By forwarding the same by registered post addressed to the usual or last known place of abode of the person to be served, or

(*d*) In such other manner as the Estates Commissioners in any special case may direct.

Sections 43 (3) and 60 (2).

11. The time within which any person may satisfy the Estates Commissioners that he may be dealt with pursuant to the provisions of Section 17 or of Section 79 of the Irish Land Act, 1903, as the Owner of the estate or untenanted land proposed to be acquired under Sections 43 or 60 of the Irish Land Act, 1909, shall be one month from the time specified in the final offer within which such offer may be accepted.

Section 62 (1).

12. The time within which any person interested in the estate or untenanted land proposed to be acquired compulsorily under the Irish Land Act, 1909, may make an application to the Judicial Commissioner for an order restraining the Estates Commissioners from acquiring the estate or untenanted land or any specified part or parts of the same shall be one month from the date of the publication in the *Dublin Gazette* of the notice required by Section 61 (1) of the said Act.

Section 63 (1).

13. The time within which any person interested in the estate or untenanted land proposed to be acquired compulsorily under the Irish Land Act, 1909, may make an application to the Judicial Commis-

sioner by way of objection to fix the price to be paid for the estate or untenanted land in case no objection is made under Section 62 shall be one month from the date of the publication in the *Dublin Gazette* of the notice required by Section 61 (1) of the said Act, and in case an application is made under Section 62 of the said Act shall be one month from the date of the final determination of all questions arising on such application. Rules of 3rd May., 1910.

14. An application to the Judicial Commissioner for either of the purposes mentioned in Rules Nos. 12 and 13 shall be by notice of motion served upon all necessary parties, and such application may be listed for hearing at any time after the expiration of 14 days from the lodgment of such notice and upon the hearing thereof the evidence shall be given *viva voce* unless otherwise directed by the Judicial Commissioner. Section 62 (1), (2) and 63 (1).

15. The time within which the Purchase Money of any Estate or untenanted land acquired under the provisions of Part IV. of the Irish Land Act, 1909, shall be paid into the Bank of Ireland shall be as follows :— Section 64.

(*a*) Where no application has been made to the Judicial Commissioner pursuant to the provisions of Sections 62 and 63 of the said Act the time shall be Six Months after the time prescribed by these Rules for such an application.

(*b*) Where such an application has been made and is withdrawn the time shall be Six Months from the date of such withdrawal.

(*c*) Where such an application has been made and is not withdrawn the time shall be Six Months after the final determination of all questions arising on such an application.

16. In the computation of time for the purposes of these Rules, the word " month " shall mean calendar month, and the period of a month shall not be extended by reason of any intervening holiday, but when the time limited is a fortnight or any less period, the time so limited shall be extended by any intervening holiday or holidays except Sundays.

The computation of time by days shall be exclusive of the first and inclusive of the last day.

Whenever the time limited expires on a Sunday or other holiday, it shall be extended to the next day upon which the Offices of the Commissioners shall be open.

The Commissioners shall have power to enlarge or abridge the time appointed by these Rules for doing any act, or taking any proceedings,

Rules of 3rd May., 1910.

Form F[1].

upon such terms, if any, as the justice of the case may require, and any such enlargement may be applied for and ordered after the expiration of the time appointed or allowed.

(Signed)

J. O. Wylie.
Fredk. S. Wrench.
M. Finucane.
W. F. Bailey.

Schedule No.. ... . . . Folio No . ...

FORM F[1] (1909).

AGREEMENT BETWEEN VENDOR AND A TENANT FOR SALE OF A HOLDING

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of . ...

AN AGREEMENT made the day of 19 , between of the Vendor of the Holding described in the First Schedule hereto, and of the Tenant in occupation of the said holding.

1. In case an Estate comprising the said holding shall be sold under the provisions of the Irish Land Acts, 1903 and 1909, the Vendor hereby agrees to sell and the Tenant hereby agrees to purchase the said holding for the sum of (£). [*Fill in amount of purchase money in words and figures.*]

2. The Tenant shall apply in the prescribed form to the Irish Land Commission for an advance of the sum of £ for the purpose of such purchase, to be repaid as provided by the Irish Land Act, 1909.

3. The sum of pounds (£), being the balance of the Purchase Money (if any) over the amount of the advance under the Land Purchase Acts is to be paid in cash into Court

4. The said holding is now held by the said Tenant who has been residing on and in occupation of same since at the annual rent of £ payable under [*State shortly particulars of the contract of tenancy, state when tenancy was created and if judicial, give date of Order or Agreement and Record Number. If the tenant does not reside on the holding state where he resides and how far from the holding.*]

5. The said holding shall be vested in the Tenant in fee-simple subject as hereinafter mentioned and as provided by the Irish Land Acts, 1903 and 1909 [*If the holding is subject to maintenance and drainage charges, which will affect the holding after purchase, a statement to that effect should be inserted.*]

6 Subject to the provision hereinafter contained the exclusive right of mining and taking minerals within the meaning of the Irish Land Act, 1903, and of digging

Rules of 3rd May., 1910.
Form F[1]

and searching for the same is hereby reserved to and shall be vested in the Land Commission. [*See the instructions at the end of this form as to the way in which mineral and water rights are to be dealt with when not to be vested in the Land Commission.*]

7. The Sporting rights within the meaning of the Irish Land Act, 1903, if any, to which the Vendor is entitled over and upon the said holding exclusive of the Tenant shall be :—

(*a*) Reserved to Vendor.

or (*b*) Vested in the Tenant.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

[*See the instructions at the end of this form as to the way in which Sporting Rights not in the possession or enjoyment of the Vendor at the time of sale, are to be dealt with*]

8. Interest on the Purchase Money shall be payable to the Irish Land Commission at the rate of per cent. per annum from the date of this Agreement up to the date of the advance and after that date as provided by the Land Purchase Acts.

9. The sale shall be carried out by means of a Vesting Order.

10. Nothing in this Agreement shall prejudice or effect any Sporting Rights, Mineral Rights, or Water Rights which are not now in the possession of the Vendor, or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said holding (or on the holding of in the townland of) or any right to water power now in actual use by the Vendor, and the holding shall be vested in the tenant subject and without prejudice to any such right.

11. The sum herein stated as the purchase money of the said holding $\frac{\text{does}}{\text{does not}}$ include a sum other than the true purchase money of the holding.

[*If it does state what sums are so included.*]

FIRST SCHEDULE.

County..... Barony. .... Electoral Division ....

Reference Number on Map	Ordnance Survey Names of Townlands (each on a separate line)	Area in Statute Measure of the portion of the holding in each Townland			Tenement Valuation		
		A	R	P	£	s.	d

Signed by the Vendor in presence of
Name, ...
Address, ...
Occupation, ...

Signature of Vendor.... . ...
Postal Address, ...

Rules of 3rd May., 1910.

Form F[1].

Signed by the Tenant in presence of (*the Agreement having first been read and explained to him in my presence*) *
and I know the Tenant.
Name, ...
Address, ...
Occupation, ...

Signature of Tenant,.. . . . . .
Postal Address, ...
Occupation or Description,... ....

I, ... , the before-mentioned Tenant, say :—

The particulars in the foregoing Agreement and Schedule are true to the best of my knowledge and belief

There is not any person in occupation of said holding, or of any part thereof, as Tenant or otherwise, save as mentioned in the following Schedule :—

SECOND SCHEDULE.

Reference Number on Map	Names of the Persons in occupation as Under-Tenants or otherwise	Area in Statute Measure of portion sublet	*Rent (if any)* payable by such occupiers	Tenure or nature of occupancy

I have not obtained from or applied to the Irish Land Commission for an advance of any sum for the purchase of any land save as follows :—
nor is there any advance under the Land Purchase Acts now repayable by me, save as follows :—

Signature of Tenant, ...

Signed by the Tenant in the presence of (*the Agreement having first been read and explained to him in my presence*),* and I know the Tenant
Name,

If the Tenant wishes to be represented in the proceedings by a Solicitor, he must be so represented at his own expense; if so, here insert the name and address of such Solicitor.

Name, ...
Address,. . . . . .

Name and Address of the Vendor's Negotiator :—

. . . . . .
. . . . . .

Any application that the Agreement be not received by the Land Commission and the interest in lieu of rent payable thereunder put into collection, shall be made within One Month of the time of the signing thereof by the Purchaser and

* The words in italics may be struck out unless the Tenant is illiterate.

shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application. Rules of 3rd May., 1910.

Form F¹.

TO BE ENDORSED ON FOLD OF AGREEMENT.

I,.....of....., hereby certify that a copy of the within Agreement, as signed by the within Purchaser, was given to him on the..... day of .....19....

Signature of person giving the copy.. . . ..

APPLICATION FOR ADVANCE TO BE ENDORSED ON FOLD OF AGREEMENT.

I,..... ...., the within-named Tenant, hereby apply to the Irish Land Commission for an advance of the sum of... ... .pounds (£.....) [*fill amount of advance in words and figures*] for the purchase of the holding the subject of the within Agreement, to be repaid by an annuity of £. ....., being at the rate of 3½ per cent. per annum on the said advance, payable as by the Irish Land Act, 1909, provided.

The sum of..... ..pounds (£ ....), being the balance of the purchase money (if any over the amount of the advance under the Land Purchase Acts), is to be paid in cash into Court. [*Strike out if Tenant applies for an advance of the whole purchase money*]

Signature of Tenant,.....

Signed by the Tenant in the presence of (*the Application having first being read and explained to him in my presence*),* and I know the Tenant

Name, ...

Address, ...

Occupation,..... ... .

Directions as to the Preparation of the Agreement and Application for an Advance.

The Agreement and Application for an Advance should be neatly and accurately prepared without any blanks, and all words and clauses not applicable to the case must be struck out, otherwise it cannot be received. Any alterations made in the Agreement or Application for an Advance, or words struck out, should be initialled by the parties to the Agreement or Application for an Advance.

When females are parties to the Agreement or Application for an Advance, they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the advance must be in pounds only.

The holding must be vested in fee-simple, subject to the provisions of the Irish Land Acts, 1903 and 1909; and in dealing with Sporting Rights, Mineral Rights, and Water Rights, regard must be had to the provisions of Sections 13, 16, and 99 of the Irish Land Act, 1903.

Where the Mineral Rights constitute a superior interest, or are vested in the Crown, or where Mineral, Sporting, or Water Rights are not in the possession or enjoyment of the Vendor at the time of sale, they should be reserved to the Owner thereof, as such rights cannot be compulsorily redeemed.

The following clause is suggested as a precedent for such a reservation:—

"The Mineral, Sporting and Water Rights excepted or reserved under a

* The words in italics may be struck out unless the Tenant is illiterate.

Rules of 3rd May, 1910.

Form F[1].

Fee-farm Grant, dated, &c. (or under a lease dated, &c.), or under any Superior Grant or Lease affecting the holding are reserved to..... ..... . his heirs and assigns or other the person or persons entitled thereto, his or their heirs and assigns."

As a general rule, Sporting Rights reserved to a head landlord by the fee-farm grant under which the Vendor holds the lands for sale are concurrent rights, and in such cases the Vendor may also be entitled to sporting rights within the meaning of the Irish Land Act, 1903, exclusive of the tenant. If this is the case, Clause 7 should state in what way the last rights are to be dealt with.

If, in the case of a holding subject to a Judicial Rent fixed or agreed to before the passing of the Act of 1896, the parties agree that the holding should be treated as a holding subject to a Judicial Rent fixed since the passing of the Act of 1896, the following clause should be inserted in the Agreement :—

> " It is hereby agreed that the Irish Land Commission may, if they consider it equitable, treat the said holding as a holding subject to a judicial rent fixed since the passing of the Land Law (Ireland) Act, 1896 "

The Agreement must be signed by both Vendor and Tenant or by some persons thereunto lawfully authorised on their behalf, and the Application for an Advance must be signed by the Tenant or by some person thereunto lawfully authorised on his behalf. Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the Tenant should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, or such other person as may be approved by the Estates Commissioners, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Tenant or Purchaser.

The attention of all parties is particularly requested to the following rules with reference to Agreements for purchase made by the Estates Commissioners, which must be strictly observed.

By Rules 23, 24, and 25 of the Rules made by the Estates Commissioners on the 4th day of November, 1907, it is provided as follows :—

> " 23. Agreements for purchase between Vendor and Purchaser of a holding shall be in the Form ' F,' and those between Vendor and Purchaser of a Parcel of Land shall be in the Form ' H,' and those between Vendor and Trustees under Section 4 of the said Act shall be in the Form ' I,' with such variations as the nature of the case may require, and at the time of signing any such Agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such a copy shall endorse on the original Agreement a certificate of the date of giving the same. Any application that the Agreement be not received by the Land Commission, and the interest in lieu of rent payable thereunder put into collection, shall be made within One Month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the Agreement, and by a statement in writing setting forth the reasons for such application."

Rules of 3rd May, 1910.

Forms F[1] and I[1].

"24. Applications for advances in pursuance of Agreements for purchase shall be made by endorsement on the Agreement."

"25. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County, and Name of Vendor and Purchaser. They shall be signed by the Vendors and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners, no Agreement shall be received after the next rent gale day following the date of the Agreement."

By Rule No. 4 of the Rules made by the Estates Commissioners on the 3rd day of May, 1910, it is provided as follows:—

"Future Purchase Agreements," within the meaning of the Irish Land Act, 1909, between Vendor and Purchasers for the sale of holdings in Direct Sales, under Secs. 1–5 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, shall be in the Form F[1], and those between Vendors and Trustees under Sec. 4 of the Irish Land Act, 1903, shall be in Form I[1] to these rules, with such variations as the nature of the case may require.

Except as aforesaid the provisions of Rules 23–26 of the Estates Commissioners Rules, dated the 4th November, 1907, shall apply to Agreements on Forms F[1] and I[1]."

N.B.—No Stamp Duty is payable on the Agreement or Application for an Advance.

Schedule No..... .... Folio..... .. .

FORM I[1] (1909).

AGREEMENT FOR SALE BY VENDOR TO TRUSTEES FOR THE PURPOSE MENTIONED IN SECTION 4 OF THE IRISH LAND ACT, 1903.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of..... County..... .....

AN AGREEMENT made the day of 19 , between of the Vendor of the parcel of land described in the Schedule hereto, and of and of being Trustees approved of by the Irish Land Commission for the purpose hereinafter mentioned,

1. In case an Estate of which the said parcel of land forms a part shall be sold under the provisions of the Irish Land Acts, 1903 and 1909, the Vendor hereby

Rules of 3rd May, 1910.

Form I¹.

agrees to sell and the Purchasers hereby agree to purchase the said parcel of land heretofore in the occupation of for the sum of (£). [*Fill in the amount of the purchase money in words and figures.*]

2. The Purchasers shall apply in the prescribed form to the Irish Land Commission for an advance of the sum of (£) for the purpose of such purchase, to be repaid as provided by the Irish Land Act, 1909.

3. The sum of pounds (£), being the balance of the purchase money, if any, over the amount of the advance under the Land Purchase Acts is to be paid in cash into Court.

4. The said parcel of land shall be vested in the Purchasers in fee-simple, subject as hereinafter mentioned, and as provided by the Irish Land Acts, 1903 and 1909. [*If the parcel is subject to maintenance and drainage charges which will affect the parcel after purchase, a statement to that effect should be inserted.*]

5. The exclusive right of mining and taking minerals within the meaning of the Irish Land Act, 1903, and of digging and searching for the same, is hereby reserved to and shall be vested in the Land Commission. [*See the instructions at the end of this form as to the way in which Mineral and Water Rights are to be dealt with when not to be vested in the Land Commission.*]

6. The Sporting Rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said parcel of land shall be:—

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Purchasers.

or (*c*) In the absence of agreement, vested in the Irish Land Commission.

[*See the instructions at the end of this form as to the way in which Sporting Rights, not in the possession or enjoyment of the Vendor at the time of sale, are to be dealt with.*]

7. Interest on the Purchase Money shall be payable to the Irish Land Commission from the date of the advance in the manner provided by the Land Purchase Acts.

8. The Purchasers are to be put into possession on a day not later than the date of the advance.

9. A fine has not been taken or agreed on with respect to the sale of the said parcel. [*If a fine has been taken or agreed on, state amount.*]

10. It is hereby agreed that the said and shall hold the said parcel of land for the purpose of and on the terms and conditions and with such rights and powers as may be specified in a scheme to be settled pursuant to the provisions of Sec. 20 of the Irish Land Act, 1903. [*See Sec.* 4 *specifying the purpose.*]

11. Nothing in this Agreement shall prejudice or affect any Sporting Rights, Mineral Rights, or Water Rights which are not now in the possession of the Vendor, or the right of the Vendor to work any mine or quarry which is now being worked or developed by him on the said parcel (or on the holding of , in the townland of), or any right to water power now in actual use by the Vendor, and the parcel shall be vested in the Purchasers subject and without prejudice to any such right.

SCHEDULE.

Rules of 3rd May, 1910.

Form I¹.

County..... ..... Barony..... ..... Electoral Division . .. .

Reference Number on Map	Ordnance Survey Names of Townlands (each on a separate line)	Area in Statute Measure of the portion of the Parcel of land in each Townland			Tenement Valuation		
		A.	R	P	£	s	d

Signed by the Vendor in presence of
Name, ...
Address,..... ... .
Occupation,..... .. ..

Signature of Vendor,.... . .. .
Postal Address, ...

Signed by the Purchasers in presence of, and I know the Purchasers :—
Name, ...
Address, ...
Occupation, ...

Signatures of Purchasers,.. .. . . .
Postal Addresses,..... .....
Occupations or Descriptions,..... .

If the Purchasers wish to be represented in the proceedings by a Solicitor, they must be so represented at their own expense, and if so, here insert the name and address of such Solicitor.

Name,..... ....
Address,.. . . ..

Name and Address of Vendor's Negotiator :—

....
....

Any application that the Agreement be not received by the Land Commission shall be made within one Month of the time of the signing thereof by the Purchasers, and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application.

TO BE ENDORSED ON FOLD OF AGREEMENT.

I, of , hereby certify that copies of the within Agreement, as signed by the within Purchasers, were given to them on the day of 19 .

Signature of person giving the copy..... .....

APPLICATION FOR ADVANCE TO BE ENDORSED ON FOLD OF AGREEMENT.

We, the within-named Purchasers, hereby apply to the Irish Land Commission for an advance of the sum of pounds (£) [*fill in amount of advance in words and figures*] for the purchase of the parcel the subject of the within Agreement, to be repaid by an annuity of £ being at the rate of 3½ per cent. per annum on the said advance payable as by the Irish Land Act, 1909, provided.

Rules of 3rd May, 1910.

Form P.

The sum of pounds (£), being the balance of the purchase money (if any over the amount of the advance under the Land Purchase Acts), is to be paid in cash into Court. [*Strike out if Purchasers apply for an advance of the whole purchase money.*]

Signature of Purchasers { . . . . . .
. . . . . .

Signed by the Purchasers in the presence of
and I know the Purchasers.

Name, ...

Address, ...

Occupation, ...

Directions as to the Preparation of the Agreement and Application for an Advance.

The Agreement and Application for an Advance should be neatly and accurately prepared without any blanks, and all words and clauses not applicable to the case must be struck out, otherwise it cannot be received. Any alterations made in Agreement or Application for an Advance, or words struck out, should be initialled by the parties to the Agreement or Application for an Advance.

When females are parties to the Agreement or Application for an Advance, they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the advance must be in pounds only.

The parcel of land must be vested in fee-simple, subject to the provisions of the Irish Land Acts, 1903 and 1909; and in dealing with sporting rights, mineral rights, and water rights, regard must be had to the provisions of Secs. 13, 16, and 99 of the Irish Land Act, 1903.

Where the Mineral Rights constitute a superior interest, or are vested in the Crown, or where Mineral, Sporting, or Water Rights are not in the possession or enjoyment of the Vendor at the time of sale, they should be reserved to the Owner thereof, as such rights cannot be compulsorily redeemed

The following clause is suggested as a precedent for such a reservation :—

> "The Mineral, Sporting and Water Rights excepted or reserved under a Fee-farm Grant, dated, &c. (or under a lease dated, &c.), or under any Superior Grant or Lease affecting the holding are reserved to his heirs and assigns or other the person or persons entitled thereto, his or their heirs and assigns"

As a general rule, Sporting Rights reserved to a head landlord by the fee-farm grant under which the Vendor holds the lands for sale are concurrent rights, and in such cases the Vendor may also be entitled to Sporting Rights within the meaning of the Irish Land Act, 1903, exclusive of the tenant. If this is the case, Clause 6 should state in what way the last rights are to be dealt with.

The Agreement must be signed by both Vendor and Purchasers or some person thereunto lawfully authorised on their behalf, and the Application for an Advance must be signed by the purchasers or by some persons thereunto lawfully authorised on their behalf. Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

Rules of 3rd May, 1910.

Form F¹.

The witness to the signatures of the Purchasers should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, or such other person as may be approved by the Estates Commissioners, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Purchasers.

The attention of all parties is particularly requested to the following rules with reference to Agreements for purchase made by the Estates Commissioners, which must be strictly observed.

By Rules Nos. 23, 24 and 25 of the Rules made by the Estates Commissioners on the 4th day of November, 1907, it is provided as follows :—

"23. Agreements for purchase between Vendor and Purchaser of a holding shall be in the Form 'F,' and those between Vendor and Purchaser of a Parcel of Land shall be in the Form 'H,' and those between Vendor and Trustees under Section 4 of the said Act shall be in the Form 'I,' with such variations as the nature of the case may require, and at the time of signing any such Agreement a copy thereof shall be given to the Purchaser signing the same, and the person giving such a copy shall endorse on the original Agreement a certificate of the date of giving the same. Any application that the Agreement be not received by the Land Commission, and the interest in lieu of rent payable thereunder put into collection, shall be made within One Month of the time of the signing thereof by the Purchaser, and shall be accompanied by a copy of the Agreement and by a statement in writing setting forth the reasons for such application."

"24. Applications for advances in pursuance of Agreements for purchase shall be made by endorsement on the Agreement."

"25. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County, and Name of Vendor and Purchaser. They shall be signed by the Vendor and Purchasers or by some persons thereunto lawfully authorised on their behalf, and shall be prepared and executed in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners, no Agreement shall be received after the next rent gale day following the date of the Agreement."

By Rule No. 4 of the Rules made by the Estates Commissioners on the 3rd day of May, 1910, it is provided as follows :—

"Future Purchase Agreements" within the meaning of the Irish Land Act, 1909, between Vendor and Purchasers for the sale of holdings in Direct Sales under Secs. 1-5 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, shall be in the Form F¹, and those between Vendors and Trustees under Sec. 4 of the Irish Land Act, 1903, shall be in Form I¹ to these Rules, with such variations as the nature of the case may require.

Except as aforesaid the provisions of Rules 23-26 of the Estates Commissioners Rules dated the 4th November, 1907, shall apply to Agreements on Forms F¹ and I¹."

N.B.—No Stamp Duty is payable on the Agreement or Application for an Advance.

Rules of 3rd May, 1910.

Form D. A.

FORM No. D. A. (1909).

CONSENT OF THE DEPARTMENT OF AGRICULTURE AND TECHNICAL INSTRUCTION FOR IRELAND, TO THE CUTTING DOWN, &C., OF TREES UPON HOLDINGS SOLD OR AGREED TO BE SOLD UNDER THE LAND PURCHASE ACTS

IRISH LAND ACT, 1909.

SECTION 32 (1) (*b*) & (2).

Estate of.. . .. .. Record No..... ... . County.. ... .

WHEREAS, of as the [*if the holding has been vested under the Land Purchase Acts, insert "proprietor"; if holding has not yet been vested, insert "tenant"*] of the holding described in the First Schedule appended hereto [*if the holding has been vested, insert "For the purchase of which the Irish Land Commission has made an advance, and which is still subject to an annuity in favour of the said Commission"; if holding has not yet been vested, insert "For the purchase of which the said tenant has entered into an agreement to purchase under the Land Purchase Acts"*] has applied for the consent of the Department of Agriculture and Technical Instruction for Ireland pursuant to the provisions of Section 32 of the Irish Land Act, 1909, to his cutting down, uprooting, or to permit his cutting down or uprooting trees.

Now the Department of Agriculture and Technical Instruction for Ireland, having considered the application of the said hereby consents to the cutting down or uprooting of the trees specified in the Second Schedule appended hereto.

Dated this day of , 19 .

Sealed with the seal of the Department of Agriculture and Technical Instruction for Ireland.

.. .. Secretary.

FIRST SCHEDULE REFERRED TO IN FOREGOING CONSENT.

Townland	Statute Area A. R. P.	Advance for Purchase made (or applied for)	Land Commission Receivable Order Number

SECOND SCHEDULE REFERRED TO IN FOREGOING CONSENT.

Rules of 3rd May, 1910.

Forms D. A. and O¹.

Particulars of Trees which may be felled or uprooted.

Number of Trees, or Area of Plantation	Species	Age	Situation, &c

FORM O¹ (1909).

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

We, the several parties whose signatures are hereto annexed being Proprietors of holdings purchased under the Land Purchase Acts or being Tenants on an Estate in respect of which Purchase Agreements have been entered into or negotiations for sale are pending, and parties interested in the determination of the questions hereinafter mentioned, apply to and request the Land Commission to determine the questions which have arisen between us respecting [*here state clearly the exact question or questions which the Land Commission are requested to determine under the head of either* (*a*) *boundaries*, (*b*) *easements*, (*c*) *appurtenances*] and we hereby severally agree to be bound by the decision of the Land Commission on the said questions.

Dated this day of 19

SCHEDULE.

Townland	Barony	County	Collection Number, Fair Rent Record Number, as the case may be, or other particulars necessary for identification	Signatures and Addresses of Applicants

Names and addresses of witnesses to signatures ....
. . ..
....
.....

Rules of 3rd May, 1910.

Form Z

FORM No. Z (1909).

AGREEMENT WITH LAND COMMISSION, OR CONGESTED DISTRICTS BOARD, FOR EXCHANGE OF HOLDING.

AN AGREEMENT made the day of 191 , between of (being the person having power under the Land Purchase Acts to enter into an Agreement for the purchase of the holding described in the First Schedule hereto) of the one part, and the Irish Land Commission [*or the Congested Districts Board as the case may be*] of the other part, witnesseth as follows

The said hereby agrees with the Irish Land Commission [*or the Congested Districts Board as the case may be*] for the exchange of the holding described in the First Schedule hereto, for the holding described in the Second Schedule hereto (which holding described in the Second Schedule hereto is, in the opinion of the Irish Land Commission [*or the Congested Districts Board as the case may be*], of not less value than the holding described in the First Schedule hereto), and forthwith or on demand to give up and surrender the said holding described in the First Schedule hereto on being put into possession of the holding described in the Second Schedule hereto

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FIRST SCHEDULE

Description of holding to be surrendered to the Irish Land Commission [*or the Congested Districts Board as the case may be*].

SECOND SCHEDULE

Description of holding to be given to the said in exchange for the holding described in the First Schedule hereto

REGULATIONS MADE BY THE LORD LIEUTENANT UNDER SECTION 23 (8) OF THE IRISH LAND ACT, 1903. Regulations, 13th Feb., 1906.

13th February, 1906.

(St. R. & O., 1906, No. 112.)

[Regulation No. 1, which dealt with priority of advances by the Estates Commissioners in respect of estates or holdings proposed to be sold under Sections 1 to 7 of the Act of 1903, has been cancelled by Regulations, 15th February, 1910, *post*, p. 1348.]

II.

(*Town or Village Holdings.*)

The Estates Commissioners may advance for the purchase of town or village holdings, coming within the provisions of the Land Purchase Acts, such sums as they shall consider to be secured by the sites of the houses and any land attached thereto.

If application is made for sums exceeding what the Estates Commissioners consider to be secured as aforesaid the Estates Commissioners should, in dealing with such applications, have regard to the following considerations :—

(1) That the primary object of the Land Purchase Acts is the transfer of the fee of agricultural and pastoral land from the landlords to the occupiers.

(2) That the security afforded by buildings alone is insufficient inasmuch as buildings are liable to deterioration in value and to total destruction by fire or other causes.

III.

(*Evicted Tenants.*)

The Estates Commissioners shall make inquiries as to the persons who have lodged applications for advances for the purchase of land and who claim to come within the provisions of Section 2 (1) (*d*) of the Act, and shall prepare lists of such persons with a view to the provision of holdings for such of them as it may be desirable to provide with holdings.

IV.

The Estates Commissioners may approach the owner of an estate from which tenants have been evicted and may propose to purchase from him so much land as they may consider necessary for the purposes

Regulations 13th Feb., 1906.

of Section 2 (1) (*d*); and may, if the owner so desires, furnish him with preliminary estimates of the prices they are prepared to give for such portion of the estate. They may also furnish him with preliminary estimates of the prices they are prepared to give for the whole estate if he so desires.

V.

The Estates Commissioners shall make such inquiries as they think fit with a view to ascertaining the existence of untenanted land suitable for purchase either as a separate estate or under Sections 6 and 7 of the Act, or for the purposes of Section 8 of the Act, and shall take such steps as they think advisable for the purchase of such land.

VI.

(*Parcels of Land.*)

Where a parcel of land is sold under Section 2 to a person not being in possession of any other land, the parcel should, so far as reasonably practicable, be of sufficient size and fertility to enable the purchaser, if he manages and cultivates it properly, to pay the Purchase Annuity and other outgoings and to maintain himself and his family on its produce, not only at the time of the sale, but, so far as can be reasonably anticipated, in the future.

When a parcel of land is so sold to a person being in possession of other land this regulation shall apply with the substitution, for the parcel sold under Section 2, of the total amount of land in his possession after he has been put into possession of the parcel sold under Section 2.

A parcel of land shall not be sold to any person of whose farming experience, habits of industry, and competence to work the land as a holding, and purpose so to work it and not to sell or assign it, the Estates Commissioners are not reasonably satisfied.

VII.

(*Improvement Loans and Grants.*)

Where an application under Section 12 for a grant, or an advance for an improvement is made to the Estates Commissioners, they shall cause an inquiry to be made as to the propriety of granting the application, and having considered the results of such inquiry, they may, if they think fit, refer the application to the Commissioners of Public Works or deal with the matter themselves under the above-mentioned Section.

VIII.

Where differences exist between landlord and tenant in connection with the terms or conditions of the purchase and sale of an estate, and the Estates Commissioners have reason to believe that their action as conciliators would be beneficial to both parties and would lead to an amicable settlement of the dispute, they may approach the parties, with a view to such a settlement and to facilitating the sale and purchase of the estate.

REGULATIONS PRESCRIBING THE MANNER IN WHICH SPORTING RIGHTS VESTED IN THE LAND COMMISSION, PURSUANT TO THE PROVISIONS OF SECTION 13 OF THE IRISH LAND ACT, 1903, ARE TO BE DEALT WITH BY THE LAND COMMISSION.

March 20, 1907.

(St. R. & O., 1907, No. 240.)

I. In these Regulations the expression "Sporting Rights" shall be taken to mean Sporting Rights subject to the provisions of the Ground Game Act, 1880, previously enjoyed by the vendor, exclusive of the tenant, which have been, or are proposed to be, vested in the Irish Land Commission (hereinafter referred to as "the Commission") pursuant to the provisions of Section 13 (1) of the Irish Land Act, 1903.

II. In all cases where Sporting Rights have been vested, or are proposed to be vested, in the Commission, pursuant to the above-mentioned Section, the Commission shall inquire:—

(*a*) As to the nature and value of such rights.

(*b*) As to the probable expense necessary for the proper preservation, and for the improvement of such rights, and as to any method proposed therefor.

(*c*) When it is considered that such rights are of value, having regard to the probable expenses of preservation and improvement, how such rights can be dealt with, preserved and improved.

III. Where it appears to the Commission, as the result of such inquiries, that these rights are, in any particular case, of little or no value, or that the expenses of preservation would be out of proportion to the value of such rights, the Commission may permit such rights to be exercised by the tenant purchaser or occupier, free of charge.

IV. Where it appears to the Commission, as the result of such

Regulations, 20th March, 1907.

inquiries, that these rights are of value and should be preserved, the Commission may, in their discretion:—

(1) Advertise such rights as being to let or for sale

(2) Sell or dispose of such rights in such manner, and for such consideration as they may think right.

(3) Make leases, or lettings, of such rights, either by the season, by the year, or for any term of years, to such persons and upon such terms as the Commission may determine.

(4) Issue licences to exercise such rights, or any of them, for any period to any person, and upon such terms as the Commission may determine.

(*a*) Any such lease or letting as aforesaid, and any such licence may provide (in addition to the payment to the Commission of a stipulated payment or rent) for a payment by the lessee or licensee to the proprietors or occupiers of the different holdings over which the rights are granted, such payment to be calculated upon the number of the game killed, or in such other way as may be determined upon by the Commission; the amount to be distributed amongst such proprietors or occupiers respectively, either in proportion to the game killed on each holding respectively or in proportion to the acreage of each holding, or in such other way, and to be calculated by such other person or persons as the Commission may from time to time determine.

(*b*) Every such lease or letting shall, unless it is specially agreed to the contrary, provide for the preservation of the game and fish by the lessee in such way and by such persons as the Commission may from time to time determine.

(*c*) Any such lease or letting may, where the Commission think it expedient, provide that the payment to be made to the said Commission, for the first part of the term created by such lease or letting, shall be of a nominal amount or of a less amount than the amount of the rent to be ultimately payable to the Commission.

(*d*) Every such lease, letting, or licence shall provide that

any person entering upon land in pursuance of any right thereby conferred shall be liable to make reasonable amends and satisfaction for any damage done or occasioned thereby.

(5) Take such steps and institute and carry on such actions or proceedings, either in Law or Equity, as the Commission may consider necessary for the preservation of the game or fish, the subject of such rights.

(6) Take such steps as may be, from time to time, determined upon, with the consent of the Lord Lieutenant, for re-stocking and improving such Sporting Rights in such ways as may be determined upon.

V. The net receipts derived from any Sporting Rights, after first deducting thereout all outgoings and expenses, shall be paid to the credit of an account to be opened in the books of the Irish Land Commission, to be entitled "The Improvement Fund No. 2."

VI. Any balance to the credit of the Improvement Fund No. 2 shall be available for any of the purposes in connection with Sporting Rights which may require expenditure, and subject thereto for the same purposes as those for which the Reserve Fund is now available in cases where the Commission may consider a free grant desirable.

VII. No expenses or liability shall be incurred by the Commission without the previous sanction of the Treasury for any of the purposes specified in Clause IV. (5) and (6) of these Regulations unless the Commission are in a position to defray the necessary current expenditure out of the funds to the credit of the Improvement Fund Account No. 2.

ORDER dated NOVEMBER 28, 1908, fixing the FEE PAYABLE FOR CERTIFICATE AS TO BOUNDARIES under Rule 12 (*d*) of the Estates Commissioners' Rules dated November 4, 1907.

(St. R. & O., 1908, No. 1191.)

Whereas it is provided by Section 8 of the Local Registration of Title (Ireland) Act, 1891, that the Land Judge with the approval of the the Lord Chancellor may with the consent of the Treasury fix the fees to be taken in the Central and Local Offices respectively for the purposes of the said Act.

And whereas it is expedient that provision should be made for the taking of such fees in the said Central Office as is hereinafter set forth.

L. R. Title Rule of 28th Nov., 1908.

And whereas in accordance with the provisions of the Rules Publication Act, 1893, notice was given in the *Dublin Gazette* of the 2nd October, 1908, that the Rule Making Authority proposed to make as a Statutory Rule the Rule hereinafter set out.

And whereas all times have elapsed and all things have been done necessary for making the said Rule a Statutory Rule it is hereby ordered that as from the 4th November, 1907, the fees for the above Certificate to be taken in the Central Office of the said Registry shall be as follows:—

For every Certificate as to Boundaries . . . A minimum fee of five shillings with an additional fee of one shilling for each Townland exceeding three comprised in the Estate Maps lodged, provided that no greater fee than two pounds be charged or taken for any one Certificate.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

PROVISIONAL RULES UNDER THE EVICTED TENANTS (IRELAND) ACT, 1907, AND THE IRISH LAND ACT, 1903 (SECTIONS 1 TO 23). Rules of 24th Oct., 1907.

24th October, 1907.

In pursuance of the provisions of the Evicted Tenants (Ireland) Act, 1907, and of Section 23, s.-s. 13 of the Irish Land Act, 1903, the Judicial Commissioner and the Estates Commissioners, with the approval of the Lord Lieutenant, and after consultation with the President of the Incorporated Law Society of Ireland, hereby order that the following Rules shall forthwith and until further order be in force in relation to all proceedings for the purpose of carrying into effect the provisions of the said Acts:—

1. The Notice to be published by the Estates Commissioners pursuant to the provisions of Section 2 (1) of the Evicted Tenants (Ireland) Act, 1907, shall be in the first form given in the Schedule to these Rules, with such variations (if any) as the nature of the case may require. The copy of the *Dublin Gazette* containing such notice shall be filed in the office of the Irish Land Commission, and shall be open to inspection by all persons interested during office hours. Section 2 (1).

2. The Schedule to such notice shall set forth as accurately as practicable the names of the townland, barony, and county, in which the lands proposed to be acquired are situated, the acreage and the boundaries of said lands, and the names of the persons appearing from the books of the Commissioner of Valuation and Boundary Surveyor to be liable for the rates payable in respect thereof.

3. The time within which a statement of the grounds of the objection of any person interested in the lands proposed to be acquired, should be lodged in the office of the Irish Land Commission, pursuant to the provisions of Section 2 (1) of the said Act, shall be *One Month* from the date of the publication in the *Dublin Gazette* of the Notice referred to in Rule 1. Section 2 (1).

4. The time within which the person appearing to be the owner of the land may accept an offer pursuant to the provisions of Section 1 (1) Section 1 (1) and Section 2 (5).

Rules of 24th Oct., 1907.

of the Act, and the time within which a petition, pursuant to the provisions of Section 2 (5) of the Act, may be presented to the Irish Land Commission praying that the land shall not be acquired at the price offered without further inquiry, shall be *One Month* from the making of the offer.

Section 2 (4) and Section 2 (5)

5. The offer referred to in Section 2 (4) shall be in writing and shall be headed:—Offer under Section 2 (4) of the Evicted Tenants (Ireland) Act, 1907, and the notice to be given by the Estates Commissioners of such offer, pursuant to the provisions of Section 2 (5) of the said Act, may be in the second form given in the Schedule to these Rules A copy of such offer and of such notice and the maps therein referred to shall be filed in the office of the Irish Land Commission, and shall be open to inspection by all persons interested during office hours

Section 2 (8).

6. Any person aggrieved by any determination of the Estates Commissioners fixing the price of the land proposed to be acquired may, within 14 days from the date of such determination, lodge with the Estates Commissioners a notice of appeal to the Judicial Commissioner, and such appeal may be listed for hearing at any time after the expiration of 14 days from the lodgment of such notice, and upon the hearing thereof the evidence shall be given *viva voce*, unless otherwise directed by the Judicial Commissioner.

Section 2 (11)

7. The time within which any person aggrieved by any determination of the Estates Commissioners on a question arising under the provisions of said Act imposing restrictions on the acquisition of land may appeal, pursuant to the provisions of Section 2 (11) of the said Act, shall be 14 days from the date of such determination.

Section 2 (14)

8 If a petition has been presented, pursuant to the provisions of Section 2 (5) of the said Act, and the matter in dispute in such petition has been determined by the Estates Commissioners but no appeal has been taken from such determination, or in case an appeal has been taken and withdrawn, then the time within which the Purchase Money shall be paid into the Bank of Ireland and the Vesting Order made, pursuant to the provisions of Section 2 (14) of the said Act, or in the alternative the time within which the Estates Commissioners may serve a Notice on the person appearing to them to be the owner of the land that they do not intend to make such Order, shall be *Six Months* from the date of such determination by the Estates Commissioners or such withdrawal of the appeal as the case may be.

Section 2 (14).

9. If an appeal has been taken, pursuant to the provisions of either Section 2 (8) or 2 (11) of the said Act, from any such determination

by the Estates Commissioners, then, unless every such appeal is withdrawn, the time within which the Purchase Money shall be paid into the Bank of Ireland and the Vesting Order made, pursuant to the provisions of Section 2 (14) of the said Act, or in the alternative the time within which the Estates Commissioners may serve a notice on the person appearing to them to be the owner of the land that they do not intend to make such Order, shall be *Six Months* from the date of the final determination of the matters in dispute in any such appeal.

10. The particulars to be published, pursuant to the provisions of Section 3 of the said Act, shall contain the matters set forth in the Schedule to the said Act, and such other matters as may in any particular case appear to the Estates Commissioners to be desirable. Section 3

11. A new tenant may apply for compensation, pursuant to the provisions of Section 4 (2) of the said Act, at any time before an offer to put him into possession of a parcel has been made. Section 4 (2)

12. The sum awarded as compensation to a new tenant for his interest in a holding, the tenancy in which has been determined, pursuant to the provisions of Section 4 of the said Act, shall, unless otherwise ordered by a Commissioner, be placed on deposit receipt in the Bank of Ireland to a credit to be entitled— Section 4 (5).

> " In the matter of the Evicted Tenants (Ireland) Act, 1907, and
> " of the compensation payable by reason of the determination
> " of the tenancy of *A.B.* in a holding in the lands of
> " barony of county of ."

Any person claiming to be entitled to the money so lodged, or to any part thereof, may file, in the Irish Land Commission, an affidavit entitled in the above-mentioned matter stating the nature and particulars of his claim, and such money shall only be paid out on the Order of a Commissioner.

13. Copies of any notice required by the said Statute, or by these Rules, to be served, shall be served :—

(*a*) By delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent, or, if no agent can be found, then by leaving the same on the premises ; or

(*b*) By leaving the same at the usual or last known place of abode of such person as aforesaid ; or

(*c*) By forwarding the same by registered post addressed to the usual or last known place of abode of such person.

Rules of 24th Oct., 1907.

14. In the computation of time for the purposes of these Rules, the word " month " shall mean calendar month, and the period of a month shall not be extended by reason of any intervening holiday, but when the time limited is a fortnight or any less period, the time so limited shall be extended by any intervening holiday or holidays except Sundays.

The computation of time by days shall be exclusive of the first and inclusive of the last day.

Whenever the time limited expires on a Sunday or other holiday, it shall be extended to the next day on which the offices of the Commissioners shall be open.

The Commissioners shall have power to enlarge or abridge the time appointed by these Rules for doing any act, or taking any proceedings, upon such terms, if any, as the justice of the case may require, and any such enlargement may be applied for and ordered after the expiration of the time appointed or allowed.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

In the Matter of the Evicted Tenants (Ireland) Act, 1907, and the Estate of the supposed owner of lands.

TAKE NOTICE that the Estates Commissioners propose to acquire compulsorily under the above-mentioned Act the lands particularly mentioned in the Schedule hereto, and further take notice that the Estates Commissioners hereby call upon the persons mentioned at the foot of this notice and all other persons, if any, interested in the said lands who may object to the acquisition of the said lands under the said Act, to lodge in the Office of the Irish Land Commission, within one month from the date of the publication in the *Dublin Gazette* of this notice, a statement of the grounds of their objection.

The SCHEDULE above referred to.

Part of the lands of , situate in the barony of , and county of , containing in or about a. r. p., statute measure, and bounded , and at present in the rated occupation of *A.B.*

Signed by order of the Estates Commissioners.

To

A.B. of
C.D. of
E.F. of

who appear to the Estates Commissioners to be the owners of the said land, and to all other persons, if any, interested in the said lands.

E T. Act.

Rules of 24th May, 1909.

IRISH LAND COMMISSION.

Estates Commissioners.

In the Matter of the Evicted Tenants (Ireland) Act, 1907, and the Estate of the supposed owner of lands.

[*Proposed Notice under Section* 2 (5)]

Take Notice that the Estates Commissioners offered on the day of to the person appearing to them to be the owner of the lands mentioned in the Schedule hereto, the sum of £ for the purchase thereof, and further that the said Commissioners propose to acquire the said lands at such price, unless within one month from the date of the making of the said offer a petition is presented praying that the lands shall not be so acquired without further inquiry.

The Schedule above referred to.

Part of the lands of , situated in the barony of , and county of , containing in or about a. r. p., statute measure, as shown on the map, a copy of which is filed in the Office of the Irish Land Commission, and may be inspected by all persons interested during office hours.

Signed by order of the Estates Commissioners.

To

A.B. of

C.D. of

E.F. of

and to all other persons, if any, interested in the said lands.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Provisional Rule under the Evicted Tenants (Ireland) Act, 1907, and the Irish Land Act, 1903 (Sections 1 to 23).

24th May, 1909.

Where any land acquired under the Evicted Tenants (Ireland) Act, 1907, is not required for the purposes of the said Act, and such land has been offered to the person from whom it was acquired, pursuant to Section 14 of the said Act, the time within which such offer may be accepted shall be 14 days from the date of such offer.

Rules of 27th Nov., 1908.

THE RULES OF THE SUPREME COURT (IRELAND), 1908.

ORDER LIX. *November* 27, 1908.

(St. R. & O., 1908, No. 1149.)

APPEALS UNDER SECTION 2, SUB-SECTIONS 11 TO 13, OF THE EVICTED TENANTS (IRELAND) ACT, 1907.

8.—(81.) In these Rules .—

The expression " the Act " means the Evicted Tenants (Ireland) Act 1907.

The expression " the Judge " shall mean Judge of Assize or Judge on a rota, as the case may be

The expression " the proper officer " means in the case of an appeal to the Judge of Assize of the county in which the lands are situate, Clerk of the Crown and Peace, or Clerk of the Peace, as the case may be, of that county—and in the case of an appeal to a Judge on the rota, Registrar of the King's Bench Division of the High Court.

The expression " determination " means the determination of the Estates Commissioners which is appealed from.

9.—(82.) The rota for appeals for each year shall consist of three Judges of the King's Bench Division of the High Court. They shall serve from the 1st January to the 31st December.

10.—(83.) All the Judges of the King's Bench Division shall be liable to serve. They shall serve successively on the rota according to seniority of appointment, until each Judge has served on the rota once—and so on from time to time the same principle of rotation shall be followed.

