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**AN BILLE TALUN, 1963**

**LAND BILL, 1963**

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*Mar a ritheadh ag Dáil Éireann*

*As passed by Dáil Éireann*

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**EXPLANATORY MEMORANDUM**

The matters dealt with in this Land Bill may be grouped under five main headings as follows:—

(1) Following examination by the Government, new proposals have been formulated for expediting the structural reform of the land-holding pattern:—

(a) It is proposed that there should be a scheme operated by the Land Commission under which a progressive farmer, whose holding is situated in a congested area, could obtain a loan to enable him to purchase a viable farm of his own choice, his existing holding to be sold to the Land Commission for land settlement purposes. (Section 5).

(b) Where an elderly or incapacitated farmer has reached the stage at which he finds it difficult to work his holding satisfactorily (and especially if he has no obvious family successor to assist him), it seems desirable that he should be encouraged to retire from active farming. It is proposed to have a scheme under which he could obtain a life annuity from the Land Commission in return for the voluntary sale of his land. The scheme would also provide for (i) the retention of the dwelling-house by the vendor and his wife during their lives and (ii) the reletting to them of a few acres of accommodation land if these two provisions are needed. The scheme would also include (iii) a special arrangement for married couples involving a primary annuity for their joint lives and a secondary annuity (being half of the primary annuity) for the life of the survivor. In the case of an unmarried owner or a widower or widow there would be (iv) provision for the nomination of a dependent relative who, for the purposes of the scheme, would assume a position similar to that of husband or wife so that the same arrangements, regarding primary and secondary annuities, together with a right of residence for life, could be applied. (Section 6). Additionally it is envisaged that Social Welfare legislation will provide that the first £3 per week of a relevant life-annuity will not reckon when computing means for Old Age Pension purposes.

(2) It is proposed to strengthen the acquisition and resumption powers of the Land Commission to enable them to deal with problems of vacant and let lands and to facilitate land settlement generally.

(3) Cash purchases (by auction or private treaty) under the Land Act, 1950, will be open to all the purposes of the Land Acts—and no longer restricted to lands required for migrants or for the re-arrangement of fragmented holdings.

(4) It is proposed that, subject to certain exceptions, non-nationals should be prohibited from acquiring any interest in rural land save with the consent of the Land Commission.

(5) Various amendments to remedy minor defects in previous Land Acts.

(NOTE.—Provision for the future financing of the land reform programme by increasing the available total of Land Bonds from £15 million to £25 million was made in the Land Bond Act, 1964).

The effect of the various provisions of the Bill is as follows:—

*Section 1* provides definitions required in connection with later sections.

*Sections 2* and *3* contain the customary formal provisions for rule-making and expenses.

*Section 4*, in conjunction with the Second Schedule, defines the “congested areas” for the purposes of Sections 5 and 7. There is provision for declaration of additional “congested areas” by Ministerial Order, if necessary.

*Section 5* provides authority for the introduction of a scheme of land-purchase loans for qualified land-holders in congested areas. This is an entirely novel service under the Land Acts. The intention is that the new scheme will be in addition to existing land settlement schemes. The new scheme will encourage personal initiative by providing necessary capital, through the machinery of the Land Commission. It will enable progressive small-holders to improve their status by purchase on the open market of viable farms suitable to individual requirements. As the objective of the scheme is to facilitate reform of the land-holding pattern, it is essential that the applicant’s present holding be located in a congested area and that he should agree to sell it to the Land Commission, as part of the loan arrangements connected with the purchase of a new holding of his own choice. Basic conditions under which loans may be issued are set out in subsection (4). For successful launching of this novel scheme, reasonable flexibility in operation will be essential at the initial stage. It would be inappropriate, therefore, to set out the financial and administrative provisions in rigid detail in the Bill. Such provisions will be governed by appropriate regulations, requiring the consent of the Minister for Finance.

