

ÉIRE.

BILLE NEODRACHTA (DIOBHAIL CHOGAIDH DO MHAOIN), 1941.

NEUTRALITY (WAR DAMAGE TO PROPERTY) BILL, 1941.

Mar do ritheadh ag dhá Thigh an Oireachtais.

As passed by both Houses of the Oireachtas.

ARRANGEMENT OF SECTIONS.

Section.

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4. Applications to the Minister for compensation under this Act.
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SCHEDULE

ACQUISITION OF LAND BY DISTRICT PLANNING AUTHORITY.

ÉIRE.

BILLE NEODRACHTA (DIOBHAIL CHOGAIDH DO
MHAOIN), 1941.

NEUTRALITY (WAR DAMAGE TO PROPERTY) BILL, 1941.

BILL

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entitled

AN ACT TO MAKE PROVISION FOR THE PAYMENT OF
COMPENSATION OUT OF PUBLIC MONEYS TO PER-
SONS WHO, ON OR AFTER THE 26TH DAY OF AUGUST,
1940, SUFFER INJURY TO THEIR PROPERTY IN THE 10
STATE OR THE TERRITORIAL WATERS THEREOF
AS A CONSEQUENCE OF AN ACT OF THE ARMED
FORCES OF AN EXTERNAL GOVERNMENT OR
AUTHORITY ENGAGED IN A WAR IN RESPECT OF
WHICH THE STATE IS NEUTRAL OR AS A CON- 15
SEQUENCE OF AN ACCIDENTAL OCCURRENCE
ARISING FROM SOMETHING DONE OUTSIDE THE
STATE BY ANY SUCH ARMED FORCE, AND TO MAKE
PROVISION FOR MATTERS CONNECTED WITH SUCH
INJURIES TO PROPERTY OR THE PAYMENT OF 20
COMPENSATION THEREFOR.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Definitions.

1.—In this Act—

the expression “ the Minister ” means the Minister for Finance;
the word “ prescribed ” means prescribed by regulations made by 25
the Minister under this Act;

the expression “ foreign aircraft ” means a military aircraft which
is neither a State aircraft within the meaning of the Air Navigation
and Transport Act, 1936 (No. 40 of 1936), nor registered in the
State under that Act or under a regulation made under that Act; 30

the expression “ foreign ship ” means a ship or other vessel which
is not a State ship and is not registered in the State under the
Merchant Shipping Acts, 1894 to 1939, and includes a ship or
vessel of any kind which is exempt from or is incapable of registra-
tion under those Acts and is not owned by an Irish citizen or a 35
company registered in the State under the Companies Acts, 1908
to 1924;

the expression “ State ship ” means a ship or other vessel which is
owned by the State or by a Minister of State;

the word “ building ” means a house, shop, factory, or other similar 40
permanent structure and includes a part of any such structure;

the word “ injury ” includes total or partial destruction and, in rela-
tion to chattels, includes loss or disappearance;

the expression “ the Criminal Injuries Acts ” means the enactments
relating to compensation for criminal injury specified in the Second 45
Schedule to the Damage to Property (Compensation) Act, 1923
(No. 15 of 1923);

the expression “ the High Court ” includes the High Court on
Circuit;

the expression “ the Court ” means the Circuit Court but includes 50
the High Court on appeal from the Circuit Court;

the expression “ local authority ” means—

(a) in relation to a building situate in a county health district
—the board of health for the county health district,

- (b) in relation to a building situate in a county borough or the borough of Dun Laoghaire—the corporation of the borough, and
- 5 (c) in relation to a building situate in any other borough or any urban district—the council of the borough or urban district.

the expression “ district planning authority ” means a district planning authority for the purposes of the Town and Regional Planning Acts, 1934 and 1939.

- 10 **2.**—(1) This Act applies to injuries to property which occurred or shall occur (whether before or after the passing of this Act) within the State or the territorial waters thereof on or after the 26th day of August, 1940, and were or are caused—
- Injuries to which
this Act applies.

15 (a) by any projectile, bomb, or other object or any substance propelled or dropped from a foreign aircraft, or by any projectile, bomb, or other object propelled from a foreign ship, or

20 (b) by explosion, blast, fire, gas, or other destructive or injurious agency arising out of the propelling or dropping of any such object or substance as aforesaid from a foreign aircraft or the propelling of any such object as aforesaid from a foreign ship, or arising in the course of the removal, dismantling, destruction, or dispersal of, or by reason of any other interference with, any such object or substance, or

25 (c) by the landing (whether voluntary or involuntary) or falling of any foreign aircraft or the falling of portions of or articles or persons from any such aircraft, or by any explosion, blast, fire, gas, or other destructive or injurious agency brought into operation by or in connection with any such landing or falling, or

30 (d) by the explosion (whether in the sea or in inland water or on land) of a mine placed in the sea by any foreign ship or any foreign aircraft;

35 (e) by any explosion or fire arising in the course of the removal, dismantling, or destruction of, or by reason of any other interference with, any mine so placed as aforesaid, or

40 (f) by a balloon emanating from outside the State or by a mooring rope or other article attached to any such balloon, or

45 (g) by any thing done to or in relation to any such balloon as aforesaid or any attachment thereto for the purpose of the removal, deflation, release, or destruction of such balloon, or by any other interference with any such balloon or attachment, or by any explosion or fire arising from such balloon in the course of the removal, deflation, release, or destruction thereof or in consequence of any such interference therewith.

50 (2) Notwithstanding anything contained in the foregoing subsection of this section, this Act shall only apply to injuries to property which occur while the State is not engaged in any war.

3.—(1) Subject to the exceptions made by and the other provisions contained in this Act, every of the following persons shall, on

55 applying therefor in accordance with this Act, be entitled to compensation under this Act in respect of the injury or loss hereinafter mentioned, that is to say:—

(a) every person who has suffered or shall suffer loss by an injury to which this Act applies to his property;

60 (b) every person who, being the personal representative of a deceased person or a trustee or otherwise in a fiduciary capacity, has suffered or shall suffer loss in his said fiduciary capacity by an injury to which this Act applies to property vested in him in his said fiduciary capacity;

Persons entitled
to compensation
under this Act.