11.—(84.) In the absence of arrangement between the Judges any temporary vacancy from illness or inability on the part of a Judge to act on the ordinary rota of three for the particular year shall be filled by the senior Judge on the rota for the following year, without prejudice, however, to his obligation to serve on the rota for such following year. In the event of a permanent vacancy from death, resignation, or other cause, of such first mentioned Judge, such next senior Judge shall be transferred from the rota of the following year and shall take the place of the Judge causing such vacancy, as if he had been originally one of the Judges on the rota for the year in which such vacancy took place.

12.—(85.) If the hearing of any appeal or matter relating thereto shall be pending before a Judge and not concluded when his rota period shall have concluded, such Judge may proceed with and dispose of such pending appeal or matter.

13.—(86.) All appeals to the Judge of Assize or to a Judge on the rota

shall be by notice, signed by the appellant or his solicitor. Such notice shall state whether the whole or only part of the determination is appealed from, and, if only part, what part, and it shall also specify the grounds of appeal. The time within which an appeal shall be brought shall be fourteen days from the date of such determination.

14.—(87.) Every notice of appeal shall be served on the Registrar of the Estates Commissioners at the Office of such Commissioners. Such notice shall be a fourteen days' notice. A copy of the notice of appeal shall, within seven days from service on such Registrar as aforesaid, be lodged with the proper officer, and, on proof of such service as aforesaid, by affidavit, such officer shall enter the appeal for hearing before the Judge.

15.—(88.) An office copy of the determination shall be produced by the appellant before the appeal is opened before the Judge.

16.—(89.) The evidence upon the hearing of an appeal shall be given *viva voce*, unless otherwise allowed by the Judge.

17.—(90.) The Judges on the rota for the time being shall arrange between themselves for the distribution of appeals.

18.—(91.) All notices, affidavits or other documents, to be used in any proceeding under these Rules, shall be headed in the King's Bench Division of the High Court, and all such affidavits shall be filed in the proper office of that Division.

19.—(92.) In the absence of consent, the notice of application for consolidation and transfer, or consolidation or transfer, of appeals shall be a four clear days' notice, and, in the case of an appellant's application, shall be served on the Registrar of the Estates Commissioners in the same manner as is hereinbefore provided with respect to notices of appeal, and shall be supported by affidavit. If the Estates Commissioners be the applicants the notice shall be served on the appellant or appellants either personally or by registered letter, or in case he or they appear by solicitor, on such solicitor. Copies of the notice of motion and affidavit or affidavits in support of the application shall be lodged with the proper officer within two clear days from the service of such notice. On proof of such service as aforesaid by affidavit, such officer shall list the motion for hearing before the Judge. Affidavits to oppose any such application as aforesaid may be filed, and copies thereof shall be forthwith served on the opposite party in manner hereinbefore provided for service of the notice of application.

20—(93.) All orders with reference to an appeal shall be prepared and recorded by the proper officer.

Rules S.C., 1905

Rules as to Transfer of Question of Law to High Court.

Rules of the Supreme Court (Ireland), 1905.

Order LIV., C.

Made pursuant to Sections 23 and 71 of the Irish Land Act, 1903.

1. Any application under Section 23, Sub-section 2, of the Irish Land Act, 1903, shall be made by motion on notice within the time prescribed for such application by the Judicial Commissioner (*a*). Such notice shall specify definitely the nature of the question which it is desired to have referred to a Judicial Commissioner, and a copy of such notice shall be lodged with the Estates Commissioners at least four clear days before the hearing.

(*a*) That is, within one month from the date of the refusal. See Land Commission Rule of 4th December, 1903 (*post*, p. 1355).

2. Every transfer from the Land Commission to the High Court of the determination of any question of law under Section 71 of the Irish Land Act, 1903, shall be made by an order of the Judicial Commissioner, which shall contain in a Schedule signed by the Registrar of the Land Commission a concise statement of the question of law to be determined.

3. When any such transfer is made with the consent of the Lord Chancellor, such consent shall be testified by an endorsement on the order of transfer signed by the Lord Chancellor.

4. The person on whose application any such transfer shall have been made, or (if not so made) the person whom the Judicial Commissioner shall direct, may apply, by motion on notice to the Division of the High Court or the Judge thereof to which or to whom such transfer shall have been assigned, to have the question of law determined. Such notice shall be served in the first instance on the person or one of the persons whose rights and interests are sought to be affected.

5. Every notice of motion under these Rules shall be intituled in the Matter of the Estate in which the question sought to be referred or determined arises and in the Matter of the Irish Land Act, 1903, and where service is necessary shall be served four clear days before the hearing thereof unless the person served shall consent to a shorter time or the Court or a Judge shall otherwise order.

6. In every case the Court or a Judge may direct any persons other than those who may have been already served to be served with the notice of motion.

7. A certified copy of the order made by the Court or a Judge on any application under these Rules shall be transmitted by the Registrar or other proper officer to the Registrar of the Land Commission.

Regulations 5th March, 1906.

REGULATIONS MADE BY THE LORD LIEUTENANT IN PURSUANCE OF THE PROVISIONS OF SECTION 23 (8) OF THE ACT, DATED 5TH MARCH, 1906, AND INSTRUCTIONS WITH RESPECT TO THE INSPECTION OF ESTATES ISSUED BY THE ESTATES COMMISSIONERS IN ACCORDANCE THEREWITH.

St. R. & O., 1906, No. 181.

The Lord Lieutenant, on 5th day of March, 1906, cancelled the Instructions, dated 9th February, 1905, and under Section 23 (8) of the Irish Land Act, 1903, made the following Regulations:—

I. The Estates Commissioners shall prepare and issue suitable Instructions for the guidance of the Inspectors working under them, such Instructions to be in all respects conformable with the provisions of the Act as judicially interpreted.

II. The Estates Commissioners shall also direct the inspectors, when acting under such Instructions, to have careful regard to such judicial interpretations of the law as may be hereafter made.

III. The Estates Commissioners shall forward copies of all such Instructions for the information of the Lord Lieutenant.

Instructions 9th March, 1906.

IRISH LAND ACT, 1903

IRISH LAND COMMISSION—ESTATES COMMISSIONERS.

9th March, 1906.

INSTRUCTIONS WITH REFERENCE TO INSPECTION OF ESTATES ISSUED BY THE ESTATES COMMISSIONERS IN ACCORDANCE WITH THE REGULATIONS MADE BY THE LORD LIEUTENANT, DATED THE 5TH MARCH, 1906.

PART I.

Instructions in Case of Sales to Persons other than the Land Commission.

1. When the Commissioners have provisionally determined (*a*) what lands are fit to be regarded as a separate estate, and the Purchase Agreements for the lands so to be dealt with have been received, the case will be referred for inspection and report.

(*a*) See *Weir's Estate*, [1908] 1 I. R. 35; 42 I. L. T. R. 35, and note to Sec. 98 Act, 1903 (*ante*, p. 1167).

Special instructions and documents to be furnished to the Inspector.

Where any special instructions other than those contained herein are given in the particular case, a Minute of such will be furnished to the Inspector, who will also be supplied with certain documents, viz. :—.

I. Schedules (A), (B), (C), and (D) in the Appendix hereto, viz. :—
   (A). Holdings, the purchase money of which is within the zones.
   (B). Holdings held at Judicial Rents, the purchase money of which is outside the zones.
   (C). Non-judicial holdings.
   (D). Parcels under Sections 2 and 4.

II. Map of the estate, lodged by the vendor, or a tracing or copy thereof.

III. Copy of Schedules I. and IV. to the Originating Application lodged in the case.

IV. Schedule of tenancies.

V. Other documents, if any, which the Commissioners may direct to be furnished, such as applications from evicted tenants on the estate or in the neighbourhood, &c.

Instructions 9th March, 1906.

Inspection. General description of Estates

2. The Inspector sent to inspect any estate or lands, after giving due notice, which should, as a rule, be not less than two clear days, to the vendor or his agent and the tenants, or to such of them as may appear necessary as set out in the Particulars of Tenancies, and to any other persons who have signed purchase agreements, and to whom it may be desirable to give notice, shall visit the estate. He should, as soon as possible, prepare and send in a report on the form prescribed, which should give a general description of the whole estate, noting the nature and character of the land and its physical situation, the purposes for which the holdings are generally used, the economic condition of the occupiers, and how they work their holdings, the character of any untenanted land or demesne, and how it is used, and any special advantages or disadvantages that should be brought to the attention of the Commissioners.

General report as to matters connected with the Estate that may affect the security

In making his general report on an estate the Inspector should call attention to any circumstances or facts that may affect the future liabilities, rights or obligations of the Land Commission or of the tenant purchasers ; or that may affect the general security for the advances that may be made with respect of all or some of the holdings comprised in the estate, whether within or without the zones, such as the necessity for up-keeping river or sea embankments, or providing for the same so as to prevent destruction or injury by flooding, to the subject matter with respect of which the advances are applied for, and should state how such matters are to be provided for.

The Inspector should also in his general report describe any timber that may be growing on the estate ; and report on the sporting rights and mineral rights, and the value thereof, and should advise the Commissioners how, in his opinion, such timber, and sporting and mineral rights should be dealt with.

3. The Inspector or other officer deputed for the purpose should in every case satisfy himself that the tenants who apply for advances are in occupation of the holdings.

4. (*a.*) In all cases where the purchase money agreed upon is such as to bring the cases within the zones, no inspection, unless specially directed by the Commissioners, is necessary as to security. Where a judicial rent purports to be fixed by agreement, since 1st January, 1903, the Inspector should ascertain and report for the information of the Commissioners whether the tenancy was created since 1881, so that it may be ascertained, if created subsequently to that time, whether the provisions of the 17th Section of the Act of 1896 were complied with

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(*b.*) Where applications for advances are made in cases coming within Section 5 of the Act, the Inspector or other officer deputed for the purpose should report as to each holding in the Form E in Appendix.

For Form E, see *post*, p. 1338.

Difference between price and security

5. In all cases on which the Inspector is required to report as to the *security* for the advance, he should bear in mind the difference between "price" and "security." It may shortly be stated that in considering the *security* for an advance, the Inspector should take into account the value of the holding as it stands, while he should base his estimate of *price* on the vendor's interest in the holding.

The Inspector should consider all the circumstances of the case, the interest which the vendor is selling, the length of time over which the annuity will be payable without alteration, the prospects or likelihood of agricultural and economic changes that may affect the profits of agriculture, and report what advance he considers to be well secured on the holding, having regard to such considerations, giving his reasons.

The inquiry into security in each case should include a consideration of the nature and character of the holding, its situation as regards markets, &c., the likelihood of appreciation or of depreciation in its productive power and earnings. It is evident that the security afforded by a holding situated in the neighbourhood of an advancing city or town is likely to appreciate in value, while that afforded by a holding in a remote and backward district or near a decaying centre, is more likely to depreciate, so also the security afforded by an economic holding of good land is obviously better than that afforded by an uneconomic holding consisting of poor land.

The condition and means of the purchaser and the manner in which rent has been paid in the past should also be reported on. Where considerable arrears have accrued, or where the rent of the holding has not been fully or regularly paid, the Inspector should consider how such matters, in his opinion, affect the security, and make a report on the subject.

Where the full price agreed upon is not secured on the holding because part of such price represents the value of buildings, and the Commissioners would not be prepared to advance the full value of the buildings, the Inspector should state who claims such buildings, and whether such claim is admitted, so that if the vendor is entitled to the buildings, the Commissioners may be in a position to determine whether the purchasing tenant should be required to pay in cash that portion of the

agreed price which cannot be advanced, and if not so paid, whether they should exclude the holding from the estate. Instructions 9th March, 1906.

6. The Inspector should also state whether he considers the agreed price inequitable, and, if so, he should state such facts and give such figures as will enable the Commissioners to determine whether the case is one in which an advance may be made under the provisions of Section 5 of the Act of 1903, as judicially interpreted.* If it appears that the landlord or the purchasing tenant was induced to sign the purchase agreement by undue pressure, such as threats of legal proceedings for arrears of rent, intimidation, or by fraud, or other improper means, the Inspector should so report. Equity of price.

7. In cases covered by the proviso to Section (1) (*b*) of the Act the Inspector, in order that the Commissioners may be able to come to a conclusion on the subject, should report whether in his opinion the interests of the intending tenant-purchaser would be prejudiced by treating a judicial rent fixed or agreed to before the passing of the Act of 1896 as a judicial rent fixed since the passing of the Act of 1896, and should give his reasons for his opinion. Report in cases where rent fixed before 1896 to be treated as rent fixed since that date.

8. Agreements between the vendor and intending purchasers must be obtained for the purchase of every holding and parcel of land comprised in the property finally declared to be an estate for the purposes of the Act. The reports of the Inspectors should therefore be full and complete in the first instance, so as to enable the Commissioners to deal finally not only with the estate as a whole, but also with each holding and parcel of land comprised in the property. Inspectors should give sufficient information to prevent delay in sale of entire estates.

9. If any questions arise during the inspection on which the Inspectors have any doubts, they should be referred immediately, and while the inspection is in progress, for the instructions of the Commissioners without waiting for the completion of the report on the entire estate. Inspectors to apply for special instructions to the Commissioners on questions as to which they are in doubt during inspection.

10. The Inspector or Surveyor deputed for the purpose should state whether the boundaries of the estate and the holdings thereon, including the boundaries of the various parcels of land tenanted or untenanted. and demesne lands as shown on the Map lodged by the Vendor, are correct, and how their accuracy has been tested and checked. He should also compute the area of each holding as shown on the Map. If the boundaries or areas are found to be incorrect in any particular, he should so state, and specify what alterations have been made or steps taken for Maps and boundaries

* See the case of *King-Harman's Estate*, I. R. [1905], Vol. I., pp. 450–2.

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their correction. If the errors in the maps or areas are of a substantial character which affect the purchase agreement, the consent of all parties who are likely to be affected by the proposed correction of the error should be obtained in writing and annexed to the Inspector's Report. If the consent of the parties concerned cannot be obtained to the proposed correction, that fact, with the reasons, should be stated.

If the holdings are so small that they are not clearly shown on the map the Inspector or Surveyor should make an enlargement.

In no case should the Inspector make any alterations in a Purchase Agreement.

Disputes as to boundaries, turbary, &c

11. If there are any disputes respecting boundaries of holdings, turbary rights, easements, or appurtenances, the Inspector should endeavour to secure an amicable settlement of them, and, if he succeeds in doing so, should report what settlement has been arrived at, which all parties interested are willing to accept, and obtain their consent to such settlement in writing. If no settlement is come to, he should state his views as to the best method by which the matter could be arranged, and should endeavour to obtain reliable information on the subject from some responsible person

Rights and easements to be reserved on the sale of new holdings and of the parcels of untenanted land.

12. Where the creation of new holdings or the sale of parcels of land would necessitate the creation or enlargement of rights and easements, such as rights of way over an old holding, the Inspector should endeavour to arrange the matter between the Vendor and the purchaser of the old holding, getting such consents as may be necessary. Where new holdings are created, or where parcels of untenanted land are sold, the Inspector should report whether all easements and rights, including rights of way, that may be necessary for the proper use and enjoyment of each holding or parcel, are specified and reserved on or through such new holdings or parcels. If so, such rights and easements should, if possible, be marked on the map, and the consent of the various parties affected should be obtained in the prescribed form.

Parcels

13. Where the vendor has entered into agreements for the sale of "parcels" of untenanted land to persons within the classes mentioned in Section 2 (1) of the Act, the Inspector should report whether the proposed purchaser comes within the class of persons named in the sub-section referred to, and whether the advances applied for come within the limit for advances under Sub-section 2 of Section 2, and whether the security for the agreed price is sufficient; a separate report in each case should be made in Form E in Appendix, so far as it applies.

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Parcels as separate holdings.

14. The Inspector should report as to the suitability of each parcel to form a separate holding by itself or in conjunction with other lands occupied by the purchaser; whether house accommodation or other improvements are required; whether it has been properly divided by fences or what arrangements as to providing or making same should be made. If the proposed purchaser is a tenant on the estate or a small tenant on an adjoining estate, the question of amalgamating the parcel with the holding of such tenant should be considered, and the facilities of access and other conditions be stated.

Special inquiries to be made where advances exceed £3,000.

15. Where an application is made for an advance exceeding £3,000 the Inspector should state any circumstances calculated to enable the Commissioners to judge as to the expediency of making the advance applied for, and should report on the following matters:—

(*a*) The circumstances of the applicant for the advance; whether he has any other business in addition to that of farming; how the holding is worked by him, *i.e.*, whether it is used for mixed tillage and pasturage, for pasture only, or whether it is usually let temporarily for grazing, or otherwise.

(*b*) Whether in the opinion of the Inspector the holding is one on which a fair rent could be fixed, with reasons for the opinion.

(*c*) The agricultural character of the district in which the holding is situated; also the wants and circumstances of other persons residing in the neighbourhood.

Where the price agreed upon exceeds £3,000 the Inspector should ascertain and report whether the difference between this sum and the price agreed upon, or any portion of it, can be paid in cash.

Tenancies created since January, 1901, application for over £500. Applications for over £1,000 for purchase of parcels.

16. Where the tenancy has been created since the 1st January, 1901, and an advance exceeding £500 is applied for (Sec. 53, Act of 1903), or where a parcel of land is proposed to be sold under Section 2, and an advance exceeding £1,000 is applied for, the Inspector should state whether he considers that a larger advance than the respective sums mentioned may be sanctioned without prejudice to the wants and circumstances of other persons residing in the neighbourhood, which wants and circumstances should be set forth in his report, and should give his reasons.

Joint tenants, Section 15 (4).

17. The Inspector or other person deputed for the purpose should state whether there are any joint tenants or tenants in common in exclusive occupation of separate portions of a holding on the estate, or whether any such holding is sub-divided between two or more persons,

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and, if so, whether he considers such tenant or person should be deemed the tenant of the parcel of land in his exclusive occupation, and what apportionment of the rent should, in his opinion, be made, and whether the parties have provisionally agreed thereto, and what apportionment of the agreed price for the holding should be made for the separated parcels, having regard to the security therefor, and should report the circumstances as to the proposed division of the land, having marked same on the map and given the areas.

Sub-tenants, Section 15 and redemption of intervening interests

18. Where any sub-tenant is in the exclusive occupation of a parcel of land comprised in the estate, the Inspector should report whether it is desirable, having regard to the nature and character of the parcel and the circumstances of the occupier, that any such sub-tenant should, in the case of the sale of the estate, be deemed the tenant of such parcel and the parcel deemed a holding, he should also estimate the price, if any, at which in his opinion, in case of the sale of the estate, the intervening interest should be redeemed. To enable the Commissioners to assess the value of the intervening interest, the Inspector should state the tenure of the tenant and of the sub-tenant, the rent and acreable rate actually paid by the tenant, the rent actually paid by the sub-tenant for his portion of the holding, and the acreable rate thereof, and whether such rent is a fair rent, and how the quality of the land held by the sub-tenant compares with that of the remainder of the tenant's holding, and, having regard to these considerations, what the redemption money should be in his opinion. He should state whether the vendor and the owner of the intervening interest agree to his estimate of the amount of compensation, and, if not, what amount the owner of the intervening interest claims, and whether the sub-tenant is willing to purchase at a price which will amount to a fair proportion of the original purchase-money plus the compensation, and whether such price would be secured on the sub-tenant's holding, and if not so secured whether the sub-tenant would be willing to pay portion of the purchase money in cash. If the parties do not agree he should report what their objections are to the estimated amount.

Division of holdings

19. Where a tenant proposes to divide his holding into two or more parts and have each part dealt with as a separate holding, the Inspector should report as to the desirability of such proposed division, and should state whether each part by itself, or in connection with other land with which it may be proposed to be consolidated, would constitute an economic holding, and give other reasons to enable the Commissioners

to decide whether the suggested division should be permitted or not. If the Inspector considers that it is advisable to divide a holding, he should mark the proposed division on the Map and give the areas. He should also state what he considers to be a proper apportionment of the agreed price.

Desirability or expediency of amalgamation of holdings

20. Where a tenant has asked for an advance to enable him to purchase two or more holdings on the same estate, the Inspector should state whether, in his opinion, it would be desirable to have such holdings amalgamated and only one advance made ; also whether the holdings separately may be considered economic, and their situation, whether contiguous to or at a distance from one another. When an Inspector considers that consolidation is advisable, he should, if possible, obtain the tenant's consent, and where this cannot be got, state the reason why he refuses consent.

Schoolhouses, churches, parochial residences, and *the like*

21. Where a person who has signed a purchase agreement appears to occupy the land by virtue only of his holding some position or appointment, such as that of schoolmaster or clergyman or in other similar fiduciary capacity, then the circumstances, so far as they can be ascertained, should be fully reported, and it should be stated who pays the rent of such land, to whom such rent is paid, and how much would be secured by the land and buildings (if any) separately if an advance were made so as to enable the Commissioners to decide whether the advance should be made, or the land should be excluded altogether from the estate.

Houses, &c., in towns and villages included in estate.

22. When an Inspector is asked to report on a holding not agricultural or pastoral in its character, such as a house lot in a town or village, he should report the amount that would be secured on the land only. He should also report as to the value of the buildings, and whether there is any collateral security forthcoming for an advance in respect of such buildings.

Small plots and labourers' cottages

23. Where a labourer's cottage exists on a tenant's holding, and the labourer pays the tenant either by rent or by labour, or occupies the plot rent free by the tenant's permission, it is generally desirable to let the arrangement continue.

Where, however, the labourer pays rent to the Vendor of the estate and an application is made for an advance for the purchase of the holding, the Inspector should inquire from the tenant whether he can provide the purchase money in cash if so required, or how otherwise the advance applied for can be secured, and should report accordingly.

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Turbary (Sections 4, 20, and 21).

24. The Inspector should report generally as to the turbary on the estate, and should suggest such regulations and schemes as he may think desirable for dealing with the same, having regard to the wants and requirements of the occupiers on the estate and in the neighbourhood. He should adopt the same course with respect to pasturage, seaweed, and other similar rights and privileges, and should keep in mind the provisions of Section 4 and of Section 20 as regards the making of advances to trustees for the purchase of parcels of land for the purposes therein stated.

Advances to Trustees (Section 4)

25. Where it is desired that advances for such amount as the Lord Lieutenant may sanction should be made to trustees under Section 4 for the purchase of parcels for the purpose of turbary, pasturage, the raising of sand or gravel, gathering of seaweed, planting of trees, or the preservation of game, woods, or plantations, or for the purposes of the Labourers Acts, the Inspector should describe the land or parcel so proposed to be dealt with, and give his opinion whether or not it is advisable that the same should be vested in trustees, with his reasons. He should also advise as to the body or the persons who may be appointed as trustees and their suitability for such purposes, and the amount of the advance which may be made to them with due regard to the security. He should also furnish such particulars in his report as will enable the Lord Lieutenant to frame or approve of a scheme as provided by the 20th Section of the Act.

Sporting rights

26. The Inspector should in every case report on the nature and value of sporting rights and where they are to be reserved to the Land Commission, state how in his opinion they should be dealt with, having regard to such Regulations as may be made by the Lord Lieutenant on the subject.

Mineral rights

27. The Inspector should report on the nature of the mineral rights on the estate, if any, whether they are of value or are likely to become of value, and whether in his opinion they are capable of development.

Timber.

28 Where trees are growing upon any holding proposed to be sold the Inspector should report whether they are necessary for shelter or required for the security of the amount advanced, and in case application is made to the Commissioners for permission to cut and remove any of them, whether such permission should be given, and on what terms.

Demesne lands

29. Where it is proposed that any demesne land or untenanted land comprised in the lands proposed to be sold should be repurchased by the Vendor, the Inspector should estimate *the present selling value* of such land, including any mansion house or other buildings thereon. He should also estimate the amount that may safely be advanced to the

vendor for the repurchase of the demesne or other lands in his occupation, having regard to the security which such lands and buildings will afford for any such advance, and he should estimate the amount for which he considers that such buildings should be insured if it be necessary or for which other collateral security should be given. Instructions 9th March, 1906.

30. The Inspector should state in his Report whether the resale to the Vendor of all land which he wishes to repurchase or portion thereof only ought to be sanctioned. In forming his opinion, he should have regard to the amount of land available for the enlargement of holdings where such enlargement may be necessary. Proposed repurchase of Demesne or other lands

The Inspector should also furnish a report as to the manner in which any demesne or untenanted lands which it is proposed the Land Commission should purchase and which are not to be resold to vendor, should be dealt with by the Commissioners.

31. Where any ancient monument, including any ancient or mediæval structure, erection, or monument, or any remains thereof, which is a matter of public interest by reason of historic, traditional, or artistic interest attaching thereto, exists on a holding or parcel of land in the estate, the Inspector or Surveyor should call special attention thereto with a view to its preservation under Section 14 of the Act, if the same be considered desirable. This report should specify the nature and condition of the monument and how it is at present situated and safeguarded. Ancient Monuments (Section 14).

(NOTE.—Under the Church Act, 1869, the Ancient Monuments Protection Act, 1882, the Ancient Monuments Protection Act, 1892, a considerable number of ancient monuments have already been vested in or under the guardianship of the Board of Works, a list of which will be furnished to the Inspector The County Councils are also empowered to take steps for preservation of monuments by Section 19 of the Local Government Act, 1898)

32. The Inspector should make inquiry and report what is the existing accommodation for labourers on the estate, and if of opinion that it is insufficient, having regard to the ordinary requirements of the district, he should specify what accommodation is required and how it may best be supplied, and should give such particulars as may enable the Land Commission to forward the representation in the Form prescribed by the Commissioners. Accommodation for labourers.

See Form F, *post*, p. 1342.

33. When an Inspector is directed to report as to a holding included in the area comprised in the Application, but for which no agreement had been lodged, he should state the reasons why the tenant has not signed Holdings for which Agreements have not been signed.

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an agreement to purchase and his opinion as to whether the offer (if any) made to the tenant was fair, and the terms of the offer. He should report on the holding in Form E in the Appendix, so as to enable the Commissioners to judge whether the holding should be excluded from the estate for sale.

For Form E, see *post*, p 1338

Where legal questions arise Inspector to report facts to enable Commissioners to decide.

34. Where any question depends on or is to be determined by legal considerations, the Inspector should clearly set forth the facts so as to enable the Commissioners to decide how the matter should be dealt with.

Congested estate

35. If in the course of the inspection of any estate, it appears to the Inspector that the estate or any portion of it is a "Congested Estate" as defined by Section 6 (5) of the Act, he should at once fully report the facts which in his opinion appear to bring the case within that section and obtain the Commissioners' directions thereon.

PART II.

Instructions in Cases of Sales to the Land Commission.

Act of 1903, Sections 6, 7, and 8

Where the owner of an estate makes an application to the Land Commission to inquire into the circumstances of the estate with a view to the purchase of the estate from him under the Irish Land Act, 1903, or where the Commissioners propose to make an offer to the Land Judge for an estate under Section 7 of the Act, an inquiry shall be made as follows :—

Estimation of price of the Estate

36 A Purchase Inspector will be directed to examine into the circumstances of the estate with a view to having the price estimated at which the Commissioners may, after due consideration, propose to purchase it Where any special instructions other than those contained herein are given, a minute of such will be furnished to the Inspector, who will also be furnished with the following documents, viz. :—

Documents to be furnished to the Inspector

(1) Map of the estate, or a tracing or copy thereof

(2) In the case of sales under Sections 6 and 8 of the Act, copies of Schedules I and IV to the Originating Request, together with the Schedules of Areas and Tenancies in the case of sales under Section 7 of the Act, the attested Rental with sealed Map annexed.

(3) Schedule of Particulars of Tenancies

(4) Other documents, if any, which the Commissioners may direct to be furnished, such as applications from evicted tenants on the estate or in the neighbourhood, &c

The instructions in Part I. of these Instructions, in so far as applicable, should be observed by the Inspector, and the following special instructions in addition

37. The Inspector in estimating the prices at which the Commissioners may in his opinion propose to purchase the estate should, with respect of each holding or parcel of land comprised in the estate, have regard —

(*a*) To the security for an advance,

(*b*) To the provisions of the Act (Sections 1–5) in respect of advances,

(*c*) To the prices which the tenants and other persons are willing to give for the holdings and other parcels of land.

He should also bear in mind that he is required to estimate the price as well as the security for an advance The Inspector in arriving at his estimate of price in each case should take care that he does not assess any part of that price on the tenant's interest or improvements, and on the other hand that he does not credit the tenant with improvements which are the property of the Vendor, that in fact his estimate should be based on the Vendor's interest in each holding which is proposed to be sold He should bear in mind the difference between "price" and "security" The latter depends on the value of the holding as it stands, the former on the interest of the Vendor therein that he proposes to sell If the Inspector confuses "price" and 'security" he may arrive at an estimate of price that would result in the tenant being called on to purchase his own improvements

Also it must be remembered that the tenant may be compelled to purchase his holding under Section 19 of the Act, at the price estimated by the Commissioners, should he be included in a one-fourth minority who refuse to purchase. Consequently the price should be fair and equitable to him, as well as to the Vendor and the other persons interested

Where the tenants have expressed their willingness to pay certain prices before the inspection of the estate, a list of such prices will be furnished by the office to the Inspector, which may be referred to by him as evidence of the prices which the tenants were willing to give at the time they expressed their willingness to pay those prices, and the Inspector should ascertain whether the tenants are still willing to give the same prices, and, if not, what prices they are willing to give at the time of the inspection.

Where the Inspector is of opinion that the price should be a different amount from that which the tenant is willing to give for the holding

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or parcels reported upon, he should state his reasons in the case of each tenant separately for coming to such a conclusion, and should state also whether in his opinion the tenant of any holding should, if he refuses the offer to purchase at his (the Inspector's) estimated price, be deemed to have accepted the offer, under Section 19.

Arrears of Rent in cases of sales to the Land Commission

38. The Inspector should inquire and report in the case of each holding as to the amount of the actual arrears due and admitted to be due up to the gale day preceding the inquiry, utilising for this purpose the Rental, Receiver's Account, or other document furnished to him, and ascertain what sum has been paid since such document was furnished, so as to enable the Commissioners to form an estimate of the arrears due. He should report what portion of such arrears the vendor might reasonably expect to receive, and the tenant be asked to pay, and what portion (if any) should be remitted under the powers in Section 18 of the Act.

Untenanted Land.

39. Where portion or the whole of the estate consists of untenanted lands, whether the case is under Sections 6, 7, or 8, the Inspector should report as to their general character. He should state how and in what manner such lands can best be dealt with should the estate be purchased by the Commissioners, and he should estimate the amount for which such untenanted land may be purchased by the Commissioners, and report whether in his opinion there are suitable persons who will be willing to purchase at his estimated prices. He must also bear in mind that from the date of the agreement to purchase from the vendor until the purchase money is distributed, the income from the tenanted and untenanted land must be sufficient to enable the Land Commission to pay 3½ per cent. on the purchase money to the Vendor.

40. If it is proposed to treat a parcel of land as a separate holding the Inspector should report as to its suitability as such; whether house accommodation or other improvements are necessary, and if so how such are to be provided. If the proposed purchaser is a tenant on the estate or a small tenant on an adjoining estate, the question of amalgamating the parcel with the holding of such tenant should be considered, and the facilities for access and other conditions stated.

Enlargement and Improvement of Holdings.

41. Where, in the opinion of the Inspector, some of the holdings on the estate require improvement, he should so state, and give particulars of what steps should be taken for the purpose, either by the enlargement of holdings by addition of untenanted land, or the exchange of holdings or otherwise. He should also, where possible, estimate the probable cost of such improvements, including the erection of houses, drainage, fencing, &c., and state whether such cost could be recovered

by sales at an enhanced price to tenants or others pursuant to Section 43 of the Act, or whether a free grant should be made, or whether such improvements might be more suitably executed by means of loans from the Board of Works, and should distinguish in his Report improvements which are urgent and capable of being carried out immediately from those which he thinks may be executed at some future time. Instructions 9th March, 1906.

42. Finally, the Inspector should *estimate* the price at which he considers the Commissioners may safely offer to purchase the whole estate, basing such price on the respective amounts estimated in respect of:— Final estimate of Price

(*a*) Each tenanted holding.

(*b*) The untenanted land, that may be disposed of to other persons.

(*c*) Demesne or other lands which it is intended the Vendor should repurchase.

43. When an estate has been declared by the Commissioners to be a congested estate as defined by Section 6 (5) of the Act, the Inspector will receive special instructions in each case. Congested Estates.

Part III.

Improvements, Purchase of Stock, &c.

44. In the cases of estates sold by owners to tenants direct, the Commissioners have no power to make advances repayable by purchase annuities for buildings or other improvements. (*a*) If in such cases loans are required for these purposes they should be obtained by the occupier from the Board of Works under the Land Improvement Acts. In exceptional cases in which the loan could not be obtained from the Board of Works, and the improvement in the opinion of the Inspector is necessary, the Commissioners will consider the advisability of making a loan for the improvement repayable in instalments under special deed or contract.

In the case of estates purchased by the Commissioners, they have power to make advances repayable by purchase annuities for buildings and other improvements out of the Reserve Fund.

In the case of estates sold by owners to tenants direct, and in the case of estates purchased by the Commissioners, the Commissioners have power to make free grants out of the Reserve Fund for buildings or other improvements, and for the purchase of stock, implements, &c.; but the Inspector should bear in mind that, as the Reserve Fund is limited in amount free grants should only be given where really necessary. Where the Commissioners sanction free grants, the occupier will be required to sign a deed charging the holding or parcel with the repayment of the

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amount of the grant in the event of his transferring, without the consent of the Commissioners, the holding or parcel within five years of the grant being made, or his failing to work the holding in a husbandlike manner.

(*a*) See now Sec. 30, Act 1909 (*ante*, p. 1219).

Part IV.

Evicted Tenants.

45. When required to report as to an applicant for a holding purporting to come within Section 2 (1) (*d*) of the Act, the Inspector should, where necessary and after giving due notice in writing, visit the Applicant, and, after making careful inquiries, report as to the following matters :—

(*a*) The date and cause of the eviction.

(*b*) The area, rent, and Poor Law Valuation of the holding from which the Tenant was evicted, and the amount of Rent due at the date of the eviction.

(*c*) Whether the holding was, at the date of the eviction, and is now, provided with Buildings.

(*d*) The name of the present Occupier, stating whether such person is Owner or Tenant.

(*e*) The present condition of the Applicant; where and how he lives, the number and age of his family; his suitability to work land if allotted to him, and whether he has now any lands, and if so, particulars should be given; also the means which the tenant may have at his disposal for working land, specifying farm implements, capital, stock, &c.

(*f*) Whether the friends or relations of the evicted tenant would, in the event of his being allotted a holding, assist him, and to what extent.

(*g*) His character for steadiness and industry, and the probability of his succeeding as a farmer if he gets a holding, and for this purpose the Inspector may, where he thinks it advisable, consult trustworthy people in the locality.

46. When making inquiries or interviewing applicants, the Inspector should be careful to avoid doing or saying anything which might afterwards be construed as a promise, and should also be careful not to be the cause, directly or indirectly, of any pressure being brought to bear on any Owner or occupier of land.

47. Should the Inspector consider, after inquiry, that it is impracticable or undesirable to attempt to provide a holding for the applicant, he should so report, giving his reasons in full. Instructions 9th March, 1906.

48. Where the holding from which the applicant has been evicted is in the Owner's hands, the Commissioners will, when they think it desirable, ascertain from the Owner whether he is willing to enter into negotiations for the sale of the holding, and with this view to allow it to be valued. If the owner so consents the Inspector will be informed accordingly, and he should, after giving due notice to the Owner or his agent, visit the holding, mark the boundaries on the Ordnance Sheet, compute the area, and report :—

(*a*) The sum which he regards as the present gross Fair Rent of the holding.

(*b*) The price at which he estimates that the holding may be purchased, having regard to security and to the fact that the annuity will remain payable, without variation, during a period of 68½ years.

(*c*) The annuity on the Purchase Money, and any further information which he considers may be useful to the Commissioners.

(*d*) The Inspector should also describe the buildings and other improvements, if any, and by whom they were made, and if there are not any buildings, he should state the sum which would be required to provide the holding with the necessary buildings.

49. The Inspector should report what buildings or other improvements are necessary for the holding if the evicted tenant is to be restored thereto, and what assistance such tenant would require in the way of stock or implements. He should also report how far such buildings and improvements or other assistance can be provided for by means of advances to the tenant, and how far free grants will be necessary. Where possible, improvements should be carried out by the tenants themselves with the help of an advance or grant, rather than by the Land Commission.

50. Where the Inspector finds that it is not possible to restore the evicted tenant to his former holding, he should make enquiry and report whether other land in the locality, if possible, could be acquired in order that such tenant may be provided with another holding

51. Inspectors' Reports should be furnished on the prescribed forms and should be treated as *Confidential.*

Instructions 9th March, 1906.

FORM E referred to in the foregoing Instructions to Inspectors.

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS

Record No. E.C... . ... Estate of..... .... .

Tenant .. .. Co. of ....

(1) Reference to No on Map	(2) Townland	(3) Area Statute Measure	(4) Tenement Valuation	(5) Rent	(6) Agreed Price	(7) Annuity on	(8) No of Years Purchase of Rent	(9) Percentage of Reduction
		A. R P	£ s. d	£ s d	£ s. d.	£ s. d		

A Short description of holding; its character, user, situation, &c. :—

B. Estimate of the gross Fair Rent of the holding as it stands :—

C State improvements admittedly made by (*a*) the landlord, (*b*) the tenant, and the present capital value thereof, respectively :—

D Estimate what in your opinion would be the net fair rent :—

E. State what number of years' purchase the price agreed upon is of (*a*) your gross fair rent; (*b*) your net fair rent :—

F. State whether in your opinion the price agreed upon is inequitable, and, if so, state any facts which may have come to your knowledge upon which you have based your opinion :—

G. Give your opinion as to the security for the advance applied for, with your reasons :—

H. Does the tenant appear to have sufficient stock and means for working the holding :—

I. State average rent actually paid for the holding during the last five years. If there are large arrears state when and how they accrued :—

J. State whether there is any timber on the holding, and, if so, if it is necessary for the security of the advance that it should be preserved :—

K. State whether the advance applied for includes any sum over and above the actual purchase money of the holding, either for :—

(*a*) arrears of rent, or

(*b*) otherwise.

IRISH LAND ACT, 1903. Sale by Landlord to Tenants and others.

Record Number, E.C..... Estate of..... County.....

Schedule A.—Sec. 1 (1), (*a*) and (*b*) Zone Cases and Zone (*b*) coming into Zone (*a*)

1 Reference No		2	3	4	5	6	7	8	9	10	11	12
Agreement	Map	Name of Tenant	Townland	Area	Rent	Annuity	Percentage Reduction	Date of Order or Agreement fixing Judicial Rent	Advances applied for Whole Purchase Money	Is the Tenant in *bona fide* occupation of the Holding?	Is the Holding correctly marked upon the Map, and are the areas correct?	Observations
				A R P	£ s d.	£ s d						

NOTE.—Put the Section 1 (1) (*a*) cases first, Section 1 (1) (*b*) second, and Zone 2 coming into Zone 1 third, and a heading or side note to indicate difference, with a line drawn between in each case.

Schedule B.—Sec. 1 (2) Judicial Tenancies, Agreements outside Zones

1 Reference No.		2	3	4	5	6	7	8	9 Purchase Money		10	11	12	13
Agreement	Map	Name of Tenant	Townland	Area	Rent	Annuity	Percentage Reduction	Date of Order or Agreement fixing Judicial Rent	Price Agreed upon	Advance applied for	Is the Tenant in *bona fide* occupation of the Holding?	Is the Holding correctly marked upon the Map, and are the areas correct?	Is the Holding security for the advance applied for as per separate report, on Form E *	Observations
				A R. P	£ s d	£ s. d								

* In this column answer Yes or No, and refer to separate report in Form E

Instructions 9th March, 1906.

IRISH LAND ACT, 1903. Sale by Landlord to Tenants and others.

Record Number, E.C..... Estate of .. . . County.... ....

Schedule C.—Abstract of Non-Judicial Tenancies.

1 * Reference No.		2	3	4	5	6	7	8	9		10	11	12	13
Agreement	Map	Name of Tenant	Townland	Area	Rent	Annuity	Percentage Reduction	Tenure	Purchase Money: Price agreed upon	Purchase Money: Advance applied for	Is the Tenant in *bona fide* occupation of the Holding?	Is the Holding correctly marked upon the Map, and are the areas correct?	Is the Holding security for the advance applied for as per detailed report on Form E*	Observations
				A R P	£ s d	£ s d								

Schedule D.—Parcels.

1 Reference No.		2	3	4	5		6	7	8	9	10	11
Agreement	Map	Name of Purchaser	Townland	Area	Purchase Money: Price	Purchase Money: Advance applied for	Annuity	Description of Purchaser whether by reference to letters *a*, *b*, *c*, *d*, Section 2, or under Section 4	Is the proposed Purchaser in *bona fide* occupation of the Holding?	Is the Parcel correctly marked upon the Map, and are the areas correct?	Is the Parcel security for the advance applied for as per detailed report on Form E*	Observations
				A. R. P	£	£	£ s. d					

* In this column answer Yes or No, and refer to separate report in Form E.

IRISH LAND ACT, 1903.

SCHEDULE TO REPORT OF PURCHASE INSPECTOR.

Record Number (E.C.)..... Estate of..... County..... .....

PART I.—TENANTED LAND.

Register No. of Agreement	Name of Tenant	Reference No. of Holding on Map	Townland	Area	Tenement Valuation	Tenure of Tenant	If Judicial, date of Order or Agreement fixing Judicial Rent	Rent	Estimated price for Holding	Annuity on such price	Percentage Reduction of Annuity as compared with Rent	Price which Tenant is willing to give for Holding	Reference to right of grazing or turbary (if any)	Is the Tenant in *bona fide* occupation of the Holding?	Is the Holding correctly marked upon the Map, and are the areas correct?	Observations
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
				A. R. P.	£ s. d.			£ s. d		£ s. d.						

Columns 1 to 8 will be filled up in the office, the remaining columns are to be filled up by the Inspector.

SCHEDULE TO REPORT OF PURCHASE INSPECTOR—*continued.*

PART II.—UNTENANTED LANDS AND DEMESNE LANDS.

Reference Number on Map	Whether Demesne or Untenanted land	Townland	Area	Tenement Valuation	Estimated Price	Annuity	Price offered for Parcel	Whether person making offer comes within any of, and which, of the classes specified in Sec. 2	Suggested Scheme for dealing with Parcel —whether bought back by owner or disposed of to other person, &c.	Observations
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	
			A. R. P.	£ s. d.	£ s d	£ s. d	£ s d.			

Instructions 9th March, 1906.

Instructions 9th March, 1906.

SCHEDULE TO REPORT OF PURCHASE INSPECTOR—*continued.*

PART III.

Miscellaneous Rights, Benefits, Appurtenances, &c, that add to Value of the Estate.

Reference Number on Map	Particulars respecting, and nature of Right, &c	Townland	Tenement Valuation (if any)	Estimated Price	Annuity	Price offered by other person, if any, and by whom	Suggested Scheme for dealing with such Rights, &c,
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			£ s d	£	£ s. d.	£	

(FORM F to be filled up in the Office when a Scheme for Labourers' Cottages is recommended.)

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

IRISH LAND ACT, 1903 (SECTION 96), AND LABOURERS (IRELAND) ACTS, 1883-1896

Estate of... ... .
Union of . ...
Rural District of ....
Townland . ...
County ....

AN APPLICATION having been made to the IRISH LAND COMMISSION to sanction advances for the purchase of holdings comprised in the above Estate, and inquiry having been made on our behalf as to whether accommodation is needed for Labourers on the said Estate, WE, being members of the Land Commission, being of opinion that such accommodation is needed, and that the existing house accommodation is insufficient, having regard to the requirements of the said Estate, do represent to the Local Government Board for Ireland and to the Council of the... . . Rural District, that in accordance with the Labourers (Ireland) Acts, 1883 to 1896, and the 96th Section of the Irish Land Act, 1903, provision should be made for the erection of..... . ..... .dwellings for the said Estate on the holding of ....
....

Nos..... ..on Map

Dated.. .....day of..... ..... 19.. ...

....

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Instructions 12th Nov., 1908

INSTRUCTIONS TO INSPECTORS, dated the 12th of November, 1908, Supplemental to the Instructions dated the 9th March, 1906, issued by the Estates Commissioners under the Regulations made by the Lord Lieutenant, dated the 5th of March, 1906. (*In continuation of Command Paper, No.* 2881 *of* 1906).

INSTRUCTIONS AS TO FILLING UP FORMS E.

I.—Direct Sales by Landlords to Tenants.

In Direct Sale cases the Inspector shall, subject as hereinafter directed, report on Form E as to each holding or parcel comprised in any of the following classes of cases so far as applicable:—

A. When the holdings are held at Judicial Rents the purchase money being outside the Zones.

B. Non-judicial holdings.

C. Parcels.

D. Cases in which no Agreement has been entered into.

II.—Sales to the Land Commission.

In cases of sales to the Estates Commissioners of any Estates or lands, the Inspector shall, subject as hereinafter directed, report on Form E 2 as to each holding and parcel as far as applicable.

Directions above referred to.

1. In a Direct Sale case (Section I.), if a Judicial Rent had been fixed by Order of the Land Commission or by Agreement before the passing of the Act of 1903, or by Order of the Land Commission since the passing of the Act of 1903, the Inspector may adopt such Judicial Rent from the Fair Rent File and fill in Form E, paragraphs B to E, accordingly.

NOTE.—In Zone cases Form E should not be filled.

2. In sales to the Land Commission under Sections 6, 7 and 8 in which Form E 2 is required, where a Judicial Rent has been fixed since the 15th of August, 1896, the Inspector may fill in paragraphs II. to IV. from the Pink Schedule, and, in cases in which there is no Pink Schedule, he shall himself fill up the form.

