



BILLE TITHE CUIRTE (SOLATHAR AGUS COTHABHAIL),
1935.

COURTHOUSES (PROVISION AND MAINTENANCE) BILL,
1935.

Mar do tugadh isteach.

As introduced.

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SAORSTÁT EIREANN.

BILLE TITHE CUIRTE (SOLATHAR AGUS COTHABHAIL),
1935.

COURTHOUSES (PROVISION AND MAINTENANCE) BILL,
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5

BILL

entitled

AN ACT TO MAKE FURTHER AND BETTER PROVISION
FOR SECURING THE DUE PROVISION AND MAINTEN- 10
ANCE BY THE COUNCILS OF COUNTY BOROUGH
AND COUNTIES (INCLUDING THE BOROUGH OF
DUN LAOGHAIRE) OF COURTHOUSE ACCOMMODA-
TION IN THEIR RESPECTIVE FUNCTIONAL AREAS
AND FOR OTHER MATTERS CONNECTED WITH THE
MATTERS AFORESAID. 15

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT
EIREANN AS FOLLOWS:—

Definitions.

1.—In this Act—
the expression “ the Minister ” means the Minister for Justice;
the expression “ courthouse accommodation ” includes buildings, 20
premises, and offices with the fixtures therein and the furniture
(including safes) reasonably necessary therefor, and also includes
the heating and lighting of such buildings, premises, and offices
and the cleaning, repair, and maintenance thereof and of the
said fixtures and furniture, but does not include the provision 25
of books or other publications or typewriters, stationery or other
scrivenery materials;
the word “ council ” means the council of a county and includes
the council of a county borough;
the word “ prescribed ” means prescribed by regulations made 30
by the Minister under this Act;
the expression “ the Commissioners ” means the Commissioners
of Public Works in Ireland.

Saving for
building
used for
several
purposes.

2.—Where a part only of a building is provided and maintained
and is used as courthouse accommodation within the meaning of 35
this Act and the residue of such building is provided and main-
tained and is used for other purposes, nothing in this Act shall
apply to such residue of such building.

Duty of councils
to provide court-
house accommoda-
tion.

3.—(1) Save as is otherwise provided by this Act, every council
shall provide and shall maintain in the functional area of such 40
council such courthouse accommodation for the following pur-
poses as the Minister shall direct either generally or in any
particular case, that is to say:—

(a) for the sittings of any Court of Justice sittings of which
are held in such functional area, including retiring 45
rooms for the Judge or Justice presiding in such Court
and retiring rooms for members of the legal pro-
fession, litigants and witnesses attending the sittings
of any such Court, and

5 (b) for the transaction of the business by law assigned to or usually transacted in or by any office or officer of any such Court, both during the sitting of such Court and at all other times, whether such business is Court business or not, and

(c) for the transaction of the business of the office of the under-sheriff where and so long as such office exists.

10 (2) Courthouse accommodation which is, immediately before the passing of this Act, maintained by a council, for all or any of the purposes mentioned in the foregoing sub-section of this section shall, for the purposes of this Act, be deemed to have been provided by such council in pursuance of this Act and this Act shall apply thereto accordingly.

15 4.—Subject to the general or particular directions of the Minister, the custody and control of courthouse accommodation which is provided and maintained under this Act shall, where such courthouse accommodation is used for the purposes of a District Court and no other Court, be vested in the district court clerk for the district in which such accommodation is situate, and shall, where such accommodation is used for the purposes of any Court other than a District Court (whether it is or is not also used for the purposes of a District Court), be vested in the county registrar for the county in which such accommodation is situate.

Custody and control of courthouse accommodation.

25 5.—(1) Whenever the custody of any courthouse accommodation is vested under this Act in a county registrar, the council in whose functional area such courthouse accommodation is situate shall as often as occasion requires appoint and shall pay a fit and proper person to be the caretaker of such courthouse accommodation, and shall also so appoint and shall pay so many (if any) fit and proper persons as the Minister shall direct (either generally or in any particular case) to be assistants to such caretaker.

Appointment of caretakers.

30 (2) Whenever a Council fails for three months to make any appointment which such council is required by the foregoing sub-section of this section to make, the Minister may make such appointment, and in every such case such council shall duly pay to the person so appointed such remuneration as the Minister shall direct.

40 (3) Whenever a vacancy occurs in the post of a caretaker of courthouse accommodation who is appointed under the foregoing provisions of this section or in the post of assistant to any such caretaker, the county registrar having the custody of such courthouse accommodation may appoint a person to fill such post temporarily until such post is duly filled under the said foregoing provisions, and in every such case the council in whose functional area such courthouse accommodation is situate shall duly pay to the person so appointed such remuneration as the Minister shall direct.

