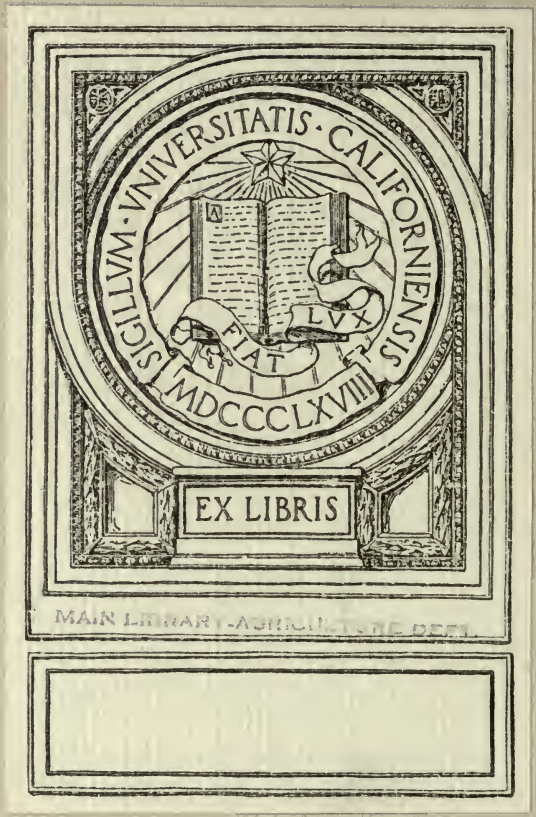

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THE

AGRICULTURAL HOLDINGS ACTS, 1908-1914

WITH INTRODUCTION AND EXPLANATORY NOTES AND FORMS

ALSO

THE BOARD OF AGRICULTURE AND FISHERIES RULES AND FORMS OF 1908

TOGETHER WITH A

MANUAL ON TENANT-RIGHT VALUATION

BY

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Fourth Edition

LONDON :

SWEET AND MAXWELL, LTD., 3 CHANCERY LANE, W.C.

1920

HD1160
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PRINTED BY
THE EASTERN PRESS, LTD.,
LONDON AND READING.

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PREFACE.

This work is intended to serve a dual purpose. In the first place it supplies the text of the Agricultural Holdings Act, 1908, with commentary and notes dealing with legal problems from the points of view of the landlord and tenant, the land agent and the tenant-right valuer. Secondly, it provides a manual on Tenant-Right Valuation, treating the practical, as well as the legal aspects of this topic. It is hoped that this second part will be useful, not only to the valuer and the arbitrator, but to members of the legal profession who are concerned in the sale or letting of agricultural estates.

In the first part of the volume I have departed somewhat from the conventional mode of treatment of the Act. I have attempted to discuss in a series of essays the salient problems raised by the Act, and have supplied the text of the Act, notes, and forms of the Board of Agriculture and Fisheries, &c., later. Naturally in this part of the book I am the debtor of many predecessors, and in particular desire to express my obligations to Dixon's "Law of the Farm," Woodfall's "Landlord and Tenant," the monumental edition of the Act by Lely and Aggs, the lucid edition of A. J. Spencer, and the useful treatises of Sylvain Mayer, Curtis and Gordon, Willis Bund, Johnston, Stanton, and others.

In the second part I am much indebted to Craggs and Marchant's "Hints to young Valuers," Tom Bright's "Agricultural Valuers' Assistant," Curtis's "Tennant-Right," and many others, but most of all to the able and lucid treatise on "Farm Valuations," by Mr. Leslie S. Wood. Since most of these gentlemen wrote, and particularly since

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1903, Tenant-Right Valuation has been undergoing rapid changes. It has been my endeavour to describe the influences that have caused variations in the customs of valuing, and particularly the newer methods adopted in the valuation of feeding stuffs and manures. In tracing these changes, I beg to express my gratitude to three distinct sources of help. In the first place, to the researches of three scientists, viz., Dr. J. A. Voelcker, Mr. A. D. Hall, F.R.S., and Dr. C. Crowther:—in passing it may be observed that the science of agriculture and all the agriculturists in Britain are under deep obligations to the aforesaid three scientists. Secondly, I have to express my obligations to the Report of the Central Chamber of Agriculture, and also to the good offices of practically every Chamber of Agriculture, and nearly every Tenant-Right Valuers' Association in England and Wales. Lastly, it is well known that the Act of 1908 gave an impetus to the drafting of new agricultural leases. I thank agents and tenants in nearly every county for allowing me to peruse these new models of the draftsman's art.

T. C. JACKSON.

April, 1912.

PREFACE TO FOURTH EDITION

THE continued patronage of Lawyers, Valuers, and Agriculturists has rendered a fourth edition of this work necessary. The Agricultural Holdings Act, 1914, recent decisions, a fuller account of the changes effected by Voelcker and Hall's Revised Tables, and notes on the changes due to the higher prices of feeding stuffs and manures have been added.

T. C. JACKSON.

January, 1920.

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PART I.

THE AGRICULTURAL HOLDINGS ACTS.

The Agricultural Holdings Act, 1908, is a consolidation of a series of former statutes which are now repealed—viz., the Agricultural Holdings Acts, 1883, 1900, and 1906; the Tenants' Compensation Act, 1890; and the Market Gardeners' Compensation Act, 1895.

At common law a tenant had no right to compensation for any unexhausted improvements or acts of husbandry. It was his duty to cultivate his holding in a husbandlike manner, and the landlord could recover damages from him if he failed in his duty; but there was no corresponding obligation on the part of the landlord to compensate the tenant for doing more than was necessary, or even to pay him for the seeds sown and the labour expended during the last year of his tenancy. Further, the common law rule as to fixtures required that whatever is affixed to the soil goes with the soil. This harsh doctrine was relaxed at an early date in favour of fixtures erected for the purpose of trade or domestic convenience, but it was decided by the well-known case of *Elwes* v. *Mawe*, 2 Smith's Leading Cases, 189, that no such relaxation was to be allowed to agricultural fixtures,

and consequently such fixtures became the absolute property of the landlord, and the tenant could not remove them either during his tenancy or on the determination thereof. Under such an unjust system "tenant right" might be truthfully described as "tenant wrong," and the results in fact were bad for the tenant, bad for the country, and harmful even to the best interests of the landlord himself.

The first statutory attempt to obtain security for the tenant was the Agricultural Holdings Act, 1875. This Act applied to holdings of two acres or more, and provided compensation based on the cost of the outlay for certain specified improvements. Unfortunately, however, the Act was permissive. The operation of the Act could be formally excluded by writing, and landlords were in such a hurry to contract out of the Act that before it had been in operation three months it was a dead letter. Although this first statutory attempt to put the position of the tenant on a secure basis was a failure, yet out of the hardships of the common law system arose privileges which were inaccurately called "customs of the country." It would have been more accurate to name them "customs of the district," so various were they in different places. These customs are the usages of districts where the holding lies. Under them, the tenant became entitled to be paid, in most counties, for the seed and labour of the last year and the preparation of the land in anticipation of a future crop, which the outgoer could not reap. In some districts allowances were made for artificial manures and the consumption of cakes and purchased feeding-stuffs, whilst in eighteen English counties and certain parts of South Wales allowances were made for improvements of a more permanent character, such as drainage, fencing, laying down pasture and buildings. Lincolnshire, Leicestershire, Yorkshire, and Glamorganshire in particular, were counties where the customs were somewhat definite, and fairly liberal allowances were made to the tenant for his outlay on improvements. For many of his acts of industry, and particularly those done during the last year of his tenancy, the tenant farmer must still

rely on the custom of the country or his agreement, but since January 1st, 1884, he has, in the case of certain specified improvements, a surer basis for his claim—viz., the Agricultural Holdings Act.

The principal object of the Act is to remedy the injustice of tenant farmers noticed above. It deals, however, with many other matters, including the procedure for ascertaining and recovering such compensation, the length of notice to quit, the right of a tenant to fixtures and buildings erected thereon, the law and procedure under a distress, &c. It is partly permissive in character and partly compulsory. It defines and explains many of the legal relationships that shall exist between landlord and tenant, but leaves it optional to the parties concerned to exclude them by writing under their hands. On the other hand, there are clauses relating to compensation for improvements, damage by game, unreasonable disturbance, and freedom of cropping, in respect of which the Act is compulsory. In regard to these matters, the landlord cannot deprive the tenant of his rights, for sect. 5 of the Act of 1908 makes void all contracts, agreements or covenants whereby a tenant deprives himself of his right to claim compensation under the Act.

Application of the Act.—We noticed above that the Agricultural Holdings Act, 1875, applied to holdings of two acres in extent and upwards. No such acreage limit is mentioned in the case of the 1908 Act, and the term *holding* is defined as: "Any parcel of land held by a tenant which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden, and which is not let to the tenant during his continuance in any office, appointment or employment held under the landlord." Similarly a *market garden* means:—"A holding cultivated wholly or mainly for the purpose of the trade or business of market gardening." It will be observed that the Act does not define "agricultural": in most cases there will be little difficulty in deciding whether the Act applies, but

should the question arise it will be a matter for the decision of the arbitrator. Some guidance as to the meaning of the term "agricultural" can be obtained from the Agricultural Rates Act, 1896, the Small Holdings Act, 1908, and the Finance (1909-1910) Act, 1910, where the expression is defined: from a consideration of these Acts, it may be submitted that the words "agricultural and pastoral" include pasture meadow and arable land, nursery grounds, orchards and park lands; but do not include pleasure grounds, recreation grounds or lands used exclusively for sport. In a recent case, viz., *Lancaster* v. *Macnamara, In re*, [1918] 2 K. B. 472, the Court of Appeal held that where the property comprised in a lease included not only a farm, but also an inn forming an important part of the demised premises, and in which a separate business was carried on, neither the whole property nor the farm constituted a "holding" within the meaning of the Agricultural Holdings Act, 1908, sect. 48 (1), which refers to the whole of the property in the demise; and therefore the tenant cannot obtain compensation under the Act either in respect of the whole property or the farm. The holding in question consisted of an inn, 86 acres of pastoral land, upon which were barns and other outbuildings. The rent of the whole was £171 per annum, and the local authorities rated the inn at £32 and the rest of the land demised at £102 15s.

We must observe that the Act applies only to leases and yearly tenancies (sect. 48): it is doubtful whether a tenancy for a less period than from year to year comes within the Act. It has been held that a tenancy for one year certain did come within the Act of 1883, and that the tenant was entitled to compensation for unexhausted improvements at the end of his tenancy (*Lockart* v. *Osborne*, 36 Sol. J. 365). But in *King* v. *Eversfield*, [1897] 2 Q. B. 475, A. L. Smith, L.J., said, "It seems to me, speaking for myself, that the meaning of the Legislature was that a tenant should not be entitled to compensation under the Act if his tenancy was less than a tenancy from year to year." The case of *Cobb* v. *Stokes*, 8 East, 358, which decided that a tenancy "for

a year" is not a tenancy from year to year, adds force to this contention.

In regard to the exclusion of those holding some office, appointment or employment under the landlord, it will be apparent that this affects many sub-agents, farm bailiffs and labourers, who, in return for their services, occupy small parcels of land belonging to their employers.

It is our intention to explain the construction of the Act in a series of notes following the various sections, and in the second part of this book to explain the application of the Act to Tenant Right Valuations. There are, however, certain matters of great importance which may well be treated separately. Accordingly, before dealing with the text, we shall discuss the undermentioned matters:—

1. Compensation for: (*a*) Unexhausted improvements. (*b*) Unreasonable disturbance. (*c*) Damage by game. (*d*) In case of a tenancy under a mortgagor.

2. Fixtures and their removal.

3. Landlord's remedies for breach of covenant, including the law of distress.

4. Determination of tenancy by notice to quit.

5. Freedom of cropping and disposal of produce.

6. Miscellaneous matters: (*a*) Landlord's right to view the holding. (*b*) Resuming possession of the whole. (*c*) Penal rents. (*d*) Record of the holding. (*e*) Market gardens.

7. Arbitration and the procedure in assessing compensation.

1. Compensation.

(*a*) **For Unexhausted Improvements.**—The chief object of the Agricultural Holdings Act is to provide compensation for the tenant in respect of improvements made by him. Not that the tenant is bound to claim compensation under the Act, for if he chooses he may prefer his claim under either (*a*) the Act, or (*b*) Custom, or (*c*) his Agreement.

Of course these various methods of obtaining compensation are mutually exclusive in respect to any particular

improvement. He could not, for example, claim compensation for the residual manurial value of purchased feeding-stuffs under the Act and then also claim under an agreement or custom. At the same time, these various methods of obtaining compensation may be utilised simultaneously as regards different improvements, and in point of fact it is not uncommon for a tenant to claim in one and the same arbitration for improvements his right to which depends upon both the Act, custom and his agreement (see Appendix II., Forms 7 and 8).

The first observation to be noted is that the Act provides compensation for certain defined improvements only. There are many items for which the tenant must still look to either his agreement or custom. The statutory improvements are specified in detail in the First Schedule to the Act, and are classified under three heads. The reader should refer to the Schedule, which may be summarised as follows:

PART I.—1. Buildings. 2. Silos. 3. Permanent pasture. 4. Osier beds. 5. Water meadows and irrigation works. 6. Gardens. 7. Roads and bridges. 8. Water courses, ponds, wells, &c. 9. Fences. 10. Hop planting. 11. Orchards. 12. Protecting young fruit trees. 13. Reclaiming waste land. 14. Warping or weiring land. 15. Embankments. 16. Wirework in hop gardens.

PART II.—17. Drainage.

PART III.—18. Chalking. 19. Clay-burning. 20. Claying. 21. Liming. 22. Marling. 23. Purchased manures. 24. Purchased feeding-stuffs. 25. Home-grown feeding-stuffs. 26. Temporary pastures. 27. Repairs to buildings.

In regard to the sixteen improvements specified in Part I. of the First Schedule, it is most essential to remember that the tenant cannot obtain compensation for any of them, unless **before** effecting such improvements he has the **written consent** of his landlord (see Appendix II., Form 4). That consent may be withheld, or it may be given by the landlord on any terms as to compensation or otherwise. Generally the improvements specified in Part I. might be

wisely left to the landlord. If, however, the tenant is speculative enough to invest his capital therein, it would be prudent to have a written agreement beforehand, determining the method and amount of compensation payable to him at the expiration of his tenancy.

The law in reference to compensation for drainage, the item specified in Part II. of the Schedule, is dealt with in sect. 3 of the Act. This section requires the tenant to give notice to the landlord or his duly authorised agent, not more than three and not less than two months before beginning to drain. The notice must be given in the manner prescribed in sect. 45 of the Act, *i.e.*, it must be given to the landlord personally, or to his agent, or sent to either by registered post. He must explain the manner in which he proposes to execute the improvement. The said notice should define generally the manner in which it is intended that the improvement should be effected. The Act does not require that minute specific details should be included, but the tenant would be well advised in attaching a rough sketch plan and in stating the kind of drainage intended (open, pipe, mole or otherwise), the particular fields and acreage intended to be drained, the size of the pipes, the depth and fall of the drains. The tenant should be careful to refrain from beginning the improvement before two months have elapsed from the sending of the notice, otherwise he will lose his right to compensation for the work so done. The landlord may agree with him as to the compensation payable, or may himself execute the improvement, and after executing it in a reasonable and proper manner, may charge the tenant 5 per cent. interest on his outlay, or an annual sum which will repay the outlay in twenty-five years with interest at the rate of 3 per cent. The landlord, however, is not entitled to drain on these terms, if, prior to his undertaking to execute the drainage, the tenant has withdrawn his notice of intention to drain. This power of withdrawing his notice is a valuable safeguard to the tenant. If the landlord decides to carry out the improvement, he must do so within a reasonable time, and the work must be done in a reason-

able and proper manner. The question whether the landlord is effecting the work in a "reasonable and proper" manner is one of fact, dependent upon the circumstances of each case; but in the event of the improvement being effected unreasonably or improperly, the tenant would be justified in refusing to pay the interest on the landlord's outlay. Moreover, if the landlord should embark on a lavish and expensive scheme, calculated to inflict a too heavy burden on the tenant, the latter would be well advised in withdrawing his notice, as apparently he has the right of doing so at any time before the landlord has actually commenced the improvement, even if the landlord has made preliminary preparations by drawing plans, purchasing pipes or making contracts for letting the work. Possibly, too, the tenant's notice will be effective, if given when part of the work has been done, (say) the drainage of one field. At any rate, it would appear that the withdrawal of his notice would thereby limit his obligation to the payment of interest on the capital expended at the date of such withdrawal. Further, if the landlord fails within a reasonable time to carry out the drainage, the tenant may execute it himself, and if there is no agreement with the landlord as to compensation, he will be entitled to compensation under the Act. It is quite open to the landlord and tenant mutually to agree to dispense with notice; and contracts of tenancy frequently contain provisions in respect to drainage (see Appendix II., Forms 5 and 6).

There is one curious omission in the Act, viz., that there is no definition of drainage, and a good deal of speculation has arisen as to whether every kind of draining, whether underground or open, is drainage within the meaning of the Act. Possibly the Legislature did intend to include every kind of draining which is beneficial to the land, but of course it is open to a practical arbitrator to take into account both the method in which the draining has been effected, its durability and its beneficial effect on the land drained.

For the improvements numbered 18 to 26, included in Part III., neither the consent of the landlord nor notice to

him is required: but No. 27 must not be commenced until notice has been given to the landlord, and he has failed to execute them within a reasonable time. What is a "reasonable" time is a question of fact, dependent upon the circumstances of the particular case. The notice should be in writing, and (as in the case of drainage) should contain such particulars and specifications that the landlord can be left in no doubt as to the tenant's requirements. It must be served in the usual manner prescribed by sect. 45, viz., served on the landlord or agent personally, or sent through the registered post to the landlord's last-known place of abode in England. This improvement came into operation on January 1st, 1909, but the exact words of the Act should be noticed. It should be observed that No. 27 does not apply to new buildings; for such the tenant still requires the consent of his landlord prior to their erection. Nevertheless, the item should be of considerable utility to the tenant; for, in the absence of an express covenant to repair, a landlord is practically under no obligation to do repairs, and yet the tenant must continue paying rent although the premises may be in such an utter state of disrepair as to cripple him in his farming. The tenant is now able to overcome this difficulty if his landlord is not disposed to move in the matter. Of course a tenant frequently covenants to do certain repairs himself, and for those improvements which he has contracted to effect he cannot claim compensation under the section. It behoves every tenant to protect himself against undertaking too onerous obligations in respect of the repair of the farm buildings. In ascertaining the amount of compensation due to a tenant for any repairs he may have effected, there must be taken into account any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvements; *e.g.*, it is very usual for the landlord to allow the materials, such as bricks, slates, timber in the rough, etc.; such allowance must, of course, be borne in mind in assessing the unexhausted value of any improvements. It will be noticed that the tenant

can claim merely the unexhausted value of his improvement at the expiration of his tenancy. Hence we consider that it is prudent to induce the landlord to covenant in the agreement of tenancy to do the repairs to the buildings and to insert a proviso allowing the tenant, should the landlord make default, to do the repairs and to deduct the cost of them from the rent. There would then be no unnecessary outlay of capital on the tenant's part, for he would not need to wait until the end of his tenancy before he was reimbursed his expenditure.

The improvements mentioned in Schedule 3 of the Act and discussed in sect. 42 are of interest mainly to market gardeners, or to those farmers whose holdings are wholly or in part cultivated as market gardens. To be entitled to compensation, market gardening must have been agreed to by the landlord, and where such is the case neither the consent of the landlord nor notice to him is required.

Sitting Tenant.—Apart from the special circumstances dealt with in sect. 36, it should be noticed that the Act does not provide compensation to a "sitting tenant," that is, a tenant not quitting his holding. The tenant's right to compensation vests in him at the determination of his tenancy on quitting his holding, and not before. But a tenant who remains in his holding during two or more tenancies is not deprived of his right to compensation (sect. 8).

Notice.—It is most important to observe, however, that although the tenant's right to compensation vests at the end of his tenancy, yet **he must give notice of his intention to make his claim before the determination of the tenancy** (sect. 6). This is a point which has frequently been neglected by tenant farmers, who thereby lose their claim to compensation under the Act, and in most cases deprive themselves of almost the whole of the compensation due to them, for it is notorious that in some counties custom does not entitle them to compensation for all the items specified in the Act. It is most important to remember that there are 27 specific improvements mentioned in the First Schedule to the Act. We shall see later that it is still

possible for the *amount* of the compensation for any of these 27 improvements to be regulated by custom or agreement, but we are here dealing with the *mode* of obtaining compensation under the Act. Clearly the Act has taken away from the tenant, in regard to these 27 improvements, the common-law right of bringing an action against the landlord for the amount of the compensation. The tenant's sole remedy is arbitration in the manner prescribed in the Act, and an indispensable preliminary to such arbitration is **notice by the tenant to the landlord made before the determination of the tenancy of the intention to claim compensation.** If the tenant neglects to give notice or fails to give it within the proper time, he must look to his agreement or custom (if any) for his right to claim compensation. Even if custom or his agreement do provide compensation for the particular statutory improvements for which he is claiming, his difficulties are not ended. It is frequently difficult to prove a custom, and agreements are not always clear; moreover the burden of proof would be on the tenant who alleged the custom. In fact, in regard to the 27 improvements indicated in the First Schedule, there is only one safe procedure, and that is to give proper notice. The Act then assures the tenant compensation, and his only tasks will be to prove (*a*) that the alleged improvement was effected by him at his sole cost, and (*b*) the value of such improvement to an incoming tenant at the date of quitting.

In stating that an outgoing tenant has no right of action against the landlord, but must follow the procedure indicated in the Act, it must be clearly understood that we are referring to improvements comprised in the First Schedule. An outgoer often has additional claims against his landlord, not comprised in the specific 27 improvements mentioned in the First Schedule. These additional claims may be valid under custom or agreement. For such additional claims an action can be brought unless the Act or agreement provides that arbitration may be the method of settling the dispute, in which case the procedure furnished by the Act applies (sect. 13).

Tenant farmers should remember that a notice of the claim given to an incoming tenant would not satisfy the terms of the Act. The notice must be given to the landlord or his agent. The Act does not expressly state that the notice need be in writing; but he would be a bold man who relied on the sufficiency of a verbal notice. At the same time, the "notice" is not the "claim" itself: it is merely an expression of intention to claim, and it is somewhat doubtful how far it need mention any particulars. Mr. W. H. Aggs ("Agricultural Holdings Act," 4th ed.) states that this notice of intention to claim need not contain any particulars nor mention any amount. This opinion is supported by the practice of most of the Tenant Right Valuers' Associations, whose forms of notice are quite general in their phraseology. On the other hand, Mr. Clement E. Davies ("Farm Valuation," 4th ed.) submits that "the Act requires the notice to contain a list of the improvements for which the tenant intends to claim, as the section states that a claim in respect of any improvement comprised in the First Schedule of this Act shall not be made unless notice of intention to make the claim (in respect of *any* improvement) has been given." Mr. Davies contends that the purpose of the notice is to enable the landlord to inspect the alleged improvements and that a mere general notice of claim, without specifying each improvement, would not assist him in any way, and he concludes that "if the notice does not mention a certain improvement, compensation in respect of *that* improvement cannot then be claimed under the Act." If Mr. Davies be right, then the notice of intention should contain the names of each and all of the 27 statutory improvements for which the tenant is claiming, and in fact be almost as detailed as the actual claim itself, except that it would omit the figures and amount claimed. We may point out that the Act nowhere states that the object of this preliminary notice is to enable the landlord to inspect the holding and the improvements alleged to be made. He has a statutory right to inspect the holding quite apart from this notice. Moreover the mere mention of the name of the

improvement would not help the landlord much, and in practice the landlord's valuer would not usually begin to investigate the *bonâ fides* of the tenant's claim until the particulars contained in the claim were in his possession. We are inclined to agree with Mr. Aggs and consider that, in a mere general notice of intention to claim, the Act does not require that degree of particularity postulated by Mr. Davies.

Provision is made in sect. 6 for cases where the tenant does not quit the whole of his holding at one and the same date—a common occurrence. In fact, in Lady Day tenancies the holding is often relinquished at three different dates, viz., February 2nd, April 6th, and May 12th. Sect. 6 provides for these cases, and enacts that where the claim relates to improvements executed after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the notice may be given at any time before the tenant quits that part. It should be carefully observed that this provision does not free the tenant from giving notice of his claim before the end of his tenancy in respect to improvements on those parts of his holding which he has surrendered. In Appendix II. (Forms 7 and 8) we give forms suitable for an outgoer's claims; but we must impress upon practical men the desirability of arranging such claims some considerable time before the end of the tenancy, and in point of fact the whole of the farming of the last year should be carefully regulated with a view to simplifying the outgoing valuation. At this point we may observe that notice of intention to claim compensation may be given either personally to the landlord, or left at his last-known place of abode, or sent through the post in a registered letter. This last method is usually the advisable one, and in respect to notices to landlords it should be added that they may be sent not only to the landlord himself, but to any agent of the landlord duly authorised in that behalf (sect. 45).

Measure of Compensation.—The tenant's outlay, that is, the cost of the improvement, was the basis of compensation

under the abortive Act of 1875. Perhaps this reference to the cost was an unfortunate one, for during the whole of the last quarter of the nineteenth century valuers were in the habit of assessing the value of an improvement as a fractional part of its cost to the outgoer. Now it is very obvious that what the outgoer may have spent upon an improvement has no relation whatever to the value of that improvement to an incoming tenant. The Act of 1883 wisely eliminated all reference to the cost of any improvement in arriving at its value to an incoming tenant. Thoughtful men were beginning to recognise the necessity of some other basis on which to assess compensation for the consumption of purchased feeding-stuffs and other improvements, and accordingly the principle that outlay should be the basis of compensation has been replaced by another, viz., the compensation payable is **such sum as represents the value of the improvement to an incoming tenant,** and there can be no doubt that this new basis is the fairer and the more scientific one. Whether an improvement will be made or not depends upon a comparison between the probable cost and the probable profit. But when once an improvement has been effected, cost has nothing to do with its value. What the Act says is that the cost of the outgoer's improvement shall not be the basis of compensation; but that basis must be the actual value to the incomer. An outgoer who has spent money wastefully or injudiciously in improvements cannot saddle the landlord or the incomer with the loss.

We must notice that although the new basis was the more scientific, yet it was not immediately adopted by practical men. In 1885 the late Sir J. B. Lawes and Sir H. Gilbert published tables which unmistakably showed the enormous difference in the residual manurial values of various feeding-stuffs, the cost of which might be almost identical. These tables met with little favour from valuers, as being too complicated for general use; but by the beginning of 1914 the new method had very generally replaced the old method of assessment based on cost, and the Scales of Compensation

(founded on Messrs. Voelcker and Hall's researches) undoubtedly provide a more correct basis of compensation than any system of valuation based upon the cost incurred by the outgoer; and it can scarcely be doubted that, if the matter comes before the Court, it will uphold an award based on the modern Tables of Manurial Values which are constructed on the basis indicated in the Act (viz., the value to an incoming tenant), rather than an award based on the old method of cost.

It may be relevant to notice that although the Act defines the basis of compensation, it very properly does not attempt to state how the unexhausted value of such improvements is to be assessed. Of course, it behoves a practical arbitrator to make himself acquainted with the scales of compensation published by experts and agricultural societies, and particularly those current in the district where the holding is situate. It need hardly be said, however, that such theoretical tables will not always be correct in varying circumstances, and that an arbitrator need not be bound by them. He must use his own judgment in applying them to the holding under consideration.

Limitations of Compensation.—The compensation due to a tenant may be diminished by—

(*a*) Any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvements; *e.g.*, we have just noticed that it is very usual in the case of repairs to buildings for the landlords to provide the timber, bricks, slate and other material. Hence the tenant's claim will naturally be smaller than if he had not only done the work, but provided the material as well. There is another mode, however, in which the landlord frequently allows consideration to the tenant, viz., he may make a reduction of the rent in consideration of a specific improvement. In such a case, when a landlord seeks to set off any benefit of this nature allowed to his tenant, the burden of proof will fall upon the landlord, and he must show that he came to an agreement with the tenant that the

benefit should be taken in lieu of compensation for some particular improvement.

A Scotch case (*M'Quarter* v. *Fergusson* (1911), S. C. Court of Sessions) supplies an interesting illustration on this point. In this case the lease contained provisions which required the tenant to manure the land with a certain amount of farmyard manure per acre, and so far as he did not make on the farm sufficient farmyard manure, he was under the obligation of applying artificials. Clearly under the section of the Scotch Act corresponding to sect. 1 of the Agricultural Holdings (England) Act, he was entitled on quitting his holding to claim the unexhausted value of such purchased manure. In the case in question it was attempted to deprive him of this right, partly on the ground that valuers in the ascertainment of the amount of the compensation payable to a tenant shall take into account any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement. The landlord maintained that the tenant had received a "benefit," viz., that he was required to pay less rent than he otherwise would have been obliged to pay, but for the existence of the covenant to manure. It was held that the landlord had given no benefit, and that the tenant was entitled to the unexhausted value of the purchased manure which he had applied. See also *Galloway (Earl)* v. *M'Clelland* (1915), S. C. 1062, and *Buchanan* v. *Taylor* (1916), S. C. 129.

(*b*) Further, the compensation may be diminished by an allowance for the value of the manure required by the contract of tenancy or by custom to be returned to the holding in respect of any crops sold off or removed from the holding within the last two years of the tenancy, not exceeding the value of the manure which would have been made by the consumption on the holding of the crops so sold off or removed. The word "manuring" includes the improvements numbered 23, 24 and 25 in Part III. of the First Schedule to the Act. We have already noticed that at common law the tenant's obligation is merely to cultivate

in a husbandlike manner, and consequently, apart from custom or agreement, he is under no obligation to consume on the holding the crops raised thereon. He may sell off hay, straw and roots. In such cases the restriction on compensation noticed above will have no effect; *i.e.*, there would be no deduction for hay, straw and roots sold off or removed from the holding within the last two years of the tenancy. Such cases, however, are extremely rare, for every custom of the country is incorporated in every contract of tenancy, unless it has been expressly or impliedly excluded. Now in almost every county in England, the custom is that the tenant should consume the hay, straw and roots; or that he should leave the unconsumed hay, straw and roots for his landlord or successor at "a consuming price," which is the market price less the manurial value. Moreover, even where custom does not demand, contracts of tenancy usually do require the tenant to consume his hay and straw, or leave them at consuming price. What the Act says, is that in either case, whether obliged by custom or agreement, the tenant's compensation shall, if he sells off his hay and straw contrary to agreement or custom, be reduced by a sum not exceeding the manurial value of the crops sold off or removed from the holding.

(*c*) We may here notice that (sect. 6) a landlord may counterclaim against the tenant in respect of any breach of contract or otherwise in respect of the holding. A landlord's counterclaim would usually include arrears for rent, damages for breach of covenants, claims for dilapidations in consequence of improper treatment or neglect of land or from a contravention of the laws of the rotation of cropping, or from the absence of the stipulated or customary quantity of fallow land in course of preparation for wheat. In order to entitle him to make this counterclaim, the landlord must give notice in writing to the other party not later than seven days after the appointment of the arbitrator and state that he desires that the arbitration shall extend to the determination of the counterclaim.

Restrictions in respect to improvements by the tenant are imposed by sect. 9, which enacts that "with the exception of manuring" no compensation can be claimed for improvements begun after the following times:—

(a) *In the case of a yearly tenant*—within one year before he quits the holding, or after he has given or received notice resulting in his quitting; and

(b) *In any other case*—within one year before the expiration of his contract of tenancy.

There are, however, two exceptions provided by the section:—

(1) Where the tenant, previously to beginning the improvement, has served notice on his landlord of his intention to begin it, and the landlord has either assented or has failed for a month after the receipt of the notice to object to the making of the improvement; or

(2) In the case of a yearly tenant where the tenant has begun the improvement during the last year of his tenancy and in pursuance of a notice to quit thereafter given by the landlord quits his holding at the expiration of that year.

In both these cases the tenant can make a claim for compensation, but he must do so before the end of his tenancy.

Further, just as the landlord may counterclaim for breaches of covenant on the tenant's part, so the tenant may add to his claim any sum due in respect of breach of covenant connected with a contract of tenancy and committed by the landlord; and may add a claim for any non-statutory improvement for which compensation may be due to him either under his agreement or by custom.

This 9th section of the Act is an important one, and the effect of it may be summarised as follows:—

(a) Yearly tenants are entitled to compensation for the unexhausted value of purchased manures and the consumption of feeding stuffs right up to the end of their tenancy.

(b) Whether liable to quit at a year's notice or half a year's notice, a yearly tenant is entitled to compensation for statutory improvements begun at any time prior to giving or receiving notice to quit.

(c) Apart from the application of purchased manures and the consumption of feeding stuffs, a yearly tenant is entitled to receive compensation for any statutory improvements made *after receiving* notice to

quit, provided he has given notice to his landlord of his intention to make the improvement and the landlord has either agreed thereto, or within a month after the receipt of the notice has not expressed his dissent.

In the case of a leaseholder whose tenancy expires without notice by effluxion of time, the last year of the tenancy is the period during which he must not make statutory improvements (except manuring) without the consent of, or, at any rate, failure to express dissent by, his landlord.

Substituted Compensation.—The tenant is entitled to compensation for any improvements mentioned in the third part of the First Schedule whether the landlord has consented to them or not. It is impossible for the landlord to deprive the tenant of his right to compensation for such improvements, for sect. 5 makes void, though not illegal, any contract made by a tenant of a holding by virtue of which he is deprived of his right to claim compensation under the Act in respect to any improvements comprised in the First Schedule to the Act. This section raises some difficult questions and requires to be read in conjunction with sects. 2, 3, and 4. It is believed that where a tenant occupies a holding to which the Act applies, and has complied with the requirements of the Act as to notice, nothing can prevent him from claiming compensation under the Act. Various suggestions have been made as to the possibility of avoiding the compulsory provisions of the Act; *e.g.*, the tenant might stipulate not to execute improvements at all, or he might agree to pay a penal rent if improvements were executed by him. In either of these two cases he would indirectly forego his rights to compensation. It is believed, however, that the Act could not be successfully avoided in this way. The tenant might make the statutory improvements in spite of his contract, and if the landlord sued him for breach thereof, it is difficult to see on what grounds, even apart from the Act, a landlord could claim compensation for an improvement. It is absurd to suppose that that which improves a holding is at the same time an injury to it. Quite apart, however, from this defence, it is submitted

that sect. 5 would be an ample defence to the tenant; for any agreement which deprives the tenant of his right to receive compensation must be void under the section. Although the tenant cannot rob himself of all the benefits of the Act, he may within special limits and by special agreement, substitute other benefits for them. There may be "*substituted compensation*" in lieu of "*statutory compensation.*"

The effect of these four sections may be stated to be as follows:—

(1) For any improvements mentioned in the first part of the First Schedule, the landlord may withhold his consent or may grant it upon such terms as may be agreed upon.

(2) In regard to the improvement (drainage) mentioned in the second part of the First Schedule, although the operation of the Act cannot be excluded, the amount of the benefit to the tenant may be agreed upon, and it is believed that both in the case of improvements in Part I. and Part II., if some benefit accrue to the tenant under the agreement the adequacy of the compensation would not be inquired into by any Court.

(3) In the case of liming, manuring, and other scheduled improvements mentioned in Part III., we have seen that the tenant cannot be robbed of his right to compensation, and although the landlord and tenant may exclude the Act even as to improvements in Part III., provided that this is done by an agreement in writing, yet there is this important proviso, viz., that such agreement shall provide fair and reasonable compensation.

The Act does not define the expression "fair and reasonable compensation," but in considering what constitutes such compensation regard is to be paid to the "circumstances existing at the time of making such agreement." It may often be very difficult to say whether the substituted compensation does or does not satisfy these words. The question will generally be a mixed one of law and fact, and the obligation to solve it rests upon the arbitrator who has jurisdiction in the case of substituted compensation as well as in compensation under the Act. Scientific men and Chambers of Agriculture have been engaged in drafting tables of compensation for statutory and other improvements. Such tables may be regarded from two points of view. The

statutory basis of compensation is the unexhausted value of the improvement to an incoming tenant, and the tables of compensation may be considered as a method of interpreting this statutory basis and giving a concrete monetary solution to it. On the other hand, such tables of compensation may be regarded as an effort to provide substituted compensation which shall be fair and reasonable. An arbitrator is not bound by such public scales, however carefully devised, but, on the other hand, it may be submitted that the tables of Voelcker and Hall, those of the Central Chamber of Agriculture, and even those of District Chambers of Agriculture and Valuers' Associations may be regarded as *primâ facie* fair and reasonable and consequently in conformity with the Act.

(*b*) **Compensation for Unreasonable Disturbance.**—Sect. 11 of the Act introduces legislation which is new in character and which has been the subject of considerable criticism. It is directed against a landlord who, without good and sufficient cause *and* for reasons inconsistent with good estate management, terminates the tenancy by notice to quit or having been requested in writing at least one year before the expiration of the tenancy, refuses to grant a renewal thereof or demands an increase of rent by reason of an increase in the value of the holding due to improvements which have been executed at the cost of the tenant and for which he has not, directly or indirectly, received an equivalent from the landlord. Such a tenant is, on quitting, entitled to compensation for unreasonable disturbance. This compensation is in addition to that (if any) to which he may be entitled in respect of unexhausted improvements. The section does not create dual ownership, nor does it create fixity of tenure. The landlord is not prevented from terminating a tenancy, on giving proper notice to quit (*Brown* v. *Mitchell* (1910), S. C. 369).

The tenant cannot deprive himself by contract of such right to compensation, and the measure of the compensation is the loss or expense directly attributable to his quitting the holding which he may unavoidably incur in connection

with the sale or removal of his household goods, his implements of husbandry, the produce or farm stock used in connection with the holding.

There are four cases in which the tenant is deprived of this compensation:—

(*a*) Where he has failed to give his landlord a reasonable opportunity of making a valuation of such goods, implements, produce and stock. But the words "reasonable opportunity" do not impose any duty on the tenant to give intimation to the landlord of such opportunity (*Barbour* v. *McDouall*).

(*b*) Where he has not within two months after he has received notice to quit or a refusal to grant a renewal of the tenancy, given notice in writing to his landlord of his *intention* to claim compensation under sect. 11 of the Agricultural Holdings Act, 1908; except in the special cases dealt with in the Act of 1914.

(*c*) Where the tenant with whom a contract of tenancy was made has died within three months before the date of the notice to quit, or in the case of a lease for years, before the refusal to grant a renewal.

(*d*) Where the tenant has not made a *claim* for compensation within three months after quitting the holding.

In the event of any difference arising as to any matter under this 11th section, the difference shall in default of agreement be settled by arbitration.

The object of the section is to prevent arbitrary dealing on the part of a landlord to the injury of his tenant, and is further intended to hinder the pernicious practice of raising a tenant's rent, when such tenant has improved the holding at his own cost and outlay. Laudable as these objects may be, yet the section is so involved and limited by so many conditions that it is to be feared that the intention of the Legislature will be greatly nullified. Very important duties are cast upon the arbitrator. It will be a difficult task for him to determine the question involved in the words, "without good *and* sufficient cause and for reasons inconsistent with good estate management." Perhaps the

determination of this point might more fittingly have been left to a Court.

The right to compensation arises in three cases, viz., where the landlord "without good and sufficient cause *and* for reasons inconsistent with good estate management," does one of three things, that is:

(*a*) Terminates a tenancy by notice to quit.
(*b*) Refuses to grant a renewal of the tenancy after having been requested in writing to do so at least one year before its expiration, and
(*c*) Demands an increase of rent from the tenant owing to an increased value of the holding, which increased value has been brought about at the cost and exertion of the tenant, and for which he has not directly or indirectly received an equivalent from his landlord, and the demand results in the tenant quitting the holding.

Undoubtedly it is a difficult task to determine the motives of the landlord in giving a notice to quit; but this motive must be ascertained in solving the questions, "What is a good and sufficient cause, and what are the reasons that are inconsistent with good estate management?" The first point is to determine the burden of proof. The tenant should set the ball rolling. He must show that he is tenant of a holding to which the Act applies and that the landlord has given him notice to quit, or that he refused to renew the lease, although requested a year before its termination to do so. The burden is then thrown on the landlord of proving to the satisfaction of the arbitrator that he acted with good and sufficient cause. In fact the burden of proof may change at various stages of the case from one party to the other (*Brown* v. *Mitchell*). Next the question arises, "What is a good and sufficient cause, and what are the reasons that are inconsistent with good estate management?" The section does not explain, but seeing that the two sentences are linked together by the conjunction "*and*," it is clear that the landlord will need to satisfy the arbitrator that both conditions existed when he gave the tenant notice to quit or refused a renewal of the tenancy.

Instead of determining what was (*a*) the cause and (*b*) what were the reasons, and further deciding whether the

cause was "good and sufficient" and whether the reasons were "consistent with good estate management," the arbitrator may state a case for the opinion of the County Court on the question whether, on the facts found by him the cause can in law be regarded as "good and sufficient," and similarly whether, on the facts as found, the reasons are legally capable of being regarded as "consistent with good estate management." He may do this on his own initiative, or at the request of either of the parties, and must, if directed by the Judge of the County Court, which direction may be given on the application of either party (Schedule II., Rule 9).

It may be idle to speculate as to the meaning of the expression, and the decided cases are somewhat few in number. Perhaps most help can be obtained from the luminous decision of the Lord President in *Brown* v. *Mitchell*: "What reasons were capricious and what reasons were not capricious no man would try to define, because really no one could possibly *ab ante* figure before himself all the possible reasons for which a landlord might wish to get rid of a tenant. If the arbiter said the reasons were bad, he did not know who was to interfere with him; but nevertheless it was obviously the intention of the Act that there might be perfectly good reasons inconsistent with what might be called agricultural reasons. The agricultural reasons, of course, would be that the tenant was a bad farmer. But there were many other classes of reasons. For instance, there was the reason that the rent was much too low, and the tenant would not give more, and that would be a perfectly good reason. The best proof would be that some one else was willing to give more. Nobody could say that that was not a good reason for parting with a tenant, and in the same way it would also come under the words of the section, because it could not be said to be a reason inconsistent with good estate management, which meant getting as much as the property was worth." This decision was strongly approved in the first case that came before the (English) High Court, viz., *Bonnett* v. *Fowler*,

[1913] 2 K. B. 537. Prior to the passing of the Agricultural Holdings Act, 1914, several County Court decisions restricted a tenant's claim for unreasonable disturbance; *e.g.*, in *Clewlow* v. *Lloyd*, a landlord had devised his estate to trustees on trust for sale. They executed the trust and the purchasers wished to farm the estate themselves. In view of this sale the trustees had given the tenant notice to quit, and the purchasers entered into occupation at the expiration of the said notice. The tenant claimed compensation for unreasonable disturbance against the purchasers, but his claim failed (1910, "Estates Gazette Digest of Cases," p. 321). Similarly in *Eaton* v. *Swetenham* (1912, "Estates Gazette," p. 98) it was decided that a landlord, who had given his tenant notice to quit the holding with a view to selling a portion (25 acres out of 63) to a County Council for small holdings, was not liable to the tenant under sect. 11 of the Act of 1908, on a claim for unreasonable disturbance. It is submitted that both these decisions would be incorrect, if similar claims were now made under the Agricultural Holdings Act, 1914. Another case that ended unfavourably for the tenant was that of *Osborne* v. *Herdman*. The reason assigned by the landlord for giving notice to quit was that he wished to build one or two bungalows on the holding. Considerable correspondence took place between landlord and tenant respecting a new tenancy, the landlord offering to grant the tenant a seven years' lease, while the tenant unsuccessfully endeavoured to obtain from the landlord the terms under which the lease would be granted. The negotiations proved fruitless. In point of fact the landlord did not build any bungalows, and before the expiration of the notice to quit sold 377 acres (out of 450) to a third party. It was agreed on both sides that the determining reasons must be those which influenced the landlord at the time of his giving the notice, and no other. The learned judge held that the arbitrator was right in admitting the subsequent correspondence, on the ground that any evidence is admissible which might throw light on the genuineness of the motives of the landlord or the

adequacy of the cause assigned by him for giving notice to quit. He further held that the cause was a good one and the reasons consistent with good estate management. The fact that the landlord had changed his mind and sold the estate instead of building the bungalows as he had stated, did not lay him open to pay compensation to the tenant. The subsequent correspondence showed that the landlord wished to keep the tenant, and the tenant could probably have obtained a new lease, if he would have stated what rent he was prepared to pay; but he declined to do this, and accordingly his claim under sect 11 was disallowed (1912, "Estates Gazette Digest of Cases," p. 263).

Other good and sufficient causes and reasons consistent with good estate management might be serious breaches of covenant by the tenant, neglect to repair fences and scour ditches, bad farming, insufficiency of live stock, inadequate capital, non-residence on the holding, arrears of rent, refusal to sign a reasonable tenancy agreement which was subsequently accepted by another tenant at the same or a higher rental, composition with creditors, etc., but not religious or political differences or capricious reasons.

In the case of a demand for an increase of rent, which results in the tenant quitting the holding, it should be carefully noticed that the section does not prohibit the landlord from raising the rent except in one specific case, viz., where the increased value is due to improvements which have been executed at the sole cost of the tenant and for which he has not directly or indirectly received an equivalent from the landlord. Moreover the burden of proof is on the tenant. A landlord may, however, find justification for raising the rent on grounds other than the tenant's exertions and capital outlay. Natural or artificial causes may have brought about a rise in the price of agricultural produce and caused an increased demand for land. Better railway facilities, the growth of new markets and other causes may enable the landlord legitimately to demand an increased rent without incurring liability. It is not clear from the section what is the exact meaning of the tenant's

improvements; whether it means improvements in the limited sense implied in the First Schedule to the Act, or in the wider sense of any improvement that has increased the value of the holding. Possibly the latter interpretation of the term is the correct one. In this connection the past tense of the verb should be noticed "for which he *has* not either directly or indirectly received an equivalent from the landlord." No regard, therefore, must be paid to any compensation that the tenant will receive in the future for a statutory improvement embraced in the Schedule to the Act, and the landlord could not justify demanding an increased rent on the ground that the tenant would in future receive the unexhausted value of his outlay.

The case of *Bonnett* v. *Fowler*, [1913] 2 K. B. 537, is interesting as illustrating the tenant's difficulties where it is alleged that the tenant has quitted the holding in consequence of an attempt to raise his rent, which increased value has been brought about at the cost and exertion of the tenant. It was found as a fact by the arbitrator that Bonnett was a good and satisfactory tenant; that he had improved the condition of the land during his 16 years' occupation; that he had effected various improvements at his own cost and that he had not and would not in his tenant-right valuation receive compensation for these improvements; further, the improvements increased the letting value of the holding. But the arbitrator further found that the notice to quit was given for the sole reason that Bonnett declined to pay the increased rent demanded from him, that such increased rent was not proved to have been demanded by the landlord by reason of an increased value of the holding resulting from the tenant's improvements, and that the land had been re-let to a new tenant at an advance of 10s. per acre on the rent paid by Bonnett. On these facts the County Court Judge held that the tenant was not entitled to compensation for unreasonable disturbance, and this decision was upheld by the Court of Appeal, where it was held that a landlord who gives the satisfactory tenant of an agricultural holding notice to quit for the sole

reason that he can obtain an increase of rent from another prospective tenant of equal standing has good and sufficient cause for giving the notice to quit and a reason not inconsistent with good estate management within the meaning of sect. 11 of the Agricultural Holdings Act. Further, when an increase of rent is demanded from the tenant of an agricultural holding and such demand results in the tenant quitting the holding, the onus in the first place is on the tenant to prove that such increase was demanded by reason of an increase in the value of the holding due to the improvements executed by the tenant.

It will be observed that the tenant must give two notices to the landlord. One of such notices merely indicates his intention to claim compensation. Such notice, which must be in writing, if not delivered personally to the landlord, a tenant would be well advised to send in a registered letter. Further, this notice is not identical with the notice that the tenant must send under sect. 6 (2) when claiming the ordinary compensation for unexhausted improvements. This latter notice may be sent any time before the determination of the tenancy; whilst the written notice of *intention* to claim compensation for unreasonable disturbance must be sent so as to reach the landlord within two months of receiving the notice to quit, except in the case of claims under the Agricultural Holdings Act, 1914. This period of two months is an absolute one and cannot be extended. No doubt the term "month" has the meaning assigned to it in the Interpretation Act, 1889, s. 3, and means calendar month. However, the arbitrator has jurisdiction enabling him to decide whether the notice of intention to claim compensation was given within the prescribed time limit, the validity of the said notice, and even the validity of the prior notice to quit given by the landlord (*Ferries* v. *Viscountess Cowdray*, (1919) 56 Sc. L. R. 220, H. L. (Sc.). Form 21 in Appendix II. provides a suitable precedent for this purpose.

Next, the tenant must give the landlord an opportunity of making a valuation of the goods, implements and stock

upon the holding. What constitutes a "reasonable opportunity" is not defined by the Act, but is a question of fact which would be determined by the arbitrator. The section however does not impose any duty on the tenant to give intimation to the landlord of such opportunity; thus in *Barbour* v. *McDouall* the tenant gave notice of intention to claim compensation in May, 1912, and proceeded without further intimation to his landlord to sell his stock in February, 1913. It was held that he had given the landlord a reasonable opportunity. Finally, not only must the tenant send a written notice of his intention to claim compensation, but he must send in his actual claim for such compensation to the landlord within three months of quitting the holding (see Form 22, Appendix II.). This actual claim for compensation for unreasonable disturbance under sect. 11, sub-sect. (*d*), unlike a notice of *intention* to claim under sect. 11, sub-sect. (*b*), need not be in writing (*Silvester* v. *Brown*, 114 L. T. 930). We have already noticed that, particularly in the case of a Lady Day tenancy, a tenant quits the holding at different dates, viz., the arable land on February 2nd, the grass land on April 6th, and house and buildings on May 12th. From which of these various dates is the three months to be calculated? Probably from the last-mentioned date, because it can scarcely be said that the tenant has quitted the holding until he has ceased to be in possession of every part of it.

We need hardly say that the claim should be much more precise in form than the preliminary notice, and should be capable of being supported by evidence as to the loss incurred.