*Section 6* provides basic statutory authority for the proposed scheme of life annuities for elderly, incapacitated or blind farmers who will sell their lands voluntarily to the Land Commission. The objective is to stimulate the offering of such lands for inclusion in Land Commission schemes providing viable farms and enlargements for progressive smallholders. Full market value of the land sold will be paid in either (i) cash or (ii) actuarial equivalent life-annuity or (iii) a combination of both—at the vendor’s option. In the case of a married couple (where the husband and wife are not each entitled to a separate life-annuity, through the terms of ownership and sale), there will be a primary annuity for their joint lives and a secondary annuity for the survivor’s life. An unmarried owner or widower or widow may opt to nominate a dependent relative who, for the purposes of the scheme, would assume a position similar to that of husband or wife so that the same arrangements, regarding primary and secondary annuities, could be applied. So much of a life-annuity under (ii) above as does not exceed £3 a week, is not to be reckonable for Old Age Pension means test purposes; this point will be covered in Social Welfare legislation. Alternatively, for an incapacitated owner, who sells before becoming entitled to old age pension, the life annuity will be supplemented to take special account of disable-

ment until he qualifies for old age pension. A farmer over 21 years who becomes so blind as to be unable to do his ordinary work, may qualify for a pension under the Old Age Pensions Acts and will be dealt with accordingly under the proposed life-annuity scheme. As explained for the loan scheme under Section 5, financial and administrative details of the life-annuity scheme will be the subject of regulations requiring the consent of the Minister for Finance.

*Section 7* provides that, in future, certain classes of persons who will receive allotments of land on an annuity basis in non-congested areas will not benefit from the "halving" of annuities conceded under the Land Act, 1933.

The classes affected are:—

- (i) farmers with existing holdings who may receive enlargements in non-congested areas and
- (ii) cottiers and other persons who may get allotments in non-congested areas, where surplus land is available.

Corresponding provisions are included to cover relevant sales by public auction or private treaty. But all allottees in congested areas, together with displaced employees and migrants getting holdings in non-congested areas, will continue to get the benefit of the "halving" of annuities.

*Section 8* is a provision to remove doubt whether the Lay Commissioners have adequate power to compel necessary witnesses to attend at public hearings of objections, applications, etc. The section provides machinery similar to Section 60 of the Trade Marks Act, 1963, for bringing offenders before the High Court, if necessary, to enforce compliance.

*Section 9* is a provision to facilitate local authorities and other interested statutory bodies who are occasionally willing to contribute to the cost of marine embankment repairs, etc., being executed by the Land Commission. Legal provisions affecting local authorities have sometimes raised doubt whether such contributions towards Land Commission works would be beyond audit risk and the Section will confirm that there has been adequate authority.

*Section 10* removes doubts about the legal position regarding maintenance of drains and other works constructed or repaired by the Land Commission. This section confirms that where the Land Commission have carried out improvement works for the benefit of lands and have then allotted the improved lands, neither the Minister nor the Land Commission will be at legal risk for continuing liability for the maintenance of such works. The Land Commission, of course, will be fully responsible while the lands are on their hands. But after the allottees have gone into possession, the maintenance obligations (if any) will attach to the allottees. At this ultimate stage, after the Land Commission have parted with possession, they cannot reasonably be expected to continue to maintain such works. In any event, this is the normal responsibility of occupying landholders.

It was never envisaged that the Land Commission would assume permanent maintenance functions in relation to improvement works but a rare instance of defective maintenance of a drain, by allottees, led to litigation against the Land Commission and it thus became necessary to clarify the legal position. The Section, as drafted, extends to former transactions under Irish Church Acts and Congested Districts Board Acts as the Land Commission have continuing legal succession to the defunct Church Commissioners and Congested Districts Board. "Works" is defined in Section 1 of the Bill.