- (c) the personal representative of an individual who suffered loss by an injury to which this Act applies to his property during his lifetime;
- (d) every person who has suffered or shall suffer loss by reason of an injury to which this Act applies to property charged (otherwise than with a rent) in his favour in any manner or to property on which he has a lien; 5
- (e) every person who, by reason of an injury to which this Act applies to a building, has suffered or shall suffer loss (other than loss by an injury to his property) in respect of which compensation may be awarded under this Act. 10

(2) Notwithstanding anything contained in the foregoing subsection of this section, no compensation under this Act shall be payable to or recoverable by any local authority in respect of injury to any street, road, bridge, viaduct, sub-way, water-main, water-pipe, sewer, drain, or culvert which such local authority is required by law to provide, maintain, or repair. 15

(3) Where the personal representative of a deceased person is awarded compensation under this Act in respect of an injury to which this Act applies which occurred to property of such deceased person in his lifetime, the following provisions shall apply and have effect, that is to say:— 20

- (a) such compensation shall be deemed to have formed part of the estate of such deceased person at his death; 25
- (b) if the said property is real estate, the said personal representative shall hold such compensation upon trust for the person who became entitled to the said property under the will or on the intestacy of such deceased person. 30

(4) Notwithstanding anything contained in this Act, a person who has (whether before or after the passing of this Act) received from a government or authority outside the State compensation in respect of an injury to which this Act applies shall not be awarded or paid any compensation under this Act in respect of that injury. 35

Applications to the Minister for compensation under this Act.

4.—(1) Any person who claims to be entitled to compensation under this Act in respect of an injury to which this Act applies may apply in accordance with this section to the Minister for such compensation.

(2) Every application to the Minister under this section in relation to an injury which occurred before the date of the passing of this Act shall be made not later than twelve months after that date and every other application to the Minister under this section shall be made not later than twelve months after the day on which the injury to which the application relates occurred. 40 45

(3) Every application to the Minister under this section shall be made in the prescribed form and manner and shall state all such matters and things as shall be prescribed in that behalf or shall be required by the said prescribed form, and in particular shall state an address within the State to which communications from the Minister to the applicant or other person making the application may be sent. 50

(4) Where the applicant is under any disability or is absent from the State, the application may be made on his behalf by another person. 55

(5) The prescribed form and manner in which an application to the Minister under this section is to be made may, if the Minister so thinks proper, require that such application shall be in the form of a statutory declaration made by the applicant or, where the application is made by another person on his behalf, by such other person. 60

(6) Every applicant or other person making an application to the Minister under this section shall furnish such information and

particulars in his possession or procurement in relation to the injury which is the subject of the application or in relation to any matter or thing stated in the application as shall be required of him by the Minister.

5 (7) Every communication from the Minister to an applicant or other person making an application under this section may be sent by post to such applicant or other person at the address stated in that behalf in such application.

10 (8) Every communication to the Minister from an applicant or other person making an application under this section may be sent by post addressed to the Secretary, Department of Finance, Upper Merrion Street, Dublin.

15 5.—(1) The Minister within twelve months after receiving an application for compensation under this Act duly made to him shall consider such application and either, as he shall think proper:—

Duty of the Minister in respect of applications to him.

- (a) make to the applicant an offer in writing of a specified sum of compensation under this Act in respect of the injury to which the application relates, or
- 20 (b) inform the applicant in writing that he does not intend to make to the applicant any such offer.

(2) The following provisions shall apply and have effect in relation to every offer of a specified sum of compensation under this Act made by the Minister under the foregoing sub-section of this section that is to say:—

- (a) the Minister may, when making the offer, attach thereto such (if any) conditions as he thinks proper in relation to the expenditure of the compensation thereby offered;
- 30 (b) the applicant shall be at liberty, in the case of an unconditional offer, to accept or to refuse the offer or, in the case of an offer to which conditions are attached, to accept the offer with and subject to those conditions or to refuse the offer;
- 35 (c) if the applicant does not in writing accept or refuse the offer within six months after it is made to him, he shall be deemed to have accepted the offer and, if conditions were attached to the offer, to have accepted it with and subject to those conditions;
- 40 (d) if the applicant accepts the offer or is deemed, by virtue of the next preceding paragraph of this sub-section to have accepted it, the Minister shall pay to the applicant, subject to his compliance with such conditions (if any) as were attached to the offer, the specified sum of compensation under this Act which was offered by the offer;
- 45 (e) where the applicant accepts or is deemed as aforesaid to have accepted the offer, he shall be estopped from making any further claim or application for compensation under this Act in respect of the injury to which the application leading to the offer related.

50 (3) Any specified sum of compensation under this Act offered by the Minister under this section may, if the Minister so thinks fit, include a sum in respect of the costs incurred by the applicant in respect of the application to the Minister.

55 (4) References in this Act to compensation awarded by the Minister shall be construed as referring to compensation payable by the Minister in pursuance of an offer made by him under this section and accepted or deemed to have been accepted by the applicant to whom it was made.