In regard to the compensation payable by the landlord the Act enacts that it is strictly limited to the loss or expense directly attributable to quitting the holding, and unavoidably incurred in connection with the sale or removal of household goods, implements, produce or farm stock used in connection with the holding. It is not easy, however, to determine the exact meaning of these expressions, and to state precisely what the loss amounts to. Suppose the

tenant decides to hold a sale. The landlord has the right of first making a valuation of the goods; this does not solve the question. Is the loss the difference between the cost price, less a reasonable sum for depreciation, and the selling price; or is it the difference between the selling price and the valuation that the landlord has placed upon the goods; or is it the difference between the sum obtained at the sale and the sum that will be necessary to re-stock a new holding with a similar amount of implements and cattle? The Act is silent on these points; but we may submit that the first supposition is not a correct mode of valuation, as the original cost of an article has little to do with its subsequent value. If the second mode were the sole criterion, we fear that little compensation would be payable to any tenant, for practically it would leave the amount of the loss to be determined by the party who is under the obligation of paying. It may be submitted that the third method supplies a reasonable mode of assessing the compensation due to the tenant. On the other hand, the tenant may decide to have no sale, but to remove to another holding. What expenses are to be allowed to him? The cost of removal from England to New Zealand or from Yorkshire to Essex, or from one village to a neighbouring one? It is submitted that the cost of removal to a distant part of the country, still more to a farm in the colonies, would be quite unreasonable; but the vague words used in the Act, such as "directly or indirectly attributable" and "unavoidably incur upon or in connection with," open out a wide field for speculation and litigation. At any rate the proof of loss is an obligation of the tenant; but in the case of sale, such items as the auctioneer's commission, advertising, and all reasonable incidental expenses incurred in connection with the sale, as well as the loss through a "forced" sale, should be included (*Barbour* v. *McDouall*). In regard to the expenses of removal, the loss or expense must not be too remote; *e.g.*, in *Evans* v. *Lloyd* (1912, "Estates Gazette Digest of Cases," p. 392), the County Court Judge disallowed the tenant's claim for damage to furniture in transit,

the tenant's expenses of lodgings for himself and family for a week which were incurred while removing to the new farm, and the cost of agisting cattle rendered necessary by the fact of removal. The case of *Evans* v. *Glamorgan County Council* (28 Times Law Reports, p. 517), although decided under an agreement, containing a clause copied from the Small Holdings Act, 1910, further illustrates the kind of loss or expense for which compensation can be claimed. The County Council had purchased a farm for small holdings, and under an agreement dated January 24th, 1912, had agreed to pay the tenant £500 compensation, this being the estimated amount of one year's profit, and also agreed to pay to the tenant compensation for the loss or expense "directly attributable to his quitting the holding which he unavoidably incurred in connection with the same, or the removal of his household goods, implements, produce or farm stock, on or used in connection with the holding." It will be observed that they agreed to pay him compensation for unreasonable disturbance, in addition to the £500. The farmer held a sale by auction and claimed loss on this forced sale: but the Council disputed certain items in the claim, and particularly

(*a*) £34 11*s*. 8*d*. for refreshments at the sale, that is lunches and drinks provided for those attending the sale;

(*b*) The costs of valuation of the farming stock and tenant right, amounting to £73 2*s*. 6*d*.;

(*c*) The loss on the compulsory sale estimated at £442 0*s*. 6*d*.; and

(*d*) A fee of two guineas for settling the agreement of January 24th.

The arbitrator disallowed:—

(*a*) The cost of refreshments, although he found that it was usual to allow refreshments at auction sales and that the amount was reasonable.

(*b*) He allowed £21 for valuing the farming stock prior to the sale. He considered it prudent to have a valuation of such stock before the sale; but he did

not allow anything for tenant right, as that was a subject with which he was not dealing.

(*c*) For the loss on the sale he allowed £181, and

(*d*) He allowed the two guineas costs for settling the agreement.

On a case stated, the Court did not quite agree with the arbitrator, but held that

(*a*) Having found that the giving of the lunches was customary and the amount reasonable, he ought to have allowed for the said refreshments; but that

(*b*) He ought not to have allowed a fee for a valuation of the stock prior to the sale.

(*c*) On the other hand, the tenant was entitled to *any* loss which he unavoidably incurred in the sale, but

(*d*) Not to the two guineas for settling the agreement, which was not an unavoidable loss.

No compensation is payable for unreasonable disturbance when the notice to quit or refusal to renew is given in consequence of the death of the tenant within three months prior to the date of the notice to quit or refusal to grant a renewal. In other words, where the tenant dies, the landlord can seize the opportunity to give the executors notice without being compelled to pay compensation under the section. If the landlord, however, allows three months to elapse before doing so, he will not escape the liability of payment to the deceased's estate. Possibly this proviso may have one marked effect. Landlords would be rather ill-advised in granting tenancies to two or more persons jointly, because joint tenants in the light of the law are one individual, and therefore in the case of a joint tenancy it is extremely unlikely that a landlord could take advantage of this proviso.

There are one or two minor matters which may be considered in regard to the subject-matter of this section. It does not apply to a tenancy for one year only; nor does the section fix the time limit within which the landlord must express his assent when he has been requested to grant a renewal of the lease. This latter omission is an

important one. Apparently the landlord could withhold his consent right up to the date of the expiration of the lease, and it need hardly be said that such a proceeding might cause serious financial loss to the tenant.

Finally we may observe that various suggestions have been made whereby it is thought possible that landlords could evade the obligations of this section. It has been suggested that they should let their holdings for one year only. To any one practically acquainted with agriculture, the absurdity of such a suggestion is at once apparent. It has further been suggested that the landlord might adopt some such procedure as the following, (say) let a farm on a nineteen years' lease, and fix the rent during the first fourteen years at £1 per acre, and during the last five years at 30*s*. per acre or some other figure in excess of that which the tenant would be likely to give. In such a case the tenant himself would ask to break the lease at the end of the fourteen years. We should say that cases where a principle of this sort might be applied are very few indeed.

Before passing from the subject of compensation for unreasonable disturbance, we will describe the provisions of the Small Holdings Act, 1910. Under its provisions, where land is acquired by a council for small holdings, and where the council, or the landlord at the request of the council, terminates a tenancy by notice to quit, the tenant upon quitting is entitled to recover from the council compensation for the loss or expense "directly attributable to the quitting which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods or his implements of husbandry, produce, or farm stock on or used in connection with the land. Provided that no compensation shall be payable

(*a*) unless the tenant has given to the council a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid; or

(*b*) if the claim for compensation is not made within three months after the time at which the tenant quits."

The Agricultural Holdings Act, 1914, enlarges the provisions of sect. 11 of the principal Act. Apparently it renders abortive the decisions in *Clewlow* v. *Lloyd* and *Eaton* v. *Swetenham* (*ante*, p. 25), seeing that it provides that, notwithstanding any agreement to the contrary, compensation for unreasonable disturbance shall be paid wherever a tenancy is terminated by notice to quit (*a*) in view of the sale of the holding or any part thereof; or (*b*) by or at the request of the purchaser before the expiration of one calendar year after the completion of the purchase for any reason other than the wrongful act or default of the tenant in relation to the holding. Further the notice by the tenant of his intention to claim compensation may be given at any time not less than two months before the determination of the tenancy. Compensation under this Act is not payable in any case to which the Small Holdings Act, 1910, applies.

(*c*) **Compensation for Damage by Game.**—The occupier of the land is by virtue of his possession entitled to kill all wild animals found thereon and to all animals killed and to exclude all persons trespassing thereon in pursuit of game. This right of the actual occupier (who in the majority of cases is a tenant) was decided as far back as 1817 in the important case of *Moore* v. *The Earl of Plymouth*. The same rule can be expressed in other language by saying that at common law the right to take and kill game belongs to the tenant and not to the landlord. In such cases where the tenant has the full right to kill all kinds of game, sect. 10 of the Agricultural Holdings Act, 1908, will have little interest for him, as he has no claim whatever to compensation for the damage done by game, but has the sole remedy in his own hands.

The landowner, however, often reserves the sporting right to himself and his grantees, and this, if done by proper words, may include a right to take more than the game. But the landlord cannot deprive the occupier of the concurrent right to kill hares and rabbits. This privilege was

accorded to the tenant by the Ground Game Act, 1880; and, moreover, it is a privilege from which contracting out is not allowed. It is worth while mentioning the Ground Game Act in discussing the subject of compensation for damage by game, because it has this important bearing on the topic, viz., that the tenant farmer can claim no compensation for damage done by hares and rabbits. It has been said that sect. 10 of the Agricultural Holdings Act, 1908, in awarding compensation for damage done by game introduces a new principle. This is not quite correct. Sometimes landlords in the past have undertaken to "keep down the game." Where there was evidence of such agreement, the landlord was liable to the tenant if the former failed in his undertaking. Moreover, very slight evidence was sufficient to establish such an undertaking: thus in *Barrow* v. *Ashburnham* this conversation passed between the steward and a prospective tenant: the latter said, "I have no objection to taking the farm, if the game is destroyed. I do not care so much about the birds as the hares and rabbits." To this the steward replied, "Why, you are a man who keeps no dog and uses no gun, and you ought not to be annoyed with hares and rabbits; you must let the keepers know, and they must kill them." The plaintiff replied, "Then upon these terms I will take the farm." It was held by the High Court that this conversation did establish a contract on the landlord's part to kill hares and rabbits, and the tenant was awarded £150 for damage committed by the hares and rabbits to his crops.

Apart from agreement, however, the tenant has not any right of action for destruction of crops by rabbits or game. The only remedy, therefore, for a person whose crops are eaten by wild rabbits and hares is the capture and destruction of the rabbits; and in regard to damage by other kinds of game, the tenant hitherto has been in an unenviable position. At the same time it has always been held that neither the landlord nor a sporting tenant was justified in breeding and turning out on to the farm rabbits and pheasants bred on other lands. Several leading cases have

established this principle, particularly *Farrer* v. *Nelson*. This case was interesting because the young pheasants which had done the damage to the plaintiff's crops had not been reared by the sporting tenant on the actual holding of the ordinary tenant, but in an adjoining wood, whence they had run into a cornfield of the plaintiff's. A recent Scotch case (*Thomas* v. *Earl Galloway*, 1919, 56 Sc. L. R. 448) was decided on the principle enunciated in *Farrer* v. *Nelson*. It decided that a tenant was entitled to compensation from his landlord in respect to damage done to his crops by winged game, which came from a neighbouring proprietor's land during the close season.

If the reader will now turn to the text of the Act, sect. 10, he will observe that in order that a tenant who has sustained damage by game may have a right to compensation from the landlord, the following conditions must exist:—

(1) The right to kill and take game must not be vested in the tenant, nor in any one claiming under him other than the landlord.

(2) The damage must exceed 1s. per acre of the area over which it extends.

(3) Notice in writing must be given to the landlord as soon as may be after the damage was first observed by the tenant and a reasonable opportunity must be given to the landlord to inspect the damage, if to a growing crop before it is reaped, raised or consumed; and in the case of damage to a crop reaped or raised before its removal from the land.

(4) Notice in writing of the claim, with particulars, must be given to the landlord within one month after the expiration of the calendar year, or other period of twelve months, to be agreed upon by the landlord and tenant.

(5) The damage must have been caused by deer, pheasants, partridges, grouse, or black game.

It will thus be observed that two notices must be given to the landlord: (1) as soon as may be after the damage is observed; and (2) a second notice with particulars before January 31st, in the year after which the damage was done, or at some other date mutually agreed upon between the parties. This provision in regard to the date of the second notice has been criticised on the ground that it might be burdensome to a tenant whose wheat or other winter corn

had been damaged in the late autumn and who would not be by January 31st in a good position to estimate the actual amount of damage done. The Act does not prescribe any formal notice. Apparently a simple letter would suffice in each case and it could be served on the landlord either personally or by leaving it at his last known place of abode in England, or by sending it in a registered letter through the post (see Appendix II., Forms 19 and 20). This, however, is by no means the sole difficulty raised by the section. In fact, it is so limited by stringent provisions that it is to be feared that many tenants will fail to observe them and thus deprive themselves of the privilege intended for them by Parliament.

We have said that the damage done does not include that done by hares or rabbits. It is confined to the damage done by deer, pheasants, partridges, grouse, and black game. It should be noticed that the landlord cannot contract out of the provisions of this section, nor even limit the amount of his liability. In regard to the amount of the damage, the Act does not clearly define the measure of compensation, but it is submitted that such compensation should cover the cost of the seed and labour thrown away, together with an allowance of rent for the field damaged. In other words, we do not consider that an arbitrator would be justified in taking into consideration the tenant's estimated profit, but that his task is to ascertain the loss measured as above indicated. Possibly the limitation of compensation to cases where the damage exceeds 1*s*. per acre may work somewhat unevenly in its application to concrete cases. Suppose damage to the extent of £5 were done to one acre, the tenant's loss would be covered; but if damage to the same extent were spread over 100 acres the tenant would not benefit from the provisions of the section.

Another obvious difficulty presents itself, viz., some of the damage may have been done by hares and rabbits, and some by the kind of game specified in sub-sect. 5, and it may be extremely difficult for the tenant to indicate the amount of damage due to the two sources thereof. We believe that

during the year 1908 many landlords did take advantage of the loophole provided by sect. 10 (3), viz., they made fresh agreements with their tenants and apparently granted some allowance for damage by game, stating that the rent was a reduced one, and that a certain sum had been mutually agreed upon beforehand as a liquidated amount for damage by game. Of course, if the damage is greater than that expressly provided for in the agreement, there is nothing to hinder an arbitrator from awarding the excess damage. In the case of agreements made after January 1st, 1909, any agreement providing that no compensation shall be given or any stipulation limiting the amount of compensation will be ineffectual to prevent claiming under the Act.

The fourth sub-section appears to be fair and reasonable. The Act makes the landlord liable for damage by game, not only when he has kept the right of shooting under his own control, but also when he has let it to a sporting tenant. In such a case the landlord can recover from the sporting tenant the amount of damage he may himself be bound to pay for injury by game to the crops of his ordinary tenant. It may be observed, however, that although the Act indemnifies a landlord who has let the shooting to a sporting tenant, yet it provides no procedure whereby the landlord can bring such person in as a third party to the arbitration. If the sporting tenant refused to pay, apparently the landlord would be under the obligation of suing him, as refusal would not exonerate the landlord from the obligation of paying the damage done to his farming tenant, and, in fact, the latter would look to his own landlord for such compensation. There does not appear to be anything in the Act preventing the sporting tenant from contracting out of his liability. The landlord may not contract out of his obligation, but, on the other hand, the landlord and sporting tenant may agree that the damage shall be solely payable by the landlord. Finally, there remains to be considered a special case like that of *Farrer* v. *Nelson* noted above, where the game that may have done the damage to the tenant's crops was not reared by his own landlord, but by the owner

of adjacent coverts. Presumably the tenant would have a right of action against his own landlord in a case of this kind, but the Act does not provide a right of indemnity for the one landlord against the third party. It is submitted, however, that a landlord who has been under an obligation of making a payment to his own tenant in such circumstances would have a right of action against such third party.

(*d*) **Compensation in Case of Tenancy under a Mortgagor.**—Sect. 12 of the Agricultural Holdings Act, 1908, takes the place of sect. 2 of the Tenants' Compensation Act, 1890. This latter Act was passed to remedy the hard lot of tenants which resulted through the application of what is known as the rule in *Keech* v. *Hall*, 1 Smith's L. C. 494. This rule was that a mortgagee may, without notice to quit, evict a tenant of the mortgagor whose tenancy had been created after the mortgage and without the consent of the mortgagee, and could also appropriate the tenant's improvements, growing crops, &c., on the ground that there was no contract between the mortgagee and the tenant, and that the latter was a trespasser. The position of a tenant whose landlord had created a mortgage prior to the tenancy was thus a very precarious one indeed. Prior to 1890 the hardship of the rule was somewhat lessened in two cases, viz.:—

(1) Where the mortgagee demanded rent of the tenant and the tenant complied with the demand, it was held that a new tenancy was created between the mortgagee and the tenant (*Corbett* v. *Plowden*, 54 L. J. Ch. 109), and, of course, where the tenant paid his rent to the mortgagee under such compulsion he was liberated from his obligation of paying to his former landlord (the mortgagor). It should, however, be observed that the mere notice by the mortgagee to the tenant that rent would subsequently be payable to him, and mere continuance in the tenancy after receipt of such notice, did not create a new contract. Such new contract was created when the tenant had attorned to the mortgagee, that is, had complied with the request for payment (*Rogers* v. *Humphreys*, 5 L. J. K. B. 65).

(2) Sect. 18 of the Conveyancing and Law of Property Act, 1881, also somewhat abated the rigour of the rule of *Keech* v. *Hall*. This section permitted a mortgagor of land, while in possession as against every incumbrancer, to create tenancies of mortgaged land or to let on an agricultural lease for any term not exceeding twenty-one years. The mortgagee whilst in possession was granted a similar privilege. The result was that either mortgagor or mortgagee after December 31st, 1881, and whilst in possession of the property, might make valid leases binding on the other. Moreover, whilst in possession the mortgagor or mortgagee will be entitled to receive the rents, and will be responsible to the tenant for the compensation due to him for his statutory improvements. When the mortgagee takes possession he is entitled to enforce the covenants of the lease entered into by the tenant, and similarly is under the obligation of carrying out the landlord's covenants. One point in connection with sect. 18 of the Conveyancing and Law of Property Act is worth notice, viz., that when once the mortgagor has granted a lease he cannot accept a surrender thereof without the consent of the mortgagee (*Robbins* v. *Whyte*, 75 L. J. K. B. 38).

On the other hand, sect. 18 of the Conveyancing and Law of Property Act, 1881, is permissive only, that is, it can be excluded. Where it has been excluded and the tenancy is not therefore binding on the mortgagee, sect. 12 of the Agricultural Holdings Act, 1908, provides the tenant with compensation if the mortgagee refuses to continue his tenancy. Moreover, the compensation provided is not merely for the statutory improvements under the Act, but also for crops, tillages, acts of husbandry, and for any expenditure upon the land which he has made in expectation of remaining in the holding for the full term of his contract of tenancy, so far as the results of such improvement have not been exhausted at the time he is deprived thereof. This compensation may be set off in the event of any rent due in respect to the holding, but unless so set off, is

recoverable as against the mortgagee, in accordance with the provisions of sect. 35.

At this point we may usefully consider the financial outlook to a tenant who has improved his landlord's property: (*a*) where such property is either mortgaged, and (*b*) where the landlord has merely a life interest, and (*c*) where the landlord is not the owner of the property, but himself is merely a middle man or tenant of the real landlord.

(*a*) We have just seen that the law does provide some protection where the land was mortgaged previous to the commencement of the tenancy. If the mortgagee accepts rent from the tenant, he thereby creates a new tenancy and becomes the landlord. If he will not accept the tenant, then the tenant can claim compensation under sect. 12; but it should be carefully noticed that the section does not give the tenant a claim on the mortgagee in priority to the mortgagee's own rights. Under the provisions of sect. 35 the Board of Agriculture will give the tenant a charge on the holding, but if the property is very heavily mortgaged, seeing that the mortgage comes before the charge, the tenant is merely a second or subsequent mortgagee, and may be a heavy loser if his landlord has mortgaged the property up to nearly its full value.

(*b*) Similarly, where a landlord who has a life interest has burdened the property, the prospect of the tenant may not be a pleasing one. The landlord is not an absolute owner for his own benefit, and the Board of Agriculture cannot charge the holding beyond the time when the tenant's improvements shall have been exhausted. Hence the tenant may have very poor security for his outlay so long as the life-holder of the estate lives; although, if the charge had several years to run, the security would be improved by the death of the life-owner and the advent of the reversioner.

(*c*) Perhaps the least attractive case is where the person who has made the improvements is merely a sub-tenant. The sub-tenant's claim to compensation for the unex-

hausted value of his improvements will be against his own immediate landlord, that is, the middle-man who lets him the property and who is entitled to receive the rent. As the middle-man's own tenancy may be on the point of being determined, there can be no charge against the holding; the only security will be the personal one of the middle-man, and if he is of no substance that security may be worthless. Further, there is nothing to prevent the middle-man himself, on the determination of his tenancy, from claiming from the superior landlord compensation for the unexhausted value of the improvements effected by his own sub-tenant. Thus the position of a sub-tenant is a specially hard one. Another man may claim compensation from the superior landlord for the value of the sub-tenant's outlay on improvements, and yet such sub-tenant may have no other resource than suing an insolvent middle-man for such compensation.

2. Fixtures.

At common law the tenant cannot remove anything affixed to the freehold without committing waste. Whatever is fixed to the freehold becomes the property of him to whom the soil belongs. This rule was gradually relaxed (1) in favour of trade and manufacturing industries and (2) in case of fixtures for purposes of ornament and convenience. The latter are sometimes called tenant's fixtures, and include such articles as grates, stoves, cupboards, &c. They must be capable of being removed entire and must be slightly affixed to the freehold. In these remarks, however, we are not dealing with fixtures generally, nor fixtures for purposes of trade, nor fixtures for ornament and convenience. Such discussion would take us quite outside our subject, which is limited to a discussion of the law respecting fixtures for agricultural purposes.

At common law there was never any right on the part of the tenant to remove the fixtures put up by him for merely

agricultural purposes. So it was explained in the leading case of *Elwes* v. *Mawe*. In this case the tenant some fifteen years before the end of his lease had erected on his farm at his own cost, a beast house, a carpenter's shed, a fowl house, a cart house, a pump house and a fold yard. The buildings were of brick and mortar and tiled, and the foundations about 1½ ft. deep. The carpenter's shop was closed in, but the other buildings were open to the front and supported on brick pillars. Before the end of his lease the tenant pulled down these erections and removed this material from the premises, leaving the latter in the same state as when his tenancy began. It will be gathered that the buildings erected by the tenant were both suitable and necessary for agricultural purposes. Had he been a manufacturer he would have been entitled to remove them. It was held, however, that the established exception in favour of trade fixtures does not apply to agricultural improvements, and consequently the tenant was mulcted in damages for removing fixtures that had previously been erected at his own cost. This is the great leading case on the point, and apart from statutory alteration, practically dominated the subject until there was a slight variation ninety-nine years later, viz., in *Mears* v. *Callender*, [1901] 2 Ch. 388, and this was to the effect that although buildings erected by the tenants are not governed by the rights which apply to "trade fixtures," and consequently are not removable by the tenant, glass-houses erected for the purposes of his trade by a tenant who is cultivating his farm as a market garden, with the knowledge of his landlord, are trade fixtures and may be removed by the tenant during the tenancy, though attached to the freehold.

Before proceeding further we may ask the question, What constitutes a fixture? A fixture includes anything annexed to the freehold. The soil must have been displaced or the article must have been otherwise fastened to some fabric previously attached to the ground (*Turner* v. *Cameron*, 39 L. J. Q. B. 125). Moreover, locks and keys, windows and doors, even though they be distinct things, are regarded

as part and parcel of the fixture to which they belong. Sometimes, however, machinery and buildings may be so erected as not to be let into the soil, or annexed to it, or to any other buildings in such a manner as to become part of the freehold; thus barns, granaries, sheds, or mills erected upon blocks, rollers, pillars, or even resting on brickwork, but not affixed to the freehold by being let into it, or affixed to it by cement, mortar, nails, or otherwise, are not considered as fixtures; they are merely chattels and are consequently removable by the tenant, even though they may have sunk into the ground by their own weight. The commonest agricultural illustration is the case of a shed or Dutch barn, where such shed rests on a foundation of brickwork in the ground or on uprights fixed in or rising from such brickwork. It is removable; in other words, it is a chattel, not a fixture. It is a matter of evidence, dependent upon the facts of the particular case, whether an article is a chattel or a fixture; and the burden of proof that an article has ceased to be a chattel and becomes a fixture is on the party making the assertion. The principle of annexation to the freehold is then the primary factor determining whether a given article is a chattel or a fixture. A secondary factor is worth noticing, and that is the element of time. If an article has been *permanently* attached to the freehold, or for the whole period during which the person attaching it has an interest, this time element supplies additional evidence that the chattel had been converted into a fixture; *e.g.*, if wooden rails were fixed round a field so as to constitute a permanent fence, this would be evidence that the fence was a fixture. On the other hand, if the object of fixing hurdles in a field were *a temporary* one, (say) to pen in sheep to a restricted area for a limited period, this temporary expedient would indicate that the hurdles were chattels. But once let the tenant insert a fixture into his landlord's property, the common law of England is the rule of *Elwes* v. *Mawe*, and it cannot subsequently be removed except in the cases hereinafter mentioned.

The first attempt to remedy this unjust rule was the Landlord and Tenant Act, 1851. It was confined to buildings, engines and machinery erected by the tenant at his own cost, either for agricultural purposes or for the purposes of trade and agriculture, *with the previous consent in writing of the landlord*. If the tenant had taken the precaution to obtain the landlord's written consent before erecting buildings, engines or machinery of the type mentioned in the Act, he was permitted to remove them; but even then he must give the landlord or his agent one calendar month's notice in writing of his intention to remove them during the tenancy, and thereupon it became lawful for the landlord to elect to purchase the thing so proposed to be removed, the value being determined by two referees, one elected by each party, or by an umpire named by such referees. It is to be carefully noticed that this Act did not apply to buildings, engines or machinery erected solely for the purposes of trade; nor did it apply to articles affixed for mere ornament and convenience during the term. But the fixtures must be either for agricultural purposes or for purposes of trade and agriculture.

We now come to the present rule as found in sect. 21 of the Agricultural Holdings Act, 1908.

The tenant may remove all fixtures, machinery or buildings erected or affixed by him after January 1st, 1884, also fixtures or buildings acquired by him since December 31st, 1900, and for which he would not be entitled to compensation under the Agricultural Holdings Act, 1908, or otherwise. The circumstances under which the tenant may remove these fixtures are set out under sect. 21, and these provisions should be carefully observed. The tenant must give the landlord a month's written notice prior to removal. Within the month the landlord may elect to purchase the fixtures, and if the parties cannot mutually agree upon the price, their difference will be settled by arbitration, as provided by sect. 13 of the Act and the Second Schedule. Further, under sect. 42 the provisions of sect. 21 are extended to every fixture or building erected

by the tenant upon his holding for the purpose or trade of a market gardener. We have already seen, however, that such a tenant has the right under the common law to remove glass-houses as trade fixtures (*Mears* v. *Callender*).

There are several difficulties connected with sect. 21, some of which will be discussed later in the notes to the section. We may here, however, ask whether the section can be contracted out of. We have already seen that the tenant cannot contract out of his right to claim compensation for certain unexhausted improvements, for damage by game, for unreasonable disturbance, &c. Sect. 5 of the Act makes void any contract made by a tenant of a holding, by virtue of which he is deprived of his right to claim compensation under the Act, in respect of any improvement mentioned in the First Schedule thereto. Apparently this section does not apply to sect. 21, and it would therefore seem that the operation of sect. 21 in regard to fixtures and buildings may be excluded by express agreement between landlord and tenant. It is important, therefore, that tenants should be careful to observe that their written agreements do not exclude sect. 21 of the Act. Otherwise they would practically be thrown back upon the common law as enunciated in *Elwes* v. *Mawe*, and would have no power of removal of fixtures. Another difficulty may be noticed. The fixtures become the property of and are removable by the tenant, provided he observes the four conditions mentioned in the section and provided that the landlord does not exercise his option to purchase. If the conditions be not observed, do the fixtures revest in the landlord, or has he merely an action for damages against the tenant? It is submitted that the section must be construed strictly in favour of the landlord, and that on non-observance of the conditions by the tenant the landlord is still owner of the fixtures.

The words "before or within a reasonable time" raise a difficulty. What time would be reasonable must depend upon the particular facts of each case; *e.g.*, the kind of fixture, whether easily removable or otherwise, and possibly

the most suitable time of the year for removal, are all circumstances that should be considered. What would be the legal effect if the tenant removed his fixtures an unreasonable time after the end of his tenancy? Would the fixtures be still his property, and consequently would he merely be liable for trespass on the part of any incoming tenant, or would the fixtures be revested in the landlord and the tenant thus be liable to an action for damages for their removal? For a "reasonable time" the section gives an outgoing tenant a right of re-entry, whether the premises be occupied by the landlord or a new tenant. Moreover, seeing that the fixtures "shall be the property of and removable by the tenant," it may be argued that the landlord would be liable in an action for damages if he refused consent after the expiration of a reasonable time (see *Thomas* v. *Jennings*, 66 L. J. Q. B. 5). On the other hand, it may well be argued that after the expiration of the reasonable time, whatever that may be, the landlord's common-law rights revive, and the fixtures become his absolute property.

In *Barff* v. *Probyn*, 64 L. J. Q. B. 557, a tenant removing fixtures after the termination of his lease was held to be a trespasser and liable for damages for wrongful conversion and removal. It will thus be seen that, although the Agricultural Holdings Act has attempted to guard the tenant's interests in regard to fixtures, there are several points as yet uncleared up, and further that, apart from the statutory protection provided by the Act (which, it is submitted, may be contracted out of), an agricultural tenant might still be left to the operation of the common-law rule of *Elwes* v. *Mawe*, so that he might have no power to remove agricultural fixtures which had been erected at his own cost.

Although a tenant farmer, apart from the Agricultural Holdings Act and the Landlord and Tenant Act, 1851, has no power to remove agricultural fixtures, yet if he is engaged in trade as well as agriculture, he may remove trade fixtures. Thus it has been held that cider mills,

machinery for working quarries and salt pans, although situate at a farm, were removable. If the farmer is also a nurseryman, he may remove trees and shrubs. If a market gardener, he may remove his glass-houses; but if he is not a nurseryman nor market gardener apparently he cannot remove hot-houses, green-houses, and forcing-pits, otherwise than under the provisions of the two Acts mentioned above.

3. Distress for Rent.

A full discussion of the law of distress is beyond the scope of this work. Hence we shall merely summarise a few of the salient features and indicate the modifications that have been enacted in favour of agriculture by sects. 28-31 of the Agricultural Holdings Act, 1908.

Distress is a taking of goods without legal process to satisfy a demand upon the person whose goods are taken. Until the passing of 2 & 3 W. & M. c. 5, it was not so much a remedy as the means of obtaining one, for distress was a taking by way of pledge or lien, the landlord keeping the goods until the rent was paid. The power to sell, however, was given by the Act just mentioned, and since 1689 several statutes have been passed, the earlier ones in the interests of landlords and those from 1871 mainly in the interests of lodgers, third parties and tenants. The general rule is that all property found on the premises subject to the distress is liable to be taken without reference to the rights of third parties. Certain exceptions have been allowed and consequently some things are absolutely privileged from distress, and other goods are conditionally privileged. It will be seen from the following lists that the things which are not distrainable are usually goods which cannot be restored in the same condition as they were before the distress. The goods absolutely privileged from distress are as follows:—

(1) Things annexed to the freehold, such as fixtures and those movable chattels which necessarily go with the land, such as keys, heirlooms, and title-deeds.

(2) Things delivered to a person exercising a public trade to be

carried, wrought, worked up or managed in the way of his trade or employ. Illustrations of this exception are :—corn sent to a miller to be ground : a horse sent to a farrier to be shod : beasts sent to a butcher to be slaughtered : goods deposited for the purpose of sale with an auctioneer or pledged with a pawnbroker : and goods delivered to a carrier to be conveyed by him to some place.

(3) Things in actual use, *e.g.*, a horse while it is drawing a cart or being ridden.

(4) Wild animals. No one has any valuable property in wild animals. The expression, however, does not apply to wild animals in a state of confinement and civilisation.

(5) Things in the custody of the law : *e.g.*, goods which have been distrained *damage feasant*, or taken in execution, are not distrainable.

(6) The property of the Crown, or the goods of an ambassador or his servants.

(7) Perishable goods cannot, except by statute, be taken, because they cannot be restored in the same condition. Thus the flesh of animals lately slaughtered cannot be distrained. Certain other classes of goods have been exempt from distress by various Acts of Parliament, such as :—

(*a*) Frames, looms, &c., used in woollen, cotton or silk manufacture.

(*b*) Railway rolling stock in any works not belonging to the tenant of the works.

(*c*) Gas meters and fittings belonging to a gas company incorporated by Act of Parliament.

(*d*) Meters and pipes, the property of a waterworks company which are used for the supply of water to a house.

(*e*) Electric lighting apparatus.

(*f*) Bed, bedstead and bedding, clothes and tools up to the value of £5.

We may further add the exemption allowed under sect. 1 of the Law of Distress Amendment Act, 1908, viz., the goods of an under-tenant, who pays his rent by equal instalments, not less often than every quarter of a year, and who is rented at the full annual value of the part of the premises comprised in his under-tenancy. A lodger or other person having no beneficial interest in the tenancy is exempt from distress by a superior landlord, if a declaration and inventory are made, and in the case of an under-tenant or lodger, an undertaking is given to pay to the superior landlord direct any rent due or to become due to the immediate landlord in accordance with the provisions of sects. 1 and 3.

The under-mentioned goods are conditionally privileged,

provided that there be other sufficient distress found upon the premises:—

(1) The tools of the tenant's trade, such as a stocking-weaver's frame. (2) Beasts of the plough and sheep. By the Statute of Merton, 51 Hen. III., colts, steers and heifers are not privileged, and beasts of the plough may be distrained if the only other subject of distress is growing crops. It would appear, too, that beasts of the plough can be distrained for poor rates, whether there are other things on the premises or not (*Hutchins* v. *Chambers* (1758), 1 Burr. 579).

Apparently quite apart from the Agricultural Holdings Act, 1908, agisted sheep cannot be distrained while there is other sufficient distress upon the premises. Under the Real Property Limitation Act, 1833 (3 & 4 Will. IV. c. 27), s. 42, the landlord may distrain for six years' arrears of rent and no more. But if bankruptcy proceedings have been commenced against the tenant, this period of six years is shortened to *six months*, and the landlord can levy a distress for rent only for *six months'* rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available (46 & 47 Vict. c. 52, s. 42, and 53 & 54 Vict. c. 71, s. 28).

We now proceed to notice the alterations effected by sects. 28-31 of the Agricultural Holdings Act, 1908, and these alterations and conditions may be summarised as follows:—

(1) A landlord may not distrain for rent which has become due more than one year before the making of the distress. In cases, however, where, in the ordinary course of dealing between the landlord and the tenant of the holding, the payment of rent is habitually deferred until a quarter or half-year after the date at which the rent legally becomes due, the rent shall be deemed to become due at the expiration of that quarter or half-year, and not at the date at which it legally becomes due. An illustration will perhaps elucidate this complicated second clause of sect. 28.

Assume that a landlord lets a farm at Lady Day (March 25th), and that the rent is payable half-yearly. Normally the two half-yearly rent days would be Lady Day (March 25th) and Michaelmas Day (September 29th). It is not unusual in some agreements for the landlord to fix another and later date for the half-yearly payments of rent. Thus it is common to find the Lady Day rent payable on June 24th, and the Michaelmas rent payable at Christmas: in other words, in our assumed case the landlord has allowed three months' credit beyond the date at which the rent becomes legally due. In such a case a landlord in any half-year up to June 23rd or December 24th could possibly distrain for three half-years' rent, if that sum were in arrear.

The corresponding section (sect. 44 of the Act of 1883) was discussed in *Ex parte Bull, in re Bew* (1887), 18 Q. B. D. 642. The facts were as follows:—A tenant owed to his landlord in September, 1886, £59 arrears of rent due by agreement on June 24th, 1885, but usually payable in half-yearly payments in the months of September and March following. He also owed one year's rent (£80), due on June 24th, 1886, but likewise customarily payable as to one-half of the sum in September, 1886, and as to the remaining half in March, 1887. The landlord distrained on September 16th, 1886, for £139 4s. 5d., and it was held that he was entitled to do so. This extract from the judgment of Mr. Justice Cave lucidly explains the position:—

"The object of sect. 44 of the Agricultural Holdings Act is to take away the right to distrain for rent which has been due for more than twelve months; but the landlord still has all his other remedies. There was no intention to affect the rent until it has been due for more than a year. In the present case, on June 24th, 1885, a year's rent became due; on June 24th, 1886, another year's rent became due. On June 23rd, 1886, the landlord could have distrained for the year's rent which became due on June 24th, 1885; on June 25th, 1886, he could have distrained for the rent which became due on June 24th, 1886. But the landlord was accustomed to allow the tenant three months before he expected payment of any part of the rent, and therefore by the proviso in the section, he had three months longer to distrain for

the rent which became due on June 24th, 1885, and the distress in the middle of September, 1886, was good."

Landlords very commonly provide for the last half-year's rent to be payable in advance. Where the rent is so payable in advance it may be distrained for on the day after it is made payable (*Lee* v. *Smith* (1854), 23 L. J. Ex. 198). Generally, too, it may be noticed that the landlord cannot distrain at all until the day after the rent becomes due, and no distress can be legally made between sunset and sunrise (*Tutton* v. *Darke*, 29 L. J. Ex. 271). Nor must distress be levied on a Sunday (*Werth* v. *London & Westminster Loan Co.*, 5 T. L. R. 521). Distress is usually leviable only upon the lands or premises out of which the rent issues. There may be an exception when the lease permits the landlord to distrain on holdings of the tenant, other than that held from the distraining landlord (*Roundwood Colliery Co., In re*, 66 L. J. Ch. 186). Also under the *Distress for Rent Act*, 1737, sect. 1, goods fraudulently removed by a tenant to avoid distress may be seized by the landlord, or any person by him lawfully empowered within 30 days, wherever found, and sold or otherwise disposed of as if the goods had actually been distrained by the landlord upon the premises. Sect. 2 provides that the landlord may not seize such goods which have been sold *bonâ fide* and for a valuable consideration to any person not privy to such fraud. The removal must have taken place after the rent became due, and must have been secret. If the tenant remove goods on the morning of the day the rent is payable, the landlord may follow and distrain upon them the next day and for 30 days after the removal; but the landlord has no right to follow the goods which have been fraudulently removed to prevent a distress for rent due, if at the time of the seizure the tenant's interest in the premises has come to an end and he is no longer in possession (*Gray* v. *Stait*, 11 Q. B. D. 668). When levying a distress, the entry should be peaceable, and outer doors or windows should not be broken or forced to gain entry.

Although sects. 28—31 of the Agricultural Holdings Act limit the landlord's right of distress to one year's arrears of rent, yet of course he can bring an action for the recovery of the balance of arrears, viz., for six years' arrears in the case of a contract under hand, or 20 years' arrears when the contract of tenancy is a deed duly sealed and executed (3 & 4 Will. IV. c. 27).

(2) The live stock of a third person brought on to a holding to agist at a fair price is privileged from distress, provided there is other sufficient distress which can be taken. The "fair price" need not be in money. In *The London and Yorkshire Bank* v. *Belton*, 54 L. J. Q. B. 658, cows were agisted on the term "milk for meat," that is, the agister should take their milk in exchange for the pasturage. It was held that the agistment was within the Act. If other sufficient distress cannot be found, the agisted stock may be distrained, but the landlord shall not recover a sum exceeding the amount of the price agreed to be paid for feeding, or any part thereof which remains unpaid. The owner of the stock, at any time before it is sold, may redeem it by paying to the distrainer the price agreed to be paid for the agistment, or such part thereof as remained unpaid at the time the distress was levied; and any payment so made shall be in full discharge as against the tenant of any sum of the like amount which would otherwise be due from the owner of the stock to the tenant in respect to the price of the feeding. If the owner of the agisted stock remove some of his animals from the holding, but leave others thereon, the portion of the stock left on the holding will be liable to be distrained for the amount for which the whole of the stock is distrainable.

It should be observed that if cattle are sent upon another man's land gratuitously, they will not be protected under sect. 29. It is important to understand the cardinal features of the contract of agistment; for the contract does not let to the stock-owner land for his exclusive use as a tenant or sub-tenant. The contract confers no interest in the land on the stock-owner; it is, in fact, a mere bailment

or loan of animals. The case of *Masters* v. *Green*, 20 Q. B. 807, illustrates the difference between agistment and sub-letting. In this case cattle were distrained whilst on a holding pursuant to an agreement by which the tenant, in consideration of £2, allowed the owner "the exclusive right to feed the grass on the land for four weeks." A contract of this nature is not "agistment," but "sub-letting." The cattle had not been "taken in" to be fed at a fair price, and they were not exempt from distress. It is only true agistment that is protected by sect. 29. For a further case on the difference between sub-letting and agistment, see *Sutton* v. *Temple*, 12 M. & W. 52.

(3) Section 29 also exempts from distress (*a*) agricultural or other machinery which is the property of a person other than the tenant, and is on the holding under an agreement with the tenant for the hire or use. Probably an agreement for hire and purchase would be such an agreement as is contemplated by this section. (*b*) Live stock which is the property of a person other than the tenant, and is on the holding solely for breeding purposes. The latter exemption in favour of agriculture is a very desirable one, seeing that the practice of engaging pedigree entire horses and bulls for a season is one that is quite common.

(4) Section 30 provides a remedy for wrongful distress, viz., a dispute may be heard and determined by the County Court, or by a Court of Summary Jurisdiction. Any person aggrieved by a decision of a Court of Summary Jurisdiction may appeal to a Court of Quarter Sessions. This section is permissive, and does not exclude the jurisdiction of the High Court. Consequently a person aggrieved may still institute an action for illegal distress in the High Court, if he so prefers. Either the County Court or Court of Summary Jurisdiction may make an order for the restoration of any live stock or things unlawfully distrained, or may declare the price to be paid for feeding, or may make any order which justice requires. An appeal lies from the decision of a County Court Judge to the High Court in the

matter of a dispute heard and determined by him under this sect. 30 (*Williams* v. *Wallis & Cox*).

(5) Finally, we should notice that under sect. 31, where compensation is due to the tenant (either under custom or agreement) for any improvements recognised by the Act, and the amount of such compensation has been ascertained before the landlord distrains, the compensation must be set off against the rent, and the landlord can distrain only for the excess of the rent over the compensation. This right of set-off, however, is likely to be of limited utility to either landlord or tenant. The amount of the tenant's claim for compensation is ascertained after the determination of the tenancy; whereas a landlord who distrains for the final half-year's rent usually does so in virtue of a clause in the tenancy agreement whereby the tenant covenants to pay the last half-year's rent in advance or at some date before the end of the tenancy. The tenant would have no right of set-off in such a case. Distress is of little service to the landlord after the determination of the tenancy, unless the tenant has a right, either under custom or his agreement, of hold-over of part of his holding, and allows his chattels to remain on the premises during such period of hold-over.

4. The Notice to Quit.

Before the Agricultural Holdings Act of 1883, where there was no agreement or custom determining the length of notice to quit, a half-year's notice, expiring with a year of the tenancy, was by law necessary and sufficient to determine it. We may notice that a half-year does not necessarily mean six calendar months. Thus, in the case of a Michaelmas tenancy, a half-year is the period from March 25th to September 29th; again, in the case of a Lady Day tenancy, the last half-year covers the period September 29th to March 25th. Section 22 of the Act of 1908 makes **a year's notice** "so expiring" necessary and sufficient for the determination of the tenancy. This section, however, is of somewhat limited application. In

the first place, it applies only to tenancies from year to year. Secondly, in *Barlow* v. *Teal* (1885), 15 Q. B. D. 501, there was a tenancy from year to year, determinable by express agreement of the parties on six months' notice to quit. It was held that this is not a tenancy where half a year's notice is necessary, on the ground that the section applied where there was no express stipulation as to the determination of the tenancy, and that it did not apply where there was an express stipulation.

It is quite open, then, to landlord and tenant mutually to agree by writing under their hands that sect. 22 of the Act of 1908 shall not apply, and they may substitute six months, three months, or any other agreed-upon period of notice. Moreover, it is similarly open to them to agree in writing that the tenancy shall expire at a period of the year different from that at which it commenced. We shall give reasons later which in our judgment make it very desirable that a tenant should not stipulate for anything less than a full year's notice.

There are one or two leading points in reference to notices to quit that may conveniently be noted here. In the first place, sect. 45 of the Act, combined with a decision given in 1902 (*Van Grutten* v. *Trevenen*, 2 K. B. 82), effects that service through the post in a registered letter containing a notice to quit is sufficient. The facts of this case are interesting. The postman brought a registered letter containing a notice to quit to the tenant's house and saw the tenant; the latter, shrewdly suspecting what was inside the letter, refused to sign the official receipt therefor; consequently the postman refused to deliver it, took it back to the post office and the tenant never saw the notice. The landlord sued for an ejectment upon the notice. The Court gave judgment for the plaintiff and this decision was upheld by the Court of Appeal. A notice to quit may be served personally. It is sufficient, however, to leave it at the tenant's dwelling-house with his wife or servant. It may also be put under the door of the house; but the case of *Van Grutten* v. *Trevenen* indicates the desirability of

sending notices to quit through the post in registered letters. Notices so sent will be held to be delivered within the due course of the post whether they have been received or not.

A notice to quit is not rendered unnecessary by the death of the landlord or of the tenant, nor by an assignment of the tenancy. If the tenant dies and his executors are desirous of giving up the holding, they must give the same length of notice as the tenant himself would have been bound to give had he lived. A notice to quit need not be in writing, but it is desirable that it should be. It is useful to remember that in drafting a notice to quit, it is permissible to give the notice as for two alternative days, provided one of them is the correct one, and therefore it is usually prudent, after naming the day, to add these words: "or at the expiration of the year of your tenancy which shall expire next after the end of one year from the service of this notice."

A notice to quit is good although given on a Sunday (*Sangster* v. *Noy*, 61 L. T. 157).

When the tenant enters in the middle of a half-year and pays rent for the broken period ending with that half-year and subsequently pays his rent half-yearly, his tenancy will be deemed to have begun, not when he first entered, but at the half-year day next ensuing.

A notice to quit must be clear and certain, so as to bind the party who gave it, and to enable the party to whom it is given to act upon it at the time when he ought to have received it; but it may be optional and yet good, as was held in *Bury* v. *Thompson*, 64 L. J. Q. B. 257, where the following letter was held to be a good notice to quit:—

"I have just been looking at my lease, and I see that my seven years will be determined on December 25th, 1894. I have been making enquiries for some time past, and I find that I am paying too high a rent, and considerably higher than any of the adjoining houses are able to let for now. I understand that the rent is £50 too high, and I shall not be able to stop unless some reduction is made. I give you

an early intimation of this, so that you may have ample time to consider what course you would like to adopt."

After notice given, the tenant appears to be entitled in strict law to stay until midnight of the day on which the notice expires, at whatever hour of the day the tenancy may have commenced or the notice may have been given. The law does not take account of fractions of a day, and it has been held that a notice to quit at noon on the proper day was bad. A notice to quit should therefore properly expire on the last day of some year of the tenancy, viz., midnight of that day, and not on the same day on which the tenancy began. Thus, if a tenancy began on September 29th, it will expire at midnight on the 28th. As a matter of custom, landlords and incomers are usually satisfied if the outgoer clears out before noon of the 29th, and although a yearly tenancy expires at midnight of the day before the anniversary of its commencement, a notice expiring on the anniversary of the commencement is usually good, though a notice expiring on the day before the anniversary of commencement is good also. We may here notice the difference between the expression "commencing on" and "commencing from." If a tenancy commenced "on" September 29th, the incomer might enter during that day, and when his tenancy came to be terminated, strictly it would end at midnight of the 28th. On the other hand, where a tenancy commenced "from" Michaelmas, presumably it begins on September 30th and ends on September 29th.

Frequently in agricultural tenancies the demised premises are entered upon at different times; thus, the arable land may have been entered upon on February 2nd, the grass on April 6th, and the house and buildings on May 12th. In such cases the notice to quit should be at corresponding periods "or at the expiration of the year of the tenancy which will expire next after the expiration of one year from the delivery of this notice." A notice of this kind has been held to be sufficient for the whole of the premises, if served in time for the principal subject of the demise. What is

the principal subject of the demise? Is it the arable land, or the pasture, or the house and buildings? Where such a doubt does arise as to which is the principal and which is the accessory part, it is a question of fact for a jury to determine. This shows the necessity of giving notice in ample time and being quite clear as to the nature of it. In ordinary circumstances in the Lady Day tenancies cited, a notice reaching the party for whom it was intended not later than April 6th would suffice. The right to commence ploughing on February 2nd is usually merely a customary right of pre-entry which the incomer is privileged to exercise.

Returning to sect. 22, it will be observed that nothing in the section shall extend to a case where a receiving order in bankruptcy is made against the tenant. The corresponding section of the Act of 1883 also included the case where a tenant "has filed a petition for a composition or arrangement with his creditors." Generally, contracts of tenancy include provisoes which meet these not uncommon cases of arrangement with creditors, and it seems highly desirable that draftsmen should still continue to insert provisoes dealing with this point. When a receiving order is made against the tenant, apparently the common-law right revives, unless the contract of tenancy itself provides other arrangements. Hence, where there is no special agreement as to length of notice to quit, either the landlord or trustee in bankruptcy may determine the tenancy upon a half-year's notice, expiring with a completed year of the tenancy.

Finally the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919, modifies sect. 22 of the Agricultural Holdings Act, which enacts that a year's notice shall be sufficient for the determination of the tenancy; for on the making, after August 19th, 1919, of any contract for the sale of a holding or any part of a holding held by a tenant from year to year, any then current and unexpired notice to determine the tenancy of the holding given to the tenant shall be null and void, unless the tenant shall, prior to such contract of sale, by writing,

agree that such notice shall be valid. Hence it is necessary in the case of holdings sold after August 19th, 1919, if it is desired to terminate the tenancy, to give the tenant notice to quit *after* the sale, as any notice previously given is null and void.

5. Freedom of Cropping and Disposal of Produce.

It is well known that it has been the custom hitherto to insert in agricultural leases restrictions requiring the tenant to cultivate his arable land on a recognised system of cropping, known as a rotation, *e.g.*, the Norfolk or four-course system, spread over four years. Similarly, it has been the custom to prohibit the tenant from selling or removing hay, straw, roots or green crops from the holding.

The object of these limitations was to ensure that the fertility of the soil should be preserved. Prohibition against selling off hay and straw necessarily implied that the occupier should keep a sufficient stock of cattle to consume this kind of produce on the holding. In recent years, however, agricultural science has made great progress, and it is considered that such limitations are somewhat out of date. For it is undoubtedly the case that by proper drainage, tillages and the right use of manures, the fertility of the soil can be maintained even if the farmer does sell off the produce of the land. All that a reasonable landlord ought to require is that the tenant should keep the farm in good heart and condition, thereby maintaining its fertility. If this be done, the system of cropping adopted by the tenant, or the methods he used in realising his produce, should be immaterial to the landlord.

The reader should now peruse sect. 26 of the Act, and he will see that this section effects that, in spite of any custom of the country or the provisions of any contract of tenancy or agreement, the tenant shall be free to adopt any system of cropping of the arable land that commends itself to his judgment, and shall similarly be free to dispose of, by sale

or otherwise, any of the produce of the holding, whether such produce be from the arable land or the grass land.

Even a casual perusal of sect. 26 will impress one with its importance. There are few sections in the Act more important, and with the exception of sect. 11 there is perhaps no other section the merits of which have been more hotly debated.

The section is difficult to construe, and unfortunately it raises many difficulties. It might be well to keep clearly in mind the fact that it is the *arable* land only that the tenant is free to cultivate on any system that he thinks desirable; apparently it is quite open to landlords by agreement to stipulate that grass land may be cultivated in an agreed-upon manner, and thus guard against excessive mowing of such land. Mr. A. J. Spencer ("The Agricultural Holdings Act, 1908," p. 61) submits that the words "any system of cropping" do not render it necessary for the tenant to adopt some recognised system of rotation. If the writer means that the tenant need not adopt any system hitherto recognised, we agree; but it still seems necessary for the tenant to adopt a system or method of some kind, and not to cultivate the arable land in a haphazard manner.

Again, the tenant may sell off the produce of any part of the holding; but when the tenant does sell off crops in contravention of custom or his agreement, he must return to the holding the full equivalent manurial value of the crops that he has removed. Here, again, several difficulties arise at once. Does the word "produce" include manure produced on the holding? It is well known that many agreements prohibit the tenant from disposing of manure produced on the holding, and, even apart from agreement, it is considered waste for the tenant farmer to remove or sell off farmyard manure from the holding. We think the section will not affect covenants relating to the disposal of farmyard manure, and that to sell off farmyard manure would still be considered a pure act of waste.

Next, it should be noticed that it is only when the tenant

is under an obligation either by custom or his agreement to consume his hay, straw, roots, etc., that he must make a full equivalent manurial return of the crops sold off. In the past, many agreements have prohibited the tenant from selling off hay and straw, and in many, if not most counties of England, custom practically effects the same object. It requires that the tenant shall leave the straw for the benefit of the incomer at a **consuming price.** This is practically equivalent to compelling the tenant to consume the straw on the holding. On the other hand, if there be cases where neither custom nor agreement hinder the tenant from selling off produce, there seems to be nothing in the section compelling him to make a full equivalent manurial return for the produce sold off. It would still seem to be very important, from the landlord's point of view, that agricultural leases and agreements should have clauses regulating the method of cropping and disposal of produce, because such clauses will be operative in the final year of the tenancy and will also be efficacious in compelling a tenant to make a proper manurial return for produce sold off without having any right to compensation for the unexhausted value of the manures applied for this purpose.