*Section 11* is a tidying-up provision, its purpose being to obviate self-cancelling payments and refunds between Land Commission

and rating authorities for rates on vacant buildings situate on lands rated to the Land Commission. Some such buildings may be suitable only for demolition. Others may be temporarily vacant pending allotment or auction sale, etc. At present, the Land Commission are required to pay the rates and then seek a refund, involving waste of time and effort. In future, the Land Commission may officially certify that such building is unoccupied at the date of the making of the rate—thus dispensing with the payment and refund procedure. When the building becomes occupied by a new occupier he assumes liability from the date of entry into occupation.

*Section 12* provides that the subdivision, letting and subletting of all agricultural land in the State shall be subject to Land Commission consent. It is intended as a global provision taking the place of the unsatisfactory patch-work of control operating under existing enactments which are listed for repeal in the First Schedule. Without effective control over subdivision, etc., the other proposals for land reform could be impeded or frustrated. For the first time, however, the exercise by the Land Commission of power to refuse consent to subdivision, etc. is being specifically restricted by statute to preventing the creation or continuance of uneconomic holdings (Subsection (2)). This section does not apply to conacre or agistment lettings of the usual short-term 11-months type.

*Section 13* introduces a system of control on dealings in land in respect of which the Land Commission propose to institute or actually have instituted acquisition or resumption proceedings. In the relevant control periods no sale, transfer, letting or subletting can lawfully be made without the consent of the Land Commission. The proposed control procedure is considered essential to counteract any deliberate obstruction to acquisition proceedings by way of sale, etc., and to eliminate the confusion and delay which would otherwise ensue should a change of ownership occur after the acquisition machinery was set in motion. Subsection (2) provides a control period of three months following the issue of a notice of inspection with a view to possible acquisition; the Lay Commissioners may extend this period by a further three months. Under subsection (1) the proposed control period runs from the publication of the provisional list (Section 40 (2) Land Act, 1923) until the termination of the acquisition proceedings.

*Section 14* provides for the appointment, for all purposes under the Land Acts except in the distribution of purchase moneys, of a "nominee" in respect of any land, to represent all persons having an interest therein. The existing powers of the Land Commission to appoint limited administrators are not sufficient to cover all circumstances where owners are unknown, deceased, not readily ascertainable in law, or not readily traceable. The enlarged powers now proposed are designed to facilitate land settlement proceedings particularly complex exchange and consolidation arrangements. In general the person in effective control of the lands will be nominated to represent all persons having an interest therein.

*Sections 15 and 16* provide additional machinery for expediting the process of judicial allocation of purchase moneys by :—

- (i) the delegation of decision functions to Examiners of Title, and
- (ii) the authorisation of the acceptance of a shorter root of title than heretofore. At present Examiners of Title prepare draft allocation orders for rulings by the Judicial Commissioner, who is a Judge of the High Court. Under the proposed new provision the Examiners of Title will themselves be authorised to effect allocations.

Claimants will have a right of appeal to the Judicial Commissioner.

Currently, a forty year root of title is required as laid down in Section 1, Vendor and Purchaser Act, 1874. By analogy with Section 50 (3) of Registration of Title Act, 1964, reduced title periods of 12 years and 30 years, according to circumstances, will be adopted in future. This should prove to be of considerable help in speeding up the allocation of purchase moneys, etc.

*Section 17* provides an indemnity for the Examiners of Title so that they may be encouraged in a practical way to exercise the enlarged powers to be conferred on them under the preceding Sections 15 and 16. A similar statutory indemnity is provided for the Public Trustee under Section 52(7) Land Act, 1903, and a like provision is contained in Section 118 of Registration of Title Act, 1964.

*Section 18* by providing that reserved sporting rights (other than fishing rights) which have not been exercised for upwards of 12 years will automatically lapse, will set up a simple procedure whereby farmers may establish exclusive game rights over their lands. In addition to dealing with the position where owners of reserved rights cannot be traced, this Section will allow the Land Commission to be legally divested in appropriate cases of game rights which were formally reserved to the Land Commission at the time of sale under the Land Acts.