3. In Direct Sale cases, where there is a number of holdings on an Estate for which Purchase Agreements have been lodged, if the Inspector, after he has inspected each Non-Zone holding on the Estate, is of opinion that any of such holdings are ample security for the advances applied for (leaving out of account improvements of a temporary character), and that it would lead to an unjustifiable expenditure of

Instructions 12th Nov., 1908.

time to fill in, in each case, the detailed particulars required by paragraphs B to G, both inclusive, of Form E, he need not fill in the same, but should state opposite these paragraphs that the holding is ample security for the advance applied for, briefly stating his reasons, and, in case the Commissioners so require, he should be prepared to furnish such information as may be required, in order to satisfy them that the holding is security for the advance applied for. If, in any such case, the Inspector is of opinion that the price is inequitable, he should state his reasons.

4. In the case of any holding subject to a Non-judicial Rent where there is no reason why the tenant should not have gone into Court to have a Fair Rent fixed, if he so desired, and the tenant does not satisfy the Inspector that he had a valid reason for not going into Court, such rent may be assumed by the Inspector to be the net Fair Rent of the holding, and may be entered in Form E in answer to B, C and D; provided that the following conditions are complied with:—

(*a*) That the holding was subject to a present tenancy and was within the Fair Rent provisions of the Land Law (Ireland) Acts.

(*b*) That it appears from the affidavit of the Landlord or his Agent or otherwise, that the rent stated in the Purchase Agreement and other documents, is the rent that has been actually and regularly paid without abatement or remission during a period of ten years ending twelve months prior to the sale.

(*c*) That not more than one year's rent was due at the commencement of the said period of ten years.

FORM E REFERRED TO IN FOREGOING INSTRUCTIONS.

Form E (for use in Direct Sales by Landlords to Tenants.)

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Record No. E C.. .... Tenant..... ....

Estate of.. ... . Co. of.. . ...

(1) Reference to No. on Map	(2) Townland	(3) Area Statute Measure	(4) Tenement Valuation	(5) Rent	(6) Agreed Price	(7) Annuity on	(8) No of Years Purchase of Rent	(9) Percentage of reduction
		A. R. P	£ s. d.	£ s d.	£ s d.	£ s. d.		

Instructions 12th Nov., 1908.

A. Short description of holding; its character, user, situation, &c. :—

B. Estimate of the gross Fair Rent of the holding as it stands :—

C. State improvements admittedly made by (*a*) the landlord; (*b*) the tenant, and the present capital value thereof, respectively :—

D. Estimate what in your opinion would be the net fair rent :—

E. State what number of years' purchase the price agreed upon is of (*a*) your gross fair rent; (*b*) your net fair rent :—

F. State whether in your opinion the price agreed upon is inequitable, and, if so, state any facts which may have come to your knowledge upon which you have based your opinion :—

G. Give your opinion as to the security for the advance applied for, with your reasons :—

H. Does the tenant appear to have sufficient stock and means for working the holding :—

I. State average rent actually paid for the holding during the last five years. If there are large arrears state when and how they accrued :—

J. State whether there is any timber on the holding, and if so, if it is necessary for the security of the advance that it should be preserved :—

K. State whether the advance applied for includes any sum over and above the actual purchase money of the holding, either for :—

(*a*) arrears of rent, or
(*b*) otherwise.

Instructions 12th Nov., 1908.

FORM E² (for use in Cases under Sections 6 and 7 of the Irish Land Act, 1903).

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Record No E.C.. . .. ... Estate of .. . .

County . ..... Tenant . ...

(1) Reference to No on Map	(2) Townland	(3) Tenure	(4) Area, Statute Measure	(5) Tenement Valuation	(6) Annual Rent paid by Tenant	(7) Annuity on Estimated Price	(8) Inspector's Estimated Price	(9) No of years purchase that price in Col 8 is of rent in Col. 6.	(10) Percentage of reduction as between Cols 6 and 7
			A. R P	£ s d.	£ s d.	£ s d.	£		

I. Short description of holding; its character, *user, situation, &c.* :—

II. Estimate of the gross Fair Rent of the holding as it stands, including buildings and other improvements :—

III. State improvements :—

(*a*) admittedly made by the landlord;

(*b*) all other improvements existing on the holding;

(*c*) the capital value thereof respectively :—

IV Estimate what in your opinion is the Net Fair Rent :—

V. State your estimated price and what number of years purchase it is of—

(*a*) your Gross Fair Rent;

(*b*) your Net Fair Rent :—

[NOTE: In estimating price regard must be had to the considerations mentioned in par. 5, Part I., and in par. 37, Part II., of Instructions to Inspectors, dated 9th March, 1906.]

VI Does the tenant appear to have sufficient stock and means for working the holding :—

Instructions 12th Nov., 1908.

VII. State average rent actually paid for the holding during the last five years. If there are large arrears state when and how they accrued :—

VIII. State whether there is any timber on the holding, and if so, if it is necessary for the security of the advance that it should be preserved :—

IX. Ascertain from the tenant, and state what price he is willing to give for the purchase of the holding :—

X. (*a*) If your price differs from the price the tenant is willing to give, state your reasons for coming to your conclusion ;

(*b*) State what the Tenant's objections are to purchase at your estimated price ;

(*c*) State whether it would be equitable to compel the Tenant to purchase at your estimated price.

Regulations, 15th Feb., 1910.

REGULATIONS MADE BY THE LORD LIEUTENANT UNDER SECTION 23 (8) OF THE IRISH LAND ACT, 1903, AND SECTION 4 OF THE IRISH LAND ACT, 1909.

February 15, 1910.

Regulation I. of the Regulations dated 13th February, 1906, is hereby cancelled, and We certify that on account of urgency it is necessary that the said Regulations should come into immediate operation, and accordingly hereby order, pursuant to the power in that behalf conferred by Section 2 of the Rules Publication Act, 1893, and all other powers Us thereunto enabling, that such Regulations shall come into operation forthwith as Provisional Regulations, and continue in force until Regulations shall have been made in accordance with the provisions of the Rules Publication Act.

Allocation of Money available in each Financial Year for Advances.

The sum of money which may become available for the purposes of advances during the financial year commencing 1st April, 1910, after providing the necessary funds for the purposes of the Labourers Acts shall, until further order, be allocated in manner hereinafter appearing.

Of the sum of money so available—

(*a*) Four-tenths shall be allocated for the purposes of carrying out sales of estates and holdings pursuant to the provisions of Sections 1–5 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, where the advances are to be made in money alone.

(*b*) Four-tenths shall be allocated for the purposes of carrying out similar sales where the advances are to be made partly by means of money and partly by means of stock.

(*c*) One-tenth shall be allocated for the purposes of carrying out all other Land Commission sales for which advances in money are required, or made.

(*d*) One-tenth shall be allocated for the purposes of carrying out all sales for the purposes of the Congested Districts Board for which advances in money are required or made.

Out of the sum allocated under paragraph (*c*), at least one-half of said sum shall be available for the purposes of carrying out all pending sales

to the Estates Commissioners under Sections VI., VII., VIII. of the Irish Land Act, 1903, as to one-half thereof where the advances are to be made in money alone, and one-half thereof where the advances are to be made partly by means of money and partly by means of stock.

Out of the sum allocated under paragraph (*d*), at least three-fifths of said sum shall be available for the purposes of carrying out all pending sales for the purposes of the Congested Districts Board as to one-half thereof, where the advances are to be made in money alone and one-half thereof where the advances are to be made partly by means of money and partly by means of stock.

Priority in Cases of Pending Purchase Agreements and of Sales in which Advances are made in money.

For the purposes of determining the priorities between cases at present before the Estates Commissioners and the Congested Districts Board which under the provisions of the Irish Land Act, 1909, are to be financed as pending Purchase Agreements, or in which advances are made in money, the following Regulations shall apply :—

The Estates Commissioners shall cause three Principal Registers to be kept in their offices.

In the first of these Principal Registers (hereinafter referred to as "Principal Register of Direct Sales") all cases of direct sales pending before the Estates Commissioners which, under the provisions of the Irish Land Act, 1909, are to be financed as pending Purchase Agreements shall be entered in the order of priority in which the Agreements to Purchase the holding or parcels of land comprised in the Originating Application or the majority in number of such Agreements were lodged in the offices of the Estates Commissioners. Provided that where Agreements in respect of different estates are lodged on the same day such estates shall *inter se* be entered in the order of priority of their respective Record numbers.

In the second of these Principal Registers (hereinafter referred to as "Principal Register of Sales to the Estates Commissioners") all cases of sales pending under Sections VI., VII., and VIII. of the Irish Land Act, 1903, which, under the provisions of the Irish Land Act, 1909, are to be financed as pending Purchase Agreements, or in which advances are made in money, shall be entered in order of priority as of the earliest date on which either (*a*) an Originating Request has been lodged in manner provided by Rules made under the Irish Land Act, 1903;

Regulations, 15th Feb., 1910.

(*b*) the Vendor has accepted a preliminary estimate of price made by the Land Commission; or (*c*) the Land Judge has caused the Land Commission to be furnished with particulars and documents respecting the estate in pursuance of Section 7 of the Irish Land Act, 1903.

In the third of these Principal Registers (hereinafter referred to as "Principal Register of Sales to the Congested Districts Board") all cases of sales pending for the purposes of the Congested Districts Board which, under the provisions of the Irish Land Act, 1909, are to be financed as pending Purchase Agreements, or in which advances are made in money, shall be entered in order of priority as of the earliest date on which either (*a*) an Originating Request has been lodged in manner provided by Rules under the Irish Land Act, 1903; (*b*) the Vendor has accepted a preliminary estimate of price made by the Land Commission or has entered into a Preliminary Agreement with the Congested Districts Board with a view to the purchase of the estate; or, (*c*) the Land Judge has caused the Land Commission or the Congested Districts Board to be furnished with particulars and documents respecting the estate in pursuance either of Section 7 or of Section 77 of the Irish Land Act, 1903.

The Estates Commissioners shall further cause two Subsidiary Registers to be prepared to each of the said Principal Registers.

The Subsidiary Registers to the Principal Register of Direct Sales shall be called respectively Register of Direct Sales (Part Money, Part Stock) and Register of Direct Sales (All Stock).

The Subsidiary Registers to the Principal Register of Sales to the Estates Commissioners shall be called respectively Register of Sales to the Estates Commissioners (Part Money, Part Stock) and Register of Sales to the Estates Commissioners (All Stock).

The Subsidiary Registers to the Principal Register of Sales to the Congested Districts Board shall be called respectively Register of Sales to the Congested Districts Board (Part Money, Part Stock) and Register of Sales to the Congested Districts Board (All Stock).

The Estates Commissioners shall, as early as possible, in each calendar year, publish a notice in the *Dublin Gazette* drawing the attention of Vendors of estates in the case of pending Purchase Agreements to the provisions of the Irish Land Act, 1909, with reference to the making of advances by means of money and of Guaranteed 2¾ per cent. Stock, or partly by means of money and partly by means of said Stock, and inviting such Vendors who may desire that the advances in their cases may be made in whole or in part by means of such Stock, to apply

to the Estates Commissioners on or before the 1st April in that year in manner prescribed in such Notice that the advances in the case of their estates may be made in whole or in part by means of such Stock. Regulations, 15th Feb., 1910.

In all cases in which, after the date of publication of such Notice, and on or before the 1st April following, applications are made by or on behalf of the Vendors that the advances in their cases shall be made in part by means of such Stock, the Estates Commissioners shall forthwith cause all such cases to be entered on the Subsidiary Register, entitled (" Part Money, Part Stock ") of the class of sales to which the applicant's case belongs, and the case of such Vendor shall forthwith be removed from the Principal Register. Provided always that no applicant shall be entitled to be placed on this Subsidiary Register (Part Money, Part Stock) unless he has agreed to take at least one moiety of his advance in Stock.

In all cases in which, after the date of the publication of such notice, and on or before the 1st of April following, applications are made by or on behalf of Vendors, that the advances in their cases shall be made wholly by means of Guaranteed 2¾ per cent. Stock, the Estates Commissioners shall, save as hereinafter mentioned, forthwith cause all such cases to be entered on the Subsidiary Register entitled " All Stock " of the class of cases to which applicant's case belongs, and the case of such applicant shall thereupon be removed from the Principal Register.

Cases shall be entered on the Subsidiary Registers for the year commencing 1st April, 1910, in the relative order or priority of such cases according to the Principal Register from which they have been respectively removed.

Cases entered on the Subsidiary Registers for all subsequent years shall be entered in the same relative order of priority, save that cases entered on a Subsidiary Register for any year, but not reached during that year, shall be entitled to keep their places on such Subsidiary Register for the ensuing and following years in their former priority, and in priority to all other cases which may be placed on such Subsidiary Register for the first time.

The Estates Commissioners may at any time, on the application by or on behalf of a Vendor, transfer the case to the principal Register of the applicant's class, or from one Subsidiary Register to another, and in such case, the case so transferred shall be entered on such Principal or Subsidiary Register and take priority on the Register to which it is transferred as of the date of transfer.

Sales on each Principal and Subsidiary Register shall, so far as

Regulations, 15th Feb., 1910.

practicable, and having regard to the amount of money and stock available in each case be proceeded with as between the several Registers *pari passu*, and as between the cases entered on each Register respectively be proceeded with and the advances sanctioned respectively in the order of priority of that Register.

Provided always that the Estates Commissioners and the Congested Districts Board shall take into consideration any default or delay on the part of Vendors and Tenant Purchasers in the discharge of the requirements of the Commissioners, or of any duty imposed on them, so as not to permit the same to retard the progress of proceedings or the making of advances in the cases of other Vendors and Tenant Purchasers.

In case it appears that the amount allocated as hereinbefore mentioned for each of the Subsidiary Registers entitled (Part Money, Part Stock) will not be required for the purpose of such Register, then the amount so allocated and not required may be utilised for carrying out sales on the Principal Register of the class in respect of which the money has been so allocated and is not so required.

In case it appears at any time during any current year that the amount allocated for any class of cases is greater than is required for that class, then the amount so allocated and not so required may be utilised for such other class of sales as the Lord Lieutenant may direct.

Future Sales when Advances are made in 3 Per Cent. Stock.

Future Sales, under Sections 1-5 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, which, under the provisions of the Irish Land Act, 1909, are to be financed as future Purchase Agreements, shall be proceeded with, and advances sanctioned, so far as practicable in the order of priority in which the Agreements to Purchase were lodged in the office of the Estates Commissioners.

Sales of estates proposed to be sold to the Estates Commissioners under the provisions of Sections VI., VII., and VIII. of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, other than those hereinbefore provided for shall, so far as practicable, be carried out by the Estates Commissioners in the order of priority as of the earliest date on which

(*a*) an Originating Request has been lodged in manner provided by Rules, or

(*b*) the Vendor has accepted a preliminary estimate of price made by the Land Commission, or

(*c*) the Land Judge has caused the Land Commission to be furnished with particulars and documents respecting the estates in pursuance of Section 7 of the Irish Land Act, 1903.

All other sales to be carried out by the Land Commission as distinguished from the Estates Commissioners shall be proceeded with and advances shall be sanctioned, so far as practicable, in the order of priority in which the Agreement was lodged in the Office of the Land Commission.

Sales of estates proposed to be sold to the Congested Districts Board under the provisions of Sections 72, 77, and 79 of the Irish Land Act, 1903, as amended by the Irish Land Act, 1909, other than those hereinbefore provided for shall, so far as practicable, be carried out by the Congested Districts Board in the order of priority as of the earliest date on which either

(*a*) an Originating Request has been lodged in manner provided by Rules,

(*b*) the Vendor has entered into a preliminary agreement with the Congested Districts Board with a view to the purchase of the estate, or

(*c*) the Land Judge has caused the Congested Districts Board to be furnished with particulars and documents respecting the estate in pursuance of Section 77 of the Irish Land Act, 1903.

Provided always that the Estates Commissioners and the Congested Districts Board shall take into consideration any default or delay on the part of Vendors and Tenant Purchasers in the discharge of the requirements of the Commissioners, or of any duty imposed on them, so as not to permit the same to retard the progress of proceedings or the making of advances in the cases of other Vendors and Tenant Purchasers.

Regulation 24th May, 1910.

REGULATION MADE BY THE LORD LIEUTENANT UNDER SECTION 23 (8) OF THE IRISH LAND ACT, 1903, AND SECTION 4 OF THE IRISH LAND ACT, 1909, SUPPLEMENTAL TO THE REGULATIONS THEREUNDER, DATED THE 15TH FEBRUARY, 1910.

24th May, 1910.

(*Dublin Gazette, 27th May,* 1910.)

Notwithstanding anything contained in the Regulations of the 15th of February, 1910, it shall be lawful for the Estates Commissioners, if they think fit, to proceed with and accelerate the sanction and making of the advance of the Purchase Money of any Estate being sold to the Estates Commissioners under Sections VI., VII., and VIII. of the Irish Land Act, 1903, out of its ordinary order of priority for special reasons to be recorded in writing and forwarded to the Lord Lieutenant before the said advance is sanctioned, and the said advance shall not be made out of its order of priority without the approval of the Lord Lieutenant.

IRISH LAND COMMISSION.

RULES UNDER LAND PURCHASE ACTS, 1889 AND 1901.

Rules of 14th March, 1902.

Rules and form of agreement, dated 14th day of March, 1902, were issued relating to proceedings under the Purchase of Land (Ireland) Act, 1889, and the Purchase of Land (Ireland) (No. 2) Act, 1901, where a sale of the purchaser's holding is not being made under the Land Purchase Acts—*i.e.*, where a tenant is desirous of purchasing additional land adjoining his holding.

These Rules are identical with the Provisional Rules dated 20th January, 1902, see *ante*, p. 911.

RULE MADE PURSUANT TO SECTION 23, SUB-SECTION 2, OF THE IRISH LAND ACT, 1903.

Rule of 4th Dec., 1903.

4TH DECEMBER, 1903.

It is this day ordered by the Judicial Commissioner that any application under Section 23, Sub-section (2) of the Irish Land Act, 1903, to the High Court or any Judge thereof shall be made within one month from the date of the refusal of the Estates Commissioners to refer the question of law sought to be referred, unless the time hereinbefore prescribed shall on special grounds be extended by Order of the Judicial Commissioner.

RULES, DATED MARCH 26, 1908.

Rules of 26th March, 1908.

Made by the Irish Land Commission under the Land Purchase Acts, supplemental to, and amending, the Rules dated 16th March, 1897 (*a*), 19th March, 1900 (*b*), 17th May, 1901 (*c*), 14th March, 1902 (*d*), and (Provisional Rules) 4th December, 1903. (*e*)

(St. R. & O., 1908, No. 278.)

It is ordered that from and after this date the following General Rules shall be in force in the Irish Land Commission in relation to sales by the Trustees of the Congested Districts Board (*f*) for Ireland under the Land Purchase Acts as defined by the Land Law (Ireland) Act, 1896, and extended by the Irish Land Act, 1903, save and except Sections 1 to 23 of the last-mentioned Act.

(*a*) *Ante*, p. 809.

(*b*) Rescinded by Rules, June, 1910, Or. VII., r. 1 (*post*, p. 1364).

(*c*) *Ante*, p. 868.

(*d*) See identical Rules, 20th Jan., 1902, *ante*, p. 911.

(*e*) See now Rules, June, 1910 (*post*, p. 1361).

(*f*) See Sec. 44, Act 1909, *ante*, p. 1228, which incorporates the Board and transfers the powers and the duties of the Trustees to the Board.

Rules of 26th March, 1908.

1. Order IV. of the Rules dated 16th March, 1897 (*a*), shall not apply to any sale by the said Trustees of land of which they are the registered owners in fee-simple in pursuance of the Local Registration of Title (Ireland) Act, 1891, and which is not subject to any superior interest which it is proposed to sell discharged from, or to any charge or incumbrance, and the proceedings for the sale of such land shall be commenced by the lodgment of the Land Certificate showing the title of the Trustees to the land

(*a*) *Ante* p 809.

2. The Land Certificate shall be filed in the Registrar's Office, and shall there be endorsed with the date of filing, and a record number, and, when entered in the Record of Proceedings, shall be transmitted to the Registrar of Titles to have the matter registered as a *lis pendens* affecting the lands. Save when transmitted to the Registrar of Titles, the Land Certificate shall remain in the custody of the Land Commission during the pendency of the proceedings, and shall not be delivered to any person except in pursuance of an order signed by the Commissioner. The final delivery of the Land Certificate to the Registrar of Titles for cancellation shall be entered on the Record of Proceedings.

3. No agreement shall be received for the sale by the said Trustees of any land which is not the subject matter of a Land Certificate or Originating Statement which has been filed, or which is not endorsed with the Record Number or Numbers of the Land Certificate, or Certificates, Originating Statement, or Statements, in which the land agreed to be sold is comprised.

4. No map of lands, the title to which is registered under the Local Registration of Title (Ireland) Act, 1891, shall be received unless there is endorsed thereon, or attached thereto, an official certificate to the effect that such map has been compared, and corresponds as to exterior boundaries with the map of those lands retained at the Central Office established under the said Act.

Rules of 27th Feb., 1909.

RULES MADE BY THE IRISH LAND COMMISSION UNDER THE LAND PURCHASE ACTS, SUPPLEMENTAL TO, AND AMENDING THE RULES DATED 16TH MARCH, 1897 (*a*).

27th February, 1909.

(St. R. & O., 1909, No. 196.)

It is this day ordered that, from and after this date, the following General Rules and Orders shall be in force in the Irish Land Commission

(*a*) *Ante* pp. 809, 814.

in relation to appearances entered under Order VII. of the Rules dated 16th March, 1897 (*a*), and to the proceeds of the sale by the said Commission of any holding which is subject to a purchase annuity, and Rules 4 to 11 of Order XXI., of the said Rules dated 16th March, 1897, are hereby rescinded (*b*). Rules of 27th Feb., 1909.

(*a*) *Ante*, pp. 809, 814. (*b*) *Ante*, p. 835.

ORDER I.

Appearances.

Every appearance shall state in a concise form the nature of the claim or claims in respect of which the appearance is entered, and when such claim or claims has or have been discharged, or a sum sufficient to meet the same has been retained, the claimant shall not be entitled by virtue of said appearance to notice of any subsequent proceeding in the matter save in respect of any sum retained as aforesaid.

ORDER II.

Distribution of the Proceeds of the Sale by the Land Commission of a Holding which is subject to a Purchase Annuity.

1. All moneys received in respect of any sale by the Land Commission of a holding which is subject to a purchase annuity shall be lodged by the Solicitor to the Land Commission to a credit to be entitled "In the Matter of Section 38 of the Land Law (Ireland) Act, 1896, and Section 55 of the Irish Land Act, 1903, and of the proceeds of the sale of the holding of [*here state in full the name of the proprietor who obtained the advance in respect of which the purchase annuity was created*] in the lands of Barony County Lodgment of money

2. The Solicitor to the Land Commission shall as soon as possible obtain from the Commissioner an order for the payment of all moneys due to the Land Commission in respect of the holding, including all expenses incurred in relation to the sale or otherwise, and if there be a surplus after such payment, and such surplus shall amount to fifty pounds or upwards, it shall without further order be placed on deposit receipt in the Bank of Ireland. If, at the expiration of six months from the date of lodgment, the surplus proceeds of the sale of any such holding remaining undistributed amounts to ten pounds or upwards, such surplus, together with the interest thereon if the money shall have been placed on deposit receipt, shall without further order, unless a Judicial Commissioner shall otherwise direct, be invested in the purchase Payment of money due to Land Commission and investment of surplus

Rules of 27th Feb., 1909.

of Government 2½ per cent. Consolidated Stock, and the dividends thereon shall be invested in like manner from time to time whenever they shall amount to the sum of ten pounds or upwards.

Claimants to prove before Examiner.

3. To obtain payment out of Court of the surplus proceeds of sale after payment of all moneys due to the Land Commission, the claimant shall attend before the Examiner in person, or by solicitor, to prove his claim, and for that purpose shall file an affidavit which shall state as concisely as is compatible with clearness the title to, and particulars of the incumbrances and other claims (if any) affecting the fund in Court, and shall refer to the deed and other muniments of title on which the claimant relies, and he shall produce the same to the Examiner in so far as they are within his procurement, and, if the claimant be entitled to the entire fund, the affidavit shall state specifically that he is so entitled, and that there is not any other person to his knowledge or belief who has or claims any estate, right, title, or interest in the fund or any part thereof, or, if there be any such person, the nature of the claim of such person shall be stated: provided always—

(*a*) when such surplus proceeds does not exceed thirty pounds, and it appears from the Register of Titles as it stood at the time of the sale by the Land Commission that the claimant would be entitled to such surplus, the affidavit of title may be dispensed with; and

(*b*) when such surplus proceeds is under ten pounds and it appears from the said Register that the claimant would be entitled thereto subject to unascertained equities (if any) arising from his interest being a graft on the previous interest of the tenant in the holding, the ascertainment of such equities, and the affidavit of title may be dispensed with.

Allocation.

4. The Examiner shall make such requisitions as may be necessary, and he may require an allocation schedule or final schedule of incumbrances to be brought in for settlement according to the practice of the Court and, if there be more claimants than one, he may, subject to any order that may be made by a Judicial Commissioner on the application of a claimant, give the carriage of the proceedings towards distribution to such claimant as he shall think fit. When a claimant has proved his title to the satisfaction of the Examiner, the latter shall list the case before a Judicial Commissioner for payment.

Entitling documents

5. All notices, affidavits, consents and orders in proceedings under Order II. of these Rules shall be headed "Court of the Irish Land Commission" and shall be entitled as in Rule 1 of this Order.

Directions, 27th Feb., 1909.

IRISH LAND COMMISSION.
LAND PURCHASE ACTS.

DIRECTIONS 27TH DAY OF FEBRUARY, 1909.
(St. R. & O., 1909, No. 196.*)

Dispensing with Notice of Vouching and Allocation.

1. When there is more than one allocation in respect of the purchase money of land the subject matter of any one Originating Application or Request, the Examiner may dispense with the service of notice of a second or any subsequent vouching or allocation on any appearance party whose name appears as a claimant on any final schedule of incumbrances or allocation schedule in the same Estate, and whose claim or claims appearing on such schedule of incumbrances or allocation schedule has or have been finally disallowed or satisfied in full on a previous allocation.

See Directions, 16th Jan., 1901, *ante*, pp. 901–904.

Vouching of Title to Superior Interests.

Affidavit of title.

2. The affidavit prescribed by Rule 16 of Order XX. (*a*) of the Rules dated 16th March, 1897, and the directions (*b*) therein referred to, should be made by the claimant, unless he be under disability, in which case it may be made by his solicitor, but, if the superior interest is the subject matter of a settlement within the meaning of the Settled Land Acts, 1882 to 1890, the affidavit may be made by the person entitled in possession under such settlement. The affidavit should state, in addition to the matter prescribed by the aforesaid directions, all claims, whether in the nature of superior interests, charges or incumbrances, affecting the superior interest to which title is being shown, or the redemption price thereof, and should specifically negative the existence of any other such claim, or, if there be no such claim, the fact should be deposed to. If the redemption price, or any part thereof is payable to the deponent, or to the trustees of a settlement under which he is beneficially entitled, the affidavit should contain an averment that the deponent, or the trustees, as the case may be, are entitled to payment.

(*a*) *Ante*, p. 834. (*b*) *Ante*, p. 901.

When affidavit should be made.

3. When, by reason of the value of the superior interest exceeding £100, and title not having been shown in the course of prior proceedings, the affidavit is in the nature of an epitome of title, it should be lodged

Directions, 27th Feb, 1909.

with the Examiner as soon as possible after the rulings on title to the estate have been issued, provided the purchase money of such estate has been paid into the Bank of Ireland, or the estate vested in the Land Commission or Congested Districts Board, as the case may be. In all other cases the affidavit should be produced on the general vouching, due notice of which is given to the owner of the superior interest to enable him to prove his claim in full, and not merely to enable him to have arrears paid, and a sum retained for costs. The filing of the affidavit should not be postponed until redemption has been ordered when the superior interest is of such a nature as will necessarily be satisfied by the payment of a capital sum.

Proceeds of Sale by the Land Commission of a Holding which is subject to a Purchase Annuity.

4. When the sum realized by the sale is in excess of the sum due to the Land Commission the Solicitor to the Land Commission shall forthwith obtain an office copy of the folio of the Register of Titles evidencing the title to the holding as such folio stood at the date of such sale, and, when he has obtained the order for payment of all moneys due to the Land Commission, he shall transmit such office copy of the folio to the Examiners' Office together with a form to be called "The Solicitor's Schedule" specifying the date of the sale, the amount realized, the particulars of the payments made, the amount of the surplus, the date on which the advance in respect of which the purchase annuity was created was made, the name of the person to whom such advance was made, the amount of the advance, and the record number and title of the Matter or Estate in which such advance was made. The Solicitor's Schedule shall be signed by the Solicitor to the Land Commission, or by an Assistant Solicitor.

5. The Solicitor to the Land Commission shall without delay notify the amount of the surplus proceeds to all such persons as may appear from the Register of Titles, or otherwise to be likely to be entitled to or interested in such surplus, and refer them to the Rules which prescribe the procedure towards obtaining payment out of Court.

6. Should a search in the Registry of Deeds be necessary the Examiner may accept a common search, and, if title is being shown to a yearly tenancy, such search shall not commence prior to the 1st day of January, 1870, or the date of the creation of the tenancy whichever the later date.

7. Unless the Examiner considers the lodgment of an allocation schedule, or final schedule of incumbrances to be necessary, he should make his report as to the proper allocation of the fund on the Solicitor's Schedule, and the Judicial Commissioner's orders for payment should be made on the same document. Rules of 2nd July, 1910.

8. When a case is entered before a Judicial Commissioner for payment the Solicitor's Schedule shall be filed in the Registrar's Office, and the office copy of the folio of the Register of Titles, and any deed or other document which the Examiner requires to be retained shall be lodged in the Record Office.

IRISH LAND COMMISSION.

RULES UNDER THE LAND PURCHASE ACTS.

2nd day of July, 1910.

It is this day ordered that the following General Rules and Orders shall, until further order, take effect and be in force in the Irish Land Commission in relation to proceedings under and in pursuance of the Land Purchase Acts as supplemental to and amending the Rules dated 16th March, 1897, 17th May, 1901, 14th March, 1902, 26th March, 1908, and 27th February, 1909.

ORDER I.

CONSTRUCTION OF TERMS.

In these Rules, unless the context otherwise requires, "the Rules of 1897" shall mean the Rules under the Land Purchase Acts dated the 16th day of March, 1897; and "the Act of 1903" shall mean the Irish Land Act, 1903.

ORDER II.

NOTICES AND REQUISITIONS TO THE QUIT RENT OFFICE, BOARD OF PUBLIC WORKS AND BOARD OF TRADE.

1. Order V. of the Rules of 1897 is hereby rescinded.

2. Notices and requisitions to the Quit Rent Office and Commis- Transmission of notices.

Rules of 2nd July, 1910.

sioners of Public Works in Ireland in respect of any land being sold under the Land Purchase Acts, and notice to the Board of Trade where the Land Commission shall so direct, shall be prepared and transmitted by the proper officer.

See note as to Board of Works' charges (*post*, p. 1438).

Vendor, or his solicitor to furnish documents and evidence.

3. It shall be the duty of the vendor or his solicitor to furnish to the Quit Rent Office and Board of Public Works respectively such documents and other evidence as may be necessary to enable them to comply with the requisitions.

ORDER III.

Lis Pendens.

1. As soon as an originating application or request for the sale of an estate under Part I. of the Act of 1903 has been lodged, the vendor or his solicitor shall register the matter as *lis pendens*, and the proper officer shall for such purpose prepare and sign a certificate of the lodgment of the originating application or request as the case may be.

ORDER IV.

Abstract of Title.

1. In the preparation of abstracts of title regard shall be had to such directions as may be issued by the Judicial Commissioner from time to time (*a*).

(*a*) See directions as to preparation of abstract of title (*post*, p. 1387).

A single instrument may be substituted in certain cases

2. If the title to the lands is comprised in a single instrument other than a will, such instrument may be lodged in lieu of an abstract of title, if accompanied by an affidavit by the vendor or his solicitor to the effect that such instrument constitutes the title to the lands, and that, to the best of the deponent's knowledge, information and belief, such title has not since the date of such instrument been affected by any other instrument, or by the process of any Court, or the happening of any event, or otherwise.

When to be lodged in the case of the sale of an estate.

3. In the case of the sale of an estate to the Land Commission under Part I. of the Act of 1903, or of land to the Congested Districts Board for Ireland under Section 79 of the same Act, the abstract of title, or instrument in lieu thereof shall be lodged within one month from the date of the order vesting such estate or land in the Land Commission or the Congested Districts Board for Ireland as the case may be; and, in the case of the sale of an estate to persons other than the Land Commission, it shall be lodged within one month from the date of the

certificate of the Estates Commissioners that they think fit to deal with the vendor as the owner of the land being sold. Together with every such abstract or instrument there shall be lodged a certificate of the registration of the matter as a *lis pendens*, and a draft final schedule of incumbrances prepared in accordance with the directions in that behalf showing the manner in which the purchase money and percentage (if any) payable out of the Land Purchase Aid Fund should be distributed (*b*).

(*b*) See specimen Final Schedule of Incumbrancers (*post*, p. 1445).

ORDER V.

RULINGS ON TITLE IN THE CASE OF ESTATES SOLD UNDER PART I. OF THE ACT OF 1903, OR LAND SOLD TO THE CONGESTED DISTRICTS BOARD UNDER SECTION 79 OF THE SAME ACT.

Searches.

1. In the case of the sale of an estate under Part I. of the Act of 1903, or of land to the Congested Districts Board for Ireland, under Section 79 of the same Act, the Solicitor to the Land Commission shall lodge the necessary requisitions for any searches directed by the Examiner, and cause the results to be furnished to the Examiner without delay.

Title may be referred to Counsel.

2. With a view of expediting the ruling of titles to the purchase money of estates sold under Part I. of the Act of 1903, or to the Congested Districts Board for Ireland under Section 79 of the same Act, a Judicial Commissioner may, where it is necessary having regard to the state of business, and within such limits as may be sanctioned by the Treasury, refer any such title to one of the examining Counsel to be nominated for the purpose, and such Counsel shall, subject to such limitations as such Judicial Commissioner may direct, have all the powers of an Examiner in relation to the matter so referred to him, and "Examiner" when used in these Rules shall include such examining Counsel.

Vendor or his Solicitor to attend Counsel.

3. The vendor or his solicitor shall attend such Counsel, and furnish him with such documents, and information as he may require, and see that his requisitions on title are complied with.

See note as to Examiner's Practice (*post*, p. 1436).

ORDER VI.

VESTING AND CHARGING ORDERS.

1. Orders XVI., XVII., and XVIII., of the Rules of 1897, and the Rule dated the 29th day of April, 1899, amending the last-mentioned Order are hereby rescinded,

Rules of 2nd July, 1910.

Rectification of vesting order

2. An application to have a vesting order, or fiat in lieu thereof, corrected or rectified shall be by motion to a Judicial Commissioner; and a minute of the order for rectification when made shall be endorsed on the vesting order, or agreement for purchase, as the case may be, and signed by the Registrar.

The Local Register of Title was amended by excluding a plot improperly included: *Matter of J. M'Kee*, 41 I. L. T. R 11. As to rectification of vesting order, see *Trustees of Barry, deceased*, 41 I L T. R. 12; *Wilson's Estate*, 42 I L. T. R 16

Charging order.

3. The vesting order shall, when practicable, charge the holding with the repayment of the advance. If a separate charging order be necessary it shall be signed by the Commissioner, and sealed with the seal of the Land Commission.

ORDER VII.

Registration of Purchaser's Ownership.

1. Order XIX. of the Rules of 1897 and the Rules varying same dated 19th March, 1900, are hereby rescinded.

Particulars to be transmitted to Registrar of Titles

2. The particulars as to the holding or land to be prepared and transmitted by the Land Commission to the Registrar of Titles, in order that the title of the purchaser to the ownership of the holding or land may be registered pursuant to the Local Registration of Title (Ireland) Act, 1891, shall be as follows:—

(a.) The record number (if any) and title of the matter or name of the estate in which the purchase was made, and, if the holding or land be already registered land, the number of the folio of the Register of Titles upon which such holding or land appears

(b.) The date of the vesting order or fiat as the case may be.

(c.) The name, postal address, and occupation or other description of the purchaser.

(d) The townland or townlands with the area in statute measure of the portion of each comprised in the holding or land, and the county and barony, and, if necessary, for the purpose of identification, the parish in which each townland is situated.

(e.) The tenure of the purchaser at the date of the purchase as stated in the agreement for purchase or ascertained by the Land Commission, or the capacity in which the purchase was made by him.

(*f.*) The particulars of the annuity payable in respect of the advance

(if any) made by the Land Commission for the purchase of the holding or land.

(g.) The particulars of any other rentcharge reserved in the vesting order.

(h.) The particulars of any exceptions, reservations, or superior interests subject to which the vesting order or fiat is made, and of any provisions as to sporting rights therein contained.

(j.) The particulars of any easement, right, or appurtenance which the vesting order may declare the sale to be subject to or freed from.

(k.) Any other matter which the Land Commission may consider necessary for the purposes of registration.

The particulars to be in the form of a copy vesting order or a Schedule

3. Such particulars shall, where practicable, be transmitted to the Registrar of Titles in the form of a copy of the vesting order certified by the proper officer as "a true copy transmitted to the Registrar of Titles for the purpose of registration." If there be no vesting order, or if the transmission of a copy of the vesting order be inconvenient, the particulars shall be embodied in a schedule, which shall be prepared and certified by the proper officer.

Copy vesting order or schedule to be accompanied by map.

4. The copy vesting order or schedule shall be accompanied by an Ordnance Sheet having the several holdings delineated thereon as they appear on the map used for the proceedings, unless there be a map endorsed upon, and referred to in the vesting order, in which case a copy of such map may be endorsed upon the schedule by the Ordnance Survey Department, or the vesting order may be produced to the Registrar of Titles for inspection.

The following directions dated 1st January, 1904, in reference to the transmission and cancellation of land certificates have been issued by the Land Commission :—

1. When the Land Commission by vesting order, or fiat in lieu thereof, vest a holding in a purchaser, and the title to the lands comprised in such holding is already registered pursuant to the Local Registration of Title (Ireland) Act, 1891, the land certificate evidencing the title to such lands shall, if in the custody of the Land Commission, be transmitted to the Registrar of Titles, together with the copy vesting order or schedule of particulars prescribed by the Land Commission Rules.

2. The Registrar of Titles shall as soon as he has cancelled such certificate return it to the keeper of the Land Commission records, but if the cancellation be of the entire he shall mark the certificate "returned to the Land Commission as evidence of the title to the proceeds of the sale."

3. When the proceeds of the sale have been allocated, or at such earlier period

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as the Examiner may direct, the cancelled land certificate shall be again transmitted to the Registrar of Titles for retention by him.

4. When the Land Commission sell registered land to realise a debt due to them, and convey the same to a purchaser, and the solicitor to the Land Commission certifies that the cancelled land certificate is required for the purpose of distributing the surplus proceeds of sale after payment of the sum due to the Land Commission, the procedure indicated in Directions 2 and 3 shall be followed.

See Directions, 27th February, 1909, rules 4–11 (*ante*, p. 1360).

ORDER VIII.

Superior Interests (*a*).

1. Rules 13, 14 and 15 of Order XX. of the Rules of 1897 are hereby rescinded.

Quit or Crown rents

2. No application for the apportionment of any quit rent, or other perpetual rent payable to the Crown to which the provisions of Section 61 of the Act of 1903 apply shall be made under Rule 3 of Order XX of the Rules of 1897 (*b*) without the leave of the Commissioner.

(*b*) *Ante*, p. 830.

Apportionment or exclusive charge of quit rent remitted to Judicial Commissioner to be listed on notice.

3. When any question relating to the apportionment or exclusive charge of any quit rent or other perpetual rent payable to the Crown is remitted by the Commissioners of Woods to a Judicial Commissioner for determination, the Registrar shall fix a day upon which the case shall be listed before a Judicial Commissioner for adjudication, and shall give not less than four clear days notice thereof to all persons appearing to be interested.

See Commissioner of Woods Rules as to apportionment or exclusive charge of quit rent (*post*, p. 1394).

Price to be fixed by Judicial Commissioner if not agreed to within a month.

4. The redemption price of a superior interest, other than quit or crown rent, tithe rentcharge payable to the Land Commission or annuities in lieu thereof, and land improvement or drainage charges in favour of the Commissioners of Public Works in Ireland, shall be determined by the Judicial Commissioner unless the parties interested agree upon such redemption price within one month from the date of the order for redemption.

(*a*) As to Apportionment and Redemption of Superior Interests, see Or. XX., Rules, March, 1897 (*ante*, p. 830).

The following two notices were published in the *Legal Diary* in 1904 by the direction of the Judge :—

(1) "In future, any agreement or consent respecting the redemption price or apportionment of any superior interest, the price or apportionment whereof may be determined by the Judicial Commissioner, shall, unless the Judicial Commis-

sioner otherwise directs, be signed by the necessary parties in person, such signatures to be duly verified by affidavit, and if the title to such superior interest has not been previously ruled on by an Examiner, an affidavit shall be filed showing that the proper and necessary persons have signed such agreement or consent, and an attested copy of such affidavit shall be lodged with such agreement or consent." It is advisable that any such consent should contain a schedule setting out clearly the particulars of the apportionment. The consent should be lodged in the Registrar's Office two clear days at least before the date on which the application to make it a rule of Court is to be made.

(2) "In every case where an application grounded upon consent is intended to be made to a Judicial Commissioner for an order to apportion or redeem a rent, rentcharge, or other superior interest, then, unless the title of the persons signing the same has been vouched upon the schedule of incumbrances, or otherwise ruled by an Examiner, the consent must (in addition to the affidavits verifying signatures) be accompanied by an affidavit or affidavits stating concisely the nature of the title of the signatories to the consent—*i.e.*, whether absolute owners, tenants-for-life, trustees, or otherwise—and indicating, where necessary, the deed or other document under which such title is derived.

"Where rulings on title have been issued, the rulings must be produced by the party applying to have the consent made a rule of Court."

The practice of solicitors signing such consents cannot be justified.

A consent to redeem may be produced to the Examiner on the vouching of the schedule, and on allocation by the Judge he will redeem in accordance with the Examiner's vouching.

Distribution of purchase money without regard to superior interest not paid by land sold, and exclusive charge.

5. An application to have purchase or redemption money distributed without regard to a superior interest or any part thereof, or for an exclusive charge, in pursuance of Section 62 of the Act of 1903, shall be made by motion to the Commissioner, and, unless grounded upon a consent, shall be on notice to the owner or person in receipt of such superior interest, and to the owner or owners of the lands out of which the same is paid or upon which it is proposed to exclusively charge the same; provided always that the Commissioner may, if he thinks fit, dispense with service upon any person. A copy of the order, when made, shall, if applied for, be issued free of charge to the owners of the superior interest and the lands out of which the same is paid or upon which the same is exclusively charged.

Undertaking to apply redemption price of superior interest as capital money.

6. When the redemption price of a superior interest, or of an apportioned part thereof, exceeds thirty pounds but does not exceed one hundred pounds, the undertaking to be given by the person in possession or in receipt of the income of the superior interest, or by the trustees to be appointed or approved by the Land Commission to apply such redemption price as if it were capital money arising under the Settled Land Acts,

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1882 to 1890, shall be in writing under his or their hand or hands, in Form 1 (*a*) in the appendix, with such variations as the nature of the case may require.

(*a*) See Directions, *post*, p 1387, and Form 1, *post*, p 1377.

ORDER IX.

Distribution of Purchase Money of Estates.

Order for payment into Bank of Ireland to be made by an Estates Commissioner

1. In the case of the sale of an estate to persons other than the Land Commission the order to pay the purchase money into the Bank of Ireland and attaching claims thereto shall be made by one of the Estates Commissioners, and the making of such order shall forthwith be notified to the vendor, and, so far as may be practicable, to the other persons appearing to be interested in the purchase money, or their respective solicitors.

To be invested in Consols unless otherwise directed.

2. Such purchase money shall, at the expiration of fourteen days from the date of the notification to the vendor of the payment into the Bank of Ireland, and in default of application to the contrary, be invested in the purchase of government new 2½ per cent. consolidated stock unless a Judicial Commissioner shall otherwise direct.

Distribution to be by a Judicial Commissioner

3. The purchase money of estates sold under Part I. of the Act of 1903, or of land to the Congested Districts Board for Ireland under Section 79 of the same Act shall be distributed by a Judicial Commissioner, and all applications in relation to such monies, or the income arising therefrom, shall be made to him.

Final Schedule of Incumbrances

4. Unless the entire purchase money is being distributed in accordance with the procedure prescribed by Rules 5 to 9 of this Order, the procedure towards distribution shall be in accordance with Order III. of the Rules dated 17th May, 1901, (*a*) with the following modifications, viz. :—

(a.) The draft final schedule of incumbrances lodged with the abstract of title shall be utilised if suitable.

(b.) Unless an objection be lodged to the final schedule of incumbrances, or any question arises thereon as regards which the Examiner requires a Judicial Commissioner's directions before vouching, he shall, as soon as the time for lodging objections has expired, cause the matter to be entered in his list for vouching with a view to the distribution of the fund on the day on which the schedule shall be ruled, and in

(*a*) *Ante*, p. 868.

such case the services and publication of the final notice to claimants shall be vouched before the day appointed for vouching the claims before the Examiner. Rules of 2nd July, 1910.

(c.) An Examiner shall not certify a final schedule of incumbrances to be unnecessary in any case in which he thinks that notice of vouching or allocation should be given to any person or published.

(*a*) The practice is as a general rule for the Examiner only to list for allocation without issuing the certificate cases where no question of difficulty is likely to arise, and where there are no claims except in respect of superior interests, Crown duties and costs.

See as to dispensing with notice of vouching and allocation where there is more than one allocation, Directions dated 27th February, 1909 (*ante*, p. 1359).

(*b*) See *ante*, p. 869–870.

Summary application for distribution to be in pursuance of certificate of Examiner or by leave of Judicial Commissioner.