On first thoughts the sale of crops would appear to be a simple matter. The tenant is now able to sell off hay, straw, and roots without let or hindrance, provided he makes the necessary full equivalent manurial return. But what is a full equivalent manurial return? Distinguished chemists have drawn out tables showing the amount of nitrogen, phosphoric acid and potash contained in hay, straw, etc., and have produced tables showing the manurial value of these substances. But the figures in such tables by no means settle the question of the full manurial equivalent value. If a farmer sells off a ton of hay contrary to his agreement, he does not necessarily make up for this loss to the holding by bringing seventeen shillings' worth of potash or phosphoric acid on to the holding. Other things have to be taken into account. One important factor is the adaptability of the manure brought back to the

particular soil in question. Thus it would be practically useless to bring back potash, whether in the form of kainit, sulphate, or muriate of potash, and apply the same to strong clay land. Again, on many light soils one might apply phosphates and nitrogen to any possible extent without advantage to the yield of a crop of roots. To render the phosphates and nitrogen efficacious there would need to be added potash. Then again the texture of the land has to be taken into consideration. It has been well said that if a hundred tons of dung be spread on a macadamised road, they are worthless for promoting plant growth, and even if applied to land which has been imperfectly tilled, the value of the application is greatly lessened. In other words, the mechanical effect as well as the chemical effect has to be taken into account. Now, if compensation for crops sold off is given by the return of purely artificial manure such as nitrate of soda, sulphate of ammonia, kainit and superphosphate, the result may be that the texture of the land and its capacity for holding water and plant food may be seriously injured. Hence it becomes a difficult matter to say what is the full manurial equivalent for a ton of straw sold from the holding; and the question is by no means settled by stating that the manure in a ton of straw reckoned at the pre-war market price of nitrogen, phosphoric acid and potash, is about 7*s*. The mechanical effect of straw as a manure must be taken into account. This point has recently been appreciated by the Shropshire Chamber of Agriculture, who in their tables of values make this significant remark: "The manurial value of straw arrived at by the committee is higher than experts give, as we consider there is a mechanical action in the soil which should be taken into consideration. Accordingly, the Shropshire Chamber recommend that the tenant who sells off a ton of straw shall be dilapidated not 7*s*., but 10*s*." And the writer is cognisant of one Tenant Right Valuers' Association that dilapidates the tenant 20*s*. per ton for straw sold off, although admittedly its manurial value is approximately 7*s*. per ton.

If the tenant exercises his rights under sect. 26 in such a manner as to cause deterioration, and if he fails to make adequate provision or a suitable manurial return the landlord can proceed against him for damages, or can obtain an injunction restraining him from cultivating in an irregular and haphazard fashion. The landlord is given a right for past injury and also an injunction to prevent apprehended damage. This damage may be recovered "at any time" where the tenant acts in contravention of some custom, contract or agreement. Hence it is not necessary for the landlord to wait until the expiration of the tenancy in order to secure redress. Attention must also be drawn to the third sub-section, which states that a tenant shall not be entitled to compensation in respect to the improvements comprised in Part III. of the First Schedule to the Act, which have been made for the purpose of making the necessary provision to protect the holding from deterioration required by this twenty-sixth section; *e.g.*, if a tenant sells off straw contrary to his agreement, he must make good the full manurial equivalent of the straw sold off. If he does this by the application of purchased artificial manures or feeding stuffs, he cannot of course claim the unexhausted value of such artificials or feeding stuffs when he sends in his claim at the end of his tenancy. Hence, when vouchers are presented in the future, showing that a certain amount of feeding stuffs or artificials has been consumed or applied to the holding, it will be necessary for an arbitrator to find out whether such feeding stuffs have been consumed merely to make up for the loss of the manurial value caused by the selling off of the hay, straw or roots.

We have already noticed that the tenant has not freedom of cropping or freedom of disposal of his produce, if his agreement or custom forbids, during the last year of his tenancy; or at any time after he has given or received notice to quit, which results in his quitting the holding. This proviso may have somewhat far-reaching results; *e.g.*, if the agreement provided (which would be quite legitimate) that during the last year of the tenancy the holding should

be cultivated on the four-course system, then the farmer could not well do this without considerable loss, unless he had been leading up to this particular rotation for two or three years previously. It would almost seem, therefore, that the tenant's freedom of action is necessarily curtailed for a period beyond the last year of the tenancy; moreover, it should be remembered that under sect. 22 it is quite legitimate for the landlord and tenant to agree that half a year's notice to quit on either side shall be sufficient to end the tenancy. Suppose, for example, that the tenancy was a Lady Day one, and that the tenant received notice to quit immediately after he had sown his winter wheat. It might be impossible for him at that stage to alter the proportions of his various crops so as to comply with any previously arranged rotation. It would be ridiculous to ask him to plough up the winter wheat in order to comply with a provision laid down many years before. Such considerations would appear to point to the undesirableness of having anything less than one whole year's notice, and we think that tenants would be well advised in stipulating for this amount of notice as a minimum; in fact, in many cases two years' notice would be better than one.

Another point of importance in connection with this prohibition against selling off produce during the last year of the tenancy may be noticed. The prohibition applies to selling off produce in the last year, whether such produce was grown in the last year or in any previous year of the tenancy. We believe that some agriculturists entertain the notion that they are merely restricted to the non-sale or non-removal of crops grown in the last year. This, however, is not the case: *Gale* v. *Bates* (33 L. J. Ex. 235). Under an agreement the tenant was prohibited from selling off hay during the last year. He took the view that such prohibition applied only to hay grown in the last year of the tenancy, but the decision in the case mentioned showed that he was restricted from selling or moving off hay in the last year, whether that hay were grown then or in any previous year. This decision is of considerable importance to an

outgoer who has a considerable amount of produce grown in the last year but one, and it would point to the necessity of selling or removing such produce from the holding before the commencement of the last year of the tenancy. This decision has recently been upheld in *Meggeson* v. *Groves*, W. N. (1916), p. 378.

It has been suggested that landlords could evade this important section of the new Act by various devices. The favourite suggestion has been that the landlord should let the farm for one year only. There might be a verbal understanding that the tenancy should be renewed if the tenant adhered to a given rotation of crops. Possibly it is difficult to prove that such an expedient would be a direct contravention of the terms of the Act, although it would be, we submit, of its spirit. Moreover, we think that if landlords attempted to avoid the Act in this way, they would find it extremely difficult to induce tenants to take farms on such terms.

6. Miscellaneous Matters.

(*a*) **Right to View the Holding.**—In the absence of agreement a landlord has no right at common law to enter the demised premises during the term. As a general rule written contracts of tenancy permit a landlord and his agent and workmen to enter upon a farm to inspect it; but even if such a covenant should not now be contained in a lease, the landlord of a holding to which the Act applies may, under the authority of sect. 24, at all reasonable times enter on the holding for the purpose of viewing the state thereof. He may also authorise other people to enter for this purpose. The entry should be strictly for the purpose named in sect. 24, or otherwise the landlord will be a trespasser; and, in fact, in *Stocker* v. *The Planet Building Society* (1879), 27 W. R. 793, 877, the Court of Appeal restrained as a trespasser a landlord entering for the purpose of repairing the premises. Hence if the landlord wishes to enter the demised premises for effecting repairs, building, cutting and

carrying away timber, or for any purpose other than inspecting the condition of the holding, it is still incumbent upon him to reserve the necessary powers for so doing in the contract of tenancy.

(*b*) **Resumption of Premises for Improvements.**—At common law a notice to quit part of the holding is bad, and may be treated as null and void. Under sect. 23 of the Act, however, the landlord of a holding let on a yearly tenancy may resume possession of part of the holding for any one or more of eight purposes specified in the section. In such cases the landlord gives the tenant the ordinary notice to quit the part of the holding that he requires, stating the use for which the land is required. The tenant may (if he desires), within twenty-eight days after the service of such notice, serve on the landlord a notice in writing to the effect that he accepts it as a notice to quit the whole of the holding, to take effect at the end of the then current year of the tenancy. If, however, the tenant accepts the landlord's notice for part of the holding, he will be entitled to a reduction of rent proportionate to the amount of land taken from him, and also taking into account the depreciation in value to him of what remains caused by the severance or by the use to be made of the part severed. He is also entitled to compensation in respect of his unexhausted improvements on the land taken; and if the parties fail to agree in regard to the amount of the reduction of rent or the amount of compensation, the point shall be settled by arbitration under sect. 13 of the Act. If the landlord restricts his notice to such a part or proportion of the holding as may be necessary to carry out the intended improvement, he is apparently not responsible to pay the tenant compensation for unreasonable disturbance under sect. 11 in respect of the part taken (compare *Osborne* v. *Herdman*, *ante*, p. 25).

It should be noticed that the provisions of this section apply to tenancies from year to year only, and further that the landlord must give the ordinary notice. Moreover, he is limited to the eight improvements mentioned in the

section. Often landlords require portions of the holding for sale as building lots and other purposes not mentioned in the section; further, they sometimes desire to take possession on a much shorter notice than the ordinary one. It is clearly desirable that the power of resumption for other purposes or on shorter notice should be secured by express covenants in the contract of tenancy.

(*c*) **Penal Rents.**—Penal rents are abolished by sect. 25, and the landlord cannot recover from the tenant any sum for breach of covenant beyond the actual damage suffered, except in the case of liquidated damages imposed by the contract of tenancy upon a tenant who has contravened covenants therein against (1) breaking up permanent pasture; (2) grubbing underwoods; (3) felling, cutting, lopping or injuring trees; or (4) regulating the burning of heather.

It has long been common to have provisions in farm tenancies providing that the tenant shall not break up permanent pasture, grub underwoods, fell trees, &c.; and such agreements have further provided a penalty or liquidated damages for such purposes. These penalties still hold good in the case of the four items specified above. But in the case of other covenants, such as parting with the possession, systems of cultivation, "fines by way of penalty" for every ton of hay or straw sold off, penalties cannot be enforced; but only the actual damage done, in accordance with the equitable doctrine that where a penalty is inserted merely to secure the performance of an act or the enjoyment of a right, the performance of such act or the enjoyment of such right is the real purpose of the document, and the penalty is only accessory. The Court in such cases will relieve against the penalty and award the compensation in proportion to the damage actually sustained. Thus, in *Wilson* v. *Love*, 65 L. J. Q. B. 474, where the lease contained a covenant not to sell hay or straw off the premises during the term under a penalty of £3 for every ton so sold off, it was held that this figure was a penalty and that only the actual

manurial value of the hay and straw sold off could be recovered.

(*d*) **Condition of the Holding.**—Section 27 provides that either party may, at the commencement of a tenancy, require a record of the condition of the buildings, fences, gates, roads, drains, ditches and cultivations of the holding to be made within three months after the commencement of the tenancy by a person to be appointed, in default of agreement, by the Board of Agriculture. The cost of making such a record shall, in default of agreement, be borne by the landlord and tenant in equal proportions. The object of the section is to secure a definite record at the outset, which will be conclusive evidence as to the condition of the holding when the tenant entered. The section should prove a useful one. Hitherto the landlord and tenant have had the inventory to rely upon as some indication of the position when the tenant entered; the inventory, however, was not a record of the holding, but rather an invoice, indicating the method of valuing and the items for which the incomer paid compensation.

In drafting an agricultural lease it might be well to insert a clause providing that the record should be paid for by the party demanding it. Some difficulty may arise in the construction of the phrases "at the commencement of a tenancy" and "within three months after the commencement." Probably the first expression means the day on which the tenant entered into possession of the whole or any part of the holding. It is well known, however, that the whole of an agricultural holding is not entered into at one and the same time, and it is advisable that in the agreement of tenancy definite meaning should be given to these expressions. It has been suggested that this enactment is one which, owing to the expense and trouble involved in taking advantage of it, will probably prove more or less a dead-letter. It is to be hoped that this is not the case.

The Board of Agriculture and Fisheries have not issued any scale of costs applying to the making of a record, but if the scale suggested by a circular letter from the Board

dated June 30th, 1908, in regard to small holdings and allotments be any guide, the charges should not be excessive. The Board there suggest a fee of 1*s*. per acre for the first one hundred acres, and 6*d*. per acre above that quantity, with a minimum fee of three guineas, together with reasonable travelling and out-of-pocket expenses.

(*e*) **Market Gardens.**—A market garden is defined in sect. 48 (1) as meaning "a holding cultivated wholly or mainly for the purpose of the trade or business of market gardening." The determination of the question whether any given holding or part thereof was let as a market garden is a question of fact for the arbitrator, and the burden of proof will rest on the tenant who makes the assertion. If it be found as a fact that part of the holding was let as a market garden, the special provisions applying to market gardens can be claimed in respect to that part, and the ordinary provisions of the Act applicable to agricultural holdings will apply to the remainder: sect. 42 (3). There is no definition in the Act of the term "market gardening," but the words "trade or business" exclude operations which are carried on merely for pleasure, and not for profit. It would appear then that a market garden is a holding cultivated on a commercial basis for the profit derived from the sale of the produce grown thereon. The term will include land used for the growth of fruits, flowers and vegetables for sale; also orchards, where the fruit is grown for sale. But it will not include land devoted by the farmer to the growth of potatoes or peas, celery or carrots in open fields, nor to gardens which supply the needs of the tenant and his household, nor to orchards on agricultural holdings where the fruit is grown mainly for home consumption (see *In re Hammond*, 14 L. J. Bankruptcy, 14, where the meaning of the term "market-gardener" as contained in the Bankruptcy Act, 5 & 6 Vict. c. 122, s. 10, was discussed). But a holding is none the less a market garden, even if it is covered wholly or mainly with glass-houses (*Purser* v. *Worthing Local Board*, 18 Q. B. D. 818).

The provisions of the Agricultural Holdings Act apply

not merely to farms, but also to market gardens, and the tenant of a market garden has all the statutory rights accorded by the Act to the tenant farmer; but in addition the market gardener has certain special provisions and privileges granted to him, and these are enumerated in sect. 42. It may be noted that the kinds of market gardens to which these special provisions apply fall into two distinct classes, and to some extent the special provisions differ in regard to each of these two classes, viz. :—

(1) Holdings of which the tenancy began on or after January 1st, 1896; or, if the tenancy began before January 1st, 1896, holdings which were *not, with the knowledge and consent of the landlord*, in use or cultivation as market gardens on January 1st, 1896.

In this class of cases, before the tenant can claim the special privileges applicable to market gardens, he must obtain an agreement in writing from his landlord whereby the landlord consents to let the holding as a market garden, or, if the holding be already let, to allow it to be treated as a market garden.

(2) The second class includes holdings which were let to the present tenant, either on a lease or a yearly tenancy, which lease or yearly tenancy was in existence on January 1st, 1896, and the holdings at that date were, *with the knowledge of the landlord*, in use or cultivation as market gardens.

In this second class of cases there is no necessity for the tenant to obtain an agreement in writing from his landlord wherein it is agreed that the holding shall be let or treated as a market garden. If the tenant can show that he held the holding on January 1st, 1896, and that it was then cultivated as a market garden and that the landlord was aware of the fact, the combined effect of sect. 42 (2) of the Act of 1908 and the Agricultural Holdings Act, 1913, is that he is entitled to claim the special provisions applicable to market gardens even if he holds under a mere verbal agreement. It should be distinctly observed that there are two requirements and both must be complied with. It is

not sufficient that the holding should be let to the tenant, either on a lease or a yearly tenancy, which lease or yearly tenancy should be in existence on January 1st, 1896; but further the holding at that date (January 1st, 1896) must, *with the knowledge of the landlord*, be in use or cultivation as a market garden. This position is well illustrated by the recent case of *Morse* v. *Dixon*, (1917) 87 L. J. K. B. 1. An agreement under which the tenant might cultivate the holding as a market garden was executed prior to January 1st, 1896. By January 1st, 1896, the tenant had ploughed certain fields preparatory to planting fruit trees and fruit bushes, but no trees or bushes were planted at that date. Consequently, it was not at that date and could not have been cultivated as a market garden to the knowledge of the landlord. Soon after January 1st, 1896, the tenant planted many fruit trees and bushes, and continued to do so until near the expiration of his lease in 1916. It was held that he was not entitled to compensation for the fruit trees and bushes, or other improvements comprised in the Third Schedule.

We must now consider the special privileges given to a tenant of a market garden within the meaning of the Act, *i.e.*, holdings falling under the two classes described above. They are as follows:—

(1) The tenant on quitting his holding is entitled to compensation in respect of the improvements mentioned in Schedule III., even if he has effected them without notifying his landlord or without receiving the consent in writing of his landlord. These improvements are:—(*a*) planting of standard or other fruit trees permanently set out; (*b*) planting of fruit bushes permanently set out; (*c*) planting of strawberry plants; (*d*) planting of asparagus, rhubarb and other vegetable crops which continue productive for two or more years.

(2) The tenant can claim compensation in respect of the whole or part of an improvement which he has purchased, although his landlord has not consented in writing to the purchase. On reference to sect. 7 it will be seen that the

tenant of a market garden has a valuable privilege in regard to improvements purchased from a preceding tenant. It will be remembered that in the case of agricultural land the incoming tenant needs the consent in writing of the landlord before he purchases the improvements of the outgoing tenant, if he is to be entitled to the same compensation as that to which the outgoing tenant would have had a claim. The market gardener needs no such written consent of his landlord.

(3) It shall be lawful for the tenant of a market garden to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out; but, if the tenant does not remove such fruit trees and fruit bushes before the determination of his tenancy, they shall remain the property of the landlord, and the tenant shall not be entitled to any compensation in respect thereof.

(4) The tenant of a market garden can remove every fixture or building that was *affixed or erected at any time* by him at his own cost upon the holding, or that was *acquired* by him since December 31st, 1900. Of course he has all the privileges in regard to removal that are given to the tenant of an agricultural holding by sect. 21 of the Act, and he has an additional privilege, viz., he can remove (subject to the conditions of sect. 21) fixtures and buildings that he affixed or erected before January 1st, 1884, whilst the tenant of an agricultural holding cannot remove fixtures or buildings affixed or erected before that date.

7. Arbitration.

The tendency of the Agricultural Holdings Act is to substitute arbitration for litigation. Whether the cost of proceedings in arbitration is likely to be less to the parties concerned, or even whether the principle is a more welcome one, is a matter open to question. The reader should now peruse sects. 6, 7, 13, 14, 35 and the Second Schedule to the Act. He will learn from sect. 13 (1) that all questions

which under the Act or under the contract of tenancy are referred to arbitration shall be determined, notwithstanding any agreement providing for a different method of arbitration, by a single arbitrator in accordance with the provisions of the Second Schedule. Hence it is unnecessary, in tenancy agreements, to insert any special provisions as to the mode of determining the amount of compensation when the parties concerned fail to agree. How far will these provisions in regard to the appointment of a single arbitrator affect the old and well-tried custom of valuation between landlord and outgoing tenant? It is a matter of common knowledge that the ordinary practice is that the landlord and the outgoer appoint a valuer each and empower these valuers, if they should not be able to agree, to appoint a third party as umpire to settle the amount of compensation to be paid. Probably the mode of procedure under the Act will not greatly affect this practice. There is no necessity for an arbitration under the Act at all. It is still open to the parties to settle their differences according to custom or the agreement, and each party may still appoint a valuer in accordance with the prevailing practice, and may empower the valuers, in case they should be unable to agree, to appoint a third person (an umpire) to settle the amount of compensation to be paid, and if an agreement can be arrived at in this manner no arbitration will be necessary. It should be clearly understood, however, that the landlord cannot compel the outgoing tenant to accept an arbitration by custom or the agreement; and seeing that custom and the agreement in most cases do not cover all the possible improvements mentioned in the First Schedule to the Act, perhaps the tenant would be ill-advised in submitting to an arbitration under custom or the agreement.

We have noticed above that the procedure may be according to custom or according to the tenancy agreement; but even apart from these special cases, the provisions of sect. 13 have reference only to arbitration, and will not affect any agreement the parties may come to as to the making of a valuation. In the Appendix we give a form of agreement,

which we think is suitable, where the valuers of the parties can arrive at an agreement (see Appendix II., Form 17). There is nothing to hinder the two principals from coming to an agreement as to the amount of the valuation, embodying their agreement in writing and thus avoiding arbitration. There is no need to resort to arbitration if each principal appoints a valuer, and the two valuers, being properly authorised and no dispute having arisen between the principals, can similarly arrive at a common agreement. Finally, a mere difference of opinion between the two valuers or inability to agree upon a price for an admitted improvement, need not necessarily compel a resort to arbitration, for if the valuers are duly authorised to appoint an umpire to fix the award for an improvement on the value of which they cannot agree, they may do so and accept the valuation of this third party.

It must be clearly understood that an "*umpire*" is a valuer who relies on his own inspection and judgment. In point of fact he is not called in to settle a dispute, but really to ascertain the value of an indicated improvement. He is a man to whom the two valuers were authorised and have delegated their authority to give a monetary value to an admitted improvement or dilapidation. On the other hand, an "*arbitrator*" is a man who has judicial functions. He does not rely on his own inspection nor solely on his own judgment; but he has the power to call for the production of written and oral evidence, the task of sifting the same, the work of settling disputes that have arisen, the ability to refer a point of law to the County Court, and the duty of giving a decision in the form of an award which shall be binding upon the parties to the arbitration.

In point of fact, the majority of tenant right valuations in Lincolnshire, Derbyshire, Suffolk, and doubtless many other parts of the country are still conducted in the old-fashioned way without resorting to arbitration, and the Lincolnshire Tenant Right Valuers' Association have a set of Forms according to which the principals appoint valuers, and authorise the two valuers in case of disagreement to refer

the matter to the final decision of an umpire mutually agreed upon by the two valuers.

At the same time it must be pointed out that the procedure of the Act cannot be avoided by giving the name "valuation" to proceedings which in reality amount to an arbitration. The difference between an arbitration and a valuation may be a fine one, but it is important to consider it. To constitute an arbitration there must be a difference to be settled. A valuation, on the other hand, prevents differences and does not settle any which have arisen. An arbitrator is a person appointed to determine judicially between the parties; but a man who on account of his skill and knowledge is appointed to value anything in such a manner that he decides by the use of his own inspection, knowledge and skill, is not acting judicially: he is a valuer, not a judge. Perhaps even a third person, who similarly by aid of his own faculties makes a valuation when two other parties fail, is also a valuer and is rather misnamed in being called an umpire. A valuer is one who decides a matter by the aid of his own skill. An arbitrator, on the other hand, decides after weighing the evidence of those who have inspected any matter and have given their evidence on the point under consideration. As the matter is one of considerable importance it may not be amiss to give an extract from the judgment of Lord Esher in the leading case on the point, viz., *In re Carus-Wilson and Greene* (1886), 18 Q. B. D. 9: "The question here is whether the umpire was merely a valuer substituted for the valuers originally appointed by the parties in a certain event, or an arbitrator. If it appears from the terms of the agreement by which a matter is submitted to a person's decision that the intention of the parties was that he should hold an enquiry in the nature of a judicial enquiry, and hear the respective cases of the parties, and decide upon evidence laid before him, then the case is one of arbitration. The intention in such cases is that there shall be a judicial enquiry worked out in a judicial manner. On the other hand, there are cases in which a person is appointed to ascertain some matter for

the purposes of preventing differences from arising, not of settling them when they have arisen, and where the case is not one of arbitration but of a mere valuation. There may be cases of an intermediate kind, where, though a person is appointed to settle disputes that have arisen, still it is not intended that he shall be bound to hear evidence or arguments. In such cases it may often be difficult to say whether he is intended to be an arbitrator or to exercise some function other than that of arbitrator. Such cases must be determined each according to its particular circumstances."

Hence, to determine whether proceedings are merely an arbitration or valuation it will be necessary to look at the circumstances of each particular case. Assuming that an arbitration must take place, and it must, if the landlord and tenant (or their agents) cannot agree as to the amount and time and mode of payment of compensation, or if evidence is called and witnesses are heard; the first point clearly to comprehend is that the arbitration must be before a single arbitrator, and contracting out of this provision is expressly disallowed. The next point to notice is the items that may be submitted to arbitration. These proceedings may embrace the assessment of (*a*) compensation for unexhausted improvement; (*b*) for damage by game; (*c*) for unreasonable disturbance; (*d*) the value of a fixture claimed by the tenant or one purchased by the landlord under sect. 21; (*e*) the assessment of damages on a counter-claim by the landlord for a breach of contract, waste, or other dilapidations.

It must not be assumed, of course, that an arbitration will usually embrace all these items, although frequently it will include those numbered (*a*), (*c*), and (*e*).

Perhaps the most important statement in this treatise that can be impressed upon the mind of the tenant farmer is that if he desires to obtain compensation for unexhausted improvements under the Agricultural Holdings Act, or if he wishes to have the compensation payable under the valuation clauses of his agreement assessed by arbitration,

"he must give his landlord notice of his intention to claim compensation before the determination of his tenancy."

If he neglect to give this notice, or gives this notice after the end of his tenancy, his claim, in so far as the Act is concerned, is lost, and he would then have to rely on custom or the terms of his agreement for compensation (if any) that might be due to him, and he would be in a most unenviable position; for it is notorious that in few counties does custom award compensation for all the items embraced in the First Schedule to the Act. The Act does not specifically state that the notice need be in writing, but perhaps analogy with a similar point under the Workmen's Compensation Act makes written notice imperative. Under the Agricultural Holdings Act, 1900, the **claim** itself had to be sent before the end of the tenancy, but this is not now necessary. The actual detailed claim can now be sent in after the end of the tenancy, and there is no time limit within which the tenant must send in this claim. In fact there appears to be nothing to compel the tenant to proceed expeditiously with his claim. The landlord has no compulsion, and the only legal sanction is that the Statute of Limitations (21 Jac. 1, c. 16) provides the landlord with an effective defence if the claim be not enforced within six years. Perhaps this is to be regretted, because it is to the interest of both landlord and tenant that the matter should be settled with reasonable expedition. Probably the tenant's cause of action arises at the date when he sends in his notice of intention to claim, and the statutory period of six years runs from the said date. In Appendix II. will be found precedents of both the notice to claim and of the claim itself (see Forms 7 and 8).

The outgoer would be well advised in allowing an expert valuer to draw up the actual claim, and that for various reasons. One of the common rules governing arbitrations is that an arbitrator cannot award a larger sum than that claimed. Possibly, however, the tenant will not be bound exactly by the particulars of the claim, and it is thought that the claim may be enlarged or amended before coming

to arbitration (see Dixon's "Law of the Farm," 6th ed., p. 630).

It may not be irrelevant to interpose a little practical advice. The outgoing tenant has usually a year's warning before the end of his tenancy; he would be wise in consulting his valuer at an early period of the final year of his tenancy, and to arrange his whole course of cultivation in that last year with the valuation closely in mind. Outgoing tenants have sometimes refrained from claiming compensation under the mistaken notion that the landlord would be bound to refrain from commencing proceedings claiming damages for dilapidations. This is an entirely mistaken notion. Whatever claims to compensation the tenant may have, he will be wise in sending in his notice of claim, because, if he fails to do so, the landlord is under no obligation whatever to refrain from taking proceedings against the tenant for breaches of contract, waste or other dilapidations: and should the landlord commence an action for damages after the end of the tenancy, the tenant could not then set up a counter-claim for compensation for unexhausted improvements (*Gas Light and Coke Company* v. *Holloway*, 52 L. T. 434).

The proviso to sect. 6 (2) set at rest the difficult points that had been raised in the cases of *In re Paul, Ex parte Earl of Portarlington* (1889), 24 Q. B. D. 247. We have frequently noticed that the tenant quits his holding at various dates: thus under the custom of many districts he would retain a portion of the buildings, an outlet or boosey pasture, and even a part of the arable land on which an away-going crop of wheat is sown for some considerable period after the proper determination of his tenancy. For any improvements executed after the determination of the tenancy, but while he lawfully remains in occupation of the parts indicated he is entitled to defer sending in his notice of intention to claim right up to the time that he holds over these separate parts. Thus, under many Candlemas tenancies (February 2nd), the outgoer is permitted to hold over part of the house, fold yard and boosey

pasture till May 1st to consume roots, hay and straw. Should he execute any statutory improvement for which he is entitled to compensation, either on buildings so held over or on the boosey pasture, any time between Candlemas and May 1st, he is entitled to be compensated for the same, provided he sends his notice of intention to claim before May 1st. His notice of intention to claim for unexhausted improvements effected on the major portion of his farm should, of course, have been sent in before February 2nd.

It may be worth while to mention some of the credentials that would be looked for in the case of a single arbitrator appointed to decide a claim. If the landlord and tenant can agree upon the nomination of a single arbitrator they are permitted to do so. If they cannot so agree, the Board of Agriculture, on the application of either party, will appoint one. Perhaps it is needless to say that the arbitrator should have no secret interest in the matter referred to him, and that he should not be affected by circumstances unknown to one of the parties likely to influence his decisions. Very important duties devolve upon him and he has many questions of great legal and practical weight to decide. If such qualifications could be found in any one man, it is desirable that he should be a trained lawyer, an experienced agriculturist, and a man of science. A man selected from the immediate neighbourhood would have some advantages. Possibly he might be well equipped with agricultural knowledge and experience of the district, yet there would always be the possibility of his mind being warped by local prejudice, or that he lacked judicial training or the power to sift and weigh evidence. On the other hand, if the application be made to the Board of Agriculture, it might result that a man was appointed who was quite inexperienced in agricultural knowledge, or at any rate in the customs and peculiarities of the district. It will be surmised, then, that the selection of a good arbitrator is both a difficult and delicate task. If the principals can agree upon the appointment of a sole arbitrator without appealing

to the Board of Agriculture, they should embody this agreement in writing, and the document, when the amount of the dispute exceeds £5, should be stamped with a sixpenny stamp. When the appointment has been duly made (whether by the Board or agreement between the parties), neither party alone can revoke the appointment. To effectively revoke the appointment, both parties would need to agree, and then they have power to do so by giving notice in writing to the arbitrator.

The arbitrator, after he has received notice to act, must proceed to act within seven days. It is believed that he would be complying with this time limit if, within the first seven days, he merely fixed a day for the arbitration. Doubtless he would try to meet the convenience of both parties or their valuers; but absolute discretion both as to time and place rests with the arbitrator, and he may change the day he has appointed. He cannot delegate his duties, except such as are purely of a ministerial character; but he is permitted to take the advice of a third person, provided he exercises his own judgment thereon. The parties may be represented by counsel, although it is thought that it is within the jurisdiction of the arbitrator to limit the proceedings by eliminating speeches and merely hearing and weighing evidence. If one side intends to employ counsel or a solicitor, it would be wise to notify the other side, or otherwise a postponement would probably be asked for and the arbitrator would be bound to accede to the request. If he refused, the Court would hold that he had not acted fairly between the parties and would set aside his award (*Whatley* v. *Morland* (1834), 2 Dowl. 249).

The discussion of costs, and thus the ultimate decision as to whether counsel or solicitors were reasonably required, will finally be a matter for the registrar or judge of the County Court. Section 6 (3) enables the arbitrator to settle all differences between the parties. It empowers the tenant, by written notice given to the landlord not later than seven days after the appointment of an arbitrator, to require the arbitrator, in addition to the statutory claims

for compensation, to deal with further claims by the tenant against the landlord for breach of contract or otherwise in respect of the holding. Similarly the landlord may, within the same time limit, by notice to the tenant, require the arbitrator to deal with a counter-claim for waste, dilapidation, breach of contract or otherwise.

The arbitrator cannot determine differences between the parties in a manner otherwise than directed by the submission. His award can only be a money award. Probably before the date fixed for arbitration he will have received a preliminary statement in regard to the matters in dispute between the parties. Where this foreknowledge has been given, the opening statement might be dispensed with, or, at any rate, be concise.

The first evidence taken would usually be that of the outgoing tenant or his valuer. If the landlord calls no evidence, the tenant (or his counsel or solicitor) would then address the arbitrator and comment upon the evidence previously submitted. On the other hand, if the landlord calls evidence, either for the purpose of disputing the claim or supporting a counter-claim, the tenant (or his counsel) will reserve his comments until the conclusion of the evidence offered by or on behalf of the landlord.

The landlord or his agent or his counsel will make any remarks he deems fit after his own evidence, and the tenant or his counsel will reply. Of course, if the landlord has brought forward evidence to support a counter-claim, the tenant will be allowed to adduce evidence to rebut it if necessary. This additional evidence will be strictly limited to the disproof of the counter-claim.

The arbitrator may call for all samples, books, deeds, papers, accounts, writing and documents within the possession or power of the parties which may be referred to or called for and which seem necessary to him for the determination of the matters referred to, and he may examine the witnesses on oath. There does not appear to be any provision enabling him, in the event of persons disobeying his orders, to enforce production of documents or samples

or to impose a penalty for non-production. He can disallow any claim which can only be supported by evidence which is not produced, and further, as he can compel the offending party to pay costs, probably he is amply provided with means of enforcing his own orders.

At some stage in the proceedings, the arbitrator will doubtless view the holding, accompanied by the valuers. If there is a written contract of tenancy, the arbitrator will observe the valuation clauses therein, and if these clauses provide fair and reasonable compensation for statutory improvements, he will adopt as the basis of his award the mode indicated in such agreement. Moreover, the duty of seeing whether substituted compensation is fair and reasonable will rest upon the arbitrator. On his own initiative the arbitrator may, at any stage of the proceedings, state a case for the decision of the County Court on any question of law arising in the course of the arbitration, and must state a case if so directed by the judge of the County Court, which direction may be given on the application of either party. It is submitted that a case can be stated at any time until the award has been made and executed.

Rule 10 of the Second Schedule provides that the arbitrator shall, on the application of either party, specify the amount awarded in respect of any particular improvement or any particular matter, the subject of the award. This is a very useful provision. It is a matter of common knowledge that valuers usually award a lump sum. Probably this practice has worked fairly well and avoided subsequent disputes. In fact, many agriculturists favour the old method. There are cases, however, where such a course is undesirable, and in some cases it is quite necessary that the amount awarded for a particular item should be specified. Take, for example, the case of dilapidations to buildings. If the incoming tenant had undertaken to repair and maintain the dilapidated buildings, of course he should have the full benefit of the counter-claim, and hence there would be no need for any separate award in regard to this particular item. On the other hand, however, it is a common practice

for the landlord at the commencement of a new tenancy to put the buildings in repair. Where a landlord has so covenanted, obviously he should benefit to the extent of the sum allowed on the counter-claim for dilapidations to the buildings: and hence it would be necessary to state the special sum awarded for this particular dilapidation. In the matter of fences and ditches, however, the tenant usually stipulates to keep and leave them in good condition. Hence, if they are in a bad condition when the tenant enters, he should be allowed the full benefit of the deduction made against the outgoer in respect to the non-repair thereof; and in many cases it might be desirable to state the amount awarded for this item.

The arbitrator will follow the ordinary law and practice in regard to the reception of evidence. We have already noticed that he may take the opinion of an expert, provided he uses his own judgment thereon. He may similarly be assisted by an expert, if the parties do not object. After the conclusion of the arbitration he will consider the evidence submitted to him and draw out his award in the form prescribed by the Board of Agriculture (see Appendix I).

When he has made his award, his office is at an end, and he can correct it only in accordance with rule 12 of the Second Schedule. The arbitrator, like the displaced umpire, can retain possession of his award until his fees have been paid; but an umpire usually asks both valuers for a moiety of his fees, and when both are received he forwards the award to the valuer acting for the one who is to receive the money. Sometimes an umpire advises both the parties that the award is ready and can be had on payment of his fees, and whoever is the first to forward the whole fee receives the award. If the arbitrator charges excessive fees he can sometimes be successfully sued for the excess. A Court, however, will not interfere unless there is evidence showing that the fees are extortionate or unreasonable. The arbitrator must not make out his award in such a manner as to deprive either party of the right to

challenge the amount of his fees, *e.g.*, by awarding a lump sum to cover the cost of the whole arbitration as well as his own fees (*Gilbert* v. *Wright* (1904), 68 J. P. 143).

The arbitrator must make and sign his award within twenty-eight days of his appointment, or within such longer time as the Board of Agriculture may direct, and he must fix a day not sooner than one month, nor later than two months after the delivery of the award, for the payment of the money awarded as compensation, costs or otherwise. The award should not be partial, but a complete instrument dealing with *all* the matters that have been referred to the arbitrator, but no mention need be made in the award of claims which have been abandoned during the reference (*Samuel* v. *Cooper* (1835), 2 A. & E. 752, and *Lawrence* v. *Bristol and North Somerset Railway* (1867), 16 L. T. 326). The award should be certain, so that there is no doubt as to the arbitrator's meaning, but it may contain alternative directions. Refusal by an arbitrator to admit material evidence is evidence of "misconduct" on his part, entitling the party aggrieved to have the award set aside (*Williams* v. *Wallis & Cox*). Moreover the arbitrator must give a decision as to the costs of the arbitration, otherwise his award will not be complete and may be set aside (*Richardson* v. *Worsley* (1850), 19 L. J. Ex. 317). He may apportion the costs as he thinks just; in fact his discretion as to costs incidental to an arbitration under the Agricultural Holdings Act, 1908, is absolutely unfettered, and the Court will not interfere with his award as to costs (*Ashburton, Lord* v. *Gray*, W. N. 1916, p. 393). It is a common practice, when the arbitrator does not wish to give a preference to either party, to direct that each party shall bear his own costs of the reference and pay half the costs of the award. This practice saves the trouble of taxing the costs which would arise if the arbitrator directed that each party should pay half the costs. The costs shall be subject to taxation by the Registrar of the County Court on the application of either party, but such taxation shall be subject to review by the judge of the County Court.

His award will be final and binding on the parties and the persons claiming under them. It will need to be stamped. Prior to the Revenue Act, 1906, an award needed a similar sum to that required by an appraisement or valuation. Now there appears to be a difference in this respect: for under sect. 9 of the Act just mentioned, a uniform duty of 10*s.* is chargeable on an award; whereas an appraisement or valuation needs to be stamped in accordance with the provisions of the Stamp Act, 1891, and the stamp duties on valuations are as follows:—

Where the amount of the appraisement or valuation—	£	s.	d.
Does not exceed £5	0	0	3
Exceeds £5 and does not exceed £10	0	0	6
,, 10 ,, ,, 20	0	1	0
,, 20 ,, ,, 30	0	1	6
,, 30 ,, ,, 40	0	2	0
,, 40 ,, ,, 50	0	2	6
,, 50 ,, ,, 100	0	5	0
,, 100 ,, ,, 200	0	10	0
,, 200 ,, ,, 500	0	15	0
,, 500	1	0	0

The recovery of the compensation awarded is provided for in sect. 14 of the Act, which section, moreover, not only applies to awards, but also to cases where the parties have come to an agreement without arbitration.

If the sum due by a landlord or tenant of a holding is not paid within fourteen days after the time when it becomes due, it shall be recoverable upon order made by the County Court as money ordered by a County Court under its ordinary jurisdiction to be paid is recoverable: *i.e.*, either—

(1) By execution against the goods and chattels of the debtor, or

(2) By commitment to prison under the Debtors Act, 1869, for any term not exceeding six weeks, or by

(3) Attachment of debts due to the debtor from third parties under a garnishee order.

There is one exception, however, viz., where the landlord is a trustee. This exceptional case is provided for in sect. 35, which enacts that when a landlord is not entitled to receive

the rents and profits of the holding for his own benefit, the amount due shall not be recoverable personally against the landlord, nor shall he be under any liability to pay the amount, but it shall be a charge on and recoverable against the holding only.

AGRICULTURAL HOLDINGS ACT, 1908.

AN ACT TO CONSOLIDATE THE ENACTMENTS RELATING TO AGRICULTURAL HOLDINGS IN ENGLAND AND WALES.
[1ST AUGUST, 1908.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Compensation for Improvements on Holdings.

Right of tenant to compensation for improvements.

1.—(1) Where a tenant (1) of a holding has made thereon any improvement (2) comprised in the First Schedule to this Act he shall, subject as in this Act mentioned, be entitled, at the determination of a tenancy, on quitting his holding (3) to obtain from the landlord as compensation under this Act for the improvement such sum as fairly represents the value of the improvement to an incoming tenant (4).

(2) In the ascertainment of the amount of the compensation payable to a tenant under this section there shall be taken into account—

(*a*) Any benefit (5) which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement; and

(*b*) as respects manuring as defined by this Act, the value of the manure required by the contract of tenancy or by custom to be returned to the holding in respect of any crops sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, not exceeding the value of the manure (6) which would have been produced by the consumption on the holding of the crops so sold off or removed.

(3) Nothing in this section shall prejudice the right of a tenant to claim any compensation to which he may be

entitled under custom, agreement, or otherwise, in lieu of any compensation provided by this section.

For a discussion of the principal topics mentioned in this section, see *ante*, pp. 5-21.

(1) TENANT. For a definition of the terms "tenant," "holding," and "landlord," see sect. 48.

(2) ANY IMPROVEMENT COMPRISED IN THE FIRST SCHEDULE. It should be noticed that compensation under the Act is awarded for twenty-seven specific improvements. This feature is sometimes a stumbling-block to outgoing tenants, who imagine that they have a claim for general improvements, *e.g.*, bringing waste land or foul land into cultivation. It should therefore be clearly grasped that there is no compensation under the Act for general improvement of the condition of the land. Of course such improvement may have been effected through some of the twenty-seven statutory improvements; and consequently the tenant may be entitled to substantiate separate claims for compensation which have been material in enhancing the value of the farm.

(3) DETERMINATION OF A TENANCY ON QUITTING HIS HOLDING. Compensation is not formally available to a sitting tenant. In fact, the Act specifically lays down a dual condition; viz., the quitting of the holding and the determination of a tenancy. These two terms are not synonymous in meaning. A tenant might assign his tenancy to a third party and then quit his holding. In this case there would be a quitting but no determination of the tenancy, and for his compensation such an outgoer would look to an incomer, with whom he ought to have a definite contract specifying the liabilities and assets that were taken over and the consideration to be paid for the same. On the other hand, there may be a determination of the tenancy without the tenant quitting; *e.g.*, a tenant may have a seven years' lease of his farm, and without entering into a further written contract may continue to hold over after the expiration of the seven years. If the landlord consents to this holding over by the acceptance of rent, a new yearly tenancy is commenced, and thus there is a determination of the old tenancy without any quitting on the tenant's part.

The "determination of a tenancy" is defined in sect. 48 as the cesser of a contract of tenancy by reason of effluxion of time or from any other cause. A lease is determined by effluxion of time when the stipulated period has run its course. Another mode of determining a tenancy is by means of notice to quit, and other causes which may bring the relationship to an end are surrender, forfeiture, repudiation of the landlord's title, and bankruptcy.

A *surrender* of the tenancy by the act of the parties must be in writing, and if the tenancy be for more than three years, it must be by deed (8 & 9 Vict. c. 106, s. 3). A surrender, too, may be effected by the operation of the law, as by the acceptance of a new lease (see Dixon's "Law of the Farm," 6th ed., pp. 496-497).

Most leases contain provisoes for *forfeiture* on breach of specified covenants by the lessee. Any acts or defaults which give rise to forfeiture only render the lease voidable at the option of the lessor, and

do not give the lessee power to avoid the lease. The landlord may choose to waive the forfeiture. Moreover the Conveyancing and Law of Property Act, 1881, s. 14, makes it necessary in most cases to serve a notice in writing to require the tenant to make good the breach complained of, and to make compensation for the breach, before the right of re-entry can be enforced. The section, however, does not apply to a condition against assigning, under-letting, or to a condition for forfeiture on the bankruptcy of the tenant (see Woodfall's "Law of Landlord and Tenant," chap. 22).

A tenancy may be terminated if the tenant, in writing, denies or *repudiates* the landlord's title; and the landlord will be entitled to eject the tenant without any notice to quit (*Vivian* v. *Moat*, 50 L. J. Ch. 331).

A common proviso for re-entry is that the tenancy may be forfeited upon the bankruptcy of the tenant. Such a proviso is valid, and there can be no relief against forfeiture on this account. If there is no proviso for re-entry on the bankruptcy of a tenant, then upon adjudication as bankrupt, the tenant's interest under a lease passes to the Official Receiver and vests in the trustee of the bankrupt. The trustee in bankruptcy, however, may disclaim such a lease, and the "disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt in respect of the property disclaimed" (Bankruptcy Act, 1914, s. 54 (2)). A trustee in bankruptcy who has disclaimed cannot counter-claim for compensation in an action brought by the landlord, and if there is an agreement restraining the tenant from selling off the hay, straw, &c., and the trustee, in contravention of such agreement, sells off hay, straw, &c., he is personally liable to the landlord (*Schofield* v. *Hincks*, 58 L. J. Q. B. 147). Moreover, neither the lessor nor the trustee, if the latter disclaims, can claim the benefit of any provisions in the lease which were to come into operation at the expiration of the tenancy (*In re Morrish, ex parte Hart Dyke*, 52 L. J. Ch. 570). The position, when the trustee disclaims, is not however free from difficulty. It is possible that the trustee can disclaim the lease and yet substantiate a claim for any prior rights of the tenant that have matured: at any rate the under-mentioned sub-sect. 3 of the Bankruptcy Act, 1914, sect. 54, must be taken into account, viz.: "A trustee shall not be entitled to disclaim a lease without the leave of the Court, except in any cases which may be prescribed by general rules; and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenants' improvements, and other matters arising out of the tenancy as the Court thinks just." For further details see Dixon's "Law of the Farm," 6th ed., pp. 516-521.

(4) The Value of the Improvement to an Incoming Tenant. It may be asked: Does the outgoer's claim to compensation fail if there be no incoming tenant? We have already noticed that the claim for compensation is in all cases against the landlord, and not against the incoming tenant. The mere fact that there is no incoming tenant, or even a prospect of one, will not prevent the outgoer from making good

his claim. *Faviell* v. *Gaskoin* (1852), 7 Ex. 273, proves that a claim for compensation under the custom of the country is an absolute claim upon the landlord, and is not contingent upon there being an incoming tenant. Moreover, a custom that the outgoing tenant shall look to the incoming tenant for payment to the exclusion of the landlord cannot be supported (*Bradburn* v. *Foley*, 47 L. J. C. P. 331). It cannot be doubted, then, that the Act similarly imposes an absolute liability upon the landlord to pay compensation, whether there be an incoming tenant or not, provided the tenant's improvement is a statutory one, and of value to an incoming tenant if there were one.

(5) In *Galloway* (*Earl*) v. *M'Clelland*, (1915) S. C. 1062, the tenant claimed compensation for temporary pasture laid down by him in carrying out the system of cultivation imposed by the lease. The landlord maintained that, if compensation fell to be awarded, the arbitrator must set against it the temporary pasture handed over to the tenant free of charge on his entry. There was no reference in the lease to the temporary pasture received by the tenant on entry. It was held that the temporary pasture, although not specifically mentioned, must be taken into account as being a benefit under sect. 1 (2a).

In *Buchanan* v. *Taylor*, (1916) S. C. 129, the lease (dated 1903) contained a schedule of compensation for unexhausted improvements, and also contained a clause that, whereas the landlord had paid a claim for unexhausted improvements by the previous tenant at his outgoing in 1884, "therefore the parties hereto have agreed that the sum represented in the said claim shall form a deduction from the amount payable to the tenant at the termination of this tenancy." This clause was upheld: the landlord had conferred a "benefit," and the agreement did not deprive the tenant of his right to claim compensation within the meaning of sect. 5, and therefore was not void.

(6) NOT EXCEEDING THE VALUE OF THE MANURE, &c. An interesting point arose in *In re Hull and Lady Meux*, 74 L. J. K. B. 252. The tenant had entered into a covenant to stack upon the premises all the hay and straw produced on the holding, to consume on the farm all the said hay, straw, &c., and to carry out and spread upon the farm the manure arising from the consumption of such hay and straw. During the continuance of the tenancy several stacks of hay and straw were accidentally destroyed by fire. It was held that the landlord, at the determination of the tenancy, was not entitled to compensation for the loss of the manurial value of the hay and straw so accidentally destroyed. The clause applied only to things in existence, and there was no breach of contract on the tenant's part.

Consent of landlord as to improvement in First Schedule, Part I.

2. Compensation under this Act shall not be payable in respect of any improvement comprised in Part I. of the First Schedule hereto, unless the landlord (1) of the holding has, previously to the execution of the improvement, consented in writing to the making of the improvement, and any such consent (2) may be given by the landlord unconditionally, or upon such terms as to compensation or

otherwise as may be agreed upon between the landlord and the tenant, and, if any such agreement is made, any compensation payable under the agreement shall be substituted for compensation under this Act.

(1) THE LANDLORD. Under sect. 3 of the Act of 1883, consent might be given by "the landlord or his agent duly authorised in that behalf." In the present Act, no reference is made to the authority of the agent to bind his principal in the matter of the improvements contained in Part I. of the First Schedule. Possibly, the agent may, without express authority, bind his principal if it can be shown that he is acting within the scope of his authority: and in *In re Pearson and I'Anson*, 68 L. J. Q. B. 878, it was held that an agent had implied authority to consent to the alteration of part of a farm into a market garden and to promise a market garden valuation on quitting. Still, if a tenant is about to execute costly improvements of the nature of those described in Part I. he would be well advised, not only to have a written consent, but the basis of compensation settled, and the agreement or memorandum signed by the landlord himself.

(2) SUCH CONSENT. The consent must be given before the improvement is effected. Failure to obtain such consent is an absolute bar to compensation, and consent subsequently received will not entitle the tenant to claim compensation (see Appendix II., Form 4). We need hardly add that when the consent is obtained, it should be preserved with the same care as the lease itself, or any other legal document. It will be observed that nothing is said in the section as to the adequacy of the compensation for improvements specified in Part I. If no scale is agreed upon, the compensation will be determined by the arbitrator; and if compensation has been so agreed upon, apparently it will not be part of the duty of the arbitrator to enquire whether that compensation "is fair and reasonable," as it is his duty to enquire when substituted compensation has been agreed upon for improvements mentioned in the third part of the First Schedule. The landlord cannot impose as a condition of his consent that no compensation shall be paid: if the tenant forgoes all claim to compensation, such agreement is bad (*Mears* v. *Callender*, 70 L. J. Ch. 624). Finally, the consent need not be given in a separate document, but may be contained in the contract of tenancy.

Notice of landlord as to improvement in First Schedule, Part II.

3.—(1) Compensation under this Act shall not be payable in respect of any improvement comprised in Part II. of the First Schedule hereto, unless the tenant of the holding has, not more than three nor less than two months (1) before beginning to execute the improvement, given to the landlord notice (2) in writing of his intention so to do, and of the manner in which he proposes to do the intended work, and upon such notice being given, the landlord and the

tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed.

(2) If any such agreement is made, any compensation payable under the agreement shall be substituted for compensation under this Act.

(3) In default of any such agreement the landlord may, unless the notice of the tenant is previously withdrawn, execute the improvement in any reasonable and proper manner when he thinks fit, and recover from the tenant as rent a sum not exceeding five per cent. per annum on the outlay (3) incurred, or not exceeding such annual sum payable for a period of twenty-five years as will repay that outlay in that period, with interest at the rate of three per cent. per annum:

Provided that, if the landlord fails to execute the improvement within a reasonable time (4), the tenant may execute the improvement, and shall in respect thereof be entitled to compensation under this Act.

(4) The landlord and the tenant may by the contract of tenancy or otherwise agree to dispense with any notice under this section, and any such agreement may provide for anything for which an agreement after notice under this section may provide, and in such case shall be of the same validity and effect as such last-mentioned agreement.

see *ante*, pp. 6-10.

(1) MONTH. The word "month" means calendar month (Interpretation Act, 1889, s. 3).

(2) NOTICE. This may be given to the agent of the landlord (sect. 45). It need specify only rough particulars (see Appendix II., Form 5).