60 6.—(1) Any person who has applied to the Minister under the foregoing provisions of this Act for compensation under this Act in respect of an injury to which this Act applies and either has

Applications to the Circuit Court for compensation under this Act.

refused an offer of a specified sum of compensation under this Act made to him by the Minister in respect of the said injury or has been informed by the Minister that the Minister does not intend to make to him any such offer may apply in accordance with this Act to the Circuit Court for compensation under this Act in respect of the said injury. 5

(2) The following provisions shall apply and have effect in respect of every application to the Circuit Court under this section, that is to say:—

- (a) unless and until otherwise provided by rules of court, the application shall be made by civil bill in which the Minister shall be named as the sole defendant and for the issue of which no fiat of the Attorney-General shall be necessary; 10
- (b) the application shall be made not later than three months after whichever of the following dates is applicable, that is to say, the date on which the applicant refused the offer by the Minister of a specified sum of compensation or the date on which the applicant was informed by the Minister that he did not intend to make any such offer; 15
- (c) save if and so far as the Court shall otherwise permit, the evidence at the hearing of the application shall be given *viva voce*; 20
- (d) every aircraft concerned in the infliction of the injury shall be presumed to be a foreign aircraft until the contrary is shown; 25
- (e) where the injury was caused by or arose (directly or indirectly) from a mine, such mine shall be presumed to have emanated from either a foreign ship or a foreign aircraft until the contrary is shown; 30
- (f) where the injury was caused by or arose (directly or indirectly) from a balloon or an attachment to a balloon, such balloon shall be presumed to have emanated from outside the State until the contrary is shown; 35
- (g) where the injury was caused by or arose (directly or indirectly) from a projectile, bomb, or other object propelled from a ship, such ship shall be presumed to be a foreign ship until the contrary is shown; 40
- (h) the application shall be heard and determined by the judge of the Circuit Court having jurisdiction in the place at which the injury occurred;
- (i) the costs of the application and the costs of the appeal (if any) to the High Court shall follow the event, save if and in so far as the Court for cause otherwise orders. 45

The order of the Court on applications to it.

7.—Whenever the Court, on the hearing of an application for compensation under this Act, is satisfied that the applicant is entitled to such compensation, the Court shall award to the applicant compensation under this Act accordingly and shall fix the amount of such compensation in accordance with this Act and shall order that the compensation so awarded and fixed shall be paid to the applicant by the Minister. 50

Compensation for injury to property other than a building.

8.—The following provisions shall apply and have effect in relation to compensation under this Act (whether awarded by the Minister or by the Court) in respect of an injury to which this Act applies to property other than a building, that is to say:— 55

- (a) no compensation shall be awarded or payable in respect of any of the following chattels, that is to say:— 60
 - (i) postage and other adhesive stamps other than any such stamps forming or included in a philatelic

collection or kept by the owner as part of his stock-in-trade as a philatelic dealer

(ii) postal orders and post office money orders;

5 (b) the aggregate amount of the compensation awarded or payable in respect of watches, jewellery and articles of personal ornament (other than any such articles which were kept by the owner as part of his stock-in-trade or were, when the injury occurred, specifically insured against loss by at least one of the following, viz:—fire, burglary, and theft, whether such insurance did or did not apply to the injury) injured in any one injury shall not exceed five per cent. of the total amount of compensation under this Act awarded in respect of property (other than buildings and other than chattels to which either this paragraph or the next following paragraph of this section applies) injured by that injury;

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20 (c) the aggregate amount of the compensation awarded or payable in respect of coins, legal tender and other government notes, bank notes, and other currency of this or any other country (other than any such articles which were, when the injury occurred, expressly insured against loss by at least one of the following, viz:—fire, burglary, and theft, whether such insurance did or did not apply to the injury) shall not exceed five per cent. of the total amount of compensation under this Act awarded in respect of property (other than buildings and other than chattels to which either this paragraph or the next preceding paragraph of this section applies) injured by that injury or the sum of twenty-five pounds, whichever is the lesser;

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35 (d) the amount of compensation in respect of any chattel which is excluded from either of the two next preceding paragraphs of this section by reason of its being insured in the manner mentioned in that paragraph shall not exceed the sum for which it is so insured;

40 (e) the amount of the compensation in respect of injury to the following documents shall be fixed in accordance with a scale to be prepared in that behalf by the Minister after consultation with the Attorney-General and the President of the Incorporated Law Society of Ireland, that is to say:—

- 45 (i) muniments of title to land or other property,
(ii) contracts and agreements in writing,
(iii) debentures,
(iv) stock and share certificates and other documents of title to any stock or share,
(v) policies of insurance,
50 (vi) wills, probates, and letters of administration and official copies thereof,
(vii) official copies of Court orders, affidavits, and other documents relating to legal proceedings;

55 (f) no compensation shall be awarded or payable in respect of an injury to a ship or other vessel or to the fittings, furniture, or tackle of a ship or other vessel, or to the personal effects of the master or any member of the crew of a ship or other vessel, unless such ship or other vessel is registered in the State under the Merchant Shipping Acts, 1894 to 1939, or, being exempt from or incapable of registration under those Acts, is owned by an Irish citizen or a company registered in the State under the Companies Acts, 1908 to 1924.

65 9.—(1) The following provisions shall apply and have effect in relation to compensation under this Act awarded by the Court

Compensation for injury to a building.

in respect of an injury to which this Act applies to a building, that is to say:—

- (a) the compensation shall be subject to the condition (in this section referred to as the reinstatement condition) that it shall be applied either in or towards erecting a new building on the site of the injured building or in or towards repairing the injured building, but so that the new or repaired building shall be not less valuable than the injured building and shall be either of the same character as the injured building or of a character suitable to the neighbourhood; 10
- (b) the amount of the compensation shall not exceed the cost of compliance with the reinstatement condition less the amount (if any) by which, in the opinion of the Court, the price of the building as reinstated would by reason of the reinstatement exceed the price of the building in the condition in which it was immediately before it was injured, the price in each case being estimated according to normal market conditions as at the date of the award and on the basis of a sale of the fee simple interest in the building; 15 20
- (c) where the injured building is not situate in a city, town, or urban district, the Court may authorise compliance with the reinstatement condition by the erection of a new building near to, instead of on, the site of the injured building; 25
- (d) where the injured building contained fixed machinery and plant, the reinstatement condition shall include the replacement of that machinery and plant, but the Court may, upon such terms as it may think reasonable in the circumstances, exclude from the reinstatement condition the obligation to replace the said machinery and plant; 30
- (e) the compensation shall be paid at such time or times, in such instalments, and upon production of such evidence (in the case of payment of an instalment other than the final instalment) of partial compliance with the reinstatement condition or (in the case of payment of the final instalment) of complete compliance with the reinstatement condition as the Minister shall require, and the decision of the Minister as to whether a reinstatement condition has or has not been complied with (whether wholly or partially) or as to whether sufficient evidence of such compliance has or has not been given shall be final. 35 40 45

(2) Where compensation under this Act has been awarded by the Court in respect of an injury to which this Act applies to a building and a decree or order has been made by the Court accordingly and the Minister is of opinion that, owing to special circumstances or to unforeseen events, compliance with the reinstatement condition in respect of such compensation is inexpedient or impracticable, the Minister may agree with the person to whom such compensation was so awarded for the release of such person from the said reinstatement condition on such terms (including where appropriate, a reduction of the amount of such compensation) as the Minister shall think proper and the said person shall accept. 50 55

Prohibition of compensation for consequential loss.