5. If the Examiner is of opinion that the purchase money, or any part thereof (including the part applicable towards the satisfaction or discharge of any superior or intervening interest or incumbrance) should be distributed upon a summary application under the powers conferred by Section 24, Sub-section 11 of the Act of 1903, he shall issue to the vendor or his solicitor a certificate to that effect, and he shall cause the issue of such certificate to be notified to the other persons (if any) appearing to be interested.

Provided that, in case the Examiner shall decline to issue such certificate, any person interested shall be at liberty to apply *ex parte* to a Judicial Commissioner for leave to make such summary application as aforesaid.

Application to be made within limited time

6. If within four weeks from the date of such certificate the vendor or his solicitor does not apply to have the purchase money distributed, any person interested shall be at liberty to make the application, and if no application be made within six weeks from the date of such certificate, the Examiner shall cause the matter to be listed before a Judicial Commissioner to be dealt with by him.

To be by motion on notice grounded on affidavit.

7. An application for the distribution of the purchase money under the powers conferred by Section 24, Sub-section 11 of the Act of 1903 shall be made by motion on notice not less than seven clear days after the service thereof on the parties affected thereby, and shall be grounded upon the Examiner's certificate (if any), and an affidavit made by the applicant, or by some other person who can swear positively to the facts, verifying the proposed distribution of the purchase money, and stating that in his belief there is no right, estate, interest, or claim affecting the same, or made in respect thereof, other than as therein set forth.

Rules of 2nd July, 1910.

The Judicial Commissioner by whom the motion is heard may make an order for such distribution, or may order such money to be invested in any of the stocks, funds, or securities for the time being authorised for the investment of cash under the control or subject to the order of the High Court, and the dividends thereof to be paid according to the respective estates, titles, or interests of the parties making claim to such money or any part thereof, or may adjourn the case for further evidence, or may refer the case to the Examiner for further inquiry and report, or may make such other order in the premises as such Judicial Commissioner shall think fit.

Provided always that a Judicial Commissioner, if satisfied that the delay caused by proceeding by motion on notice would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs, or otherwise, and subject to such undertakings, if any, as may be just, and any party affected by such order may move to set it aside.

Notice of motion to have Payment Schedule annexed

8. The notice of motion under Rule 7 of this Order shall have a schedule annexed thereto, to be styled the Payment Schedule, which shall be headed with the title of the matter, and shall set out in a tabular form:

(a.) The name of each person to whom a payment or transfer of any funds is to be made. The name shall be in full except in the case of a payment to a firm when the business title of such firm may be stated, and, when a payment is to be made to a person named in the Schedule, the address (if known at the time of preparing the Schedule) of such person or, in the case of a payment to two or more persons jointly, of one of such persons shall be stated in the Schedule.

(b.) The title of the separate account to which any funds are to be carried over.

(c) The amount and description of the funds in each case to be paid, sold, transferred, carried over or otherwise dealt with so far as the same can then be stated.

(d.) The nature and necessary particulars of any dealings with such funds by the accountant.

Form of Payment Schedule and and Judicial Commissioner's ruling thereon

9. The Payment Schedule shall be in Form 2 (*a*) and shall have a blank column, wherein a Judicial Commissioner may enter any ruling he may think fit opposite any item therein. The Payment Schedule in which a Judicial Commissioner shall enter any ruling shall be attached to the final schedule of incumbrances (if any) or filed, and the rulings thereon shall have the effect of an order, but a Judicial Com-

(*a*) For Form see *post*, p. 1378.

missioner shall, at the instance of any party interested, cause an order to be prepared in conformity with any ruling which shall be entered in the "Order Book." Rules of 2nd July, 1910.

The Payment Schedule so ruled shall not be taken out of the office without the permission of a Commissioner.

10. The application by the owner of a superior or intervening interest, or an incumbrancer, for an order that payment in respect of the annual income of his claim be made to him out of the interest on the purchase money, or the dividends upon the investments representing the purchase money as the case may be, may be made *ex parte* if grounded on consent, and in other cases shall be made by motion on notice to the vendor, and, if the application is by an incumbrancer, also on notice to any prior incumbrancer or owner of a superior or intervening interest whose claim might be thereby affected; such motion to be moved not sooner than four clear days after service of the notice thereof, and to be grounded upon an affidavit made by the applicant or his solicitor which shall state shortly the particulars of the applicant's claim, and such information as to prior claims or incumbrances (if any) or otherwise as may be necessary to sustain the application, and shall show either that some part of such annual income has been due for three months and is unpaid, or some other substantial reason why the order asked for should be made. Application by owner of superior interest or an incumbrancer for payment of income pending allocation.

11. In the case of the sale of an estate under Part I. of the Act of 1903, or of land to the Congested Districts Board for Ireland under Section 79 of the same Act, a Judicial Commissioner may ascertain the amount and value, and award a specified sum of money in discharge, redemption or satisfaction of any claim upon the purchase money in respect of any estate, right, title, or interest of any person affecting the lands or any part thereof at the time of the sale (the redemption or satisfaction of which is not otherwise provided for), and may generally make such order as to any such claim or the redemption price thereof as may be just. Satisfaction of claims not specifically provided for.

ORDER X.

Payment out of the Land Purchase Aid Fund.

1. Payment of a percentage out of the Land Purchase Aid Fund shall be made in pursuance of an order signed by a Commissioner. Order to be signed by Commissioner.

2. When a percentage is payable out of the Land Purchase Aid Fund in respect of purchase money advanced under the Land Purchase Acts, within six days after the payment of such purchase money into the Bank of Ireland, or the order vesting the estate in the Land Commission or Congested Districts Board for Ireland, as the case may be, a draft certificate specifying the amount of such percentage shall be prepared in Preparation of draft certificate

Rules of 2nd July, 1910.

such form as the Judicial Commissioner may direct, and shall be lodged in the Agreements for Purchase Office, and open to inspection therein, and may be objected to as is hereinafter provided during a period of one month from the date of the notification to the vendor of such payment or order. Within six days after lodgment of said draft certificate, any person interested may bespeak a copy of said draft and obtain same on payment of the usual scrivenery charges.

Objections to draft certificate

3. Any interested person who considers that the amount of the percentage payable is not correctly stated in the draft certificate may, during the aforesaid period, lodge in the Registrar's office an objection, in writing, signed by such person, or his solicitor, stating his grounds of objection, and whether he applies to have the same amended in any particular. An objection, when lodged, shall be set down for hearing before the Judicial Commissioner on the first available day upon notice to such persons as he may direct.

Signing of certificate

4. If no objection be lodged within the aforesaid period, or as soon as any objection lodged has been disposed of by the Judicial Commissioner, the draft certificate shall, unless amended by him, and, if amended by him, as so amended, be signed by the proper officer, and shall thereupon be deemed to have been approved by the Judicial Commissioner, and thereafter no application to discharge or vary the same shall be made without his leave.

Time of payment

5. A percentage payable in respect of an estate sold by the Land Judge may be paid as soon as the certificate specifying the amount thereof has been signed. In the case of other sales payment may be made at the time of the distribution of the purchase money or such other time as a Judicial Commissioner may order.

The following Memorandum was issued on 21st November, 1905 :—

Before vouching the percentage under Section 48 of the Land Act of 1903, each Examiner should direct the solicitor for the vendor to obtain from the Registrar a certificate stating whether an order has been made by the Court as to parties to receive notice of any proposed dealing with the percentage.

ORDER XI.

Nomination of Person interested in holding to be the Proprietor thereof.

Form of request to nominate, and lodgment of same.

1. The request by a person interested in a holding liable to be sold by or at the instance of the Land Commission under the provisions of Sub-section 1 of Section 54 of the Act of 1903, to have a person nominated by the Land Commission to be the proprietor of such holding, shall be

lodged in the Registrar's office, and shall be written on foolscap paper with sufficient margin and follow Form 3 (*a*). The request shall state the event upon the happening of which the holding became liable to be sold, the interest of the person making the request, the particulars of the claims of all other persons including creditors interested in the holding, in so far as such claims may not be entered upon the Register of Titles, the name, address, and profession, trade, occupation, or designation of each claimant, and the particulars of the relief sought, and shall be verified by the affidavit of the applicant. Rules of 2nd July, 1910.

(*a*) For Form see *post* p. 1378.

2. Together with the request there shall be lodged a certified copy of the Folio of the Register of Titles upon which the title to the holding is entered, and copies of any grant of probate, or of letters of administration, or other instrument referred to in the request. Documents to be lodged with request.

3. The request, when lodged, shall be laid before a Judicial Commissioner, who may thereupon cause such notices to be given, accounts taken, inquiries made, or generally make such order as may appear expedient and just; provided always that the Judicial Commissioner may refer any such request to any Land Commissioner to be dealt with by him. Request to be laid before Judicial Commissioner for directions.

4. A nomination made in pursuance of a request shall be by order, which shall be entered in the Order Book, and a copy thereof signed by the Registrar shall be transmitted to the Registrar of Titles. Nomination to be by order

ORDER XII.

Relief of Trustee in case of Breach of Trust.

1. An application by a trustee for relief in pursuance of Sub-section 4 of Section 51 of the Act of 1903 shall be made by motion to a Judicial Commissioner upon notice to the person or persons appearing to be directly affected by the breach of trust, and shall not be moved sooner than seven clear days after the date of the service thereof; provided always that such Judicial Commissioner may, if he think fit, dispense with service of notice on any person, and may likewise direct notice to be given to any person or persons whom he considers should have notice, and may award costs to the applicant, or to any other person appearing, and direct by whom, or out of what fund such costs are to be paid.

ORDER XIII.

Ratification of Exchange of Land.

1. Before any order is made in pursuance of Sub-section 1 of Section 60 of the Act of 1903, unless such order is being made with the consent of Notice of application to be lodged for settlement.

Rules of 2nd July, 1910.

the owners of the respective estates to be thereby affected, it shall be the duty of the person having the carriage of the proceedings or his solicitor to prepare, and lodge for settlement by the proper officer, a notice of the application for such order, specifying the particulars of the exchange, and referring to a map or plan showing the land given and taken in exchange respectively, and also specifying a day upon which the application will come before the Judicial Commissioner for adjudication.

On whom notice is to be served.

2. Such notice, when settled, shall be signed by the proper officer, and shall be served not less than 14 clear days before the day upon which the application is to come before the Judicial Commissioner upon such of the owners of the respective estates affected by the exchange as may not be parties to the application.

Method of service on persons within the United Kingdom

3. If the persons to be served reside within the United Kingdom, service may be made by registered letter if satisfactory proof of residence is given; and, if not, service must be personal unless the Judicial Commissioner permits some other mode of service.

As to persons not within United Kingdom

4. If the persons to be served do not reside within the United Kingdom, application may be made to the Judicial Commissioner in Chamber for directions as to the mode of service, and the period to elapse between the service and adjudication.

ORDER XIV.

Order to Sheriff to put Nominee of Land Commission in Possession of Holding.

Application to be by motion to a Judicial Commissioner on notice

1. An application for an order to the sheriff to put a person nominated by the Land Commission in possession of a holding in pursuance of the provisions of Section 65 of the Act of 1903 shall be made by the solicitor to the Land Commission to a Judicial Commissioner by motion on notice, and shall be supported by an affidavit showing that the Land Commission is entitled to cause the holding to be sold, had put up the same for sale by public auction, and that the same had not been sold.

On whom notice is to be served

2. Such notice shall be served upon every person in the actual occupation of the holding or any part thereof not less than four clear days before the day on which the motion is to be moved, and upon such other persons as such Judicial Commissioner may direct, and the affidavit of service of such notice shall state that the deponent does not know of any person other than those who have been served who are in actual possession of the holding or any part thereof.

Form of order.

3. The order may be in Form 4 (*a*), and shall be signed by the Registrar, and sealed with the seal of the Land Commission, and the delivery

(*a*) For Form see *post*, p. 1379.

thereof to the sheriff shall be sufficient authority to him to forthwith execute the same. Rules of 2nd July, 1910.

ORDER XV.

GUARANTEE DEPOSITS.

1. Rule 13 of Order XXIII. of the Rules of 1897 is hereby rescinded.

ORDER XVI.

PURCHASE OF ESTATES.

Order XXXVIII. of the Rules of 1897 is hereby rescinded.

ORDER XVII.

SALES UNDER SECTION 40 OF THE LAND LAW (IRELAND) ACT, 1896.

1. Rule 1 of Order XXXIX. of the Rules of 1897 shall be read and construed as if "the" were substituted for "two" and "a Judicial Commissioner" for "the Judicial Commissioner" where the same occur therein respectively; Rule 2 of the same Order shall be read and construed as if "the Commissioner" were substituted for "such two Commissioners"; Rule 3 of the same Order is hereby rescinded, and Rule 4 of the same Order shall be read and construed as if "the Commissioner" were substituted for "the Commissioners" and "Commissioner" for "two Commissioners."

2. If the Land Judge refers the report of a Commissioner to the Land Commission for reconsideration the three Commissioners who shall reconsider the report shall be selected in such rotation as the Land Commission may from time to time direct.

ORDER XVIII.

PAYMENT OF ANNUITY AND APPORTIONED ANNUITY TO LAND COMMISSION.

1. Where any land upon which portion of a purchase annuity has been charged by the Land Commission is conveyed to the proprietor of a holding subject to a purchase annuity, and the Land Commission deem it expedient to apply the provisions of Sub-section 3 of Section 67 of the Act, 1903, (*a*) to such land and holding, the annuity and portion respectively shall continue to be payable as a separate annuity on the respective gale days on which the same were previously payable.

(*a*) *Ante*, p. 1147.

Rules of 2nd July, 1910.

ORDER XIX.

Appointment of Limited Administrator.

Application to be by motion to a Judicial Commissioner on notice.

1. An application to appoint a proper person to be administrator of a deceased applicant for an advance which has been made under the Land Purchase Acts limited to the purposes of the sale shall, where the applicant dies before the advance is made, be by motion to a Commissioner, and, where the applicant dies after the advance is made, be by motion to a Judicial Commissioner, on notice to any person in occupation of the lands in respect of which the advance was made, and such other persons as may appear to be thereby affected as such Commissioner may direct, and shall be supported by an affidavit proving the death of the deceased applicant for the advance, whether he made a will, whether representation to him has been raised, and generally the reasons why a limited administrator should be appointed, and by evidence of the fitness of the proposed administrator, and, unless the motion is made on his behalf, evidence of his consent to act as such.

Administrator to be described as such in vesting order

2. When land is by order vested in a limited administrator the fact shall be stated on the face of the vesting order.

ORDER XX.

Publications.

1. Notices to claimants when directed to be published shall be published by the Land Commission in the *Dublin Gazette*, but the Commissioner or Examiner, as the case may be, may direct such other publications as he may think fit, and all publications and advertisements directed by the Land Commission shall be made without charge to the vendor.

ORDER XXI.

Costs.

Costs to be taxed in accordance with schedule of fees and on notice

1. Rules 4, 10 and 15 of Order XLVI. of the Rules of 1897 are hereby rescinded.

2. In the absence of any agreement to the contrary between a solicitor and his client, the costs incurred in the course of proceedings in the Land Commission under the Land Purchase Acts shall be taxed by the Solicitor to the Land Commission in accordance with the Schedule of Fees in

the Appendix hereto (*a*), and on notice to such person or persons as the Examiner shall certify. The certificate of the Solicitor to the Land Commission shall be final if not varied by the Commissioner. Rules of 2nd July, 1910.

ORDER XXII.

Judicial Commissioner.

1. When any Rule or Order provides that any application shall be made to, or any jurisdiction or act shall be exercised or done by a Judicial Commissioner, the Judicial Commissioner may, in so far as there is no Statutory provision to the contrary, by writing under his hand direct that any such application may be made to, or jurisdiction or act exercised or done by such other Commissioner as he may with the consent of such other Commissioner appoint.

APPENDIX.

Form 1.

Undertaking to apply redemption price of superior interest as if it were capital money arising under the Settled Land Acts, 1882 to 1890

Court of the Irish Land Commission.
Land Purchase Acts.

Record No.

Title of Matter or Estate.

I *A.B.*, of the person [now *or* lately] in possession or in receipt of [*Here describe the superior interest*]

hereby undertake in case the Irish Land Commission shall pay to me the redemption price thereof

[*Or*]

We, *C.D.*, of and *E F.*, of the trustees [*Here state the capacity in which they are trustees, and whether appointed or approved by the Land Commission.*]

hereby undertake in case the Irish Land Commission shall pay to us the redemption price of [*Here describe the superior interest.*]

to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

Dated this day of 19

Signed in presence of } (Signed) *A.B.* [*or*] *C.D.* and *E.F.*

(*a*) See *post*, p. 1380.

Rules of 2nd July, 1910.

FORM 2.

PAYMENT SCHEDULE.

COURT OF THE IRISH LAND COMMISSION
LAND PURCHASE ACTS.

Record No

Estate of County of

Funds in Court :—

Number of Claim	Particulars of Payments, Transfers or other operations ordered *	Payees and Transferees or separate accounts	Amounts		Rulings of Judge
			Money	Securities	
			£ s d.	£ s d	

* NOTE.—In the case of an investment or sale, insert "Invest" or "Sell" in this column, and leave third column blank.

FORM 3

Request to nominate a Person to be the Proprietor of a Holding.

COURT OF THE IRISH LAND COMMISSION
LAND PURCHASE ACTS.

In the Matter of a holding in the Townland of in the Barony of and County of now or lately in the possession of *A B*, the title to which is entered on Folio of the Register of Titles.

The request of *C.D.*, of in the County of sheweth :—

1. The above-mentioned holding became liable to be sold by or at the instance of the Land Commission under the provisions of Sub-section 1 of Section 54 of the Irish Land Act, 1903, by reason of

[*Here state accurately and concisely the event upon the happening of which the holding became liable to be sold, giving dates and all necessary particulars*]

2. My interest in the said holding is as follows :—

[*Here state the interest of the person making the request.*]

3 I have in the schedule hereto set forth the particulars of the claims of all other persons, including creditors, interested in the holding, whose claims are not entered upon the above-mentioned Folio of the Register of Titles, and I know of no other claim affecting the holding.

[*Or*]

3. There are no claims either of creditors or other persons affecting the holding which are not entered upon the above-mentioned Folio of the Register of Titles.

4. I request the Irish Land Commission to nominate *E.F* of in the County of being a person interested in the said holding as [*Here state how he is interested.*] to be the proprietor of the holding; and I further request the Irish Land Commission [*Here state any application which the person making the request wishes to make as to the satisfaction of claims or otherwise.*] Rules of 2nd July, 1910.

Dated this day of 19

(Signed) *C.D.*

SCHEDULE above referred to.

Name, address, and profession, trade, occupation, or designation of each Claimant	Particulars of Claim	Amount, if claim be for a sum of money
		£ s. d.

NOTE.—The Claims should, as far as possible, be arranged in order of priority.

I the before-named *C.D.* make oath and say that I have read the foregoing request and the schedule annexed thereto and that the several allegations contained therein are true to the best of my knowledge, information and belief.

Sworn, &c.

FORM 4.

ORDER TO SHERIFF to put a nominee of the Irish Land Commission in possession of a Holding.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

In the Matter of the Holding of in the Townland of Barony of and County of

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Upon motion of the Solicitor to the Irish Land Commission and on reading and it appearing that the Irish Land Commission are entitled to cause the holding hereinafter mentioned to be sold and that the said holding has been put up for sale by public auction and has not been sold, *A.B.*, is hereby nominated to be put in possession of the said holding on behalf of the said Commission. And IT IS ORDERED that the Sheriff of the County of do without delay cause the said *A.B.*, as the nominee of the Irish Land Commission to have possession of that part of the lands of now

Rules of 2nd July, 1910.

or lately in the possession of containing acres roods and perches statute measure or thereabouts, and situate in the Barony of and County of with the appurtenances.

And that in what manner he shall have executed this order he do make appear to the said Court immediately after the execution thereof.

Dated this day of 19 .

Registrar

SCHEDULE OF FEES

	£	s	d.
ABSTRACT—See drafts			
AFFIDAVIT.			
Draft affidavit per folio	0	1	0
To Solicitor for marking each exhibit referred to in an affidavit	0	1	0
Commissioner's fee for marking each such exhibit . .	0	0	6
Not to exceed in all	0	10	0
AGREEMENTS for purchase and applications for advances:			
Solicitor's fee for preparing and completing agreement for each sale on an estate, provided six months have elapsed since the completion of the previous sale, including all scrivenery and printing fees, attendances, and other business incident to the preparation, lodgment, and verification of same, but exclusive of the expenses of maps and other necessary expenditure			
For one such agreement, the purchase money being £500 or under	1	0	0
For one such agreement when the purchase money exceeds £500	2	0	0
For two or more agreements not exceeding five such agreements in the same estate	3	0	0
For each subsequent agreement after five, not exceeding ten	0	10	0
For each subsequent agreement after ten, not exceeding one hundred	0	6	0
For each subsequent agreement after one hundred . .	0	4	0
Provided that in case of a joint agreement (Form G) the solicitor shall be entitled to charge as if each tenant in such agreement had signed a separate form.			
Where agreements are prepared and completed by the Vendor without the assistance of a Solicitor, but the latter is employed to lodge the agreements in the Land Commission Court:			
For lodging one or more such agreements not exceeding 5 ...	0	13	4
For lodging more than 5 and not exceeding 50	1	0	0
Exceeding 50	2	0	0
ALLOCATION SCHEDULE OR FINAL SCHEDULE OF INCUMBRANCES:			
For preparing Allocation Schedule or Final Schedule ...	0	10	0
Or at the option of the Solicitor for each item except costs of Sale	0	5	0

	£	s.	d.	Rules of 2nd July, 1910.
AMENDMENTS:				
No charge to be allowed for any amendment in an originating application, abstract of title or other document lodged in Court by a Solicitor unless specially allowed.				
APPEARANCES:				
Entering an appearance	0	6	8	
If more than three persons included in one appearance, for each three	0	6	8	
APPORTIONMENT OF TITHE RENT-CHARGE:				
Fee for preparing and lodging form of application for apportionment of Tithe Rent-Charge payable to the Land Commission; including calculations of apportionments and scrivenery	0	10	0	
Or at the option of the Solicitor per folio .	0	1	0	
ATTENDANCES:				
For each day Cause or Motion in Day List and not at hearing	0	6	8	
Each day it is at hearing	0	13	4	
Or such further reasonable sum as the Taxing Officer may on special grounds allow, having regard to the nature and importance of the case, not to exceed in one day .	2	0	0	
(A fee of 13*s.* 4*d.* is allowed on motions where an order is made up by the Registrar or pronounced by the Court. Not to be allowed unless a competent person attends acquainted with the facts, and having the proper documents in readiness.)				
On each witness taking evidence	0	6	8	
Counsel with brief, case or other instructions . .	0	6	8	
To settle and afterwards to read over the engrossments of an affidavit	0	6	8	
To be increased according to circumstances, but never to exceed in town	1	0	0	
Each newspaper in which an advertisement is inserted ..	0	3	4	
Printer to have notice or other document printed	0	6	8	
To procure Accountant's account or certificate of funds ...	0	3	4	
For certificate of deeds lodged	0	3	4	
For certificate of appearances, objections, or claims lodged, each	0	3	4	
To be increased according to circumstances, each to ...	0	6	8	
Certificate of lodgment of abstract of title	0	3	4	
Examiner to settle and sign advertisements	0	6	8	
Consultation of Counsel	0	13	4	
To obtain consent to act as Guardian *ad litem* or next friend	0	6	8	
To procure consent to be signed by another Solicitor ...	0	6	8	
If to be signed by two	0	13	4	
If by a greater number, but never to exceed	1	0	0	
To bespeak all necessary documents	0	6	8	
To file same	0	6	8	

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	£	s.	d.
ATTENDANCES—*continued*			
If several affidavits or other documents ought to be filed or bespoken at one time from one Officer, the Taxing Officer is to exercise his discretion to increase this charge, but never to allow more than	1	0	0
For all attendances to lodge money in Bank, including the procuring of the privity	0	13	4
Of Solicitor, if such attendance is elsewhere in Ireland than at his office or residence, and the Solicitor is necessarily occupied for one or more entire day or days, or for a period equal to one entire day, solely on his client's business, for each such day, exclusive of actual travelling expenses	3	3	0
A proportionate smaller sum to be allowed for a portion not exceeding three hours on any such day			
If such attendance is out of Ireland, for each day on which the Solicitor is necessarily absent from Ireland solely on his client's business, exclusive of actual travelling expenses	5	5	0
Of a Clerk in the country (when necessary), including all expenses except carriage hire for each day	1	10	0
At Valuation Office to bespeak Ordnance Map and Certificate of Valuation	0	6	8
To register or enrol any deed or order, and for all duties relating thereto, including the returning of the deed or order and the correcting of same and memorial, and drawing and signing certificate and affidavit	1	0	0
If a document be obtained through a Solicitor each Solicitor to be entitled to a fee of 6*s* 8*d* for attendance therewith.			
On Registrar for bespeaking and for Order	0	6	8
For each proper and necessary attendance where not already provided for, at per hour or fraction of an hour ...	0	6	8
Not to exceed in one day	1	0	0
CERTIFYING :			
Certifying any deed, instrument or writing when required by the Court	0	2	6
COMMISSIONER OF OATHS :			
Commissioner's fee for affidavit of each deponent . .	0	1	6
Commissioner's fee for marking each exhibit	0	0	6
Not exceeding in all	0	10	0
CONSENT TO REDEEM UNDER REDEMPTION OF RENT ACT :			
Fee for preparing, completing and lodging consent to redemption under Redemption of Rent (Ireland) Act, 1891 ...	1	0	0
CONVEYANCING :			
For drawing any deed, final order for partition, apportionment, memorial or other instrument, per folio ...	0	2	0

	£	s.	d.	Rules of 2nd July, 1910.
CONVEYANCING—*continued.*				
Where the draft exceeds 100 folios, the excess to be allowed at, per folio	0	1	0	
Engrossing, per folio	0	0	8	
COPIES:				
Copies of all notices, deeds, affidavits, and other documents, not otherwise provided for, for 6 folios or under .	0	2	0	
For each succeeding folio	0	0	4	
COSTS:—(*See* taxation of).				
DRAFTS:				
For drafting affidavits, accounts, charges, discharges, abstracts of title (so far as the Examiner shall certify his approbation thereof), statements, consents, undertakings, admissions, objections, requests, advertisements, cases or instructions for Counsel, and all other proper and necessary documents, for the drafting of which a specific fee is not already hereby provided, for every six folios or fractional part thereof	0	6	0	
To the Solicitor who has obtained an order (where he shall be required by the proper officer to draft same, and such officer shall so certify), for drafting same, including copy for use and fair copy for Court and attendance to have settled	0	6	8	
Drawing certificate of appearances, if under five folios ...	0	3	4	
For each additional folio beyond five	0	0	8	
Docket for search in any office, except the office of Registration of Deeds, including draft and one copy ...	0	3	4	
Drawing necessary receipt and signing when no attendance charged	0	3	4	
Drawing Schedule of Tenancies, including all attendances for and perusals of tenants' leases and other documents, for each tenancy.	0	1	0	
Or for entire Schedule at option of Solicitor	0	10	0	
ENGROSSMENTS:				
Engrossing any deed or memorial, per folio	0	0	8	
Engrossing any document other than a deed or memorial, per folio	0	0	4	
Engrossing requisition for deed search	0	5	0	
Or at option of Solicitor, per folio	0	1	0	
EXHIBITS:				
Solicitor's fee for marking exhibits, for each exhibit ..	0	1	0	
FEES:				
Signing fee on any document requiring signature	0	3	4	

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	£	s.	d
INCUMBRANCER'S COSTS OF PROOF:			
To cover affidavit of proof, attendances before Commissioner and Examiner, and lodgment or endorsement of deeds	4	0	0
Or, if the Examiner does not require an affidavit	2	0	0
Where an appearance has been entered on behalf of the incumbrancer before the issue of the final notice to claimants in addition to the above	1	0	0
Where more charges than one are vested in the same claimant for each additional charge after the first	1	0	0
But not to exceed £5 in all for such additional charges			
The foregoing fees may be increased on special grounds only on application made to the Commissioner on allocation.			
INSTRUCTIONS.			
Ordinary instructions, and instructions for briefs, apportionments, affidavits, objections, statements of facts, or to enter appearance or continuing proceedings in name of new party	0	6	8
To be increased according to circumstances, but not to exceed (save by direction of a Commissioner)	5	0	0
INSTRUCTIONS FOR DEEDS:			
Such fees for instruction as, having regard to the care and labour required, the number and length of documents to be perused, and the other circumstances of the case may be reasonable.			
LETTERS:			
Writing letter, signing and entry	0	3	4
If several of same import, for each one after the first	0	2	0
LIS PENDENS:			
Fee on registering a lis pendens (including stamp duty and outlay)	1	0	0
Fee on registering every subsequent lis pendens, exclusive of outlay	0	3	4
MARKING NAMES:			
Marking the names of parties to be served on any notice and attending to transmit	0	3	4
NOTICES:			
Drawing special notice	0	5	0
Or, at option of Solicitor, per folio	0	0	8
Drawing a common notice	0	2	6
Drawing payment Schedule to annex to notice of motion, per folio	0	0	8

	£ s. d.	Rules of 2nd July, 1910.
NEW SOLICITOR:		
Fee to new solicitor for reading documents and proceedings (To be increased under special circumstances, at the Taxing Officer's discretion)	1 0 0	
ORIGINATING APPLICATION:		
Instructions for Originating Application or Statement or Originating Request, including all Schedules other than Schedule of Tenancies and all attendances and other business incident to the drafting, preparation, lodgment, verification, printing and scrivenery of same, exclusive of the expenses of maps and other necessary expenditure and travelling expenses	4 0 0	
Or such further reasonable sum as the Taxing Officer may on special grounds allow, having regard to the nature and difficulties of the case, not to exceed £20 unless by special direction of the Commissioner.		
If an Originating Application, Statement or Request is settled by Counsel, his fee may be allowed at the discretion of the Taxing Officer.		
PERUSALS:		
Perusing and abstracting deeds for *prima facie* title set out in Originating Application or for Abstract of Title, for each skin of 15 folios	0 3 0	
Not more than eight skins to be allowed for any deed or instrument.		
No fee for perusing a document where the Solicitor has been paid for perusing same within a period of two years prior to the preparation of the Abstract.		
Perusing or comparing any deed or instrument for purposes other than the abstract of title, for each skin	0 2 0	
For perusing accounts, statements, special affidavits or objections, reports and also old abstracts of title used for purposes of showing title in a pending matter ...	0 6 8	
Or, at the option of Solicitor, per folio	0 0 4	
But not to exceed £5, unless by order of a Commissioner.		
POSSESSION:		
Fee for attending for Order to Sheriff to put purchaser into possession, getting up order and lodging same with Sheriff	2 0 0	
REQUISITIONS:		
For filling, completing, and lodging Requisition to have Order of a Commissioner reconsidered	0 10 0	
Or, at option of Solicitor, per folio	0 1 0	

Rules of 2nd July 1910.

	£	s.	d.
SEARCHES:			
Hand Search, per hour	0	6	8
Attendance on Search for Judgments, &c, and for all documents in any Public Office when made by Officer, including attendance to bespeak, and for Search, where only one such search	0	13	4
Where more than one such search, for each subsequent search after the first	0	6	8
Filling docket for Search	0	3	4
Fee and attendance on Search in the Registry of Deeds, whether Common or Negative, made by officer ..	0	13	4
If made by Solicitor, for each hour	0	6	8
Not to exceed in one day	1	6	8
Search by Solicitor for judgments, for each name	0	6	8
Search by Solicitor in any Public Office, per hour	0	6	8
SERVICE OF NOTICES OR OTHER DOCUMENTS NOT SERVED THROUGH NOTICE OFFICE:			
In the City of Dublin, each person served	0	2	6
In the County of Dublin, or in any city or town other than Dublin	0	5	0
In other places	0	10	0
SIGNING FEE.			
Signing any document requiring signature	0	3	4
STATEMENT OF FACTS:			
Drawing any Statement of Facts	1	0	0
Or, at the option of Solicitor, per folio .. .	0	1	6
TAXATION OF COSTS:			
Drawing costs for taxation, per item	0	0	1
Attending to lodge and get day for taxation	0	6	8
Attending on taxation, for each 100 items	0	6	8
Preparing and engrossing Certificate of taxation of costs ..	0	5	0
Like Certificate of non-payment on account of costs ...	0	5	0
Perusing bill of costs by opposing Solicitor, for each 100 items	0	3	4

N B.—Where an affidavit is annexed to a document merely to verify or identify it, the entire is to be considered as one document and no separate fees are to be allowed for attendance, draft, engrossment copy or signature.

DIRECTIONS AS TO THE PREPARATION OF ABSTRACTS OF TITLE.

Directions 2nd July, 1910.

2ND JULY, 1910.

The Ordnance Survey names of the lands to which, or to the proceeds of the sale of which, title is being shown should be set forth at the head of the abstract, and if title is being shown to a portion only of any townland, or the proceeds of the sale of such, the area in statute measure of such portion should be set out.

The date of every instrument abstracted, and of the registration of enrolment thereof should be stated in the margin: if the instrument has not been registered, a statement to that effect should appear in the margin. In the case of a will, the date of the document itself and of the granting of probate, and of the testator's death, should appear in like manner. It should also be stated whether the original instrument abstracted or a copy is lodged, and if the original be not lodged its absence should be accounted for. If neither the original nor a copy be forthcoming there should be a reference to the evidence from which the abstract was prepared.

The abstract should commence with the root of title. If the lands are held under lease the lease should be abstracted. It will not be necessary to state all the intermediate steps down to the date of the abstract. As a general rule it will be sufficient to derive title from some person absolutely entitled to the fee or to a lease about forty years prior, but in this connection it should be remembered that under Section 2 of the "Vendor and Purchaser Act, 1874," recitals, statements, and descriptions of facts, matters, and parties contained in instruments or statutory declarations twenty years' old shall, unless and except so far as they shall be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters and descriptions. Every instrument relating to the title should be abstracted; but mortgages which have been paid off, and the lands reconveyed, should not be abstracted at length but merely stated as shortly as possible. An abstract ought to be a careful abridgment, not a mere copy of the

Directions, 2nd July, 1910.

instrument or of any part thereof. Conciseness may be obtained by avoiding the introduction of unnecessary or duplicate words to express the same idea, and by confining the abstract of common clauses to a mere reference to them. thus such language as—"a certain bond or obligation," "upon, to, and for," ought not to be used in an abstract, and is likely to lead to a ruling whereby a considerably less sum may be allowed as costs than would be allowed in the case of an abstract of equal length properly drawn. The names and descriptions of the parcels in a deed should be accurately set out, and they should be identified with the names and descriptions at the head of the abstract if they materially differ therefrom; but if they are afterwards granted in any other deed by the same names and descriptions it will be sufficient in abstracting such other deeds to state that they are conveyed by the same names and descriptions as in the former deed: or, if the variance is very slight, it will be sufficient to show what the variance is. The same remark is applicable to wills. The common clauses in a deed, such as covenants for title, for quiet enjoyment, for further assurance, and against incumbrances, for indemnity of trustees, payment of rent, cesser of terms, &c, should be referred as briefly as possible: *the contracts, consideration, and habendum should be more fully abstracted, and so should the limitations as far as may be necessary*. that is to say, if a limitation has taken effect, whereby it has become impossible that the subsequent limitations can take effect, the latter should not be abstracted, *e.g.*, if any tenant in tail has after coming into possession executed a disentailing deed duly enrolled, the subsequent limitations should be omitted from the abstract. Recitals of deeds previously abstracted or recited should be referred to thus—"And reciting the deed of 14th July, 1847, abstracted (or recited), page 6." At the end of every deed it should be stated by what parties it has been executed, and with what solemnities (if any): and if it has been enrolled, or acknowledged by a married woman, or the acknowledgment certified, such facts, with the dates thereof, should be stated. If the instrument abstracted is a marriage settlement it should be immediately followed by a statement of the issue of marriage, and of the dates of their respective births, and of the deaths of such of them as are dead. When an estate is transferred by the death of any person, the date of his death should be stated, and the date of the death of any person having powers of charging should be stated. When a person takes as heir, it is not enough to state that he is heir; it must be shown *how* he is heir by setting out so much of the pedigree as proves it.

Births, deaths, and the facts of pedigree, when stated should be accompanied by a reference to the evidence by which such facts are proved. Directions, 2nd July, 1910.

Where upon the death of any person Crown duties became payable, a statement should appear on the abstract as to whether such duties have been paid or not, and the receipt for the payment of any such duty, if forthcoming, should be lodged.

In every abstract the deduction of title to the lands should be carried on continuously from its commencement to its completion, and should not as a general rule be interrupted by introducing the deduction of title to charges or incumbrances, especially if such charges are still existing, or any other collateral matter. The title to such charges or incumbrances, if necessary, and the instruments dealing with them, should be set forth in a separate part of the abstract, with a proper heading for each charge or incumbrance, and a reference to the page of such devolution of title to the incumbrance should be made when the creation of the incumbrance is stated in its proper place.

When an abstract of title has been prepared for any purpose other than a sale in the Land Commission, it should be produced to the Examiner together with such evidence, if any, as may be necessary to show the purpose for which it was prepared, and his directions taken as to whether the title may merely be continued from the close of such abstract or how far it may be utilized. Such abstract, if used for the purpose of a sale or mortgage effected not less than six years prior to the proceedings, may by permission of an Examiner, to be given in writing in the fold thereof, be lodged without a verifying affidavit, but on the reading the Examiner may, if he deem it necessary, direct the same to be verified.

For Form of affidavit verifying abstract of title see *ante*, p. 880.

DIRECTIONS, 2ND JULY, 1910.

Delivery of Deeds (to supersede Direction, dated 19th January, 1906).

1. In the case of the sale of an estate, the keeper of the records may, at any time before the allocation of the purchase money, deliver on returnable receipt to the solicitor for the vendor having carriage of the sale, any deed, muniment of title, or other document (except verified documents) which has been lodged in the box of such estate.

Provided as follows:—

(*a*) The document must be required for the purpose of the said proceedings and not otherwise, and the solicitor must so certify in the receipt.

Directions 2nd July, 1910.

(*b*) The time limited for return must not exceed 28 days.

(*c*) The keeper of records may in any case in which he deems it expedient require the order of an examiner before delivery.

Superior Interests Redemption Price not exceeding £100

2. To obtain payment of the redemption price of a superior interest where such price does not exceed £30, it will usually be sufficient to produce to the Examiner evidence that the claimant is in possession or receipt of the income of the superior interest.

An averment contained in the originating application or request coupled with the production of receipts or failing that or other sufficient evidence, a short affidavit by the claimant, or by some person who can depose to the facts, would be the proper evidence.

Where an affidavit is necessary the deponent should state the capacity in which the claimant is in receipt of the income, *i.e.*, as beneficial or absolute owner, tenant-for-life, trustee, or otherwise.

Where such redemption price exceeds £30, but does not exceed £100, there should be an affidavit, made by the claimant where practicable, that the claimant is in possession or receipt of the income of the superior interest, and stating whether it is proposed that the payment should be made to the claimant or to trustees, and an exhibit should be made of the undertaking prescribed by Order VIII., Rule 6, of the Rules, dated 2nd July, 1910.

No costs of proof beyond that indicated in this direction shall be allowed unless the Examiner shall require further proof.

J. O. Wylie.

MEMORANDUM AS TO PRACTICE.
Issued by the Irish Land Commission.

ABSTRACTS OF TITLE

Irish Land Act, 1903.

In order to expedite and simplify proceedings under the above Act, the Irish Land Commissioners have decided to permit any vendor or his solicitor, who so desires, to lodge a complete verified abstract of title for the combined purpose of showing title to sell and to the purchase money at any time after the lodgments of agreements, or an agreement for sale, in the case of the sale of an estate to persons other than the Land Commission or the Congested Districts Board, and in the case of a sale to the Land Commission or the Congested Districts Board at any time after the lodgment of the Originating Request

The abstract, when lodged, shall be referred to an Examiner, who shall issue his rulings thereon in two parts, Part I. being confined to requisitions which should be complied with for the purposes of Section 17 (1) of the said Act; and Part II. comprising directions for searches and such requisitions as may be necessary for the distribution of the purchase money. Rules of 11th Jan., 1903.

By Order,

22nd November, 1905. JOHN H. FRANKS.

Where title is being shown to the proceeds of the sale of an estate sold under the Irish Land Act, 1903, which estate formed the residue not sold under the Land Purchase Acts of lands comprised in an Originating Statement filed under those Acts, the title to which had been ruled, the solicitor should confine his abstract of title to a suitable reference to the former proceedings, and an abstract of any instrument or matter not disclosed in the course of such proceedings, and, as soon as he has lodged such abstract of title and the draft allocation schedule with the Keeper of Records, he should attend the Examiner who ruled or noted the title in the former proceedings, and bring the rulings issued in such proceedings with him with a view to the avoidance of delay in the issue of rulings which may be of a very simple character.

LAND COMMISSION AND LAND JUDGE.

PROVISIONAL RULE UNDER LAND LAW (IRELAND) ACT, 1896, SECTION 23.

11th January, 1903.

1. The Rules and Orders dated 26th October, 1896, made under the said 23rd Section, shall apply to and be in force in respect of all proceedings under the Land Act of 1903, as if that Act were specifically mentioned in the said Rules.

The Rules of 26th October, 1896 (*a*), prescribe regulations for the interchange of duties of the Land Judge and the Judicial Commissioner. The above rule extended the scope of the former rules to proceedings under the Act of 1903.

Where the Land Judge acts under this rule as an additional Judicial Commissioner the Land Commission Rules will, it is submitted, regulate the practice.

Regulations of 18th September, 1896 (*b*), provide (Order II.) that Examiners to the Land Judge and Land Commission shall have authority in both Courts.

Order III. (*c*), as amended by rule of 9th January, 1901 (*d*), provides for cases in which the purchase money of land sold under the Land Purchase Acts is to be paid into the High Court—"*a* in all cases where the proceedings originated before the Land Judge; *c* in any other case in which a Judicial Commissioner shall direct it to be so paid."

Where, therefore, the Land Judge acts as a Judicial Commissioner, in order that the purchase money shall be paid into the High Court, a direction to that effect would appear to be necessary.

A similar direction should be obtained where the purchase money is to be summarily distributed under Section 24 (*ante*, p. 1092).

(*a*) *Ante*, p. 641. (*b*) *Ante*, p. 622. (*c*) *Ante*, p 623. (*d*) *Ante*, p. 642.

Rules of 13th Feb., 1905.

LAND PURCHASE ACTS.

IN THE HIGH COURT OF JUSTICE IN IRELAND.

CHANCERY DIVISION—LAND JUDGES

RULES OF 13TH OF FEBRUARY, 1905.

It is this day ordered that the following General Rules and Orders shall, until further order, take effect and be in force in the Court of the Land Judge of the Chancery Division of the High Court of Justice in Ireland in relation to proceedings under and in pursuance of the Land Purchase Acts.

Order I.

In these Rules (unless the context otherwise requires) "the Act of 1903" shall mean the Irish Land Act, 1903.

Order II.

RATIFICATION OF EXCHANGE OF LAND.

Notice of application to be lodged for settlement

1. Before any order is made in pursuance of Sub-section 1 of Section 60 of the Act of 1903, unless such order is being made with the consent of the owners of the respective estates to be thereby affected, it shall be the duty of the person having the carriage of the proceedings, or his Solicitor, to prepare and lodge for settlement by the proper officer, a notice of the application for such Order, specifying the particulars of the exchange, and referring to a map or plan showing the land given and taken in exchange respectively, and also specifying a day upon which the application will come before the Judge for adjudication: Provided, however, that the notice above prescribed may be given by embodying same in the final notice to tenants and adjoining owners and occupiers served under the general orders under the Landed Estates Court (Ireland) Act, 1858, dated the 15th day of July, 1859, or in the notice in the Form X appended to the additional general orders dated 10th January, 1902 (*a*). When the prescribed notice is given in this manner, and no objection is filed by the owner of the estate for sale or by the owners of the adjoining lands within the time limited by such notice for filing objections thereto it shall not be necessary to serve any further notice, but the order for the ratification of such exchange may be made *ex parte*. If, however, an objection to such proposed ratification shall have been filed it shall be sufficient to serve a notice to dispose of such objection in the same way as in the case

of an objection to such notice under the existing General Orders of the Land Judge's Court. Rules of 13th Feb. 1905.

(*a*) See these Rules and Forms (*ante*, pp. 646–656).

2. Such notice when settled shall be signed by the proper officer and shall be served, not less than fourteen clear days before the day upon which the application is to come before the Judge, upon such of the owners of the respective estates affected by the exchange as may not be parties to the application. On whom notice is to be served

3. If the persons to be served reside within the United Kingdom, service may be made by registered letter if satisfactory proof of residence is given; and, if not, service must be personal unless the Judge permits some other mode of service. *Method of service on persons within United Kingdom*

4. If the persons to be served do not reside within the United Kingdom, application may be made to the Judge in Chamber for directions as to the mode of service, and the period to elapse between the service and adjudication. As to persons not within United Kingdom.

Order III.

Superior Interests.

1. No application for the apportionment of any Quit rent, or other perpetual rent payable to the Crown, to which the provisions of Section 61 of the Act of 1903 apply, shall be made to the Land Judge without the leave of the Land Judge. Quit or Crown rents.

2. When any question relating to the apportionment or exclusive charge of any Quit rent or other perpetual rent payable to the Crown is remitted by the Commissioners of Woods to the Land Judge for determination the Registrar shall fix a day upon which the case shall be listed before the Land Judge for adjudication, and shall give not less than four clear days' notice thereof to all persons appearing to be interested. Apportionment or exclusive charge of quit rent remitted to Judicial Commissioner to be listed on notice.