(3) OUTLAY. There are several Acts of Parliament enabling landowners to raise money for drainage purposes. See particularly the Settled Land Act, 1882, s. 25; the Land Drainage Act, 1845; the Public Money Drainage Acts, 1846-1856; and the Improvement of Land Acts, 1864-1899.

(4) "REASONABLE TIME." This expression is not defined. Land drainage, however, is usually carried on in winter or early spring, and hence the tenant would be well advised in giving notice of his requirements to his landlord in autumn. If the landlord promised to drain and yet neglected during the winter, the tenant would have an opportunity of effecting the improvement before his spring cultivations monopolised the whole of his time and attention.

Agreements as to improvement in First Schedule, Part III.

4. Where any agreement in writing secures to the tenant of a holding for any improvement comprised in Part III. of the First Schedule hereto fair and reasonable compensation, having regard to the circumstances existing at the time of making the agreement, the compensation so secured shall, as respects that improvement, be substituted for compensation under this Act.

See *ante*, pp. 19-21.

Avoidance of contract inconsistent with Act.

5. Subject to the foregoing provisions of this Act, any contract (whether under seal or not) made by a tenant of a holding, by virtue of which he is deprived of his right to claim compensation under this Act, in respect of any improvement, comprised in the First Schedule hereto, shall be void so far as it deprives him of that right.

See *ante*, pp. 3-4. This clause prevents "contracting out" of the Act. A tenant who occupies a holding to which the Act applies, and who complies with the Act in regard to notice, cannot be prevented from claiming compensation under the Act (*Cathcart* v. *Chalmers*). Any contract which attempts to so deprive him of such right will be void both at law and equity. The contract, however, will only be void so far as it deprives the tenant of his right to claim compensation under this Act, and consequently in other particulars it may be good and valid. Sometimes in the past the landlords of dilapidated farms have attempted to avoid payment by allowing an incomer to enter without paying any money for valuation, on the understanding that he should claim nothing when his tenancy ended. Such an arrangement might be extremely unfair and unreasonable. In fact, on a dilapidated farm there might be few or no unexhausted improvements for which the incoming tenant was under any obligation to make payment. If such a tenant improved the holding by means of statutory improvements and at the end of his tenancy was debarred from enforcing his claim, he might suffer serious loss. It is satisfactory to think that such a device would not evade sect. 5 of the Act. In *Mears* v. *Callender*, 70 L. J. Ch. 621, the lease provided that in the last year "the landlord might enter and sow certain seeds, and that the tenant should leave free for the landlord all the roots remaining unconsumed in the ground and also all improvements made by the tenant, and all cultivations, dressings and manures in consideration of no claim being made by the landlord for similar matters on the tenant now entering." It was held that if this clause was construed so as to exclude the tenant from statutory compensation, the attempted exclusion was inoperative.

Determination of claims to compensation.

6.—(1) If the tenant of a holding claims to be entitled to compensation, whether under this Act, or under custom or agreement, or otherwise (1), in respect of any improvement comprised in the First Schedule to this Act, and if the landlord and tenant fail to agree as to the amount and time and mode of payment of the compensation, the difference shall be settled by arbitration.

(2) A claim by the tenant of a holding for compensation under this Act in respect of any improvement comprised in the First Schedule to this Act shall not be made unless notice of intention to make the claim has been given before the determination of the tenancy:

Provided that, where the claim relates to an improvement executed after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the notice may be given at any time before the tenant quits that part.

(3) Where any claim by a tenant of a holding for compensation in respect of any improvement comprised in the First Schedule to this Act is referred to arbitration, and any sum is claimed to be due to the tenant from the landlord in respect of any breach of contract or otherwise in respect of the holding, or to the landlord from the tenant in respect of any waste wrongfully committed or permitted by the tenant, or in respect of breach of contract or otherwise in respect of the holding, the party claiming that sum may, if he thinks fit, by notice in writing given to the other party not later than seven days after the appointment of the arbitrator, require that the arbitration shall extend to the determination of the claim to that sum, and thereupon the provisions of this Act with respect to arbitration shall apply accordingly (2).

(4) Where a claim for compensation under this Act has been referred to arbitration, and the compensation payable under an agreement is by this Act to be substituted for compensation under this Act, such compensation as is to be so substituted shall be awarded in respect of any improvements provided for by the agreement.

See *ante*, pp. 19-21, and pp. 75-87.

(1) "Or Otherwise." All differences between the landlord and tenant can now be determined at one and the same arbitration. The tenant's claim, in addition to statutory improvements, will usually include claims for :—

(*a*) Breach of contract by the landlord.

(*b*) Acts of husbandry for which he is entitled to compensation either under the agreement or by custom.

The commonest breach of agreement by the landlord is neglect to repair, where he has covenanted in the agreement to do so. The acts of husbandry for which the tenant is usually entitled will include bare fallows and tillages, growing crops, seeds, away-going crop of wheat and unconsumed hay, straw and roots.

Similarly, the landlord by taking advantage of sub-sect. 3 can have all other outstanding differences included in the arbitration. It should be noted, however, that the landlord is under no obligation to send in a counter-claim for waste or other dilapidations. The Act provides no period during which the landlord must make his claim against the tenant. He is, in fact, in a much more favourable position than the tenant, for the latter has no claim by action for the unexhausted value of his statutory improvements : he must resort to the procedure provided by the Act, and must send in notice of his claim before the end of his tenancy. The landlord need not make a counter-claim at all under the provisions of the Act, but could commence an action in the High Court for waste and dilapidation at any time, so long as he was not prevented from so doing by the Statute of Limitations. If, however, the landlord does prefer to send in a counter-claim, this latter may include items for waste and claims for dilapidations, the latter arising either through breach of the terms of the contract or from farming contrary to custom.

Waste is either voluntary or permissive. Voluntary waste is where the tenant actively and wilfully commits damage, such as by felling timber, opening mines or quarries, pulling down old buildings, essentially altering the nature of the property, diverting watercourses, drying up ponds, ploughing up permanent pasture and meadow, &c. In regard to permanent pasture, we may interpose the remark that waste is committed by ploughing up the same, only if the pasture or meadow land was such at the beginning of the tenancy. A tenant is permitted to plough up permanent pasture or meadows which have been laid down by himself at his own cost. We shall deal with this topic at greater length in the second part of this volume. Permissive waste is where the tenant is negligent and allows the property to deteriorate and fall into disrepair. In an old case (*Torriano* v. *Young*, 6 C. & P. 8) it was held that, apart from agreement, a yearly tenant is not liable for permissive waste. This may still be true in regard to the repair of buildings, but scarcely applies to the cultivation of land. See the teaching of *Williams* v. *Lewis*, quoted at the end of this note. Whether a lessee is so liable in the absence of express agreement is not quite certain. It was held, however, in *Davies* v. *Davies*, 57 L. J. Ch. 1093, that a tenant for years was liable for permissive waste.

(2) DILAPIDATIONS. Although carrying off hay, straw and manure is not waste, yet almost universally provision is made either by contracts of tenancy or by custom that the tenant shall consume the hay, straw and roots, trim the hedges and scour out the ditches; and there are few arbitrations in which there is not a counter-claim by the landlord for dilapidations of the character indicated. Such dilapidations fall into two well-defined classes, viz. (*a*) dilapidations to the farm-house and buildings owing to non-performance by the tenant of the repairing clauses in his agreement, and (*b*) dilapidations to land. The latter include all acts committed by the outgoing tenant contrary to the agreement or custom and detrimental to the land. In the absence of an agreement the custom of the country almost universally demands that the tenant shall farm in a husbandlike manner according to the system adopted in his neighbourhood. Hence claims are usually made for improper treatment or neglect of the land apparent from its foul condition, for contravention of the laws of the rotation of cropping, for the absence of the stipulated quantity of fallow land in course of preparation for wheat, for neglecting the fences and failing to cleanse and scour the ditches. The recent case of *Williams* v. *Lewis*, [1915] 3 K. B. 493, shows that where at the commencement of an agricultural tenancy the land is below proper condition, the tenant, in the absence of an expressed agreement to the contrary, does not fulfil his obligation by leaving the farm in the same condition as when he took it, but is bound to farm properly down to its termination. There is no custom to the effect that a tenant may leave the land in the same condition as he took it; and the maxim that "a tenant goes out as he comes in" has no reference to claims for bad farming. If a considerable course of proper farming will restore land to proper condition, the landlord has a right to have it delivered up in proper condition. It is the tenant's duty to farm properly right to the end of his tenancy.

Right of tenant who has paid compensation to outgoing tenant.

7. Where an incoming tenant of a holding has, with the consent in writing of his landlord, paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, the incoming tenant shall be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted it at the time at which the incoming tenant quits it.

Advantage is very frequently taken of the provisions of this section. An incoming tenant who, with the landlord's written consent, pays an outgoing tenant the compensation due to him under the Act, stands in place of such outgoing tenant. In the case of market gardens, the written consent of the landlord is not required (sect. 42 (1)). Hence

the incomer when he leaves claims as if he had been tenant not only during his own term, but during the term of his predecessor. This method enables landlords to avoid charging the holding in the manner contemplated in sects. 15-17.

It need hardly be said that the incoming tenant should be careful to keep and preserve all vouchers, inventories and awards showing payments to the outgoing tenants. Contracts of tenancy usually contain a clause wherein the incomer stipulates to pay the outgoer all compensation due under the Act, and it is submitted that such clause would be a sufficient "consent by the landlord" within the meaning of this section.

Provision as to change of tenancy.

8. A tenant who has remained in his holding during two or more tenancies shall not, on quitting his holding, be deprived of his right to claim compensation under this Act in respect of improvements by reason only that the improvements were not made during the tenancy on the determination of which he quits the holding.

This section meets cases where :—

(*a*) Notice has been given by or to the tenant, and such notice is afterwards withdrawn, and also

(*b*) Cases where there has been a change of landlords during the tenancy.

Restriction in respect of improvements by tenant about to quit.

9.—(1) A tenant of a holding shall not be entitled to compensation under this Act in respect of any improvements, other than manuring (1) as defined by this Act, begun by him,—

(*a*) In the case of a tenant from year to year, within one year before he quits the holding, or at any time after he has given or received notice to quit which results in his quitting the holding; and

(*b*) In any other case, within one year before the expiration of his contract of tenancy:

Provided that this section shall not apply in the case of any improvement—

(i) Where the tenant, previously to beginning the improvement, has served notice on his landlord of his intention to begin it, and the landlord has either assented or has failed for a month after the receipt of the notice to object to the making of the improvement; or

(ii) In the case of a tenant from year to year, where the tenant has begun the improvement during the last year of his tenancy, and, in pursuance of a notice to quit thereafter given by the landlord, quits his holding at the expiration of that year.

See *ante*, pp. 16-19.

(1) "MANURE." This term includes the improvements numbered 23, 24 and 25 in the First Schedule to the Act. See sect. 48.

Compensation for damage by game.

10.—(1) Where a tenant of a holding has sustained damage to his crops from game the right to kill and take which is vested neither in him nor in any one claiming under him other than the landlord, and which the tenant has not permission in writing to kill, he shall subject as hereinafter mentioned be entitled to compensation from his landlord for such damage if it exceeds in amount the sum of one shilling per acre of the area over which the damage extends, and any agreement to the contrary, or in limitation of such compensation, shall be void.

(2) The amount of compensation (1) payable under this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration, but no compensation shall be recoverable under this section unless notice in writing is given to the landlord as soon as may be after the damage was first observed by the tenant and a reasonable opportunity is given to the landlord to inspect the damage—

(*a*) In the case of damage to a growing crop, before the crop is begun to be reaped, raised, or consumed; and

(*b*) In the case of damage to a crop reaped or raised, before it is begun to be removed from the land—

and unless notice in writing of the claim, together with the particulars thereof, is given to the landlord within one month after the expiration of the calendar year, or such other period (2) of twelve months as by agreement between the landlord and tenant may be substituted therefor, in respect of which the claim is made.

(3) Where the landlord proves that, under a contract of tenancy made before the commencement of this Act, any compensation for damage by game is payable by him, or that in fixing the rent to be paid under such contract allowance in respect of such damage to an agreed amount was expressly made, the arbitrator shall make such deduction from the compensation which would otherwise be payable under this section as may appear just.

(4) Where the right to kill and take the game is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by such other person against all claims for compensation under this section.

(5) For the purposes of this section the expression "game" means deer, pheasants, partridges, grouse, and black game.

See *ante*, pp. 34-39.

(1) "AMOUNT OF COMPENSATION." A heavy burden is cast upon the arbitrator. Compensation is payable for damage done by deer, pheasants, partridges, grouse and black game only. Damage done by hares and rabbits is excluded, as the tenant has the right under the Ground Game Act of killing them, but further the arbitrator must disregard damage done by pigeons, rooks, sparrows and small birds. It is common knowledge that these birds often do great mischief to green crops. It is perfectly true that grouse frequently do much harm to oat crops, but the presence of pheasants on land does not necessarily mean that damage is being done. In fact, pheasants are often useful in helping to clear land of wireworm and other noxious pests. When it is further borne in mind that a crop may not have grown owing to defective germination of the seed, it will be seen that the task of the arbitrator is a most difficult one.

(2) "SUCH OTHER PERIOD." We have already observed that the 31st January is a very unsuitable date on which to send in a claim for the year's damage done by game to the crops. It may be difficult at that date to estimate the damage that has been done to the winter wheat. Probably the end of September is more suitable, as the harvest operations will usually be concluded by that date.

11. Where—

Compensation for unreasonable disturbance.

(*a*) The landlord of a holding, without good and sufficient cause, and for reasons inconsistent with good estate management, terminates the tenancy by notice to quit, or, having been requested in writing, at least

one year before the expiration of a tenancy, to grant a renewal thereof, refuses to do so: or

(*b*) It has been proved that an increase of rent is demanded from the tenant of a holding, and that such increase was demanded by reason of an increase in the value of the holding due to improvements which have been executed by or at the cost of the tenant, and for which he has not, either directly or indirectly, received an equivalent from the landlord, and such demand results in the tenant quitting the holding,

the tenant upon quitting the holding shall, in addition to the compensation (if any) to which he may be entitled in respect of improvements, and notwithstanding any agreement to the contrary, be entitled to compensation for the loss or expense directly attributable to his quitting the holding which the tenant may unavoidably incur upon or in connexion with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock, on or used in connexion with the holding:

Provided that no compensation under this section shall be payable—

(*a*) Unless the tenant has given to the landlord a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid;

(*b*) Unless the tenant has within two months after he has received notice to quit or a refusal to grant a renewal of the tenancy, as the case may be, given to the landlord notice in writing of his intention to claim compensation under this section;

(*c*) Where the tenant with whom a contract of tenancy was made has died within three months before the date of the notice to quit, or in the case of a lease for years before the refusal to grant a renewal;

(*d*) If the claim for compensation is not made within three months after the time at which the tenant quits the holding.

In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

See *ante*, pp. 21-34.

Compensation to tenants when mortgagee takes possession.

12. Where a person occupies a holding under a contract of tenancy with a mortgagor, which is not binding on the mortgagee, then—

(1) The occupier shall, as against the mortgagee who takes possession, be entitled to any compensation which is, or would but for the mortgagee taking possession be, due to the occupier from the mortgagor as respects crops, improvements, tillages, or other matters connected with the holding, whether under this Act or custom or an agreement authorised by this Act;

(2) If the contract of tenancy is for a tenancy from year to year or for a term of years, not exceeding twenty-one, at a rackrent, the mortgagee shall, before he deprives the occupier of possession otherwise than in accordance with the contract of tenancy, give to the occupier six months' notice in writing of his intention so to do, and, if he so deprives him, compensation shall be due to the occupier for his crops, and for any expenditure upon the land which he has made in the expectation of remaining in the holding for the full term of his contract of tenancy, in so far as any improvement resulting therefrom is not exhausted at the time of his being so deprived.

(3) Any sum ascertained to be due to the occupier for compensation, or for any costs connected therewith, may be set off against any rent or other sum due from him in respect of the holding, but unless so set off shall, as against the mortgagee, be charged and recovered in accordance with the

provisions of this Act relating to the recovery of compensation due from a landlord who is a trustee.

See *ante*, pp. 39-42.

Procedure in arbitrations.

13.—(1) All questions which under this Act or under the contract of tenancy are referred to arbitration (1) shall, whether the matter to which the arbitration relates arose before or after the passing of this Act, be determined, notwithstanding any agreement under the contract of tenancy or otherwise providing for a different method of arbitration, by a single arbitrator in accordance with the provisions set out in the Second Schedule to this Act.

(2) Where any claim which is referred to arbitration relates to an improvement executed or matter arising after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the arbitrator may, if he thinks fit, make a separate award in respect of that claim.

(3) If in any arbitration under this Act the arbitrator states a case for the opinion of the County Court on any question of law, the opinion of the Court on any question so stated shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Court of Appeal, from whose decision no appeal shall lie.

52 & 53 Vict. c. 49.

(4) The Arbitration Act, 1889, shall not apply to any arbitration under this Act.

(5) Any person who wilfully and corruptly gives false evidence before an arbitrator in any arbitration under this Act shall be guilty of perjury, and may be dealt with, prosecuted, and punished accordingly.

See *ante*, pp. 73-87.

(1) "REFERRED TO ARBITRATION." We may again notice that there is no absolute necessity to refer to arbitration. Probably in the majority of cases the compensation money due to an outgoing tenant may be ascertained in the old and well-tried method, viz., both the landlord and outgoer may appoint a valuer to act on his behalf. These valuers should be duly authorised in writing to come to an agreement, and failing an agreement they should be authorised to nominate an

umpire, or, in case of need, an arbitrator. If they can agree upon the amount of compensation due, an arbitration will be avoided and the payment of the sum agreed upon may be enforced under the provisions of sect. 14.

If the valuers cannot agree in their valuation, the matters must be referred to arbitration, and one feature of difference between the old procedure and the new is that the valuers will not act as assessors to the arbitrator, but will be competent witnesses for their respective principals. At any stage of the proceedings the arbitrator may state a case for the County Court on any question of law. There is an appeal from the County Court Judge to the Court of Appeal, but the decision of the Court of Appeal is final; *i.e.*, there is no appeal to the House of Lords in appeals which relate "to a case stated" by the arbitrator. See also Order LVIII., rules 8 and 15, and Order LIX., rules 14 and 16. The appeal to the Court of Appeal must be made within twenty-one days.

Recovery of compensation and other sums due.

14. Where any sum agreed or awarded under this Act to be paid for compensation costs or otherwise by a landlord or tenant of a holding is not paid within fourteen days after the time when the payment becomes due, it shall, subject as in this Act provided, be recoverable upon order made by the County Court as money ordered by a County Court under its ordinary jurisdiction to be paid is recoverable.

See *ante*, pp. 86-87. This section provides a mode of enforcing payment both (*a*) where the respective principals or their two valuers have agreed to a definite sum of money for compensation, and also (*b*) where a case has gone to an arbitrator and the latter has made his award. In the former case, if the agreement fixed a date and the compensation money is not paid within fourteen days after the time agreed upon, it can be recovered upon order made by the County Court. If no time is specified in the agreement, then application can be made to the Court after fourteen days from the date of the agreement. But where an arbitrator awards a money compensation, he must fix a day not sooner than one month nor longer than two months after the delivery of the award for the payment of the compensation money, and the fourteen days mentioned in the section will run from the date of payment so fixed. Hence in the case of an award the minimum time that must elapse before application can be made to the County Court will vary from six to eleven weeks.

Where the landlord who defaults in payment is a trustee, provision is made for such a case in sect. 35, viz., where there is no personal liability, the Board of Agriculture must charge the holding.

Power for landlord on paying compensation to obtain charge.

15.—(1) A landlord, on paying to the tenant the amount due to him under this Act, or under custom or agreement, or otherwise in respect of compensation for an improvement comprised in the First Schedule thereto, or on expending

after notice given in accordance with this Act such amount as may be necessary to execute an improvement comprised in Part II. of the First Schedule hereto, shall be entitled to obtain from the Board an order in favour of himself, his executors, administrators, and assigns, charging the holding, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the Board think fit.

(2) Where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, in the opinion of the Board, have become exhausted.

(3) Where the estate or interest of a landlord is determinable or liable to forfeiture by reason of his creating or suffering any charge thereon, that estate or interest shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any deed, will, or other instrument to the contrary thereof notwithstanding.

This section will have little interest for a landlord who is owner in fee simple, because in the majority of cases he will take advantage of sect. 7 and make an arrangement with the incoming tenant, whereby the latter undertakes the responsibility of paying the compensation due to the outgoer, and in the exceptional case where there is no incoming tenant, the landlord would generally find it easier to raise the money due by means of a mortgage or loan obtained from a bank, insurance company or private source.

On the other hand, the section may confer more benefit on a landlord who is tenant for life or other limited period; *e.g.*, if a person who had a life interest only were condemned to pay the compensation due to an outgoing tenant and died soon after paying such compensation, his estate would be a loser thereby and the reversioner or remainderman would unduly benefit. Moreover, the section is also intended to benefit the remainderman as well, and thus it is of mutual benefit both to the life-owner and to the reversioner; *e.g.*, if a charge could not be obtained and the period for repayment of the charge spread over such a period of years (usually not exceeding forty) as the Board of Agriculture having regard to the kind and probable duration of the period determine, the life-owner might have benefited at the expense of the reversioner; for he could have raised a permanent mortgage to pay off the compensation money and thus have saddled the estate with a

permanent incumbrance, though the improvement was of a determinable and temporary character.

It should further be noticed that a life or other landed owner may obtain a charge in his own favour; thus, if £1000 were due to the outgoing tenant for unexhausted improvements, the landlord need not raise the sum by a mortgage obtained from extrinsic sources and repayable over a term of years, but could pay the money himself and similarly have the capital sum with interest redeemable by an annual charge spread over a period of years. Hence, in the event of his early death, his personal representatives would not be losers and the reversioner would be under the obligation of paying them the annual charge on the property until the advance made by the deceased life-owner had been liquidated. It should be added that any charge obtained under this section must be registered under the Land Charges Registration and Searches Act, 1888; if not so registered it will be void as against a purchaser for value of the land charged therewith. The register is kept at the Land Registry Offices, and searches may be made by any party on payment of the prescribed fee. The section applies also to ecclesiastical and charity land (sect. 40).

Incidence of charge.

16. The sum charged by the order of the Board under this Act shall be a charge on the holding, or the part thereof charged, for the landlord's interest therein and for all interests therein subsequent to that of the landlord; but so that, in any case where the landlord's interest is an interest in a leasehold, the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assigns.

See *ante*, pp. 39-42. Charges will rank in order of time. Where the land has already been mortgaged prior to the registration of a charge of the nature contemplated by this section the rights of the mortgagee are preserved, as the section limits the charge to the interest of the landlord and to the interests subsequent to that of the landlord. Hence, although the rights of prior mortgagees are saved, a subsequent mortgagee or purchaser for value is not protected; and consequently on either the purchase or mortgage of an agricultural holding it is necessary that a search should be made on behalf of the purchaser or mortgagee at the Board of Agriculture for charges of the nature contemplated in sects. 15 and 16.

Advance made by a company.

17. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by the Board under this Act, or made under any enactment hereby repealed, upon such terms and con-

ditions as may be agreed upon between the company and the person entitled to the charge, and may assign any charge so acquired by them.

The existing land companies within the meaning of this section are the General Land Drainage and Improvement Company incorporated in 1849; the Land Improvement Company incorporated in 1853; and the Land Loans and Enfranchisement Company. A person wishing to make an assignment is not bound down to one of these companies, but may assign to any other company or person.

Certificate as to charges.

18. Where a charge may be made under this Act for compensation due under an award, the person making the award (1) shall, at the request and cost of the person entitled to obtain the charge, certify the amount to be charged and the term for which the charge may properly be made, having regard to the time at which each improvement in respect of which compensation is awarded is to be deemed to be exhausted.

(1) "THE PERSON MAKING THE AWARD." This, of course, is the arbitrator. As his office is at an end when he has made his award, the request for a certificate should be made to him during the arbitration, or before his award has been published.

Registration of charges. 51 & 52 Vict. c. 51.

19. A charge made by the Board under this Act shall be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888, as amended by any subsequent enactment, and may be registered accordingly.

Capital money applicable for compensation.

20. Capital money (1) arising under the Settled Land Acts, 1882 to 1890, may be applied—

(1) In payment as for an improvement authorised by those Acts of any money expended and costs incurred by a landlord under or in pursuance of this Act or any enactment hereby repealed, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in Part I. or Part II. of the First Schedule hereto; and

(2) In discharge of any charge in respect of any such improvement created on a holding under this Act

or any enactment hereby repealed, as if the charge were an incumbrance authorised by those Acts to be discharged out of that capital money.

(1) "CAPITAL MONEY." The Settled Land Act, 1882, indicates several modes by which capital money may arise and need reinvestment; *e.g.*, sale of the settled land, fines obtained when granting mining leases, sale of heirlooms, and sale of timber when the tenant for life is impeachable for waste.

Tenant's property in fixtures and buildings.

21.—(1) Any engine, machinery, fencing, or other fixture affixed to a holding by a tenant, and any building erected by him thereon for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, shall be the property of and be removable by the tenant before or within a reasonable time after the determination of the tenancy:

Provided that—

(i) Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding:

(ii) In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding:

(iii) Immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or other part of the holding by the removal:

(iv) The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention to remove it:

(v) At any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase (1) any fixture or building comprised in the notice of

removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value shall be settled by arbitration (2).

(2) The provisions of this section shall apply to a fixture or building acquired since the thirty-first day of December nineteen hundred by a tenant in like manner as they apply to a fixture or building affixed or erected by a tenant, but shall not apply to any fixture or building affixed or erected before the first day of January eighteen hundred and eighty-four.

See *ante*, pp. 42-48.

(1) "MAY ELECT TO PURCHASE." An incumbent, however, cannot purchase without the consent in writing of the patron or Governors of Queen Anne's Bounty, sect. 40 (2).

(2) "SETTLED BY ARBITRATION." *I.e.*, in accordance with the provisions of sect. 13. If an arbitration is being conducted in reference to compensation for unexhausted improvements or other matters, it is advisable that the award in regard to fixtures should be contained in a separate document.

Time of notice to quit.

22. Where a half-year's notice, expiring with a year of tenancy, is by law necessary and sufficient for the determination of a tenancy of a holding from year to year, a year's notice so expiring shall by virtue of this Act be necessary and sufficient for such determination (1), unless the landlord and the tenant agree in writing that this section shall not apply, in which case a half year's notice shall be sufficient; but nothing in this section shall extend to a case where a receiving order in bankruptcy is made against the tenant.

See *ante*, pp. 55-60

(1) If the holding is sold during the currency of the notice to quit, the notice becomes null and void, and a fresh notice must be given to the tenant. See the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919, *post*, pp. 140-141.

Resumption of possession for cottages, &c.

23. Where a notice to quit is given by the landlord of a holding to a tenant from year to year with a view to the use of land for any of the following purposes:—

(i) The erection of farm labourers' cottages or other houses with or without gardens;

(ii) The provisions of gardens for farm labourers' cottages or other houses;

(iii) The provision of allotments for labourers (1);

7 Edw. 7, c. 54.

(iv) The provision of small holdings as defined by the Small Holdings and Allotments Act, 1907 (2);

(v) The planting of trees;

(vi) The opening or working of any coal, ironstone, limestone, brick earth, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connexion therewith;

(vii) The making of a watercourse or reservoir;

(viii) The making of any road, railway, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith;

and the notice states that it is given with a view to any such use—

(*a*) It shall, by virtue of this Act, be no objection to the notice that it relates to part only of the holding; and

(*b*) The provisions of this Act respecting compensation (3) shall apply as if the part to which the notice relates were a separate holding; and

(*c*) The tenant shall be entitled to a reduction of rent proportionate to the part to which the notice relates, and in respect of any depreciation of the value to him of the residue of the holding caused by the severance, or by the use to be made of the part severed, and the amount of that reduction shall be settled as in case of compensation under this Act (4):

Provided that the tenant may at any time within twenty-eight days after service of the notice to quit serve on the

landlord a notice in writing to the effect that he accepts it as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy; and the notice to quit shall have effect accordingly.

See *ante*, pp. 67-68.

(1) "ALLOTMENTS." The expression "allotment" includes a field garden.

(2) "SMALL HOLDINGS." The expression "small holding" means an agricultural holding which exceeds one acre and either does not exceed fifty acres, or if exceeding fifty acres, is at the date of sale or letting of an annual value for the purpose of income tax not exceeding £50 (Small Holdings and Allotments Act, 1908, s. 61).

(3) "RESPECTING COMPENSATION." The claim for compensation might possibly include claims for fixtures and for unexhausted improvements as embraced in the First Schedule to the Act; but it is doubtful whether the tenant could claim compensation for unnecessary disturbance under sect. 11, as depriving a tenant of land for any of the eight purposes mentioned would doubtless be considered a good and sufficient cause within the meaning of sect. 11.

(4) "SETTLED AS IN CASE OF COMPENSATION." *I.e.*, in accordance with the provisions of sect. 13.

Power of entry by landlord.

24. The landlord of a holding or any person authorised by him may at all reasonable times enter on the holding for the purpose of viewing the state of the holding.

See *ante*, pp. 66-67.

Penal rents and liquidated damages.

25. Notwithstanding any provision in a contract of tenancy making the tenant of a holding liable to pay a higher rent or other liquidated damages in the event of any breach or nonfulfilment of a term or condition in the contract, a landlord shall not be entitled to recover, by distress or otherwise, any sum in consequence of any such breach or nonfulfilment in excess of the damage actually suffered by him in consequence of the breach or nonfulfilment:

Provided that this section shall not apply to any term or condition in a contract against the breaking up of permanent pasture, the grubbing of underwoods, or the felling, cutting, lopping, or injuring of trees, or regulating the burning of heather.

See *ante*, pp. 68-69.

Freedom of cropping and disposal of produce.

26.—(1) Notwithstanding any custom of the country, or the provisions of any contract of tenancy or agreement respecting the method of cropping of arable lands, or the disposal of crops (1), a tenant of a holding shall have full right to practise any system of cropping of the arable land on the holding and to dispose of the produce of the holding without incurring any penalty, forfeiture, or liability:

Provided that he shall previously have made, or as soon as may be shall make, suitable and adequate provision to protect the holding from injury or deterioration, which provision shall in the case of disposal of the produce of the holding consist in the return to the holding of the full equivalent manurial value to the holding of all crops sold off or removed from the holding in contravention of the custom, contract, or agreement:

This sub-section shall not apply—

(*a*) In the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding (2), or

(*b*) In any other case, as respects the year before the expiration of the contract of tenancy.

(2) If the tenant exercises his rights under this section in such a manner as to injure or deteriorate the holding, or to be likely to injure or deteriorate the holding, the landlord shall, without prejudice to any other remedy which may be open to him, be entitled to recover damages (3) in respect of such injury or deterioration at any time (4), and, should the case so require, to obtain an injunction restraining the exercise of the rights under this section in that manner, and the amount of such damages may (5), in default of agreement, be determined by arbitration (6).

(3) A tenant shall not be entitled to any compensation in respect of improvements comprised in Part III. of the First Schedule to this Act which have been made for the purpose of making such provision to protect the holding from injury or deterioration as is required by this section.

(4) In this section the expression "arable land" shall not include land in grass which by the terms of any contract of tenancy is to be retained in the same condition throughout the tenancy.

See *ante*, pp. 60-68

(1) "DISPOSAL OF CROPS." We have already stated in the Introduction that it is doubtful whether a tenant who is restricted from selling off the produce of the holding has the right to sell off the manure. The difficulty is somewhat enhanced owing to the fact that two expressions are used in the section, viz., "the disposal of crops" and the power to "dispose of the produce of the holding"; the word "produce" would appear to be a term of wide import and might include farm-yard manure. It is submitted, however, that a tenant who is so restricted has not the power to sell off farm-yard manure, dung or compost, and that the Legislature had in mind rather the disposal of hay, straw and roots. There are often seasons when it might be highly beneficial for a tenant to sell off his hay and return the manurial equivalent of the hay sold off in the form of artificials or other purchased manures: but there can be few occasions when it would be expedient for him to sell off farm-yard manure and still be under the obligation of returning its equivalent. Owing to the wide adaptability of farm-yard manure and to the somewhat low price obtainable for it (generally 5s. to 7s. per ton), a farmer can seldom purchase the equivalent amount of nitrogen, phosphoric acid and potash for the money he could obtain for the farm-yard manure, and that, too, without taking into account the beneficial mechanical effect of the application of dung. Moreover, there are few farms on which the dung could not be effectively and economically used. We are of opinion, then, that a covenant restricting the selling off of home-made manure is not contrary to the spirit of the Act.

(2) LAST YEAR. See *Gale* v. *Bates*, which held that a tenant, who was prohibited from selling off in the last year, was prohibited from moving or selling off hay in the last year, whether such hay had been grown then or in any previous year. See also *Meggeson* v. *Groves*.

(3) DAMAGES. The measure of damage is the injury to the reversion on the determination of the lease or tenancy, *i.e.*, the diminution of the rent which the landlord can obtain on re-letting (*Williams* v. *Lewis*). The estimation of what this will amount to will vary with the nature of the deterioration and the circumstances of each individual case.

(4) "AT ANY TIME." It must not be understood that the landlord has an indefinite amount of time allowed, for he is still limited in bringing an action by the six years mentioned in the Statute of Limitations.

(5) "MAY." The landlord is not compelled to submit to arbitration in estimating the amount of damage done. If he prefer he may commence an action in lieu of arbitration.

(6) "DETERMINED BY ARBITRATION." *I.e.*, in accordance with the provisions of sect. 13 and the Second Schedule to the Act.

Record of holding.

27. If at the commencement of a tenancy of a holding entered into after the commencement of this Act either party so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the holding shall be made within three months after the commencement of the tenancy by a person to be appointed in default of agreement by the Board, and in default of agreement the cost of making such record shall be borne by the landlord and the tenant in equal proportions.

See *ante*, pp. 69-70.

Limitation of distress in respect of amount and time.

28. It shall not be lawful for a landlord entitled to the rent of a holding to distrain for rent which became due in respect of that holding more than one year before the making of the distress:

Provided that, where it appears that according to the ordinary course of dealing between the landlord and the tenant of the holding the payment of rent has been deferred until the expiration of a quarter or half year after the date at which the rent legally became due, the rent shall for the purpose of this section be deemed to have become due at the expiration of that quarter or half year, and not at the date at which it legally became due.

See *ante*, pp. 48-55. If the contract of tenancy be not under seal, the landlord can still bring an action to recover six years' arrears of rent under the Limitation Act, 1623, and 3 & 4 Will. IV. c. 27, s. 42; whereas by the Civil Procedure Act, 1833 (3 & 4 Will. IV. c. 42, s. 3), an action for arrears of rent on an indenture of demise may be brought within twenty years.

Limitation of distress in respect of things to be distrained.

29.—(1) Where live stock (1) belonging to another person has been taken in by the tenant of a holding to be fed at a fair price (2), the stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and, if so distrained by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the price agreed to be paid for the feeding, or any part thereof which remains unpaid.

(2) The owner of the stock may, at any time before it is sold, redeem the stock by paying to the distrainer a sum equal to such amount as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the tenant of any sum of the like amount which would be otherwise due from the owner of the stock to the tenant in respect of the price of feeding.

(3) Any portion of the stock so long as it remains on the holding shall continue liable to be distrained for the amount for which the whole of the stock is distrainable.

(4) Agricultural or other machinery which is the property of a person other than the tenant, and is on the holding under an agreement with the tenant for the hire or use thereof in the conduct of his business, and live stock which is the property of a person other than the tenant and is on the holding solely for breeding purposes, shall not be distrained for rent.

See *ante*, pp. 53-54.

(1) "LIVE STOCK." Sheep were already protected before the passing of the Act both at common law and by the Statute of Merton (51 Hen. III.), if other distrainable chattels of the tenant could be found.

(2) "FAIR PRICE." Fair price need not be in money; but the price must not be fictitious, and, in fact, if the animals are fed gratuitously they may be distrained.

Remedy for wrongful distress.

30.—(1) Where any dispute arises—

(*a*) In respect of any distress having been levied on a holding contrary to the provisions of this Act; or

(*b*) As to the ownership of any live stock distrained, or as to the price to be paid for the feeding of that stock; or

(*c*) As to any other matter or thing relating to a distress on a holding:

the dispute may be heard and determined by the County Court (1) or by a court of summary jurisdiction (2); and any such court may make an order for restoration of any live stock or things unlawfully distrained, or may declare the price agreed to be paid for feeding, or may make any other order which justice requires.

(2) Any such dispute shall be deemed to be a matter in which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts; but any person aggrieved by any decision of a court of summary jurisdiction under this section may appeal to a court of quarter sessions.

See *ante*, pp. 54-55

(1) "COUNTY COURT." If the dispute is to be settled by the County Court, the procedure will be found in the County Court Rules, Order XL., r. 8.

(2) "COURT OF SUMMARY JURISDICTION." Such a Court does not appear to be a very suitable one for dealing with matters contemplated in this section.

Set-off of compensation against rent.

31. Where the compensation for any improvement due under this Act or any enactment repealed by this Act, or under custom or agreement, to a tenant of a holding has been ascertained before the landlord distrains for rent, the amount of the compensation may be set off against the rent, and the landlord shall not be entitled to distrain for more than the balance.

See *ante*, p. 55.

Appointment of guardian.

32. Where a landlord or a tenant is an infant without a guardian, or is of unsound mind, not so found by inquisition, the County Court on the application of any person interested may appoint a guardian of the infant or person of unsound mind for the purposes of this Act, and may revoke the appointment and appoint another guardian if and as occasion requires.

Provisions respecting married women. 45 & 46 Vict. c. 75.

33. Where a woman married before the commencement of the Married Women's Property Act, 1882, is entitled to land, her title to which accrued before that commencement, then—

(*a*) If she is entitled to the land for her separate use and is not restrained from anticipation, she shall, for

the purposes of this Act, be in respect of the land as if she were a feme sole; and

(*b*) In any other case her husband's concurrence shall be requisite, and she shall for the purposes of this Act be examined apart from him by the County Court, or by the judge of the County Court for the place where she is, touching her knowledge of the nature and effect of the intended Act, and it shall be ascertained that she is acting freely and voluntarily.

The legislation enacted in this section is not required in the case of women married on or after January 1st, 1883, because the Married Women's Property Act, 1882, makes them capable of acquiring, holding and disposing by will or otherwise of any real or personal property, as if they were unmarried women. Further, every woman married before the passing of the Act is entitled to hold as her separate property all real and personal property, her title to which accrues on or after January 1st, 1883. It will be seen that sect. 33 above enlarged the power of a married woman in dealing with land, her title to which accrued before January 1st, 1883; it eliminates, too, the need for the appointment of a "next friend," as contemplated in sect. 26 of the Agricultural Holdings Act, 1883.

Provision as to limited owners.

34. Subject to the provisions of this Act in relation to Crown, duchy, ecclesiastical, and charity lands, a landlord of a holding, whatever may be his estate or interest in the holding, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act, which he might give or make or do or have done to him if he were owner in fee simple, or, if his interest is an interest in a leasehold, were absolutely entitled to that leasehold.

Compare the contents of this section with the provisions of the Settled Land Act, 1882, ss. 25-29, which deal with improvements effected by a tenant for life.

Recovery of compensation &c., from trustee.

35. Where any sum agreed or awarded to be paid for compensation, or any sum awarded under this Act to be paid by a landlord, is due from a landlord entitled to receive the rents and profits of the holding otherwise than for his

own benefit, whether as trustee or in any other character, the sum due shall be charged and recovered as follows and not otherwise (that is to say):—

(i) The amount so due shall not be recoverable personally against the landlord, nor shall he be under any liability to pay that amount, but it shall be a charge on and recoverable against the holding only;

(ii) The landlord shall, either before or after having paid to the tenant the amount due to him, be entitled to obtain from the Board a charge (1) on the holding to the amount of the sum which is required to be paid or which has been paid, as the case may be, to the tenant;

(iii) If the landlord neglects or fails to pay to the tenant the amount due to him for one month after it has become due, the tenant shall be entitled to obtain from the Board a charge on the holding to the amount of the sum due to him, and of all costs properly incurred by him in obtaining the charge;

(iv) Charges under this section shall be made in like manner as other charges under this Act (2).

See *ante*, pp. 39-42. This section is one of considerable importance. It enables a trustee to obtain a charge on the holding for compensation about to be paid to an outgoing tenant. Moreover, the trustee can obtain this charge before he has paid to the outgoer the sum agreed upon or awarded. It may be observed that the trustee can obtain the compensation money either by lending it himself, or by obtaining it from an outside source (*e.g.*, from one of the land improvement companies previously mentioned), or he may advance the compensation money out of other moneys in his hands belonging to the trust.

In connection with this section we may notice the case of *Bennett* v. *Stone*, 71 L. J. Ch. 60, where there was an agreement for the sale of an agricultural holding, the completion of which was delayed for some time. A notice to quit was given by the tenant after the agreement to sell was entered into, and this notice expired before the completion of the purchase. The vendor was, therefore, called upon to pay compensation to the outgoer, as he (the vendor) was presumably the landlord at the expiration of the tenancy, but it was decided that he could recover the sum paid for such tenant right from the purchaser as a necessary disbursement. When sales of agricultural property take place, the sitting tenants often receive notice from the landlords, which

notice would generally expire after the completion of purchase, when the new landlord is in possession. The conditions of sale usually provide that such new landlord shall pay any compensation that may be due to the outgoer under the Agricultural Holdings Act or otherwise; but even without such a provision, it is submitted that the term "landlord" (as defined in sect. 48) would mean the new landlord :— *Derby* (*Lord*), *In re; Ferguson* v. *Derby* (1911), 56 S. J. 71).

(1) "CHARGE." A "charge" under this section in order to be valid against a purchaser for value must be registered under the Land Charges Registration and Searches Act, 1888, as mentioned in sect. 19.

(2) "AS OTHER CHARGES." See *ante*, sects. 14-19.

Estimation of best rent.

36. In estimating the best rent, or reservation in the nature of rent, of a holding for the purposes of any Act of Parliament, deed, or other instrument, authorising a lease to be made, provided that the best rent, or reservation in the nature of rent, is reserved, it shall not be necessary to take into account against the tenant any increase in the value of the holding arising from any improvements made or paid for by the tenant.

Compare sect. 7. This is the only section in the Act which gives compensation to a sitting tenant. It should be noticed that the clause is permissive only. Its object is to enable the life-owners or other limited owners to renew leases to tenants who have made improvements on reduced or more favourable terms in lieu of paying compensation for improvements made.

Application to Crown lands.

37.—(1) This Act shall apply to land belonging to His Majesty in right of the Crown.

(2) With respect to any such land, for the purposes of this Act, the Commissioners of Woods, or other the proper officer or body having charge of the land for the time being, or, in case there is no such officer or body, then such person as His Majesty may appoint in writing under the Royal Sign Manual, shall represent His Majesty, and shall be deemed to be the landlord.

(3) The power given to the Treasury by section 1 of the Crown Lands Act, 1866 (being a power to direct the cost of certain improvements to be charged to capital and repaid out of income), shall extend to any compensation under this Act payable by the Commissioners of Woods in respect

of an improvement comprised in Part I. or Part II. of the First Schedule hereto.

(4) Any compensation under this Act payable by those Commissioners, in respect of an improvement comprised in Part III. of the First Schedule hereto, shall be paid as part of the expenses of the management of the Land Revenues of the Crown.

Application to land of Duchy of Lancaster.

38.—(1) This Act shall apply to land belonging to His Majesty in right of the Duchy of Lancaster.

(2) With respect to any such land for the purposes of this Act, the Chancellor of the Duchy shall represent His Majesty, and shall be deemed to be the landlord.

(3) The amount of any compensation under this Act payable by the Chancellor of the Duchy in respect of an improvement comprised in Part I. or Part II. of the First Schedule to this Act shall be raised and paid as an expense incurred in improvement of land belonging to His Majesty in right of the Duchy within section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven.

(4) The amount of any compensation under this Act payable by the Chancellor of the Duchy in respect of an improvement comprised in Part III. of the First Schedule to this Act shall be paid out of the annual revenues of the Duchy.

Application to land of Duchy of Cornwall.

39.—(1) This Act shall apply to land belonging to the Duchy of Cornwall.

(2) With respect to any such land, for the purposes of this Act, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, shall represent the Duke of Cornwall or other the possessor aforesaid, and be deemed to be the landlord, and may do any act or thing under this Act which a landlord is authorised or required to do thereunder.

(3) Any compensation under this Act payable by the Duke of Cornwall, or other the possessor aforesaid, in respect of

an improvement comprised in Part I. or Part II. of the First Schedule to this Act, shall be paid, and advances therefor made, in the manner and subject to the provisions of section eight of the Duchy of Cornwall Management Act, 1863, with respect to improvements of land mentioned in that section.

Ecclesiastical and Charity Lands.

Application to ecclesiastical land.

40.—(1) Where lands are assigned or secured as the endowment of a see, the powers by this Act conferred on a landlord (other than that of entering on a holding for the purpose of viewing the state of the holding) shall not be exercised by the bishop in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners.

(2) Where a landlord is incumbent of an ecclesiastical benefice, the powers by this Act conferred on a landlord (other than as aforesaid) shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice, that is, the person or authority who, in case the benefice were vacant, would be entitled to present thereto, or of Queen Anne's Bounty.

(3) Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him in respect of any improvement comprised in the First Schedule hereto; and thereupon they may, instead of the incumbent, obtain from the Board a charge on the holding in respect thereof in favour of themselves, and every such charge shall be effectual notwithstanding any charge of the incumbent.

In the case of this and the following section it behoves tenants of ecclesiastical or charity lands to satisfy themselves that their immediate landlords have obtained the necessary consents of the Estates Committee or patron to the Governors of Queen Anne's Bounty or the Charity Commissioners, before making expensive improvements which require the prior consent of the landlord, if compensation is to be subsequently

claimable for them; that is to say, for those sixteen improvements mentioned in Part I. of the First Schedule to the Act. In other cases, where notice merely has to be given to the landlord (*e.g.*, drainage and repairs to buildings), it will suffice if such notice be given to the person who is entitled to receive the rent. But the tenant should not enter into agreements with his ecclesiastical landlord in respect to drainage or substituted compensation, or the purchase of fixtures, unless the landlord (whether bishop or incumbent) has obtained the proper consent. On the other hand, in regard to those improvements where neither the consent of the landlord nor notice to the landlord is necessary, *i.e.*, in respect to the improvements included in Part III. of Schedule I. of the Act, the written approval of the authorities mentioned in sect. 40 is not necessary, and the tenant can obtain the unexhausted value of such improvements from his clerical landlord, even though the latter has not obtained the approval of the authorities mentioned in sect. 40.

Application to charity land.

41. The powers by this Act conferred on a landlord in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes, except with the approval in writing of the Charity Commissioners or the Board of Education, as the case may require.

Special provisions as to market gardens.

42.—(1) In the case of a holding in respect of which it is agreed by an agreement in writing (1) made on or after the first day of January eighteen hundred and ninety-six that the holding shall be let or treated as a market garden—

(i) The provisions in this Act shall apply as if the improvements comprised in the Third Schedule to this Act were comprised in Part III. of the First Schedule to this Act:

Provided that—

(*a*) In the case of Crown land, compensation in respect of an improvement comprised in paragraphs (1) (2) and (5) of the said Third Schedule shall be paid in the same manner and out of the same funds as if it were an improvement comprised in Part I. of the said First Schedule; and

(*b*) In the case of Duchy lands, compensation in respect of any improvement comprised in the said Third Schedule shall be paid in the same manner and out of the same funds

as if it were comprised in Part I. of the said First Schedule;

(c) The right of an incoming tenant to claim compensation in respect of the whole or part of an improvement which he has purchased may be exercised although his landlord has not consented in writing to the purchase (2).

(ii) The provisions of this Act relating to tenants' property in fixtures and buildings (3) shall extend to every fixture or building affixed or erected by the tenant to or upon the holding, or acquired by him since the thirty-first day of December nineteen hundred, for the purpose of his trade or business as a market gardener;

(iii) It shall be lawful for the tenant to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out; but, if the tenant does not remove such fruit trees and fruit bushes before the determination of his tenancy (4), they shall remain the property of the landlord, and the tenant shall not be entitled to any compensation in respect thereof.

(2) Where under a contract of tenancy current on the first day of January eighteen hundred and ninety-six a holding was at that date in use or cultivation as a market garden with the knowledge of the landlord, and the tenant thereof has then executed thereon, without having received previously to the execution thereof any written notice of dissent by the landlord, any improvement comprised in the Third Schedule to this Act, the provisions of this section shall apply, in respect of that holding, as if it had been agreed in writing after that date that the holding should be let or treated as a market garden, so however that the improvements in respect of which compensation is payable under those provisions as so applied shall include improvements executed before as well as improvements executed after that date (5). *Provided that where such a tenancy was a tenancy from year to year, the compensation payable in*

respect of an improvement comprised in the Third Schedule to this Act shall be such (if any) as could have been claimed if this Act had not been passed (6).

(3) Where the land to which such agreement relates, or so used and cultivated, consists of part of a holding only, this section shall apply as if that part were a separate holding.

See *ante*, pp. 70-73. This section re-enacts and amends the Market Gardeners' Compensation Act, 1895, which came into operation on January 1st, 1896.

(1) "AGREEMENT IN WRITING." The agent of an estate has, unless his authority has been limited, the power to make an agreement with the tenant enabling the latter to convert agricultural land into a market garden (*Re Pearson* v. *I'Anson*, 68 L. J. Q. B. 878).

(2) "ALTHOUGH HIS LANDLORD HAS NOT CONSENTED IN WRITING TO THE PURCHASE." Section 3 (4) of the Market Gardeners' Compensation Act, 1895, rendered the consent of the landlord unnecessary. This is an exceptional and valuable privilege in favour of market gardens, because we have already seen (sect. 7) that in the case of agricultural land the incoming tenant needs the consent in writing of the landlord before he purchases the improvements of the outgoing tenant, if he is to be entitled to the same compensation as the outgoing tenant would have had a right to.

(3) "FIXTURES AND BUILDINGS." See *ante*, pp. 42-48. The date mentioned in the second sub-section is explained by the Agricultural Holdings Act, 1900, which first provided that the provisions of sect. 21 should apply to a fixture or building which had been acquired by the tenant in like manner as they applied to a fixture or building affixed or erected by the tenant. It may be noticed that in *Smith* v. *Richmond*, 68 L. J. Q. B. 898, it was decided that glass-houses are buildings.

(4) "BEFORE THE DETERMINATION OF HIS TENANCY." We have seen that by sect. 21 fixtures and buildings affixed to the holding by a tenant are removable by him on complying with the provisions of the section, either before or within a reasonable time after the termination of the tenancy. The market gardener is not favoured quite to the same degree in the matter of fruit trees or fruit bushes *not* permanently set out. He must remove them before the end of his tenancy. If he removes them after the termination thereof he will be a trespasser and liable for damages (*Barff* v. *Probyn*, 64 L. J. Q. B. 557).

(5) "IMPROVEMENTS EXECUTED BEFORE AS WELL AS EXECUTED AFTER THAT DATE." These words amend sect. 4 of the Market Gardeners' Compensation Act and overrule *Mears* v. *Callender*, 70 L. J. Ch. 621, which decided that tenants were not entitled to compensation for improvements executed before the commencement of the Market Gardeners' Compensation Act, 1895. See also *Smith* v. *Callander*, [1901] A. C. 297; *Taylor* v. *Steel-Maitland*, (1913) S. C. 562; and *Morse* v. *Dixon*, (1917) 87 L. J. K. B. 1.