10.—(1) Subject to the subsequent provisions of this section compensation under this Act (whether awarded by the Minister or by the Court) in respect of an injury to which this Act applies shall be awarded only in respect of the actual damage done to property by the said injury, and no such compensation shall be so awarded in respect of any loss consequential on such actual damage or, in particular, in respect of loss of the use of property or in respect of loss of mere pleasure or amenity. 60 65

(2) Where a building has sustained an injury to which this Act applies, the following provisions shall apply and have effect, that is to say:—

5 (a) compensation under this Act may be awarded to a person who carried on a trade, profession, or business in the said building in respect of his loss of earnings from the said trade, profession, or business where by reason of the said injury it is, during any period, impossible or impracticable to carry on the said trade, profession,
10 or business, but such compensation shall not exceed fifteen per cent. of the annual rate of the earnings of such person from the said trade, profession, or business as carried on in the said building during the twelve consecutive months or the period during which
15 the said trade, profession, or business was so carried on (whichever is the lesser) next preceding the date on which the said injury occurred or the sum of one hundred and fifty pounds, whichever is the lesser;

20 (b) compensation under this Act in respect of loss of employment may be awarded to an individual who was immediately before the said injury, employed in a trade, profession, or business carried on in the said building and has, by reason of the said injury, lost his said employment either permanently or temporarily, but such
25 compensation shall not exceed fifteen per cent. of the annual rate of his earnings in that employment during the twelve consecutive months or the period during which he was in the said employment (whichever is the lesser) next preceding the date of the said injury or the
30 sum of one hundred and fifty pounds, whichever is the lesser.

(3) Where the occupier of a building which sustained an injury to which this Act applies was compelled by reason of such injury to vacate such building and thereby incurred expenditure, in excess
35 of what he would have incurred if such injury had not been sustained, on the provision of housing accommodation for himself, for his family, or for his business or on the removal or storage of any movable article, compensation may be awarded under this Act in respect of such expenditure, but such compensation shall not
40 exceed, as regards any particular claim, fifty pounds.

11.—Whenever the Court awards compensation under this Act, the following provisions shall apply and have effect, that is to say:—

Duty of the Court in respect of insurance.

45 (a) the Court shall inquire and determine whether the person to whom the compensation is so awarded was or was not insured against the loss or any part of the loss in respect of which the compensation is so awarded;

50 (b) if the Court finds that such person was so insured, the Court shall make such inquiries as may be requisite to enable it to comply with the next following paragraph of this section;

55 (c) the Court shall, in the order awarding the compensation, state whether the person to whom the compensation is thereby awarded was or was not so insured as aforesaid and, if he was so insured, the Court shall further state in the said order the particulars of such insurance and the sum which the said person has been paid or is entitled to be paid under such insurance;

60 (d) where the Court, in pursuance of this section, states in an order that the person to whom compensation is thereby awarded has been paid or is entitled to be paid money under such insurance as aforesaid, the Minister, when paying the said compensation, may deduct therefrom and retain thereout an amount equal to the said money so stated to have been paid or to be payable less the
65 amount of the annual premium paid.

Recovery of chattels in respect of which compensation has been awarded.

12.—Where compensation under this Act has been awarded by the Minister or by the Court in respect of an injury consisting of or including the loss or alleged destruction of a chattel and that chattel (whether in a damaged or an undamaged condition) subsequently comes into or is found in the possession of the person to whom such compensation was so awarded or any other person, the following provisions shall apply and have effect, that is to say:—

- (a) the said chattel shall forthwith become and be the property of the Minister and may be recovered by him by civil action in any Court of competent jurisdiction; 10
- (b) where the chattel is recovered by the Minister from a person who is not the person to whom the said compensation was awarded, the Minister shall, where practicable, inform the person to whom the said compensation was awarded of the recovery of the said chattel; 15
- (c) the person to whom the said compensation was awarded shall, at any time before it is sold or disposed of by the Minister under the subsequent provisions of this section, be entitled to purchase the said chattel from the Minister at a price equal to the amount of the said compensation awarded in respect thereof or such lesser price as may be agreed upon between such person and the Minister; 20
- (d) where the said compensation has not been separately assessed in respect of the said chattel, the Minister may, for the purposes of the next preceding paragraph of this section, apportion the said compensation between the said chattel and the other property in respect of which it was awarded, and thereupon the portion of the said compensation so apportioned to the said chattel shall, for the said purposes, be deemed to be the amount of compensation awarded in respect of the said chattel; 25
- (e) if the said chattel is purchased under the foregoing provisions of this section, the price payable therefor shall be paid to the Minister and by him paid into or disposed of for the benefit of the Exchequer or may, where the said compensation has not been paid, be paid by being set-off against an equal amount of the said compensation; 35 40
- (f) the Minister shall cause the said chattel (unless it has already been sold under the foregoing provisions of this section) to be sold or otherwise disposed of for the benefit of the Exchequer at such time and in such manner as he shall think proper. 45

Payment of compensation, costs, and expenses.