50 (4) Every caretaker and every assistant to a caretaker of courthouse accommodation appointed under this section may at any time be dismissed from his post as such caretaker or assistant by the council by whom his remuneration is payable or by any Judge of the Supreme Court, the High Court, or the Circuit Court presiding at a sitting of any such Court in such courthouse accommodation, or by the Minister.

60 (5) Neither the Court Officers Act, 1926 (No. 27 of 1926), nor the Local Authorities (Officers and Employees) Act, 1926 (No. 39 of 1926), shall apply to any person appointed or to any appointment made under this section.

(6) Where the person who holds at the passing of this Act the post of caretaker or of assistant to the caretaker of any courthouse accommodation the custody of which is vested under this Act in a county registrar is continued in such post after the passing of this Act, such person shall be deemed to have been appointed to such post under this section. 5

Repair of courthouse in case of failure of council to repair same.

6.—(1) Whenever a council fails or neglects to maintain in proper repair and condition any courthouse accommodation which such council is required by this Act to maintain, the following provisions shall have effect, that is to say:— 10

(a) save as is otherwise provided by this section, the Minister shall, after consultation with the Minister for Finance, direct the Commissioners to execute such repairs and do such other work as may be necessary or proper to put such courthouse accommodation into proper repair and condition, and thereupon the Commissioners shall execute such repairs and do such other work as the Minister shall direct; 15

(b) where the estimated cost of the said repairs or other work does not exceed ten pounds, the Minister may authorise the county registrar or district court clerk having custody of such courthouse accommodation to procure the said repairs or other work to be done locally. 20

(2) Whenever a council fails or neglects to provide a sufficient supply of coal, gas, electricity, or other substance or thing required for the due and proper lighting or heating of any courthouse accommodation provided and maintained by such council under this Act, the county registrar or district court clerk having custody of such courthouse accommodation may, with the consent of the Minister, procure the supply of such amount (not exceeding ten pounds in cost) as he shall, with the consent aforesaid, think proper of such substance or thing. 25 30

(3) Whenever the Commissioners have executed repairs or done other work under this section or a county registrar or a district court clerk has under this section procured repairs or other work to be done or procured the supply of any substance or thing, the following provisions shall have effect, that is to say:— 35

(a) the Commissioners or such county registrar or district court clerk (as the case may be) shall be entitled to recover the costs and expenses incurred by them or him in the execution or procuring the doing of such repairs or other work or procuring the supply of such substance or thing (as the case may be) as a civil debt in any Court of competent jurisdiction from the council charged under this Act with the duty of maintaining the courthouse accommodation to or for which such repairs or other work were done or such substance or thing was supplied; 40 45

(b) the amount of any costs or expenses which have been incurred by the Commissioners in the execution or procuring the doing of such repairs or other work or procuring the supply of such substance or thing (as the case may be), may, if and so far as such amount is not otherwise recovered by the Commissioners and whether proceedings for the recovery thereof have or have not been instituted by the Commissioners, be deducted by the Minister for Finance from any grant or other moneys under his control payable to such council; 50 55 60

(c) a certificate in writing sealed with the official seal of the Minister certifying the amount of any such costs or

expenses as are mentioned in the first paragraph of this sub-section shall be conclusive evidence of the amount of such costs and expenses for the purpose of any proceedings for the recovery of such costs and expenses under the said paragraph.

5
(4) All amounts deducted by the Minister for Finance under this section and all moneys recovered by the Commissioners or by a county registrar or district court clerk under this section shall be paid into or disposed of for the benefit of the Exchequer
10 either (as the case may be) by the Minister for Finance or in such manner as that Minister shall direct.

(5) Nothing in this section shall impose or authorise the imposing on the Commissioners of any obligation or duty for or in respect of the continuing maintenance of any courthouse accommodation or the continuing provision of any light or heat therein.
15

7.—(1) The obligations of the Right Honorable the Lord Mayor, Aldermen, and Burgesses of Dublin to provide and maintain courthouse accommodation under this Act shall be limited to providing and maintaining in accordance with this Act at
20 Green Street in the City of Dublin such courthouse accommodation as the Minister shall direct for or in relation to the sittings in Dublin of the Central Criminal Court and the Circuit Court.

The City and
County of
Dublin.

(2) The courthouse accommodation to be provided and maintained by the Council of the County of Dublin shall include the
25 provision and maintenance at Kilmainham in the City of Dublin of such courthouse accommodation as the Minister shall direct for or in relation to sittings of the Circuit Court and of the District Court, and for the purposes of this Act such courthouse accommodation shall be deemed to be situate in the County of
30 Dublin.