(6) *Provided that . . . had not been passed.* This proviso (in italics) has since been repealed by the Agricultural Holdings Act, 1913, and the case of *Kedwell* v. *Flint*, [1911] 1 K. B. 797, has accordingly been overridden.

Exclusion of certiorari.

43. An order of the county court or of a court of summary jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any superior court.

Costs in County Court.

44.—(1) The costs of proceedings in the County Court under this Act shall be in the discretion of the Court.

(2) The Lord Chancellor may prescribe scales of costs for those proceedings, and of costs to be taxed by the registrar of the Court.

Service of notice, &c.

45. Any notice (1), request, demand, or other instrument under this Act may be served on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and in the case of a notice to a landlord "the person to whom it is to be given" shall include any agent of the landlord duly authorised in that behalf (2).

(1) "ANY NOTICE." This includes a notice to quit.

(2) "ANY AGENT." The burden of proof that the agent was "duly authorised" might fall upon the tenant; but in the case of large estates, where the agent was the only party with whom the tenant had had negotiations, the authority would probably be implied.

General saving of rights.

46. Except as in this Act expressed, nothing in this Act shall prejudicially affect any power, right, or remedy of a landlord, tenant, or other person vested in or exercisable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a contract of tenancy or other contract, or of any improvements, waste, emblements (1), tillages (2), away-growing crops, fixtures, tax, rate, tithe rent-charge, rent, or other thing.

(1) "EMBLEMENTS." This expression refers to crops produced by the annual labour of the tenant which, in case of his demise before harvest, his personal representatives would have a right to gather.

(2) "TILLAGES." The meaning of the expression "tillages" is somewhat ambiguous. In some districts it is used as an equivalent term to manures, particularly artificial manures. This, however, is scarcely a correct use of the expression, and the more usual interpretation would be to consider it as equivalent to the various acts of cultivation on either bare or root fallows.

Improvements executed under repealed enactments.

47. Except as otherwise expressly provided by this Act, the compensation in respect of an improvement made or begun before the commencement of this Act, or made upon a holding held under a contract of tenancy, other than a tenancy from year to year, current on the first day of January eighteen hundred and eighty-four shall be such (if any) as could have been claimed if this Act had not been passed, but the procedure for the ascertainment and recovery thereof shall be such as is provided by this Act, and the amount so ascertained shall be payable, recoverable, and chargeable as if it were compensation under this Act.

Interpretation.

48.—(1) In this Act, unless the context otherwise requires,—

"Contract of tenancy" (1) means a letting of or agreement for letting land for a term of years, or for lives, or for lives and years, or from year to year;

"Determination of tenancy" means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause;

"Landlord" (2) means any person for the time being entitled to receive the rents and profits of any land;

"Tenant" (3) means the holder of land under a contract of tenancy, and includes the executors, administrators, assigns, guardian, committee of the estate, or trustee in bankruptcy, of a tenant, or other person deriving title from a tenant;

"Holding" (4) means any parcel of land held by a tenant, which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue

pastoral, or in whole or in part cultivated as a market garden, and which is not let to the tenant during his continuance in any office, appointment, or employment held under the landlord;

"Market garden" means a holding cultivated, wholly or mainly, for the purpose of the trade or business of market gardening;

"Board" means the Board of Agriculture and Fisheries;

"County Court," in relation to a holding, means the County Court within the district whereof the holding, or the larger part thereof, is situate;

"Live stock" includes any animal capable of being distrained;

"Manuring" means any of the improvements numbered twenty-three, twenty-four, and twenty-five in Part III. of the First Schedule hereto;

"Agreement" includes an agreement arrived at by means of valuation or otherwise, and "agreed" has a corresponding meaning.

(2) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act.

The interpretation section of any Act is often one of the most important in the whole statute, and sect. 48 of the Agricultural Holdings Act is no exception.

(1) "Contract of Tenancy." Apparently the Act does not apply to any contract of tenancy of less duration than from year to year; a tenant from year to year being one who holds for a term, which may be determined at the end of the first or any subsequent year of the tenancy by a notice to quit given either by the landlord or tenant. It would seem, therefore, that the tenancies excluded from the operation of the Act are tenancies at will, tenancies at sufferance and tenancies for less than a year. A tenancy for less than a year is one where the tenant may be required to quit at any time short of a year from the commencement of the tenancy. It may be observed, however, that an agreement to let, at a yearly rent, payable quarterly, and determinable by three calendar months' notice to quit to expire at any time of the year will create a tenancy from year to year. The question whether an agreement creates a tenancy from year to year or a quarterly

tenancy must be decided by looking at the construction of the agreement as a whole. It is submitted, however, that a tenancy (for one year) is not a tenancy from year to year.

(2) "LANDLORD." It is very important to notice the exact definition of the term "landlord." It includes a mortgagee in possession. Frequently it is most important to determine who is the landlord when the tenant quits. Often prior to a farm being disposed of, the landlord will give notice to his tenant in order that a purchaser may have vacant possession within a reasonable time of the completion of the sale. In such case the outgoing tenant will desire to know the party against whom he is to enforce his claim either for unreasonable disturbance or for the unexhausted value of his improvements. Generally the conditions of sale make it quite clear that the purchaser will have the obligation of paying any compensation that may be due to the outgoing tenant, but where there is no such proviso in the conditions of sale, it has been suggested (Aggs' "Agricultural Holdings Act," 4th ed., p. 120), "that the tenant being under notice to quit and the purchaser's right of entry accrues before the expiration of the notice, the purchaser may recover from the vendor compensation recovered against him by the tenant." It is quite clear that if the purchaser has the right to receive the rents and profits at the end of the outgoer's tenancy, the outgoer should enforce his claim against his new landlord, but whether the new landlord can recover from the old landlord must, we think, be considered a doubtful point. In *Bennett* v. *Stone*, [1902] 1 Ch. 226, where the tenant had given notice after the date of the agreement to sell, and where such notice expired before the completion of purchase, and where consequently the vendor (old landlord) was obliged to pay the outgoing compensation due to the tenant, such vendor was held to be entitled to recover the compensation from the purchaser. Compare also *Derby's (Lord) Contract, In re; Ferguson* v. *Derby* (1911), 56 S. J. 71.

(3) "TENANT." The definition of the term "tenant" excludes a tenant for life and copyholders. It should also be noticed that those who hold land in virtue of any office, appointment or employment under the landlord are excluded. This would appear to shut out such people as agents, gamekeepers, coachmen, gardeners, &c., who often hold parcels of land in part return for their services.

(4) "HOLDING." The burden of deciding whether a given holding is a holding within the Act will fall upon the arbitrator, and in many cases the solution of such a problem may be no easy task, *e.g.*, where a place of business or a private residence had a small field or parcel of land attached thereto. Again it might be asked whether a shooting box with a field attached thereto was or was not an agricultural holding. Although the term "holding" is defined, there is no real definition in the Act of "agricultural holding." Under the Agricultural Rates Act, 1896, s. 9, "agricultural land" is defined as meaning "any land used as arable, meadow, or pasture ground only, cottage gardens exceeding a quarter of an acre, market gardens, nursery grounds, orchards or allotments, but does not include land occupied together with a house as a park, gardens other than as aforesaid, pleasure grounds, or any land

kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse." Probably the meaning under the Agricultural Holdings Act is as wide as in the Agricultural Rates Act. Under the latter Act it was held that a market garden covered with glass-houses was not agricultural land (*Smith* v. *Richmond*, 68 L. J. Q. B. 898), but it does not necessarily follow that a similar decision would be arrived at if the same question were to arise under the Agricultural Holdings Act. In *Lancaster* v. *Macnamara*, *in re* (see *ante*, p. 4), it was decided that a holding which consisted of an inn and 86 acres pasture land, together with barn and outbuildings, did not constitute a "holding" within the meaning of this section, and that therefore the tenant could not obtain compensation under the Act either in respect to the whole holding or the farm.

It may be difficult, too, to say whether any given piece of land is a market garden within the meaning of this section. Occasionally a farmer will grow crops of cabbages or carrots not necessarily for feeding purposes, but rather for sale as garden produce. It is submitted that he could not, therefore, be held to be cultivating his land as a market gardener. Again, the growth of garden peas in open fields and the growth of early varieties of potatoes in fields approximate in character to the intensive methods adopted by market gardeners; but cultivation of this kind would not necessarily convert a farmer into a market gardener. On the other hand, a fruit farm may be a market garden within the meaning of the section, but it can scarcely be argued that a grass orchard attached to a farm and used for the production of fruit for home consumption is a market garden.

Repeal.

49. The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule:

Provided that—

(*a*) All orders, rules, scales of costs, and instruments issued and notices and consents given and having effect under any enactment hereby repealed shall have effect as if they had been made or given under this Act; and

(*b*) References in any conveyance, lease, or other document to any enactment so repealed shall have effect as if they had been references to the corresponding provisions of this Act.

Commencement.

50. This Act shall come into operation on the first day of January nineteen hundred and nine.

Short title and extent.

51.—(1) This Act may be cited as the Agricultural Holdings Act, 1908.

(2) This Act shall not extend to Scotland or Ireland (1).

(1) Scotland, however, has an Agricultural Holdings Act, 1908, practically similar to the English Act; and Ireland has long had similar Acts; indeed, the English Act of 1883 was partly modelled upon the Landlord and Tenant (Ireland) Act, 1870.

SCHEDULES.

FIRST SCHEDULE.

Part I.

Sections 1, 2, 5, 6, 15, 20, 37, 38, 39, 40, 42.

Improvements to which Consent of Landlord is Required.

(1) Erection, alteration, or enlargement of buildings.
(2) Formation of silos (1).
(3) Laying down of permanent pasture (2).
(4) Making and planting of osier beds.
(5) Making of water meadows or works of irrigation.
(6) Making of gardens.
(7) Making or improvement of roads or bridges.
(8) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
(9) Making or removal of permanent fences.
(10) Planting of hops.
(11) Planting of orchards or fruit bushes.
(12) Protecting young fruit trees.
(13) Reclaiming of waste land.
(14) Warping or weiring of land (3).
(15) Embankments and sluices against floods.
(16) Erection of wirework in hop gardens.

[N.B.—*This part is subject as to market gardens to the provisions of the Third Schedule.*]

Part II.

Sections 3, 15, 20, 37, 38, 39.

Improvement in Respect of which Notice to Landlord is Required.

(17) Drainage.

Part III.

Sections 4, 26, 37, 38, 42, 48.

Improvements in Respect of which Consent of or Notice to Landlord is not Required.

(18) Chalking of land.
(19) Clay-burning.
(20) Claying of land or spreading blaes upon land (4).

(21) Liming of land.

(22) Marling of land.

(23) Application to land of purchased artificial or other purchased manure.

(24) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn, cake, or other feeding stuff not produced on the holding.

(25) Consumption on the holding by cattle, sheep, or pigs, or by horses (5) other than those regularly employed on the holding, of corn proved by satisfactory evidence (6) to have been produced and consumed on the holding.

(26) Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the determination of the tenancy (7).

(27) Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute (8) :

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

(1) "Formation of Silos." Silos are airtight receptacles used for the reception and preservation of grass (green and freshly cut). The practice of building silos has fallen into disuse and, in fact, was nothing but the outcome of a passing fad. Some tenant farmers tried the innovation for a time, but never considered that an expensive silo was necessary to the making of useful silage. Few practical tenants would ever ask their landlords to give consent to the building of a silo or spend any considerable amount of their capital in the construction thereof.

(2) "Permanent Pasture." The formation of permanent pasture is an improvement worthy of consideration. A tenant can claim compensation under the statute for laying down temporary pasture, sown more than two years prior to the determination of the tenancy, whether he had or had not the prior consent of his landlord for such improvement. Further, the cost of laying down clover and the other seeds mentioned in Item 26 is commonly given by the custom of almost every county to an outgoing tenant, where the seeds have not been sown for two years; and, in fact, the amount awarded for most of the temporary grasses would be greater in the case of seeds that had not been laid for two years. In the case of permanent pasture, however, the tenant has no right to compensation, unless he had the written consent of his landlord before laying down the pasture. Many practical farmers consider this a serious blot in the Agricultural Holdings Act. During the last quarter of the nineteenth century the laying down of land to permanent pasture was often a very desirable improvement, owing to the fact that the growing of cereals was not a remunerative industry during that period. At the present time there is not the same necessity, and much of the land then sown down could again be brought into cultivation as arable land and sown in its rotation with wheat. We

shall consider this matter again in the second part of this treatise, but we may here remark that if the tenant has sown down land at his own cost, and without the landlord's consent, he may plough it up during the final year of his tenancy, and take an away-going crop of wheat or other cereal therefrom. The threat to do this has in many cases induced landlords to pay compensation for the improvement, but the position of the tenant farmer is not at all a satisfactory one, inasmuch as experiments have demonstrated that fields which have been laid down to permanent pasture for periods of twenty years or more and on which a considerable amount of cake and other rich manurial feeding stuffs have been consumed, have a huge amount of stored-up manurial residue, sufficient to feed corn crops for eight or ten years without the addition of artificial or farm-yard manures.

(3) "Warping and Weiring." Warping consists in fertilising the land by depositing mud thereon, let into the land by the action of rivers through artificial banks or other works or irrigation. Weiring is the process of damning a stream by means of stakes or other material driven in upright. Such a dam would be used for the purposes of irrigation. Substantial improvements of this character which entail heavy expenditure of capital would not usually be undertaken by a tenant farmer; and if necessary for the development of the land, it is highly desirable that the landlord himself should effect them, recouping his expenditure in the shape of interest on his capital outlay.

(4) "Blaes." "Blaes" is a term applied to a blue-coloured clay or shale of a slatey nature found and used in some parts of Scotland.

(5) "Horses." The tenant farmer is not entitled to compensation for the unexhausted manurial value of feeding stuffs consumed by the horses "regularly employed on the holding." The reason for the exclusion of the working horses of the farm is apparently that the manure therefrom is largely lost on the roads and that the land does not receive the full benefit therefrom. There is some force in the contention, but it is apt to work unfairly to the tenant farmer. It might be asked whether, if the tenant carried on a job-master's business or possessed hunters, he could claim the manurial value of their food. Apparently he could, and yet quite as big a proportion of the manure produced by them is likely to be wasted on the roads. The exception does not exclude young horses, brood mares and the like which are not employed on the holding, and a claim for the food consumed by them would be quite in order. The point for a valuer to consider is the amount of corn (home-grown or purchased) consumed by the working horses, and this task may often be a somewhat tiresome matter. We shall refer to it again in the second part of this volume.

(6) "Proved by Satisfactory Evidence." The Act does not indicate the manner of judging whether the evidence is or is not satisfactory. It will serve a useful purpose if it compels farmers to keep more systematic accounts. There should be an account relating to every field, and it would be wise to indicate the year's cultivations, seed, manure, and everything connected with the sowing and harvesting in the proper order. Similarly, it will be advisable to keep exact account of the number of horses employed on the holding and the amount of corn which they have consumed.

(7) "SEEDS." By custom the tenant is entitled to compensation for the unexhausted value of seeds which have been laid down less than two years. The statute extends the custom and gives the tenant the right to claim compensation for the unexhausted value (if any) for seeds sown more than two years prior to the determination of the tenancy. Apart from lucerne and sainfoin the claim for old seeds would not be a heavy item. We shall discuss later the methods adopted in assessing this claim.

(8) "REPAIRS." See *ante*, p. 9. It should be clearly noticed that the tenant has no claim to compensation for repairs which he is himself under an obligation to execute. Hence it behoves him, when taking a farm, carefully to peruse the agreement so as not to saddle himself with onerous obligations. Normally a landlord is under no obligation to repair buildings, unless he has covenanted to do so. Similarly, a tenant's obligation may be defined as that of merely keeping the premises wind and water tight. A tenant, however, does often find it necessary to repair the buildings, and this 27th item gives him a privilege which he did not possess prior to January 1st, 1909. The buildings which are necessary to the holding would probably include the farm-house, barns, stables, sheds, pig-cotes and similar buildings. It should be observed that he has no power (without written consent) to build *additional* buildings and claim the unexhausted value of the improvement at the end of his tenancy.

SECOND SCHEDULE.

RULES AS TO ARBITRATION.

Section 13.

Appointment of Arbitrator.

(1) A person agreed upon between the parties, or in default of agreement (1) nominated by the Board on the application in writing of either of the parties, shall be appointed arbitrator. 1900, Sch. 2. 1906, s. 1 (3).

(2) If a person appointed arbitrator dies, or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, a new arbitrator may be appointed as if no arbitrator had been appointed.

(3) Neither party shall have power to revoke the appointment of the arbitrator without the consent of the other party.

(4) Every appointment, notice, revocation, and consent under this part of these rules must be in writing.

Time for Award.

(5) The arbitrator shall make and sign his award within twenty-eight days of his appointment or within such longer period as the Board may (whether the time for making the award has expired or not) direct (2).

Removal of Arbitrator.

(6) Where an arbitrator has misconducted himself the County Court may remove him.

Evidence.

(7) The parties to the arbitration, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrator all samples, books, deeds, papers, accounts, writings, and documents, within their possession or power respectively, which may be required or called for, and do all other things which during the proceedings the arbitrator may require.

(8) The arbitrator shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbitrator thinks fit, be examined on oath or affirmation.

Statement of Case.

(9) The arbitrator may at any stage of the proceedings, and shall if so directed by the Judge of the County Court (which direction may be given on the application of either party), state in the form of a special case for the opinion of that Court any question of law arising in the course of the arbitration.

Award.

(10) The arbitrator shall, on the application of either party, specify the amount awarded in respect of any particular improvement or any particular matter the subject of the award, and the award shall fix a day not sooner than one month or later than two months after the delivery of the award for the payment of the money awarded as compensation, costs, or otherwise, and shall be in such form as may be prescribed by the Board.

(11) The award to be made by the arbitrator shall be final and binding on the parties and the persons claiming under them respectively.

(12) The arbitrator may correct in an award any clerical mistake or error arising from any accidental slip or omission.

(13) When an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the County Court may set the award aside.

Costs.

(14) The costs of and incidental to the arbitration and award shall be in the discretion of the arbitrator, who may direct to and by whom and in what manner these costs or any part thereof are to be paid, and

the costs shall be subject to taxation by the Registrar of the County Court on the application of either party, but that taxation shall be subject to review by the Judge of the County Court.

(15) The arbitrator shall, in awarding costs, take into consideration the reasonableness or unreasonableness of the claim of either party, either in respect of amount or otherwise, and any unreasonable demand for particulars or refusal to supply particulars, and generally all the circumstances of the case, and may disallow the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

Forms.

(16) Any forms for proceedings in arbitrations under this Act which may be prescribed by the Board shall, if used, be sufficient (3).

See *ante*, pp. 73-87.

(1) "AGREEMENT." There is no mention in the Act as to whether the agreement to appoint two valuers or the single arbitrator or the application to the Board of Agriculture should be stamped. Probably the application to the Board of Agriculture needs no stamp; but as a "submission" under the Stamp Act, 1891, requires a 6*d.* stamp, impressed or adhesive, we consider that landlord and tenant would be wise in having the agreement in which either appoints two valuers or a single arbitrator stamped to that amount.

(2) "AWARD." An award is by sect. 9 of the Revenue Act, 1906, chargeable with a duty of 10*s.*; but on the other hand, a document which is an appraisement or valuation needs to be stamped in accordance with the provisions set out in Schedule One of the Stamp Act, 1891. If the award is not stamped when made, it may be stamped within thirty days after execution without penalty, it may after the expiration of that time on paying the unpaid duty and a penalty of £10.

(3) "ANY FORMS." The rules and schedules of forms issued by the Board of Agriculture on November 28th, 1908, are set out in Appendix I. Form A. is compulsory, but it is very desirable to use the other forms also.

THIRD SCHEDULE.

IMPROVEMENTS SUBJECT TO SPECIAL PROVISIONS IN THE CASE OF MARKET GARDENS. Section 42.

(1) Planting of standard or other fruit trees permanently set out;

(2) Planting of fruit bushes permanently set out;

(3) Planting of strawberry plants;

(4) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;

(5) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 61.	The Agricultural Holdings (England) Act, 1883.	The whole Act.
53 & 54 Vict. c. 57.	The Tenants' Compensation Act, 1890.	In section one the words "the Agricultural Holdings Act, 1883, and." Section two, except so far as relates to compensation under the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887. Section three and section four.
58 & 59 Vict. c. 27.	The Market Gardeners' Compensation Act, 1895.	The whole Act.
63 & 64 Vict. c. 50.	The Agricultural Holdings Act, 1900.	The whole Act, except so far as it relates to Scotland.
6 Edw. 7, c. 56.	The Agricultural Holdings Act, 1906.	The whole Act, except so far as it relates to Scotland.
Edw. 7, c. 54.	The Small Holdings and Allotments Act, 1907.	Section thirty-eight.

AGRICULTURAL HOLDINGS ACT, 1913.

(2 & 3 Geo. 5, Ch. 21.)

AN ACT TO REMOVE DOUBTS AS TO THE EFFECT OF SUB-SECTION (2) OF SECTION FORTY-TWO OF THE AGRICULTURAL HOLDINGS ACT, 1908, AND THE ENACTMENTS RE-ENACTED IN THAT SUB-SECTION.

[14TH FEBRUARY, 1913.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Removal of doubts as to effect of 8 Edw. 7, c. 28, s. 42 (2), &c.

1.—(1) For removing doubts as to the effect of sub-section (2) of section forty-two of the Agricultural Holdings Act, 1908, and any enactment which is re-enacted by that sub-section, it is hereby declared that a tenancy from year to year under a contract of tenancy current on the first day of January, eighteen hundred and ninety-six, shall not be deemed to have been determined thereafter by virtue of any provision contained in section sixty-one of the Agricultural Holdings (England) Act, 1883, and the said sub-section shall be repealed from the words "Provided that" to the end of the sub-section.

46 & 47 Vict. c. 61.

(2) This Act shall apply to any claim for compensation which has not before the passing of this Act been determined by any Judgment or order of a Court of competent jurisdiction or award or agreement, whether the improvement to which the claim relates was made or begun before or after the commencement of the Agricultural Holdings Act, 1908.

Short title.

2. This Act may be cited as the Agricultural Holdings Act, 1913, and the Agricultural Holdings Act, 1908, and this Act may be cited together as the Agricultural Holdings Acts, 1908 and 1913.

See *ante*, pp. 71 and 124. This short Act was passed in order to clarify the meaning of sub-sect. 2 of sect. 42 of the Agricultural Holdings

Act, 1908, and it repeals the words of the undermentioned proviso at the end of the said sub-section, viz. "Provided that where such a tenancy was a tenancy from year to year, the compensation payable in respect of an improvement comprised in the Third Schedule to this Act shall be such (if any) as could have been obtained if this Act had not been passed."

Virtually the Act of 1913 puts the tenant from year to year under a contract of tenancy current on January 1st, 1896, of a holding which at that date was used to the knowledge of the landlord as a market garden, in the same position in regard to compensation for improvements and the non-necessity for a subsequent agreement in writing, as that of a tenant who held under a lease for a term of years, which lease was in existence on January 1st, 1896, and whose holding was, with the knowledge of the landlord, in use or cultivation as a market garden. See *ante*, pp. 71 and 124.

The Act of 1913 overrules the case of *Kedwell* v. *Flint*, [1911] 1 K. B. 797, which had decided that a tenant from year to year under a contract of tenancy current on January 1st, 1896, of a holding which at that date was used to the knowledge of the landlord as a market garden, was not, in the absence of any agreement that the premises should be let as a market garden, entitled to compensation for improvements executed by him after the earliest day on which, if notice had been given immediately after January 1st, 1896, the tenancy could have been determined.

AGRICULTURAL HOLDINGS ACT, 1914.

(4 & 5 Geo. 5, Ch. 7.)

AN ACT TO EXTEND THE PROVISIONS OF SECTION ELEVEN OF THE AGRICULTURAL HOLDINGS ACT, 1908, TO THE DETERMINATION OF TENANCIES IN CONNECTION WITH THE SALE OF HOLDINGS. A.D.1914.

[31ST JULY, 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Compensation for disturbance in connection with sale.

1.—(1) Notwithstanding any agreement to the contrary, where the tenancy of a holding is terminated after the passing of this Act by notice to quit given after that date—

(*a*) in view of the sale or offering for sale of the holding or any part thereof; or

(*b*) by or at the request of the purchaser of the holding before the expiration of one calendar year after completion of the purchase of the holding for any reason other than the wrongful act or default of the tenant in relation to the holding;

the tenant shall be entitled to recover compensation in terms of, and subject to the provisions of, section eleven of the Agricultural Holdings Act, 1908, except that the notice by the tenant of his intention to claim compensation required by that section may be given at any time not less than two months before the determination of the tenancy.

8 Edw. 7. c. 28.

(2) Compensation under this section shall not be payable in any case to which the Small Holdings Act, 1910, applies.

10 Edw. 7, & 1 Geo. 5. c. 34.

(3) In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

Short title and construction.

2. This Act may be cited as the Agricultural Holdings Act, 1914, and shall be construed as one with the Agricultural Holdings Acts, 1908 and 1913, and those Acts and this Act may be cited together as the Agricultural Holdings Acts, 1908 to 1914.

8. Edw. 7. c. 28. 2 & 3 Geo. 5 c. 21.

AGRICULTURAL LAND SALES (RESTRICTION OF NOTICES TO QUIT) ACT, 1919.

(9 & 10 Geo. 5, Ch. 63.)

A.D. 1919. AN ACT TO AMEND THE LAW AS TO NOTICES TO QUIT GIVEN TO TENANTS BY OWNERS OF AGRICULTURAL LAND PRIOR TO THE SALE OF SUCH LAND.

[19TH AUGUST, 1919.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Restriction of notices to quit.

1. On the making, after the passing of this Act, of any contract for sale of a holding, or any part of a holding held by a tenant from year to year, any then current and unexpired notice to determine the tenancy of the holding given to the tenant, either before or after the passing of this Act, shall be null and void, unless the tenant shall, after the passing of this Act and prior to such contract of sale, by writing, agree that such notice shall be valid.

Definitions.

2. In this Act—

"Agricultural land" means land which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the rest pastoral or in whole or in part cultivated as a market garden;

"Holding" means a parcel of agricultural land held by a tenant and which is not let to the tenant during his continuance in any office, appointment or employment held under the landlord;

"Market garden" means a holding cultivated wholly or mainly for the purpose of the trade or business of market gardening.

3. This Act shall not apply to a contract for sale to a Government department or local authority for the purpose of providing small holdings or allotments, or for any other public purpose made within three years after the passing of this Act. Exemption of purchases for public purposes.

4. This Act shall not apply to Ireland. Application of Act.

5. This Act may be cited as the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919. Short title.

SMALL HOLDINGS ACT, 1910.

(10 Edw. 7 & 1 Geo. 5, Ch. 34.)

AN ACT TO PROVIDE COMPENSATION TO TENANTS ON WHOM NOTICE TO QUIT IS SERVED WITH A VIEW TO THE USE OF THE LAND FOR THE PROVISION OF SMALL HOLDINGS UNDER THE SMALL HOLDINGS AND ALLOTMENTS ACT, 1908.

[3RD AUGUST, 1910.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Compensation to tenants for disturbance.

1.—(1) Where a council, or a landlord at the request of a council, terminates a tenancy of land by notice to quit, with a view to the use of the land or any part thereof by the council for the provision of small holdings, the tenant upon quitting shall be entitled to recover from the council compensation (2) for the loss or expense directly attributable to the quitting which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods or his implements of husbandry, produce, or farm stock on or used in connection with the land:

Provided that no compensation under this section shall be payable—

(*a*) Unless the tenant has given to the council a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid; or

(*b*) If the claim (3) for compensation is not made within three months after the time at which the tenant quits.

In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

(2) The Board of Agriculture and Fisheries shall, out of the Small Holdings Account, (4) repay to a council any compensation paid by the council under an award or with

the consent or approval of the Board, and also any expenses which, in the opinion of the Board, have been necessarily or reasonably incurred by the council in relation to any claim for compensation under this section.

(3) This section shall apply where a tenancy is terminated after the commencement of this Act, whether the notice to quit is given before or after such commencement.

Application to tenancies terminated before commencement of Act.

2. Where a tenancy has been terminated before the commencement of this Act, and the tenant proves to the satisfaction of the Board of Agriculture and Fisheries that he has incurred any loss or expense for which he would have been entitled to compensation under the foregoing section of this Act if the tenancy had terminated after the commencement of this Act, the Board may, out of the Small Holdings Account, pay to the tenant such compensation for such loss or expense as they think just: Provided that no compensation under this section shall be payable if the claim for compensation is not made before the first day of November nineteen hundred and ten.

Short title and construction.

3. This Act may be cited as the Small Holdings Act, 1910, and shall be construed as one with the Small Holdings and Allotments Act, 1908, and that Act and this Act may be cited together as the Small Holdings and Allotments Acts, 1908 and 1910.

This Act is of interest in connection with the question of compensation for unreasonable disturbance, and specifically in those cases where land has been acquired by a council for the provision of small holdings. See *ante*, pp. 21-34, and particularly p. 33.

SECT. 1. (1) REQUEST. Compensation is payable whether the land is acquired by agreement or compulsion.

(2) COMPENSATION. The compensation is additional of course to the ordinary tenant right compensation. See *Evans* v. *Glamorgan County Council*, *ante*, pp. 31-32.

(3) CLAIM. The claim apparently need not be in writing, but the word "claim" implies the need of some particularity.

(4) SMALL HOLDINGS ACCOUNT. See sect. 51 of the Small Holdings Act, 1908.

SECT. 2. The operation of the second section has by now probably entirely elapsed.

APPENDICES.

APPENDIX I.

BOARD OF AGRICULTURE AND FISHERIES.

Agricultural Holdings (England) Rules of 1908.

(Dated 28th November, 1908.)

The Board of Agriculture and Fisheries, by virtue and in exercise of the powers in them vested under the Agricultural Holdings Act, 1908, do hereby prescribe as follows:—

1. An Award in an arbitration under the Agricultural Holdings Act, 1908, shall be in the form set forth in the First Schedule hereto, or to the like effect, with such modifications of the recitals contained in such form as circumstances may require.

2. The several forms for proceedings in arbitrations under the said Act, which are set forth in the Second Schedule hereto, shall, if used, be sufficient.

3. These Rules extend to England and Wales only.

4. The Agricultural Holdings (England) Rules of 1900 shall remain in force for the purpose only of arbitrations under the Agricultural Holdings (England) Acts, 1883 to 1900.

5. These Rules may be cited as the Agricultural Holdings (England) Rules of 1908.

In witness whereof the Board of Agriculture and Fisheries have hereunto set their official seal this 28th day of November, 1908.

A. W. Anstruther,
Assistant Secretary.

The FIRST SCHEDULE to the above Rules.

Form A.

Form of Award where Compensation is claimed for Tenant's Improvements.

Agricultural Holdings Act, 1908.

In the matter of a holding known as lately in the occupation of A. B., of *(the quitting tenant)*.

To all to whom these presents shall come I, F. G., of send greeting.

Insert name (if any) and description of holding.

Whereas C. D., the landlord of the above-mentioned holding, and the said A. B., the tenant thereof, have failed to agree as to the amount and time and mode of payment of the compensation to which the said

A. B. claims to be entitled in respect of the improvements made on the above-mentioned holding, which are comprised in the First Schedule to this Award.

(Here insert recital of appointment of arbitrator. See Form C.)

And whereas the said A. B., by written notice to the said C. D., has required [*or* the said A. B. and C. D. have agreed] that the arbitration shall extend to the determination of certain further claims by the said A. B. against the said C. D. in respect of the said holding, the short particulars of which claims are set forth in the Second Schedule to this Award.

And whereas the said C. D., by written notice to the said A. B., has required [*or* the said A. B. and C. D. have agreed] that the arbitration shall extend to the determination of certain claims by the said C. D. against the said A. B. in respect of the said holding, the short particulars of which claims are set forth in the Third Schedule to this Award.

And whereas application has been duly made to me to specify the amount awarded in respect of such of the claims set forth in the said Schedules as are therein marked with an asterisk.

[And whereas the time for making my Award has been extended by the Board of Agriculture and Fisheries to the day of , 19 .]

Now know ye that I, the said F. G., having taken upon myself the burden of the said reference, and having heard, examined, and considered the witnesses and evidence concerning the said matters so referred to me as aforesaid, do make and publish this my Award of and concerning the same in manner following, that is to say :—

1. I award and determine that the said A. B. is entitled to receive from the said C. D. the sum of pounds shillings and pence, as compensation in respect of the improvements comprised in the First Schedule to this Award.

2. I award and determine that the said A. B. is entitled to receive from the said C. D. the sum of pounds shillings and pence, in respect of the claims mentioned in the Second Schedule to this Award.

3. I award and determine that the said C. D is entitled to receive from the said A B. the sum of pounds shillings and pence, in respect of the claims mentioned in the Third Schedule to this Award.

4. I hereby declare that the amounts awarded by me in respect of such of the said claims as are marked with an asterisk are the amounts set against such claims in such Schedules.

NOTE—The date in paragraphs 5 and 6 must not be earlier than one calendar month, nor later than two calendar months, after the delivery of the award.

5. I award and determine that the said sum[s] of pounds shillings and pence [and pounds shillings and pence] awarded by me shall, subject to the provisions of the Agricultural Holdings Act, 1908, be paid by the said C. D. to the said A. B. on the day after the delivery of this Award; and that the said sum of pounds shillings and pence awarded by me shall, subject as aforesaid, be paid by the said A. B. to the said C. D. on the same day.

6. I award and direct that the costs of and incidental to the arbitration and this Award shall be paid by the said A. B. *or* C. D. *or* by the said A. B. and C. D. in the following proportions, namely, part thereof by the said A. B. and part thereof by the said C. D. [*or otherwise as may be directed*], *or* I award and direct that each party shall bear his own costs of and incidental to this arbitration, and shall pay part of my costs of this Award, and that any costs payable by the one party to the other party under or by virtue of this Award shall be so paid on the day after the delivery of this Award. *See* note above.

In witness whereof I have hereunto set my hand this day of , 19 .

Signed by the said F. G. in the presence of

F. G.

The First Schedule referred to in the above written Award.

(*Here insert each of the improvements comprised in the First* [*or Third*] *Schedules*[*s*] *to the Agricultural Holdings Act*, 1908, *in respect of which a claim by the tenant has been referred to arbitration.*)

The Second Schedule referred to in the above-written Award.

(*Here insert short particulars of any further claim by the tenant to which the arbitration is extended.*)

The First Schedule referred to in the above-written Award.

(*Here insert short particulars of any claim by the landlord to which the arbitration is extended.*)

(*If either party has required that the amount awarded in respect of any particular claim shall be specified, the person making the Award will mark such claim with an asterisk, and place against it the amount awarded in respect thereof.*)

Note.—*The Award may be endorsed as follows* :—

This Award was delivered to A. B. [*or* C. D.] on the day of , 19 .

F. G.

Form B.

Form of Award for cases in which Form A. is inapplicable.

Agricultural Holdings Act, 1908.

In the matter of a holding known as , [lately] in the occupation of A. B., of (*the* [*quitting*] *tenant*). Insert name (if any) and description of holding.

To all to whom these presents shall come, I, F. G., of , send greeting.

Whereas under the Agricultural Holdings Act, 1908 [*or* the contract of tenancy of the said holding *or* an agreement made between C. D. the landlord of the said holding and the said A. B. the tenant thereof] the questions and claims set forth in the Schedule to this Award are referred to arbitration in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1908.

(*Here insert recital of appointment of arbitrator. See Form C.*)

And whereas application has been duly made to me to specify the amount awarded in respect of such of the claims set forth in the Schedule to this Award as are in such Schedule marked with an asterisk.

[And whereas the time for making my Award has been extended by the Board of Agriculture and Fisheries to the day of , 19 .]

Now know ye that I, the said F. G., having taken upon myself the burden of the said reference, and having heard, examined, and considered the witnesses and evidence concerning the said questions and claims so referred to me as aforesaid, do make and publish this my Award of and concerning the same in manner following, that is to say :—

1. By this Award I determine the questions set forth in the Schedule hereto in manner following (that is to say) : [*Here set out determinations.*]

2. I award and determine that the said A. B. is entitled to receive from the said C D. the sum of pounds shillings and pence, as compensation in respect of the claims set forth in the first part of the Schedule to this Award.

3. I award and determine that the said C. D. is entitled to receive from the said A. B. the sum of pounds shillings and pence, in respect of the claims set forth in the second part of the Schedule to this Award.

4. I do hereby declare that the amounts awarded by me in respect of such of the said claims as are marked with an asterisk are the amounts set against such claims in such Schedule.

NOTE—The date in paragraphs 5 and 6 must not be earlier than one calendar month, nor later than two calendar months after the delivery of the award.

5. I award and determine that the said sum[s] of pounds shillings and pence [and pounds shillings and pence] awarded by me shall, subject to the provisions of the Agricultural Holdings Act, 1908, be paid by the said C. D. to the said A. B. on the day after the delivery of this Award; and that the said sum of pounds shillings and pence awarded by me shall, subject as aforesaid, be paid by the said A. B. to the said C. D. on the same day.

6. I award and direct that the costs of and incidental to the arbitration and this Award shall be paid by the said A. B. *or* C. D. *or* by the said A. B. and C. D. in the following proportions, namely, part thereof by the said A. B. and part thereof by the said C. D. [*or as otherwise may be directed*], *or* I award and direct that each party shall bear his own costs of and incidental to this arbitration, and shall pay part of my costs of this Award, and that any costs payable by the one party to the other party under or by virtue of this Award shall be so paid on the day after the delivery of this Award.

See note above.

In witness whereof I have hereunto set my hand this day of , 19 .

Signed by the said F. G. in the presence of

F. G.

The SCHEDULE referred to in the above-written Award.

(*Here set forth questions and claims to be determined. If either party has required that the amount awarded in respect of any particular claim shall be specified, the person making the Award will mark such claim with an asterisk, and place against it the amount awarded in respect thereof.*)

FORM C.

Recital of Appointment of Arbitrator.

And whereas by an appointment, dated the day of 19 , signed by [*or* on behalf of] the said A. B. and C. D. [*or* sealed by the Board of Agriculture and Fisheries, *as the case may be*], I, the said F. G., was duly appointed under the Agricultural Holdings Act, 1908, to act as arbitrator for the purpose of settling the said differences [questions and claims] in accordance with the provisions set out in the Second Schedule to that Act.

The SECOND SCHEDULE to the above Rules.

FORM D.

Application for Appointment by Board of Agriculture and Fisheries of Arbitrator to determine the Compensation for Tenant's Improvements, &c.

Agricultural Holdings Act, 1908.

To the Board of Agriculture and Fisheries.

In the matter of the holding known as , lately in the occupation of A. B., of (*the quitting tenant*).

Insert name (if any) and description of holding.

Whereas the said A. B. claims to be entitled to compensation in respect of certain improvements comprised in the First [*or* Third] Schedule[s] to the above-mentioned Act which have been made on the above-mentioned holding.

And whereas C. D., of , the landlord of the said holding, and the said A. B., have failed to agree as to the amount and time and mode of payment of such compensation, and as to the person to act as arbitrator for the purpose of settling the differences that have so arisen.

And whereas there is not any provision in any agreement between the said A. B. and C. D. relating to the appointment of such arbitrator, and such arbitrator may accordingly be appointed by the Board of Agriculture and Fisheries on the application in writing of either of the parties.

Now I, the undersigned, do hereby apply to the Board of Agriculture and Fisheries for the appointment by them of an arbitrator for the purpose of settling the said differences, and for determining all other claims relating to such holding which are brought within such arbitration under section 6, sub-section 3, of the above-mentioned Act, or by agreement between the parties.

(Signature of A. B. [*or* C. D.], or his duly authorized agent.)

19 .

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties.*

Applications should be sent to the Board in duplicate.

FORM E.

Application for Appointment by Board of Agriculture and Fisheries of Arbitrator to determine Questions or Claims not relating to Tenant's Improvements.

Agricultural Holdings Act, 1908.

To the Board of Agriculture and Fisheries.

Insert name (if any) and description of holding.

In the matter of the holding known as , [lately] in the occupation of A. B., of (*the* [*quitting*] *tenant*).

Whereas under the Agricultural Holdings Act, 1908 [*or* the contract of tenancy of the said holding *or* an agreement made between C. D. the landlord of the said holding and the said A. B. the tenant thereof] the questions and claims set forth in the Schedule to this application are referred to arbitration in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1908.

And whereas the said A. B. and C. D. have failed to agree as to the person to act as arbitrator for the purpose of settling the said questions and claims.

And whereas there is not any provision in any agreement between the said A. B. and C. D. relating to the appointment of such arbitrator, and such arbitrator may accordingly be appointed by the Board of Agriculture and Fisheries on the application in writing of either of the parties.

Now I, the said undersigned, do hereby apply to the Board of Agriculture and Fisheries for the appointment by them of an arbitrator for the purpose of settling the questions and claims set forth in the Schedule to this application.

(Signature of A. B. [*or* C. D.], or his duly authorized agent.)

19 .

Schedule.

[Here set forth precisely the questions or claims to be determined.]

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties.*

Applications should be made to the Board in duplicate.

FORM F.

Application to Board of Agriculture and Fisheries for Extension of Time for Award.

Agricultural Holdings Act, 1908.

Insert name (if any) and description of holding.

To the Board of Agriculture and Fisheries.

In the matter of an arbitration under the above-mentioned Acts between A. B., of (*the* [*quitting*] *tenant*), and C. D., of (*the landlord*), relating to the holding known as , [lately] in the occupation of the said A. B.

Whereas the time for making the Award in the said arbitration will expire [*or* expired] on the day of , 19 .

Now I, the undersigned, do hereby apply to the Board of Agriculture and Fisheries to extend the time for making the said Award to the day of , 19 .

19 .

[*This may be signed by the arbitrator, or by either party to the arbitration or his duly authorized agent.*]

APPENDIX II.

Forms.

1. *Notice to Quit signed by Landlord.*

To A. B.,

I hereby give you notice to quit and deliver up possession of the house, farm and premises situate in the parish of , which you hold of me, as tenant thereof, on the day of , 19 , [*or* at the expiration of the year of your tenancy which shall expire next after the end of one year from the service of this notice].

Dated this day of , 19 .

(Signed) C. D. (Landlord).

---

2. *Notice to Quit signed by Landlord's Agent.*

To A. B.,

I hereby, as agent for C. D., your landlord, and on his behalf, give you notice to quit and deliver up possession of the house, farm and appurtenances situate in the parish of , on the day of , 19 , [*or* at the expiration of the year of your tenancy which shall expire next after the end of one year from the service of this notice].

Dated this day of , 19 .

(Signed) E. F.,
(Agent for the above-named C. D.)

---

3. *Notice to Quit signed by Tenant.*

To C. D.,

I hereby give you notice that I intend to quit and deliver up possession of the house, farm and premises situate at , which I hold of you as tenant, on the day of , 19 , [*or* at the expiration of the year of my tenancy which shall expire next after the end of one year from the service of this notice].

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

4. *Consent by Landlord to the execution by the Tenant of Improvements contained in Schedule I., Part I., of the Act* (*see ante, p.* 130).

To A. B.,

I hereby give my consent to your making the under-mentioned improvements on your holding situate at , viz. :

(1) The erection of a five-stalled stable, cost not to exceed £200.
(2) The enlargement of the cowshed at the homestead.
(3) The laying down of Blackacre to permanent pasture.

Dated this day of , 19 .

(Signed) C. D. (Landlord).

(N.B.—If the improvements are of a costly kind, the tenant would

be well advised to secure the landlord's consent, conditions and terms of compensation in a formal agreement, signed by both parties, and stamped with a 6*d.* stamp. One executed copy of such agreement should be retained by the tenant.)

---

5. *Notice to Landlord of intention to Drain.* (*See sect.* 3, *p.* 92, *ante.*)

To C. D. (Landlord),

I hereby give you notice of my intention to drain the field known as Ox Close. I intend to begin the said improvement on a date not less than two months nor more than three months from the date of this notice. I propose to execute the drainage as follows :—the depths of the drains will be 3 ft. 6 in., laid with 2½-inch pipes, and 24 ft. apart; the main drains will be laid with 6-in. pipes, and will discharge into the brook on the west side of the said field, as shown in the rough sketch annexed.

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

6. *Landlord's Notice of intention to execute Drainage.* (*See sect.* 3, *p.* 92, *ante.*)

To A. B.,

With reference to your letter dated the day of , 19 , relating to the drainage of Ox Close, I hereby give you notice that I intend to execute the said drainage myself; and I shall charge you £5 per cent. per annum on the cost incurred in executing the said improvement.

Dated this day of , 19 .

(Signed) C. D. (Landlord).

---

7. Agricultural Holdings Act, 1908.

General Notice of intention to claim Compensation for Improvements.

(Note :—The undermentioned Form is perhaps the most important of all from the tenant's point of view (see sect. 6 (2), p. 95, *ante*). It is a sufficient compliance with the Act, and leaves the tenant free to furnish full particulars of his claim subsequently. It must be served on the landlord or his duly authorised agent prior to the determination of the tenancy. It can be served personally. Where such service is undesirable, the tenant should send it by registered letter to the landlord or the duly authorised agent at his last known place of abode in England.)

To C. D. (Landlord).

Old Hall Farm.

Take Notice that I intend to claim and do claim under and in accordance with the Agricultural Holdings Act, 1908, to be paid the

compensation to which I may be entitled under the said Act or under custom or agreement or otherwise in respect of any improvement comprised in the First Schedule to the said Act.

The improvements executed by me are as follows :—

(*Here should follow the names of every improvement mentioned in Schedule I. which the tenant has effected, thus*) :

(1) The enlargement of the cowshed and granary.
(2) The laying down of Whiteacre (about 10 acres) to permanent pasture.
(3) The making of a road from the homestead to Cottingham Lane (about 250 yards).
(4) The sinking of a well and the fixing of pump and apparatus to same.
(5) Draining four fields, viz., Lowfield, Highfield, Ox Close, and the meadow adjoining the river Wharfe.
(6) Liming of fields.
(7) Application of purchased manure to the holding.
(8) Consumption of purchased corn, cake, and other feeding stuffs on the holding.
(9) Consumption of home-grown corn on the holding.
(10) Laying down field to temporary pasture.

AND FURTHER TAKE NOTICE that I require that the arbitration between us under the Agricultural Holdings Act, 1908, shall extend to my further claims in respect of the holding, whether under custom, agreement or otherwise.

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

8. AGRICULTURAL HOLDINGS ACT, 1908.

Notice of Claim for Compensation.

(NOTE :—The following is the detailed claim which should be served by the tenant or his valuer (either personally or by registered letter) upon the landlord before the end of the tenancy. The tenant or valuer should delete any items which may not be applicable to his particular case or add other items that are applicable. All claims, both under the Act, custom and agreement, should be included, and care should be exercised in filling up the money column. The undermentioned references may be useful :—

(1) In filling up the figures, give the total cost of the improvements, and not the proportion claimed from the landlord.
(2) Set out the names and quantities of the feeding stuffs consumed).

To C. D. (Landlord).

I HEREBY GIVE YOU NOTICE that I claim under and in accordance with the Agricultural Holdings Act, 1908, to be paid on the determination of my tenancy of the holding, situate in the parish of in the county of compensation in respect of the unexhausted value of improvements carried out upon the said holding.

The particulars of my claim in respect of such improvements are the following : (see *Note* 1).

(*Insert here claims, if any, under Schedule I. of the Agricultural Holdings Act*, 1908.)

17. Drainage, viz., yards of drainage laid at a depth of feet. Cost of drain pipes about £ : : . Cost of digging and filling about £ : : .

23. Application to land of purchased artificial or other purchased manure :—in the last year (inclusive of carriage), about £ : : . In the preceding year, cost (inclusive of carriage), about £ : : .

24. Consumption on the holding by cattle, sheep, or pigs, or by horses, other than those regularly employed on the holding of corn, cake, or other feeding stuffs, not produced on the holding :—

In the last year, Corn cost (inclusive of carriage) about . £ : :
In the last year, Cake cost (inclusive of carriage) about . £ : :
In the last year, Other Feeding Stuffs, namely (*see Note* 2) cost (inclusive of carriage) about ... ... £ : :
In the preceding year, Corn cost (inclusive of carriage) about ... ... £ : :
In the preceding year, Cake cost (inclusive of carriage) about ... ... £ : :
In the preceding year, Other Feeding Stuffs, namely :— cost (inclusive of carriage) about ... ... £ : :

25. Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn, proved by satisfactory evidence to have been produced and consumed on the holding :—

In the last year, the estimated value is about ... ... £ : :
In the preceding year, the estimated value is about ... £ : :

(*Insert any other claims under the Schedule.*)

AND I DO HEREBY FURTHER GIVE NOTICE, that I claim for tillages, acts of husbandry, and other allowances not included in the First Schedule to the before mentioned Act, but payable to me under the custom of the country, and for breach of contract, or otherwise in respect of the holding.

For manure produced on the holding not being manure comprised within the claims under the said First Schedule hereinbefore set out :—

Estimated quantity ... ...
Estimated value ... ... £ : :

For hay, straw, and roots, left unconsumed upon premises :—

Estimated quantity ... ...
Estimated value ... ... £ : :
For Labour and Seed ... ... £ : :
For Tenant's Fixtures ... ... £ : :
For Growing Swedes (6 acres, 2 roods) ... ... £ : :
For Bare Fallows (10 acres) ... ... £ : :

For breach of contract by the landlord as under, that is to say :—

Neglect to Repair Stable ... ... £ : :

AND I FURTHER GIVE YOU NOTICE that if the amount of compensation payable to me is hereafter determined by arbitration in manner provided

by the said Act, I require that the arbitration between us shall extend to the said further claims by me against you, namely :—

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

9. Agricultural Holdings Act, 1908.

Counter-claim by Landlord against Tenant for Waste or Breach of Covenant. (*See sect.* 6 (3), *p.* 95, *ante*).

(Note :—This counter-claim must be given by the landlord not later than seven days after the appointment of an arbitrator, and should be served personally or by registered post. Where possible the landlord should insert the particulars and amount of the counter-claim.)

To A. B. (Tenant).

With reference to your claim for compensation in respect of improvements made on your holding in the parish of in the county of dated the day of , 19 .

I hereby require that the arbitration between us shall extend to the determination of my claim against you for waste wrongfully committed or permitted by you and for breach of contract or otherwise in respect of the holding, namely :—

	£ s. d.
1. Arrears of rent	
2. Ploughing the Grass Field, Whiteacre	
3. Neglect to keep fences in repair	
4. Neglect to return to the holding the manurial equivalent of hay, straw, and manure led off	
5. Failure to repair buildings in accordance with covenants in your lease	

Dated this day of , 19 .

(Signed) C. D. (Landlord or Agent).

---

10. *Appointment of Single Arbitrator.*

(Note :—The landlord and tenant need not appoint valuers, but may if they desire and can mutually agree, appoint a single arbitrator at the outset. If they cannot agree, one or both of them should apply to the Board of Agriculture to appoint one on their behalf. In the rare cases, however, where they do mutually agree to appoint a single arbitrator, the under-mentioned Form should be used.)

We, the undersigned, do hereby appoint of in the county of , as single arbitrator under the provisions of the Agricultural Holdings Act, 1908, to settle any differences and to ascertain, determine and award the amount to be paid under the Agricultural Holdings Act or otherwise as between landlord and tenant in respect of the farm in the parish of in the county of upon the determination of the tenancy thereof.

Dated this day of , 19 .

(Signed) C. D. (Landlord).
A. B. (Tenant)

11. *Appointment of Valuer.*

(NOTE :—In most cases the landlord and tenant will respectively appoint their own valuers, giving them power to appoint a single arbitrator or permission to apply to the Board of Agriculture to appoint a single arbitrator, if the valuers fail to agree. The landlord and tenant should each sign a form similar to the under-mentioned, and hand them to their respective valuers on their appointment. The valuers should produce the forms for each other's inspection, prior to commencing the valuation, to show that they have been duly appointed.)