3. The redemption price of a superior interest, other than Quit or Crown rent, tithe rentcharge payable to the Land Commission or Annuities in lieu thereof, and land improvement or drainage charges in favour of the Commissioners of Public Works in Ireland, shall be determined by the Land Judge unless the parties interested agree upon such redemption price within fourteen days from the date of the order for redemption, unless the time is extended by the Judge. Price to be fixed by Judicial Commissioner if not agreed to within fourteen days

4 An application to have purchase or redemption money distributed without regard to a superior interest or any part thereof, or for an exclusive charge in pursuance of Section 62 of the Act of 1903 shall be made by motion to the Land Judge, and, unless grounded upon a Distribution of purchase money without regard to superior interest not paid by land sold, and exclusive charge

Rules of 13th Feb., 1905.

Consent, shall be on notice to the owner or person in receipt of such superior interest, and to the owner or owners of the lands out of which the same is paid or upon which it is proposed to exclusively charge the same: Provided always that the Land Judge may, if he thinks fit, dispense with service upon any person. A copy of the Order when made, shall, if applied for, be issued at the expense of the estate to the owners of the superior interest, and the lands out of which the same is paid or upon which the same is exclusively charged.

Undertaking to apply redemption price of superior interest as capital money

5. When the redemption price of a superior interest, or of an apportioned part thereof, exceeds thirty pounds but does not exceed one hundred pounds, the undertaking to be given by the person in possession or in receipt of the income of the superior interest, or by the trustees to be appointed or approved of by the Land Judge to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890, shall be in writing under his or their hand or hands in Form I. in the Appendix, with such variations as the nature of the case may require.

APPENDIX.

Form I

Undertaking to apply redemption price of superior interest as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

HIGH COURT OF JUSTICE IN IRELAND.

Chancery Division—Land Judges.

In the Matter of the Estate of

Owner.

Petitioner.

I, *A. B.*, of , the person (now or lately) in possession or receipt of

[*Here describe the superior interest.*]

hereby undertake, in case the Land Judge shall pay to me the redemption price thereof,

or

We, *C D.* of and *E. F*, of the [*Here state the capacity in which they are trustees, and whether appointed or approved by the Land Judge.*]

hereby undertake in case the Land Judge shall pay to us the redemption price of

[*Here describe the superior interest.*]

to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

Dated this day of 19.

Signed in presence of

Signed *A. B.* (or) *C. D.*, and *E. F.*

CHANCERY DIVISION—LAND JUDGES.

Directions, 30th April, 1898.

Directions as to Allocations in Chamber.

(Issued 30th April, 1898.)

1. When the final schedule of incumbrances is being vouched, the vendor's solicitor shall lodge with the Examiner a Memorandum* stating:—

(*a*) The particulars of the funds standing to the credit of the matter, distinguishing between cash and guaranteed land stock or other securities, and between money or securities retained as guarantee deposits or for any other purpose, or standing to a separate credit, and such as may be standing to the general credit of the matter:

(*b*) If any claim on the schedule of incumbrances affects particular denominations only, how much of the fund represents the proceeds of the sale of such denominations, and whether the entire has been sold or not, in so far as such information may be necessary for the allocation:

(*c*) The order asked for in respect of each claim:

(*d*) The declaration asked for concerning the rights of the parties as regards any guarantee deposit registered in the title of the matter to abide the Judge's order, or whether it is desirable for any reason that the making of such declaration should be postponed.

2. Where any claimant whose name appears on the schedule of incumbrances desires to waive his claim or priority either wholly or in part he shall, unless the Judge shall otherwise direct, lodge a consent in writing signed by himself and verified, or signed by a solicitor who has appeared for him unless such solicitor shall also represent the vendor or any person whose interest might be hostile to that of the claimant.

* The Memorandum is entitled in the matter, and contains a column for the Final Schedule number, a column for the order asked for in respect thereof, a money column, and a column to be left blank.

Rules of 17th Oct., 1903.

RULES

IN RELATION TO

APPORTIONMENT OF QUIT OR OTHER PERPETUAL RENTS

PAYABLE TO THE CROWN PURSUANT TO SECTION 61

OF THE IRISH LAND ACT, 1903,

Made by the Commissioner of Woods.

(St. R. & O., 1903, No. 894.)

17th day of October, 1903.

I.

CONSTRUCTION OF TERMS.

IN these Rules " the Commissioner of Woods " means the Commissioner for the time being, to whom the management and direction of the Land Revenues of the Crown in Ireland have been assigned by the Commissioners of his Majesty's Treasury in pursuance of the Crown Lands Act, 1851.

II.

1. Applications for the apportionment or exclusive charge of Quit or other perpetual rents, payable to the Crown, shall be made to the Commissioner of Woods, at the Quit Rent Office, Dublin, as soon as can be conveniently done after the issue of the Quit Rent Certificate. It shall be the duty of the Vendor or the Solicitor having carriage of the proceedings to furnish such consents, evidence, and documents as may be required for such apportionment or exclusive charge.

2. Where such application is based on a consent or consents, signed by or on behalf of the persons whose lands it is proposed to apportion or exclusively charge such rents, the Commissioner of Woods may make the apportionment or exclusive charge forthwith.

Rules of 17th Oct., 1903.

3. Where no consents are produced the Commissioner of Woods may give notice of the proposed apportionment or exclusive charge to all persons appearing to him to be interested, and, on the expiration of fourteen days from the giving of such notices, he may proceed to make the apportionment or exclusive charge, provided no notice of objection has been lodged, as next hereinafter mentioned.

4. Any person receiving notice, as aforesaid, and objecting to the proposed apportionment or exclusive charge, shall, within fourteen days of the service of such notice, serve the Commissioner of Woods with notice of objection, stating the grounds on which such objection is based. If the Commissioner of Woods considers that the objection is frivolous, or discloses no sufficient grounds for remitting the apportionment or exclusive charge to the Land Judge or Judicial Commissioner, he may proceed as if no objection had been lodged. Where the notice of objection raises a substantial question of law or other question of difficulty which involves a hearing in Court, or otherwise, the Commissioner of Woods shall transmit the application and objection to the Registrar of the Land Judge or the Judicial Commissioner, as the case may be, together with a report thereon, and the Vendor, or his Solicitor, shall thereupon take such steps as the Land Judge or Judicial Commissioner may direct for the determination of the case.

5. A copy (certified by the officer in charge of the Quit Rent Office) of the certificate issued under Sub-section (5) of the said 61st Section shall be delivered to the applicant or his solicitors, free of charge.

6. All notices for the Commissioner of Woods shall be served at the Quit Rent Office, Dublin, and any notice proceeding from the Commissioner of Woods may be given on behalf of such Commissioner by the officer for the time being in charge of the Quit Rent Office. Such notices may be sent by registered letter through the post.

See also Rules 22nd April, 1907, *post*, p. 1396

Rules of 22nd April, 1907.

RULES

FOR

APPORTIONMENT AND EXCLUSIVE CHARGE OF QUIT, &c., RENTS,

Made by the Commissioner of Woods.

Dated 22nd April, 1907.

(St. R. & O., 1907, No. 378.)

The following Rules shall come into force and take effect as from the 1st May, 1907.—

I.

Proceedings under the Landed Estates Court (Ireland) Act, 1858.

The Rules, dated 17th October, 1903, made in pursuance of Section 61 of the Irish Land Act, 1903, shall take effect and be in force as rules regulating the procedure for the Apportionment or Exclusive Charge of Quit or other perpetual rents payable to the Crown in proceedings under the Landed Estates Court (Ireland) Act, 1858.

II.

Apportionment and Exclusive Charge of Quit or other perpetual rents payable to the Crown when no part of the lands liable is the subject of proceedings for sale under the Land Purchase Acts as defined by the Irish Land Act, 1903, or the subject of proceedings under the Landed Estates Court (Ireland) Act, 1858.

Construction of Terms.

In these Rules "the Commissioner of Woods" means the Commissioner for the time being, to whom the management and direction of the Land Revenues of the Crown in Ireland have been assigned by the Commissioners of His Majesty's Treasury, in pursuance of the Crown Lands Act, 1851.

1. The owner of any land liable to quit or other perpetual rents payable to the Crown may apply to the Commissioner of Woods at the Quit Rent Office, Dublin, to have such quit rent apportioned or exclusively charged.

2. The application signed by the Applicant or his Solicitor or Agent shall follow the form in the schedule hereto with such modifications as the circumstances of the case may require and shall be accompanied by

an Ordnance Map, showing the lands between which it is proposed to apportion or upon which it is proposed to exclusively charge such rent, and a certificate of the tenement valuation of such lands respectively. The application may be accompanied by a consent or consents signed by the person on whose lands it is proposed to apportion or exclusively charge such rent or by his Solicitor or Agent.

3. The Commissioner of Woods may require the application and consent or either of them to be verified by statutory declaration.

4. When the application is accompanied by such consent or consents as aforesaid, the Commissioner of Woods may make the Apportionment or Exclusive Charge forthwith.

5. Where no consents are produced, the Commissioner of Woods may give notice of the proposed Apportionment or Exclusive Charge to all persons appearing to him to be interested, and on the expiration of fourteen days from the giving of such notices, he may proceed to make the Apportionment or Exclusive Charge provided no notice of objection has been lodged, as next hereinafter mentioned.

6. Any person receiving notice as aforesaid, and objecting to the proposed Apportionment or Exclusive Charge shall, within fourteen days of the service of such notice, serve the Commissioner of Woods with notice of objection, stating the grounds on which such objection is based. If the Commissioner of Woods considers that the objection is frivolous, or discloses no sufficient grounds for remitting the Apportionment or Exclusive Charge to the Land Judge, he may proceed as if no objection had been lodged. Where the notice of objection raises a substantial question of law, or other question of difficulty which involves a hearing in Court, or otherwise, the Commissioner of Woods shall transmit the application and objection to the Registrar of the Land Judge, together with a report thereon; and the Applicant or his Solicitor shall thereupon take such steps as the Land Judge may direct for the determination of the case.

7. The Applicant shall pay such fee for the preparation of the Certificate as the Commissioner of Woods may determine in each particular case, such fee to include a copy of the Certificate, certified by the Officer in charge of the Quit Rent Office.

8. All notices for the Commissioner of Woods shall be served at the Quit Rent Office, Dublin, and any notice proceeding from the Commissioner of Woods may be given on behalf of such Commissioner by the Officer for the time being in charge of the Quit Rent Office. Such notices may be sent by registered letter through the post.

SCHEDULE REFERRED TO IN THE FOREGOING RULES.

Application for the Apportionment [or Exclusive Charge] of a yearly Quit [or Crown or Composition] rent of £ , payable to the King's Majesty.

I, of the owner of the lands specified in the first part of the Second Schedule hereto do hereby apply that the above-mentioned rent may be [apportioned] in the manner set forth in the said Schedule.

First Schedule —Particulars of Original Rent.

Ancient Barony of County of

No in Crown Books		Patentee	Denomination (Ancient Description)	Area, Plantation Measure (if stated)	Rent per annum, late Irish Currency	Rent per annum, British Currency	Description of Rent
T. B. Rental	Ledger			A R P	£ s d	£ s d	

Second Schedule —Particulars of [Apportionment]

Modern Barony of County of

Denomination (Ordnance Survey Name)	Area (Statute Measure)	Colour on Map	Owner	Apportioned part of Rent payable in future
	A R P	Part I		£ s d
		Part II.		

RULE OF THE SUPREME COURT OF JUDICATURE (IRELAND) AS TO INVESTMENT OF PURCHASE MONEY UNDER SECTION 51 OF THE IRISH LAND ACT, 1903. Rule S. C., 1904.

On 21st day of January, 1904, the Judges of the Supreme Court of Judicature in Ireland made a Rule that the Stocks, Funds, and Securities thereafter set out should be authorised for the investment of purchase money under Section 51 of the Irish Land Act, 1903, and that a list of same should be published in the *Dublin Gazette* as the list of such investments as were for the time being and until further Order authorised by the Rule-making Authority of the Supreme Court for the investment of purchase money under the said Section.

Two and a half per cent. Consolidated Stock;

Two pounds fifteen shillings per cent. Annuities;

Two pounds ten shillings per cent. Annuities;

Local Loans Stock under the National Debt and Local Loans Act, 1887;

Guaranteed Land Stock;

Guaranteed two and three-quarters per cent. Stock, 1903;

And any other Stocks guaranteed by the Government of the United Kingdom;

Bank of England Stock;

Bank of Ireland Stock;

Deposit Receipt in the Bank of Ireland;

India three and a half per cent. Stock.

India three per cent. Stock;

India Guaranteed Railway Stocks or Shares, provided in each case that such stocks or shares shall not be liable to be redeemed within a period of fifteen years from the date of investment;

Inscribed Stocks of Colonial Governments guaranteed by the Imperial Government;

Mortgage of freehold and copyhold estates respectively in Ireland;

Debenture preference guaranteed or rentcharge stocks of Railways in Great Britain or Ireland, having for ten years next before the date of investment paid a dividend on ordinary stock or shares;

Debenture preference guaranteed or rentcharge stocks of Railways in Great Britain or Ireland guaranteed by Railway Companies owning Railways in Great Britain or Ireland, which have been for ten years next before the date of investment paid a dividend on ordinary stock or shares (*a*).

(*a*) The above list is identical with that prescribed by Or. LXII., r. 71, of securities in which cash under the control of the High Court may be invested. Sub-sections 1, 2 and 3 of Sec. 51 of the Act of 1903 are, however, repealed by Sec. 38 of the Act of 1909 (*ante*, p. 1224), which deals with powers of investment.

Rules of 5th Dec., 1904.

THE PUBLIC TRUSTEE RULES, 1904.

(St. R. & O., 1904, No. 1747.)

UNDER SECTION 52, SUB-SECTION 15, OF THE IRISH LAND ACT, 1903.
DECEMBER 5TH, 1904.

In pursuance of the provisions of Section 52, Sub-section 15, of the Irish Land Act, 1903, the Land Judge and the Land Commission, with the approval of the Lord Lieutenant, hereby Order that the following Rules shall from and after the fifth day of December, 1904, and until further order, be in force in relation to all proceedings for the purpose of carrying into effect the provisions of Section 52 of the said Act, and for regulating the exercise of the powers and duties of the Public Trustee.

Short Title.

1. These Rules may be cited as "The Public Trustee Rules, 1904."

Definitions

2. In these Rules "the Act" shall mean the Irish Land Act, 1903; "Land Commission" shall mean Irish Land Commission; "The Court" shall mean either the Land Judge of the Chancery Division of the High Court of Justice in Ireland, or the Land Commission, according as the purchase money of the lands sold under the Land Purchase Acts is distributed or has been distributed by a Land Judge or the Land Commission; "Tenant for life" shall include the person or persons for the time being beneficially entitled to the income arising from the trust property; "The Officer of the Court" shall mean (*a*) as regards trusts where the Public Trustee has been appointed trustee by the Land Judge, the Registrar of the Court of the Land Judge, and (*b*) as regards trusts where the Public Trustee has been appointed Trustee by the Land Commission, the Registrar of the Land Commission, and "The Bank" shall mean the Bank of Ireland.

Office to be in Dublin.

3. The Public Trustee shall have an office within the municipal boundary of the City of Dublin.

Office Hours.

4. The Office of the Public Trustee shall be open for the dispatch of business on all days of the year, except Sundays and Bank Holidays, between the hours of 10 a.m. and 4 p.m. except on Saturdays, when the Office may be closed at the hour of 1 p.m.

Appointment of Deputy.

5. In the case of the illness or unavoidable absence of the Public Trustee, the Lord Lieutenant may, by Warrant unde his hand, appoint

Rules of 5th Dec., 1904.

some person to act as his Deputy for such purposes as may be specified in the Warrant, and the appointment of such Deputy shall forthwith be notified to the Secretary of the Bank.

Seal

6. The seal of the Public Trustee, when affixed to any document, shall in every case be attested by his signature or by that of his deputy appointed as aforesaid.

Appointment of the Public Trustee as Trustee of a Settlement.

Application under s. 52, ss 10.

7. An application to appoint the Public Trustee as trustee of a settlement under Sub-section (10) of Section 52 of the Act, may be made by any person having an interest in the property, the subject matter of such settlement, or a power either alone or jointly, with any other person to appoint new trustees thereof. If, pending the proceedings in any matter, it shall appear that there is no trustee of a settlement comprising lands which have been sold (*a*) under the Land Purchase Acts, the Court, without any application made in that behalf, may appoint the Public Trustee to be trustee of the settlement.

(*a*) The words "settlement comprising the lands which have been sold" would appear to preclude payment to the Public Trustee of any moneys except the purchase money of the lands sold. But by the amended Rules of 7th May, 1908, *post*, p. 1406, the Public Trustee may be appointed to be a trustee of *any* deed or instrument in writing, and accordingly the redemption price of a superior interest will now be paid to the Public Trustee when so appointed.

Applications appoint to be by motion on notice.

8. Every application to appoint or substitute the Public Trustee as trustee of a settlement, shall be made to the Court by motion on notice. In the Irish Land Commission every application shall be assigned to a Judicial Commissioner or to a Judge exercising for the time being the jurisdiction of a Judicial Commissioner.

Entitling of Documents

9. The notice, and all affidavits, consents, orders and other proceedings shall be entitled in the matter in which the settled land has been sold, and also in the matter of the settlement, as in Forms I. and I A. in the Appendix.

Service of Notice.

10. The persons to be served with notice of the application shall, in the first instance, be as follows:—

In the case of an application under Sub-section 10 of Section 52 of the Act, the tenant for life if not the applicant.

In the case of an application under Sub-section 11 of Section 52 of the Act, the Trustees.

In the case of an application under Sub-section 12 of Section 52 of the Act, the tenant for life.

No other person shall, in the first instance, be served, but the Court

Rules of 5th Dec., 1904.

may give any directions it thinks fit, either dispensing with the service of notice on any person required to be served under this Rule, or requiring service of notice on any person not so required to be served.

Application to be supported by Affidavit.

11. The application shall be supported by an affidavit made by the applicant, which shall state concisely :—

(*a*) The particulars of the instrument or instruments constituting the settlement and of the trusts thereof.

(*b*) The particulars of the trust property,

(*c*) The names and addresses, when known, of the persons entitled as beneficiaries next in remainder,

(*d*) If the application is by the tenant for life, the names and addresses of the existing trustees of the settlement (if any) having power to appoint new trustees of the settlement, and in other cases the name and address of the tenant for life,

(*e*) Particulars as to the persons who are in possession of the deeds or other instruments, and documents constituting the settlement, or relating to the trust property,

(*f*) Any other matter on which the Court should be informed.

Limitation of Order.

12. The Court, when appointing or substituting the Public Trustee, as trustee of a settlement, may limit the scope of the order to the purchase money of land sold under the Land Purchase Acts or otherwise, as to the Court may seem fit.

Vesting Orders

13. Every order of the Court which directs that trust property shall vest in, or be transferred or paid to the Public Trustee, shall have annexed thereto, as part thereof, a Schedule setting out in tabular form the particulars of such trust property.

Registered land.

14 In any case where the order of the Court vests registered land in the Public Trustee as trustee of a settlement, a certified copy of the order shall be by him transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the Public Trustee shall thereupon, be registered on the Register in the proper column.

Trust property may be vested in Public Trustee jointly with others Settled Land Acts.

15. Whenever it shall be expedient or necessary, the Court may vest the trust property or any part thereof in the Public Trustee jointly with any other person or persons, and may also appoint the Public Trustee and any other person or persons trustees of the settlement for the purposes of the Settled Land Acts, 1882 to 1890, so far as relates to the property settled or any part thereof.

Title deeds to be handed over to the Public Trustee.

16. When an order has been made appointing the Public Trustee sole trustee of a settlement, the instrument or instruments constituting such settlement, and all title deeds, certificates, and other documents

which are evidence of the title of the Public Trustee to any of that Trust Property, or authenticated copies of any of the aforesaid documents, the originals of which are not forthcoming, shall, save so far as the Court may by the said Order or any future Order, otherwise direct, be handed over to the Public Trustee.

The Court may order the delivery of title deeds.

17. The Public Trustee may apply to the Court for an order upon any person having the custody of any document referred to in the last preceding rule, to hand such document over to the Public Trustee, and the Court may make such Order as to the custody of any such document or the conditions upon which the same is to be handed over, and as to costs, as may be just.

Public Trustee to file Statement of Trust Property in Court.

18. The Public Trustee must, unless in any case the Court shall declare that it is unnecessary, as soon as may be after his appointment, make out and file with the officer of the Court a complete Statement of the Trust property, accompanied with an approximate estimate of the income and capital value of each item, and shall seal and sign the same. Every such statement shall contain a list of all deeds, documents of title, certificate and scrip connected with the trust and delivered to the Public Trustee. If any variation shall at any time be made in the trust property, or any part thereof, or in any investment representing the same, or any part thereof, the Public Trustee shall forthwith file with the officer of the Court a Supplemental Statement giving particulars thereof.

See Rules 7th May, 1908, *post*, p. 1406.

Administration of Trust.

Accounts

19. The Public Trustee shall open a separate account in the Bank in respect of each Trust Fund under his sole control, and shall pay all monies received by him in respect of any such trust fund into the Bank to such account.

Payments.

20. All payments by the Public Trustee in respect of Trust Funds under his sole control, shall be made by Drafts upon the Bank signed by him and countersigned by an Official to be nominated by the Treasury.

Ledger Accounts to be kept.

21. The Public Trustee shall keep, in such form as may be directed by the Treasury, a separate ledger account in respect of each separate Trust property which shall show the particulars of the Trust property and of all dealings therewith.

Security of Records, &c.

22. The ledgers of the Public Trustee shall be kept by him in the Office in a place of security where they shall be reasonably safe from loss or damage by fire or otherwise. All Certificates, Deeds and other instruments and muniments of Title relating to Trust property vested

Rules of 5th Dec., 1904

in the Public Trustee as sole Trustee shall be deposited by the Public Trustee in the Bank.

Inspection of Books and Deeds

23. Any person beneficially interested in any Trust property under the control of the Public Trustee, or any Solicitor, Accountant or Agent, duly authorised in writing by such person shall be given reasonable facilities for inspecting the ledger account of such Trust property and the Certificates, Deeds and Muniments of Title relating thereto.

Application by Public Trustee to Chancery Division as to administration of trust

24. The Public Trustee may, in any case in which it is expedient, take all necessary steps for obtaining the opinion of a Judge of the Chancery Division of the High Court of Justice under Order LV. of the Rules of the Supreme Court, Ireland, or otherwise, as to any question arising in the administration of the Trust.

See *Blacker Douglas' Trusts* (5 N. I J R. 285, 297), where questions were submitted to the Master of the Rolls, and afterwards to the Court of Appeal, as to the range of investments authorised for the Public Trustee under this Rule The principal points decided will be found in the notes to Sec. 51 of the Irish Land Act, 1903 (*ante*, p 1121).

Application to Court as to administration of trust.

25. If any person desires to bring any matter connected with the administration of the Trust under the notice of the Court, he may apply for the purpose by motion on notice according to the course of the Court entitled in the matter in which the settled land has been sold, and also in the matter of the settlement, and shall serve the same on the Public Trustee by sending it to him through the Notice Office of the Court.

No other person shall, in the first instance, be served with such notice, but at the hearing of the Court may require any other person to be served therewith, and may make such order thereon, as it deems fit.

Securities in name of Public Trustee to be dealt with only under order of the Court unless object of dealing recorded and countersigned

26. Stocks, Shares and Securities, vested in or standing in the sole name of the Public Trustee shall not be dealt with or transferred by him, save with the sanction of the Court, unless the object of such dealing or transfer is recorded in a Minute and any transfer pursuant to the same is countersigned by the official mentioned in Rule 20.

A copy of this Rule shall be sent through the post by the Public Trustee, to the Bank, and to the Secretary of every Company, Corporation or other Public Body, in whose Stocks, Debentures or Shares any part of the Trust property is invested, immediately after the same has been transferred into his name.

Standing Order or payment of income.

27. Any payment on account of the income of the Trust property may be provided for by means of a standing order under the seal of the Public Trustee, countersigned by the official mentioned in Rule 20, directed to the Bank, or to any Corporation, Company or other Public

Body, in whose Stocks, Debentures or Shares, the Trust property or any part thereof may for the time being be invested. Rules of 5th Dec., 1904.

28. The Stockbrokers for the time being appointed by the Lord Chancellor to carry out the investment of funds under the control of the Supreme Court of Judicature in Ireland, shall be Stockbrokers to the Public Trustee; and such Stockbrokers shall discharge their duties in such order or rotation as the Land Judge and Land Commission may from time to time direct. Stockbrokers of Supreme Court to act for Public Trustee.

29. Whenever the Public Trustee shall direct the purchase of Stock or Securities with money standing to the account of any trust the price shall not be paid to the broker until the transfer into the name of the Public Trustee of Stock or securities equal in value to the money to be invested deducting commission, shall be completed, and whenever the Public Trustee shall order the sale of any stock or securities standing to the account of any trust the same shall not be transferred until the broker shall have paid to the Public Trustee the price thereof, deducting his commission. Payment of price and transfer of stock

Control and Audit.

30. The Public Trustee shall, as regards the method of keeping his books and accounts, and regulating the expenses of his Office, conform to any directions, whether given on special occasions or by general rule or otherwise, which may from time to time be given by the Treasury.

31. The Accounts of the Public Trustee shall be audited at such times and in such manner as the Treasury may from time to time direct.

32. The Public Trustee shall be allowed, on the audit of his accounts, deductions made on account of costs or expenses properly payable out of the Trust Property.

Estimate of Financial Effect of Sale.

33. The Public Trustee shall, on the request of any person proposing to sell an Estate under the Land Purchase Acts, give an estimate of the probable financial effect of such sale.

APPENDIX.

FORM 1.

Rules of 7th May, 1908.

IN THE HIGH COURT OF JUSTICE IN IRELAND.
CHANCERY DIVISION—LAND JUDGES

LAND PURCHASE ACTS

In the Matter of the Estate of *A.B.*

Owner;

Exparte

C.D.

Petitioner.

And in the Matter of a Settlement made by (an Indenture dated the day of , and made between, &c., or the Will of *E. F.*), dated the day of , *or otherwise as the case may be.*

FORM 2

COURT OF THE IRISH LAND COMMISSION.
LAND PURCHASE ACTS.

Record No.
In the Matter of the Estate of *A.B.*

A Vendor of Land.

And in the Matter of a Settlement made by, &c. (as before).

LAND PURCHASE ACTS.

THE PUBLIC TRUSTEE RULES, 1908.

May 7th, 1908.

(St. R. & O., 1908, No. 366.)

In pursuance of the provisions of Section 52, Sub-section 15, of the Irish Land Act, 1903, the Land Judge and the Land Commission, with the approval of the Lord Lieutenant, hereby Order that the following Rule shall, from and after the 7th day of May, 1908, and until further Order, be in force for the purpose of carrying into effect the provisions of Section 52 of the said Act and regulating the exercise of the powers and duties of the Public Trustee, and that the said Rule shall be read with the Public Trustee Rules, 1904, as Rule 18 (a).

APPOINTMENT OF THE PUBLIC TRUSTEE IN CASES OTHER THAN THOSE MENTIONED IN RULES 7 TO 18 INCLUSIVE OF THE PUBLIC TRUSTEE RULES, 1904. Rules of 7th May, 1908.

18. (a.)—(i.) In any matter under the Land Purchase Acts where it appears expedient for the purpose of the said Acts, the Court may appoint the Public Trustee to be a Trustee of any Deed or Instrument in writing, and may limit such appointment to such Trusts and in such manner as to the Court may seem fit.

(ii.) By the Order making such appointment or any subsequent Order the Court may vest the Trust premises comprised in such Deed or Instrument or any portion of such Trust premises in the Public Trustee either alone or jointly with any other Trustee or Trustees. Any such Vesting Order shall have annexed thereto a Schedule setting out particulars of the Trust premises intended to be vested.

(iii.) Application to the Court for any of the purposes aforesaid may be made by any person interested either as Trustee or beneficiary in the Trust premises comprised in such Deed or Instrument or by the Solicitor of the Land Commission and such application shall, in the first instance, be made by motion exparte in the matter under the Land Purchase Acts and in the matter of the Trusts of such Deed or Instrument grounded upon an affidavit entitled in such matters and setting forth concisely :—

(*a*) Particulars of such Deed or Instrument.

(*b*) Particulars of the Trust premises comprised therein.

(*c*) Names and addresses so far as known of all persons interested in the Trusts.

(*d*) Any other necessary or proper matter.

(iv.) The Court may require Notice of any such application or of any Order made thereon to be served upon such persons as the Court may think fit.

(v.) Rules 16, 17, and 18 shall apply to any appointment made under this Supplemental Rule as if the Deed or Instrument in writing whereof the Public Trustee may be appointed Trustee were the Settlement in the said Rules referred to.

(vi.) Every application under this Supplemental Rule to the Irish Land Commission shall be assigned to a Judicial Commissioner or a Judge exercising for the time being the jurisdiction of a Judicial Commissioner.

Rules of 29th Aug., 1904.

RULES MADE BY THE LORD LIEUTENANT OF IRELAND UNDER SECTION 56 (5) OF THE IRISH LAND ACT, 1903, AS TO THE FURNISHING OF MAPS AND INFORMATION TO THE LAND COMMISSION (*a*), BY THE COMMISSIONER OF VALUATION.

The Irish Land Act, 1903 (3 Edward 7, c. 37).

29th August, 1904.

1. The Irish Land Commission shall, as soon as practicable after the date of these Rules, furnish to the Commissioner of Valuation copies of all returns of completed sales under the Land Purchase Acts up to the 31st March, 1904, which may have been compiled in pursuance of the said Acts or of any Rules made thereunder.

(*a*) These rules deal with the furnishing of information *to* the Commissioner of Valuation *by* the Land Commission as well as with furnishing of information to the Land Commission

2. As regards any sales under the said Acts completed subsequent to the 31st March, 1904, the Land Commission shall, as soon as practicable after the 31st March in each year, furnish to the Commissioner of Valuation periodical returns, prepared according to Provinces and Counties, of all holdings for the purchase of which advances have been made under the Land Purchase Acts. Such returns shall specify the situation, including Electoral Divisions, size, rateable value, and rent of each holding, the names of the vendor and purchaser, and the amount of the advance made.

3. Every Collector of Poor Rate when delivering on or before the 15th day of June in each year to the Secretary of the County Council, Secretary of the Borough Council, or Clerk of the Urban District Council, for transmission to the Commissioner of Valuation, his lists of all tenements or other rateable hereditaments in regard to which a revision of the valuation is, or may be, necessary, shall add to the said lists particulars of all cases in which a sub-division or sub-letting of a holding, in respect of which an advance has been made under the Land Purchase Acts, has been made.

4. The Commissioner of Valuation shall, thereupon, furnish to the Land Commission, in the Form "A" annexed hereto, or such other form as, with the concurrence of the Land Commission, may be substituted therefor, the particulars of all such cases of sub-division or letting.

5. After the date hereof, as soon as any District Registrar of Births and Deaths in Ireland becomes aware of the death of any person, who

was at the time of his death the proprietor of a holding situate in whole or in part within the Registrar's district, in respect of which an advance under the Land Purchase Acts has been made, such Registrar shall give information of such death to the Land Commission.

(*a*) If the death occurred in his district and has been registered, the Registrar shall forward to the Secretary of the Irish Land Commission, Dublin, a certified copy of the entry of the death, duly stamped, for which the statutory fee of 2*s.* 6*d.* and the stamp duty of 1*d.* shall be paid to him by the Land Commission.

(*b*) Should the death have occurred elsewhere than in the Registrar's district, he shall forward to the said Secretary a notification of the death in the Form "B" annexed hereto, which form is to be supplied by the Registrar-General to the District Registrar, and for every such notification the Registrar shall be entitled to the fee of sixpence, which shall be paid to him by the Land Commission.

6. The Fees and Stamp Duties specified in the foregoing Rule shall be paid as part of the expenses of the Land Commission.

Form "A" referred to in the foregoing Rules.

19

In accordance with the provisions of Section 56 of the Irish Land Act, 1903, and the Rules made thereunder, I beg to report that I have received Notification of the [*sub-division or letting*] of the undermentioned holding in respect of which an Advance under the Land Purchase Acts has been made.

County of District of

Townland of Tenant Purchaser

Area A. R. P. Rateable Valuation { Land £ / Buildings £

Particulars of the [*sub-division or letting*] notified.

Name of person other than the Tenant purchaser in occupation of any part of the holding

Area so occupied A. R. P.

Rateable Value of same { Land £ / Buildings £

Price paid for sub-divided portion, if ascertained, £

Annual Rent of portion let, if ascertained, £

(Signed),

The Secretary, Irish Land Commission, Dublin.

The Commissioner of Valuation

Rules of 29th Aug., 1904.

Form "B" referred to in the foregoing Rules

County of

, 19

In compliance with Section 56 of the Irish Land Act, 1903, and the Rules made thereunder, I hereby beg to inform the Land Commission that I am aware of the death of

of [*here insert name of townland*] the Proprietor of a holding situate in whole or in part in my district in respect of which an Advance under the Land Purchase Acts has been made, and that to the best of my knowledge and belief such death occurred on the day of 19 , at

Registrar of Births and Deaths for the District of

in the Superintendent Registrar's District of

To the Secretary,
Irish Land Commission,
Upper Merrion Street, Dublin.

CONGESTED DISTRICTS BOARD.

Procedure Order, 8th Jan., 1910.

REGULATIONS AND PROCEDURE ORDER, 1910.

8th January, 1910.

Made pursuant to Section 51 of the Irish Land Act, 1909.

1. This Order may be cited as the Congested Districts Board (Regulations and Procedure) Order, 1910.

2. (1) In this Order unless the context otherwise requires—

(*a*) The expression "The Act" shall mean the Irish Land Act, 1909.

(*b*) The expression "The Board" shall mean the Congested Districts Board for Ireland, as incorporated by Sub-section 1 of Section 44 of the Act.

(*c*) The expression "The Bank" shall mean the Bank of the Governor and Company of the Bank of Ireland.

(*d*) Other expressions shall, subject to the express provisions in this Order, have the same meaning as in the Act.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The Board shall hold its first meeting within one month after the appointed day, and shall meet once at least in every month thereafter, and may also meet at such other times and at such places as may be appointed by the Board from time to time.

4. The Chief Secretary, or in his absence the Under Secretary to the Lord Lieutenant, shall preside at the meetings of the Board. In the absence of both the Chief Secretary and the Under Secretary from any meeting the members present shall appoint one of their own number to preside at the meeting.

5. There shall be a quorum when five members of the Board are present at a meeting. All questions and matters shall be determined by the majority of the members present, and in every case of an equality of votes the presiding member shall have a second or casting vote, but no member shall in any other circumstances give more than one vote.

6. Notice of each meeting shall be given by the Secretary in writing to each member of the Board two clear days, or such other time as the Board may direct, before the meeting. Every member of the Board shall furnish the Secretary with an address to which notices may be sent

Procedure Order, 8th Jan., 1910.

by post or otherwise for such member, and the accidental omission to send notice of any meeting to any member shall not affect the validity of anything done thereat.

7. The Chief Secretary or the Under Secretary, or the two Permanent Members jointly, or any five of the appointed members, may at any time require the Secretary to summon a special meeting of the Board, and thereupon the Secretary shall give notice of such special meeting at least three clear days before the meeting, and shall specify in the notice the business or matter to be considered at the meeting.

8 The Board may at any meeting adjourn the consideration or completion of any business or matter to such time and place as the members present may appoint.

9. Minute books shall be kept by the Secretary or Assistant-Secretary of the Board in which the attendance of the members at the meetings and all the proceedings of the Board at its meetings shall be entered.

10. The Board shall arrange for the safe custody of the Common Seal, and the Secretary shall keep a record in such form as the Board shall direct of the Deeds and Documents to which the same shall have been affixed. The Board shall also arrange for the safe custody of all books of account and other books, deeds, documents, and securities belonging to or under the control of the Board.

11. The Permanent Members shall attend at the offices of the Board except so far as their duties may render their presence elsewhere necessary.

12. The Permanent Members shall be the executive officers of the Board in the performance and execution of the statutory duties and powers of the Board, and shall, in particular, and without prejudice to the generality of the foregoing, but subject to any resolution or direction of the Board from time to time—

(1) Supervise and control the indoor and outdoor official staff of the Board, and be responsible to the Board for the management and discipline thereof, and report to the Board any alleged misconduct or breach of duty on the part of any member of the official staff.

(2) Superintend and control the general correspondence and book-keeping of the Board.

(3) Visit such places, make such enquiries, furnish such reports, and obtain such information as the Board may require, with a view to the performance of the duties and the exercise of the powers of the Board.

(4) Direct the preparation, compilation and furnishing of all reports, schedules, estimates, accounts or other documents, and all statistical or other information which may be required by the Board, and in particular, direct the preparation of and certify the estimates prepared for submission to the Treasury under the Purchase of Land (Ireland) Act, 1891, and place them before the Board with such observations as they may think necessary.

Direct the preparation and submission at each monthly meeting of the Board of a statement of the receipts and expenditure under the several sub-heads of the annual estimates as approved by the Treasury.

(5) Place before the Board at their monthly meetings, or at such other intervals as may be directed by the Board, statements showing in such form as the Board may prescribe, the progress made in the collection of rents, instalments of fishery and other loans, or other moneys payable to the Board, the sums collected and the sums remaining due, and make recommendations to the Board as to the institution, prosecution, compromise or abandonment of legal proceedings against tenants or other persons.

(6) Assist the Board generally in all matters of administrative and departmental detail.

(7) Serve, if nominated, in that behalf upon the consultative committee mentioned in Section 48 of the Act.

13. The Permanent Members may bring before the Board all such questions, matters, and things as the Permanent Members may deem necessary or proper.

14. All moneys in the hands of the Board, which shall not be required for current expenses, may be invested in the name of the Board in any manner in which Trust Funds or cash under the control of the High Court are for the time being by law authorised to be invested, and the investments may from time to time be realised or varied as occasion may require.

15. The Board shall open an account, or accounts, at the Bank in the name of the Board into which all moneys payable to the Board shall be paid.

16. All payments by the Board out of funds in their control shall be made by drafts upon the Bank signed by one of the Permanent Members or a member appointed by the Board for that purpose, and

Rules of 19th April, 1910.

countersigned by the Secretary or Assistant Secretary of the Board, or a person appointed by the Board to act as Secretary or Assistant Secretary.

CONGESTED DISTRICTS BOARD.

RULES MADE BY THE LORD LIEUTENANT UNDER SECTION 79 (1) OF THE IRISH LAND ACT, 1903.

April 19, 1910.

St. R. & O., 1910, *No.* 423.

We, the Lord Lieutenant General and General Governor of Ireland, in exercise of the powers in Section 79 of the Irish Land Act, 1903, and of every other power enabling Us, do hereby, and without prejudice to any further exercise of the said powers, rescind the Rules made under the said section on the 24th March, 1908, and make the following Rules in substitution therefor.

Aberdeen.

CONGESTED DISTRICTS BOARD.

Rules under Section 79 (1) of the Irish Land Act, 1903.

1. In these Rules the expression "Board" means the 'Congested Districts Board." The expression "the Act" means "the Irish Land Act, 1903." The expression "The Estates Commissioners" shall have the same meaning as in the Act.

2. When the Board propose to purchase an Estate under the Land Purchase Acts, proceedings in the Irish Land Commission shall be commenced by an Originating Request in Form shown in the Appendix hereto (*a*), with such variation as the nature of the case may require, and shall be accompanied by a Map or Maps as hereinafter prescribed.

(*a*) *Post*, p. 1418.

3. Originating Requests shall be verified by the Affidavit of the Vendor or Vendors, or, if the Board shall permit, by one of the Vendors or his or their Land Agent or Solicitor, and if by the Land Agent or Solicitor he shall state his means of knowledge, and why the Statement is verified by him and not by the Vendor, and such requests shall be on post paper bookwise, with a parchment back.

4. Each Originating Request shall be endorsed with the name and registered place of business of the Vendor's Solicitor, with an Address within the municipal boundary of the City of Dublin where notices, orders, and other documents may be sent to him. Rules of 19th April, 1910.

5. No Originating Request shall without the leave of the Board be received comprising any land in respect of which proceedings for sale or declaration of Title are pending before the Land Judge.

6. The Originating Request together with a certified copy thereof and the maps and other documents mentioned in Rule 7 and all contracts of tenancy, agistments, &c., shall be lodged in the Office of the Board, and an appointment shall be made to vouch the rental.

Provided that where an Originating Application or Request together with the maps and documents prescribed by the Rules of the Estates Commissioners was, prior to the passing of the Irish Land Act, 1909 lodged with the Land Commission with a view to the sale of an estate or land under the Act of 1903 and the Board propose to purchase said estate or land, the Vendor may lodge in the office of the Board the said Originating Application or Request, and said maps and documents in lieu of the Originating Request, maps and documents required to be lodged under this Rule unless the Board otherwise direct.

Maps, &c.

7. With every Originating Request the Vendor shall lodge:

A certificate of the Tenement Valuation of all the lands Vendor proposes to sell, obtained from the Office of the Commissioner of Valuation, and also Ordnance Maps on the six-inch scale (maps on 25-inch scale to be used when the holdings comprise small detached plots that cannot be accurately shown on the six-inch scale), of these lands classified, and shown in distinctive colours, as follows:—

(i.) The lands held under tenancies with the boundary of each holding *edged green* (Form A) (*post*, p. 1422).

(ii.) Lands under Agistment or other temporary contracts with the boundary of the lands included in each contract *edged brown* (Form B) (*post*, p. 1423).

(iii.) Lands in Vendor's possession which he desires to sell and *not* repurchase *coloured light blue* (Form C) (*post*, p. 1425).

(iv.) The Demesne and other lands which the Vendor desires to sell and repurchase *coloured yellow* (Form D) (*post*, p. 1426).

Maps shall be prepared and furnished by Townlands or groups of Townlands, shall be mounted on linen, and shall

Rules of 19th April, 1910.

not exceed 40 inches by 30 inches in size, unless when a slight increase of this size would avoid the preparation of an additional map; and in every case the names of the adjoining Townlands shall be shown upon the map.

Every such map shall be accompanied by—

(v.) Schedules of Areas of the lands as above classified, furnished in Forms F, G, and H (*post*, pp. 1428, 1429.).

(vi.) A Certificate from the proper officer of the Local Registration of Title Office that the several boundaries marked thereon do not conflict with the boundaries of any adjacent lands already registered under the Local Registration of Title (Ireland) Act, 1891.

(vii.) An Affidavit by a competent surveyor (Form F) (*post*, p. 1428) stating that deponent surveyed the lands and that the exterior boundaries of same and all the holdings thereon are defined on the ground and correctly marked on the said maps, that the classification of the lands is correctly shown on said maps, and that the schedule of areas of same is correct. Such affidavit shall also specify any ancient monument within the meaning of Section 14 of the Act (*a*) which may be on the Estate.

(*a*) *Ante*, pp. 1075-6.

(viii.) A Rental in Form A (*post*, p. 1422) of the lands which are tenanted and in Form B (*post*, p. 1423) of those subject to agistment or other temporary contracts, verified by affidavit of the Vendor or his Agent.

(ix.) The Vendor shall furnish particulars on Form E (*post*, p. 1427) of any lands of which he is owner, not offered for sale, and which are situate in any of the congested districts counties.

(x.) Outside boundaries of estates shall be *edged red*.

(xi.) The Board may vary or dispense with any of the forms in any case when they deem it expedient so to do.

8. Any Resolution adopted by the Board with reference to the proposed purchase shall state the price which the Board have provisionally agreed to pay for the Estate provided the lands are vested in the Board in fee-simple, discharged of superior and other interests, save as provided in such Act, and also the terms, as to arrears of rent, payment of interest and otherwise, and the conditions (if any) upon which it is proposed that the Vendor may repurchase the Demesne or other lands

from the Board ; and shall also specify any condition as to compensation or allowance for any error in the Rental, to be assessed by agreement or in default by the Judicial Commissioner on the distribution of the purchase money.

9. The Board shall forthwith transmit the Originating Request, the Maps, schedules of areas and copy Resolution to the Office of the Estates Commissioners, in which Office they shall be marked with a Record Number indicating the order in which the same have been received having regard to Originating Applications and Requests already lodged, and the Board shall notify the Vendor or his Solicitor or Agent that the said Resolution and Originating Request have been lodged, and thereupon Rules 17 to 22 inclusive of the Rules of the Estates Commissioners of the 4th November, 1907 (*ante*, p. 1251-2), with regard to "*prima facie* evidence that the Vendor is a person having power to sell under the Land Purchase Acts" shall apply.

10. If it appears to the Estates Commissioners that the Vendor may be dealt with as the owner of the land for the purposes provided for in Section 17 (*ante*, p 1082) of the said Act they shall notify the Board to that effect and proceed to prepare the Agreement. The date to be specified for "closing day" in such agreement shall be so specified and arranged by the Estates Commissioners.

11. The time within which the Vendor shall signify to the Board that he agrees to repurchase any Demesne or other land shall be one month from the date of the notification to him of the Resolution by the Board of the terms upon which they propose to purchase such estate and to resell such Demesne or other lands to him, and if within the said month the Vendor does not notify to the Board that he accepts the terms aforesaid he shall be deemed to have refused to repurchase such Demesne or other land.

12. The time within which any person entitled in remainder or reversion to any land resold to the Vendor shall apply to the Judicial Commissioner that the lands so resold shall devolve in accordance with the terms of a Settlement shall be six months from the date of such resale.

13. For the purpose of the purchase by the Board of an Estate from the Land Judge, Rule 32 (*ante*, p. 1254) of the said Rules of the Estates Commissioners shall apply, with the substitution of the Board for the Estates Commissioners.

14. Rules 36 and 37 (*ante*, p. 1256) of the said Rules with reference to Orders vesting land in the Land Commission shall apply to Orders proposed to be made to vest land in the Board.

Rules of 19th April, 1910.

15. With reference to Regulations as to Turbary on Estates purchased by the Board, Rules 43 and 44 (*ante*, p. 1257) of the said Rules with such substitution shall similarly apply.