A provision of this kind is considered necessary having regard to the inconsistency of treatment for game rights under the various Land Acts. This ranged from an occasional reference in the Land Acts preceding 1903 to provisions under which the rights have vested in the tenant purchasers in some two-thirds of the estates purchased under the Land Acts 1903-1919. Since 1923, the shooting rights in the main passed to the purchasing tenants and allottees but, in particular instances, the game rights over large compact areas of mountain or bog have been reserved to the Land Commission with a view to orderly development—these will be retained and leased in the usual way to sporting groups, gun clubs etc. While Section 34, Land Act, 1933, and Section 39, Land Act, 1936, provide machinery for the acquisition of game rights for resale to tenant purchasers, there is difficulty in applying the Sections where the game rights are not being exercised, and the present owners of the rights cannot be traced.

*Section 19* is another tidying up provision. Subsection (1) confirms the long-established practice of selling turbary rights and occasionally other incorporeal hereditaments, for advances repayable by purchase annuities. The relevant Section 31 of Land Act, 1923, gave such power in relation to parcels of land. It has been liberally interpreted to facilitate turbary development in such a way that the reversion in the cut-away would pass to a single or very few persons and would not become fragmented. Ultimate reclamation becomes more difficult to arrange if ownership of the fee simple interest is diffused into small units corresponding to individual turf banks. Subsection (2) confirms that the simple vesting procedure, by sealed order (fiat) on the purchase agreement, is appropriate for lands or incorporeal hereditaments sold by the Land Commission for cash, as well as by means of advances. This procedure has been widely adopted to obviate expensive conveyancing.

*Section 20* introduces a new feature into the creation and extension by the Land Commission of rights of way. In this respect, heretofore, the Land Acts have dealt almost exclusively with questions of access to land. Now it is proposed that there should be power to deal with rights of way to rivers, lakes and the sea and also with ancillary rights to park vehicles and to moor, anchor or beach boats. Subsection (3) would protect the occupiers of exist-

ing dwellinghouses from the creation of any such rights which could be a source of nuisance. Where appropriate, compensation would be payable under Section 43, Land Act, 1923.

*Section 21*, subsection (1) provides that on the revesting of a parcel, for consolidation with a registered holding, the owner shall hold the parcel and holding in the one capacity and on the same trusts. This measure is designed to facilitate consolidation of a parcel with a holding or holdings where the allottee has different legal interests in the parts of the enlarged unit. Subsection (2) confirms that an exchange carried out by means of a vesting order shall have a similar effect to an exchange carried out by signed documents under Section 46 of the Land Act, 1923, in relation to the transfer of burdens and charges from the old to the new holding. This particular matter is in doubt under existing legislation.

*Section 22* restates in greater detail and precision the terms of Section 63 of Land Act, 1923. It provides that where land is vested by a vesting order in a deceased person the vesting order shall not be invalid but shall generally have the effect of vesting in his personal representative (or person next entitled, if a limited ownership or joint tenancy is involved). It would be impracticable for the Land Commission at the time of publication of a vesting order to verify that the persons named therein were still alive. It is considered essential, therefore, that a vesting order should not be rendered invalid by reason only of the prior death of a person in whom the Land Commission purport to vest land.

*Section 23* provides that a holding or parcel may be vested by vesting order even though a purchase agreement has been executed; this provision is required where a purchase agreement may be defective, or otherwise not available for vesting by fiat. There is a right of objection to the Lay Commissioners against vesting orders, with right of appeal to the Appeal Tribunal.

*Section 24* provides that whenever a purchase annuity lapses by reason of the operation of the Statute of Limitations, 1957, the resultant deficits shall not remain a charge on the ratepayers (*via* the Guarantee Fund) but shall, where necessary, be defrayed out of central funds. A number of annuities payable out of holdings situated mainly on remote islands are becoming affected by the Statute of Limitations, 1957.