I HEREBY APPOINT E. F., of , in the county of , as my valuer, to ascertain, determine and agree on my behalf all matters and questions arising as between landlord and tenant in respect of the Farm in the parish of in the county of , including any questions arising either in respect of the Agricultural Holdings Act, 1908, or of the existing contract of tenancy of such farm, or under any custom or otherwise, with full power and authority in case of dispute to refer any such questions to arbitration and for such purposes to nominate and appoint, or to concur in the nomination and appointment as single arbitrator of any person he may think fit in accordance with the Second Schedule to the 1908 Act, and, in default of agreement, to apply to the Board of Agriculture and Fisheries to appoint a single arbitrator. And I hereby undertake to confirm and allow any act, agreement, matter, or thing done, made, suffered or allowed by the said in such matters and questions.

Dated this day of , 19 .

(Signed) C. D. (Landlord).
or A. B. (Tenant).

---

12. *Notice requesting the Appointment of an Arbitrator.*

(NOTE :—Occasionally one party may find that the other party is unwilling to appoint either a valuer or to concur in the appointment of a single arbitrator; in other words, completely disregards the claim sent in. In such a case the under-mentioned notice should be sent to the defaulting party, and, if the default still continues, application should be made to the Board of Agriculture to appoint an arbitrator. (See Schedule 2, Rule 1, p 133, *ante*; and Form D, p. 149, *ante*.)

To (Landlord and Tenant).

I HEREBY GIVE YOU NOTICE that I require you to appoint or concur in the appointment of an arbitrator under the provisions of the Agricultural Holdings Act, 1908, to act in respect of all matters relating to the Farm, situate in the parish of , in the county of .

Dated this day of , 19 .

(Signed) A. B. (Tenant).
or C. D. (Landlord).

13. Agricultural Holdings Act, 1908.

Appointment of Arbitrator by Valuers.

We, E. F., of , and G. H., of , appointed to act as valuers for C. D. (Landlord) and A. B. (Tenant), in a reference to determine the amount of Compensation, allowances and dilapidations (if any) payable in respect of the Farm, situate at , in the county of , hereby appoint J. K., of , as single arbitrator to determine and award the amount of compensation to be paid as between the said C. D. and the said A. B. in respect of all the matters referred to us, whether under the Agricultural Holdings Act, 1908, the custom of the country, the contract of tenancy or otherwise.

And we agree that his award shall be final and binding on all parties concerned.

Dated this day of , 19 .

(Signed) E. F.
G. H.

---

14. *Special Case stated by the Arbitrator for the opinion of the County Court.*

(Note :—Under Schedule 2, Rule 9, the arbitrator may at any stage of the proceedings, and, if directed by the judge of the County Court (which direction may be given on the application of either party), must state in the form of a special case any question of law arising in the course of the arbitration.

In the County Court of holden at .

In the matter of the Agricultural Holdings Act, 1908,

and

In the matter of an Arbitration between

C. D.,
of, &c., Tenant,

and

A. B.,
of, &c., Landlord.

Special Case

stated for the opinion of the Court by J. K., arbitrator in the above-mentioned arbitration :—

1. (Material parts of lease.)
2. (Material facts as proved in the arbitration.)
3. (Contentions of tenant.)
4. (Contentions of landlord.)

The questions of law submitted for the opinion of the Court are :—

(These must be stated in numbered paragraphs.)

Dated this day of , 19 .

15. *Form of Oath for Witness before Arbitrator.*

You shall true answer make to all such questions as shall be asked you touching the matters in question in this arbitration. So help you God.

---

16. *Form of Affirmation for Witness before Arbitrator.*

I, JOHN SMITH, solemnly, sincerely and truly affirm and declare that I will true answer make to all such questions as shall be asked me touching the matters in question in this arbitration.

---

17. *Agreement as to the Amount of Compensation.*

(NOTE :—It is, of course, quite open to the landlord and tenant to mutually agree as to the amount of the claim or counter-claim. Perhaps they would seldom do this until they had taken the advice of two valuers as to the sums that should be fixed for these items. Where, however, they can mutually agree upon the amount of the claim or counter-claim, it is advisable to embody the agreement in a formal document, duly stamped and signed by two parties. The undermentioned Form will suffice for simple cases. Where special conditions and terms are involved, it is desirable to obtain legal advice in the drafting of it.)

6D. STAMP.

This agreement made the day of , 19 , between C. D. (Landlord) and A. B. (Tenant) of the Farm, situate in the parish of , in the county of , in accordance with the provisions of the Agricultural Holdings Act, 1908, whereby it is agreed as follows :

(1) The sum payable to the said tenant by the said landlord in respect of compensation for the unexhausted value of the improvements mentioned in the Schedule attached, made by the said tenant upon the said farm shall be ——£

(2) The sum payable to the said landlord in respect of compensation for the arrears of rent, waste, for all breaches of contract and for injury and deterioration of the said holding aforesaid shall be £ .

(3) The sum of £ being the balance of the said sums of £ , and £ shall be paid by the said landlord to the said tenant in two instalments before the 31st December next.

And it is hereby mutually agreed between the said parties that there shall not be any arbitration between them under the said Act or otherwise : and the said tenant hereby agrees to accept the said sum of £ in full satisfaction of all compensation and other sums payable unto him under the said Act or otherwise and the said landlord agrees that he will not make any further claim against the said tenant in respect

of rent, waste, or breach of contract or otherwise howsoever in respect of the tenancy of the said farm.

IN WITNESS whereof the said parties have set their hands the day and year above written.

(Signed) C. D.
A. B.

Witness J. H.

SCHEDULE.

(Mention the matters in respect to which compensation is claimed.)

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18. (*Consent under sect. 7 of the Agricultural Holdings Act*, 1908, *see p. 97, ante.*)

Consent by Landlord to the Payment of Compensation by the Incoming Tenant to the Outgoer.

To L. M. (Incoming Tenant).

I hereby consent and agree that you shall as incoming tenant of the Farm pay to A. B. (the Outgoing Tenant) the sum of £ , in respect of compensation for improvements under the Agricultural Holdings Act, 1908, made on the holding lately held by him from me, which compensation was given under an Award dated (or under the agreement dated), made between me and the said A. B.

(Signed) C. D. (Landlord).

---

19. *Notice by Tenant to Landlord of Damage done to Crops by Game.*

(NOTE :—The under-mentioned notice should be sent to the landlord as soon as possible after the damage is first observed.)

To C. D. (Landlord).

I hereby give you notice under sect. 10 of the Agricultural Holdings Act, 1908, that my growing crops in the seven-acre field known as Blackacre which I hold from you as tenant have been damaged by game, and that I intend to claim compensation from you for the same. You are at liberty to inspect the same. I intend to reap the said crop on . And I hereby give you further notice that my reaped crops in the field known as Whiteacre which I hold from you as tenant have been damaged by game and that I intend to claim compensation from you in respect of the said damage. I intend to remove the same on the day of next, and you are at liberty to inspect the same before that date.

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

20. *Claim for Compensation for Damage by Game.*

(NOTE :—This claim must be given to the landlord within one month after the expiration of the calendar year, or such other period of twelve

months as may be substituted by agreement therefor, in respect of which the claim is made.)

To C. D. (Landlord).

I hereby give you notice that I claim compensation for damage done by game to my crops, particulars of which are set out hereafter.

PARTICULARS.

Damage done by pheasants in February, 19 , to five acres of growing wheat in the field known as Whiteacre at £1 10s per acre £7 10 0

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

21. *Notice of intention to claim Compensation for Unreasonable Disturbance.*

(NOTE :—This notice must be given within two months after the date of the notice to quit, or refusal to grant a renewal of the tenancy.)

To C. D. (Landlord).

I hereby given you notice that upon quitting my holding, in consequence of the notice to quit served by you upon me (*or* in consequence of your refusal to grant me a renewal of my lease), I intend to claim compensation for unreasonable disturbance under the provisions of sect. 11 of the Agricultural Holdings Act, 1908. You are at liberty to make a valuation of my goods, stock, etc.

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

22. *Claim for Compensation for Unreasonable Disturbance.*

(NOTE :—This claim must be sent within three months after the time the tenant quits the holding).

To C. D. (Landlord).

I hereby claim compensation under sect. 11 of the Agricultural Holdings Act, 1908, for the loss and expense incurred by me in consequence of quitting Farm, lately held by me from you.

PARTICULARS.	£	s.	d.
1. Loss in consequence of sale of four young horses ...	40	0	0
2. Expenses of removal of my household goods, implements, live and dead stock, to my present farm, situate at	60	0	0
	£100	0	0

Dated this day of , 19 .

(Signed) A. B. (Tenant).

23. *Notice by Tenant of intention to remove Fixtures.*

(NOTE :—See sect. 21, pp. 108-109, *ante*. This notice must be given at least one month before the removal of the fixtures.)

To C. D. (Landlord).

I hereby give you notice that after one month from this date, I intend to remove the Dutch barn and corrugated iron shed erected by me on the Farm now held by me as tenant from you.

Dated this day of , 19 .

(Signed) A. B. (Tenant).

---

24. *Notice by Landlord of intention to purchase Fixtures: under sect.* 21 *of the Agricultural Holdings Act*, 1908.

To A. B. (Tenant).

I elect to purchase the Dutch barn and the corrugated iron shed which you have notified your intention of removing after the day of , 19 .

Dated this day of , 19 .

(Signed) C. D. (Landlord).

---

25. *Notice to Tenant to Quit part of his Holding for purposes mentioned under sect.* 23 *of the Agricultural Holdings Act*, 1908.

To A. B. (Tenant).

I hereby give you notice to quit the field called Whiteacre, part of the land you hold from me, on the day of , and which I require for allotment gardens for labourers. I hereby offer to reduce your rent by the sum of £ from the said day of .

Dated this day of , 19 .

(Signed) C. D. (Landlord).

---

26. *Counter Notice by Tenant under sect.* 23 *of the Agricultural Holdings Act*, 1908.

(NOTE :—This counter notice must be given within twenty-eight days of the receipt of the notice served by the landlord, and will take effect at the expiration of the then current year of tenancy.)

To C. D. (Landlord).

I hereby give you notice that I accept your notice, dated the day of , 19 , requiring me to quit Whiteacre, as notice to quit my entire holding, now held by me from you, and that I intend to deliver up possession of the said holding on the day of , 19 .

Dated this day of , 19 .

(Signed) A. B. (Tenant).

PART II.

CHAPTER I.

TENANT RIGHT VALUATION.

The Necessity of Book-keeping.—An outgoing farmer who is systematic in keeping accounts is in a better position for obtaining a substantial valuation than where there has been a lack of business habits and methods. The chief difficulty met with in agricultural book-keeping is the incoming valuation. This should be the initial asset and there should be an annual valuation which will include the unexhausted value of the incoming valuation and a stocktaking of everything on the farm owned by the tenant—live stock, dead stock, crops (saved and growing), manure and unexhausted tillages. It is sometimes alleged that a correct balance sheet of the year's transactions cannot be compiled. This we regard as nonsense. There is great liability to go astray over the incoming valuation; but if a man will be honest with himself he knows whether that incoming valuation has increased or decreased, and can value it at its real worth.

The accounts should not be limited to drawing up an annual balance sheet. If a farmer is wise he will keep a field book relating to every field. Perhaps this should be large enough to enable a sketch of the field to be drawn on each page with the acreage below it. Next there should be an account of each year's cultivations, seed, manure and everything connected with sowing and harvesting placed in proper order, so that reference may be made quickly and full details be obtainable. Where farmers adopt plans of this sort and are able to explain the cost of the various cultivations, and the yield of the particular crop harvested, they are naturally in a much better position to obtain their full rights at the end of the tenancy. It is equally necessary, too, to keep a correct granary book showing how the

produce has been disposed of: viz., what amount of grain has been sold; how much has been fed to the milk cows, the stores and the fatting stock; what amount has been eaten by the working horses of the farm and what (if any) has been given to the fowls. For it must be remembered that home-grown corn consumed by the working horses and by the fowls is not compensated at the outgoing valuation.

Appointment of Valuer.—It is very desirable that both the landlord and the outgoer should appoint their respective valuers by an instrument in writing, and it is further desirable that these submissions to valuations should allow the respective valuers to appoint an arbitrator in case they are unable to come to an agreement. The landlord and the outgoer should be respectively informed of each other's nominees in these matters (see Appendix II., Form 11).

The Claim.—Naturally the claim itself should be submitted in writing. It may include claims under the Agricultural Holdings Act (embracing not merely tenant right valuation strictly so-called, but also damage done to crops by game, compensation for unreasonable disturbance, and the valuation of fixtures if the landlord cares to exercise his statutory option), claims for matters agreed upon in the lease, and claims recognised by the custom of the district which have not been expressly excluded by the lease. Further, the landlord may find it necessary to give the tenant notice that he requires the valuation to extend to the consideration of dilapidations, as most landlords prefer this matter to be dealt with in the valuation rather than be put to the trouble of commencing a subsequent action for dilapidations (see Appendix II., Forms 8 and 9).

Arbitrator.—When the valuers have been appointed, their first step ought to be to agree upon an arbitrator in the event of subsequent differences arising. The usual plan is that the outgoer's valuer submits from three to five names and the landlord's valuer selects one of them.

Form of the Valuation.—The inventory is one of the tenant farmer's most important documents, being in point

of fact very little inferior to his lease or agreement itself. It is the record in detail of the items and interests which the incomer has bought. It is very necessary that the tenant farmer should preserve this document; as, unless the lease or agreement contains covenants to the contrary, the same principles respecting the valuation will obtain when he leaves, as were adopted when he entered. It behoves the valuer for the incomer to be very careful in checking this record. Not only should he use circumspection in observing that items are not included which the incomer is under no obligation to take, but he should sedulously see that methods of valuation current in the district have been adopted, that the quantities accord with fact, that the prices are reasonable, that it is in orthodox form, duly stamped and receipted by the outgoer before the valuation money is paid.

If the assessment of the tenant right is merely a valuation carried out by an agreement between the two principals or their valuers, and not an arbitration under the Act, the actual form of such valuation may and does slightly vary in different parts of the country. Generally, however, valuers do not state the price allowed for each item, but write out their inventory somewhat as follows:—

INVENTORY AND VALUATION of the Tenant Right, Fixtures, etc., upon Blackacre Farm, in the Parish of East Keswick, in the County of York, the property of the Earl of H. Taken by Mr. A. B. (incoming tenant) at a valuation made this 5th day of April, 19 , by C. D. on behalf of E. F. (the outgoing tenant), and G. H. on behalf of the said A. B.

Hay at consuming price.

Rick of meadow hay.
Rick of first cut clover.
Rick of second cut clover.

Straw at consuming price.

60 acres of wheat, barley and oat straw as under :—

Wheat straw	...	20 acres.
Barley ...	...	20 ,,
Oats ...	...	20 ,,
		60 ,,

Manures.

Per cubic yard :—
Mixen in field (6 × 3 × 2).
Whiteacre, 50 loads carted and stacked.

Seeds.

Far field (20 acres).
Cost of seed, sowing, and harrowing.

Root Fallows.

Near field (20 acres),
Full tillages (including rent and rates, dressings, hoeing and artificials).
Less 5 acres of swedes drawn, and 5 acres swedes eaten on.
,, 5 acres potatoes drawn, and 5 acres mangolds drawn.

Fixtures and Sundries.

As per agreement :—
36-in. register stove.
30-gallon copper with lid and furnace.
50-ft. of shelving.

Feeding stuffs.

(Used in last year.)

Proportion of linseed cake as per bill.

Feeding stuffs.

(Used in previous year.)

Proportion of decorticated cotton cake, as per bill.
50 qrs. home-grown barley (fed to pigs as per granary book).

After making allowances for dilapidations accrued, we, the undersigned referees, value the whole of the items required in the foregoing inventory at the sum of ...	£195 5 6
Half stamp and inventory	0 10 0
	£195 15 6

(Signed) C. D.
G. H.

We have already stated that the form varies considerably, and we do not submit the above as a precedent of any actual valuation, but merely the barest outline.

Before considering the essential principles which regulate the admission of items, and the method of assessing them, there are several points to which we must direct attention.

Half-stamp and Inventory.—This item is one often misunderstood by both outgoer and incomer (see *ante*, p. 86). The outgoer's valuer usually prepares the inventory, and it is customary to allow him a sum for writing out the inventory equivalent to the amount of the stamp; thus, in a valuation between £100 and £200, he would be allowed 10*s*. for writing out the inventory, and accordingly the total cost of stamp and inventory is £1, half of which is charged to each of the two parties. Of course when the outgoer's valuer sends to his client his own account for services rendered, he includes the full value of the stamp and writing of the inventory, as well as the figures for his usual fees referred to in the next paragraph: thus in the illustration mentioned the outgoer's valuer would add £1 for stamp and inventory and the outgoer would be liable to pay this sum, as he has already received or is entitled to receive half this amount from the incomer. In Lincolnshire it is usual for the incomer's valuer to prepare the inventory and then send it to the outgoer's valuer for approval and signature.

Fees of Valuers.—The amount of the fees payable to the valuers and arbitrator is not indicated in the inventory. We believe that no uniform scale is adopted throughout the country, but that of the Midland Counties Tenant Right Valuers' Association will serve as a guide. It is as follows:—

	£	*s*.	*d*.
For valuation amounting to £50 ...	2	12	6
For amounts from £50 ,, £100 ...	4	4	0
,, ,, ,, £100 ,, £200 ...	6	6	0
,, ,, ,, £200 ,, £300 ...	8	8	0
,, ,, ,, £300 ,, £400 ...	10	10	0

Stamp, copy, and expenses to be charged in addition. This scale is applicable to dilapidations as well as to tenant right.

Details of Valuation.—It is unusual to render details of the allowances to the respective parties, and in the case of the unexhausted value of manures and feeding stuffs there is generally the bare statement that such allowances have

been taken into account in arriving at the sum awarded. Similarly there is seldom any indication of the actual amount that has been deducted for breach of covenants, such as irregular rotation of crops, foul land, or other dilapidations. In short, valuers award a "lump sum." This is a practice which causes considerable heartburning. Frequently Farmers' Clubs express themselves somewhat strongly against this custom. The remedy is in their own hands; the valuer is merely the agent of the landlord or tenant, and farmers as a class could, no doubt, make their views operative if they were so determined. Naturally much can be said for and against a practice of this kind. It is alleged, on the one hand, that if details were given, there would be greater scope for finding fault, more irritation than prevails at present, and perhaps more frequent litigation. On the other hand, it is very advisable that neither errors of judgment, nor blunders, nor ignorance should be shielded under a custom of this character, and valuers of standing and experience are generally willing to give fuller and reasonable information to all parties concerned. In fact, there are cases where it is necessary that further particulars should be given; *e.g.*, (*a*) a three-cornered valuation may be necessary where a farm has been sold and the tenant is under notice to quit at the date of the completion of purchase. In such a case, each of the three parties concerned may have his respective valuer. (*b*) Further, it frequently happens that it is necessary to set out separately the amount awarded for dilapidations. This occurs where a sum is claimed for the dilapidation of the building or other permanent structures. The incoming tenant would seldom undertake the obligation of repairing dilapidated buildings. This burden would more appropriately be undertaken by the landlord. It is then necessary to indicate two amounts, viz., the sum due to the outgoer, and also the total compensation and the amount due for dilapidations to the buildings, as the landlord would receive the latter sum and the outgoer would receive the full award less the sum received by the landlord.

In so far as dilapidations for fences, ditches, and similar items are concerned, there is no specific need to set out the sum allowed separately. The incoming tenant usually undertakes the burden of repairing such fences, ditches, &c., and accordingly should be allowed the particular amount which the outgoer is debited for these specific breaches of covenants. Still we feel that most incoming tenants would like to be assured not only that an allowance had been made to them for these dilapidations, but would be glad to know the exact amount of such allowance for the purpose of considering whether it was or was not sufficient to remunerate them for the tasks they had undertaken. Of course, in those exceptional cases where the incoming tenant takes over not only the land, but also the buildings with the liability to repair and improve them, he should be allowed a deduction equivalent to the total sum awarded for dilapidations, whether for buildings, land, or other cognate matters.

Probably in practice a solution might be arrived at, satisfactory to both valuers and agriculturists, if the amounts allowed for each sub-head into which the inventory is divided, were indicated. We have already pointed out that the inventory will usually be sub-divided as follows:—Cultivations, hay, straw, farmyard manure or labour thereon, unexhausted feeding stuffs and purchased manures, fixtures and dilapidations. It has been suggested that the allowances in farm valuation should be so sub-divided as to show the amounts allowed under these various heads. This suggestion has been considered by the Central Association of Tenant Right Valuers, but this body has not advised valuers to make any change in the customary method of indicating a "lump" sum, and does not think it advisable that the separate amounts should be given. As mentioned above there are two items at least on which both outgoers and incomers are often solicitous, viz., the amounts allowed for the unexhausted value of feeding stuffs and dilapidations. If either tenant asked that the amounts for these sub-divisions of the inventory be indicated separately,

we know nothing but the custom of the valuer's profession that prohibits these separate allowances from being stated, and we submit that it is very doubtful whether the valuers could legally justify their present practice of assigning a lump sum, devoid of the particulars requested by a tenant.

Should the matter proceed to arbitration, either party is in a position to have the amount awarded in respect of any particular improvement or any specific dilapidation expressly stated (Schedule 2, item 10).

The Arbitration.—Possibly the two valuers may not be able finally to agree. This disagreement may extend to the whole subject of the valuation, but more probably to some item or items. Failing agreement, there is no other recourse than arbitration. We have already discussed this topic and need only note here that this is a statutory proceeding, taken before a single arbitrator, who will deal with either a particular claim submitted to him or a series of claims, and who will settle the matter by giving an award which is in a definite form prescribed by the Board of Agriculture (see *ante*, pp. 73-87, and Appendix I., Forms A. and B.).

Before closing this chapter, we may give a little advice. In the first place, we consider that in a valuation there should always be at hand a good annotated edition of the Agricultural Holdings Acts, 1908-1913. This should be the valuers' Bible for the time being, as in some respects it is more important to them than either the lease, inventory, or custom. The Acts enact much legislation which is of prime importance, and certain of their provisions are obligatory. In dealing, therefore, with the principles of tenant right, we shall give first place to a discussion of the statutory improvements. Next, the lease or agreement of tenancy should be available, and there are certain clauses in it which the valuers should carefully weigh and consider; particularly we may instance the landlord's reservations, the tenant's covenants, and the valuation clauses (if any). If, however, the lease does not deal with the methods on which the outgoer is to be remunerated, the

inventory should be produced, as that will doubtless give some idea of the principles that obtained when the outgoer entered; and, of course, failing any compact to the contrary, "*as the man entered, so should he leave.*" In future years the record of the holding which was made at the instance of either party will also be of service in arriving at a just award, as it will or should give a correct idea of the condition of the holding when the tenant entered. Finally, the valuer should acquaint himself with the customs of the district, and for this very good reason, viz., that unless customs be contrary to the Agricultural Holdings Act or unless they be expressly excluded by the lease or agreement, such customs will prevail.

CHAPTER II.

COMPENSATION FOR STATUTORY IMPROVEMENTS.

The improvements mentioned in the First Schedule are divided into three parts, and in order to be entitled to claim compensation for the unexhausted value of the improvements included in Part I., it is absolutely essential to have the **written** consent of the landlord **before** such improvements are effected. Not that the tenant is hindered from making the improvements if the landlord withholds consent; but merely that if he has not such written consent, he cannot claim at the end of his tenancy. (For the sixteen improvements to which the landlord's consent is required, see *ante*, p. 130.) We need hardly add that if the landlord does give his written consent, the tenant should preserve the document with the same care as he would a bank note, a lease, a conveyance, or any other valuable instrument.

It will be noticed that most of the sixteen improvements are items which would involve considerable capital expenditure, and generally a tenant would be well advised, if, instead of effecting such improvements at his own cost, he induced the landlord to carry out what was requisite. There is another point of view which must not be lost sight of; viz., the tenant should invariably remember that the basis of compensation is the value of an improvement to an incoming tenant; and secondly, he should ask himself the question, what is an improvement? It is characteristic of a true improvement that it is of value to the incomer, or, in slightly different language, that it gives an increased rental value to the landlord when he reoccupies. Again, we can scarcely call any act an improvement where the expenditure exceeds the benefit. It would seem, then, that the landlord's interest is adequately safeguarded, because a tenant's claim for compensation for capital outlay

on the sixteen specified improvements is always subject to these tests:—

(1) Was the landlord's prior written consent obtained?

(2) Does the benefit exceed the expenditure?

(3) Does the improvement increase the rental value of the holding, *i.e.*, is it of value to an incoming tenant?

If the valuers can answer these questions in the affirmative, they may then proceed to assess the amount of the compensation.

Sliding Scale.—Before discussing the methods of compensation adopted it will be useful to explain one term which will frequently be used, and that is "years principle" or "summers principle." We mean by this expression that, when an improvement is stated to be dealt with on so many "years principle," if the tenant has had the full number of years' benefit, the improvement is exhausted, having been proportionately reduced each year, thus:—"Liming" in some districts is compensated on a seven years principle. In this case if the tenant leave one year from the date of this particular improvement, he would receive six-sevenths of his outlay; further, his outlay would be reduced by one-seventh for each year that elapsed since the application of the lime. Thus, at the end of seven years he would receive nothing.

PART I.: (1) **Erection, Alteration and Enlargement of Building.**—Where the tenant farmer is a capitalist, and is willing to take the risk of investing his capital in improving his landlord's property, it would be prudent on his part to have an agreement beforehand, determining the method of compensation. If he fails to do so, he would be bound to leave the assessment of the compensation to the valuers; and not only might the valuers consider the building of little worth to an incomer, but they might adopt widely different methods in arriving at their award. Two different methods suggest themselves at once:—

1. The valuers might assess the compensation on the basis of cost, and the length of time that had elapsed since the improvement was effected; thus, in the case of a fairly

substantial building, its life might be taken at twenty years and a deduction of one-twentieth made for each year that had elapsed since the building was completed; hence, at the end of ten years' user the outgoer would receive half of his outlay, at the end of fifteen years one-quarter, and at the end of twenty years no compensation would be due to him.

2. Another method would be to capitalise the increased rental value of the holding due to such improvement, *i.e.*, the original outlay would be disregarded, and the valuers would ask themselves this question: by how much has this specific improvement increased the rental value of the farm? Say by £10 per annum; then give the outgoer a certain number of years' purchase (say 15 to 20) as compensation for this improvement. If fifteen years' purchase was the figure agreed upon, the amount in our supposed case would be £150.

It is extremely difficult to say which of these two methods would generally be more useful. The first of the two, of course, is the simpler; but, as we have previously remarked, although the cost of an improvement will often be a most important factor as to whether the improvement shall be carried out or not, yet when the thing has once been done the cost has nothing to do with its value. Theoretically the second method would appear to be more just, but in practice there are two points on which there might be great differences of opinion, viz., the amount by which the improvement had increased the rental, and the number of years' purchase which the tenant should be allowed.

(2) **Formation of Silos.**—We have already discussed this subject (p. 131). The tenant who wishes to preserve green food for winter consumption will generally be satisfied with some simple home-made device. Where a permanent erection is effected, the compensation will doubtless be assessed on one of the two methods indicated above in the case of buildings.

(3) **Laying down of Permanent Pastures.**—This is an improvement of first-rate importance. During the final

quarter of the nineteenth century many acres of arable land were laid down to permanent or temporary pasture, and some land was allowed by neglect to run into natural grass land. The low price of wheat and other cereals, and also the difficulties concerning labour have doubtless contributed to the extension of the area under permanent grass. Whether this extension is a national advantage may well be questioned, for grass land produces less food than does arable. Further, it may be doubted whether many large tracts of land are well suited for permanent pasture or meadows; the finer grasses speedily disappear, and the soil is frequently filled with moss, weeds, twitch, &c. On the other hand, there is very little farm land that will not respond profitably to an alternate system of cultivation involved in temporary pastures. We may look at this problem from two points of view: the tenant should remember that he has no claim whatever to compensation for laying down permanent pasture unless he has the prior written consent of his landlord. The case of temporary pasture is entirely different, and we shall see later that whether he had such consent or not, he can claim the unexhausted value of his temporary pastures. It behoves him then to distinguish between a permanent pasture and a temporary one. What is the difference? Is it a difference in the seed mixture or the mode of cultivation, or is it in the fact that in the case of temporary pasture there is a periodical breaking up of the land at the end of a limited period? We think that the latter factor must be the determining one. Temporary pastures are subject to alternate husbandry, and on light sandy soils, where a satisfactory pasture can rarely be formed, it is wiser to sow a temporary than a permanent mixture. These temporary pastures may be a one year's ley, two years' ley, three years' ley, four, six or even eight years' temporary pasture. Naturally the seed mixture will vary in these respective cases, and practical farmers will find in the late M. J. Sutton's "Permanent and Temporary Pastures" valuable information and prescriptions for these special purposes.

The seeds necessary for a permanent pasture would be very different from those recommended in the case of temporary pasture. The latter require seeds which shoot up rapidly and yield a good crop whilst the grasses live; whilst in the case of a permanent pasture it is more important to obtain a good bottom and permanent growth. Not that the mixture for a permanent pasture will not include seeds which are merely temporary in character, and to some extent it is desirable that there should be temporary seeds yielding a good crop during the first year or two, whilst the permanent grasses are obtaining a firmer hold. This is the reason why permanent pastures are often more productive during the first two or three years than they are at a little later time. Where the laying down of permanent pasture has been thoroughly done, it is certainly worthy of liberal compensation.

We shall deal with the method of compensation in a moment, but incidentally we must emphasise the fact that where the tenant does not obtain the landlord's previous consent, he has no claim to compensation. He is not, however, quite without redress, for it is a well-established principle, in spite of recent attempts to impugn it, that the tenant can plough up land that he has laid down at his own cost any time during his tenancy. He would usually do so in the last year of his tenancy, and take an away-growing crop from the land so ploughed up. In such circumstances landlords frequently are willing to pay some compensation. A tenant, however, should not be satisfied with a verbal promise of compensation. We are assuming that he had not the landlord's consent before making the improvement, and that the landlord is willing nevertheless to pay something. In such a case there are practically only two courses open to the tenant. He should have a proper written agreement signed by the landlord stating that, in consideration of the tenant's not ploughing up the land, the landlord will compensate on an agreed basis. Better still, however, the tenant would be well advised in insisting upon a cash payment in ample time to allow of his ploughing out the

land and taking an away-growing crop, if the money is not forthcoming.

We must now consider the methods of compensation adopted when the landlord's consent was first properly obtained, and the work has been done in an effective manner. The cost will be considerable. Such cost, of course, will vary with the nature of the land, the cost of labour in the district, and the price of the seeds: the seed alone at pre-war prices will probably cost anything from 25s. to 35s. per acre, and the whole outlay is not likely to be under £3 per acre. Of course it will be less than this where the landlord has found the seed.

It has been suggested that the tenant should be compensated on the twenty years principle. This method does not appear to have commended itself to valuers; and perhaps it is scarcely an equitable one, because during the first six or seven years the tenant is scarcely likely to receive an adequate return on his outlay. If this plan is adopted at all, we suggest that the first three or four years should be excluded before the scale be brought into operation; or even that only one-twenty-fifth of the cost be deducted each year. The alternative method appears to be more generally suitable. If the operations have been a complete success, the pasture may be much more valuable to an incomer when it has been laid down fifteen years, than it was when only five years old: hence we consider that the increased rental of the land might be capitalised and the tenant compensated accordingly: *i.e.*, a good grass field might be worth 5s. per acre more, to an incomer, than in an arable condition. If we capitalise this at fifteen years' purchase, we should give the outgoer £3 15s. compensation per acre. It might, however, be fairly objected that we have just stated that the improvement could be effected at a cost of £3 per acre and that we were awarding the tenant more than his actual outlay. We doubt whether such an objection should be sustained, because for several years the tenant may have had little or no return on his £3 outlay, and in addition to the original outlay the after-treatment of

the land is a most vital factor in successfully laying down a pasture; and we know no reason why an outgoer should not be compensated for both these items, even though the amount awarded be more than his original outlay, always provided that a greater sum is not awarded than the improvement is actually worth to the incomer.

Before passing from this improvement, it may be well to notice, from the point of view of the Agricultural Holdings Act, the unequal treatment meted out to young seeds, temporary pasture, and permanent pasture. We have expressed an opinion above that, especially on sandy soils, the tenant would be well advised in resorting to temporary pasture and in practising alternate husbandry. From a legal point of view, this too would be his wiser course. A valuer has to consider the compensation to be awarded for (*a*) young seeds, (*b*) temporary pasture sown more than two years prior to the determination of the tenancy, and (*c*) permanent pasture. It is important therefore to distinguish between these improvements and to consider the bearing of the Act towards them in so far as compensation is concerned.

(*a*) As far as young seeds are concerned, compensation is not payable under the Act for laying down seeds either in the last year or last year but one of the tenancy. This is undoubtedly a weak point in the Act from the outgoer's point of view. Fortunately custom or agreement comes to the outgoer's aid, and he is almost universally remunerated on the basis of the cost of seed and labour, less a deduction for injurious cropping. In Lincolnshire the cost of sowing, harrowing, and seed is allowed, a deduction only being made if the land is foul or the seeds have not been sown in their proper course, *i.e.*, on light land after one white crop and on strong land after two white crops. But if the young seeds have any value for the incomer, why should the outgoer be at the mercy of custom? There seems to be no good reason why such an

improvement should have been excluded from the statutory list.

(*b*) Temporary pastures that have been sown more than two years prior to the determination of the tenancy are in a more favoured position. Such pastures as lucerne, perennial clovers, common sainfoin and grasses are evidently contemplated in item 26 of Part III. of the First Schedule. Why, it may be asked, should the outgoer have a statutory claim if a pasture had been sown more than two years, and no statutory right to compensation if the pasture had been laid less than two years? Apparently there is no valid reason: in fact, in the case of the pasture sown less than two years, the outgoer has had less opportunity to recoup the cost of his improvement.

(*c*) But to secure compensation for laying down permanent pasture we have seen that the outgoer needs the written consent of his landlord before effecting the improvement. Unfortunately many tenants have sown permanent pasture without obtaining such consent, and their only remedy is to threaten to plough out the same—a remedy, we may remark, that savours of vindictiveness, for the threat is often made in the last year or near the end of the tenancy when the outgoer has merely a very limited opportunity of taking advantage of such ploughing up. A North Country valuer has informed the writer that he has known cases where temporary pastures which had been laid some fifteen years and had practically seeded themselves and become to all intents and purposes permanent, were allowed to rank for compensation. If such a practice be common, it would seem to be an injustice to exclude the claim of a man who had laid down a permanent pasture fifteen years before the end of his tenancy, even if no written consent had been obtained, for the permanent

pasture doubtless entailed a more costly seed mixture, more careful preparation of the seed bed, much more careful subsequent treatment, and yet gave a much smaller return during the first six or seven years, than would be the case with a temporary pasture that partially seeded itself.

It may be submitted that the whole subject is in an unsatisfactory condition and ripe for reconsideration. There is an old saying that "to make a pasture breaks a man; to break a pasture makes a man." If this be true, it would seem that the laying of permanent pasture is an improvement worthy of a statutory right to compensation, whether written consent had or had not been previously obtained.

(4) **Making and Planting of Osier Beds.**—It is only in certain districts and upon moist soils that this class of improvement is likely to trouble the valuers. The term "Osiers" is applied to varieties of willows grown in plantations, and frequently met with in the Eastern Counties and the Fen Districts. These osier beds take three years to develop and the life of the plants may be put at fifteen years. The initial outlay is a heavy one. Not only is there the necessary labour in digging, cleaning and planting, but the manure, the surface drains and the cost of the young plants must also be taken into consideration. If the young plants are twenty-four inches by eighteen inches apart, an acre would require over 14,000 plants and the cost of these alone would amount to anything from £15 to £20. A tenant would be foolish in undertaking a task of this nature unless he had a proper agreement with his landlord as to his future compensation. Either of the two methods we have indicated above may be adopted, but if the first plan be chosen it should be remembered that the tenant has no benefit during the first three years, and these facts should be borne in mind when assessing the compensation. The improvement, however, is one to which a reasonable landlord will assent where the conditions are suitable. Frequently odd corners that would otherwise be unprofitable might be utilised for cultivation of this character.

We may make somewhat similar remarks in regard to:—

(5) The making of water meadows or works of irrigation:

(6) Making of gardens:

(7) Making or improvement of roads or bridges, and,

(8) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power, or for supply of water for agricultural or domestic purposes.

The landlord is the suitable party to effect them.

In regard to the making of gardens, we may refer the reader to sect. 42 of the Act, the Third Schedule and *ante*, pp. 70-73.

(9) **Making or Removal of Permanent Fences.**—This item is somewhat of a puzzle; for the removal of fences without consent is waste, and gives rise to a claim or counter-claim for dilapidation, not compensation. Further, to maintain existing fences in good order is generally an express or customary obligation of every tenant. Hence we advise tenants to obtain the landlord's consent before they grub up the fences of small or ill-shaped fields, and to have an agreement before they spend capital on new additional fences.

(10) **Planting of Hops.**—This refers to the planting of new areas; for it is the duty of tenants to replace areas grubbed up, and to maintain existing areas. Replanting, therefore, would not come under this improvement at all. Under the present conditions of the hop industry a landlord is not likely to be troubled for his written consent to the extension of a hop area, and even if he were, he would not give his consent without careful consideration; for an additional area will frequently involve the extension of existing kilns or the building of new ones, tasks which a tenant farmer is scarcely likely to undertake.

It is not within the scope of this work to discuss the operations necessary for the successful raising of hops, but the cultivation is a costly process, and the return during the first two years practically *nil*. Whatever the cost, however, one of the two methods of assessing compensation

indicated above may be adopted: viz., the compensation may be based upon expenditure, or if the increase of rent can be agreed upon, the payment may be based on the method of ascertaining the capital value of an improvement, estimated at so many years' purchase of such increased rent.

(11) **Planting of Orchards and Fruit Bushes, and**

(12) **Protecting Young Fruit Trees.**—The tenant should remember that if he has not the landlord's consent before planting, he can neither claim compensation for his improvement nor remove the fruit bushes or trees, even though all the expense has been borne by him. Thus he is really in a worse position than the man who lays down permanent pasture without consent, for the latter has the right to plough out the same and take an away-going crop therefrom. The planting of fruit bushes and trees, then, is a matter for mutual arrangement. It is an improvement well worth encouraging, because many old orchards are declining and yet there is an ever-growing market at home for the produce. As far as agricultural land is concerned the case is often met by the landlord supplying the trees and the tenant planting and caring for them. Where, however, the holding is let under an agreement in writing as a market garden the tenant has much greater security for his outlay, as the improvement would then come under the provisions of the Third Schedule. See *ante*, pp. 70-73.

(13) **Reclaiming of Waste Land.**—Unless the tenant has land at a nominal rent under a lease long enough to allow him to reap the benefit of his labours, he should not undertake such a risky task. Improvements of this character by the tenant introduce the system of dual ownership—a system which has been the cause of almost endless trouble in Ireland and amongst the crofters in Scotland. The reclaiming of waste land had much better be done by the landlord, unless he is willing to grant a long lease at a low rental.

(14) **Warping or Weiring of Land,** and

(15) **Embankments and Sluices against Floods.**—Warping

is done on lands adjoining the banks of the Humber, and the first cost is a heavy one. It consists in fertilising land by means of the deposit of mud let in upon it by the action of tidal rivers through artificial banks and channels. It is well known that the rivers Ouse and Trent hold in suspension a large amount of earthy particles. It is more fitting that the initial cost necessary for the building of the banks, the cutting of the channels, &c., should be borne by the landlord; and when the necessary works have once been provided, land can be warped at a cost of about £4 per acre, and the benefit is supposed to continue for four years, and compensation can accordingly be based on a four years' principle.

(16) **Erection of Wire Work in Hop Gardens.**—Wire work has in some districts largely taken the place of hop poles. It is a costly improvement. A reasonable method of assessing the compensation for this particular item would be to take the cost of the erection and make a fair deduction for wear and tear.

This completes the statutory Improvements in Part I. of the First Schedule. At first sight the schedule looks revolutionary in character and a menace to land owning. As a matter of fact it is nothing of the kind, because of its permissive character and the fact that the outgoer is compensated only in so far as his improvement is of benefit to an incomer. Where an agreement has been previously made in regard to such improvements, of course the terms of the agreement must be adhered to. If the landlord has given written consent and there was no agreement in respect to compensation, the valuers must assess the same, and will probably adopt methods somewhat on the lines indicated above; but where a tenant is so ill-advised as to spend his money in effecting any of the aforesaid sixteen improvements and has not the prior written consent of the landlord, he should above all things remember that he is spending his resources in improving other people's property without any guaranteed prospect of securing a return on his outlay.

PART II.: (17) **Drainage.**—We now come to the consideration of the only item contained in Part II. of Schedule 1, viz., drainage. For the legal aspects of the question we must refer our readers to pp. 7-9, sect. 3, and the notes thereon. Whether it is wise for a tenant to invest his capital in an improvement of this nature is arguable; generally, we think it desirable that the landlord should undertake the drainage, even if he has to charge the increased rent indicated in sect. 3 (3) of the Act. There are cases, however, where the tenant undertakes the task of effecting this particular improvement either wholly at his own cost or jointly with the landlord; and it is cases of this kind which will demand the valuer's attention. Briefly the valuer's task is a fourfold one:—

(1) He must consider whether the drainage was necessary, and how far it has resulted in improvement:

(2) Next he must judge as to the workmanship and effectiveness of the improvement:

(3) The part of the cost (if any) borne by the landlord, and

(4) The cost of the work done and its durability or life.

If these matters can be satisfactorily settled, (5) assessment of the compensation will be a relatively easy matter. We will discuss each of these problems in the order mentioned.

(1) The first one appears to be almost a superfluous task. Whatever the nature of the soil, its fertility is largely dependent on its permeability and that, too, not only in the case of arable land, but also in the case of grass land. The latter fact is not always realised, but the drainage of pasture has never been known to be other than beneficial. Drainage alone will go a long way towards turning a marsh into a profitable pasture, and it renders other improvements possible at a trifling cost. Every year more water passes through land which is naturally or artificially drained than through soil which is generally saturated with moisture. Where stagnant water lies no rain can enter, and the soil can neither breathe nor digest any fertiliser applied to it, and it is incapable of utilising the sun's heat for the develop-

ment of plant life. When rain falls on a well-drained field it does more than merely moisten the soil and supply plants with water. It has been calculated that in each year, by means of rain alone, every acre of well-drained land is benefited to the extent of 5 to 10 lbs. of nitrogen. Another advantage is that the oxygen of the air is carried more freely into the soil and thereby organic substances are sweetened and even converted into wholesome food for plants. Again, draining increases the temperature of the soil. It is computed that the temperature is raised in summer as much as three degrees, which in effect is equivalent to undrained land 150 miles southwards. There is an intimate connection, too, between a warm, dry soil and economy in feeding cattle. Pliable land absorbs more heat than land which is saturated with moisture, and retains the heat for a longer period. Upon the one animals lie warmer, especially at night, than they do upon the other. A large proportion of the food consumed by animals is utilised for the production of the heat which is constantly discharged from their bodies. It follows that additional food becomes necessary to replace the animal heat lost on cold, undrained land. Again, a water-logged surface is injurious to plant life, not only because there is too much moisture and too little warmth, but because neither rain nor air can enter from above, nor mineral constituents be drawn from below. Drainage sets all these natural forces in motion, and they open the soil and disintegrate its particles for the benefit of plant life. It has been calculated that every inch of additional depth cultivated is a clear gain of 100 tons of active soil per acre. We should note, too, that drainage is always beneficial in promoting the early and late growth of grass, as the early autumn and late spring frosts do not arrest growth on drained land so quickly as on that which is soddened with moisture.

On the other hand, it must be admitted that nitrogenous manures are readily converted into the soluble form and that from arable land they are often washed into the drains, specially in wet seasons. This drawback can be overcome

where a system of winter cropping can be followed on arable land; and as far as pastures and other green crops are concerned, the loss of fertilisers by improvements of drains is inappreciable. Lime, too, is one of the substances that is easily lost by the drains, and consequently there is the necessity of applying lime from time to time on drained land which is not rich in lime; on the other hand, superphosphate and basic slag are never lost in this way; nor does it appear that the loss of potash from drains is at all appreciable. The advantages, then, in favour of draining are overwhelming.

(2) The prejudice sometimes expressed against the adoption of a system of drainage is generally traceable to some instance where the workmanship has been bad, or where little or no care has subsequently been taken to maintain the efficiency of the pipes and outfalls. The difficult part of the valuer's task, then, is to judge the effectiveness of the work. For the moment we shall consider the usual system of drainage with pipes, and one of the first points considered should be the fall. It is said that a covered drain requires a fall of at least 8 feet per mile, or 1 in 660. Usually this would be too little, and a fall of 1 in 200 is more desirable. In the case of a stiff clay a fall of 1 in 150 is still more desirable. A good fall renders the pipes to a considerable extent self-cleansing. It is a good rule also not to make any single drain too long, and the small drains should not enter a large drain at right angles, but always obliquely, so that the flushing after a sharp storm will prevent the pipes from becoming choked. The outlet should be carefully and substantially constructed, and it is advisable at critical points in the system, such as the junction of a main with a sub-main, to insert inspection chambers. A tenant who undertakes a costly improvement of this nature would be well advised in keeping an accurate plan of the system, not only for his own guidance, but as an aid to the valuers.

(3) Not infrequently the landlord bears a portion of the

cost. When the work is undertaken by both parties, his share frequently consists in supplying the pipes.

(4) *Cost.*—The cost will naturally vary with the nature of the land, the price of labour, material and haulage. The depths and distances apart of drains depend chiefly on the nature of the soil. The deeper the drains, the greater may be the distance apart. In strong clays the pipes may possibly be laid at 2 feet 6 inches and the drains be only 10 feet apart. No general rule can be laid down, and we may find drains laid at depths varying from 2 feet 6 inches to even 4 feet 6 inches in light soils, and the distance apart varying from 10 feet to 45 feet. On a medium soil we should probably find 3 feet 6 inches to be the average depth, and 24 feet apart the average distance.

In pre-war times the cost of draining per acre in such a case was reckoned at 6*d.* per rod, and 110 rods per acre would be necessary. Two and a-half inch pipes should be used for the minor drains, and the cost of sufficient pipes for one acre, including haulage, would therefore run to £2 10*s.* We might add another £1 5*s.* per acre for pipe-laying and finishing, superintendence, outlet pipes and masonry, thus bringing the total cost to £6 10*s.* In fact, the improvement if well done would vary from (say) £5 per acre on light soils to £8 on stiff clays.

(5) *Compensation.*—The usual method of estimating the compensation for this improvement is to spread the cost over a period of years. The twenty years scale is the customary period where the tenant has found materials as well as labour and carried out the work judiciously. Thus, on this scale the value of the compensation at any subsequent time is ascertained by deducting one-twentieth for each year that has elapsed from the date of the completion of the improvement. Where, however, the landlord has provided the pipes, the compensation is assessed on a ten years basis, that is, one-tenth is deducted for each year of enjoyment by the tenant.

Before closing this section we must notice two other forms of draining that are sometimes met with, and these

are (*a*) Bush or Pole drainage, constructed somewhat similar to pipe drains with the difference that bushes, poles, or perforated larch tubes are used instead of pipes. This form of drainage can be done economically where timber is plentiful and cheap, and it is adopted where the gradient is bad and pipes are consequently apt to become stopped. The cost would probably be from £4 to £5 per acre, and the compensation to the outgoer would usually be assessed on a four to eight years principle.

Another form of draining on land is know as "Plug" draining, formed by digging a narrow trench, laying in the bottom a row of blocks of wood connected together, then filling in and ramming down the earth and drawing the blocks along by a lever. We do not think that this form of drainage is frequently met with at the present time.

The last method of draining that we shall note is "Mole" draining. A drain of this kind is formed by a Mole Plough, having a round plug attached to a coulter and drawn by steam power or horse windlass. It is said that this kind of drainage works well in land free from stones, but it is only suitable for pasture land and is used particularly in the Eastern Counties. A drain of this kind is necessarily shallow, and probably does not benefit the land for more than six or eight years. Where practised, it is compensated on the four to six years principle.

Note.—In Beds, Devon, Hants, Hunts, Leicester, Lincs, Northants, Notts, Rutland, Suffolk, and South Wales, compensation is not usually so liberally awarded as the rate suggested above. In Northumberland the scale is above the average, viz., on a thirty-five, twenty-five, and fifteen years scale for first, second, and third-class farms respectively. See the Customs of the Counties.

III. Improvements for which Notice is not Required.

Part III. is the vital part of the Schedule. It consists of a series of manurial improvements directly concerned with the cultivation of the land, and is supposed to have settled many of the burning questions in agriculture and left land-

lords and tenants little scope for differences. There are, however, wide differences in the scales of compensation in various parts of the country; but, no doubt, in due time these will be brought to a greater degree of uniformity; and development will also probably take place in the increase in the number of improvements under Part III., and possibly the transference of some of those in Part I. or Part II. to Part III.

The essential benefit in regard to this part arises from the fact that neither the consent of the landlord is required nor (except in the case of No. 27) need notice of the intended improvement be given to him. There is this limit, however, that these improvements (with the exception of Nos. 23, 24 and 25) must generally have been performed at least one year before the end of the tenancy. This is a reasonable exception, as the sitting tenant cannot expect to gain benefit from an improvement of a durable character conducted during the last few months of his tenancy. The incoming tenant should not be penalised by expensive operations, which may have been carried out merely to employ the horses and men of the outgoer when other work was not abundant (see sect. 9 of the Act). This exception apart, the tenant is free to make the improvements mentioned in Part III., at his own discretion, and this freedom doubtless influences outgoing tenants in maintaining their holdings in a state of continuous fertility.

(18) **Chalking of Land.**—In reference to the five improvements Nos. 18-22, the valuers will first need to be satisfied on such points as the following:—(*a*) Has the land benefited by the work? (*b*) Has the work been done economically, *i.e.*, at a cost consistent with the market price of the labour and materials? (*c*) How long will the effect last?

We shall not deal at any great length with the chalking of land, as the practice of chalking is now quite uncommon. The effect of a heavy dressing may last for some years, but owing to the difficulty in obtaining chalk sufficiently fine, the practice is now practically abandoned in favour of lime. Chalking can be done economically only in districts where

the carriage will not be serious, and it is perhaps almost entirely confined to farms upon which chalk pits are already opened.

The benefit is supposed to continue seven years; but custom in some districts has extended this to ten or twelve. Sometimes the scale of compensation allows the full cost for the first two to four years, and subsequently makes a deduction: thus in Lincoln the twelve years scale is in force, but the outgoer receives full compensation if he leaves within the first four years, and one-eighth per year is deducted for each year beyond the first four. The claying and marling of land are frequently compensated on a somewhat similar scale. We append some of the customary scales for districts where chalking is still in vogue:—

(1) Twelve-years scale (full first four years, one-eighth deducted per annum subsequently) :—Lincoln and Norfolk.
(2) Twelve years (full first two years : one-tenth deducted annually after) :—Berks, Dorset, Kent, Sussex, Oxford and Hampshire.
(3) Twelve years :—Essex, Yorks and Surrey.
(4) Eight years (full first three years, one-fifth off yearly afterwards) :—Derby.
(5) Eight years :—Bedford, Suffolk and Shropshire.
(6) Seven years :—Herts, Wilts, Northants, Leicester, Rutland, Warwick, and Cambridge :—full first three years, and one-seventh deducted annually afterwards.