APPENDIX

CONGESTED DISTRICTS BOARD

Originating Request

[*Omit any portions of this form which are not applicable to the facts of the case.*]

Estate of *A B*, in the Congested County of

I, *A B*, of [*the address of the Vendor must be given in full*] hereby make oath and say as follows.—

1. I have been advised that I am within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the estate and lands, particulars of which are set forth in the First Schedule hereunto annexed, which estate and lands are shown on the Map lodged herewith

2. I am now and have been from the year [*if the Vendor has not been six years in possession he should here state the name of his immediate predecessor-in-title and the period during which such predecessor was in receipt of the rents and profits*] personally, or by an Agent, in receipt of the rents and profits of the said estate and lands

3 The particulars of the demesne and other lands in my occupation which I am (not) desirous of repurchasing from the Board with the Acreage and Tenement Valuation of same are set out in the First Schedule.

4 I apply to the Board that the said Estate may be declared by them fit to be regarded as a separate Estate for the purposes of such Sale

5 As *prima facie* evidence of my power to sell the said Estate and lands, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed and to the Certificate of Counsel intended to be lodged herewith or hereafter

6 The said Estate and Lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests and to the sporting, mineral and water rights therein referred to and except as therein mentioned the said Estate and lands are not subject to any superior interests or to any sporting, mineral, or water rights.

7 I am the owner of other lands, situate in the same County or Counties, as those offered for sale, which I do not propose to sell to the Board, particulars of such lands are given on Form E.

8. I am the absolute Owner of the said Estate and lands,

or I am the Owner as tenant-for-life of the said Estate and lands under a Settlement or Will dated and *C D.* of and *E.F.* of are Trustees for the purposes of the Settled Land Acts of the said Settlement or Will, or there are no trustees for the purposes of the Settled Land Acts.

or We are Trustees for Sale of the said Estate and lands under Settlement dated

or We are Trustees with a power of Sale of the said Estate and lands under Settlement dated

Rules of 19th April, 1910.

or As the case may be.

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the said Estates and lands other than the owners of superior interests and the rights referred to in the First Schedule and short particulars of the nature of their interest or claims.

10, The particulars set forth in the accompanying Rentals marked Form A and Form B and in the Forms marked C to H and in Schedule I. now produced to me before swearing this Affidavit are true and correct in every particular to the best of my knowledge, information and belief. Save as in the said Rental mentioned the said Estate and lands are not subject to any fee-farm grant, lease, or tenancy The lands comprised in the said First Schedule do not contain any ancient monument as defined by the 14th Section of the Irish Land Act, 1903, save

11. There are not any proceedings pending in any Court in relation to the said lands or any part thereof save

12. There have not been any previous proceedings for the sale of the said lands or any part thereof under the Land Purchase Acts save

13. I propose to sell the said Estate and lands to the Board in fee-simple discharged from the claims of all persons as specified in Section 16 of the Irish Land Act, 1903, but subject as therein mentioned for the sum of £ stock to be paid in accordance with the provisions of the Land Purchase Acts and the Congested Districts Board (Ireland) Acts.

Sworn at

CONGESTED DISTRICTS BOARD FOR IRELAND.

Estate of

Schedule I.

ENOMINATIONS *Ordnance Survey Names* County, Barony and Townlands	Number of Tenants in each Townland	LANDS PROPOSED TO BE SOLD												Total Area and Rateable Valuation of Lands and Buildings in each Townland proposed to be sold				Tenure by which the Estate and Lands are held and particulars of superior interests, and of sporting, mineral and water rights, and the names and addresses of the persons entitled thereto
		CLASS I. Lands held under tenancies,—the Boundaries of each holding edged GREEN on Map			CLASS II Lands held under Agistment, or other Temporary Contracts,—the boundaries of each parcel included in Contract edged BROWN on Map			CLASS III. Demesne and parcels of land which Vendor desires to sell and NOT repurchase,—coloured LIGHT BLUE on Map			CLASS IV Demesne and other lands which Vendor desires to sell and *repurchase*,—coloured YELLOW on Map							
		Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Rateable Valuation		Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Rateable Valuation		Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Rateable Valuation		Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Rateable Valuation		Area as per Vendor's Estate Map and accompanying Schedule of Areas	Area as per Certificate of Valuation	Rateable Valuation		
			Lands	Buildings		Lands	Buildings		Lands	Buildings		Lands	Buildings			Lands	Buildings	
		a. r. p.	£ s.	£ s.	a. r. p.	£ s.	£ s.	a. r. p.	£ s.	£ s.	a. r. p.	£ s.	£ s.	a. r. p.	a. r. p.	£ s.	£ s.	
TOTAL ...																		

N.B.—Only the total area and Tenement Valuation of each class in each Townland should be given. Particulars of separate holdings or parcels are not required on this Schedule.

Signature of Vendor.

CONGESTED DISTRICTS BOARD FOR IRELAND.

Rules of 19th April, 1910.

Schedule II.

Deeds or other Documents relied on as *prima facie* Evidence that the Vendor is a person having power to sell under the Land Purchase Acts.

DIRECTIONS.

If an abstract of title has been prepared it may be utilised. If not, the Vendor should specify a Conveyance to him or his predecessor-in-title, and also the last Settlement or Will or other document showing extent and nature of the Vendor's interest; and if the Estate and Lands, or any portions thereof, are held under fee-farm grant or lease, the Vendor should specify same irrespective of date. The Vendor should also be prepared to give evidence by affidavit or otherwise to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the Vendor he should state in whose custody they are. Note Rule 19 of the Estates Commissioners' Rules as to obtaining an order for the production or lodgment of the originals.

CONGESTED DISTRICTS BOARD FOR IRELAND.

Schedule III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interests, and the Sporting, Mineral, and Water Rights mentioned in Schedule I.

The Address must be given in all cases. An incorrect Address may involve considerable delay.

Name	Address	Short particulars of Interest or Claim
	PART I. Persons interested in Remainder or as cestui que trust, &c.	
	PART II. Incumbrancers, &c.	

CONGESTED DISTRICTS BOARD FOR IRELAND

FORM A

Rental referred to in the originating Request

In respect of Holdings held under Tenancies (included in Class I. of Schedule (I) of Lands proposed to be sold).

Estate of County

Barony and Townland	Rental No	No on Vendor's Estate Map	Name of Tenant	No of Holding on Valuation Certificate	RATEABLE VALUATION			RENT AND TENURE							Particulars of Intervening Interests
					Land	Buildings	Total	Judicial Rents fixed, or agreed to *since* 14th August, 1896	Abatement (if any) allowed on last Collection	Judicial Rents, fixed or agreed to *before* 14th August, 1896, and non-judicial rents, viz — yearly tenants, leaseholds, &c	Abatement (if any) allowed on last Collection	Gale Days	Tenure of each Holding and Date and Description of Instrument, if any, under which Tenant holds (if Judicial give Record No and Date of Order)	Amount of Arrears of Rent to last Gale Day, viz —	
					£ s	£ s	£ s	£ s d.	£ s d	£ s d	£ s d			£ s d	
			Carried	forward									TOTAL ..		

I certify that the above-named tenants are in actual occupation of the Holdings above referred to, and hold directly without any intervening interest or sub-tenancies, save as stated in the accompanying Surveyor's Schedule (Form G).

Signature of Vendor.

Particulars of Lands under Agistment or other temporary Contracts (included in Class II. of Schedule I. of Lands proposed to be sold).

Estate County

Barony and Townland	Rental No	Name of Person holding *existing* Contract	Nature of present Contract		Arable Land		Turbary and Cutaway Bog		Mountain or Rough Grazing		Plantations		Water Roads, Sites of Ancient Monuments and Waste		Total Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Total Area and Rateable Valuation of Land and Buildings in each Townland included in each Contract				Observations
			Period covered by present Contract	Amount payable under present Contract	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No. on Vendor's Estate Map	Area as per Schedule of Areas		Reference Nos. in Valuation Certificate	Area	Rateable Valuation		Total	
																		Land	Buildings		
				£ s d.		a r p		a. r. p.		a. r. p		a r p.		a r. p.	a r p.		a r p	£ s	£ s.	£ s.	
Total																					

Signature of Vendor

Rules of 19th April, 1910.

Rules of 19th April, 1910.

CONGESTED DISTRICTS BOARD FOR IRELAND. FORM B—*continued.*

Particulars of Contracts (if any) for five years previous to the present Contract.

Year —			Year —			Year —			Year —			Year —		
Period of Contract in months	Amount received	Rates paid	Period of Contract in months	Amount received	Rates paid	Period of Contract in months	Amount received	Rates paid	Period of Contract in months	Amount received	Rates paid	Period of Contract in months	Amount received	Rates paid
	£ s d	£ s. d		£ s d	£ s d		£ s d	£ s. d		£ s d	£ s d		£ s. d.	£ s d.
TOTAL														

Particulars of Lands in Owner's occupation which he desires to Sell and not repurchase (included in Class III. of Schedule (L) of Lands proposed to be sold).

Estate County

Barony and Townland	Owner's Estimate of the fair annual value of the lands to him *	Average Amount of Rates paid for previous five years	Arable Land		Turbary and Cutaway Bog		Mountain or Rough Grazing		Plantations		Water Roads, Sites of Ancient Monuments and Waste		Total Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Total Area and Rateable Valuation of Land and Buildings in each Townland as per Certificate of Valuation				
			No. on Vendor's Estate Map	Area as per Schedule of Areas	No. on Vendor's Estate Map	Area as per Schedule of Areas	No. on Vendor's Estate Map	Area as per Schedule of Areas	No. on Vendor's Estate Map	Area as per Schedule of Areas	No. on Vendor's Estate Map	Area as per Schedule of Areas		Reference Nos. in Valuation Certificate	Area	Rateable Valuation		Total Valuation
																Land	Buildings	
	£ s d.	£ s. d.		a. r. p.		a r p		a r p		a r p.		a. r p	a. r. p		a r p	£ s	£ s	£ s
TOTAL ..																		

* Vendor should be prepared to submit accounts or other proofs of this estimate when requested.

Signature of Vendor.

Rules of 19th April 1910.

CONGESTED DISTRICTS BOARD FOR IRELAND. FORM D.

Demesne and Other Lands which the Vendor desires to Sell and Repurchase (included in Class IV. of Schedule I of Lands proposed to be sold).

Estate County

Barony and Townland	Arable Land		Turbary and Cutaway Bog		Mountain or Rough Grazing		Plantations		Water Roads, Sites of Ancient Monuments and Waste		Total Area in each Townland as per Vendor's Estate Map and accompanying Schedule of Areas	Total Area and Rateable Valuation of Land and Buildings in each Townland as per Certificate of Valuation				
	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas	No on Vendor's Estate Map	Area as per Schedule of Areas		Reference Nos in Valuation Certificate	Area	Rateable Valuation		Total Valuation
														Land	Buildings	
		a r p.		a r p		a r p		a r p		a r p	a r. p.		a r p	£ s	£ s	£ s
TOTAL																

Signature of Vendor.

CONGESTED DISTRICTS BOARD FOR IRELAND. FORM E.

Schedule referred to in Rule 7 (ix.).

Lands which Owner does not propose to sell.

County, Barony and Townlands	Gross area and Rateable Valuation of lands in each townland held under tenancies					Gross area and Rateable Valuation of lands in each townland in hands or under Agistment or other Temporary Contracts				
	Area			Rateable Valuation		Area			Rateable Valuation	
	a.	r.	p	£	s	a	r	p	£	s.

I certify that the above particulars are correct.

Signature of Vendor,

Rules of 19th April, 1910.

CONGESTED DISTRICTS BOARD FOR IRELAND. FORM F.

Surveyor's Summary of areas of lands in each Townland proposed to be sold (as classified in Schedule I.), and referred to in the accompanying Schedules of Areas and Maps.

Reference to Maps prepared under Rule 7 (v.).

DENOMINATION County, Barony, and Townland	CLASS I. Total area of lands in each townland held under tenancies—the boundaries of each holding edged GREEN on Map, and the particulars of each holding given in accompanying Schedule of Areas (Form G) and Map	CLASS II Total area of lands in each townland held under agistment or other Temporary Contracts,—the boundaries of each Contract edged BROWN on Map, and particulars of each Contract given in accompanying Schedule of Areas (Form H) and Map	CLASS III Total area of Demesne and parcels of land in each townland which Vendor desires to sell and NOT repurchase, coloured LIGHT BLUE on Map	CLASS IV Total area of Demesne and other lands in each townland which Vendor desires to sell and *repurchase*, coloured YELLOW on Map	Particulars of Ancient Monuments (if any)
	a r p	a r p	a r. p	a. r p	

AFFIDAVIT.

I, of hereby make oath and say that the particulars set forth in the Schedules of Areas, Forms F, G, and H, signed by me, are correct in every particular, according to the best of my knowledge, information, and belief; and that as required by said Rule, I have surveyed the lands mentioned in said Schedules, and prepared the Maps therein referred to, and the boundaries of the said lands, and the holdings thereon, are correctly defined on the ground and marked on the said Maps, and that the classification of the lands as set out on said Schedule is correctly shown on said Maps. I beg to refer to the said Maps, upon which, marked I have signed my name before swearing this Affidavit.

Signature of Surveyor (who should state his qualifications),

Sworn at
of
a
in the County of
this day
, 191 , before me
and I know Deponent.

(Signature),
(Address),

FORM G. Rules of 19th April, 1910.

CONGESTED DISTRICTS BOARD FOR IRELAND.

Surveyor's Schedule of Areas

Lands held under Tenancies.

Estate County

Townland of

No. in Rental	Reference Numbers on Vendor's Map	Tenants' Names	Area (Statute Measure)	Particulars of sub-tenancies, if any, including area, rent, tenure, and date of instrument creating sub-tenancy
			a. r p	

FORM H.

CONGESTED DISTRICTS BOARD FOR IRELAND.

Surveyor's Schedule of Areas

Lands held under Agistment or other temporary Contracts.

Estate County

No. in Rental	Reference Numbers on Vendor's Map	Townland	Name of Person holding under existing Contract	Area (Statute Measure)	Tenure and Rent of present Contract
				a. r. p	

Rules of 24th Feb., 1902.

COUNTY COURT RULES OF PRACTICE AND PROCEDURE.

UNDER CONGESTED DISTRICTS BOARD (IR.) ACT, 1901, SECTION 1.

24th day of February, 1902.

1. All applications under Section 1 of the Act (*a*) shall be heard at the ordinary sittings of the County Court for each division of the county.

(*a*) See p 606, *ante*.

2. Where the estate is situate within the jurisdiction of one County Court, the application shall be made in the division of the county in which the holding the subject matter of the application is situate, but where the holding is on an estate which is situate within the jurisdiction of more than one County Court, the application shall be made in that county, and in that division of such county in which the greater part in rateable value of the estate is situate The judge may adjourn the case from one division to another, and from one sessions to another.

3. The application under Sub-section 3 of Section 1 of the Act shall be made by notice, which shall be in the form No. 1 in the Schedule hereto, or to the like effect. The application under Sub-section 5 of Section 1 shall be made by notice, which shall be in the Form No. 2 in the Schedule hereto, or to the like effect.

4. Every notice under the last preceding rule shall be served fifteen clear days before the first day of the Sessions at which it is intended to have such application heard, and a copy thereof with the endorsement of the service thereof shall be lodged with the Clerk of the Peace at least ten clear days before such Sessions.

5. Subject to the provisions of Sub-section 9 of Section 1 of the Act, all notices and other proceedings under these Rules may be served by registered letter, or in any of the modes in which an ordinary Equity Civil Bill may be served. Provided however that such services need not be effected by a Civil Bill officer.

6. For the purpose of all applications and proceedings under Section 1 of the Act, the Congested Districts Board for Ireland may sue and be sued by that name. Notices and other proceedings requiring to be given or served to or on the Board may be given to, and served upon the Secretary.

7. The Clerk of the Peace shall keep a book, in which he shall enter each application under the Act, in the order in which it shall have been received by him, and of the particulars of each application and of the ruling of the Judge in each case.

Rules of 24th Feb., 1902.

8. Orders under Sub-sections 4 and 5 of Section 1 of the Act may be in one of the Forms, Nos. 3, 4, and 5 in the Schedule hereto, or to the like effect.

9. Every Order under the Act shall state whether it is made with costs, the exact sum payable for costs (including witnesses' expenses) shall be inserted therein.

10. The costs, including witnesses' expenses, as between party and party, shall be taxed by the Clerk of the Peace. Any person aggrieved by such taxation may appeal to the Judge and have the costs reviewed by him.

11. Where not otherwise expressly provided by these Rules the existing practice of the County Courts in Equity Cases shall apply to all applications under this Act.

12. A summons for witnesses shall be in the Form No. 101 in the Schedule to the County Court Rules of 1890, or to the like effect.

13. Non-compliance with any of the foregoing Rules, shall not render any proceedings void unless the Court shall so direct, but the proceedings may be set aside either wholly or in part, or may be amended or otherwise dealt with in such manner and upon such terms as the Court may think just.

14. In the construction of these Rules and of the Forms thereto the term "the Act" means the Congested Districts Board (Ireland) Act, 1901, and the term "Court" means the County Court, and the term "Judge" means County Court Judge and includes Recorder, and the term "Clerk of the Peace" includes Clerk of the Crown and Peace when the offices are united, and the term "Sessions" means the sittings of the County Court.

SCHEDULE.—FORMS

FORM No. 1.

Form of Notice of Application to the County Court where the tenant is dissatisfied with his new holding.

IN THE COUNTY COURT.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of

A.B. *Applicant*,
The Congested Districts Board for Ireland, *Respondents*.

WHEREAS the Applicant is a tenant on an estate known as the estate in the County of . And whereas on the day of 19 , the Respondents

Rules of 24th Feb., 1902.

served on the applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding on the said estate as from the day of , which said notice contained an undertaking by the Respondents that they would [*here state the undertaking*].

And whereas on the day of the Respondents served on the applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of [*here state full particulars of the new holding*].

And whereas the applicant is dissatisfied with the said new holding

NOTICE is hereby given that an application will be made by or on behalf of the applicant to the County Court, at the Sessions, to be held on the day of next at , in and for the Division of , in the County of , for an Order that the Respondents shall pay the applicant the sum of £ as compensation for the inferiority in value of the said new holding, and [*state here whether "in addition" or "as an alternative"*] for an Order that the Respondents do erect on the said new holding [*state the buildings (if any) required to be erected*] and to make the following improvements [*state the improvements (if any) required to be made*] or for such other Order as the Court may think fit to make

Dated this day of 190

To *C. D*,
Secretary of the Congested Districts Board for Ireland

A. B., Applicant
Solicitor for Applicant

[*This notice to be signed by the Applicant or his Solicitor*

FORM No. 2.

Notice of Application to the County Court when the tenant refuses to enter into possession of the new holding.

IN THE COUNTY COURT.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of

A B. *Applicant;*
The Congested Districts Board for Ireland, *Respondents*

WHEREAS the Applicant is a tenant on an estate known as the estate in the County of . And whereas on the day of 19 , the Respondents served on the applicant such notice as is mentioned in Sub-section 1 to Section 1 of the Act determining the tenancy in his holding on the said estate as from the day of , which said notice contained an undertaking by the Respondents that they would [*here state the undertaking*].

And whereas on the day of the Respondents served on the applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act stating that they were prepared forthwith to put him in possession of [*here state full particulars of new holding*].

And whereas the applicant refuses to enter into possession of the said new holding.

Rules of 24th Feb., 1902.

NOTICE is hereby given that an application will be made to the County Court at the Sessions to be held on the day of next, at in and for the Division of , and County of , for an Order that the Respondents shall pay to the applicant the sum of £ , or such other sum as in the opinion of the Court is equal to the value of his interest in his former holding.

Dated this day of 19

To *C. D.*,

Secretary of the Congested Districts Board for Ireland.

A. B., Applicant.

Solicitor for the Applicant.

[*This notice to be signed by the applicant or his Solicitor.*]

FORM No. 3.

Form of Decree on application under Sub-section 3 of Section 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of } By the County Court Judge.

A. B. of *Applicant;*
The Congested Districts Board for Ireland, *Respondents*

IT appearing to the Court that the Respondents have purchased an estate known as the estate in the County of And that the applicant was at the time of the service of the notice hereinafter mentioned a tenant on the said estate.

And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value having so requested the Respondents on the day of served on the applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as from the day of which said notice contained an undertaking by the Respondents that they would [*here state the undertaking*].

And it further appearing that on the day of the Respondents served on the applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act stating that they were prepared forthwith to put him in possession of [*here state full particulars of the new holding*].

And it further appearing that the applicant is dissatisfied with the said new holding. And it further appearing that the applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, at these present sittings [*here set out application as in notice*].

And it further appearing that the notice of such application was duly served on the Respondents and all other proper and necessary parties,

And the Court having duly examined into the matter of such application, doth hereby decide that the value of the said new holding is less than the value of the former holding of the applicant in respect of [*state here in which of the particulars mentioned in sub-section 1 the inferiority consists*] and having taken into account in connection with such inferiority in value the rent payable for the said new holding and every circumstance which the Court considered material. It is Ordered and

Rules of 24th Feb., 1902.

Decreed that [*here state* (1) *amount of compensation* (*if any*) *awarded*; (2) *particulars of buildings* (*if any*) *to be erected*, (3) *particulars of improvements* (*if any*) *to be made as may be ordered*]

And it is further Ordered, that the Respondents do pay to the applicant (the sum of £ , awarded as compensation as aforesaid, together with)* the sum of £ for costs and expenses of witnesses.

(*To be dated and signed as an ordinary Civil Bill Decree*)

FORM No. 4.

Form of Decree on application under Sub-section 5 of Section 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901

County of
Division of } By the County Court Judge

A. B of *Applicant*,
The Congested Districts Board for Ireland, *Respondents*.

IT appearing to the Court that the Respondents have purchased an estate known as the estate in County of . And that the applicant was at the time of the service of the notice hereinafter mentioned a tenant on the said estate And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value having so requested the Respondents on the day of , served on the applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as from the day of , which said notice contained an undertaking by the Respondents that they would [*here state the undertaking*].

And it further appearing that on the day of the Respondents served on the applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of

[*Here state full particulars of the new holding.*]

And it further appearing that the applicant refuses to enter into possession of the said new holding. And it further appearing that the applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, at these present sittings, claiming to be paid the sum of £ , or such other sum as in the opinion of the Court was equal to the value of his interest in his former holding And it further appearing that the notice of such application was duly served on the Respondents and all other proper and necessary parties.

And the Court having duly examined into the matter of such application, and being of the opinion that the sum of £ is equal to the value of the interest of the applicant in his former holding.

It is therefore Ordered and Decreed by the Court that the Respondents do pay to the applicant the said sum of £ , together with the sum of £ for costs and expenses of witnesses.

(*To be dated and signed as an ordinary Civil Bill Decree.*)

* If compensation not awarded omit portion in brackets.

FORM No. 5. Rules of 24th Feb., 1902.

Form of Dismiss of application under Sub-section 3 of Section 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of } By the County Court Judge.

A. B. of *Applicants;*
The Congested Districts Board for Ireland, *Respondents.*

IT appearing to the Court that the Respondents have purchased an estate known as the estate in the County of

And that the applicant was at the time of the service of the notice, hereinafter mentioned, a tenant on the said estate. And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value, having so requested the Respondents on the day of , served on the applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as from the day of , which said notice contained an undertaking by the Respondents that they would [*here state the undertaking*].

And it further appearing that on the day of the Respondents served on the applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of [*here state full particulars of the new holding*].

And it further appearing that the applicant is dissatisfied with the said new holding. And it further appearing that the applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, claiming [*here set out the application as in notice*] and that the applicant has failed to prove his said claim or any part thereof.

It is therefore Ordered and Decreed by the Court that the said application be and the same is hereby dismissed costs [" *with* " *or* " *without* " *as the case may be*].

* (And it is further Ordered that the Respondents do recover against the applicant the sum of £ , for costs and expenses of witnesses, and the several Sheriffs in Ireland are hereby commanded to take in execution the goods of the applicant *A.B.*, to satisfy the said costs and expenses).

(*To be dated and signed as an ordinary Civil Bill Decree.*)

* If the application is dismissed without costs, omit portions within brackets.

Examiners' Practice.

NOTE ON THE PRESENT PRACTICE OF EXAMINERS.

PREPARATION, SETTLEMENT, AND VOUCHING OF SCHEDULES OF INCUMBRANCES.

The draft final Schedule of incumbrances should be prepared in accordance with the directions of 16th January, 1901 (*ante*, p 901), which are practically identical with those issued in September, 1896, by the Land Commission and Land Judge (*ante*, p 639)

The solicitor should fill in the schedule (for form of which see *ante*, p. 904 and *post*, p 1444) the first four columns

In cases of tithe rentcharge which are not created by an instrument, or quit rent where the date of the patent is not disclosed, the second column, for the date, may be left blank. The date of registration, as well as the date of execution of each instrument, should be given The date of any order awarding costs claimed should also be inserted. For General Rules as to allocation, see Order XXI, Rules, March, 1897 (*ante*, p 834). As to summary application for distribution in pursuance of Section 24, Sub-section 11, of the Act of 1903, see that Section (*ante*) and Order IX., r. 4, *et seq.* (*ante*, p 1368).

The order under Section 24, Sub-section 1, Act, 1903 (*ante*, p. 1092), for payment of the purchase money and attaching claims to it, or the order vesting the land in the Land Commission or in the Congested Districts Board, must be produced to the Examiner when settling the final schedule

In the cases referred to in No 7 of the Directions, dated 16th January, 1901 (*ante*, p. 902), it is the annual charge (which carries with it interest and arrears and costs), that has become a claim on the fund, and not the redemption price alone Redemption may be postponed or never ordered. Where an order for apportionment or redemption has been made a short statement of such order (with date) should be inserted in the fourth column after the statement of the annual charge.

Where the apportionment of any rent, rentcharge, or annuity is necessary, the solicitor should, unless there be some sufficient reason to the contrary, file the necessary statement of facts or consent, as soon after the issue of the rulings on title as possible, and obtain the order for apportionment before the lodgment of the schedule, as the Judicial Commissioner may refuse to entertain an application for an apportionment order made on the hearing of the schedule or grounded on insufficient evidence.

Where the land sold was held by the vendor under fee-farm grant or lease, and there are one or more superior rents, the first of such rents (which will usually be the quit rent) should appear first on the schedule, with a note annexed to the effect (if the fact be so) that it is primarily charged upon the fee-farm rent set out at item No. (here insert the number of next highest rent on the schedule), *post*, and that the estate should be recouped at that item for any payment made in respect of the first item, and so at the next item if there be more superior rents than one

When vouching the inferior rent the entire redemption price and arrears is inserted, and the sums payable in respect of redemption price and arrears on the prior claim deducted, the difference being brought out as the sum payable in respect of the item vouched. Examiners' Practice.

Quit rents, tithe rentcharges payable to the Irish Land Commission, and Board of Works' charges may be inserted three on each page; but other superior interests, and all claims in respect of incumbrances, should, save so far as the Examiner may otherwise direct, each begin a new page, and, in the case of superior interests, ample space should be left at the foot to insert the particulars of any orders for apportionment or redemption that may be made, and for the insertions as separate items of the claims for arrears and for costs should the Examiner find it convenient to vouch such claims separately from that for principal.

Where the claimants in respect of a superior interest or residue are trustees the fact should be stated on the schedule, with a suitable reference to the instrument creating the trust; and it should be further stated whether they are trustees for sale, or with power of sale, or for the purposes of the Settled Land Acts, 1882 to 1890, or are otherwise entitled to receive payment

To enable the schedule to be settled the solicitor for the vendor must produce to the Examiner either the originals or copies of the documents—so far as they can be procured—necessary to show the devolution of the title to the incumbrances.

The costs to be allowed in connection with vouching the claim of a mortgagee are prescribed by the schedule of fees. (See *post*, p. 1384.) If the vendor's solicitor appears for a mortgagee the practice is to allow £3 costs of proof. The practice as to costs of proof of a sub-mortgagee is not quite settled, but it is submitted that they ought to be given against the purchase money and not against the mortgagor. Incumbrancer's costs of proof.

The same costs of proof are given to mortgagees on superior interests as are allowed to mortgagees on the estate.

The costs of an owner of a superior interest are not as a rule measured by the Examiner, but are placed on the schedule as a charge against the lands, and paid after taxation. The principles which regulate costs of owners of property compulsorily acquired would appear to apply in the taxation of such costs.

The vendor's costs of sale are frequently made the subject-matter of an agreement fixing them by a percentage on the purchase money. If such a percentage includes all that the vendor is to pay to his solicitor for carrying the sale through, and is in itself fair and reasonable, it would appear, having regard to the practice of the Court, that no question is likely to arise upon it. But if the percentage is not inclusive, and the vendor is by the agreement intended to bear outlay or other expenses as well as to pay the percentage, questions may arise as to its validity under Sec. 4 of 33 & 34 Vict, c. 28. However, there have been cases in which outlay has been allowed in addition to the percentage without being questioned.

If by the agreement the percentage in lieu of costs of sale is to be calculated both on the purchase money and on the "bonus" the practice is to pay the amount of the percentage proportionate to the purchase money out of the purchase money, and the amount of the percentage proportionate to the "bonus" out of the "bonus."

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VOUCHING CLAIMS.

When vouching claims created by deed, or the title to which arises under any deed or deeds, the practice of the Examiners is to state expressly (*a*) whether all necessary deeds have been lodged; (*b*) whether any, and if so what, deeds should be lodged before payment; (*c*) whether the payment should be endorsed on any, and if so what, instrument or instruments.

In the case of estates the titles to which are registered under the Local Registration of Title (Ireland) Act, 1891, and where there is a certificate of charge, the claim is vouched on the certificate and an affidavit of claimant, subject to the lodgment or endorsement of the certificate

Where there is no certificate of charge the claim is vouched on the statement on the land certificate of the registered ownership of the charge and an affidavit of claimant, and, where the charge is fully paid, subject to production of the receipt for the lodgment in the Central Office, Local Registration of Title (Ireland), of the deeds constituting the title to the charge, and the lodgment of such receipt in Record Office of the Irish Land Commission, or where the charge is not fully paid subject to endorsement on mortgage

When the funds have been allocated the solicitor for the vendor should prepare a certificate containing particulars of the charges on the schedule of incumbrances which have been satisfied in whole or in part out of the purchase money This certificate is lodged with the Registrar for his signature, who transmits it to the Registrar of Titles

See as to vouching and payment of redemption price of superior interests under £100 (Directions, *ante*, p 1388B)

BOARD OF WORKS' LOANS AND BOARD'S CERTIFICATE.

(See Order II, Rules, June, 1910, *ante*, pp. 1361-2, as to requisitions to the Board of Works, and form under previous Rules, *ante*, p. 875)

By the Public Works Loans Act, 1894, 57 Vict., c 11, Sec 4, it is provided that "An annuity payable in respect of any advance made either before or after the passing of this Act to enable a tenant to purchase a holding under the Land Purchase (Ireland) Acts, 1870 to 1891, shall have priority as a charge over any rentcharge on the same holding created at any time under Sub-section two of Section thirty-one of the Land Law (Ireland) Act, 1881, and over any rentcharge on the same holding created after the date of such advance under the Landed Property Improvement (Ireland) Acts"

The following memorandum has been supplied by a member of the Solicitors' branch of the Board of Works to assist the Examiners in dealing with Board of Works' charges:—

"*Land Improvement, 10th Vict, c.* 32

"These loans are returned by the Board of Works with the name of the borrower, and if there has been a change of ownership it is so stated. If they are charged on and returned as affecting the landlord's interest in the estate sold, they should be placed on the schedule of incumbrances and redeemed out of the

purchase money. If they are charged on the tenant's interest it is necessary to ascertain if the purchasing tenant is the same as the tenant to whom the loan was made, or has the same estate in the lands as the borrower, because if the borrower's interest has been determined by eviction or otherwise the vendors' interest becomes charged with the loan

"*Relief of Distress.*

"The same observations apply.

"*Arterial Drainage*

"Under the drainage and Improvement of Lands (Ireland) Acts, 1863 to 1892 (for list of Acts see note, *ante*, p. 193, note *a*.)

"This is a charge for construction of drainage works, and is created under the award of the Commissioners of Public Works made upon the completion of the drainage works in the district, and is a charge upon the lands, and inquiries should be made in all cases in which such a charge is returned as to whether it is charged upon the vendor's estate. The name of the proprietor, as in the Award and in Board's Certificate, is only that of the 'reputed proprietor' The real proprietor and the person properly liable is the one in receipt of the rents. If it is ascertained to be payable by the vendor it should be placed on the schedule of incumbrances. (See as to liability of a lessor's estate cases cited *ante*, p. 446, note *e*.)

"*Charges under the Drainage Maintenance Act*, 1866 (see *ante*, p 193).

"These charges are also charges on the lands, and are payable to the Commissioners of Public Works under a charging order similar in form to the award made by them under the above Act whether they have been obliged to put a district into a proper state of repair owing to the neglect and refusal of the Drainage Board or the Trustees of a district formed under 5 and 6 Vict, c. 89, &c. The Board of Works' rights and proprietor's liabilities are exactly the same as in the case of an award.

"N.B.—In all arterial drainage districts whether created under the 5 and 6 Vict., c. 89, or the Act of 1863, the Trustees of Drainage Board are entitled to levy a rate for maintenance, which the Board have nothing to do with, and which is not returned upon the requisition This rate cannot be redeemed, and the lands in the hands of the tenant purchasers continue liable to it, and the Board of Works apportion the gross amount payable by the vendor among the tenant purchasers. There may be arrears due on foot of the Drainage Board maintenance rate, which would be properly payable out of the purchase money, but this fact can only be ascertained from the Secretary of the Drainage Board. The names and addresses of these gentlemen can be obtained from the Board of Works."

As to these charges, see *Lucan's Estate*, 39 I. L. T R 233.

"*Piers and Harbours Loans.*

"These are usually charged against the vendor's interest, and, if so, should be placed on the schedule and redeemed out of the purchase money. Any

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maintenance rate in this respect would be collected by the Local Authority in the nature of local rates.

"*Land Law Loans*, 1881. (See Section 31, *ante*, p 320)

"These loans being obtained by the tenant are only a charge on his interest, and need not be placed on the Schedule unless (1) the landlord has joined in the application and charged his estate by deed, or (2) by process of law or otherwise acquired the original borrower's interest. In the first case the Board of Works should be consulted as to whether or not they wish to make any claim against the purchase money, and in the second the loan should be redeemed out of the purchase money

"Loans for Teachers Residences have frequently been obtained by the owner, and are, strictly speaking, payable out of the purchase money, and have the same priority as a Land Improvement Loan, but in certain cases the Treasury are prepared to make concessions, and all cases should be brought under notice of the Board for directions.

"Loans for Dispensary Houses and for Schools and Training Colleges have been obtained by owners of land. These have the same priority also as Land Improvement Loans, and should also be redeemed out of the purchase money, unless the Board, on being applied to, sanction other arrangements

"There are a few loans for Industrial Schools charged on the interests of owners in the same way as the Dispensary House Loans

"NOTE —In all cases where the Examiner has any doubt as to whether the charges returned on the Board's Certificate affect the purchase money the Board of Works will be prepared to make the needful inquiry for the Examiner's satisfaction, and give a statement whether they affect it or not."

FORM OF AFFIDAVIT TO VOUCH CLAIM TO RESIDUE OF PROCEEDS OF SALE AND TO THE PERCENTAGE UNDER SECTION 48, ACT, 1903

N.B —This Form, though in use, has not been prescribed.

I, *A B*, of, &c, the vendor, make oath and say :—

1 The fund to be allocated amounts to the sum of £ , all of which was advanced by the Land Commission [*or otherwise as the case may be*].

2 I say that there is not to my knowledge and belief any right, estate, interest or claim affecting the purchase money of the estate other than as in the Final Schedule of Incumbrances set forth.

3 There is no claim against the purchase money in respect of any intervening interests No part of the estate has been resold to the vendor; and there was no absolute order for sale by a Land Judge in force on the 14th August, 1903, affecting the estate sold in this matter or any part thereof

4 After payment of all claims on the said schedule, a residue remains, to which residue I say that I am entitled absolutely [*or otherwise as the case may be*].

5. I have not sold or incumbered, or in any way dealt with the said residue, or any part thereof, and the same and every part thereof still remains justly due and owing to me [*or otherwise as the case may be*].

6. I also claim to be entitled as tenant for life [*or otherwise as the case may be*], to the percentage under Section 48 of the Irish Land Act, 1903, and the Irish Land Act, 1904, and I say that the same amounts to £

I have not sold or incumbered or in any way dealt with the said percentage, or any part thereof, [save by the mortgage of 1st June, 1908, set out on the said Final Schedule, and after payment of the debt due thereon the balance of the said percentage] and every part thereof is justly payable to me.

7. I also refer to the affidavit of *A. G.*, sworn the day of showing that the sum equivalent to arrears of rent payable under Section 24, Sub-section 8, of the Act of 1903, amounts to £ . I was, at the date of the agreements for sale, the person in receipt of the rents of the lands sold, and entitled to receive such arrears of rent for my own use, and I claim that the said sum of £ is payable in respect of such arrears, and in the same capacity I claim the deficit of interest under Section 24, Sub-sections 2 and 3, of the said Act.

I have not sold, incumbered, or in any way dealt with the said arrears of rent, or the said equivalent sum, or the said interest or deficit thereof, save by a mortgage dated 9th May, 1905, upon the said equivalent sum, and after payment of the debt due thereon, set out on the said Final Schedule, I am entitled to be paid the balance of the said sum of £ and such sum as the said deficit shall amount to.

FORM OF AFFIDAVIT BY AGENT TO VOUCH CLAIMS FOR ARREARS OF RENT AND NEGOTIATION FEE.

N.B.—This Form has not been prescribed but is in use.

I, *A. G.*, of, &c., land agent, aged years and upwards, make oath and say as follows:—

1. I have acted as agent over the lands by the order of the day of declared fit to be regarded as a separate estate from the year to the time of his death, for *X. Y.*, and thenceforth to the dates of the agreements for sale for *A. B*, the vendor, on whose behalf I negotiated the sales, and I depose to the following matters of my own knowledge:—

2. In the first column of the Schedule hereto I have set out the names of the townlands in which are the several holdings which form the estate defined by the said order.

3. In the second column of the said Schedule I have set out the names of the purchasing tenants of the said holdings respectively.

4. In the third column of the said Schedule I have set out the yearly rents which were payable in respect of the same holdings immediately before the date of the agreements for purchase thereof, with the gale days on which the said rents respectively were payable.

5. In the fourth column of the said Schedule I have set out the respective dates of the said agreements for purchase.

6. In the fifth column of the said Schedule I have set out the amounts which were due for arrears of the said rents at the dates of the agreements for purchase of the holdings in respect of which the same were due, respectively, calculated up

Examiners' Practice.

to the gale days next preceding the dates of the said agreements, in cases where such dates were between two gale days, and calculated up to the dates of such agreements in cases where such dates were gale days.

7. In the sixth column of the said Schedule I have set out the smaller of the amounts as regards the said holdings in columns three and five mentioned, where such amounts differ, or the amount mentioned in one of said columns where they agree

8. The total of the sums set out in column six is £ s. d, and the said sum of £ s. d is the amount payable under Section 24 (8) of the Irish Land Act, 1903.

9 The said vendor, *A. B.*, when the said arrears of rent accrued due was in possession and receipt of the rents of the said lands, and he is the person who would but for the said purchase agreements have been entitled to receive the said arrears for his own use

10. I refer to the agreement in writing dated the day of , on which I have written my name. I am acquainted with the handwriting of the vendor, and the name *A. B.* signed to the said agreement is, I believe, his name and handwriting

11. £ per cent. on £ the total purchase money of the said lands is £ .

12 [By their minute dated the day of the Estates Commissioners sanctioned the amount of the negotiation fee so proposed to be paid to me.]

13. The said negotiation fee is set out as claimed by me at No. on the Final Schedule of Incumbrances lodged in this matter. I have received no part thereof, or payment on account thereof, nor have I charged or assigned, or otherwise dealt with the same, and the same is now justly due and payable to me over and above all credits and allowances [subject to the sanction of the Estates Commissioners].

Sworn, &c

SCHEDULE referred to in the foregoing Affidavit

(1) Townlands	(2) Tenants' Names	(3) Yearly Rent and Gale Days	(4) Dates of Agreements	(5) Total arrears due	(6) Amount payable under Sec 24 (8)
		£ s d		£ s d	£ s d
Total					

NOTE.—This affidavit should be made by the vendor or vendors, save that when the vendors are trustees the affidavit may be made by one of them or by their solicitor

VOUCHING AND PAYMENT OF SUCCESSION, LEGACY, AND ESTATE DUTIES.

The following Inland Revenue Regulations as to vouching and payment of claims for succession, legacy, and estates duties in cases under the Land Purchase Acts, have been in force since May, 1902:—

Before an order is made directing duty to be paid out of funds in Court, an assessment of the duty, which should be obtained at the Estate Duty Office in the ordinary way, should be produced by the accountable person to the Examiner in the Land Commission, who will place the amount on the Schedule of Incumbrances, and note on the account the title of the matter, and initial the account and post it to the Estate Duty Office, where it will be retained, and a No. 38 Form will be made out and posted by the principal clerk, or his assistant, to the Accountant of the Land Commission.

The lower part of the Form No. 38 should be sent by the Accountant to the Bank when the transfer is made, and should be passed on by the Bank to the Collector of Inland Revenue.

The assessed account and accounts should then be stamped and returned from the Estate Duty Office to the solicitor.

Record No E.C.=

Estate of ABEL BROWN.

County of Kilkenny.

(a) **FINAL SCHEDULE**

COURT OF THE IRISH LAND

Schedule of Incumbrances and all claims on foot of such and such parts of the Lands, the subject of January, 1906, as are, by Order dated 19th Separate Estate for the purposes of the Irish Land

Lodged the day of

N B —Except in the case of Quit Rents, Ecclesiastical Tithe which may, where convenient, be inserted three on a page, the

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d.	Rate per cent.
A	.		Sum equivalent to the arrears of rent due in respect of any holdings on the above mentioned separate estate (but not exceeding in any case one year's rent) due at the date of the agreements for purchase payable in pursuance of Sec 24 (8) of the Irish Land Act, 1903		
			Deduction —Total net sums vouched on this schedule as payable in respect of outgoings and interest on incumbrances accrued due up to the date of the agreements for purchase . .		
			Net sum payable		.
A (1)	9 May, 1905 Reg 10 May, 1905 Bk 200 No 900	Matthew Gordon of Bray, Co. Wicklow, Esq	By indenture of this date and made between the vendor of the one part and the claimant of the other part, the vendor assigned, by way of mortgage, to the claimant all such sums of money as might be payable to the vendor out of the purchase money of (amongst others) the lands comprised in the above separate estate under Sec 24 (8) of the Irish Land Act, 1903, in respect of arrears of rent out of said lands to secure the repayment of £100 with interest thereon at 5 per cent, reducible to 4½ per cent on punctual payment	100 0 0	4½

* The *italic* type shews the ruling of the Examiner, the **heavy** type the order of the Judge.

(a) The Form of this Schedule is prescribed by Directions dated 16th January, 1901 (*ante* pp 901 and 904).

See note (*post*, p. 1470) explaining the reasons for the mode in which this schedule is framed and the state of the supposititious title with which it deals.

LAND COMMISSION.

ACT, 1903.

of Incumbrances affecting the proceeds of the Sale the Originating Application filed the 12th day of December, 1909, declared fit to be regarded as a Act, 1903.

19

Particulars of Fund to be allocated.

£24,390 4s 10d Consols, representing £20,000, the purchase-money of the Lands described in the said Order of the 19th December, 1909, all of which was advanced under the Land Purchase Acts —6.*vi* 1910

Sell Stock sufficient to meet cash transactions this day directed.

Rentcharges, Board of Works charges, and claims for Costs, statement of each claim should begin a new page (*b*)

Interest to the day of , 19 £ s d	Costs £ s d	Total due for Principal, Interest and Costs £ s d	Direction Issued to Accountant	Rulings of the Judge
				**Vouched as to amount on affidavit of A Gore (agent for vendor), filed the 1st day of June,* 1910 6 *vi* 1910
395 0 0				
Nil		395 0 0		***Allow £395**
395 0 0				
to 20 June, 1910				
2 12 5	4 0 0	106 9 4		*Vouched on affidavit of claimant, filed the 2nd day of June,* 1910 *The said mortgage to be lodged* 6.*vi* 1910
0 3 1	less 1 t			
£2 9 4				**Allow £106 9s. 4d. as against said £395, and pay out of said £395 the sum of £4, costs of proof, to Messrs. Orr (solicitors for claimant), and pay £102 9s. 4d. to claimant taking lodgment of mortgage**

(*b*) Space prevents this rule being complied with in printing this Form. The rule must be obeyed in preparing schedules.

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d	Rate per cent.
A (2)	..	Abel Brown, the vendor, The Mall, Kingstown, Co. Dublin	Residue of said sum, payable under Sec. 24 (8) in respect of such arrears of rent	..	..
B	..	Same	Gross interest on the purchase money at the rate of 3½ per cent. from the date of the payment of such purchase money into the Bank of Ireland to the 20th day of June, 1910, payable in pursuance of Sec. 24 (2) and (3) of the same Act . .	..	..
			Deductions — (*a*) Payments (if any) already made in respect of interest or dividends on investments, together with income tax (if any) deducted from such payments	152 8 9	
			(*b*) Total net sums vouched on this schedule as payable in respect of outgoings and interest on incumbrances not already deducted from claim A .	160 7 2	..
			Net sum payable . . .		..
1 A	..	The Commissioners of Woods, Forests, and Land Revenues, 3 Lr. Ormond Quay, Dublin	Annual quit rent of £4 5s. 2¾d. issuing out of the lands of Blackacre, comprised in the above estate, and other parts of the same townland, also comprised in the settlement referred to at No. 11	107 16 0	..
1 B	..	Same . .	Annual quit rent of £1 14s 8¾d. issuing out of the lands of Whiteacre, comprised in the above estate, and other lands This is to be served as regards this estate out of No 2 A	..	..
1 C	..	Same . .	Reversion as regards the lands of Greenacre, comprised in the above estate, on the interests granted by Letters Patent, 23rd October, 29 Henry VIII, to Peter Butler and James Butler, the predecessors-in-title of James Duke of Ormond and Charles Earl of Arran, at No. 3A mentioned in the said lands, and others	22 3 0	..