13.—The following sums shall be paid out of moneys provided by the Oireachtas, that is to say:—

- (a) the amount (less deductions authorised by paragraph (d) of section 11 of this Act) payable by the Minister on foot of compensation under this Act, whether awarded by the Minister or by the Court, and 50
- (b) all costs payable by the Minister in pursuance of an order of the Court under this Act, and
- (c) the expenses incurred by the Minister in the administration of this Act. 55

Payment of certain debts

14.—Where any compensation under this Act (other than compensation to which a reinstatement condition is attached by the Court or a condition in the nature of a reinstatement condition is attached by the Minister) or any sum under the next following section of this Act is payable by the Minister and any money is owing by the person to whom such compensation or sum is payable to a Minister of State or to the Revenue Commissioners or to the Commissioners of Public Works in Ireland or to the Irish Land Commission, it shall be lawful for the Minister 60 65

to pay and discharge out of the said compensation or sum the money so owing by the said person and to pay to the said person only the balance (if any) of the said compensation or sum remaining after such payment and discharge.

5 **15.**—Whenever the Government recovers from the government of any other State or from any other authority outside the State compensation in respect of an injury to which this Act applies, the following provisions shall apply and have effect, that is to say:—

Disposal of compensation recovered from an external government or authority.

10 (a) the compensation so recovered shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister shall direct;

15 (b) if any person has been awarded compensation under this Act in respect of the said injury and the compensation so recovered from such government or authority exceeds the compensation so awarded, the Minister may, if he so thinks fit, pay out of moneys provided by the Oireachtas to every person to whom compensation was so awarded such sum (if any), in addition to the compensation so awarded to such person, as the Minister shall think proper subject to the limitation hereinafter imposed;

20 (c) if any person satisfies the Minister that he has suffered loss by reason of the said injury but has not been awarded compensation under this Act in respect of such injury, the Minister may, if he so thinks fit, pay out of moneys provided by the Oireachtas to such person such sum (if any) by way of compensation for such loss as he shall think proper subject to the limitation hereinafter imposed;

25 (d) the sum paid by the Minister under the foregoing provisions of this section in respect of the said injury shall not exceed whichever of the following amounts is applicable, that is to say, if any compensation was awarded under this Act in respect of the said injury, the amount by which the compensation so recovered from such government or authority exceeds the compensation so awarded or, where no compensation was so awarded, the amount of the compensation so recovered;

30 (e) if or when any money has been paid to the Minister under the next following section by reference to the said injury, the Minister may pay to each council of a county and corporation of a county borough, out of moneys provided by the Oireachtas, such sum as he thinks proper by way of recoupment or partial recoupment of so much of the said money so paid to him as was paid by such council or corporation.

35 (f) for the purposes of the next preceding paragraph of this section the borough of Dun Laoghaire shall be deemed to be a county borough and not to be part of the county of Dublin.

40 **16.**—(1) As soon as may be after the end of every financial year ending after the passing of this Act, the Minister shall ascertain the amount of compensation under this Act paid by him in that financial year and shall send to the Minister for Local Government and Public Health a certificate stating the amount so ascertained.

Contribution by local authorities to compensation under this Act.

45 (2) Where the Minister is ascertaining under sub-section (1) of this section the amount of compensation under this Act paid by him in any financial year, he shall include in the said amount any deductions from compensation made by him in such year and authorised by section 14 of this Act and any payments made by him in such year under paragraph (a) of sub-section (1) of section 18 or sub-section (2) of section 19 of this Act and any payments made by him in such year under paragraph (e) of sub-section (2) of section 20 of this Act.

(3) Where the Minister is ascertaining under sub-section (1) of this section the amount of compensation under this Act paid by him in the financial year ending on the 31st day of March, 1942, he may include in such amount any sum paid by him before the passing of this Act (whether before or after the 31st day of March, 1941) which purported to be a payment on account of compensation in respect of an injury to which this Act applies. 5

(4) Upon receipt of any such certificate as is mentioned in sub-section (1) of this section, the Minister for Local Government and Public Health shall by order assess one-fourth of the amount stated in such certificate on the several counties and county boroughs in proportion to the annual value under the Valuation Acts of the property rateable for poor rate in such counties or for the municipal rate in such county boroughs respectively and shall send a copy of such order to the council of every county and the corporation of every county borough. 10 15

(5) The council of every county and the corporation of every county borough shall pay to the Minister the amount assessed on such county or county borough (as the case may be) by any order under the next preceding sub-section of this section and shall raise the amount so to be paid, in the case of the council of a county, equally over the whole county by means of the poor rate or, in the case of a county borough, by means of the municipal rate. 20

(6) Where an amount assessed as aforesaid on any county or county borough exceeds the sum which would be raised by means, in the case of a county, of a poor rate of sixpence in the pound equally over the whole county or, in the case of a county borough, by means of a municipal rate of sixpence in the pound, the amount payable to the Minister by the council of such county or the corporation of such county borough (as the case may be) under this section in respect of such assessment shall be reduced to the sum which would be so raised by such rate of sixpence in the pound. 25 30

(7) All moneys paid to the Minister by the corporation of a county borough or the council of a county in pursuance of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister may direct. 35

(8) Where any money is payable under this section to the Minister by the council of a county or the corporation of a county borough—

(a) such money may, in default of payment by such council or corporation, be deducted from any money payable to such council or corporation (as the case may be) by any Minister for any purpose whatsoever, 40

(b) such deduction shall, in the case of money payable out of the Local Taxation (Ireland) Account, be made subject and without prejudice to the claims of the guarantee fund under the Land Purchase Acts, and 45

(c) the amount of such deduction shall be paid to the Minister in discharge of the sum so in default and shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister may direct. 50

(9) The borough of Dun Laoghaire shall be deemed for the purposes of this section to be a county borough and not to be part of the county of Dublin and this section shall have effect in respect of that borough and that county accordingly.

Power of local authority to inspect and repair injured buildings.