It is difficult to give estimates as regards the cost of chalking. Everything depends upon (*a*) the quantity applied; (*b*) the distances from the pit; and (*c*) the price (if any) paid for the chalk. Twenty tons per acre at 3*s*. per ton for digging, leading and spreading would not be an extravagant outlay.

(19) **Clay Burning.**—The application of burnt clay to heavy land is sometimes beneficial; the object is to change the texture of refractory clays. There are considerable chemical changes produced by burning clay, and the mechanical effect of the application, especially if the burnt clay has been reduced to an impalpable powder, is very considerable. Doubtless there are chemical changes as well, resulting in the liberation of potash and in the dis-

tribution of organic matter. The cost of the operation may perhaps be put at 50*s*. per acre, and the compensation may be equitably assessed on the four years principle (Suffolk 2 years; Sussex 5 years; Worcester 7 years; and Cambridge 10 years).

(20) **Claying of Land or Spreading Blaes upon Land.**—Claying is useful on sandy soils which need consolidating. The improvement is one that was practised in the Eastern Counties and the Fen District, but like marling and chalking has fallen somewhat into disuse. Where the sub-soil itself is clay, the cost of the operation can be reduced; but where the clay has to be led for a considerable distance, it is of course more costly. On an average the cost might be put at 50*s*. per acre, and the improvement is usually compensated on a similar principle to that adopted in the case of chalking, viz., on a scale varying from seven to ten years. The word "blaes" is a Scotch term for pieces of blue slate, or shale, or clay, sometimes containing nodules of iron ore. The method of assessing the compensation is similar to that of claying.

(21) **Liming of Land.**—We now come to the consideration of an improvement of a first-class order and one which will need fuller treatment.

The action of lime is partly physical, affecting the texture of the soil; and partly chemical, setting free the dormant reserves of plant food. The physical effect is most apparent on strong soils: it makes clay less retentive of moisture; thus making the land drier, warmer and more pliable, and permitting earlier cultivation. In dry seasons limed clay will crack less, and the crop will keep on growing longer. But not only are its physical effects beneficial on strong clay land, but it is of great use on lighter soils (sand and gravels), as it increases their cohesive and water-retaining power. Care, however, is required in the application of quick-lime to very light open soils, because the oxidisation of the organic matter may be too rapid. Chalk or marl would be better in such circumstances; in fact, it is not wise to apply lime to very poor land which is manured.

Looked at from a chemical point of view, lime acts as a base, and promotes the oxidisation of the humus which the soil contains, and produces nitrates from the organic matter present in acid soils. It is partly for this reason that alkaline manures such as basic slag are much more useful on sour than on sweet soils; and lime has its maximum effect on bog or peaty land, on old turf, or reclaimed forest, or on old gardens. Moreover, it is not only the nitrogenous compounds in the soil that are rendered more available by the use of carbonate of lime, for it has the faculty of converting certain phosphates in clay soils into phosphate of lime, and it assists in rendering potash soluble for plant life. In short, it is an important agent in providing crops with the latent nitrogen potash and phosphoric acid which most soils contain.

The value of lime depends not only upon the material from which it is produced, but the degree of fineness to which it can be brought. Quick-lime is obtained by burning any form of calcium carbonate such as lime-stone, chalk or shell sand. During the burning the carbonic acid is driven off, the resulting quick-lime combines readily with water, develops great heat, and falls into a fine powder called slaked lime.

The best lime for agricultural purposes is obtained from chalk and mountain lime-stone. That formed from magnesium lime-stone is of much less value, and if there is over 4 per cent. of magnesia it should be rejected. The lime sold by builders which sets freely when mixed with water is of little agricultural value. The best kinds of lime contain from 90 to 98 per cent. of calcium oxide: such lime is much more valuable than the grey or thin limes which do not slake so readily or swell so much, and some of which contain only from 40 to 50 per cent. of calcium oxide. There are various other forms in which calcium oxide may be applied to land: such as chalk, marl, gas lime, gypsum, &c. We may also notice ground quick-lime, which is a convenient means of applying small quantities; but which unfortunately is generally made from grey or cement lime.

Where ground lime which is made from rich mountainous lime-stone can be obtained, of course it is very advantageous, as it is somewhat easier to distribute, and being in the condition of the finest powder, it does not cake.

When the practice of liming was more common than it is to-day, it was customary to apply very large amounts, from four to eight tons per acre. It is probable that this was rather an injurious practice, owing to the too rapid oxidisation of the humus noticed above. The cost of such an operation would range from £4 to £8, and might be remunerated in the case of grass land on principles varying from six to ten years, and in the case of arable or grass land mown from four to six years. It is much better, however, to apply small doses, say one ton per acre when the root crop comes round in the rotation or half a ton of ground lime per acre to each crop to which artificials are given. In whatever form given, the lime, chalk, or ground lime-stone should be applied to the land as early in winter as possible and preferably before ploughing arable land. The cost in all cases of these manures includes the spreading, carriage and haulage, as well as the prime cost. We append some of the customary scales of compensation in districts where liming is common:—

LIMING: YEARS PRINCIPLE.

Cambridge, Lincoln and Worcester: 7 years.
Cheshire: 4 to 6 years (3, if a white straw crop follows).
Cornwall and Devon: 5 years (4 on meadow or arable).
Derby and Yorks (W. R.): 7 years on pasture, 4 on arable.
Dorset, Hereford, Essex, Norfolk, Suffolk and Staffs: 4 years.
Durham: 7 years (5 on arable).
Leicester, Rutland, Northants, Warwick and Worcester: 10 years on pasture, 5 on meadow or arable (none after 3 white straw crops).
Kent, Monmouth, Oxford, Shropshire, Somerset and Sussex: 5 years.
Nottingham, 5 years (4 on meadow, none after 3 white straw crops).
Yorks (E. & N. R.): 6 years (4 years ground lime).
Wilts: 8 years.
South Wales: 7 years (4 on arable or meadow).
Northumberland: 12, 12, and 8 years (pasture) on first, second and

third-class farms : 8, 6, and 4 (arable or meadow) on first, second and third-class farms.

Staffs : 6 years on pasture (4 on arable).

Westmoreland : 3 years on pasture (variable on meadow and arable).

(22) **Marling of Land.**—Marl is a substance containing clay and lime. The practice of marling is not very common at the present time; but compensation should be allowed on the same basis as chalking. There is one point of importance that the valuer should notice, viz., that the lime may vary from 8 per cent. to 66 per cent., and naturally a valuer would be justified in awarding more liberal compensation to a dressing of marl that contained the higher percentage of lime; but further, the percentage of tribasic phosphate should be taken into account, for frequently a marl containing a low percentage of lime may have a fair percentage of tribasic phosphate; thus, greensand marl contains about 13 per cent. of lime, but has a high percentage (5 per cent.) of tribasic phosphate. It should be remembered then that in addition to improving the mechanical position of sandy and light soils, marl may supply both carbonate and phosphate of lime in varying proportions.

(23) **The Application to Land of Purchased Artificials or other Purchased Manures.**—This provision awards the tenant compensation for any exhausted fertility he has brought to and leaves behind on the holding. If a farmer gives, say, 10 cwt. of basic slag per acre to grass land, and leaves his farm within the following two years, he will leave behind something for the benefit of the incomer. The Act says that he shall be remunerated for this residuum. It fixes no limit to compensation, but leaves this matter to be decided by the valuers or arbitrator. Some of the Valuers' Associations have compiled scales of compensation, generally based upon the cost of the manure, as a basis for settlement. It may, however, be doubted whether our scientific knowledge of the residual values of artificial manures has advanced to such a stage that an approximately just table can be drawn up. Let us look at some of the disturbing factors.

We have just said that the benefit of basic slag would not have spent itself within two years; but on the contrary, if a farmer used nitrate of soda as a top dressing for wheat and then sold the wheat off the holding, he will have obtained practically all that the manure can return; little or no nitrogen will be left behind in the soil for the benefit of the succeeding tenant. This shows the necessity of considering each fertiliser separately, and the need of giving a more liberal compensation to a lasting manure than to some of the soluble salts. Again, another disturbing factor is the kind of land to which the manure has been applied. Naturally the compensation is less liberal where an artificial has been applied to arable land or to mown land where the hay or clover has been led off, than is the case when it is applied to pasture land. Further, different crops make different demands on artificials, both in regard to the kind that they require, and the amount of the fertilisers that they use up; *e.g.*, the suitable artificial for wheat is a top dressing of nitrate of soda or soot in spring. It would be waste to apply phosphates and potash, because wheat has a long period of growth and an extensive root system and can obtain all the phosphates and potash it requires from soil in ordinary good condition. On the other hand, the dominant fertilisers for barley are phosphates. Barley is a shallow rooted plant and makes its growth in late spring on land which has generally been more thoroughly prepared than that on which the wheat crop is sown. It will thus be apparent that different kinds of land require different kinds of fertilisers, and the various crops on a farm have each their own special needs. In fact, the difficultics connected with the adaptability of the manure to a given crop are considerable. On some light lands we might apply phosphates and nitrogen to any possible extent without any visible increase in the yield of roots. Should an outgoer who had uselessly put on expensive phosphatic manures be compensated? On the other hand, if a few hundred pounds of potash per acre were applied as well, the crop

would probably be doubled. Again, let the soil be deficient in lime, and what will be the use of super-phosphate or sulphate of ammonia? In fact, the sulphate of ammonia might positively do harm. Further, remember that in manuring, as in economics, there is a law of diminishing returns: the richer the land already is in manure the more it will require to produce a given increment of crop. In other words, the greatest proportionate return will be found from the application of manure to poor land. Finally, to obtain the best results from manuring, other conditions must be good; hence it is inequitable to give compensation upon the same scale in the case of a farm in a high condition and of another in a low condition. If compensation were given to quitting tenants on a fixed scale simply because they had applied certain chemical manures during the two final years of their tenancy, bad farming would be encouraged. There are three things in the alphabet of successful farming more important than manuring, and without which the application of artificials will be largely a waste of time and money, for which loss an incomer should not be held responsible. These are (1) the aeration or effective tillage of soil to keep it open; (2) drainage of the surplus or stagnant water in the soil; and (3) cleanliness of the seed ground and freedom from all noxious weeds and rubbish. Only where these three conditions have been attained is manuring of real value in producing prolific crops.

If the above-mentioned difficulties be considered, the reader will probably assent to our proposition that proper data do not yet exist for the compilation of an equitable scale of compensation of unexhausted manurial values. Nevertheless, it is advisable that a valuer should acquaint himself, not only with the scales of compensation current in various parts of the country, but also with the principles and uses of manuring, the method of valuing artificials, and the various theories that have been advanced to explain the function of fertilisers. Two excellent scientific works

stand out prominently as guides for this purpose: viz., the renowned treatise of the Frenchman, M. George de Ville, and the excellent treatise by Sir A. D. Hall, Secretary of the Board of Agriculture and Fisheries. Every valuer and every farmer ought to be thoroughly well acquainted with Hall's "Fertilisers and Manures" (published by John Murray, Albermarle Street, London, W.).

The scales of compensation for the unexhausted value of chemical manures that are most in vogue at the present time are the under-mentioned:—

Scales of Compensation of Unexhausted Manures.

(1) *South Wales.*—A uniform scale has been in operation since 1908, perhaps more particularly in the county of Glamorgan. Nearly all scales of compensation are based on that of years principle previously explained, and the valuers examine the vouchers, notice that the analysis conforms with statutory requirements, allow for carriage and sowing, but take care that the quantity sown shall be reasonable.

Name of Manure.	Allowance on Arable Land on Summers principle.	Allowance on Pasture Land on Summers principle.
Undissolved bones	3	5
Dissolved bones	2	3
Superphosphates	2	3
Basic slag	2	3
Gas lime	2	3
Soot	2	3
Stable manure	2	3
Other phosphatic and potassic manures	2	3
Nitrate of soda, sulphate of ammonia, and other nitrogenous manures.	One-quarter to be allowed for when a crop has been taken, whether pasture or arable.	

(2) *Shropshire.*—Owing to the influence of the Shropshire Chamber of Agriculture, fairly uniform methods have been

adopted in this country since 1908. The scale was revised in November, 1914, and is as follows:—

Item of Outlay and Application.	Last Year of Tenancy.	Last Year but one.	Last Year but two.	Last Year but three.	Last Year but four.
1. Raw or non-degreased ½ in. bones on pasture lands (grazed) ...	5/6	4/6	3/6	2/6	1/6
2. Raw bones (meal) (grazed) ...	2/3	1/2	1/3	1/6	—
3. Raw bones (meal) (mown) ...	3/4	1/2	1/4	—	—
4. Raw bones (meal) on arable ...	2/3	1/3	—	—	—
5. Dissolved bones on pastures (grazed)	2/3	1/3	—	—	—
6. Ditto (meadows) (mown) ...	1/2	1/4	—	—	—
7. Ditto, arable	1/2	—	—	—	—
8. Boiled bones on pastures (grazed)	3/4	1/2	1/4	—	—
9. Ditto, on meadows	2/3	1/3	—	—	—
10. Ditto, on arable	1/2	—	—	—	—
11. Bone and other compound manures, including guano and superphosphates used on the farm for green crops consumed by stock on the farm	1/2	—	—	—	—
12. Ditto (grazed)	1/2	1/4	—	—	—
13. Ditto, on pasture lands (mown)...	1/2	—	—	—	—
14. Basic slag, meadows (mown) ...	2/3	1/3	—	—	—
15. Ditto, on pastures (grazed) ...	2/3	1/2	1/4	—	—
16. Ditto, on arable	1/2	1/4	—	—	—
17. Superphosphates, on pastures (grazed)	2/3	1/3	1/6	—	—
18. Ditto, on mown or arable ...	1/2	—	—	—	—
19. Kainit and potash salts, meadow or arable (potatoes excepted)...	1/2	1/4	—	—	—
20. Lime from kiln, with cost of hauling and spreading on pasture or arable	4/6	3/6	2/6	1/6	—
21. Ground lime, ditto (80% to 85% free lime)	2/3	1/2	1/3	—	—
22. Purchased town manures, on pastures (grazed)	2/3	1/3	—	—	—
23. Ditto, arable or mown	1/3	—	—	—	—

(3) *Herefordshire.*—Under the joint influence of the Chamber of Agriculture and the valuers of the county, a new scale of compensation was adopted in 1907 and is as follows:—

PURCHASED MANURES, APPLIED TO GRASS, ROOTS OR GREEN CROPS CONSUMED ON THE FARM.

Undissolved bones	For last year, three-quarters of cost.
,, ,, ...	For second year, one-half of cost.
,, ,, ...	For third year, one-quarter of cost.
Dissolved bones, guano and shoddy	For last year, two-thirds of cost.
,, ,, ...	For second year, one-third of cost.
Superphosphates	For last year, one-half of cost.
Other phosphatic manures, such as basic slag and ground coprolites	For last year, two-thirds of cost.
,, ,, ,,	For second year, one-third of cost.
,, ,, ,,	For third year, one-sixth of cost.
Farm-yard or stable manure ...	For last year, two-thirds of cost.
,, ,, ,, ...	For second year, one-half of cost.

The manure applied in the last year of the tenancy shall not exceed in value the average of the two preceding years.

(4) *Recent Scientific Research.*—The methods described above are those adopted by valuers' societies for awarding compensation for the unexhausted value of chemical and purchased manures. Although much work remains to be done before a table approaching finality can be produced, the student will be interested in studying the present stage of development of research work on the subject. Quite recently a large amount of research work has been done at Rothamsted, and the Journal of the Royal Agricultural Society, for 1914, contains an article by Dr. Voelcker and Sir A. D. Hall, giving in detail the considerations which have led them to make the changes indicated in their new (1913) Tables of Compensation for the unexhausted value of feeding stuffs, and also containing a summary of the Rothamsted research work on the duration of chemical manures.

From such data as are available Messrs. Voelcker and Hall recommend the undermentioned table for general guidance, and the Central Association has adopted it. Its authors, however, point out that the valuer must exercise discretion as to the suitability of the manure to the land,—particularly the suitability of superphosphate, bones and basic slag to grass land, as basic slag will answer on some lands and not on others; and superphosphate may be useful

in some cases and even harmful in others. The valuer, too, should consider whether the manure has been bought at an excessive price.

	On Arable Land.			On Grass Land.			
	After 1st crop.	After 2nd crop.	After 3rd crop.	After 1st year.	After 2nd year.	After 3rd year.	After 4th year.
	Of cost	Of cost	Of cost	Of cost	Of cost	Of cost	Of cost
1. Superphosphate	$\frac{2}{3}$	$\frac{1}{3}$	$\frac{1}{6}$	$\frac{2}{3}$	$\frac{1}{3}$	$\frac{1}{6}$	—
2. Bones (raw and steamed) ...	$\frac{2}{3}$	$\frac{1}{3}$	$\frac{1}{6}$	$\frac{2}{3}$	$\frac{1}{2}$	$\frac{1}{3}$	$\frac{1}{6}$
3. Bones (dissolved)	$\frac{1}{2}$	$\frac{1}{4}$	$\frac{1}{12}$	$\frac{1}{2}$	$\frac{1}{4}$	$\frac{1}{12}$	—
4. Basic slag	$\frac{2}{3}$	$\frac{1}{3}$	$\frac{1}{6}$	See	note	below	
5. Bone manures	$\frac{2}{6}$	$\frac{1}{6}$	—	$\frac{2}{6}$	$\frac{1}{6}$	—	—
6. Compound manures not containing bone ...	$\frac{1}{3}$	$\frac{1}{6}$	—	$\frac{1}{3}$	$\frac{1}{6}$	—	—
7. Peruvian guano	$\frac{1}{3}$	$\frac{1}{6}$	—	$\frac{1}{3}$	$\frac{1}{6}$	—	—
8. Fish guano	$\frac{1}{3}$	$\frac{1}{6}$	—	$\frac{1}{3}$	$\frac{1}{6}$	—	—
9. Meat meal	$\frac{1}{3}$	$\frac{1}{6}$	—	$\frac{1}{3}$	$\frac{1}{6}$	—	—
10. Shoddy and wool waste, fur waste, hair, hoofs and horns, greaves, &c.	$\frac{1}{2}$	$\frac{1}{4}$	$\frac{1}{8}$	$\frac{1}{2}$	$\frac{1}{4}$	$\frac{1}{8}$	—
11. Manure cakes	$\frac{1}{5}$	$\frac{1}{10}$	—	$\frac{1}{5}$	$\frac{1}{10}$	—	—
12. Dried blood, sulphate of ammonia, nitrate of soda, nitrate of lime, and cyanamide ...	Noth	ing.		Noth	ing.		
13. Kainit and potash salts ...	$\frac{1}{2}$	$\frac{1}{4}$	—	$\frac{1}{2}$	$\frac{1}{4}$	—	—

NOTE.—Lime on arable land on the six years principle, *i.e.*, one-sixth deducted for each crop taken, and on the eight years scale on grass land, *i.e.*, one-eighth cost deducted for each year since application. Basic slag on grass also on the eight years scale.

Other available scales will be noticed in the description of the customs of the respective counties.

(24) **Consumption on the Holding by Cattle, Sheep or Pigs, or by Horses, other than those regularly employed on the Holding, of Corn, Cake, or other Feeding Stuff not produced on the Holding.**—The reason for awarding compensation to a tenant for purchased feeding stuffs is manifest. If he purchases food for his animals on the farm, and they are fed with it during the last few years of his tenancy, it is universally recognised that he does not enjoy the whole

of the benefit arising from the consumption of such food by the mere sale of the animals so fed. There is a residual benefit in the manure left behind for the benefit of whoever follows, and it is this residual benefit for which the Act says he shall be compensated. Statutory sanction was given to this principle in 1883, but long before that date it had become customary to remunerate the tenant for such outlay, and in particular the counties of Lincoln, York and Glamorgan had been pioneers in the matter.

Compensation based on Cost.—The first method adopted was to reward the outgoer on the basis of the cost of the purchased feeding stuffs. What was known as the Lincolnshire Custom was very widely adopted: one-third of the cost of linseed, cotton and rape cake, malt culm and feeding stuffs of a similar manurial value fed in the last year of the tenancy was allowed; but only one-sixth if fed in the last year but one of the tenancy. On the other hand, corn, corn cake, malt and feeding stuffs of a like manurial value were paid for at the rate of one-sixth the cost if fed in the last year, and one-twelfth if used in the year previous.

We are not aware that it was ever contended that a uniform scale of this character could actually assess manurial value. The residual value of feeding stuffs depends upon many factors. There will be conditions varying with the animal which consumes it; *e.g.*, in the case of sheep fed upon the land, the loss of manurial value will be at a minimum; on the other hand, in the case of milch cows, where the milk is sold off, the loss will be much greater. Such factors have their effect upon the manurial value obtained from the consumption of a given unit of a given feeding stuff. We must, however, refer to another factor which makes the method of remunerating the outgoer on the cost price of the feeding stuff quite unscientific. The value of (say) linseed cake is determined by its value as food, not as manure; oil and fat, *e.g.*, are costly constituents of a feeding stuff and yet leave no fertilising residue behind. Again, many foods such as maize and rice, consist mainly of carbohydrates and contain very small

proportions of nitrogen and ash, which would be the elements that add fertility to the soil. Put in a slightly different way, a farmer in buying a feeding cake is concerned with the percentage of protein or albuminoids, oils or fats and carbohydrates. The price is an element dependent upon these three factors; but regarded as manures we are concerned merely with the nitrogenous elements, *i.e.*, the albuminoids and the ash.

The correct plan, then, from the point of view of the value of the manure is to begin by ascertaining the nitrogen, phosphoric acid, and potash contained in each class of feeding stuff. The next step is to ascertain the proportion of these elements retained by the animal, and the proportion that passes to the land through the manure. The after-care of the manure will be an important factor in this consideration. These statements, however, are sufficient to indicate that the cost price of the feeding stuff is no scientific guide to its manurial worth.

Hence, of late years, other methods have been adopted of assessing this manurial value. These newer methods are based on the quantity of nitrogen, phosphoric acid and potash contained in a given feeding stuff. Other factors have also to be taken into account, and particularly the loss that occurs in the conversion of the food into manure, the after-care of that manure, and the length of the period during which it is effective. A great impetus has been given to the adoption of scales based on manurial values since 1904, and now (1920) these newer methods are adopted almost throughout England with the exception of the county of Lincolnshire. The first Tables of Manurial Values published were those issued in 1875 by Lawes and Gilbert. These were revised in 1898, but were not widely adopted. Dr. Voelcker and Sir A. D. Hall issued a table in 1902, based on those of Lawes and Gilbert, and this was adopted in a slightly modified form by the Central Chamber of Agriculture. These tables have been superseded by Voelcker and Hall's Revised Table of 1913, set out at pp. 204-205.

Before commenting on the above-mentioned Table, it will be necessary to add a note on the Valuation of Manures.

NOTE :—Manure merchants frequently set out the analysis of nitrogenous fertilisers in terms of both nitrogen and ammonia. This is a misleading practice, for nitrate of soda contains no ammonia, and a statement that a given sample contains 19 per cent. of ammonia must be understood to mean that the 15½ per cent. of nitrogen present is equal to 19 per cent. of ammonia. Similarly in speaking of a phosphatic manure, we sometimes say that it has a certain percentage of soluble phosphate or of tricalcium phosphate rendered soluble. This must not be understood to mean phosphoric acid (P^2O^5), as 26 per cent. of tricalcium phosphate is equal to approximately 12 per cent. of phosphoric acid Again, in considering the potash manures, we frequently say that a manure has a given per cent. of potash; *e.g.*, muriate of potash is described as containing 50 per cent. of potash (K^2O). As a matter of fact there is no true potash present, and the statement merely means that potassium is present in such a quantity that if it were combined with oxygen as potash the latter would amount to 50 per cent. of the fertiliser. In interpreting figures it is therefore necessary to remember that 14 of nitrogen are contained in 17 of ammonia, and that 142 of phosphoric acid (P^2O^5) are contained in 310 of tricalcium phosphate. Our subsequent figures will be in the form required by the Fertilisers and Feeding Stuffs Act, and will give the analysis of manures in the terms of nitrogen, tricalcium phosphate and potash.

VALUATION OF MANURES.—We have already indicated that manures are sold in this country under a guarantee of a certain analysis of fertilising constituents :—Nitrogen, Phosphate of lime and Potash. When such analysis is supplied, the farmer may learn to value them one against another. The commonest way of doing this is by what is called the unit method, the unit being 1 per cent. of a ton of the three fertilising constituents : thus, if sulphate of ammonia is sold under a guarantee of 20 per cent. of nitrogen and the price is £15 per ton, it is obvious that each unit, that is, every 22.4 lbs. of nitrogen, costs 15s.

Again, if a ton of nitrate of soda is sold with a guarantee of 15 per cent. nitrogen and at a price of £11 5s. per ton, the cost of the unit is obviously again 15s. In other words, the nitrate of soda and sulphate of ammonia would be equally cheap, and the buyer would be determined in his selection by his fancy, his soil, or perhaps the season. In fact, in the case of the nitrogen manures the relative cheapness or dearness of the unit of the one compared with the other would probably be the determining factor. This easy method cannot quite so easily be adapted to the case of phosphatic manures, because these divide themselves into the three classes of acid, alkaline or neutral manures, and we should therefore really compare the unit of value of the members of these subclasses. On the other hand, with the potash salts the unit of value will probably be the determining factor. Naturally muriate and sulphate of potash will be about the same price. Kainit, containing only about a quarter as much potash, will be about a quarter of the price. At the

MESSRS. VOELCKER AND HALL'S

TABLE SHOWING THE COMPOSITION, MANURIAL

No.	Foods.	VALUATION PER TON AS							
		A Nitrogen.				B Phosphoric acid.			
		Per cent. in food.	Value at 15s. per unit.		Half of value to manure	Per cent. in food.	Value at 3s. per unit		Three-qu'rters of value to manure
		Per cent	s.	d.	s. d.	Per cent	s.	d.	s. d.
1	Decorticated cotton cake	6·90	103	6	51 9	3·10	9	4	7 0
2	Undecorticated cotton cake (Egyptian)	3·54	53	2	26 7	2·00	6	0	4 6
3	Undecorticated cotton cake (Bombay)	3·10	46	6	23 3	2·50	7	6	5 7
4	Linseed cake	4·75	71	4	35 8	2·00	6	0	4 6
5	Linseed	3·60	54	0	27 0	1·54	4	7	3 5
6	Soya-bean cake	6·85	102	8	51 4	1·30	3	11	2 11
7	Palm-nut cake	2·50	37	6	18 9	1·20	3	7	2 8
8	Cocoa-nut cake	3·40	51	0	25 6	1·40	4	2	3 1
9	Earth-nut cake	7·62	114	4	57 2	2·00	6	0	4 6
10	Rape cake	4·90	73	6	36 9	2·50	7	6	5 8
11	Beans	4·00	60	0	30 0	1·10	3	4	2 6
12	Peas	3·60	54	0	27 0	0·85	2	7	1 11
13	Wheat	1·80	26	10	13 5	0·85	2	7	2 0
14	Barley	1·65	24	10	12 5	0·75	2	3	1 8
15	Oats	2·00	30	0	15 0	0·60	1	10	1 5
16	Maize	1·70	25	6	12 9	0·60	1	9	1 4
17	Rice meal...	1·90	28	8	14 4	0·60	1	9	1 4
18	Locust beans	1·20	18	0	9 0	0·80	2	5	1 10
19	Malt	1·82	27	4	13 8	0·80	2	5	1 10
20	Malt culms	3·90	58	6	29 3	2·00	6	0	4 6
21	Bran	2·50	37	6	18 9	3·60	10	10	8 2
22	Brewers' grains (dried) ...	3·30	49	4	24 8	1·61	4	10	3 8
23	Brewers' grains (wet) ...	0·81	12	4	6 2	0·42	1	3	0 11
24	Clover hay	2·40	36	0	18 0	0·57	1	9	1 4
25	Meadow hay	1·50	22	6	11 3	0·40	1	2	0 11
26	Wheat straw	0·45	6	8	3 4	0·24	0	9	0 7
27	Barley straw	0·40	6	0	3 0	0·18	0	6	0 4
28	Oat straw	0·50	7	6	3 9	0·24	0	9	0 7
29	Mangels	0·22	3	4	1 8	0·07	0	3	0 2
30	Swedes	0·25	3	10	1 11	0·06	0	2	0 1
31	Turnips	0·18	2	8	1 4	0·05	0	2	0 1

REVISED TABLE.

AND COMPENSATION VALUES OF FEEDING STUFFS.

MANURE.			Compensation value for each ton of the food consumed.				FOODS.	No.
C			D					
Potash.			Food made into dung.		Food consumed on land.			
			(1)	(2)	(3)	(4)		
Per cent. in food.	Value at 4s. per unit.	Three-quarters of value to manure	Before one crop has been grown or removed.	After one crop has been grown or removed.	Before one crop has been grown or removed.	After one crop has been grown or removed.		
Per cent	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.		
2·00	8 0	6 0	64 9	32 4	85 6	32 4	Decorticated cotton cake	1
2·00	8 0	6 0	37 1	18 6	47 9	18 6	Undecorticated cotton cake (Egyptian)	2
1·61	6 5	4 10	33 8	16 10	43 0	16 10	Undecorticated cotton cake (Bombay)	3
1·40	5 7	4 2	44 4	22 2	58 10	22 2	Linseed cake... ...	4
1·37	5 6	4 2	34 7	17 3	45 4	17 3	Linseed	5
2·20	8 10	6 7	60 10	30 5	81 6	30 5	Soya-bean cake ...	6
0·50	2 0	1 6	22 11	11 5	30 6	11 5	Palm-nut cake ...	7
2·00	8 0	6 0	34 7	17 3	44 9	17 3	Cocoa-nut cake ...	8
1·50	6 0	4 6	66 2	33 1	89 1	33 1	Earth-nut cake ...	9
1·50	6 0	4 6	46 11	23 5	61 8	23 5	Rape cake	10
1·30	5 2	3 10	36 4	18 2	48 4	18 2	Beans...	11
0·96	3 10	2 10	31 9	15 10	42 6	15 10	Peas	12
0·53	2 1	1 7	17 0	8 6	22 5	8 6	Wheat	13
0·55	2 2	1 7	15 8	7 10	20 8	7 10	Barley	14
0·50	2 0	1 6	17 11	9 0	23 11	9 0	Oats	15
0·37	1 6	1 1	15 2	7 7	20 4	7 7	Maize...	16
0·37	1 6	1 1	16 9	8 4	22 6	8 4	Rice meal	17
0·80	3 2	2 4	13 2	6 7	16 9	6 7	Locust beans... ...	18
0·60	2 5	1 10	17 4	8 8	22 9	8 8	Malt	19
2·00	8 0	6 0	39 9	19 10	51 6	19 10	Malt culms	20
1·45	5 9	4 4	31 3	15 7	38 10	15 7	Bran	21
0·20	0 10	0 8	29 0	14 6	38 11	14 6	Brewers' grains (dried)	22
0·05	0 2	0 1	7 2	3 7	9 9	3 7	Brewers' grains (wet)	23
1·50	6 0	4 6	23 10	11 11	31 0	11 11	Clover hay	24
1·60	6 5	4 8	16 10	8 5	21 4	8 5	Meadow hay... ...	25
0·80	3 2	2 4	6 3	3 1	7 7	3 1	Wheat straw... ...	26
1·00	4 0	3 0	6 4	3 2	7 6	3 2	Barley straw	27
1·00	4 0	3 0	7 4	3 8	8 11	3 8	Oat straw	28
0·40	1 7	1 2	3 0	1 6	3 8	1 6	Mangels	29
0·22	0 11	0 8	2 8	1 4	3 7	1 4	Swedes	30
0·30	1 2	0 11	2 4	1 2	2 10	1 2	Turnips	31

pre-war prices of the leading artificial manures we may with sufficient accuracy consider that—

(*a*) The unit of nitrogen is worth 15s.
(*b*) The unit of soluble phosphate of lime is worth 2s., of insoluble phosphate, 1s. 3d.; or phosphoric acid, 3s.
(*c*) The unit of potash is worth 4s.

Reverting to the consideration and explanation of Voelcker and Hall's Table, a few remarks and explanations may be relevant:—

(1) It is a genuine piece of scientific work which no valuer can disregard. It is quite true that Tables of Manurial Values are not multiplication tables to be applied mechanically: the valuer must adapt them to the particular case in question. But as the compilation of this Table was undertaken at the request of the Central Association of Tenant Right Valuers, the Surveyors' Institute, the Chamber of Agriculture, and the National Farmers' Union, and as it has been accepted by these representative bodies, he would be a bold valuer who ignored it as the basis of his work.

(2) The adoption of a two years basis of compensation has met with general approval. Of course it may be frankly pointed out that the Agricultural Holdings Act does not say that the outgoer's compensation for feeding stuffs consumed is limited to the last two years of the tenancy. The basis of the compensation under the Act is the unexhausted value of the improvement to the incomer, and it may well be that certain feeding stuffs consumed in the last year but two, or even the last year but three, of the tenancy have not spent themselves, and have still left in the land a small residual manurial value. This factor has not been overlooked in the construction of the new tables. Half the value is allowed in the last year but one, and it is understood that this is slightly more than scientific research would really warrant and will make up for any slight residual manurial value that remains over from the consumption of foods in earlier years of the tenancy. We may express the opinion therefore that an outgoer who had been rewarded at the full rates indicated in Voelcker and Hall's Revised

Tables would have a difficult task of proving to a court of law that he had not received the full residual manurial value of his improvements, however good his previous farming may have been.

(3) All manurial tables have at least one inherent defect. They cannot taken into account future variations in the price of nitrogen, phosphoric acid and potash. Messrs. Voelcker and Hall's tables, however, are practically free from this defect. The work of the chemist has been done, and it is merely a matter of arithmetic to revise the tables to meet the altered market price of these three constituents. Valuers sometimes ask how the unit value of the price of nitrogen or phosphoric acid is arrived at. Obviously it would be unwise to ascertain the value of the unit of nitrogen solely from the market price of nitrate of soda or sulphate of ammonia; similarly, it would be unwise to value the unit of phosphoric acid merely from the market price of superphosphate; to restrict the price to such a narrow basis would be to favour a combine or trust dealing with these manures. We may point out, then, that the unit of value (say of nitrogen) should be obtained from a comparison of the market price of all ordinary sources of supply containing nitrogen, viz., chemical manures, soot, dried blood, feeding stuffs, etc.; thus if 15s. be taken as the unit price, and nitrate of soda is sold under a guarantee that it contains 15½ per cent. nitrogen, sulphate of ammonia 20 per cent., and nitrate of lime 12¾ per cent., the price per ton of these articles respectively should be £11 12s. 6d., £15, and £9 11s. 3d. per ton.

(4) Voelcker and Hall calculate that in the conversion of a feeding stuff into manure, one-quarter of the phosphoric acid and one-quarter of the potash will be lost. It is well known that the phosphoric acid and potash are not subject to the same amount of loss as is the case with nitrogen, but in the process of digestion a small part of the potash (as well as nitrogen and phosphoric acid) passes with the digested materials into the blood of the animal, and is there utilised in a variety of ways, viz., in the formation of flesh, bone,

milk, wool, etc. The amount of potash retained in this way however is not great, and it is well known that the greater portion of the potash of any ordinary mixed diet is voided in the urine. Scientific evidence is not very conclusive as to the amount of potash lost, but we may notice that there is also a small loss in the drainage that inevitably escapes from the manure heap. Probably we should not be far wrong if we calculated that 90 per cent. of the potash was retained in the manure, and of this proportion, according to Dr. Crowther, the urine might be credited with 85 per cent. and the fæces with the rest. However there is little doubt that the new proposal to deduct 25 per cent. of the value of the potash contained in a feeding stuff will adequately, and perhaps more than adequately, account for all known sources of loss.

(5) In the conversion of a feeding stuff into manure, the loss is most marked in the case of nitrogen. The animal retains a small quantity, but waste, evaporation, fermentation, filtration, etc., are the chief causes of loss. In ordinary cases where reasonable care has been shown this loss is approximately 50 per cent. Accordingly, credit half the cost of a nitrogen in a feeding stuff to the manure. It is obvious that the loss is not so great where food is consumed directly on the land, and particularly when consumed by sheep or fattening bullocks. Accordingly, the tables credit the manure with 70 per cent. of the nitrogen when the food is consumed directly on the land in the last year of the tenancy. The introduction of the new compensation, column D (3), awarding a higher compensation for foods consumed directly on the land, is scientifically correct in principle. The amount retained by the animal of any of the three manures mentioned is very small, and the loss from evaporation or fermentation is likewise very small where the land is so immediately benefited. In practice, however, some difficulties will arise. A valuer will be confronted with the task of ascertaining the amount of foods that has been fed in the stalls, and the amount that has been consumed directly on the land. Again, although the manure from

sheep is spread fairly evenly on the land, the same even distribution cannot be claimed for the manure from horses or bullocks unless the farmer has taken the precaution to have the clods distributed by hand labour or harrowing; and we believe that many Valuers' Associations are somewhat averse to the introduction of this new column owing to the practical difficulties that it would cause them. At the same time it may be mentioned that some of them in the past have awarded an extra compensation where feeding stuffs have been consumed directly on the land by sheep and fattening bullocks; *e.g.*, the Essex Association awards an extra 20 per cent. for food so consumed. Where this new principle is admitted, it will be observed that the extra allowance (viz., 70 instead of 50 per cent. of the nitrogen) is restricted to food consumed in the last year of the tenancy and does not apply to food consumed in the last year but one.

(6) Reverting to the question of food consumed in the yards or stalls and converted into manure, Voelcker and Hall's proposals involve a somewhat important variation from their earlier tables. Hitherto the tables have been based on "the amount of food consumed in the last year of the tenancy," the "amount of food consumed in the last year but one," etc. In the 1913 tables these expressions are altered to "food converted into manure before a crop has been grown therefrom" and "food converted into manure from which one crop has been grown." Some valuers anticipate a difficulty in connection with this variation. It is not uncommon to meet with the case where a year's manure is stored up in the yard and a year's manure is found in heaps in the field ready to spread. Obviously the manure stored in the field might be wholly or partially the produce of feeding stuffs which had been consumed in years earlier than the last or even last but one of the tenancy. It was the intention of the authors of the tables to allow compensation for such manure on the basis of D (1) of their columns, that is D (1) would be applied wherever no crop had been grown, but subject to such deductions for

careless storage as the valuer may think fit, provided that the deductions do not exceed 50 per cent. of the compensation value in column D (1). The question of this "back" manure as it is frequently termed, is an important one, and obviously a valuer must be careful not to award full compensation for old manure which ought to have been applied to the land in earlier years, but which the outgoer has stored up as a reserve fund. To use a familiar expression, some farmers like to see a year's manure in front of them. Probably the practice is one that ought to be discouraged and the manure should be got on to the land as quickly as possible. In practice therefore we understand that most valuers have decided to alter the heading of the table and substitute the expressions "for feeding stuffs consumed during the last year of the tenancy," and "feeding stuffs consumed in the last year but one." If this practice be common, then the same principle will apply in both the two classes of cases, viz., the consumption of the last two years will be the basis, whether consumed in the yards or directly on the land, and the salient features of the valuers' task will be to see whether there is such an amount of manure as would correspond to the alleged amount of feeding stuffs consumed in the last two years, to ascertain whether that manure has been wisely and carefully preserved, and also to ascertain whether that manure is as rich in manurial constituents as it should be if the foods alleged to have been consumed have been actually consumed.

(7) There is one point of importance (particularly to Northern valuers) in connection with foods consumed in the last year of the tenancy. A feature of a Lady-day valuation is the away-going crop of wheat. In many cases this may have received the benefit of the application of manure which was the result of the consumption (at any rate in part) of food in the last year of the tenancy. The manure would be applied in September or October, and the farmer quits in the following March or April. He is paid for this away-growing crop and consequently he receives part of the benefit of any manure applied to it. It

is only right and proper, then, that that proportion of the manure which has been applied to the away-going crop should be compensated on the basis of column D (2), even if the manure was produced from foods consumed in the final year of the tenancy. We are assuming that the away-going crop is not valued at the cost of seed and labour, but in one of the ways indicated on p. 231, or p. 287.

(8) The revised tables contain additional feeding stuffs; *e.g.*, within recent years soya bean cake has come much into prominence, and it is quite proper that any new feeding stuff that is rich in nitrogen and phosphoric acid should be compensated. In addition to the feeding stuffs mentioned in Voelcker and Hall's table, there are many others on the market: some of these may have a considerable manurial residue, *e.g.*, sharps and middlings are treated on the same basis as bran. Gram and Egyptian beans for all practical purposes may be classed with beans. Uveco may be classed with maize. Meat meal, fish meal, gluten meal and gluten feed are variable in composition, and must be judged by their respective analyses. On the other hand, treacle has a very low manurial value. However, a valuer need have no difficulty, even if he is asked to consider the question of a feeding stuff that does not find a place in the recognised tables. All that need be done is to have the food analysed at the Royal Agricultural Society's Laboratory and apply Messrs. Voelcker and Hall's principles in ascertaining the manurial residue.

4. Dr. Charles Crowther's Table.—A very valuable piece of work has been done by Dr. Charles Crowther. The full table gives the percentage of albuminoids, oils, carbohydrates and fibre in each food, and, what is really more to the point in estimating the comparative value of all feeding stuffs as food, the digestible percentage of the items just mentioned. We are here, however, concerned merely with the residual manurial value. Dr. Crowther adopts Hall and Voelcker's method of allowing half the nitrogen and three-quarters each of the phosphoric acid and potash to the residual manurial value; but differs from Messrs. Voelcker

and Hall in that he estimates the unit of nitrogen at 12s., on the ground that the availability of the nitrogen in farmyard manure is very much less than that of sulphate of ammonia or nitrate of soda, and consequently should not be reckoned so highly. There is too some reason for thinking that, prior to the war, the unit value of nitrogen was falling, and that in 1914 the price reckoned at 15s. per unit was too high. The table is the fullest published (revised to January 25th, 1916). See pp. 214-218.

Deductions.—Whatever tables be used, valuers frequently find that good conditions are lacking. The tables are intended for cases where good ordinary conditions exist. Often, however, milk has been sold off the holding, the urine has been allowed to run to waste, the manure has been made in uncovered yards, has been washed by every shower that falls and is exposed to every wind that blows. In such cases deductions must be made from the compensation allowance. We shall now consider some of the conditions under which deductions are made.

Milch Cows.—A smaller proportion of the manurial constituents is passed in the dung in the case of milch cows and young stock than is the case with fattening stock. The milk takes up a bigger proportion in the one case, and in the other more is required to form the young bone and muscle. Some valuers make deductions of from 10 per cent. even up to 25 per cent. when the food is consumed wholly by milch cows and young stock. Voelcker and Hall do not make any deduction in the case of food given to either milch cows or young stock. These animals retain rather more of the nitrogen, &c., than fattening bullocks, but Sir A. D. Hall considers " that these variations will be set off by " the fact that both milch cows and young stock are largely fed on the land, and thus there will be less loss in evaporation." We consider that they are quite right in not making any deduction for young stock. The percentage of nitrogen in the excrements of a young calf fed on milk might perhaps be as low as 40 per cent., whilst in that of a fattening ox, as much as 96 per cent. is retained. But

all the animals on the farm are not young calves fed on milk. The percentage of nitrogen in the urine steadily rises as the animal matures, and hence, unless the proportion of young calves and young stock is very great compared with the total number of cattle on the holding, the deduction of 50 per cent. for loss of nitrogen allowed for in the tables is quite adequate to cover the case of a reasonable number of young stock. Even a quite young calf does not retain in its body probably more than 25 per cent. of the phosphoric acid or 20 per cent. of the potash, hence the deductions in the tables are quite adequate to cover this source of loss. The case of milch cows presents slightly different considerations. In the first place, a milch cow retains more of the manurial ingredients in its body than does a fattening ox. Next, a cow requires more food to produce a fair yield of milk (say 2½ gallons per day) than is the case with a fattening ox. Lawes and Gilbert assumed that in this case the cow would require one-fourth more food than the ox. Thirdly, a relatively large proportion of the nitrogen, phosphoric acid and potash finds its way into the milk or is required by the growing fœtus when the cow is in calf. Hence there appears to be good justification for the practice of many Valuers' Associations in making deductions from the compensation figures in the case of foods consumed by milch cows. It may be doubted, however, whether there is not some confusion of thought in the method of making a 25 per cent. deduction from the compensation allowance. Probably the ordinary deductions made in the tables (viz., half the nitrogen and one-quarter of the phosphoric acid and potash) are quite sufficient to cover the amount retained by the animal for the fattening increase or the unborn calf. The real point is the use of the milk. If the cream be made into butter and the skimmed milk used on the farm, there is no need for any special deduction or, at any rate, for a big deduction:—as approximately skimmed milk has a manurial value equal to unskimmed. But if the milk is removed from the holding (whether in the form of cheese or new

DR. C. CROWTHER'S SCALE OF MANURIAL VALUES.

MANURIAL INGREDIENTS.

FOOD.	Per Ton.				Per cent.				Estimated Value of Manure produced by consumption of ONE TON of the food (allowing half the Nitrogen, and three-quarters each of the Phosphoric Acid and Potash). (Hall and Voelcker's Method.)‡
	Nitrogen*	Phosphoric Acid† (P_2O_5).	Potash (K_2O).	Lime (CaO).	Nitrogen*	Phosphoric Acid† (P_2O_5).	Potash (K_2O).	Lime (CaO).	
	lb.	lb.	lb.	lb.	per cent.	per cent.	per cent.	per cent.	£ s. d.
Cottonseed cake—Decorticated ...	155	70	36	7	6·9	3·1	1·6	0·3	2 13 3
,, ,, Undecorticated	83	56	36	7	3·7	2·5	1·6	·3	1 12 7
Linseed cake	106	38	29	9	4·7	1·7	1·3	·4	1 16 0
Hemp-seed cake	100	56	31	?	4·5	2·5	1·4	?	1 16 10
Rape cake	112	45	29	15	5·6	2·0	1·3	·7	2 2 0
Earthnut cake	168	29	33	4	7·5	1·3	1·5	·2	2 12 6
Coconut (copra) cake	76	33	44	11	3·4	1·5	2·0	·5	1 9 10
Palm-kernel cake	67	24	11	7	3·0	1·1	·5	·3	1 2 0
Soy bean cake (Soya cake) ...	154	49	40	6	6·9	2·2	1·8	·3	2 11 8
Soy beans	128	22	29	4	5·7	1·0	1·3	·2	2 0 4
Linseed	86	32	24	7	3·6	1·4	1·1	·3	1 8 1
Dried yeast	172	123	45	7	7·7	5·5	2·0	·3	3 4 7
Locust beans	23	11	15	?	1·0	·5	·7	?	0 9 3
Wheat middlings (fine pollards)...	54	31	18	1	2·4	1·4	·8	·05	1 0 0
,, sharps (coarse pollards) ...	56	58	31	2	2·5	2·6	1·4	·1	1 5 1
,, bran	54	60	33	4	2·4	2·7	1·5	·2	1 5 0
Oatmeal	54	54	33	2	2·4	2·4	1·5	·1	1 4 4
Maize germ meal	47	20	30	2	2·1	·9	1·3	·1	0 18 6
Gluten meal	136	7	1	1	6·1	·3	·05	·05	1 17 6
,, feed	85	15	4	2	3·8	·7	·2	·1	1 5 0
Rice meal	47	56	15	2	2·1	2·5	·7	·1	1 0 4
Malt	38	18	11	2	1·7	·8	·5	·1	0 13 6
Malt dust or coombs	85	40	45	4	3·8	1·8	2·0	·2	1 12 11
Brewers' grains (wet)	19	9	1	2	·85	·4	·05	·1	0 6 2
,, ,, (dried)	72	36	4	9	3·2	1·6	·2	·4	1 3 5
Distillers' grains (dried)	90	34	4	9	4·0	1·5	·2	·4	1 8 0

Molasses	33	1	56	7	1·5	·05	2·5	·3	0	19 1
Meat meal	257	15	2	9	11·5	·7	·1	·4	3	11 0
Fish meal	199	193	25	157	8·9	8·6	1·1	7·0	3	16 0
Wheat	40	20	13	1	1·8	·9	·6	·05	0	14 7
Barley	36	18	13	1	1·6	·8	·6	·05	0	13 3
Oats	43	15	11	2	1·9	·7	·5	·1	0	14 6
Rye...	40	20	13	1	1·8	·9	·6	·05	0	14 7
Maize	38	13	9	1	1·7	·6	·4	·05	0	12 9
Beans	90	27	29	2	4·0	1·2	1·3	·1	1	10 7
Peas	81	20	22	2	3·6	·9	1·0	·1	1	6 7
Straw—wheat	8	4	18	4	·35	·2	·8	·2	0	5 0
,, barley	13	4	24	7	·6	·2	1·1	·3	0	7 4
,, oat	11	4	33	9	·5	·2	1·5	·4	0	8 0
,, rye	10	4	20	6	·45	·2	·9	·3	0	5 10
,, bean	18	7	42	27	·8	·3	1·9	1·2	0	3 8
,, pea	31	9	22	36	1·4	·4	1·0	1·6	0	12 4
Meadow hay	33	9	36	22	1·45	·4	1·6	1·0	0	15 4
"Seeds" hay	43	13	40	44	1·9	·6	1·8	2·0	0	19 7
Pasture grass	11	3	13	9	·5	·15	·6	·4	0	5 2
Clover (green)	13	3	11	11	·55	·15	·5	·5	0	5 2
Vetches ,, ...	13	3	11	11	·55	·15	·5	·5	0	5 2
Lucerne ,, ...	14	3	9	20	·65	·15	·4	·9	0	5 7
Cabbage	10	3	9	4	·4	·15	·4	·2	0	3 11
Rape	10	3	7	4	·45	·15	·3	·2	0	3 11
Turnip tops	8	3	4	9	·35	·15	·2	·4	0	3 1
Turnips	4	2	7	1	·2	·1	·3	·05	0	2 3
Swedes	4	2	7	2	·2	·1	·3	·1	0	2 4
Mangolds	4	2	11	1	·2	·1	·5	·05	0	2 11
Carrots	4	2	7	3	·2	·1	·3	·1	0	2 3
Sugar beet...	4	2	9	1	·2	·1	·4	·05	0	2 7
Potatoes	7	3	13	1	·3	·15	·6	·05	0	3 11
Cow's milk (whole)	—	—	—	—	·55	·2	·15	·15		—
,, ,, skim or separated ...	—	—	—	—	·5	·2	·2	·15		—
Whey	—	—	—	—	·15	·1	·15	·1		—

* To get approximately the equivalent amounts of Ammonia increase by one-fifth.

† " " " " " Phosphate of Lime multiply by 2 1/5.

‡ In "calculating" these manurial values the unit prices adopted by Hall and Voelcker in their first paper (Journal of the Royal Agricultural Society, Vol. 63, 1902, p. 108) have been employed, viz.:—

NITROGEN = 12/- (= Ammonia at 9/10½).
PHOSPHORIC ACID = 3/- (= Phosphate of Lime at 1/4½).
POTASH = 4/-.
Lime is not taken into account.

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[Third Revision, January 25th, 1916.]

milk), there is a loss of manurial value to the holding. The full manurial value of a ton of milk might be assessed at 10*s.*, or say one halfpenny per gallon. We submit that a proper method of approach would be to deduct ½*d.* per gallon sold off, say 25*s.* per cow per annum, *i.e.*, taking a 600-gallon cow as a standard. Ten shillings deduction per cow would probably be an adequate deduction where the skimmed milk was consumed by the stock on the holding.