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*Vouched on affidavit of claimant, filed 1st June,* 1910 6.*vi.*1910. **Pay residue of said £395 to claimant** *Vouched on accountant's certificate, 27th May,* 1910, *and said affidavit of claimant* 6.*vi.*1910
350 19 2		48 3 3	..	**Allow and pay £48 3s. 3d.**
312 15 11				
£48 3 3 Arrears to 20 June, 1910 6 3 2	..	113 19 2		*Vouched on receivable order, 16th May,* 1910; *good to 21st June,* 1910 6.*vi.*1910. **Allow and pay.**
..	..	..	..	*The claimants, by letter 16th May,* 1910, *require* £60 *to be retained* 6.*vi.*1910. **Retain £60** *By certificate of the claimants, dated 8th July,* 1910, *this quit rent has been exclusively charged on lands not the property of the vendor* 22.*vi.*1910 **Disallow: discharge retainer**
..	..	22 3 0	..	*Vouched on receivable order, 16th May,* 1910; *good to 21st June,* 1910 6.*vi.*1910 **Allow and pay**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal, £ s d	Rate per cent.
2 A	5 Nov, 1778 Reg 8 Nov., 1778 Bk. 291 No. 109001	Louis S Roe, of Killarney, Co Kerry, Esq.	Reversion as regards the lands of Whiteacre, comprised in the above estate, on an indenture of lease, of date in margin, made between John Jones of the one part and William Smith of the other part, of the said lands of Whiteacre and other lands, for 999 years, from 29th October, 1778, at the yearly rent of £227 late Irish currency, equivalent to £209 10s. 10d, since adjusted to £209 1s. 4d., so far as the said reversion has been effectually vested in the purchasers or reserved to the Irish Land Commission No 1 B is to be served out of this	..	..
2 B	..	Same . .	Arrears of above rent . .	To 20 June, 1910 11 [illegible] 0 0 12 10	less 1 1
				£10 7 2	
2 C	..	Same . .	Costs in connection with above reversion		

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*By order made 10th May, 1910, the annual sum of £100, portion of this rent, was apportioned on the lands subject thereto, forming part of the above estate and the residue of the said rent was apportioned on other lands subject thereto; by the same order the said sum of £100 directed to be redeemed, together with such reversion, so far as in column four is mentioned, and the redemption price thereof was fixed at £2,650. Vouched as to amount only on said order* 6.vi.1910 **Allow: place £2,650 to separate credit of No. 2 A, and invest in Consols** *The sum of £3,251 10s. 8d. Consols standing to separate credit of No 2 A is on rulings on title issued 1st July, 1910, vouched payable to Thomas Roe and Edward Shaw (of 16 Grafton Street, Dublin), as trustees with a power of sale of a settlement, dated 31st December, 1895, and made between the said L. S. Roe of the first part, Mary Roe (therein described as Mary Newman, spinster) of the second part, and the said Thomas Roe and Edward Shaw of the third part, under the provisions of which the said L S Roe is tenant-for-life of (i a) the said rent; and the sum of £19 2s 9d cash standing to said separate credit, being dividends on said Consols, is vouched payable to the said L S. Roe* 1.xi.1910 **Transfer £3,251 10s. 8d. to Thomas Roe and Edward Shaw, as trustees taking endorsement on settlement, and pay £19 2s. 9d. to L. S. Roe**
..	..	10 7 2	.	*Vouched on consent* 6.vi.1910 **Allow and pay**
..	..	..	..	*Solicitor for claimant requests that £50 be retained* 6.vi.1910 **Retain £50** *Costs of claimant vouched at £42 10s 6d. on certificate of taxation, 31st October, 1910, and certificate (same date) of Jas. Farrell of no credits* 1.xi.1910 **Discharge retainer: allow and pay James Farrell, solicitor, £42 10s. 6d.**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d	Rate per cent
3 A	28 Nov, 1701	(*x*) William Abbey, of Fonthill, Milltown, Co Cork, Esq (*y*) James Wilson, of Carberry Manor, Wexford, Esq (*z*) Daniel Wilson, Esq, same address	Annual rent of £13 14s. 8d. and £1 10s in lieu of accates, late Irish currency, with receiver's fees, in respect of all of which £14 18s 3d present currency is now paid, reserved by indenture of fee-farm grant, of late in margin, made by James Duke of Ormond and Charles Earl of Arran of the one part and Thomas Mason and James Mason of the other part, out of the said lands of Greenacre, comprised in this estate [and other lands], and all covenants, conditions, exceptions and other reservations in the said grant, so far as the same [affected the said lands of Greenacre, and] have been effectually vested in the purchasers or reserved to the Irish Land Commission All the above are limited in duration to the continuance of the said fee-farm grant See No. 1 C, *ante*		
3 B	..	Same	Arrears of above rent, &c.	To 20 June, 1910 4 16 8 0 5 8 £4 11 0	less 5%

Interest to the day of 19 £ s. d.	Costs £ s d.	Total due for Principal, Interest and Costs £ s d.	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*Consent, 27th May, 1910 (filed 30th May, 1910), for redemption at £389 2s 9d, signed by claimants and verified by, solicitor for vendor; as to three fourths of this rent, the title of the claimant X. is vouched on rulings on title issued 1st June, 1910, and he is absolutely entitled to three-fourths of the redemption price. Titles of claimants Y. and Z. not yet shown* 6.*vi*.1910 **Allow; redeem at £389 2s. 9d., pay £291 17s. hereof to claimant X. and carry over to separate credit of this item claimants Y. and Z. £97 5s. 9d. on Deposit Receipt.** *Vouched as to titles of Y. and Z. on rulings on title issued 1st July, 1910, and affidavits of claimants filed 25th October, 1910; the claimants are absolutely entitled in equal shares; the share of Y is subject to two mortgages to James Brown, for £120 and £105, dated respectively 9th November, 1904, and 18th January, 1908; the share of Z is subject to a mortgage to said James Brown, for £130, dated 27th March, 1909; vouched on affidavit of James Brown, filed 25th October, 1910* 1.*xi*.1910 **Remove the above sum of £97 5s. 9d. from D. R., with the accrued interest, and pay one moiety thereof to James Brown (91 Merrion Avenue, Dublin) on account of the principal due on his mortgage of 9th November, 1904, and pay the other moiety to same on account of the principal due on his mortgage of 27th March, 1909, taking endorsement on the mortgages** *Vouched on consent* 6.*vi*.1910
		4 11 0		**Allow and pay Bernard Williams, Estate Office, Kilkenny, as agent for claimants**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s. d	Rate per cent
3 C	28 Nov, 1701	(*x*) William Abbey, of Fonthill, Milltown, Co Cork, Esq. (*y*) James Wilson, of Carberry Manor, Wexford, Esq. (*z*) Daniel Wilson, Esq., same address	Costs in connection with above rent, &c.	..	
4 A	..	Irish Land Commission (Church Property Department), Ely Place, Dublin	Annual ecclesiastical tithe rent-charge of £9 18s 6d, as varied and reduced, payable out of the lands of Blackacre, comprised in the above estate, and other parts of the same townland, also comprised in the settlement referred to at No.	223 6 3	
4 B	..	Same	Fixed annual instalments (in lieu of tithe rent-charge), payable out of the lands of Whiteacre, comprised in the above estate	168 1 5	

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*Solicitor for claimant X requests a retainer of £50, solicitor for claimants Y. and Z. requests a retainer of £20* **Retain £50 costs of claimant X. and £20 costs of claimants Y. and Z. on D. R.** *Costs of claimant X. vouched at £49 10s. 11d on certificate of taxation, 31st October, 1910, and certificate of James O'Connor, of no credits, 1st November, 1910. Costs of claimants Y. and Z. vouched at £16 3s 6d. on certificate of taxation, 28th October, 1910, and certificate (same date) of William Brown, of no credits. Costs of James Brown, in respect of mortgages, vouched at £3* 1.xi.1910 **Allow; discharge retainers; remove from D. R. with accrued interest; pay £49 10s. 11d. to James O'Connor (solicitor), and pay William Brown (solicitor) £19 3s. 6d.**
Arrears up to 20 June, 1910 8 7 1	..	231 13 4	..	*Vouched on certificate, 16th May, 1910; good to 21st June, 1910* 6.vi 1910 **Allow and pay**
	..	168 1 5		*Vouched on certificate, 16th May, 1910; good to 21st June, 1910* 6.vi.1910. **Allow and pay**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d.	Rate per cent.
4 C		Impropriate tithe rentcharge of £13 13s. 10d, now varied and reduced to £9 12s. 5d (Parish of Donoughbeg), issuing out of the lands of Greenacre, comprised in above estate			
4 C (1)	..	The Commissioners of Woods, Forests and Land Revenues, Ormond Quay, Dublin	Crown rent of 18s. 5½d. issuing out of the said tithe rentcharge	23 14 0	..
4 C (2)		Samuel Grady, Julianstown, Co Meath	The said tithe rentcharge, subject to said Crown rent		
4 C (3)	.	Same . .	Arrears of said tithe rentcharge	To 20 June, 1910 12 0 6 0 13 6 £11 7 0	less 1
4 C (4)	..	Same . .	Costs in connection with the said tithe rentcharge	27 10 0	..

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*By order dated 10th May, 1910, this tithe rentcharge was ordered to be redeemed, and the redemption price thereof was fixed at £227 1s Vouched as to amount only* 6.vi.1910 **Allow £227 1s.**
		23 14 0		*Vouched on receivable order, 16th May, 1910, good to 21st June, 1910* 6.vi 1910 **Allow and pay £23 14s. out of said £227 1s., and carry over the balance of said £227 1s.—viz., £203 7s.—to separate credit of No. 4 C (2) on D. R.**
				The sum of £203 7s standing on D R to separate credit of No 4 C (2) is on rulings on title issued 20th June, 1910, and affidavit of claimant filed 29th June, 1910, vouched payable to claimant 1 vii.1910 **Remove from D. R. with accrued interest and pay claimant**
		11 7 0		*Vouched on consent* 6.vi 1910 **Allow and pay**
	..	..	..	*Solicitor for claimant requests that £35 be retained* 6.vi.1910 **Retain £35**
		27 10 0		*Costs of claimant vouched at £27 10s on certificate of taxation, 31st October, 1910, and certificate (same date) of S. Cox, of no credits* 1 xi.1910. **Discharge retainer: allow and pay S. Cox, solicitor, £27 10s.**

No	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s. d.	Rate per cent.
5 A		John Jones, 19 Lower Merrion Street, Dublin	Vendor's costs of sale		
5 B		Arthur Gore, 67 Kildare Street, Dublin, Esq	Negotiation fee under Sec 23 (12) of the Irish Land Act, 1903	500 0 0	

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*Not taxed, agreement dated 1st August,* 1905, *made between claimant and vendor for remuneration for all professional charges in respect of proceedings for sale at two per cent. on gross purchase money, including percentage under Sec.* 48, *together with all expenses and outlay. Certificate of no credits signed by claimant, 6th June,* 1910. *Two per cent. on purchase money of lands comprised in order of 19th December,* 1909, *is* £400 *Like on percentage is* 48 £448 *The examiner thinks that, pending the clearing of the schedule, not more than three-quarters of the total costs should be paid* 6.*vi.*1910 **Allow at this number £400 and expenses and outlay specified in agreement, pay £300 and retain £100, and also £50 in respect of said expenses and outlay** *The sum of* £39 5*s. is vouched payable in respect of said expenses and outlay on certificate of Mr. Alexander, 20th June,* 1910 1.*vii.*1910 **Discharge retainer of £50, and pay claimant £39 5s.** *All the claims on this schedule being now disposed of, the* £100 *may be paid to claimant* 1.*xi.*1910 **Discharge retainer of £100, and pay that sum to claimant**
..	..	500 0 0	.	*Vouched on consent of vendor, 11th April,* 1905, *and minute of Estates Commissioners, 1st June,* 1910, *sanctioning a negotiation fee calculated at* 2½ *per cent. on the purchase money, and affidavit of claimant, filed 3rd June,* 1910 2½ *per cent. on purchase money of lands* (£20,000), *comprised in the order of 19th December,* 1909, *is* £500 6 *vi.*1910 **Allow and pay**

No	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal, £ s. d	Rate per cent.
6	1 June, 1830 Reg 5 June, 1830 Bk 750 No. 500,000 p 329		By indenture of this date, made between Edward Brown of the first part, Charles Brown of the second part, Dorothea Edwards of the third part, Francis Green and Robert Bowles of the fourth part, James Brown and Henry Edwards of the fifth part (being a settlement executed on the marriage of the said Charles Brown and Dorothea Edwards), the lands comprised in the above separate estate were (with others) limited, after the death of the said Charles Edwards, and subject to a jointure for the said Dorothea Edwards, long since determined by her death, to the use of the said James Brown and Henry Edwards, for 500 years upon trust, to raise £6,000 with interest at 4 per cent for the younger children of the said marriage, in such shares as the said Charles Brown should by deed or will appoint, and in default of appointment for such of the said younger children as being sons should attain twenty-one, or being daughters should attain twenty-one or marry, and the said indenture contained the usual hotchpot clause with respect to the said sum There were three younger children of the said marriage—viz, Laurence Brown, Michael Brown and Mary Brown, all of whom attained twenty-one By an indenture, dated 25th April, 1856, and made between the said Charles Brown of the first part, the said Laurence Brown of the second part, Olivia Purcell of the third part, Quentin Rogers and Samuel Thomas of the fourth part, the said Charles Brown appointed one-third of the said sum of £6,000 to the said Laurence Brown, and by the same indenture the said Laurence Brown assigned the said one-third of the said sum to Quentin Rogers and Samuel Thomas upon certain trusts, and with power to give receipts for the same, and the said indenture contained provisions for appointing new trustees thereof The said Charles Brown died on the 1st day of May, 1860, without having made any further appointment The share of the said Mary Brown was paid off, and the said lands became discharged therefrom		

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s. d	Rate per cent.
		As to the one-third of £6,000 appointed to Laurence Brown			
6 (1)	..	Henry Richards, 3 Mellifont Avenue, Belfast, Esq.	By indentures, dated 6th May, 1867, and 10th October, 1886, respectively, John Leslie and James Williams were appointed trustees of the said indenture of 25th April, 1856, and the said one-third of the said charge became vested in them upon the trusts aforesaid By an indenture, dated 1st November, 1891, and made between the said John Leslie and James Williams of the first part, the vendor, Abel Brown, of the second part, and the claimant of the third part, the said John Leslie and James Williams, in consideration of £2,000, assigned the said one-third of £6,000 to the claimant The said one-third was so assigned as collateral security for the mortgage debt at No 9, and the amount thereof is included in the sum of £2,500 at said No. mentioned	..	..
		As to the one-third share of said £6,000 to which Michael Brown became entitled			
6 (2)	..	James Wilson, 1 Sandycove Terrace, Queenstown, Esq	By indenture, dated 22nd June, 1897, Edward Brown and William Scott, executors and trustees of the will of the said Michael Brown, in consideration of £2,000 paid by the claimant, assigned the said one-third of £6,000 to the claimant	2,000 0 0	4 p

Interest to the day of 19 £ s d	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge.
..	..	..	..	*The funds in Court being ample to meet all the charges thereon, it is proposed to distribute without regard to this No* 6 (1), *and to vouch and pay the amount due on the deed of 1st November,* 1891, *at No.* 9, *where the entire sum secured thereby is payable* 6.*vi.* 1910 **So be it accordingly**
Up to 20th June, 1910 11 3 6 0 13 0	less i.t.			*Vouched on affidavit of claimants, filed the 3rd day of June,* 1910, *the probate of the will of Michael Brown, and the said deed of 22nd June,* 1897 6.*vi.* 1910
£10 10 6	4 0 0	2,014 10 6		**Allow ; pay £4 costs of proof to Henry James, solicitor, and pay £2,010 10s. 6d. to claimant, taking lodgment of deed, 22nd June, 1897**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d	Rate per cent.
7	1 June, 1830 Reg. 5 June, 1830 Bk 750 No. 500,000 P. 327	Patrick Quin, of Edenmore, Dalkey, Co. Dublin, as personal representative of Roger Quin, deceased	By indenture of this date at No. 6 partly stated, and subject to the term there mentioned, power was given to the said Charles Brown to charge (*s.a*) the lands comprised in the above separate estate with a sum not exceeding £500, with 5 per cent. interest for such persons or purposes as the said Charles Brown should think fit By indenture, dated 1st February, 1855, made between the said Charles Brown of the one part and Roger Quin of the other part, the said Charles Brown, in exercise of the said power, charged the said lands in favour of the said Roger Quin with £500 and interest thereon at 5 per cent. The said Roger Quin died on 5th May, 1905. The claimant, Patrick Quin, is his administrator	500 0 0	5

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
Up to 20 June, 1910 £9 11 9 0 11 2	less 1 t.			*Vouched on affidavit of claimant, filed 4th day of June, 1910, and letters of administration to personal estate of R. Quin* 6 vs. 1910
£9 0 7	4 0 0	513 0 7		**Allow and pay William Poole, solicitor, £4 costs of proof, and pay £509 0s. 7d. to claimant, as personal representative of Roger Quin, taking lodgment of deed of 1st February, 1855**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s. d	Rate per cent
8	10 June, 1869 Reg 12 June, 1869 Bk. 301 No. 695	(1) Lionel Moore, of Broadchalk, Co Louth, Esq (2) Mrs Charlotte Brown, of 5 Sea-view Terrace, Monkstown, widow	By indenture of this date, and made between William Brown of the first part, the claimant, Charlotte Brown, then Charlotte Delacour, of the second part, and Edward Franks and George Howlin of the third part (being a settlement on the marriage of the said William Brown and Charlotte Delacour), the lands comprised in the said estate were (with others) limited from the death of the said William Brown to the use that the said Charlotte Brown should receive an annuity of £200 per annum for the residue of her life, and subject thereto to the use of the said Edward Franks and George Howlin, for 99 years, upon trusts for securing the said annuity The said William Brown died 1st August, 1890 By indenture, dated 25th October, 1892, and made between the vendor, Abel Brown, of the first part, the claimant, Charlotte Brown, of the second part, and the claimant, Lionel Moore, of the third part, the said vendor conveyed the said lands to the said Lionel Moore, by way of mortgage, to secure the repayment to him of £2,000, with interest at 4½ per cent ; and by the same indenture the said Charlotte Brown postponed her said annuity to the security thereby created, and for that purpose charged the said annuity with the said mortgage debt and interest The redemption price of the said annuity is accordingly payable to the extent of the amount due on the said mortgage to the claimant, Lionel Moore, and as to any balance to the claimant, Charlotte Brown	1,560 0 0	

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	1,560 0 0	..	*By order of 10th May*, 1910, *this annuity was ordered to be redeemed, and the redemption price thereof fixed at* £1,560, *and that sum is vouched payable to the claimant, Lionel Moore, on account of the principal sum due on his said mortgage. See his affidavit, filed 3rd June*, 1910. *The residue of the said mortgage debt will be met at No.* 10 6.VI.1910 **Allow and pay claimant, Lionel Moore, £1,560 on account**

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s d	Rate per cent.
8 A	..	Mrs Charlotte Brown, of above address	Arrears of the said annuity .	To 20 June, 1910 £76 14 3 4 9 6 £72 4 9	less i t.
8 B	..	Henry Graham, Suffolk Street, Dublin, solicitor	Costs in connection with the said annuity	9 0 0	..
9	1 Nov., 1891 Reg. 3 Nov., 1891 Bk. 200 No. 300	Henry Richards, 3 Mellifont Avenue, Belfast, Esq.	By the indenture of this date already partly stated at No 6 (1), the vendor, Abel Brown, conveyed the lands comprised in the said separate estate (with others) to the claimant, by way of mortgage, to secure the repayment of £2,500, with interest at 5 per cent reducible to 4½ per cent The charge at No. 6 (1) is collateral security for this mortgage debt, and the sum of £2,000 at the said No. is included in the said sum of £2,500	2,500 0 0	4½
10	25 Oct, 1892 Reg. 27 Oct., 1892 Bk. 100 No 200	(1) Lionel Moore, of Broadchalk, Co. Louth, Esq (2) Mrs. Charlotte Brown, of 5 Seaview Terrace, Monkstown, widow	The indenture of mortgage of this date at No. 8 stated. The amount due out of the said proceeds of sale at this No. is payable in the first place in discharge of the balance (if any) remaining due to the claimant, Lionel Moore, on foot of the said mortgage after giving credit for the amount paid to him at No. 8, and subject thereto, is payable to the claimant, Charlotte Brown	2,000 0 0	4½

Interest to the day of 19 £ s. d.	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	72 4 9	..	*Vouched on consent of solicitor for vendor* 6.*vi*.1910 **Allow and pay**
..	..	9 0 0	..	*Vouched on consent of solicitor for vendor to include costs of proof at No.* 10 6.*vi*.1910 **Allow and pay**
Up to 21 June, 1910 £15 14 4 0 18 5	.. less j.t.	..	..	*Vouched on said mortgage and affidavit of claimant filed 4th June,* 1910. *See No.* 6 (1) 6.*vi*.1910
£14 15 11	4 0 0	2,518 15 11		**Allow; pay £4 costs of proof to Francis Taylor, solicitor, and pay £2,514 15s. 11d. to claimant taking lodgment of deed 1st November, 1891**
To 20 June, 1910 £13 16 1 0 16 1	.. less j.t.	..	..	*Vouched on affidavit of Lionel Moore, filed 3rd June,* 1910, *and affidavit of Charlotte Brown, filed 4th June,* 1910, *and certificate of negative search against said Charlotte Brown, lodged The sum of* £13 *for interest on said* £2,000 *is payable to Lionel Brown, and* £440 *balance due for principal after payment made at No.* 8 *is payable to same claimant, the remainder of said* £2,000 (*viz*, £1,560) *is payable to Charlotte Brown in discharge of redemption price of No.* 8 6.*vi*.1910 **Allow; pay £4 costs of proof to R. Jones, solicitor, for Lionel Moore; pay £453 to Lionel Moore, taking lodgment of deed 25th October, 1892, and pay £1,560 to Charlotte Brown**
£13 0 0	4 0 0	2,017 0 0		

No.	Date	Name, Addition, and Residence of Claimant	Particulars of Demand	Principal £ s. d	Rate per cent.
11	1 Sept., 1895 Reg. 2 Sept., 1895 Bk 93 No. 501.	Robert Shaw, of Dalymount, Co Westmeath, Esq., and Thos. Ussher, of 76 Gardiner's Place, Dublin, Esq, as trustees for the purposes of the Settled Land Acts, 1882-1890, of the settlement made by this indenture	The residue By indenture of this date, and made between Abel Brown, the vendor, of the first part, Jane Parker of the second part, and the claimants of the third part (being the settlement executed on the marriage of the vendor and the said Jane Parker), the lands comprised in the said separate estate were limited to the claimants upon certain trusts under which the vendor is beneficially entitled for his life, or until bankruptcy, &c., and by the said indenture a power of sale was given to the claimants	..	..

Percentage payable out of the Land Purchase Aid Fund.

..	1908 1 June	William Smith, 80 Upper Sackville Street, Dublin	By indenture of this date made between the vendor of the one part and the claimant of the other part, the vendor assigned the said percentage to the claimant by way of mortgage, to secure the repayment of the sum of £50, with interest at 5 per cent.	50 0 0	5
..	..	Abel Brown, the vendor	Balance of said percentage after payment of above mortgage		

Interest to the day of 19 £ s. d	Costs £ s. d.	Total due for Principal, Interest and Costs £ s. d.	Direction Issued to Accountant	Rulings of the Judge
..	..	..	..	*Vouched on rulings on title and affidavit of vendor filed 1st June,* 1910 6.vi.1910 **Allow and transfer to claimants, as trustees, taking endorsement on said settlement, and giving notice to Commissioners of Inland Revenue** *The further residue arising from the discharge of retainers at Nos.* 1 *B,* 2 *C,* 3 *C,* 4 *C* (4), *and* 5 *A is vouched payable to claimants as trustees* 1.xi.1910 **Allow and pay claimants, as trustees, taking endorsement on said settlement**
To 20 June, 1910 £5 2 9 0 6 0 £4 16 9	less i.t. 2 0 0	56 16 9	..	*Vouched at* £2,400 *on affidavit of vendor filed 1st June,* 1910, *the percentage certificate dated 16th May,* 1910, *the certificate of the Registrar 4th June,* 1910, *and the affidavit of William Smith filed 2nd June,* 1910 6.vi.1910 **Draw out of the Land Purchase Aid Fund the sum of £2,400, being the percentage specified in Sec. 48 of the Irish Land Act, 1903, and pay same, as follows:—Pay £2 costs of proof to John Jones (solicitor for William Smith), pay William Smith £56 16s. 9d., taking lodgment of mortgage 1st June, 1908, pay £48 to claimant at No. 5 A, and pay balance to vendor**

Examiners' Practice.

The foregoing form of final schedule has been framed with a view to illustrating the several matters here referred to It is to be assumed that the vendor mentioned in this form, Abel Brown, was tenant-for-life under a settlement dated 1st September, 1895, of three sets of lands—viz, Blackacre, held in fee-simple; Whiteacre, held with other lands under a lease, 5th November, 1778, for a term of 999 years; and Greenacre, held under a fee-farm grant of 28th November, 1701 Blackacre is subject to a quit rent which affects other lands not sold but comprised in the same settlement. Whiteacre is also subject to a quit rent which affects other lands out of which it is primarily payable and on which it is ultimately exclusively charged Greenacre is subject to a Crown reversion. The column in the form headed "Rulings of the Judge" has been filled in with the notes of the Examiner made on the vouching of the schedule and with the orders made by the Judge. It will be observed that the case is assumed to be listed before the Examiner for the first vouching on June 6th, 1910, and on this date he has either vouched the amount payable to each claimant in respect of his claim, or has suggested a retainer to meet the amount of the claim when finally established, or has noted the fact that though title to the claim was not made, yet the amount of the claim was ascertained In cases of the first kind the Judge's order allows the claim and directs it to be paid, in cases of the second kind the Judge directs a sum to be retained, and in cases of the third kind he allows the claim and transfers a sum representing it to a separate credit until title thereto be shown.

Before the claims of the Crown come A and B the two statutory claims created by Sec 24 of the Act of 1903. After the claims of the Crown upon the schedule the head rents and tithe rentcharges are placed. The usual mode of stating and vouching these is shown in the form. It will be observed that the impropriate tithe is subject to a Crown rent. Two claims therefore arise at this item—(1) the claim of the Crown, and (2) the claim of the owner of the rentcharge In such cases it is usual to write the entire claim across the 3rd, 4th and 5th columns, and to state its sub-divisions, with the names of the claimants beneath It will be observed also that the Parish is mentioned in which the titheable lands lie. This is an essential particular which must always be stated in the cases of an impropriate tithe rentcharge Having disposed of the superior interests, vendor's costs and the negotiation fee (which is treated as part of the costs), the schedule states the first incumbrance on the lands—an old family charge—created by a settlement of 1st June, 1830, part of which has been paid off, and as to the residue of which there are two claimants, each being entitled to one-third, but one of the thirds has been mortgaged by way of collateral security to secure a larger sum charged by a mortgage (puisne to intervening claims on the schedule) which was put upon the lands in 1891. In stating these family charges it will be seen that the space afforded by the 3rd, 4th and 5th columns has been again utilised and the sub-divisions of the claim set out separately as sub-items. One of the intervening claims above-mentioned is a jointure payable to the vendor's mother under a settlement of 10th June, 1869, which she has postponed to a mortgage placed by the vendor on the lands in 1892 A reference to items 8 and 10 on the schedule will show how such a state of circumstances can be most conveniently set out and dealt with. Then comes the residue at No. 11, which is paid to the trustees of the settlement of 1st September, 1895, and on the last page of the schedule (without any number indicat-

ing priority) will be found the bonus, the balance of which, after satisfying a mortgage and the proportion of the costs percentage calculated upon the bonus, is paid to the vendor. Examiners' Practice.

As to the sums retained upon the occasion when the schedule is first ruled by the Judge the claims in respect of such retainers are supposed to be all discharged when the schedule comes before the Judge after it has been before the Examiner on 1st November, 1910, and the balances of the several retainers, which, of course, go to form a further residue, are accordingly paid out to the trustees, and the allocation of the funds in the matter is thus completed.

PRIMA FACIE TITLE.

Memo., 4th Nov., 1907.

MEMORANDUM for Counsel with reference to the investigation of title by them for the purposes of Section 17 of the Irish Land Act, 1903, and the giving of Certificates on the Form T to the Rules of the Estates Commissioners dated the 4th November, 1907 (*a*).

(*a*) This Memorandum, approved of by Mr. Justice Wylie, was transmitted by the Estates Commissioners in January, 1908, to the Bar Council, in response to a request for instructions or directions on points arising on the reading of title by Counsel for the purpose of giving the Certificate prescribed by Rule 17 of the Rules of 4th November, 1907.

The object of Counsel's Certificate is to satisfy the Estates Commissioners that the Vendor is a person having power to sell under the Land Purchase Acts the lands set forth in the 1st Schedule to the Originating Application or Request, and thus enable them, subject to the advertisements and notices prescribed by their Rules, without any further investigation of title, to deal with Vendors as the Owners of their Estates for all purposes other than the distribution of the Purchase Money or the payment of any percentage out of the Land Purchase Aid Fund.

Counsel is not concerned with the actual Form of Agreement which may have been entered into between a Vendor and his tenants of the Agreement which may be in contemplation between a Vendor and the Estates Commissioners.

The Vendor, may, however, be a person having power to sell the Lands under the Land Purchase Acts and yet may not be the Owner of the Mineral, Sporting, or Water Rights, which may form the subject-matter of an exception or reservation to a superior Landlord under a Fee-farm Grant or Lease, or may have been expressly granted or leased by the Vendor or his predecessor-in-title. If any such rights are disclosed in investigation of such *prima facie* title Counsel should see that they are accurately stated either in his Certificate or in the Originating Application or Request.

Memo., 4th Nov., 1907.

The Originating Application or Request may be taken by Counsel as the basis of his investigation of title for the purposes of showing the lands which are proposed to be sold.

Counsel, unless requested not to do so by the Solicitor, should, as far as can conveniently be done, having regard to the nature of the title, read the title to all the lands mentioned in the 1st Schedule to such Originating Application or Request, even though it may appear that the Vendor proposes to exclude part of the lands from the sale, as it frequently happens that lands which at first it is proposed to exclude are subsequently included.

In considering the extent of the investigation of title which should be made for the purpose aforesaid in particular cases, Counsel should have regard to the 17th Section of the Act. It should also be borne in mind, in considering this question, that Counsel's investigation is intended to be confined to the title to the land as distinguished from the title to the incumbrances or superior interests, and it is not intended as a substitute for the subsequent investigation which will be made in due course by an Examiner of the Land Commission before the Purchase Money of the Estate can be distributed. Counsel is also referred to the directions published at the end of the 2nd Schedule to the Forms A. and B. in the Commissioners' Rules. (See *ante*, pp. 1259 and 1263).

Counsel should satisfy himself as to the identity of the lands included in the Originating Application or Request and shown on the Maps lodged with the Commissioners with those to which the title is shown. The manner in which this identification is to be established is, of course, a matter to be determined in each case. The following observations are intended to illustrate the more usual methods adopted. Identity can be shown by a comparison of the Maps on the Deeds or Old Estate Maps with those lodged with the Commissioners, or by the production of old Leases or Rentals, or even by the affidavit of the Vendor or his Agent, or a person resident on the lands, provided the deponent can depose from personal knowledge.

In the absence of any circumstance which would cast doubt on the assumption, Counsel is entitled to assume that whole Townlands so described in Deeds are co-extensive with the present Ordnance Survey Townlands of identical or similar names. He should, however, have regard to material differences in areas where the area is given in the Deed.

Counsel should have before him the Originals of the Deeds and other muniments of title where such are available. If Counsel is provided

Memo., th Nov., 1907.

with copies only of such Deeds, he should at least see that the Originals are forthcoming, or their absence accounted for. When the Deeds are not in the possession of the Vendor application should be made by the Solicitor under Rule 19. (*Ante*, p. 1252.)

Where it appears from a perusal of any of the documents necessary for the purpose of giving *prima facie* title to the land that persons other than those mentioned in the Originating Application or Request are interested in the Estate, Counsel should state the names of such persons in order that they may be served with a Notice on Form E pursuant to Rule 20. (*Ante*, p. 1252.)

It is not the duty of Counsel to verify statements in the Originating Application or Request as to the persons now entitled to incumbrances, Sporting Rights, Mineral Rights, and Water Rights, or Superior Interests.

Counsel is not bound to consider claims for succession Estate or legacy duties in connection with *prima facie* evidence of title.

Counsel should accept the allegation in the Originating Application or Request in reference to Quit or Crown Rent, Tithe Rent-Charge, and Board of Works Charges, unless they are inconsistent with the title as shown.

If it appears that the Vendor's Estate is subject to a Fee-Farm Grant or Lease which, if still in existence, would be sufficient to constitute the Owner thereof a person having power to sell under the Land Purchase Acts, Counsel should be satisfied either that such Grant or Lease is fully disclosed in the Schedule of occupying tenants referred to in the Originating Application or Request, or that the interest of the Grantee or Lessee has become vested in the Vendor or has determined.

Where the Vendor holds under a Fee-Farm Grant, or Lease, for the purpose of *prima facie* title, it is not necessary to make any requisition as to the existence of any superior Grant or Lease.

Where Counsel is of opinion that any of the matters hereinbefore referred to have not been properly or sufficiently dealt with in the Originating Application or Request before him, he should, as a general rule, if such Originating Application or Request has not been lodged with the Estates Commissioners, cause it to be amended before lodgment, but if such Originating Application or Request has been lodged, he should state the matters referred to in his Certificate.

Estates Commissioners' Office,

Dublin, *January*, 1908

NOTICE AS TO DOCUMENTS OF TITLE REFERRED TO IN THE LETTER OF THE SECRETARY OF THE ESTATES COMMISSIONERS.

ESTATES COMMISSIONERS.

Prima Facie Evidence of Title.

Irish Land Act, 1903, Section 17.

In any case in which the Vendor has set out in the Second Schedule to an Originating Application, or Originating Request, Deeds or Documents other than those relied upon as *prima facie* evidence of his power to sell, and it is desired to amend such Schedule by omitting therefrom such Deeds or Documents, the Solicitor may attend at the offices of the Estates Commissioners and may make such amendment as may appear necessary; such amendment should be made before the Certificate of Counsel in Form T is obtained and should be initialled by Counsel when giving such Certificate.

SCALE OF FEES PAYABLE TO COUNSEL FOR CERTIFICATE AS TO PRIMA FACIE EVIDENCE OF TITLE.

On 14th December, 1907, the following resolution was adopted by the Bar Council :-

The Bar Council, being of opinion that before giving a certificate of *prima facie* title, it is the duty of the counsel to whom the title is submitted, in addition to the perusal of the title, to satisfy himself of the identity of the parcels of land, mentioned in the Originating Application and Map, with those mentioned in the title deeds, it is hereby resolved that the following scale of fees shall be adopted by the Bar :—

1. Where purchase does not exceed £2,000, minimum fee £3 3s
2. Where purchase exceeds £2,000, minimum fee of £3 3s, together with a further fee of 10s. 6d. for each document of title to be perused over five.

Originating Application and Map to be considered as one document of title.

RETURN TO AN ORDER OF THE HOUSE OF COMMONS,

DATED 12TH APRIL, 1910.

"Of all rules and regulations so far made by the Treasury under the Irish Land Purchase Acts, 1891 to 1909, and not wholly repealed, giving the dates and references to the Gazette or other official publication where the same may be found."

TREASURY RULES AND REGULATIONS UNDER IRISH LAND PURCHASE ACTS, FROM 1891 TO 1909.

Date	Act	Subject	Where published
26th February, 1892	1891	Land Purchase Account, Reserve Fund, Guarantee Fund, Creation and Issue of Guaranteed Land Stock, Sinking Fund and Guarantee Deposits	H. of C, 102 of 1892.
22nd March, 1895	1891 (& 1885)	Table for Redemption of Annuities	H. of C, 196 of 1895
22nd August, 1895	1891	Act of 1891—Redemption Tables	H. of C., 457 (Session 2) of 1895.
26th May, 1897	1896	Section 34, Act of 1881, Section 25, Act of 1896, Decadal Revisions	Statutory Rules and Orders, 1897, No. 391.
14th March, 1899	1896	Act of 1896—As to payments in respect of Purchase Annuities	Statutory Rules and Orders, 1899, No. 142.
(*a*). 14th April, 1905	1903	Irish Land Purchase Fund and Accounts, Guarantee Fund, Reserve Fund, Purchase Annuities, Accumulation and Redemption, Land Purchase Aid Fund, &c.	H. of C, 151 of 1905, Statutory Rules and Orders, 1905, No. 392.
14th April, 1908	Evicted Tenants Act, 1907.	Section 17, Evicted Tenants Act, 1907	Statutory Rules and Orders, 1908, No. 311.
21st April, 1908	1896	Act of 1896—Purchase Annuities	Statutory Rules and Orders, 1908, No. 317.
15th February, 1910	1909	First Schedule, Act of 1909	Dublin Gazette of Friday, 18th February 1910, or London Gazette of Tuesday, 15th February 1910.

(*a*) Revoked by Irish Land Finance Rules, 1910, *post*, p. 1494, six in rule.

Regulations as to the Guarantee Fund Apportionment were made by the Lords Justices of Ireland on 24th November, 1904. See Statutory Rules and Orders, 1904, No. 1743.

TREASURY REGULATIONS.

Provisional REGULATIONS, dated 15th February, 1910, made by the TREASURY for the purpose of the application of the PERCENTAGE SCALE in the First Schedule to the Act of 1909. Regulations 15th Feb., 1909.

For the purpose of the application of the Scale in the First Schedule of the Irish Land Act, 1909, the number of years' purchase represented by the Advance shall be ascertained:

I. In the case of the purchase of a parcel of untenanted land by dividing the amount of the purchase money by the amount which the Estates Commissioners or the Congested Districts Board, as the case may be, shall estimate to have been the fair annual value of such parcel to the owner at the date of purchase.

II. In any case where the amount advanced is less than the purchase money, by dividing the amount of the purchase money by the amount of the rent, or in the case of untenanted land by the amount which the Estates Commissioners shall estimate to be its fair annual value to the owner.

IRISH LAND FINANCE RULES.

PROVISIONAL RULES AND REGULATIONS

DATED 16TH JULY, 1910, MADE BY THE TREASURY UNDER THE IRISH LAND ACT, 1903 (3 EDW. 7, C. 37) AND THE IRISH LAND ACT, 1909 (9 EDW. 7, C. 42).

Rules of 16th July, 1910.

The Lords Commissioners of His Majesty's Treasury hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Rules and Regulations should come into immediate operation, and in pursuance of the powers conferred by Section 41 and other Sections of the Irish Land Act, 1903, and by Section 14 and other Sections of the Irish Land Act, 1909, and of every other power enabling them in this behalf, hereby, without prejudice to any further exercise of the said powers make the following Rules and Regulations to come into operation forthwith as Provisional Rules :—

ACCOUNTS OF LAND COMMISSION.

Accounts of Land Commission, 1903, s. 35

1.—(1) The Land Commission shall keep in their books a general account to be called the "Land Purchase Account No. 2," through which shall be passed all cash received and paid by the Land Commission under the Irish Land Act, 1903 (in these Rules referred to as 'the Act of 1903") as amended or extended by the Irish Land Act, 1909 (in these Rules referred to as the Act of 1909"), except the income arising from investments of money paid into the Bank of Ireland under Section twenty-four of the Act of 1903 or Section twenty-six of the Act of 1909; and also the necessary subsidiary accounts for distinguishing the transactions of the Land Commission, the Estates Commissioners, and the Congested Districts Board.

(2) The Land Commission shall also keep in their books separate accounts of the sums advanced to them for the purchase of land and of congested estates; and a separate account of each purchase annuity in respect of advances in pursuance of agreements entered into after the passing of the Irish Land Act, 1903, distinguishing between advances repayable by means of a 3¼ per cent. annuity and advances repayable by means of a 3½ per cent. annuity.

ISSUE AT PREMIUM OR DISCOUNT AND EXPENSES OF ISSUE.

Premium and Discount, 1903, s. 36 (6) (7) 1909, s. 7.

2.—(1) Stock shall be taken to be issued at a premium or a discount according as the net sum raised by means of the stock is greater or less than the nominal value of the stock issued.

(2) Bonds shall be taken to be issued at a premium or discount according as the net sum raised by means of the bonds is greater or less than the nominal value of the bonds issued. Rules of 16th July, 1910.

(3) Bills shall be taken to be issued at a premium or discount according as the difference between the net price of issue and the price of repayment is less or greater than interest on the net price of issue for the period of the currency of the bills at the rate of three per cent. per annum if the money advanced out of the proceeds of the bills is repayable by means of 3½ per cent. annuities and 2¾ per cent. per annum if the money so advanced is repayable by means of 3¼ per cent. annuities, and the amount by which the net price of issue, increased by interest thereon at the rate of 3 or 2¾ per cent. per annum, as the case may be, is greater or less than the price of repayment shall be deemed to be the amount of premium or the amount of the discount, as the case may be.

(4) In determining the net sum raised by means of stock or bonds, and the net price of issue of bills, any expenses of the issue of the stock, bonds, or bills, which are to be provided out of the sums raised thereby, shall be deducted.

(5) The expenses of issue to be provided out of any sums raised by means of stock, bonds, or bills shall include (in addition to any sums which under any enactment are to be treated as part of those expenses) brokerage (if any), advertising, postage, remuneration to the Bank of England or Bank of Ireland for issuing the stock, bonds, or bills, and such other sums as may, in the opinion of the Treasury, be properly charged against the capital sum received. Expenses of issue 1903, s 28 (4); 1909, s 5.

GUARANTEE FUND.

3.—(1) The Guarantee Fund shall be under the direction of the Treasury, who shall keep an account of the Cash portion of the Fund, showing separately the payments made thereto in respect of— Constituents of cash portion of Guarantee Fund 1903, ss 38, 40 (1).

(*a*) The Ireland development grant.

(*b*) The death duty grant.

(*c*) The agricultural grant.

(*d*) The Exchequer contribution.

(2) In the case of payments from the Guarantee Fund to the Ireland Development Grant Account, and the Local Taxation (Ireland) Account— Charge for excess stock, &c. 1903, ss 36 (6) 38; 1909, ss 5, 7.

Any payment which has been made from the Guarantee Fund to the Irish Land Purchase Fund for the purpose of making good any deficiency for which provision is made, with reference to issue of

Rules of 16th July, 1910.

stock, bonds, or bills at a discount, by Section 36 (6) of the Act of 1903, or by that Section as applied by Section 5 (4) of the Act of 1909, and, with reference to the raising of money by means of 3 per cent. stock for advances in respect of which interest is payable at 2¾ per cent., by Section 7 (2) of the Act of 1909 (in these Rules referred to as the excess stock deficiency), shall be deducted from the Ireland development grant, within the amount of that grant which forms part of the cash portion of the Guarantee Fund; and

Other charges.

Any payments from the Guarantee Fund to the Irish Land Purchase Fund by way of advance shall, so far as not repaid, be deducted, first, from the death duty grant, secondly, from the agricultural grant; thirdly, from the Ireland development grant; and fourthly, from the Exchequer contribution.

Repayment of arrears.

(3) Any payments by way of advance from the Guarantee Fund to the Irish Land Purchase Fund in respect of arrears under Section 36 (4) of the Act of 1903, shall be a debt from that fund to the Guarantee Fund, and be repayable out of payments on account of arrears which are subsequently recovered by the Land Commission and by them paid into the Irish Land Purchase Fund.

Repayment of advances for dividends.

(4) Any payments by way of advance from the Guarantee Fund to the Irish Land Purchase Fund for the purpose of paying the dividends on stock or interest on or in respect of bonds or bills shall be repaid to the Guarantee Fund out of any money subsequently paid to the credit of the income account of the Irish Land Purchase Fund which is not required for the purpose of meeting the other liabilities of that account.

Distribution of repayments.

(5) Any sum received from the Irish Land Purchase Fund for the repayment of advances to that Fund from the Guarantee Fund shall, save as provided by Rule 11, be credited in account so as to make good the sums used for such advance out of the funds and moneys hereafter mentioned, and shall be so credited in the following order, namely, first, to the Exchequer contribution; secondly, to the Ireland development grant; thirdly, to the agricultural grant; and fourthly, to the death duty grant.

CASH ARRANGEMENTS.

Dividends on stock. 1903, s 28 (2), s 29 (1), (2), s 36 (6); 1909, ss. 2, 7.

4.—(1) On the last week-day before the first day of January and the first day of July in every year, there shall be paid by the National Debt Commissioners to the Bank of England or Bank of Ireland, as the case requires, from the Irish Land Purchase Fund, a sufficient sum to pay the dividends on Stock which will become payable on the next dividend day.

(2) Five days previously to each of the said week days in every year the National Debt Commissioners shall pay to the Land Commission from the Irish Land Purchase Fund a sufficient sum to pay the interest which will become payable on the next dividend day to any persons to whom an advance has been made in stock in respect of the period between the date of the advance and the said dividend day.

(3) If five days previously to the first day of January or the first day of July in any year the cash standing to the credit of the Income Account of the Irish Land Purchase Fund is insufficient to pay the dividends on stock, the National Debt Commissioners shall certify the same to the Treasury, who shall cause an advance to be made to the Irish Land Purchase Fund out of the cash standing to the credit of the Guarantee Fund, and if that is insufficient, out of the Consolidated Fund.

(4) Any advance so made out of the Consolidated Fund shall be as soon as possible repaid from the Guarantee Fund.

(5) Every sum so repaid and every sum so advanced out of the Guarantee Fund shall be repaid to the Guarantee Fund out of any money subsequently paid to the credit of the income account of the Irish Land Purchase Fund which is not required for the purpose of meeting the other liabilities of that account.