*Section 25* provides extended powers to effect the consolidation of holdings on the consent of the owner. Consolidation of independent land units is considered an essential part of land settlement operations thereby ensuring the setting up and maintenance of viable farms. Section 66, Land Act, 1923, hitherto the principal consolidating measure, is defective in as much as it deals only with lands subject to purchase annuity. In existing circumstances this limitation is too restrictive, having regard to the large number of holdings on which the annuities have been redeemed and to the many thousands of holdings sold under pre-1923 Land Acts, on which the annuities either have been already amortised or are due to be amortised in the years immediately ahead. Heretofore there was no provision for the consolidation of freehold lands. Subsection (1) will constitute a comprehensive measure to effect consolidations.

Subsection (2) is a necessary provision for the transfer to consolidated units of all estates, rights, burdens, etc., which previously affected the separate parts.

*Section 26* is designed to eliminate an occasional source of dissatisfaction to landowners receiving payment of purchase money in land bonds.

Where a series of land bonds bearing a particular rate of interest is created pursuant to Section 4 (2), Land Bond Act,

1934, to supply the financial needs of the Land Commission for a specified period then all prices agreed or fixed in that period must be paid in that series of bonds. Appreciable delay may unavoidably occur, between price determination and date of possession, and it could sometimes happen under the existing law that an owner would have to be paid in a lower interest series of lands bonds than the series current at the time the land vests in the Land Commission, which generally coincides with the taking of possession. Heretofore, in such circumstances, the owner had to be content with the lower interest-bearing bonds. Under the proposed new provision, the owner will get the advantage of being eligible for payment in higher interest-bearing land bonds if such exist at the date of vesting of the property in the Land Commission.

*Section 27* affirms that the power to decide on an inspection of lands, with a view to possible acquisition, may properly be delegated by the Minister for Lands to an officer of the Land Commission not below the rank of Senior Inspector. This measure is designed to expedite acquisition proceedings. There are four Senior Inspectors residing at divisional headquarters and the proposed delegation to them of power to authorise inspections will obviate the need to refer cases to Dublin and thereby eliminate a source of delay at what might well be a critical stage of proceedings. The decision by way of determination of the actual lands to be acquired remains an "excepted matter" for the Lay Commissioners.

*Section 28* provides that the Minister for Finance shall no longer participate in the control of funds transferred to Trinity College, Dublin, under Section 15 of Land Act, 1923. At present, the relevant funds are held jointly by the Minister for Finance and an officer nominated by the Governing Body of the College. The consent and approval of the Minister for Finance are necessary before the investments in the funds can be varied. The Minister for Finance is satisfied that his participation in the management of these funds is no longer necessary or desirable.

*Section 29* is associated with Section 27 and subsections (2) and (4) of Section 13. In order to obviate difficulties of proof, it provides that notice of inspection of lands shall be sealed with the seal of the Land Commission.

*Section 30* is aimed at removing procedural difficulties which have arisen in the Land Registry in the recording of exchanges of holdings carried out by the Land Commission pursuant to Section 46, Land Act, 1923. Subsection (5A) would give the Registrar of Titles power to ensure the production of the relevant land certificate, or alternatively to dispense with its production if he is satisfied that it has been lost or destroyed; subsection (5B) would protect the claims of a third party by transferring them automatically from the land certificate for the old surrendered holding to the land certificate for the new exchanged holding (which has to be of not less value). Subsection (5C) would permit the Registrar of Titles to issue the new land certificate to the person who last held the old one—without being obliged to enter into the merits or demerits of his possession of it.

*Section 31* is a provision to restate more precisely Subsections (4) and (5) of Section 18 of Land Act, 1927, dealing with recovery of rates on acquired lands. Such rates (and appropriate arrears) due up to the appointed day may be recovered by the rating authority by way of priority claim against the vendors' purchase money. Under the superseded provisions, there was legal difficulty as it is not clear whether a claim for rates was payable out of interest on purchase money or land bonds and interest to credit or land bonds alone.