(3) For the purposes of this Act the borough of Dun Laoghaire shall not be reckoned as part of the County of Dublin, and this Act shall apply to and have effect in the said borough as if that borough were a county and the Corporation of Dun
35 Laoghaire were the council of such county, but with and subject to the modification that, so long as the courthouse in use in the said borough at the passing of this Act continues to be used with the consent of the Minister as a courthouse, all rent payable in respect of such courthouse shall be defrayed out of moneys
40 provided by the Oireachtas.

(4) Nothing in this section shall prejudice or affect the liability of the Council of the County of Dublin or of the Corporation of Dun Laoghaire to pay, under any other section of this Act, a
45 proportion of the expenses of the provision and maintenance of courthouse accommodation by any other council.

8.—(1) Any Judge of the Supreme Court, the High Court, or the Circuit Court may at any time require and enforce the attendance before him of the caretaker or any assistant to the caretaker of any courthouse accommodation provided and maintained under this Act in which such Judge is for the time being
50 holding a sitting of the Court of Justice and may examine such caretaker or assistant in regard to his duties as such caretaker or assistant (as the case may be) and his performance of such duties, and may, if he is satisfied that such caretaker or assistant
55 has failed to perform his said duties efficiently or at all, impose on such caretaker or assistant a fine not exceeding ten pounds payable to the county registrar having the custody and control of the said courthouse accommodation.

Powers of judges
in respect of care-
takers and their
assistants.

(2) Whenever a Judge imposes under this section a fine on

any person, such Judge may direct that, without prejudice to any other method of recovery, such fine shall be deducted in one or more instalments from the remuneration payable to such person in respect of his office as the caretaker or assistant to the caretaker of courthouse accommodation, and whenever a Judge 5 gives any such direction it shall be the duty of the council by whom such remuneration is payable to make such deduction therefrom accordingly and to pay the amount of such deduction to the county registrar to whom the said fine is payable.

(3) Every fine imposed under this section on any person may 10 be recovered as a civil debt in any court of competent jurisdiction by the county registrar to whom such fine is payable.

Letting of courthouse accommodation.

9.—(1) It shall be lawful for the county registrar or district court clerk having the custody and control of any courthouse accommodation provided under this Act to let out on hire when- 15 ever he thinks proper to any person for any purpose the use of all or any part of such courthouse accommodation for any period or periods at such charge and on such conditions as such county registrar or district court clerk shall think proper but subject to the limitations—

(a) that such letting out on hire shall be made by way of licence to use and occupy and not by way of tenancy nor so as to create the relation of landlord and tenant, and

(b) such letting out on hire shall not be made for any period 20 or in any circumstances which would cause such letting out on hire to interfere with or prejudice the use of such courthouse accommodation for the primary purpose for which it is maintained under this Act.

(2) All moneys received by a county registrar or district court 30 clerk for any letting out on hire under this section of all or any part of any courthouse accommodation shall be paid by such county registrar or district court clerk to the council by whom such courthouse accommodation is maintained.

Remedy by mandamus against defaulting council.

10.—(1) Whenever a council fails or neglects to perform a 35 duty imposed on such council by this Act, proceedings for relief by way of an order of mandamus to enforce the performance of such duty by such council shall lie in the High Court at the suit of the Minister.

(2) Proceedings under the foregoing sub-section shall lie not- 40 withstanding the existence of an alternative remedy and shall be without prejudice to such alternative remedy, and the existence of such alternative remedy shall not be a ground for the refusal of the relief sought in such proceedings.

Borrowing powers of councils.

11.—For the purpose of providing courthouse accommodation 45 a council may, with the consent of the Minister for Local Government and Public Health, borrow money under Article 22 of the Schedule to the Local Government (Application of Enactments) Order, 1898, in like manner as if the purposes of this section were mentioned in that Article, and money so borrowed shall not be 50 reckoned as part of the debt of such council for the purposes of the said Article.

Acquisition of land by councils.

12.—The provision of courthouse accommodation in pursuance of this Act shall be part of the powers and duties of a council within the meaning of sub-section (1) of section 10 of the Local 55 Government (Ireland) Act, 1898, and that section as amended by section 68 of the Local Government Act, 1925 (No. 5 of 1925), shall apply and have effect accordingly.

13.—(1) The expenses incurred by a council in the provision and maintenance of courthouse accommodation in pursuance of this Act shall be raised—

Raising of expenses by councils, etc.