17.—(1) Whenever a building has suffered (whether before or after the passing of this Act) an injury to which this Act applies, the following provisions shall apply and have effect, that is to say:— 55

(a) it shall be lawful for the local authority in whose functional area such building is situate to enter on such building and there do all such things as shall be necessary for the purpose of ascertaining the nature and extent of such injury; 60

(b) if such local authority proposes to expend money on the repair of such building under and in accordance with a

5 general or a special authority given by the Minister for Local Government and Public Health, it shall be lawful for such local authority to enter on and so repair such building either with the consent of the occupier thereof or (subject to the next following paragraph of this section) after giving such notice as is hereinafter mentioned;

10 (c) such local authority shall not repair such building if, before the expiration of the said notice, the occupier of such building or his immediate landlord undertakes to repair such building;

15 (d) the notice hereinbefore referred to shall be in writing and shall state that such local authority will, at the expiration of a specified time (not being less than three days), execute specified repairs to such building unless before such expiration the occupier of such building or his immediate landlord undertakes to repair such building;

20 (e) the said notice shall be posted in a prominent position on such building and a copy thereof shall, if the circumstances permit, be given to the occupier of such building and to his immediate landlord;

25 (f) notwithstanding anything contained in the foregoing paragraphs, if such local authority are satisfied that temporary repairs to such building are immediately necessary, it shall be lawful for such local authority to carry out such repairs immediately.

30 (2) Where before the passing of this Act a building suffered an injury to which this Act applies, any entry made or any act done by a local authority before the passing of this Act in accordance with a general or special authority given by the Minister for Local Government and Public Health for the purpose of ascertaining the nature and extent of such injury or for the purpose of repairing such building shall be and shall be deemed always to have been lawful.

35 (3) The expenses incurred by a local authority under this section shall be raised and defrayed in like manner as expenses incurred by such authority under the Public Health Acts, 1878 to 1931, are raised and defrayed.

40 (4) Where expenses are incurred under this section by the board of health of a county health district, such expenses shall be charged equally over the whole of such district.

45 (5) Where before the passing of this Act, any expenses were incurred by a local authority in making any entry or doing any act rendered lawful by sub-section (2) of this section and such expenses were, in the opinion of the Minister for Local Government and Public Health, properly so incurred, the following provisions shall have effect, that is to say:—

50 (a) such expenses shall be deemed to have been incurred under this section and this section shall apply and be deemed always to have applied to such expenses accordingly, and

55 (b) if any sum was, at any time either before or after such expenses were incurred, included in any rate in order to defray such expenses, such rate shall not be or be deemed ever to have been invalid or irrecoverable merely by reason of such inclusion.

60 (6) A local authority may, for the purpose of defraying expenses incurred by them under this section, borrow under the Public Health Acts, 1878 to 1931, as if such purpose were a purpose for which such authority is authorised to borrow under those Acts, but money so borrowed shall not be reckoned as part of the debt of such authority for the purposes of any limitation on borrowing imposed by those Acts.

18.—(1) Where a local authority has, under and in accordance with a general or a special authority given by the Minister for Local

Recoupment of money expended by a local authority.

Government and Public Health, expended money (whether before or after the passing of this Act) in relation to or in consequence of an injury to which this Act applies, the following provisions shall apply and have effect, that is to say:—

(a) the Minister shall, out of moneys provided by the Oireachtas, recoup to such local authority the money so expended by such local authority; 5

(b) if an application is made to the Court for compensation under this Act in respect of the said injury and the Court determines that the applicant is entitled to compensation under this Act in respect of the said injury, the Court in assessing the amount of such compensation shall comply with the following provisions, that is to say:— 10

(i) the Court shall determine the amount of such compensation without regard to the said expenditure by such local authority; 15

(ii) the Court shall determine whether any and, if any, how much of the said expenditure was in alleviation or partial alleviation of the loss in respect of which compensation under this Act is awardable to the applicant; 20

(iii) if the amount determined by the Court under the foregoing sub-paragraph (i) exceeds the amount determined by the Court under the foregoing sub-paragraph (ii), the Court shall award to the applicant compensation under this Act equal to the difference between those two amounts; 25

(iv) if the amount determined by the Court under the said sub-paragraph (i) does not exceed the amount determined by the Court under the said sub-paragraph (ii), the Court shall not award to the applicant any compensation under this Act; 30

(v) if the Court determines under the said sub-paragraph (ii) that none of the said expenditure was in such alleviation or partial alleviation as is mentioned in that sub-paragraph, the Court shall award to the applicant the amount of compensation under this Act determined by the Court under the said sub-paragraph (i). 35 40

(2) The foregoing sub-section of this section shall not apply to money expended by a local authority in respect of an injury to a street, road, bridge, viaduct, sub-way, water-main, water-pipe, sewer, drain, or culvert which such local authority is required by law to provide, maintain, or repair. 45

Expenditure by a Minister, etc., in repair of an injured building.

19.—(1) Where a building has suffered an injury to which this Act applies and a Minister of State or the Commissioners of Public Works in Ireland or the Irish Land Commission has or have expended money in the reinstatement or repair of such building on account of such injury and an application is made to the Court for compensation under this Act in respect of the said injury and the Court determines that the applicant is entitled to compensation under this Act in respect of the said injury, the court shall, in assessing the amount of such compensation, comply with the following provisions, that is to say:— 50 55

(a) the Court shall determine the amount of such compensation without regard to the said expenditure of money in such reinstatement or repair;

(b) the Court shall determine whether any and, if any, how much of the said expenditure was in alleviation or partial alleviation of the loss in respect of which compensation under this Act is awardable to the applicant; 60

(c) if the amount determined by the Court under the foregoing paragraph (a) exceeds the amount determined

by the Court under the foregoing paragraph (b), the Court shall award to the applicant compensation under this Act equal to the difference between those two amounts;

5 (d) if the amount determined by the Court under the said paragraph (a) does not exceed the amount determined by the Court under the said paragraph (b), the Court shall not award to the applicant any compensation under this Act;

10 (e) if the Court determines under the said paragraph (b) that none of the said expenditure was in such alleviation or partial alleviation as is mentioned in that paragraph, the Court shall award to the applicant the amount of compensation under this Act determined by
15 the Court under the said paragraph (a).