*Section 32* brings into conformity with monetary changes since 1931, the monetary limits regulating the modified title require-

ments, which under Sections 35 and 38 of the Land Act, 1931 are to be applied to small purchase money and compensation cases. The upper limits of £30, £100 and £300 in the three categories in which the modified requirements apply are being increased to £100, £300 and £2,000 respectively. Distribution of funds in such cases will then be considerably facilitated and expedited.

*Section 33* is designed to remedy legal flaws in the principal provision (Section 39, Land Act, 1931), relating to the creation of rights of way by the Land Commission. This is being effected by redrafting in clear terms subsection (2) of Section 39, Land Act, 1931. In this way, it is intended to overcome the effects of legal decisions in relation to the existing powers of the Land Commission in the creation of rights of way. In particular, the new subsection confirms that a right of way order by the Land Commission will be valid whether any terminal point of the right of way is or is not situate on lands sold or agreed to be sold under the Land Acts.

The opportunity is being taken, having regard to monetary changes, to increase the compensation limit of £50 contained in Section 39(4), Land Act, 1931, to £200.

*Section 34* increases from £2,000 to £6,000 the value standard to be applied under Section 29, Land Act, 1933, (as amended by Section 28, Land Act, 1936), to the alternative holding which must in the circumstances set out in that Section be offered to a person whose lands are being compulsorily acquired by the Land Commission.

All the following factors must be satisfied to bring the alternative holding provisions into operation, viz:—

- (1) the lands are being acquired by the Land Commission for relieving congestion;
- (2) the lands have already vested in a tenant purchaser under the Land Acts;
- (3) the lands are being properly used;
- (4) the tenant or proprietor (or spouse) resides on or in the immediate neighbourhood of the lands, and
- (5) the tenant or proprietor (and spouse) do not own other land of market value exceeding £2,000.

Having regard to the increase in land value since 1933, the limit of £2,000 in (5) is now unrealistically low and is being increased to £6,000.

*Section 35* radically alters the defences against compulsory acquisition, for the general purposes of land settlement. It stipulates two additional conditions and clarifies the application of the adequate production and employment provisions contained in Section 32, Land Act, 1933. The purpose is to facilitate acquisition by overcoming the effects of legal decisions which are now hampering the Land Commission's efforts to acquire vacant holdings for certain land settlement purposes, especially migration from congested areas. It has been held, for instance, that production under lettings satisfies the condition of "adequate production". As an indirect counter to this defence, a residence qualification at or near the lands is now being stipulated as one additional factor. It is also being additionally stipulated that the tenant or proprietor must not have offered the land for sale in the qualifying period. To overcome another legal decision, a definite period of one year, ending on a precise date, for the assessment of the adequates is also being stipulated. In addition, the special compulsory acquisition powers of the Land Commission are being amplified to include the acquisition of landing sites for

persons boating or fishing on lakes or rivers or the sea. This latter provision is considered necessary in the interests of inland fisheries development and the promotion of tourism generally.

It will be noted that any compulsory acquisition proceedings pending at the passing of this Bill will be continued and concluded under the earlier legislation.

*Section 36* removes the statutory limitation of £500 imposed by *Section 44* of Land Act, 1933, on expenditure by Land Commission on works connected with water courses, drains or embankments without the particular sanction of the Minister for Finance. It is envisaged that authority will be delegated to the Land Commission by the Minister for Finance to sanction such expenditure subject to simplified administrative control.

*Section 37* is complementary to *Section 32* of the Bill and makes corresponding adjustments to the monetary limits applicable to the distribution of small shares of purchase moneys, etc.

*Section 38* reduces from 7 years to 2 years the period during which a newly-vested holding is immune from compulsory acquisition by the Land Commission. This measure is considered necessary having regard to the problem of vacant and derelict holdings and the desirability of avoiding the appearance of discrimination where local conditions are similar.

