



# DÁIL EIREANN.

BILLE TALMHAN, 1926.

LAND BILL, 1926.

## MEMORANDUM.

1. The Land Act, 1923 (No. 42 of 1923), was passed on the 9th August, 1923. By virtue of the provisions of that Act all "tenanted land" as defined by the Act is, subject to certain exceptions not here relevant, to be vested in the Land Commission and to be dealt with by way of sale to the tenants or otherwise as the Act provides. The actual vesting in the Land Commission does not take place as of the date of the passing of the Act but is to take place on the "appointed day."

2. Section 73, sub-section (2), of the Act of 1923, defines "tenanted land" as meaning land held under any contract of tenancy other than certain specified classes of tenancies or lettings. "The appointed day" is defined by Section 70 of the Act to mean such day or days as may be fixed by the Land Commission, and power is given to fix different days for different provisions and different purposes of the Act and for different holdings.

3. In a recent case in which Francis Lynham was Plaintiff and the Rev. Michael Butler was Defendant, the Plaintiff brought proceedings in the High Court claiming to recover from the Defendant the possession of certain lands in the County of Dublin. The Plaintiff became entitled to the lands in Fee Simple on the death of one Mary McInerney, who was entitled thereto for the term of her natural life. On the 30th July, 1920, Mary McInerney had made a Lease of the lands to the Defendant for the term of her own life, and the lands comprised in that lease constituted on the passing of the Land Act, 1923, tenanted land to which the Act of 1923 applies, but no appointed day has yet been fixed for the purpose of the vesting of the lands in the Land Commission. Mary McInerney died on the 22nd day of August, 1924, and on her death the tenancy created by the Lease of the 30th day of July, 1920, would, apart from the provisions of the Act of 1923, have expired and the Plaintiff would have been entitled to possession of the lands. The question for determination in the case was whether, notwithstanding the fact that the holding was at the date of the passing of the Land Act, 1923, tenanted land within the meaning of that Act, the Defendant was deprived of the benefits conferred by the Act on tenants of tenanted land by the expiration of the term for which his tenancy was created before the Land Commission had fixed an "appointed day" for the vesting of the lands in the Land Commission.

4. The case was tried before the President of the High Court, Mr. Justice Sullivan, who decided in favour of the Defendant. On Appeal by the Plaintiff to the Supreme Court, the Supreme Court held, affirming the decision of Mr. Justice Sullivan, that the date of the passing of the Land Act, 1923, is the crucial date for determining the application of the Act to tenanted land and that lands which, at the date of the passing of the Act, are comprised in a holding within the operation of the purchase and sale provisions of the Act, do not cease to be within these provisions by the happening of an event, such as would, but for the Act, determine the tenancy before the actual vesting of the lands in the Land Commission, or the appointment of a day for such vesting under the provisions of the Act.



5. On the 7th day of December, 1925, the Plaintiff made an application to the Judicial Committee of the Privy Council in London for special leave to Appeal from the decision of the Supreme Court and such leave was granted. That Appeal is at present pending, and no opinion on the case has yet been expressed by the Judicial Committee.

6. The object of this Bill is to give legislative confirmation to the decision of the Supreme Court above referred to.

7. The Bill accordingly makes provision for enacting that the passing of the Land Act, 1923, is and always was the date for determining whether land is or is not tenanted land within the meaning of that Act; that such tenanted land does not cease to be tenanted land by reason of the expiration of the tenancy or any other event happening after the passing of the Act of 1923; and that the mere expiration of the tenancy by expiration of the term for which it was created shall not entitle the landlord to possession.

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