(2) The Minister shall, out of moneys provided by the Oireachtas, recoup to every Minister of State, the Commissioners of Public Works in Ireland, and the Irish Land Commission respectively all (if any) money expended by him or them in any
20 such reinstatement or repair as is mentioned in the foregoing subsection of this section.

20.—(1) Where a building has been injured by an injury to which this Act applies and the relevant district planning authority considers that the acquisition of the land consisting of
25 such building and its site is expedient for the purposes of a planning scheme for their district (whether already made or in contemplation), such planning authority may take steps to acquire in accordance with the Schedule to this Act such land.

Acquisition
of land
comprising
injured
building by
district
planning
authority.

(2) Where a district planning authority has acquired in accordance with the Schedule to this Act any land, the following provisions shall have effect, that is to say:—

30 (a) if, immediately before the making of the order under the said Schedule by which such land was acquired, any person had any estate or interest in or right in respect of such land, such person may apply to such
35 authority not later than three months after the making of such order for compensation in respect of such estate, interest, or right, and such authority shall pay to such person by way of compensation an amount
40 equal to the value (if any) of such estate, interest, or right,

(b) the said amount shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation)
45 Act, 1919, as amended by the Acquisition of Land (Reference Committee) Act, 1925 (No. 22 of 1925),

(c) for the purposes of the determination of the said amount, the value of such land shall be deemed to be the same as if the relevant building which sustained an injury
50 to which this Act applies were still in the condition in which it was immediately before such injury occurred,

(d) no compensation shall be payable under this Act in respect of such injury,

55 (e) the Minister shall out of moneys provided by the Oireachtas pay to such district planning authority the difference between the value of such land immediately before such injury occurred and the value thereof immediately after such injury occurred, and

60 (f) the difference mentioned in the immediately preceding paragraph shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919, as amended by the Acquisition of Land (Reference Committee)

Act, 1925 (No. 22 of 1925), in like manner as if such difference were compensation for land compulsorily acquired.

(3) The expenses incurred by a district planning authority under this section shall be raised and defrayed in like manner as the expenses incurred by such authority in the execution of the Town and Regional Planning Acts, 1934 and 1939, are raised and defrayed. 5

(4) A district planning authority may, for the purpose of defraying expenses incurred by them under this section, borrow under the Town and Regional Planning Acts, 1934 and 1939, as if such purpose were a purpose for which such authority is authorised to borrow under those Acts. 10

(5) In this section, the word " site," when used in relation to a building, includes any yard, garden, or other land attached to such building and forming one enclosure with it. 15

Time limit for payment of compensation awarded under this Act.

21.—No compensation awarded to any person under this Act shall be payable or recoverable after the expiration of five years from the date on which such compensation was awarded by the Minister or by the Court, as the case may be. 20

Prohibition or action in respect of injury to which this Act applies.

22.—No action or other proceeding shall be brought in any Court against any person to recover damages for or in relation to an injury to which this Act applies.

Exclusion of injuries to which this Act applies from the provisions of the Criminal Injuries Acts.

23.—No compensation shall be payable by or recoverable from the corporation of a county or other borough or the council of a county or an urban district in respect of an injury to which this Act applies and accordingly the Criminal Injuries Acts shall not apply or have effect in relation to an injury to which this Act applies. 25

Regulations

24.—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. 30

Short title.

25.—This Act may be cited as the Neutrality (War Damage to Property) Act, 1941.

SCHEDULE.

35

ACQUISITION OF LAND BY DISTRICT PLANNING AUTHORITY.

1. A district planning authority proposing to acquire any land shall by order (in this Schedule referred to as a preliminary order) declare that they propose to acquire such land.

2. A preliminary order shall not be made save within— 40

(a) where the relevant injury to which this Act applies occurred before the passing of this Act—whichever of the following periods ends later, that is to say, three months after the occurrence of such injury and four weeks after the passing of this Act, or 45

(b) where such injury occurs after the passing of this Act—three months after its occurrence.

3. The occupier or any person having an estate or interest in or right in respect of the land to which a preliminary order relates

may, not later than twenty-one days after the posting in accordance with paragraph 16 of this Schedule of a copy of such order on or near the land to which such order relates, apply to the Minister for Local Government and Public Health for the annulment of such order, and, on such application the said Minister may at his discretion either annul such order or restrict the application of such order to portion of the land to which it originally related.

4. Before determining an application under paragraph 3 of this Schedule, the Minister for Local Government and Public Health may hold a public inquiry into the subject matter thereof and Article 32 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall apply in respect of every such public inquiry in like manner as the said Article applies in respect of the local inquiries therein mentioned.

5. If no application is made under and in accordance with paragraph 3 of this Schedule for the annulment of a preliminary order or if, where any such application is made, on the determination thereof such preliminary order is not annulled, the district planning authority by whom such preliminary order was made shall by order (in this Schedule referred to as a vesting order) acquire the land to which such preliminary order relates or, where such determination has restricted the application of such preliminary order to part of such land, such part of such land.

6. The time within which a vesting order shall be made shall be—

(a) where no application is made under and in accordance with paragraph 3 of this Schedule for the annulment of the relevant preliminary order—fourteen days after the expiration of the time within which such application could have been made, and

(b) in any other case—within fourteen days after the determination of the application under the said paragraph 3.

7. Where a district planning authority, before making a vesting order, become aware that the land to be acquired by such order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Irish Land Commission, to any annuity or other payment to the Commissioners of Public Works in Ireland or to any charge for estate duty or succession duty payable to the Revenue Commissioners on the death of any person, such authority shall forthwith inform the Irish Land Commission, the Commissioners of Public Works in Ireland or the Revenue Commissioners (as the case may be) of the intention to make such order.

8. A vesting order shall be in the form specified by regulations of the Minister for Local Government and Public Health (which he is hereby authorised to make) and shall contain a map or plan of the land acquired by such order.

9. A vesting order made by a district planning authority shall operate to vest the land to which it relates in such authority in fee simple free from incumbrances and all estates, rights, titles and interests of whatsoever kind on a date stated in such order, not being earlier than fourteen days after the making thereof.