*Section 39* amends earlier inadequate provisions, under which the Land Commission is empowered to claim against a vendor's purchase money for sums outstanding through obstruction in giving possession to the Land Commission. In such cases, it is necessary to lodge the purchase money into Court and to vest the lands in advance of getting possession. Legal proceedings may be necessary to finalise the acquisition process. Before possession is secured, the Land Commission thus becomes liable for outlay on service of land bonds, rates, legal costs, etc. To prevent this outlay from becoming a charge on the Exchequer, *Section 13* of Land Act, 1939, as amended by *Section 13* of Land Act, 1953, has given the Land Commission recourse to the owner's purchase money, but this is confined to amounts in respect of the period before possession is obtained. In extreme cases, such an owner has illegally re-entered into possession and further legal expenses have arisen, as well as general losses in connection with lettings. A comprehensive amendment, therefore, is now proposed.

*Section 40* simplifies the procedure for reselling defaulters' holdings discharged, in whole or in part, from arrears of purchase annuity, etc., by removing the obligation contained in *Section 20*, Land Act, 1939, that the Land Commission must first enter into possession before a resale discharged from arrears can be effected. Frequently, the default settlement is by way of family arrangement and, in such case, possession proceedings are an unnecessary formality which adds materially to the overall debt to be recovered or written off.

*Section 41* remedies a technical defect in *Section 24* of Land Act, 1939, (as amended and extended by later Acts) dealing with the partition of commonages by providing for the transfer of burdens, interests, etc., to the partitioned plots or rights.

*Section 42* amends the "adequate" defences against resumption of unvested lands, in the same way as proposed in *Section 35* of the Bill in relation to the acquisition of vested lands. The changes are dealt with in detail in that *Section*.

*Section 43* is complementary to *Section 40*. It removes the obligation on the Land Commission to take possession of a defaulter's holding before it can be resold subject to an additional advance. *Section 43 (b)* provides for delegation to the Land Commission within limits to be specified by the Minister for Finance of power to make the additional advances referred to in *Section 43*, Land Act, 1939.

*Section 44* is linked with the repeal in the Second Schedule of the restrictive portion of Section 27 of Land Act, 1950, which deals with cash purchases in the open market. In future, such purchases will *not* have to be confined to lands required for the provision of migrants' holdings and rearrangement of fragmented holdings. As a corollary, it is proposed to amend Section 28(12) of Land Act, 1950, to permit lands already purchased under Section 27 of the 1950 Act to be allotted by the Land Commission without statutory restriction on the classes of allottees.

*Section 45* initiates a new system of absolute control by the Land Commission over the purchase of farm land by non-nationals. To minimise the risk of evasion, the provisions have had to be drafted in close detail. Following is the explanation of the various subsections :—

Subsection (1) sets out that the control applies initially to all non-urban land and that not only an "estate" but various other forms of partial, indirect and conditional interests in land are covered. It also provides (for the purpose of exemption) a list of "qualified persons" including authorities, companies, banks etc. over whose dealings it is not deemed necessary to extend the control. "State authority" is defined for a similar purpose.

Subsection (2) is the blanket prohibition. If a person is not a "qualified person" he will be unable to obtain an interest in rural land save by consent of the Land Commission. A complete exemption is provided for a State authority and in certain cases for the passing of the property of deceased persons, especially where the beneficiary is a close relative of the deceased.

Paragraph (a) of Subsection (3) lays down the basis of certification which conveyancing must adopt to conform with the control requirements. In the interests of title-certainty, in the long-term future, it is provided that title shall not be challengeable merely because of an inaccuracy in such certificate. Paragraph (b) of Subsection (3) exempts from the certification requirements any instruments passing property to State authorities or legal personal representatives.

Subsection (4) is aimed against evasive subterfuges by providing the Land Commission with necessary investigation machinery.

Subsection (5) provides, broadly, that if a land-holding company passes from Irish control into the control of a non-qualified person, this fact must be reported to the Land Commission. If the Land Commission then institute acquisition proceedings for the land, the ordinary defences against acquisition would not apply. This is considered necessary to block evasive attempts by means of purchases through bodies corporate in the first instance.