(6) Five days previously to the first day of June and first day of December in every year, the National Debt Commissioners shall certify to the Treasury the amount of the half-yearly payments required for the purpose of making good the excess stock deficiency so far as it arises in respect of stock; and the Treasury shall cause the amount to be paid from the Guarantee Fund (within the amount of the Ireland development grant which forms part of the cash portion of that fund) to the Irish Land Purchase Fund and the Land Commission shall pay to the Irish Land Purchase Fund out of moneys provided by Parliament for the purposes of that Commission any balance of the amount not so provided out of the Guarantee Fund.

Payments in respect of bills or bonds.

5.—(1) On the week-day immediately preceding the day on which any interest on bonds outstanding becomes payable, and on the week-day immediately preceding the day on which the principal money of any bonds or bills becomes payable, there shall be paid by the National Debt Commissioners to the Bank of England or the Bank of Ireland, as the case requires, out of the Irish Land Purchase Fund, a sufficient sum to provide the amount which will so become payable.

(2) The payments on account of the interest on or in respect of bonds or bills shall be charged to the income account of the Irish Land

Rules of 16th July, 1910.

Purchase Fund, and the payments in respect of the principal of bonds or bills shall be charged to the capital account of that fund.

Provided that, where any payments are made in respect of the principal of bonds or bills which have been issued at a discount, there shall be repaid to the capital account of the Irish Land Purchase Fund out of moneys provided by Parliament for the purposes of the Land Commission the amount of the discount, after allowing for the sinking fund payments made in respect of the discount on bonds or bills under Sec. 36 (6) of the Act of 1903 as applied by Sec. 5 (4) of the Act of 1909, and the accumulations thereof.

On any issue of bills the National Debt Commissioners shall certify the amount which is to be treated as the interest payable in respect of the bills.

(3) If five days previously to any date on which a payment has to be made as aforesaid by the National Debt Commissioners the cash standing to the credit of the income account or the capital account, as the case may be, of the Irish Land Purchase Fund is insufficient to meet the payment to be so made out of that account, the National Debt Commissioners shall certify the same to the Treasury, and the Treasury shall cause an advance to be made to the Irish Land Purchase Fund of the amount of the deficiency, in the case of a deficiency arising on the income account of the fund, out of the cash standing to the credit of the Guarantee Fund, and if that is insufficient out of the Consolidated Fund, and in the case of a deficiency arising on the capital account of the fund, out of the Consolidated Fund.

(4) Any advance made out of the Consolidated Fund for the purpose of meeting a deficiency on the income account of the Irish Land Purchase Fund shall as soon as possible be repaid from the Guarantee Fund.

(5) Every sum so repaid and every sum so advanced out of the Guarantee Fund shall be repaid to the Guarantee Fund out of any money subsequently paid to the credit of the income account of the Irish Land Purchase Fund, which is not required for the purpose of meeting the other liabilities of that account.

(6) Any advance made out of the Consolidated Fund for the purpose of meeting a deficiency arising on the capital account of the Irish Land Purchase Fund shall be repaid to the Consolidated Fund out of any money subsequently paid to the credit of the capital account of the Irish Land Purchase Fund.

(7) Five days previously to the day on which any payment on account of interest becomes due in respect of bonds or bills, the National Debt Commissioners shall certify to the Treasury the amount of the payments

required for the purpose of making good the excess stock deficiency so far as it arises in respect of bonds or bills, as the case may be, and the Treasury shall cause the amount to be paid from the Guarantee Fund (within the amount of the Ireland Development Grant which forms part of the cash portion of that fund) to the Irish Land Purchase Fund, and the Land Commission shall pay to the Irish Land Purchase Fund out of moneys provided by Parliament for the purposes of that Commission any balance of the amount not so provided out of the Guarantee Fund.

Date of payments to Irish Land Purchase Fund. 1903, s. 36 (1), (2), (3), (5), 1909, s. 1.

6.—(1) The annual payments to the National Debt Commissioners under Sub-sections (1), (2), and (3) of Section 36 of the Act of 1903, as amended by Section 1 of the Act of 1909, shall be made by the Land Commission in half-yearly instalments on the twenty-first day of June and the twenty-second day of December in each year:

Provided that the Land Commission shall, so far as practicable every day pay over to the Irish Land Purchase Fund at the Bank of England on account of such annual payments all money received by them on account of half-yearly payments from purchasers.

Payments in arrear. 1903, s. 36 (4).

(2) On the thirty-first day of January and the thirty-first day of July in every year, the Land Commission shall ascertain the amount of the said annual payments in arrear, and shall forthwith certify that amount to the National Debt Commissioners; and the Treasury, on being furnished with a certificate from the National Debt Commissioners of the amount so in arrear, shall cause an advance of such amount to be made to the Irish Land Purchase Fund out of the Guarantee Fund.

Application of recovered arrears.

(3) All half-yearly payments due from purchasers which have not been received by the thirty-first day of January and thirty-first day of July immediately following the gale day on which they become due, shall be deemed to be arrears and as such shall, when recovered, be paid, as soon as practicable, to the Irish Land Purchase Fund at the Bank of England, to be applied in reduction of the amount previously advanced from the Guarantee Fund, under the preceding paragraph of this Rule.

Accounts of National Debt Commissioners.

7. The accounts of the receipts and expenditure of the Irish Land Purchase Fund, both as regards capital and income, shall be made up by the National Debt Commissioners to the thirty-first day of March in each year, and in accordance with section 1 (3) of the Act of 1909, those Commissioners shall distinguish in the accounts between advances repayable by means of a 3¼ per cent. annuity and advances repayable by means of a 3½ per cent. annuity.

Rules of 16th July, 1910.

Disposal of sums in Guarantee Fund available for distribution 1903, s. 38, s 36 (4) (6), s. 29

8.—(1) On the seventeenth day of February in every year, and at such other times (if any) as the Treasury may direct, there shall be paid from the Guarantee Fund—

(*a*) to the Ireland Development Grant Account any cash then standing to the credit of the Ireland development grant except what is required for meeting any charge on the Guarantee Fund then accrued and payable out of the Grant;

(*b*) to the Local Taxation (Ireland) Account any cash then standing to the credit of the Guarantee Fund, except the Ireland development grant and what is required for meeting any charge on the Guarantee Fund then accrued;

and the Treasury, on making such payments, shall certify to the Lord Lieutenant the amounts paid in respect of the Ireland development grant, the death duty grant, the agricultural grant and the Exchequer contribution respectively.

(2) On or before the sixteenth day of February in each year the National Debt Commissioners shall certify to the Treasury for the year ending on the thirty-first day of January immediately preceding—

(i) The amount chargeable to each county of the sum drawn from the Guarantee Fund in respect of purchasers' half-yearly payments in arrear;

(ii) The amount which each county shall have paid to the Guarantee Fund in respect of purchasers' half-yearly payments in arrear which have been recovered,

(iii) The amount, other than that in respect of purchasers' half-yearly payments in arrear, chargeable to each county of the sum drawn from the Guarantee Fund for the purpose of the Irish Land Purchase Fund;

(iv) The amount which each county shall have repaid to the Guarantee Fund excluding the purchasers' half-yearly payments in arrear which have been recovered.

The amount assigned to each county under (i) and (ii) shall be the actual amount received from or paid to the Guarantee Fund in the year in respect of that county.

The amount assigned to each county under (iii) and (iv) shall be ascertained by apportioning the total amount received from or paid to the Guarantee Fund in the year according to the amount of the advances outstanding in such county at the close of the preceding financial year.

(3) On making the February payment from the Guarantee Fund above referred to, the Treasury shall send a copy of the National Debt Commissioners' certificate to the Lord Lieutenant. Rules of 16th July, 1910.

ADVANCES BY MEANS OF STOCK.

9.—(1) Directions for the issue of stock for the purpose of advances shall be given by the Land Commission, and a statement of the amount directed to be issued each day shall be furnished to the National Debt Commissioners: Provided that no issue of 3 per cent. Stock shall be made within fifteen days of the next succeeding dividend day, and no issue of 2¾ per cent. Stock shall be made between the date when the books are closed for the preparation of the dividend and the following dividend day. Advances by means of Stock. 1909, s. 3.

(2) When the Land Commission require, or are likely to require, Stock for the purpose of advances by means of Stock under the Act of 1909, they shall apply through the National Debt Commissioners to the Treasury, stating the amount of Stock which they expect to require for issue during periods to be specified by the Treasury from time to time.

(3) The Treasury shall thereupon send to the Bank of Ireland a Warrant authorising the Bank to create the amount of Stock specified in the Warrant, and the Bank may thereupon issue Stock as herein-after mentioned to an aggregate amount not exceeding the amount so authorised to be created.

(4) The Land Commission may direct the issue of Stock by Warrants to the Bank of Ireland, specifying the amount of Stock to be inscribed, and the names or account in or to which the Stock is to be inscribed.

(5) The Bank shall issue the Stock, by inscribing the amount of stock specified in the warrant of the Land Commission, in the names or to the account directed by the Warrant.

(6) Full half-yearly dividends on Stock so issued shall commence from the first of the dividend days—namely, the first day of July, or the first day of January, which occurs next after the date of the Warrant directing its issue, unless it is dated on a dividend day, in which case dividends shall commence from that day.

(7) On the first dividend day from which the full half-yearly dividends on the Stock commence, the Land Commission shall, out of moneys to be supplied by the National Debt Commissioners from the Irish Land Purchase Fund, pay to the person in whose name, or to the account to which, the Stock is first inscribed, a fractional dividend on the nominal amount of the stock for the period between the date at which the advance in Stock is made and that dividend day.

Rules of 16th July, 1910.

(8) The Stock issued from time to time shall, as soon as practicable, be consolidated with the similar Stock in existence.

(9) The Warrants of the Treasury, and of the Land Commission, in pursuance of these Rules shall be a sufficient authority to the Bank of Ireland for doing the things thereby directed.

Certificate of price of stock, 1909, s. 3 (2)

10.—(1) The market price of stock for the purposes of section 3 (2) of the Act of 1909 shall be certified by the National Debt Commissioners, and, except where the price is below ninety-two (ex dividend), their certificate shall show the true market price of the stock, that is to say, the price after eliminating any part of the money paid for the stock in the market which represents money paid in respect of dividend accrued up to date.

(2) A copy of any such certificate shall be sent to the Land Commission.

GUARANTEE DEPOSITS.

Interest on guarantee deposits, *see* 48 & 49 Vict., c. 73, s. 8, 54 & 55 Vict c. 48, ss. 4 (3), 15.

11.—(1) Where an advance is made under the Land Purchase Acts of money provided by the Act of 1903 as amended or extended by the Act of 1909, and a portion of such advance is retained as a cash guarantee deposit, such guarantee deposit shall, until released or otherwise required by the Land Commission, remain undrawn from the Irish Land Purchase Fund, and interest at the rate of 2¾ per cent., or 3 per cent, as the case requires, on the amount of the deposit so undrawn shall be provided from the interest received in the purchasers' half-yearly payments over and above that payable to the Irish Land Purchase Fund on advances.

(2) Where an amount of guaranteed Stock issued under the Act of 1909 is retained for the guarantee deposit, the guaranteed Stock shall be inscribed in the name of the Land Commission.

(3) Where the guarantee deposit has been used to make good any arrear, and any sum in respect of such arrear which is subsequently received from the sale of the holding or otherwise is repaid to the Guarantee Fund, one-half of that sum shall be restored to the guarantee deposit.

(4) If in any other case any sum is repaid to the Guarantee Fund from the Irish Land Purchase Fund in discharge of a sum, the burden of which has been borne by the Guarantee Fund, the benefit of such sum shall be adjusted in accordance with Sub-sec. (4) of Sec. 6 of the Act of 1891, in accordance with the mode in which the burden of the original payment of that sum was borne.

REPAYMENT OF SUMS SPENT BY LAND COMMISSION ON IMPROVEMENTS. Rules of 16th July, 1910.

12—(1) Where the Land Commission have under the Acts of 1903 or 1909 expended money on the improvement of an estate purchased by them, a running account shall be kept by the Land Commission for the estate, showing on the one side the amount paid to the vendor for the land and the amount expended in improvements and advanced or paid under Sec. 43 (1) of the Act of 1903 or Sec. 28 (1) of the Act of 1909, and on the other side the amount for which the land has been resold. Repayment of sums spent by Land Commission on improvement of an estate purchased by them. 1909, ss 29 (1).

(2) Where the sums realised on resale of the estate exceed the amount paid to the vendor, the National Debt Commissioners shall advance from the Irish Land Purchase Fund a sum equal to the excess, or if the excess is greater than the amount so expended by the Land Commission on improvements, a sum equal to the amount so expended, and the sum so advanced shall be applied in repayment of the advance made for the improvements to the reserve fund, or if that fund has been exhausted, to the Exchequer.

(3) Where the repayment of any money expended on the improvement of a holding by the Land Commission is secured by an additional annuity under section 30 of the Act of 1909, the National Debt Commissioners shall advance to the Land Commission the said money for repayment to the Reserve Fund or if that fund has been exhausted to the Exchequer.

13—(1) The Land Commission may enter into agreements in accordance with Sub-sec. (1) of Sec. 30 of the Act of 1909, and where any such agreement is entered into, the annuity shall, in the case of land sold to a tenant in pursuance of a pending purchase agreement, be at the rate of 3¼ per cent., and in the case of land sold to a tenant in pursuance of a future purchase agreement be at the rate of 3½ per cent., and in each case shall be payable in equal half-yearly instalments on the gale days on which the original purchase annuity is payable, and shall commence to run from the gale day next succeeding the date of the order of the Land Commission charging on the holding the money expended, and interest at the rate of 2¾ per cent. per annum or 3 per cent., as the case requires, shall be payable from the date on which the expenditure is certified to be completed up to the said next gale day. Repayment of sums spent by Land Commission on improvement of holding sold by landlord to tenant, 1909. s 30

(2) The following regulations shall have effect with respect to the consolidation of an additional annuity with a purchase annuity under Sub-sec. (2) of Sec. 30 of the Act of 1909.

(*a*) Where the expenditure on the improvement has been

Rules of 16th July, 1910.

completed between the date of the purchase agreement and the date of the vesting of the holding, the holding shall be charged with one annuity in respect of the two capital sums advanced, to run from the date from which the purchase annuity would run;

(*b*) Where the expenditure on the improvement has not been completed until after the date upon which the purchase annuity has commenced to run, the tenant shall, on the gale day on which the consolidated annuity commences to run, pay the amount to which the sinking fund portion of the additional annuity would then have accumulated if it had commenced to be paid at the same time as the purchase annuity, after deducting, in cases where sinking fund payments have been made in respect of the additional annuity, the amount to which the sinking fund portion of that annuity has already accumulated.

PURCHASE ANNUITIES.

Annuities payable half-yearly 1903, s. 45 1909, s 1.

11. The annuity payable under Sub-sec. (1) of Sec. 45 of the Act of 1903, as amended by Sec. 1 of the Act of 1909, in respect of any advance under the Land Purchase Acts in pursuance of an agreement entered into after the passing of the Act of 1903, shall be payable by equal half-yearly instalments on the first day of June and the first day of December in each year.

If an advance is made on one of the said gale days the annuity shall commence on that gale day, and the first half-yearly instalment thereof shall accordingly be payable on the next succeeding gale day.

If the advance is not made on one of the said gale days, the annuity shall commence on the first gale day after the date of the advance, and the first half-yearly instalment thereof shall accordingly be payable on the next succeeding gale day, but there shall be payable on the first gale day after the date of the advance, interest on the advance at the rate of $2\frac{3}{4}$ per cent. per annum or 3 per cent per annum as the case requires from the date of the advance.

Annuities where new advances made for purchase of additional lands.

15. For the purpose of adapting to the requirements of the Act of 1903 and of the Act of 1909 the provisions of the Purchase of Land (Ireland) Amendment Act, 1889, and the Purchase of Land (Ireland) (No. 2) Act, 1901, the following provisions shall have effect:—

(1) In the case of advances made after the passing of the Act of 1903, for the purchase of additional land within the meaning of the said Acts of 1889 and 1901, the new annuity referred

to in Sec. 2 (1) of the Act of 1901 shall be an annuity equal to the sum of the annuity which would be payable in respect of the new advance if there had been no original advance and of the revised annuity payable, at the date of the making of the new advance, in respect of the original advance.

(2) The new annuity, when received by the Land Commission, shall—

(*a*) until the original advance is paid off, be treated as a mixed annuity consisting of two component parts, one part being the amount attributable to the new advance, and the other part being the amount attributable to the original advance, each part to be dealt with accordingly, as if it were a separate annuity; and

(*b*) shall, when the original advance is paid off, so far as not required for the payment of interest on the new advance, be applied as part of the sinking fund in respect of that advance.

(3) The new annuity shall continue to be payable in full until the new as well as the original advance is paid off.

(4) The new annuity shall be payable in equal half-yearly instalments on the gale days on which the original annuity was payable, and shall commence to run from the gale day next succeeding the date of the new advance, or, should the new advance be made on a gale day, from that day; but interest at the rate of $2\frac{3}{4}$ per cent. per annum or 3 per cent. per annum, as the case requires, on the amount of the new advance shall be payable from the date of the advance until the gale day on which the new annuity commences to run.

ACCUMULATION AND REDEMPTION.

(1903, ss. 45, 46.)

Ascertainment of amount repaid in respect of advances.

16. For the purpose of ascertaining the amount repaid in respect of an advance made under the Act of 1903, as amended or extended by the Act of 1909, the following provisions shall apply:—

(1) The sinking fund portion of each instalment of annuity shall be deemed to be accumulated by half-yearly rests at the appropriate rate of interest.

Rules of 16th July, 1910.

The appropriate rate of interest shall be 2¾ per cent. per annum if the advance is repayable by means of a 3¼ per cent. annuity, and 3 per cent. per annum if the advance is repayable by means of a 3½ per cent. annuity, or such other rate as may be for the time being directed by the Treasury having regard to the rate of interest at which the sinking fund portions of purchase annuities are for the time being invested by the National Debt Commissioners.

(2) The total amount accumulated at any date in accordance with this rule shall be deemed to be the amount of the advance repaid up to that date.

When advance is redeemed

17. The whole advance shall be deemed to have been repaid when the total amount accumulated in accordance with these Rules is equal to the amount of the advance or under such other circumstances as the Treasury may hereafter prescribe.

Accumulation tables.

18. The National Debt Commissioners shall furnish the Land Commission from time to time with tables showing the amount to which a sinking fund of 1*l.* will have accumulated in accordance with these Rules at each successive gale day.

19. For the purpose of ascertaining the amount to be paid to redeem a purchase annuity under the Act of 1903, as amended or extended by the Act of 1909, the following provisions shall apply :—

Requisite amount of stock.

(1) The requisite amount of stock referred to in Sec. 46 of the Act of 1903 shall be deemed to be the stock that would have to be issued, at the average net price of the total stock already created for advances to date of redemption, to provide the amount of the advance.

Redemption money.

(2) The amount required to purchase this stock at the price at the date of redemption and to provide any additional interest (not covered by the price of the stock) which may have accrued since the last preceding gale day, less the amount of the accumulated sinking fund to date of redemption, shall be the redemption money.

The date of redemption shall be the date on which the application to redeem is received by the Land Commission, provided that the redemption money is lodged within seven days of such date.

In the case of a redemption before the first gale day following the advance, interest from the date of the advance to the date of redemption shall be provided.

Rules of 16th July, 1910.

(3) A part of a purchase annuity shall be redeemable on similar terms, the part of the annuity redeemed bearing the same ratio to the total annuity as the redemption money to be lodged bears to the total redemption money. Partial redemption.

(4) For the purposes of this rule stock shall be taken to be, in the case of an advance repayable by means of a 3¼ per cent. annuity, 2¾ per cent. stock so long as any of that stock is available for cancellation, and if none of that stock is available for cancellation, 3 per cent. stock; and in the case of an advance repayable by means of a 3½ per cent. annuity, 3 per cent. stock.

Stock to be cancelled.

20. In cancelling the requisite amount of stock on any redemption of a purchase annuity, stock of a nominal amount equal to that of the advance redeemed shall be written off from the stock representing the investment of the sinking fund portions of tenants' purchase annuities, and the balance from the stock representing the investment of the sinking fund portion of the money paid for the purpose of making good the excess stock deficiency, and the respective amounts of the stock outstanding shall be reduced accordingly.

Average price of stock.

21. On each occasion of an issue of stock created for advances, the National Debt Commissioners shall notify to the Land Commission the average net price at which the whole of the same class of stock has been issued up to date.

Tithe rentcharge

22. The redemption of any tithe rentcharge or head rent by means of a transfer of guaranteed land stock referred to in Sec. 17 of the Purchase of Land (Ireland) Act, 1891, shall not apply to transactions under the Act of 1903 as amended or extended by the Act of 1909.

Audit of Accounts.

Audit of accounts. 1903, s. 35 (2)

23. The accounts of the Land Commission under the Act of 1903, as amended or extended by the Act of 1909, shall be audited by the Comptroller and Auditor-General.

Land Purchase Aid Fund.

Dividends and sinking fund. 1904, s 47.

24.—(1) The amount required to pay the dividends on stock, or the interest on or in respect of bonds or bills, issued for the purposes of the Land Purchase Aid Fund, and the sinking fund payments under section 47 (2) of the Act of 1903, shall be paid out of moneys provided by Parliament for the purposes of the Land Commission.

Rules of 16th July, 1910.

(2) Interest received in respect of the temporary investment of any balance standing to the credit of the Land Purchase Aid Fund shall be applied in reduction of the amount to be provided by Parliament to pay the dividends on any such stock, or the interest on or in respect of any such bonds or bills.

(3) Five days previously to the first day of June and first day of December in every year the National Debt Commissioners shall certify to the Land Commission the amount of the half-yearly payment in respect of sinking fund on all stock, bonds, or bills issued for the purposes of the Land Purchase Aid Fund and outstanding at that date, and the amount required, after allowing for interest received under the preceding paragraph, to pay the dividends on stock or the interest on or in respect of bonds or bills falling due on the first day of the succeeding month.

ESTATE COMMISSIONERS.

Resale of estates.

25.—(1) In the case of an estate purchased by the Estates Commissioners under the Act of 1903, as amended or extended by the Act of 1909, an advance to a tenant or other purchaser from the Land Commission shall be written off the amount outstanding for advances to the Estates Commissioners as from the date of the advance to the tenant or other purchaser.

(2) On the re-sale of an estate all cash payments, made by purchasers from the Land Commission in full or part payment of the purchase money payable by them, shall forthwith be paid over by the Land Commission to the Irish Land Purchase Fund in redemption of an equal amount of the original advance to the Estates Commissioners then outstanding.

CONGESTED DISTRICTS BOARD.

Resale of estates.

26. Where the Land Commission make an advance to a tenant or other purchaser for the purchase of a holding from the Congested Districts Board, the following provisions shall apply :—

(1) In the case of an estate purchased by the Congested Districts Board under the Act of 1903, as amended or extended by the Act of 1909, an advance to a tenant or other purchaser for the purchase of a holding or to a vendor for the repurchase of a portion of an estate from the Congested Districts Board shall be written off the debt due from the Board for advances made to them on account of such estate.

(2) On the resale of an estate all cash payments, made by purchasers from the Congested Districts Board in full or part payment of the purchase money payable by them, shall forthwith be paid over by the Congested Districts Board through the medium of the Land Commission to the Irish Land Purchase Fund in redemption of an equal amount of the original advance then outstanding. **Rules of 6th July, 1910.**

27.—(1) Interest on any advance made to or on behalf of the Congested Districts Board shall commence to accrue from the date of the advance, and shall continue to accrue from day to day on the total amount of the advance outstanding, after allowing for the amount realised on resales, until the whole of the advances have been repaid. *Payments to Land Commission, 1903, s 72 (2).*

(2) Interest shall be payable to the Land Commission on the first day of June and first day of December in every year.

(3) The payment of sinking fund in respect of land remaining in the hands of the Congested Districts Board for more than five years shall commence to accrue from the first gale day after the fifth anniversary of the advance, or on the fifth anniversary should that be a gale day, and the first half-yearly instalment thereof shall be payable on the next succeeding gale day.

28. For the purpose of ascertaining the amount payable to the Congested Districts Board in respect of estates purchased and resold under the Act of 1903, as amended or extended by the Act of 1909, at an enhanced price consequent on improvements or otherwise, a separate account shall be kept of each estate purchased by the Congested Districts Board. When parcels of an estate have been sold to an amount corresponding to the amount advanced from the Irish Land Purchase Fund, the further advances in respect of any additional parcels of land on the estate shall be paid to the Congested Districts Board by the Land Commission. *Payments to Congested Districts Board for improvements. 1903, s 72 (3).*

Returns.

29. The Land Commission shall forthwith inform the Treasury whenever it appears that the amount advanced in any county is approaching the limit of advances in that county. *Information as to approach of limit for advances.*

30. The Land Commission shall supply the National Debt Commissioners with such information as will enable the National Debt Commissioners to perform their duties under these Rules, and shall be responsible for the accuracy of the information so supplied. *Information from Land Commission to National Debt Commissioners.*

Rules of 16th July, 1910.

CALCULATION OF TIME.

Calculation of time

31. In counting days for the purposes of these Rules, Sundays and Bank Holidays shall be excluded, and if the day on which anything is directed to be done falls on a Sunday or a Bank Holiday, the same shall be done on the next following day.

DEFINITIONS.

Definitions.

32.—(1) In these Rules, unless the context otherwise requires—

The expression "purchasers' half-yearly payments" means the instalments of annuities or interest on advances payable on a gale day,

The expression "stock" means "guaranteed 2½ per cent. stock" or "guaranteed 3 per cent. stock" as the case requires;

The expression "bills" and the expression "bonds" mean respectively bills or bonds issued under section 5 of the Act of 1909;

The expression "dividends on stock" includes any interest on money borrowed temporarily under section 30 of the Act of 1903,

Other expressions have the same meaning as in the Act of 1903 as amended or extended by the Act of 1909.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Short title and revocation of former Rules

33.—(1) These Rules may be cited as the Irish Land (Finance) Rules, 1910.

(2) The Rules and Regulations dated April the 14th, 1905, and made by the Treasury under section 41 of the Irish Land Act, 1903, and the Regulations dated August the 26th, 1909, made for the purpose of amending those Rules and Regulations are hereby revoked.

GENERAL ORDERS FOR FRAMING LISTS OF ASSESSORS

MADE BY THE JUDICIAL COMMISSIONERS, WITH THE APPROVAL OF THE LORD LIEUTENANT AND THE TREASURY, PURSUANT TO SEC. 89 OF THE IRISH LAND ACT, 1903.

7th day of November, 1903.

(St. R. & O., 1903, No. 1117.)

Rules of 7th Nov., 1903.

1. The Judicial Commissioners (with the approval of the Lord Lieutenant and the Treasury) shall frame a list of persons of skill and

experience in agriculture specially qualified to act as lay Assessors under Part III. of the Irish Land Act, 1903 and such list shall be published in the *Dublin Gazette.* Rules of 7th Nov., 1903.

2. The said list may be revised from time to time as occasion shall require by the Judicial Commissioners, with the approval of the Lord Lieutenant and the Treasury, by the framing of another list, and every such further list shall be published in the same manner as the original list, and shall supersede from the date of the publication thereof the last preceding list.

3. Each person named on the said original list, or on any revised list, shall be qualified to act as an Assessor under Part III. of the said Act, so long as his name remains on any such list for the time being in force, and shall (as he may from time to time be directed by the Judicial Commissioners) give his attendance and assistance upon appeals and rehearings. He shall hear the evidence, and, for the purpose of aiding the Judicial Commissioner before whom a case is heard in hearing and determining the same, shall, to the best of his skill, experience, and ability, answer any question which may be put to him by the Judicial Commissioner relative to any question arising upon the facts of the case, and shall, upon application of either of the parties, or, if so directed by the Judicial Commissioner, inspect the holding and report thereon to the Judicial Commissioner in Form A with such variations as the circumstances of the case may require and the Judicial Commissioner may direct. Every such Assessor shall also give such attendance in Dublin or elsewhere as the Judicial Commissioner shall require for the purpose of preparing Reports, Maps, or other office work in connection with appeals and rehearings.

4. Each person named upon the original or upon any revised list of Assessors shall, so long as his name remains on any such list, receive as remuneration a sum calculated at the rate of £800 per annum, with a special allowance at the rate of £200 per annum for daily subsistence allowance. Persons holding warrants as permanent Assistant Commissioners named in the list attached hereto or who may be placed on any subsequent list of Assessors shall not thereby lose the rights (if any) to pension or otherwise which they would have had or would continue to have if they had not been placed on said list and had continued to act as Assistant Commissioners, but for the purposes of calculating pensions £600 per annum only shall be taken into account.

The salaries of Assistant Commissioners shall not be payable so long as they remain on the list of Assessors.

Rules of 7th Nov., 1903.

APPEALS AND REHEARINGS.

FORM A.

IRISH LAND COMMISSION.

ASSESSOR'S REPORT.

The Assessor having heard the evidence is to report upon the holding by answering such of the following Queries as the Judicial Commissioner may direct.

IRISH LAND ACT, 1903.

County Record No. Landlord

No. of Ordnance Sheet Tenant

Date upon which holding inspected day of 191

Who attended inspection on behalf of Landlord? } Who attended on behalf of Tenant? }

NOTE.—If the Assessor considers the answers to Queries Nos. 1 or 2 in the Schedule of the Sub-Commission or County Court to be sufficient and correct, he may state upon this Report that he concurs with them, without giving any further answers to the corresponding queries herein.

1 Give a concise description of the holding and the buildings thereon, stating particulars of aspect, elevation, water supply, situation as to markets, railways and county roads, &c. Also state how the holding is used, *i.e.*, as a tillage farm or as a mixed farm or as a grazing or dairy farm; if mainly a grazing or dairy farm state carrying power.

2 Is the holding suitably used? What is the present condition of the holding as to cultivation, and of the holding and the buildings thereon, as to deterioration or otherwise? If there be deterioration, state how it is shown and has apparently been caused, and give like particulars as to any improved condition.

3. State whether particulars of Tenement Valuation, Rates, &c., set forth in paragraph 3 of the Recorded Schedule are correct, or if not, state correct particulars.

4. State the Annual sum which should be the fair rent of the holding on the assumption that all improvements thereon (including Buildings) were made or acquired by the Landlord, and give details of Valuation.

Description of the several classes of land with the quantities of each class set out separately, giving the rate per acre. The several classes of grass and tillage land to be so specified that it may be apparent how much of each description is contained in the holding; each class separately valued to be marked with

a letter to correspond with a letter on the map, and the boundaries of such class to be indicated on the map. Rules of 7th Nov., 1903.

Letter on Map	Description of Land	Area in Statute Measure	* Rate per Acre excluding buildings	Total
		A. R. P.		£ s. d.
	Total area,		Total, £	
	Specify any additions for buildings and for mountain grazing, turbary outside holding, right of seaweed, or any other rights or privileges, or for proximity, if same have not already been taken into consideration in the rate per acre.		Total, £	
	Specify any deductions for special outgoings affecting the holding or for inconvenience of access, insufficient water supply, or other disadvantages, if same have not already been taken into consideration in the rate per acre.			
	Annual Sum which in the opinion of the Assessor should be the fair rent of the holding on the assumption above stated, £			

5. State the improvements on holding made wholly or partly by, or at the cost of, or acquired by, the Landlord.

* The rate per acre to be estimated on the basis of the Tenant paying (1) in respect of any part of the holding in a Rural District a total rate equivalent to the standard amount of County Cess and Poor Rate as set out in the recorded schedule or in paragraph 3 as the case may be, less by the amount of benefit to the Landlord from the Agricultural Grant in respect of the Poor Rate; (2) and in respect of any part of the holding in an Urban District the whole of the Poor Rate except such deduction from rent (if any) as he may be entitled to make under Section 53 of the Local Government (Ireland) Act, 1898.

6. State the improvements on the holding made wholly or partly by the tenant or at his cost.

Nature and Character of each such Improvement	Present capital value	Increased letting value due thereto	Date when made as near as can be ascertained	Extent (if any) to which the Landlord has paid or compensated the tenant in respect of each such improvement	Deduction from the rent on account of each such improvement
			Total deduction for Improvements, £		

Rules of 7th Nov., 1903.

7. State here the answer to any special question referred to the Assessor by the Judicial Commissioner, and also such other facts and circumstances (if any) as may be required to enable the Judicial Commissioner to form a Judgment as to the subject-matter of this report.

8. Estimated Fair Rent of the Holding, £ . ...

Dated this day of 19

Signature of Assessor

RULES OF THE IRISH LAND COMMISSION.

(St. R. & O., 1904, No. 634)

Rules of 23rd April, 1904.

MADE PURSUANT TO THE IRISH LAND ACT, 1903, SECTION 88 (5), WITH RESPECT TO APPEALS AND RE-HEARINGS.

23rd day of April, 1904.

1. In these Rules the expression "Appeal" shall include a re-hearing before the Land Commission—unless the context otherwise requires.

2. Rules 79, 81, 85, 88, and 89 of the General Rules of 2nd January, 1897, shall cease to be in force as regards appeals lodged after this date, but all other Rules under the Land Law Acts relating to appeals shall remain and be in force save so far as the same are inconsistent with the present Rules.

3. Any person aggrieved by any order of one Commissioner, not being a Judicial Commissioner, or by any order of a Sub-Commission, and who desires to have the case re-heard, shall, within two months after the date of such order, serve on the opposite party a notice of appeal which may be in Form No. 71A, and thereupon, shall within ten days from the date of such service, transmit to the Land Commission the original notice of appeal duly stamped, which shall be endorsed with the time and mode of service on the opposite party, and such endorsement shall be signed by the person who effected such service.

4. Any person aggrieved by the decision of any Civil Bill Court as to any matter with respect to which an appeal lies to the Land Commission, and who desires to appeal therefrom, shall, within two months from the last day of the Land Sessions at which such decision shall have been made, serve notice of appeal on the opposite party, which may be in Form No. 72A, and thereupon shall, within ten days from the

date of such service lodge with the Clerk of the Peace the original notice of appeal duly stamped, together with a copy thereof, and both the original and the copy so lodged shall be endorsed with the time and mode of service on the opposite party, and such endorsement shall be signed by the person who effected such service.

5. Every notice of appeal shall state definitely whether the appeal is intended to be prosecuted upon the ground of a question of law or a question of value, as indicated in the forms of Notice, 71A and 72A in the Schedule hereto.

The Court must take notice of an objection on the ground of subletting, though not taken before the Sub-Commission, nor stated in the notice of appeal. An originating notice was dismissed on this ground, but without costs: *Egerton* v. *M'Dermot*, 41 I. L. T. R. 46.

6. If either party desires to offer on the hearing of any appeal, or on any re-hearing, notice of which has been lodged after the commencement of the Irish Land Act, 1903, any evidence which could have been, but was not produced in the Court below, he shall—not later than one week before the date fixed for the hearing of the appeal—serve notice to that effect upon the opposite party, and upon the Land Commission. The notice shall state clearly the nature of the evidence proposed to be offered and the special grounds upon which it is sought to have it admitted.

7. If either party desires to offer such evidence, but has failed to serve the notice indicated in the preceding Rules or if in any event an application for adjournment is made, the Judicial Commissioner may adjourn the hearing of the appeal, and make such order as to the payment of costs as, in the opinion of the Judicial Commissioner, the justice of the case may require.

8. Every original Notice of Appeal shall, according to the amount of the annual rent issuing out of the holding prior to the date of the order appealed from, bear an impressed stamp or stamps of value as follows:—(*a*)

	£	s.	d.
Where the rent does not exceed £5, a stamp or stamps of	0	2	6
Where the rent exceeds £5, but does not exceed £10, - - - „ „ „	0	5	0
Where the rent exceeds £10, but does not exceed £20, - - - „ „	0	10	0
Where the rent exceeds £20, but does not exceed £50, - - „ „ „	1	0	0

Rules of 23rd April, 1904.

	£	s.	d.
Where the rent exceeds £50, but does not exceed £100, - - - a stamp or stamps of	1	10	0
Where the rent exceeds £100, - „ „ „	2	0	0

(*a*) This scale was approved by the Treasury, see St. R. & O., 1903, No. 935

County

Form No. 71A.

Record No

LAND LAW ACTS

PARTICULARS—(The following particulars must be accurately filled up).

Name of Landlord, and Residence of Landlord, if known,

Name and Residence of Landlord's Agent, if any,

Name and Residence of Tenant,

Post Office from which Tenant receives his Letters,

HOLDING—

County	District †	Electoral Division
	† *Give name of District, and specify whether Rural or Urban If Holding is Partly in a Rural and Partly in an Urban District, the respective Districts should be specified*	

* Name by which lands are known on Ordnance Survey Map — * *This information can be obtained from the demand note for poor rate or from the Clerk of the District Council*

Area in Statute Measure			Rent of Holding			Tenement Valuation			
a.	r.	p	£	s	d	£	s	d	

NOTICE REQUIRING CASE TO BE RE-HEARD BEFORE THE LAND COMMISSION.

I am aggrieved by the order of (*state by whom order made—viz., Sub-Commission or by single Commissioner*).

made at on the

day of 191 , whereby it has (*state substance of order*)

and I require my case to be reheard before the Land Commission

This Notice of rehearing is intended to be prosecuted on the ground (*here state*

definitely the ground or grounds of appeal intended to be relied on as a matter of law) that the rent fixed by the Sub-Commission ought to be (*increased or reduced as the case may be*). Rules of 23rd April, 1904.

(*If the appeal is not taken on a question of value this paragraph should be struck out.*)

[To be signed by the party requiring his case to be reheard, or by his Solicitor.]

To (*the opposite party, whether landlord or tenant*),

And the Secretary to the Land Commission.

N.B.—Where the appeal is from an order fixing a rent for a Second Statutory Term the Notice shall be headed "Second Statutory Term." The original of this form requires to be stamped with impressed stamp or stamps of value as follows—according to the amount of the annual rent issuing out of the holding prior to the date of the order appealed from :—

		£	s.	d.
Where the rent does not exceed £5 .	a stamp or stamps of	0	2	6
Where the rent exceeds £5, but does not exceed £10	,, ,,	0	5	0
Where the rent exceeds £10, but does not exceed £20	,, ,,	0	10	0
Where the rent exceeds £20, but does not exceed £50	,, ,,	1	0	0
Where the rent exceeds £50, but does not exceed £100	,, ,,	1	10	0
Where the rent exceeds £100 . .	,, ,,	2	0	0

County

Form No. 72A.

Record No.

LAND LAW ACTS.

(*Particulars as in Form* 71A.)

NOTICE OF APPEAL FROM CIVIL BILL COURT.

I am aggrieved by the Order of the Civil Bill Court of the County of made at on the day of 191 , whereby it has (*state substance of order*) and I appeal therefrom to the Land Commission.

This Appeal is intended to be prosecuted on the ground (*here state definitely the ground or grounds of appeal intended to be relied on as a matter of law*) that the rent fixed by the Civil Bill Court ought to be (*remainder as in Form* 71A).

IRISH LAND COMMISSION.

Rules of 5th May, 1904.

LAND LAW ACTS.

CONSENTS TO FIX FAIR RENT.

PROVISIONAL RULES DATED 5TH DAY OF MAY, 1904.

The Consents mentioned in Rules 144 and 146 (*a*) respectively of the Rules of the 2nd day of January, 1897, under the Land Law Acts,

Rules of 5th May, 1904.

shall be accompanied by an Affidavit by the Landlord or his agent, or by the Tenant, stating :—

1. Whether the holding is substantially agricultural or pastoral in its character, or partly agricultural and partly pastoral.

2. Whether the tenancy was in existence at the date of the passing of the Land Law (Ireland) Act, 1881, and if not, when and how such tenancy was created.

3. If the holding is held under a lease, whether it is one to which Section 1 of the Land Law (Ireland) Act of 1887 applies.

4. Whether any contract for sale of the holding under the Land Purchase Acts has been entered into, and if so, whether the contract or any agreement collateral therewith contains any provision affecting the consents or consent, in case the sale is not carried out.

(*a*) See *ante*, p. 754.

IRISH LAND COMMISSION.

LAND LAW ACTS.

FUTURE TENANTS.

PROVISIONAL RULE.

16th December, 1909.

Rule of 16th Dec., 1909.

It is this day Ordered that all applications by "Future Tenants" under Section 65 of the Irish Land Act, 1909, to have Fair Rents fixed shall be made by Originating Notice in the following form :—

County.....

Form No. 80.

Record No. ....

LAND LAW ACTS.

PARTICULARS—(The following particulars must be accurately filled up).

Name of Landlord, and Residence of Landlord, { ....

Name and Residence of Landlord's Agent (if any), { ....

Name and Residence of Tenant, ...

Post Office from which Tenant receives his Letters, ...

Rule of 16th Dec., 1909.

HOLDING—

County	Rural District	Electoral Division
* Name by which Lands are known on Ordnance Survey Map.		
Area of Holding in which there was a Present Tenancy since determined	Rent of the former Present Tenancy	Gross Poor Law Valuation
a. r. p.	£ s. d.	£ s. d.
† Area of the portion of the above Holding now occupied under a Future Tenancy	† Rent of such portion	† Gross Poor Law Valuation of such portion
a. r. p.	£ s. d.	£ s. d.

* This can be ascertained by reference to the Poor Rate Receipts or from the Clerk of the Union.

† If the Future Tenant is in occupation of the entire holding in which the Present Tenancy formerly existed these columns may be struck out.

ORIGINATING NOTICE.

by a Future Tenant to fix the Fair Rent of a Holding (or portion of a Holding) in which there existed a present tenancy that was determined before the 3rd day of December, 1909

I, , the tenant in occupation of the above holding (or of the above portion of the above holding), the present tenancy in which was determined before the third day of December, 1909, apply to the Court for an Order fixing the Fair Rent to be thereafter paid for the above holding (or for the above-mentioned portion of the above holding now occupied by me).

I (or , of), was the tenant of the said present tenancy when same was determined.

Dated this day of 19

(Signed)

To .....

APPENDIX.

LIST OF CONGESTED DISTRICTS COUNTIES.

The nine Congested Districts Counties defined by Section 46 (1) of the Irish Land Act, 1909 are :—

(1) Donegal.
(2) Sligo.
(3) Leitrim.
(4) Roscommon.
(5) Mayo.
(6) Galway.
(7) Kerry.
(8) The six Rural Districts of Ballyvaughan, Ennistymon, Killadysert, Kilrush, Scariff, and Tulla, in the County Clare
(9) The four Rural Districts of Bantry, Castletown, Schull, and Skibbereen in the County Cork.

The six Rural Districts in COUNTY CLARE declared to be a Congested Districts County comprise the following Electoral Divisions :—

Rural District of BALLYVAUGHAN.

Abbey.	Derreen.	Lisdoonvarna.	Oughtmama.
Carran.	Drumcreehy.	Mount Elva	Rathborney.
Castletown.	Glennagh.	Noughaval.	

Rural District of ENNISTYMON.

Annagh.	Cloghaun.	Kilfenora	Lurraga.
Ballagh.	Cloonanaha.	Killaspuglonane.	Magherareagh.
Ballyea.	Clooney.	Killilagh.	Miltown Malbay.
Ballysteen.	Ennistymon.	Kilshanny.	Moy.
Ballyvaskin.	Formoyle.	Liscannor.	Smithstown.

Rural District of KILLADYSERT.

Ballynacally.	Kilchreest.	Killofin.	Lisheen.
Clondagad.	Kilfiddane.	Kilmurry	Rinealon.
Coolmeen.	Killadysert.	Liscasey.	

Rural District of KILRUSH.

Cahermurphy.	Creagh.	Glenmore.	Killard.
Cloonadrum.	Doonbeg.	Kilballyowen.	Killimer.
Clooncoorha.	Drumellihy.	Kilfearagh.	Kilmihil.
Cooraclare.	Emagh.	Kilkee.	Kilmurry.

Rural District of KILRUSH—*continued.*

Kilrush Rural.	Knocknagore.	Mullagh.	St. Martin's.
Knock.	Moveen.	Querrin.	Tullig.
Knocknaboley.	Moyarta.	Rahona.	Tullycreen.

Rural District of SCARIFF.

Ayle.	Carrowbaun.	Drummaan.	Killaloe.
Boherglass.	Cloonusker.	Feakle.	Mountshannon.
Caherhurly.	Coolreagh.	Inishcaltra North.	O'Gonnelloe
Cahermurphy.	Corlea	Inishcaltra South.	Scariff
Cappaghabaun.	Derrynagittagh.		

Rural District of TULLA

Ballyblood.	Glendree.	Kyle.	Rathclooney.
Ballynahinch	Kilkishen.	Loughlea.	Rossroe.
Caher.	Killanena.	Newgrove.	Toberbreeda.
Clooney.	Killuran.	Quin.	Tulla.
Dangan.	Kiltannon.		

The four Rural Districts in COUNTY CORK declared to be a Congested Districts County comprise the following Electoral Divisions:—

Rural District of BANTRY.

Ahil.	Durrus East.	Kealkill.	Seefin.
Bantry Rural.	Durrus West	Kilcaskan.	Sheepshead.
Bantry Urban	Glanlough.	Mealagh.	Whiddy
Douce.	Glengariff.	Scart.	

Rural District of CASTLETOWN.

Adrigole.	Coulagh.	Kilcatherine.	Kilnamanagh.
Bere.	Curryglass.	Killaconenagh.	

Rural District of SCHULL

Ballybane.	Crookhaven.	Goleen.	Schull.
Ballydehob.	Dunbeacon.	Kilcoe.	Toormore.
Coolagh.	Dunmanus.	Lowertown.	

Rural District of SKIBBEREEN.

Aghadown North	Castlehaven North.	Dromdaleague Sth.	Myross.
Aghadown South	Castlehaven South	Garranes.	Shreelane.
Bredagh.	Cloonkeen.	Gortnascreeny.	Skibbereen Rural.
Caheragh.	Cloghdonnell.	Kilfaughnabeg.	Tullagh.
Cape Clear.	Drinagh.	Killeenléagh.	Woodfort.
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