5 (a) in the case of the county borough of Dublin and of the borough of Dun Laoghaire by means of the municipal rate, and

10 (b) in the case of any other county borough by means of the rate by which expenses (other than expenses of guardians or in connection with the poor rate) are raised under sub-section (3) of section 46 of the Local Government (Ireland) Act, 1898, and

(c) in every other case, by means of the poor rate as a county-at-large charge, but, in the case of the County of Dublin, exclusive of the borough of Dun Laoghaire.

15 (2) Whenever any courthouse accommodation which is provided and maintained in pursuance of this Act by one council (in this sub-section called the principal council) serves or is used as courthouse accommodation in respect of the functional area of one or more other councils (in this sub-section called the contributing councils), every of the contributing councils shall pay to the principal council on demand by the principal council such proportion of the expenses of the provision and the maintenance of such courthouse accommodation as shall be agreed upon by such councils or, in default of such agreement, shall be fixed by the Minister for Local Government and Public Health, and the first sub-section of this section shall apply to every sum payable by a contributing council under this sub-section as if such sum were expenses within the meaning of the said first sub-section.

30 (3) As soon as may be after the passing of this Act, the Council of the County of Dublin and the Corporation of Dun Laoghaire shall respectively pay to the Right Honorable the Lord Mayor, Aldermen and Burgesses of Dublin (in this sub-section called the City Corporation) such respective sum as, in default of agreement, shall be fixed by the Minister for Local Government and Public Health, by way of contribution towards the expenses incurred by the City Corporation in the execution, after the 31st day of August, 1933, and before the passing of this Act, of special repairs to the Courthouse at Green Street in the City of Dublin, and the first sub-section of this section shall apply to the said sums so payable to the City Corporation as if they were expenses within the meaning of that sub-section.

45 (4) The remuneration of the caretaker and the assistants of the caretaker of any courthouse accommodation provided and maintained under this Act shall be deemed, for the purposes of this section, to be part of the expenses of the maintenance of such courthouse accommodation.

50 14.—The Minister may by order make regulations prescribing any matter or thing which is in this Act referred to as prescribed or to be prescribed.

Regulations.

15.—All expenses incurred by the Minister or the Commissioners in carrying this Act into effect shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

55 16.—The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule.

Repeals.

Short title.

17.—This Act may be cited as the Courthouses (Provision and Maintenance) Act, 1935.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter	Short Title	Extent of Repeal
6 & 7 Will. IV, c. 116.	The Grand Jury (Ireland) Act, 1836.	Sections 69 to 77, Section 79 so far as it relates to keepers of sessions houses; Section 110 and the Schedule referred to therein so far as they relate to courthouse keepers.
7 & 8 Vic., c. 106.	The County Dublin Grand Jury Act, 1844.	Sections 13 to 15, 17, 19 to 21.
17 & 18 Vic., c. 103.	The Towns Improvement (Ireland) Act, 1854.	Section 30 so far as it relates to provision of courthouses.
40 & 41 Vic., c. 56.	The County Officers and Courts (Ireland) Act, 1877.	Section 91 from the words "and in any town or place" to the end of the section.
51 & 52 Vic., c. 44.	The Local Bankruptcy (Ireland) Act, 1888.	Section 16.
	The Local Government (Application of Enactments) Order, 1898.	Sub-article (3) of Article 15 of the Schedule so far as it relates to courthouse accommodation.

Saorstát Éireann.

BILLE TITHE CUIRTE (SOLATHAR AGUS COTHABHAIL), 1935.

BILLE

(*mar do tugadh isteach*)

dá ngairmtear

Acht chun socruithe bhreise agus fheabhsa do dhéanamh chun a chur in áirithe go ndéanfaidh comhairlí contae-bhuirgí agus contaethe (ar a n-áirmhítear buirg Dhún Laoghaire) cóiríocht tighe chúirte do sholáthar agus do chothabháil go cuibhe ina líomataistí feidhmiúcháin fé seach agus i dtaobh nithe eile bhaineann leis na nithe roimhraithe.

An tAire Dlí agus Cirt do thug isteach.

Do hordúidh, ag Dáil Éireann, do chlóbhualadh, 13ad Feabhra, 1935.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN SOLATHAIR.

Le ceannach tré aon díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 5 Sráid Thobair Phádraig, Baile Atha Cliath, C.2.

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Saorstát Éireann.

COURTHOUSES (PROVISION AND MAINTENANCE) BILL, 1935.

BILL

(*as introduced*)

entitled

An Act to make further and better provision for securing the due provision and maintenance by the councils of county boroughs and counties (including the borough of Dun Laoghaire) of courthouse accommodation in their respective functional areas and for other matters connected with the matters aforesaid.

Introduced by the Minister for Justice.

Ordered, by Dáil Éireann, to be printed, 13th February, 1935.

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