Subsections (6), (7), (8) and (11) contain the provisions for prosecution, trial and punishment of offences.

Subsection (9) contains incidental provisions about consents. Where necessary, the Land Commission may give their consent retrospectively.

Subsection (10) is also aimed against evasion by enabling a subsequent purchaser from a non-national to raise title queries about the Land Commission's consent.

Subsection (12) confirms that the Registrar of Titles may refuse to register in the Land Registry a transfer which does not meet the requirements of this section—even though in all other respects it appears to be a valid transfer.

Finally there is provision that if the Minister for Lands creates any new category of "qualified person" his regulation in the matter must be laid before Dáil Éireann.

*Section 46* is a minor amendment of an existing statute to expedite the re-vesting of exchanged or rearranged holdings. Its purpose is to ensure that the Land Commission can re-allot or re-vest lands given up in exchange without waiting until they have themselves become registered owners of such lands.

*Section 47* and the First Schedule provide for repeals thus:—

- (i) The first eight enactments listed for repeal are associated with Section 12 of the Bill which is the new omnibus section dealing with the comprehensive control of subdivision, letting and subletting of all agricultural holdings. These enactments being repealed form a complicated "patchwork" of control provisions enacted over a period of sixty-six years. Obsolete facets of these repeals (including special provisions for bankruptcy, cutting of trees, and sale by Land Commission for breach of condition) are not being re-enacted in Section 12 as they are covered by other legislation or have proved impracticable. These repeals include a very limited provision against the agglomeration of holdings contained in Section 32 (1) (a) Land Act, 1909. This particular old enactment proved entirely impractical as evasion was relatively simple and the only remedy against an offending purchase was for the Land Commission to put the holding up for compulsory sale which, in practice, is very difficult to effect. There would be no advantage in re-enacting such provision in present circumstances. The extended powers of acquisition provided in Section 35 of the Bill are the effective answer to undesirable accumulation of land.
- (ii) The proposed repeal of Section 27 (1) (c) of Land Act, 1950, is explained in connection with Section 44.
- (iii) Section 15 (1) of Land Act, 1953, is scheduled for repeal because it is being rendered obsolete by the comprehensive provision in Section 31. Similarly Section 17 (3) of the 1953 Act is being rendered obsolete by Section 21 (2) of this Bill.

*Department of Lands  
(Land Commission),  
January, 1965.*

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are not have proved impracticable. These repeals include  
the enactments relating to the registration of  
the enactments contained in Section 12 (1) (a) (i) to (v)  
according to the particular old enactment provided earlier  
impractical as evasion was relatively simple and the  
a more ready remedy against an offending purchaser was for the  
Land Commission to put the holding up for com-  
pulsory sale which in practice is very difficult to  
effect. There would be no advantage in retaining  
such provisions in present circumstances. The extended  
power of acquisition provided in Section 25 of the  
Bill are the effective means to subdivide agricultural  
land.

(ii) The proposed repeal of Section 27 (1) (c) of Land Act,  
1958 is explained in connection with Section 14.

(iii) Section 15 (1) of Land Act, 1958 is scheduled for repeal  
because it is being rendered obsolete by the com-  
pulsory provision in Section 21. Similarly Section 17 (3)  
of the 1958 Act is being rendered obsolete by Section  
21 (2) of this Bill.

Subsections (5), (7), (8), (9), (11) and (12) contain the provisions for  
prosecution, trial and punishment of offences.

Subsection (6) contains incidental provisions about offences.  
Where necessary, the Land Commission may give their consent  
retrospectively.

Subsection (10) is also aimed against evasion by enabling a  
subsequent purchaser from a non-qualified person to raise the issue  
about the Land Commission's consent.

Subsection (12) ensures that the Registrar of Titles may  
refuse to register in the Land Registry a transfer which does  
not meet the requirements of this Bill though in all  
other respects it appears to be a valid transfer.

Finally there is provision that if the Minister of Lands  
creates any new category of "qualified" person his regulations  
in the matter must be laid before the House.