10. Notwithstanding anything contained in paragraph 9 of this Schedule, where a district planning authority has acquired by a vesting order land which is subject either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission, such authority shall become and be liable, as from the date on which such land is vested in them by such vesting order, for the payment to the Irish Land Commission of such annual sum or such portion thereof as shall be apportioned by the Irish Land Commission on such land as if such land had been transferred to such authority by the owner thereof on that date.

11. The district planning authority by whom a vesting order was made may enter on and take possession of the land acquired by such order on the date on which such land is vested in them by such order or on any later date and, if any person obstructs or interferes with such entry or taking possession, such person shall be guilty of an offence under this paragraph and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds or to imprisonment for any term not exceeding three months or, at the discretion of the Court, to both fine and such imprisonment.

12. Where any land has become vested by means of a vesting order in a district planning authority, such district planning authority shall, as soon as may be after the date of vesting, send to the registering authority under the Local Registration of Title (Ireland) Act, 1891, such vesting order, and on receipt thereof the registering authority shall cause the title of such district planning authority to the ownership of such land in fee simple to be registered under the said Act and such registration shall comprise a statement that such land is vested in such district planning authority subject to the payment of any purchase annuity, payment in lieu of rent or other annual sum or portion thereof, payable to the Irish Land Commission under paragraph 10 of the Schedule to the Neutrality (War Damage to Property) Act, 1941.

13. A district planning authority may use any land acquired by them by a vesting order for any purpose connected with their powers and duties (whether as such district planning authority or otherwise).

14. Where the whole or any part of any land acquired by a vesting order is not required by the district planning authority by whom it was acquired, such authority may sell or let by public auction or private treaty in any one or more lots the whole or such part (as the case may be) of such land, but no such sale or letting shall take effect unless and until the Minister for Local Government and Public Health has consented thereto.

15. Every sum received by a district planning authority in respect of the sale or lease of land acquired by a vesting order shall be applied by such authority for the purpose of their powers and duties (whether as such district planning authority or otherwise) in such manner as such authority, with the consent of the Minister for Local Government and Public Health, think proper.

16. Whenever a district planning authority make a preliminary or a vesting order, they shall, within seven days after making such order—

- (a) post a copy of such order on or near the land to which it relates, and
- (b) give a copy of such order to the occupier (if any) of such land and to every (if any) person having an estate or interest in or right in respect of such land whose existence and name and address of ordinary residence can be ascertained by such authority by reasonable inquiries, and
- (c) give a copy of such order to the Minister.

17. Where a preliminary or vesting order contains a map or plan of the land to which such order relates, such map or plan may be omitted from the copies of such order posted and given in pursuance of sub-paragraphs (a) and (c) of paragraph 16 of this Schedule, but a copy of such map or plan shall be deposited in the office of the district planning authority making such order and shall there be kept open for inspection at reasonable times and the said copies of such order shall contain a statement that such map or plan is deposited and kept open for inspection as aforesaid.

18. (1) Where a copy of a preliminary or vesting order is required to be given to any person, such copy shall be addressed to such person and shall be given to him in one of the following ways, that is to say:—

- 5 (a) by delivering it to such person,
 (b) by leaving it at the address at which such person
 ordinarily resides,
 (c) by sending by post in a prepaid registered letter addressed
10 to such person at the address at which he ordinarily
 resides.

(2) For the purpose of giving a copy of a preliminary or vesting order to a company registered under the Companies Acts, 1908 to 1924, such company shall be deemed to be ordinarily resident at its registered office.

- 15 (3) For the purpose of giving a copy of a preliminary or vesting order to a corporate body, not being a company registered under the Companies Acts, 1908 to 1924, or to an unincorporated body, such body shall be deemed to be ordinarily resident at its principal office or place of business.

- 20 19. (1) Where a preliminary order relating to any land is annulled under paragraph 3 of this Schedule, the provisions of this Act relating to applications for compensation shall have effect in relation to such land as if the relevant injury to which this Act applies occurred on the date of such annulment.

- 25 (2) Where the application of a preliminary order is restricted under paragraph 3 of this Schedule to a portion of the land to which it originally related, the provisions of this Act relating to applications for compensation shall have effect in relation to the remainder of such land as if the relevant injury to which
30 this Act applies occurred on the date of such restriction of application of such order.

Éire.

BILLE NEODRACHTA (DIOBHAIL
CHOGAIDH DO MHAOIN), 1941.

BILLE

á ngairmtear

Acht chun soerú do dhéanamh chun cúiteamh d'íoc amach as airgead puiblí le daoine go ndearnadh no go ndéanfar, an 26adh lá de Lúnasa, 1940, no dá éis sin, díobháil do mhaoin leo sa Stát no in uisceí teorann an Stáit de dheascaibh gnímh o fhórsaí armtha Riaghaltais no Udaráis eachtraigh agus iad páirteach i geogadh inar neodrach don Stát no de dheascaibh tionóisce dar cúis rud éigin ar n-a dhéanamh lasmuich den Stát ag aon fhórsa armtha den tsórt san, agus chun soerú do dhéanamh i dtaobh nithe bhaineas leis na díobhála san do mhaoin no le cúiteamh d'íoc ionta.

*Rithte ag dhá Thigh an Oireachtais.
17adh Meán Fhómhair, 1941.*

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Éire.

NEUTRALITY (WAR DAMAGE TO PRO-
PERTY) BILL, 1941.

BILL

entitled

An Act to make provision for the payment of compensation out of public moneys to persons who, on or after the 26th day of August, 1940, suffer injury to their property in the State or the territorial waters thereof as a consequence of an act of the Armed Forces of an external Government or Authority engaged in a war in respect of which the State is neutral or as a consequence of an accidental occurrence arising from something done outside the State by any such armed force, and to make provision for matters connected with such injuries to property or the payment of compensation therefor.

*Passed by both Houses of the Oireachtas.
17th September, 1941.*

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