Dung.—Another difficulty arises where it is customary to pay either market or consuming price for the farm-yard manure left by the outgoer. It is obvious that if the tenant were paid full value for the dung and also the residual manurial value of the feeding stuffs, he would be paid twice over. The outgoer consumes a ton of cake and he is paid its residual manurial value according to the tables used. Concretely this residual manurial value may be in the muck heap. Obviously it would be unjust to pay him full value for the latter.

An admirable solution has been suggested by Mr. Leslie Wood. His method is to take the highest price recognised in the district for a load of dung representing good cake-fed manure. Next he calculates the manurial value of the feeding stuffs fed in the last year of the tenancy and divides it by the number of loads, and the result gives the value of the feeding stuffs in each load. If this be deducted from the price of the load or ton that was taken as a starting point, we obtain the value of the load or ton *minus* the effect of the cake which has already been paid for. To this it may be necessary to add something for hauling: thus, if there are 200 loads of manure on the farm and the value is 4*s.* per load, obviously the compensation apart from hauling would be £40. But if, in producing this manure, feeding stuffs have been used in the yard, the residual value of which is £20, and for which sum, moreover, the tenant has been allowed, then this £20 should be deducted from the £40 and the 200 loads of manure should be valued at 2*s.* per load, instead of 4*s.*, *plus* any extra labour in hauling out the manure on to the land. Whether the valuer

adopts Mr. Wood's plan, or not, he should take care to see that the incomer is not charged twice over.

We understand that in those Eastern Counties where the dung is paid for, it is never valued at more than 3*s*. per load when there is a separate valuation for the feeding stuffs. Of course the point does not arise in perhaps the majority of cases, for in most counties the outgoer is not paid for the farm-yard manure, except merely for the hauling of it and the labour spent upon it.

Compound Cakes.—None of the tables quoted above discuss the question of compound cakes. There are several on the market, but the outgoer is at a great disadvantage unless he can produce an analysis showing the amount of nitrogen, phosphoric acid, and potash in the compound cake for which he is claiming. In buying an artificial manure, he knows the percentage of nitrogen, &c., but in buying a feeding stuff he merely knows the percentage of oils or fats and protein or albuminoids. He does not necessarily from his invoice know the percentage of carbohydrates, nor the percentage of ash. Of course, from the percentage of albuminoids he can obtain the percentage of nitrogen by dividing by 6.25 and then multiplying by 15*s*., or whatever sum be the unit of value adopted; but the ash is valuable from a manurial point of view, and it is really necessary to know the amount of phosphoric acid and potash. We submit that it is the duty of the outgoer to produce an analysis showing the percentages of nitrogen, phosphoric acid and potash. If the manufacturers of compound cakes would give these percentages, they would be doing an excellent service to the farmer, and acting in their own best interests as well. As matters stand at present, a farmer cannot do better than follow the advice of Sir A. D. Hall, who recommends them "to buy pure cake made from one kind of seed only. As a rule, such cakes are cheaper intrinsically even though their price is higher, and they are much less subject to adulteration. Their greater value, however, lies in the fact that the farmer knows exactly what he is using, and can come

to definite conclusions for the guidance of his future practice." Attention may be called to the method of valuing compound cakes adopted by the Shropshire Chamber of Agriculture, viz., for the last year of the tenancy according to their manurial constituents with a definite basis of 7*s.* 6*d.* per unit of nitrogen (the nitrogen being deduced from the percentage of albuminoids by dividing by 6¼), and adding 7*s.* 6*d.* per ton for the whole of the potash and phosphates contained in the cake; half such sum to be allowed for their manurial value the last year of tenancy but one.

Loss of Urine.—Many Valuers' Associations make a considerable deduction from the compensation allowances when the urine has been allowed to run to waste: thus the Yorkshire valuers deduct up to 25 per cent. Such a deduction is quite proper, for the care of the freshly voided urine is a matter of prime importance. The researches of Dr. Crowther have shown that great regard must be paid to the distribution of the manure values between the dung and the urine voided by the animal. In the case of rich nitrogenous feeding stuffs like soya-bean cake or decorticated cotton cake, the fresh urine is seven or eight times as valuable as the dung. The digestible (or richer, because immediately available) nitrogen is contained in the urine. Dr. Crowther has worked out the figures for 32 feeding stuffs, both when consumed by fattening oxen and milch cows. The manure value is, of course, less in the latter case than the former; but the distribution of the value between the urine and dung is approximately the same; and on the average of the 32 foods considered, practically four-fifths of the original manure value is in the urine and only the remaining one-fifth in the dung.

Hence the care of the urine, and especially the freshly voided urine, is all-essential. Loss of liquid manure from the heaps should be guarded against, but the loss of fresh urine is more serious than the escape of liquid manure from the manure heap, because the urine in passing through the fermenting dung and litter does lose much of

its nitrogen and potash, which are retained in the heap, although it robs the manure heap of a little phosphoric acid. In an actual test, quoted by Dr. Crowther, the fresh urine had a value of 12*s.* per 100 gallons before entering the manure heap, whilst the manurial value of the drainage after passing through an eight-inch layer of manure was 7*s.* 6*d.* per 100 gallons.

To prevent the loss of the soluble nitrogen in the fresh urine, exclusion of air and avoidance of unduly high temperatures are desirable. In the case of foods eaten under cover, the best results will be obtained if the urine can be collected separately in a cool tank, with a tight-fitting cover. If this is impracticable, the manure should be kept in a moist and compact condition. Sir A. D. Hall recommends that the floor of the manure heap should be well-beaten clay, overlaid with a few inches of old rotten dung.

Limits of Deduction.—It is often said that it should be left to the valuer to make deductions for loss of urine and the bad handling of manure. The exercise of such discretion is right in principle, for there are many degrees of negligence. Still there are limits beyond which no deduction should be made. The late Dr. Voelcker discovered that however badly kept the manure might be—whether it was washed by all the rains that fell or kept exposed or became hard, yet there was a limit to the loss. At a certain point, insoluble compounds of nitrogen are formed. Moreover, the dung and straw contain insoluble compounds. This limit is put at one-half the compensation value. The tables of Voelcker and Hall provide for ordinary loss—viz., half the nitrogen and a quarter of the potash and phosphoric acid. The valuer should never assume that more than one-half of the residue is lost, however bad the preservation of the manure; *i.e.*, he should never deduct more than one-half the compensation values in column D (1). In such an extreme case, *i.e.*, a deduction of one-half for bad handling of manure, it would mean that the manure was credited with only 25 per cent. of the nitrogen, 37½ per cent. of the phosphoric acid and 37½ per cent. of the potash originally

in the feeding stuff. Subsequent experiments by the present Dr. Voelcker at Woburn and Sir A. D. Hall at Rothamsted have demonstrated the correctness of this limitation of the loss.

(25) **Consumption on the Holding by Cattle, Sheep or Pigs, or by Horses, other than those regularly employed on the Holding, of Corn proved by satisfactory evidence to have been produced and consumed on the Holding.**—This improvement was first compensated under the Act of 1906. It is obvious that the outgoer should keep a carefully compiled granary book, showing the amount of home-grown corn consumed by the classes of stock mentioned above. He should further be in a position to supplement his statements by evidence. The actual compensation value can be obtained from the tables mentioned above. There are two points which the incomer's valuer should be on the look-out for: (*a*) some of the home-grown corn may have been consumed by poultry. No statutory allowance can be made for the consumption of feeding stuffs (whether home-grown or purchased) consumed by poultry: (*b*) nor can any allowance be made for feeding stuffs (either purchased or home-grown) consumed by the working horses of the farm. It is assumed that the benefit of their consumption is lost, as the dung is frequently wasted on the highways and roads. Where the accounts have been intermingled and not carefully kept, difficulties arise, but some farmers assert that a working horse will eat in the course of a year 10 qrs. of oats (say 1½ tons). The manure value of 1½ tons of oats is only 27*s.*; but valuers often deduct from the compensation due a larger amount, say £2 to £2 10*s.* per horse per annum.

(26) **Laying down Temporary Pasture with Clover, Grass, Lucerne, Sainfoin, or other Seeds, sown more than Two Years prior to the Termination of the Tenancy.**—This is a comparatively new improvement, intended to remunerate the tenant where he has laid down a temporary pasture which remains unexhausted for several years. This is particularly the case with lucerne or sainfoin. We shall

deal with the methods in vogue for assessing the unexhausted value of temporary pastures in our next chapter. See also *ante*, pp. 178-180.

(27) **Repairs to Buildings.**—Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute. This improvement was introduced by the Act of 1906. No scale of compensation is, of course, indicated. Each case will depend upon its own circumstances, but if the reader will revert to our remarks on the first improvement in Part I. (*ante*, pp. 173-174), he will find a discussion of the methods in vogue for assessing an improvement of this character.

War and Tenant-Right Compensation.—One effect of the war has been to cause a very great increase in the cost of feeding stuffs and chemical manures. It has had, too, a considerable effect on the price of farm labour—more perhaps than the nominal increase in wages would indicate, as often inefficient or unskilled people have taken the place of skilled farm labourers. The figures given in this book for the cost of agricultural cultivations are those that were current in 1913. By the end of 1919 the cost of all farm work had risen enormously, and for practical purposes should be calculated at 2½ times those obtaining in 1913. This factor should be remembered in perusing this and the next chapter. Hence valuers allow enhanced assessments for cultivations and generally a 30 per cent. increase on Voelcker and Hall's tables for feeding stuffs. The compensation for unexhausted chemical manures, being based on cost, regulates itself automatically.

CHAPTER III.

THE LEASE AND CUSTOMARY COMPENSATION.

We have already stated that unless the lease definitely excludes the custom of the country, such custom prevails. In modern leases it is becoming more and more the habit to "exclude custom," and to define precisely the relationship of landlord and tenant respecting the various points that may arise either during or at the end of the tenancy. We think this practice a very desirable one. We propose to deal briefly with some of the customs not treated of in the Agricultural Holdings Act, but which we recommend should be clearly defined in the lease or agreement.

(1) **Entry.**—We have already seen that the various dates upon which tenancies expire vary widely in different parts of the country; the favourite entries being Michaelmas, Lady-day, Candlemas, and Whitsuntide. It is well known that Michaelmas may mean September 29th or October 11th: similarly, Lady-day may mean March 25th or April 6th: hence it is always desirable to state the dates specifically. Later we shall indicate the usual date of entry in each county, but it must not be supposed that there is anything like a uniform practice within the limits of a whole county.

(2) **Pre-entry.**—Under custom the incoming tenant has often the right of entry before Michaelmas or Lady-day as the case may be: this customary right is called "Pre-entry." The origin was doubtless to give the incomer an opportunity of preparing his arable land. Dual occupancy of the farm buildings, stackyard, and farmhouse is very undesirable and a frequent source of contention. It is believed that this custom is declining. Personally we recommend that a lease should exclude it, or, if it be absolutely necessary, should carefully define its scope.

(3) **Hold-over.**—The custom of hold-over is somewhat more general than that of pre-entry, and appears to be somewhat more tenacious of life. Still it is desirable either to exclude it or carefully define it. Under the privilege of hold-over the outgoing tenant usually has possession of part of the buildings and stackyard, and sometimes a boosey pasture, in order to enable him to thresh, market his corn, or consume his hay and straw. The boosey pasture is an outlet adjoining the homestead.

We shall next treat of the principal customary items of a valuation not included in the Agricultural Holdings Act. These items include the unconsumed hay and straw, frequently the farm-yard manure and cultivations (including roots and fallows), seeds and the away-going crop.

(*a*) **Hay.**—The unconsumed hay of the farm is nearly invariably a subject of valuation. In the past the tenant was usually under an obligation to consume the hay (including clover), straw and roots produced on his holding. He has now freedom of sale, but in the final year of the tenancy either the agreement or custom can require him to carry out his former obligation. Further, there is not only to be taken into account the produce of the last year of the tenancy, but also the counter-claim for the manurial value of hay, straw, and roots sold off; hence their valuation is still of importance. On this point, too, we recommend that the agreement should make provision, and should not leave the matter to be decided by custom. The custom, however, applies only to the hay of the last crop. These customs vary very much in the different parts of the country. We proceed to enumerate some of them.

(1) In some cases the incoming tenant has the privilege of purchasing the unconsumed hay at **market price.** Matters are here somewhat simplified, and the main considerations for valuers will be practical ones, relating to the measurement, weight, solidity, and quality of the hay purchased.

The next point to be considered is the question of compensation (if any) to be awarded to the incomer, who has

the privilege of buying at market price, if the outgoer has sold off the hay. It might at first appear that the incomer was at no disadvantage, as he could buy when he required in the open market; but he is under the inconvenience of having to purchase hay and straw and cart it to his farm, and in such cases it is usual to allow the incomer as dilapidation about 5*s*. per ton for the hay and straw sold off contrary to the agreement or custom. If, however, the incomer refuses to purchase the hay, the outgoer has the right of selling it off and should not be debited for so doing.

(2) More frequently hay must be left at **consuming, feeding** or **browsing price.** This expression is well known, but there is some divergence in its interpretation. Perhaps we shall get a correct notion if we regard it as being equivalent to the full price *less* the manurial value. In the case of hay the consuming price is often calculated at two-thirds the market price. In some districts it is calculated at less than this proportion; whilst in other districts the Valuers' Associations fix an arbitrary price annually as its equivalent.

Where the incomer is purchasing the unconsumed hay at consuming price, the method of valuing the same will follow the lines we have indicated above, with the exception that the price per ton will be two-thirds of the market price, or whatever figure is considered a fair consuming price. Very frequently, however, the tenant has sold off his hay contrary to his agreement or custom; and then it becomes a question of assessing this dilapidation. It will occur to the reader that if the outgoer was entitled to two-thirds of the market price, and has sold off contrary to custom, he should be debited at least one-third of the market price as being the equivalent of the manure lost. But when hay, straw, or other crops of the last year's growth, or the manure made therefrom, have been sold off or removed from the holding in contravention of *custom, contract, or agreement*, the landlord or incoming tenant should be entitled to such a sum as represents the cost of replace-

ment on the holding, less the amount he would have been called upon to pay for them had they not been removed, and this may amount to more than one-third.

Methods of this type are frequently in vogue; but since the adoption of tables of residual manurial value for feeding stuffs it has become the practice to apply the figures thereof, or slightly higher amounts, in calculating dilapidations. We have already observed that in the scale of Voelcker and Hall the outgoer would be awarded 23*s*. 10*d*. per ton for purchased clover or sainfoin consumed during the last year of the tenancy, 16*s*. 10*d*. for a ton of purchased hay, and 7*s*. for a ton of purchased straw; 6*s*. 4*d*. per ton for barley straw, and 7*s*. 4*d*. per ton for oat straw. Similarly, if he sells off contrary to agreement or custom, he will generally be fined or dilapidated at these rates, or rather at somewhat higher figures, for valuers often dilapidate at a higher rate than those contained in the tables, making the incomer an extra allowance of 5*s*. per ton to cover the carriage, and adding 7*s*. per ton for the mechanical value of straw. If the incomer will not exercise his option of buying the unconsumed hay at consuming price, the outgoer may sell it for consumption on the holding without fear of being dilapidated.

(*b*) **Straw.**—In very few cases is the tenant allowed to sell off the straw of the last year, and, in fact, it is generally provided, either by custom or the agreement, that if he sells off the straw of any previous year he shall bring back its full manurial equivalent. Young valuers in particular should remember that it is only the straw of the last year that should be the subject of a valuation, for the straw of each year should be expended upon the land, and therefore to reserve it is to deprive the land of its full allowance of manure.

The customs in regard to straw are somewhat more varied than those which obtain in reference to hay. They are: (1) That the straw of the last crop is to be paid for at market price; or (2) that it is to be left at a feeding or consuming price; or (3) in some cases that it is to be left

free to the incomer, who, however, must do all the threshing, cleaning, and carting to market gratis of the outgoer's corn crops; or (4) in Lincolnshire, the outgoer is allowed the cost of stacking the straw.

The third method obtains chiefly in the Eastern Counties. The new tenant takes the straw from the machine, and bears the cost of stacking and thatching it. If the outgoer has threshed before the end of his term, the incomer pays a slight sum for the work done in consideration of receiving the straw and chaff, and this sum is calculated according to the number of quarters of grain threshed, usually 2*s*. 4*d*. per quarter of wheat, 2*s*. per quarter of barley, and 1*s*. 8*d*. per quarter of oats.

Where the straw is left at **market** price there is little difficulty. The valuer has the task of measuring the stack, estimating its weight, and putting a price per ton on the straw. Most frequently straw is valued at a **consuming** price. This consuming price is not, in the case of straw, estimated as liberally as in the valuation of hay. We have said that the consuming price of hay is often calculated at two-thirds the market price. Seldom is the consuming price of straw reckoned at this proportion. More frequently one-third or one-half the market price is the figure adopted. Another very common method of valuing the consuming price of straw is to fix a price per acre for the average crop of the different straws left. This is a simple method of valuing the straw, but not necessarily advantageous to the man with big crops. Very wide variations are found in the price allowed. Wheat straw may range from 7*s*. to 16*s*. per acre, the average being about 10*s*. or 11*s*. Oat straw is somewhat less, viz., about 8*s*. to 10*s*.; whilst barley straw varies from 5*s*. to 8*s*. Pea straw is valued at about 6*s*. or 8*s*., and bean straw generally passes free or, where paid for, not more than 5*s*. per acre.

When straw has been sold off contrary to custom, the tables of Voelcker and Hall are increasingly employed, the manurial value of straw being approximately 7*s*. per ton; although many Valuers' Associations recommend that a

higher fine should be imposed to make up for the beneficial mechanical effect of the straw on the land when converted into manure, and also to cover the cost of carriage on that which the incomer must purchase in the open market.

Recently considerable attention has been given to the beneficial mechanical effect of straw when converted into manure and used on the land, and it is worth while looking at the matter somewhat closely, especially as the Central Association of Tenant Right Valuers has been trying to obtain some uniformity in the method of assessing the manurial value of straw.

It may be remarked that the straw is used on the farm for at least two distinct purposes: (*a*) part of the straw is cut up into chaff and used for food, but (*b*) probably the greater part is used as litter and converted into manure. Now during the final two years of his tenancy the outgoer may have purchased straw for consumption on the holding —either (1) as food, or (2) as litter. In these cases, of course, he is entitled to compensation. Next (3) in years *other than the last*, the tenant may have exercised his right under sect. 26 of selling off the straw, and consequently have incurred the obligation of returning to the holding the *full* manurial equivalent of the straw so sold off. The landlord will be anxious to know what the *full* manurial equivalent amounts to—either in terms of money or in feeding stuffs and chemical manures returned in lieu of the straw sold off. (4) Finally in the last year of the tenancy, the Act does not give the tenant freedom of sale, and either custom or his agreement may prohibit him from selling off during the final year. Each of these positions must be treated separately.

(1) If the outgoer has in the final two years of his tenancy purchased straw and consumed the same on the holding as *food only*, obviously there would be no mechanical benefit to the soil through aeration or pulverisation. The chemical value of the nitrogen, phosphoric acid and potash in the straw would be ample reward to such an outgoer, and it is submitted that 7*s*. per ton for straw consumed in the last

year and 4*s*. per ton for straw consumed in the last year but one, would meet the justice of the case.

(2) More frequently, perhaps, the purchased straw would be intended for another purpose, viz., for use as litter to be converted with the dung and urine voided by the animals into manure. Hence the mechanical, as well as chemical value, must be taken into account. That mechanical value has been put by Messrs. Voelcker and Hall at 7*s*. per ton: add to this 7*s*. for the chemical value, and we arrive at the compensation figure of 14*s*. per ton of purchased straw converted into manure in the final year of the tenancy. Half this amount (7*s*.) would be the appropriate award per ton of purchased straw used as litter in the last year but one of the tenancy.

The valuer, however, is more frequently troubled with the assessment of the dilapidation for straw sold off than with compensation for purchased straw. The same principles will hold good, *with one important difference*, and with perhaps one additional difficult problem. No one acquainted with the subject will doubt the wisdom of Voelcker and Hall's recommendation that "for each ton of straw sold off the farm, *which should otherwise have gone into litter*, an allowance of 7*s*. should be made in respect of its mechanical value, in addition to the allowance of 7*s*. per ton for its manurial value." But here arises the difficulty indicated above. The valuer may well ask, how is he to know whether the straw should have been converted into litter? Could not the outgoer have used it as food? Probably the tenancy agreement may be helpful in the solution of the problem. Many leases still contain clauses whereby the tenant covenants to consume and convert into manure the straw produced on the holding. We have noticed above that such a covenant is inoperative in that it does not prohibit the tenant in any year but the last from selling off the straw, but the existence of such a clause, unless the tenant has made a full equivalent manurial return, is indicative of the measure of the tenant's obligation, and we submit that the valuer would be justified in

accepting Voelcker and Hall's figure and in dilapidating the outgoer 14*s*. or even more for every ton of straw sold off. Where the lease was silent and imposed no obligation on the tenant to convert the straw into manure, the valuer might equitably compromise on the point. He might argue that the outgoer might have cut up the straw and used it as food or he might have used it as litter. In either case he would have consumed it on the holding and satisfied his customary obligation. He has, however, devoted the straw to neither purpose, but sold it off. In such cases it might be fair to assume that he should have used half of the straw as food and half as litter, and hence to dilapidate the outgoer 10*s*. 6*d*. per ton.

We have mentioned above that we consider that there is one important difference between ascertaining the dilapidation for straw sold off and compensation for purchased straw consumed on the holding. For purchased straw (or any feeding stuff) consumed in the last year but one, only half the compensation given to straw (or any feeding stuff) consumed in the last year is awarded. This is just, as the outgoer has had part of the benefit of his improvement in the increased crop of his final year. Similarly in assessing dilapidations, many scales dilapidate the outgoer only half the manurial value of hay or straw sold off in the last year but one. Why this difference? The advocates of this reduced fine might argue that the outgoer, but for his own wrong-doing, would have partially reaped the benefit of applying the straw of the final year but one to the holding. He would have had an increased crop of cereals and roots in his final year. But it is just the privilege of buying that increased amount of straw at consuming price or less that the landlord or incomer has lost. Certainly we know of no legal justification for this leniency; in fact, the practice appears to be a direct violation of the proviso in sect. 26 (1) of the Act. We know neither statute nor case that says that, if a man has committed a tort or done wrong twelve or twenty-four months ago, he is on that account to be fined half the

damage done; and if we do not greatly misunderstand Messrs. Voelcker and Hall's recommendation (endorsed, we understand, by the Central Association), there is no scientific reason for the remission: their recommendation appears to be quite definite that the outgoer should be dilapidated 14*s*. for *each* ton sold off, irrespective of whether it was sold off in the last or the preceding year of the tenancy. We must admit that the suggestion to dilapidate the outgoer in "full" for straw sold off in the last year but one, does not meet with universal approval: in Lincolnshire (*e.g.*) the outgoer is dilapidated "half" for straw sold off, and allowed "half" for straw purchased in this penultimate year; the half dilapidation being justified on the ground submitted above, viz., that he has already partly penalised himself in the reduced following crop.

(3) The valuer has the task of investigating whether hay, straw and roots have been sold off during the final two years of the tenancy. This burden is imposed upon him by sect. 1 (2) of the Agricultural Holdings Act, 1908. The landlord (or his agent) will be concerned with selling off produce in earlier years, and will want to know what manurial return the tenant proposes to make for produce sold off. The latter is bound to make a "full manurial equivalent." In the light of recent discussion we suggest that for straw sold off, the full manurial return is 14*s*. per ton; or rather the amount of nitrogen, phosphoric acid, and potash that 14*s*. would purchase (reckoned at the pre-war rates of 15*s*., 3*s*., and 4*s*. per unit respectively). Failing this return, we submit that the landlord would have a good right of action against the tenant for 14*s*. for each ton of straw sold off.

(4) Finally we come to the case where the outgoer's agreement distinctly prohibits him from selling off straw in the final year of the tenancy, and gives the landlord (or incomer) the privilege of purchasing the same at consuming price. On an attempted infringement of such a covenant, we submit that the landlord could obtain an injunction restraining the tenant from selling off. If the landlord

refrained from procuring an injunction, the valuers would have the task of assessing the loss arising from breach of such an agreement; and the dilapidation would not necessarily (in the case of straw) be either 7*s*. or 10*s*. 6*d*. or 14*s*. per ton. It might conceivably be more. The loss to the landlord (or incomer) would be the true measure of the dilapidation, and it could be ascertained by calling upon the outgoer to pay such a sum as represented the cost of replacing the straw illegally sold off, *less* the amount he would have received had it been left on the farm;—thus wheat straw at the stack might be worth 40*s*. per ton; the incomer has under the supposition the privilege of buying it at a consuming price of 26*s*. 8*d*. per ton. The outgoer has wrongfully sold off the said wheat stack, and the incomer is obliged to go into the open market to purchase wheat straw. A dealer might conceivably charge the incomer 55*s*. per ton, as the dealer requires a profit and has also incurred the expenses of cutting, trussing and carriage. Under these suppositions, the outgoer would quite properly be dilapidated 55*s*. *less* 26*s*. 8*d*., *i.e*. 28*s*. 4*d*. per ton of straw wrongfully sold off. In a case tried (December, 1913) at the Northallerton County Court, an outgoer had contrary to custom sold off hay in the last year of the tenancy. He was willing to pay the manurial value of the hay sold off. We have noticed above that the present price of this is 16*s*. 10*d*. per ton; but the Judge took the view expressed above that the mere chemical value was not the sole measure of the loss, and awarded the landlord 30*s*. per ton.

If the incomer refuses to purchase the straw the outgoer would, where the market-price custom prevailed, have the privilege of selling it, and, where consuming price was operative, would be entitled to sell it to be consumed on the premises, or to bring in cattle to consume it.

(*c*) **The Away-going Crop.**—In Lady-day entries an away-going crop must frequently be valued. One reason perhaps why Michaelmas tenancies are becoming more common is the fact that the complications arising out of away-going

crops are thereby avoided. Strictly, the term "away-going crop" is applied to the wheat crop. Obviously a farmer who quits on April 6th will need to be remunerated for the growing crop of wheat which was probably planted in the previous October or November. But customs in regard to these away-going crops vary widely, and we must refer the reader to the chapter dealing with the respective counties for an account of the methods employed. We may, however, mention one or two of the salient features, beginning with the amount of land that the outgoer may sow to wheat. This is a point which we advise should be definitely settled in the lease and not left to custom. Indirectly it will probably be so settled, for in many districts the four-course rotation is operative, and the tenant covenants to leave his land in that rotation during the final year of his tenancy. We have seen that the Act of 1908 does not disturb such an arrangement. Hence, where a tenant has so contracted, by implication he can plant about one-fourth of his arable land with wheat as an away-going crop. In the West Riding of Yorkshire, an away-going crop is allowed after fallow, turnips, swedes, and mangolds, and in some cases after potatoes. Thus the amount is indicated indirectly in this case, and would usually be about one-fourth or one-fifth of the arable land. In the East Riding, the five-course rotation is usual and forms a rather definite cycle, viz., wheat, barley, roots, oats, and seeds: hence, in this case the away-going crop is approximately one-fifth of the arable land.

No less various are the methods of valuing an away-going crop. Originally the outgoer harvested the crop, and had a right of holding over a portion of the stackyard for this purpose. He left, however, the straw free to the incomer. Dual ownership of this character is a source of contention, and hence the prevailing custom is to take the crop by valuation at harvest time. Even in this matter there is wide variation: in some cases the incomer takes it as a whole; an allowance, of course, being made to him for harvesting, threshing, and marketing. In other parts the

outgoer is entitled only to a fraction of the away-going crop, viz., two-thirds after a bare or summer fallow, and one-half after clover, beans, or peas. Finally, we may observe that the method so commonly adopted in valuing the roots is in some parts adopted for the away-going crop, viz., to value it at Lady-day at the cost of seed and labour.

We have said that the away-going crop strictly applies to a crop of wheat. In some Lady-day tenancies, where the incomer has no pre-entry at Candlemas or earlier on the arable land, the outgoer prepares the land for Lent corn crops, and the name away-going crop is then applied to barley, oats, peas, &c. In our opinion this is a misuse of the term "away-going crop," and these operations which are done by the outgoer on the incomer's behalf are more properly referred to as "cultivations."

(*d*) **Farm-yard Manure.**—This item needs careful consideration. Proper care in the making of manure, its wise preservation and application, are the keynotes of successful farming. We have already noticed that the animal retains in its body only a comparatively small proportion of the nitrogen and other valuable manurial constituents of its food. Young animals and milch cows retain rather more of the nitrogen and phosphoric acid than do animals in the last stages of fattening. Hence, the value of farm-yard manure to a certain extent depends upon whether it is produced by young stock, milch cows, or fattening beasts. The different animals themselves also introduce a certain amount of difference; the soluble manure or urine from sheep and horses is more concentrated than that of cattle and pigs, and the solid matter drier; the gardener describes horse manure, therefore, as "hotter," which really means that a greater amount of ammonia and a greater rise of temperature are produced by the fermentation. Hence we see that the value of manure depends on at least two factors, viz. (*a*) the age of the stock, and (*b*) the kind of animal producing it. Much more important, however, is the kind of feeding stuffs used. Where a large proportion of the nitrogenous compounds in the feeding stuffs is indigestible, the result-

ing manure is slower in action, as the indigestible elements pass away in the fæces (dung), and have to undergo the process of nitrification in the ground before being available as plant food. On the other hand, the digestible portions of the nitrogen are returned in the liquid manure, very readily change into ammonia, and are extremely active fertilisers. Similar considerations apply to the phosphoric acid and potash portions of the food. Hence, the value and availability of the manure depend upon the ratio of digestible to indigestible parts of nitrogen, phosphoric acid, and potash in the food. The richer and more concentrated a food is, the greater is the proportion of its nitrogen that is digested. Hall calculates that decorticated cotton cake contains 7 per cent. of nitrogen, and about nine-tenths of that nitrogen is digested and reappears in the soluble active form of urea; whereas hay contains only 1½ per cent. of nitrogen, of which barely half is digestible, while the other half is excreted in solid form and will be a slowly acting fertiliser. Hence, a bullock in the fattening process, fed on concentrated cakes, will produce richer manure than a store animal which receives low-grade foods, like hay, straw and roots, even though the latter may consume a greater amount of nitrogen.

Farm-yard manure is not, however, pure dung: as the dung is mixed with litter and trampled under the feet of animals. In its elementary stage the product is known as "long" or green manure, and the straw shows at first little alteration; but after being thoroughly broken up by the hoofs of the animals and under the influence of bacterial decay, no trace of the straw structure is left and the whole material has passed into a uniform brown or black mass, which fermented material the farmer calls "short." In its "long" condition, farm-yard manure may be carted on to strong clay land, but for general purposes it is necessary that it shall become thoroughly rotten before being spread.

The composition and value of farm-yard manure also depend upon the litter employed; but valuers do not

trouble about the varying amounts of nitrogen in the different kinds of straws; nor do they pay any regard to the slightly higher amount of nitrogen in peat moss litter, because the value of this extra amount is probably set off by the quicker bacterial changes that occur in straw-made manure than in peat moss manure. Sometimes in town-made manure, material is employed as litter which is of much less value than either straw or peat moss, and hence a valuer should bear this in mind when asked to value town-produced manure.

The next point that arises for the valuer's consideration is the way in which the manure has been preserved. We know that loss of valuable nitrogen is inevitable, but the key to successful farming is to keep that loss at a minimum. The manure should be kept as long as possible under the feet of the animals. Least loss arises when the manure is made in deep boxes in which the cattle are fed, and the manure is not removed until it is ready to go on to the land. Loss always arises in the turning of manure, which must be done when the dung is carted into a yard and formed into a mixen. The prime point is to guard against the loss of the liquid portion, which contains soluble nitrogen and is also rich in potash. The utmost care should be taken to keep the dark-brown liquid sucked up in the litter; hence, a partly covered yard is desirable, so that too much rain is not allowed to wash through the manure. On the other hand, in a wholly covered yard the manure may get too dry and loss of ammonia occurs through evaporation. Some people preserve the manure by sprinkling over it gypsum, superphosphate or kainit with the object of "fixing" the ammonia. Dr. Dyer thinks that manure heaps prepared in this manner are immensely superior to manure heaped without these precautions. Hall, on the other hand, considers these expedients of little practical value, either on account of the expense or secondary injurious actions which render them unsuitable. However, if the foundation for the manure heap can be made firm by hammering in clay and dry earth,

and a few inches of old dung be placed over this as a foundation, and the new dung itself be covered with a light protective layer of dry earth, the loss of ammonia and urine will be greatly diminished.

From these general considerations the reader will naturally expect the composition of farm-yard manure to vary; but the average of a large number of analyses at Rothamsted shows that ordinary farm-yard manure contains about three-quarters of its weight of water, about 0.66 per cent. of nitrogen, 0.25 per cent. of phosphoric acid and 0.3 per cent. of potash, or about 15 lbs. of nitrogen, 5 lbs. of phosphoric acid and 7 lbs. of potash per ton. It is, therefore, a triple or all-round manure, and has been used from time immemorial. It is suitable for nearly all kinds of crops and soils.

Farm-yard manure is deficient in one respect, viz., in the quantity of phosphoric acid, and the value of its application would be much increased in most cases if it were supplemented by a dressing of 2 or 3 cwt. per acre of superphosphate or basic slag. One great advantage it has over artificial manures is its mechanical effect in aerating and pulverising the land. We have now to deal with the valuation of this very important element, and we may observe three customs:—

(1) In many districts it is left free, but the outgoer is remunerated for the expense of carting, heaping and spreading. This remuneration may vary from 1*s.* to 2*s.* 6*d.* per load according to distance.

(2) Sometimes the manure is taken at a consuming price. In this case the dung is valued at, roughly, two-thirds of the market price, and the cost of carting and spreading added. The pre-war compensation amounted to from 2s. 6d. to 4s. per load, according to distance; if twenty loads per acre were applied, the valuation at 4*s.* per load would then amount to £4 per acre.

(3) The manure is sometimes taken by the incomer at full market price. Unapplied manure will be carefully measured and some proof of the quantities of the applied

manure should be supplied by the outgoer. Four shillings per load was a very common figure for the unapplied manure, and in the case of the applied there must be added the carting and spreading. It may be added that a load of manure varies in different districts from 27 to 40 cubic feet. Twenty-seven cubic feet represent 1 cubic yard, and if the mixen is an old one, a cubic yard may reasonably be taken as the equivalent of a load. Sometimes the outgoer leads out the dung just before the valuation and occasionally mixes mould or even less desirable materials with it. The valuer must be on his guard against such practices, and where it has been freshly led out into a heap, he might even estimate a load at 40 cubic feet.

Home-produced farm-yard manure bestowed on arable land is usually considered to be exhausted by one crop; that is, the farmer is not allowed for any residual value of the farm-yard manure after one crop has been taken. In some cases, however, where it is applied to a root crop or even spread on pasture land, half the value is allowed, even though one crop has been taken since the application; that item is then known as "half-manures." In this connection we may notice the advice of Messrs. Voelcker and Hall, who recommend that where a crop (say of green or white turnips) has been grown with the farm-yard manure made, and the *whole* of this crop has been fed on the land, then the farmer should be compensated for the manure just as if no crop had been grown.

It may be doubted whether the outgoer is sufficiently rewarded for his home-produced manure. Where valued, 4*s*. 6*d*. per load or perhaps 5*s*. to 6*s*. per ton were usual figures. Hall, however, considers that a ton of farm-yard manure costs the farmer from 7*s*. to 12*s*. per ton to produce. Even if it were valued on the unit principle at 15*s*. per unit of nitrogen, 3*s*. of phosphoric acid, and 4*s*. of potash, a ton of well-rotted manure would come to about 12*s*. It must be admitted, however, that the availability of nitrogen in dung is very much less than that of sulphate

of ammonia or nitrate of soda, and thus 15*s*. per unit for the nitrogen in the dung is much too high. It is obvious that the value of the unit of nitrogen in a slowly acting manure is much less than in the quickly soluble nitrate of soda. The opinion may be hazarded, however, that generally the incomer obtains the better bargain.

In regard to purchased manure, a farmer seldom has the opportunity of buying farm-yard manure, and consequently very few Scales of Compensation provide for this improvement. Where he does apply purchased farm-yard manure to his land, we may suggest that it would be liberally valued on the three years principle (*i.e.*, a deduction of one-third from the cost for each crop taken since the application) in the case of manure applied to arable or meadow land, and on the four years scale (*i.e.*, deduction of one-fourth per crop) when applied to pasture.

Since the advent of the electric tramcar and the motor car, town-manure is not quite so much in evidence as it used to be. Moreover, town-manure (from horses and cows), owing to frequent mixing and handling, has less value than the home-produced article, which can be put more readily on the land. Some people are of opinion that the modern practice in urban districts of tarring roads has a deleterious effect on the horse or cow manure deposited thereon. Where purchased town-manure has been used, the valuer might take the cost price and the carriage as the starting-point, and make a deduction according to the kind of crops or land to which the town-manure has been applied. We suggest that the two years scale for town-manure applied to arable or meadow land, and the three years scale when applied to pasture, would give adequate compensation.

(*e*) **Cultivations or Tillages.**—Before discussing this important topic, we must notice that there are two distinct *methods* or *principles* of valuation in vogue in respect to the same, and it behoves us briefly to describe them.

(1) **Cost of Production.**—The more usual method adopted in valuing cultivations (whether fallows, roots, or seeds, or

even an away-going crop) is to base the compensation on the cost of production, viz., labour (including labour spent on carting and spreading the farm-yard manure), purchased manure, seeds, and sometimes an allowance for rent and rates. Not that the compensation is the actual cost to the sitting tenant; the incomer must pay for the work done a reasonable sum, which will include a profit to the outgoer as one hired for the performance of work. He cannot receive any profit from the anticipated crop, and therefore he takes his profit from the work direct. To such an extent is this carried that even if the first attempt to raise a root crop is unsuccessful and a second one is made, it is assumed that the labour has been expended for the benefit of the incomer. It cannot be denied that this method is a simple one, and perhaps on the whole gives cause for less irritation than the rival method of assessing the value of either a growing or drawn crop. At the same time the cost of production method has a serious drawback, and this is most obvious when the crop is wholly or partially a failure. When there is a failure of roots and seeds, an allowance is usually made for the manures used. Many valuers go further than this, however, and grant the outgoer a liberal sum for his fruitless cultivations and seeds, arguing that if the incoming tenant had sown his own crop the result would have been the same. Of course, if the failure results from imperfect tillage or carelessness, the matter assumes a different aspect: but we are assuming that the failure has been solely due to adverse weather, and in such cases the outgoer is inclined to be viewed as a hired contractor. This view is not likely to commend itself to the incomer. He asserts that he had no option in the matter, that he never gave orders, but is in the position of a forced buyer and therefore ought not to pay more than the actual worth of the crop that is handed over to him. This brings us to the second method of valuation referred to above.

(2) **Face Value.**—In some districts the various tillages are valued not at the cost of production to the outgoer plus a reasonable profit, but at the actual value to the incomer

of the crop handed over. It must be admitted that this method is more in accord with the spirit of the Act, which lays down as a basis for the value of statutory improvements their worth to the incomer and not their cost to the outgoer. This face-value method is not quite so usual as that of cost of cultivations; and is not calculated to please the outgoer where the crop has been a failure. Moreover, it is perhaps a method that is more difficult to apply, particularly in the case of bare fallows and seeds, because one can hardly say what their worth or value is to the incomer; hence we find its application mainly in the valuation of root crops. We shall therefore deal with the valuation of roots on this principle at once before describing the more usual method. Obviously two points confront the valuer:—

(1) The weight of the crop, and
(2) The value per ton of the roots.

There will be the further consideration as to whether the compensation value allowed shall be "consuming price" or "market price." In the case of a Michaelmas valuation, the root crop would, of course, be a growing crop. The valuer might rely on his own judgment, and perhaps 20 to 25 tons per acre for mangolds and 15 to 20 tons per acre for swedes would be about the average.

The next point is the price to be allowed. The market price might perhaps be ascertained from current price lists, although roots do not figure so prominently in market reports as hay and straw; and hence valuers are inclined to take fairly fixed figures somewhat as follows: mangolds, 12s. per ton; swedes, 10s. per ton; and turnips, 8s. per ton. These, however, are the full or market prices of roots in ordinary pre-war years. It is notorious that in nearly every county and district in England the outgoer must, at any rate during the last year of his tenancy, consume his roots on the holding; in other words, as in the case of hay and straw, he is often allowed *consuming* price only, and thus, instead of taking the figures indicated above, we should take

two-thirds of these values, viz., mangolds, 8s. per ton; swedes, 6s. 8d. per ton; turnips, 5s. per ton.

In the case of a Lady-day tenancy, the valuation of the roots will not be quite such a serious factor, the outgoer will have consumed a large proportion of them during winter. The ascertainment of the weight of a growing crop will not disturb the valuer. His task will rather be that of measuring and estimating the weight of a clamp. This is by no means an easy task; but some valuers reckon that 64 cubic feet to mangolds or swedes, and 72 cubic feet to turnips will weigh a ton respectively. Due care must be taken to make reasonable allowance for the straw and soil when measuring the clamp.

We now return to our main task of valuing the cultivations that are necessary in the case of either fallows, roots, or seeds. Sometimes the word "tillages" is used instead of the term "cultivations." What is primarily meant is, the labour which the outgoer properly bestows on the land he is leaving for the benefit of the incomer. A salient feature of the valuer's task is to determine whether these acts of husbandry were necessary and whether they were well and properly performed, as slovenly cultivation is not merely likely to affect the next crop, whether roots or seeds, but is calculated to influence the whole rotation of crops. Where the work, however, has been really well done, there should be no hesitation in rewarding the outgoer liberally, and even in allowing him a profit over and above the bare cost, as he cannot possibly receive any profit from the anticipated crop. It will be obvious to any person with business experience that the cost of tillages is a variable factor, dependent upon the cost of horse keep, labourer's wage, risk, and wear and tear. The cost of cultivation will vary in different parts of the country, different soils and different seasons; hence, the reader must merely look upon the undermentioned figures as an approximation, and should check them by the current prices of the day, as they are pre-war rates. At the present time (end of 1919) the cost

of these cultivations will be more than double the pre-war rates.

Ploughing will obviously depend upon the nature of the land, and a second or third ploughing can be done more cheaply than the first. For a first ploughing the allowance on light land is generally 10s. per acre, on medium, 12s., and on heavy clays from 16s. to 18s. per acre. In Lincolnshire, the allowances for ploughing vary from 8s. to 12s. per acre.

Dragging.—The cost of dragging or drag harrowing will vary from 1s. to 1s. 3d. on light soils, to 1s. 6d. or even 2s. on heavy soils per "tine," that is, per tine per acre.

Harrowing costs from 9d. to 1s. per acre per "tine."

Rolling.—For heavy clod crushing an allowance of 2s. 6d. per acre is often made, but for the Cambridge or ring roller and for a light flat roller the cost is reckoned at 1s. to 1s. 6d. per acre.

Cultivating (also called in different parts **Grubbing, Scarifying** or **Scuffling**).—The allowance is to some extent regulated by the depth; for cultivation 6 inches deep the price is frequently estimated at 4s. per acre; 4 inches deep on light land would be reckoned at 2s. to 3s. per acre.

Pressing is valued at 3s. 6d. to 5s. per acre.

Drilling either corn or turnip seed is frequently calculated at 2s. 6d. per acre; but in the case of drilling turnip seed an extra allowance must be made for the labour of mixing and carting the manure and ashes, and this brings the cost up to approximately 5s. per acre.

Broadcast Sowing is often necessary on heavy land where a drill will not work, and allowances at the rate of 6d. per acre for corn, or 4d. per acre for clover seeds and grasses, are quite usual.

Raftering or Half Ploughing to Cleanse Foul Land is frequently estimated at 8s. per acre.

Hoeing.—Corn horse hoeing on heavy land, at 1s. per acre. Corn hand hoeing, 5s. per acre on heavy land, 3s. per acre on light. Horse hoeing on roots, 2s. 6d. per acre on

heavy land, 2s. on a medium or light soil. Hand hoeing on roots, from 4s. per acre on light land, up to 7s. per acre on heavy.

Singling Turnips.—3s. to 4s. per acre.

Steam Tillages.—Ploughing, 10s. to 12s. per acre;
Pressing, 3s. to 4s. per acre in addition to that of ploughing;
Cultivating, 8s. to 10s. per acre for one turn, 12s. to 15s. per acre if crossed;
Harrowing or Dragging, } 6s. per acre.

Rent and Rates.—Before proceeding further it may be necessary to explain one item that occurs in some bills of cultivation, viz., an allowance for rent, rates, and taxes, according to the time the crop in question has occupied the ground. This allowance is a matter of custom, and one which we think should be provided for in the agreement; in some Michaelmas entries a summer fallow or root crop valuation will be charged with a whole year's rent of the root or fallow land. Such a charge increases the burden of the incomer considerably. In some districts, however, no allowance for rent, rates, or taxes under similar circumstances is made, and the burden on the incomer is accordingly lighter. The chief point is to ascertain (failing a stipulation in the agreement on the point) what was the prevailing practice when the outgoer himself entered. If he was then charged with rent, rates, and taxes on the roots, it is just that he should be allowed to make such a charge when leaving. On the other hand, if these items were not allowed in the valuation of the roots to him, he cannot sustain a claim to the same when leaving: "as a man enters so must he leave."

The cost of the seed for root crops is not a very serious item. The valuer, however, should acquaint himself with the current prices of seeds, and should ask for the production of the vouchers to ascertain whether the alleged

quantity sown and the prices paid for them are correct. As root seeds vary from 8d. to 1s. per lb. and an acre of mangolds requires about 6 to 8 lbs. of seed, whilst an acre of swedes or turnips will require not more than 3 to 4 lbs., this item is seldom questioned. The valuer, however, will ask for the production of vouchers to see whether the alleged quantity of superphosphates or other artificials has been used. With these preliminary remarks as to the cost of the various operations we may proceed to look at our crops as a whole.

Roots.—The outgoer should supply a list of the actual cultivations, the weight and price of the seed and artificials. The incomer's valuer will consider whether these cultivations were not merely well done, but necessary. Take one of the items mentioned above, viz., *raftering*, an operation necessary for cleansing foul land: the incomer will argue that there ought to have been no foul land, or, at any rate, that he should not be responsible for the cost of cleansing it. This is a just argument, and consequently the alleged quality and nature of the cultivations must be carefully scanned. The root crops take the place of fallows on soils which will carry sheep throughout the year. The term "roots" includes mangolds, which will be found principally upon clay land, and swedes and turnips, chiefly grown on sheep land. The expression "roots," however, also includes kale, rape, and cabbage, and frequently small amounts of these will enter into the valuation. It should be carefully noticed that potatoes do not come under the term "roots" for valuation purposes. Instead of cleansing land, potatoes are more likely to have the reverse effect, and of course they are not consumed on the land by stock; in other words, they subtract from the manurial value of land, whereas a root crop consumed on the land is designed both to enrich it and to clean it. We have said above that the outgoer should submit a detailed bill of his cultivations. At pre-war rates this bill in the case of mangolds and swedes ranged from £4 to £6 per acre, and £3 to £4 for turnips.

Bare Fallows.—Bare fallows are lands that have been

cultivated throughout the year and not cropped. This operation is a costly one, as there is no return whatever, as is the case with the root crop. Moreover, the succeeding crop of wheat will not bear the heavy cost, but heavy clay-land farmers consider that a bare fallow beneficially affects the ensuing rotation for a period of five or six years. Bare fallows are still practised on the tenacious clays of Essex and in some parts of Kent, Suffolk, and Sussex. The cultivations differ widely according to the nature of the clay; in the case of a soapy clay, ploughing would be the chief operation: subsequent harrowing or rolling merely induces the soil to cake after heavy rains. The chief operations would be ploughing (and where possible draggings, and harrowings and rollings); an allowance would also be claimed for gathering couch and other weeds. In some cases there might be as many as six ploughings and twenty-four draggings, and the cost in normal conditions would range from £4 to £6 per acre.

Bastard Fallows.—Some clays are not so tenacious, but yet too heavy for mangolds and swedes; not that mangolds and swedes do not thrive on clay land, but the difficulty consists in the land being too cold for the sheep to eat the swedes off. On such land, vetches might be sown upon the fallow, and sheep allowed to eat them off in summer when the land is dry. The heavy expense of a bare fallow can sometimes be reduced by introducing such a forage crop. The operation is then called a "bastard fallow."

Catch Crops.—The term "catch crops" is applied to crops which are sown usually on a piece of the wheat stubble and fall between the wheat and roots. In the case of a Lady-day tenancy such a crop might be the subject of a claim, and where it has not been carried off it should be allowed. Such crops consist of vetches or tares, trifolium, rye, winter barley, cole-seed or rape and mustard. The cultivations, of course, are not expensive: one ploughing, a couple of harrowings, sowing, and a couple of harrowings and rollings after sowing. The seed itself is cheap, and it

is usually intended that such a crop should be eaten between March and June. The allowance or cost of a catch crop would probably be from 30s. to £2 per acre.

In a Michaelmas entry the item would scarcely arise for valuation, as it should have been entirely eaten before that date. In fact, so far as a Michaelmas valuation is concerned a catch crop might have a baneful effect, because the weather might be so bad and the feeding off so late as to allow insufficient time for the cultivations necessary for the turnips or swedes.

Half Tillages or Half Fallows and Folding.—In our remarks on farm-yard manures, we mentioned that where farm-yard manure was put on a root crop fed off by sheep, or applied to pasture land, half the value was frequently allowed, although the crop had been taken since the application. Some valuers allow one-quarter when the roots are eaten elsewhere. We now come to the consideration of an allied matter, but one which demands a little fuller consideration, and that is the subject of half tillages.

We have just noticed that a catch crop of vetches, rye, or rape might be sown immediately after harvest on a selected piece of the wheat stubble and fed off from May to June; we said that this was of little importance in the case of a Michaelmas entry. If, however, there was no retardation of the cultivations for the ensuing root crop, some allowance might then even be made, say 12s. to 25s. per acre. It is assumed that there is a certain available manurial residue left from the consumption of these catch crops and that the tillages necessary for the crop fed off are really part of the tillages of the ensuing root crop, or what comes to the same thing, that they reduce the labour necessary for the ensuing root crop.

This practice of allowing half tillages is not confined to catch crops. A similar allowance (that is, half the cost of the production of the root crop of the previous year) is made when turnips are fed off early in autumn. This allowance is sometimes called "folding," or allowance for roots fed off by sheep. It is one likely to induce a high state of

fertility, but nevertheless a claim which the valuer should carefully scrutinise. If the sheep eat the turnips by day and range elsewhere by night, the value of their "golden feet" is reduced. Further, the number of sheep folded is a point to be borne in mind. To merit high compensation it is considered that three full-grown sheep or five lambs should have been penned to the square hurdle.

The claim for half tillages is usually restricted to roots and catch crops fed off. Where a subsequent white-straw crop has been taken after the catch crop or roots, the claim should not be entertained.

Seeds.—By the term "seeds" we mean the various temporary grasses—clovers, trefoil, trifolium, lucerne, sainfoin, etc. We have mentioned this subject above when considering permanent pastures. That subject, however, presented different considerations. The seed mixture for a permanent pasture would be more costly, the preparation of the seed bed and other cultivations would need to be done very much more carefully, and the permanent success of the finer grasses would depend greatly on the after-cultivation in the third to the fifth or sixth year from sowing (see *ante*, pp. 174-180).

In regard to temporary pastures we may consider—

(1) The case of a one year's ley or annual grass, and

(2) Those that are intended to exist for more than one year and particularly sainfoin and lucerne.

(*a*) **One Year's Ley.**—If the seeds were bought and sown by the outgoer, the claim will be for seed and labour. On the other hand, the incomer may himself have supplied the seed, and thus the claim will be merely for labour. The cost, therefore, depends upon the quantity and price of the seed, and the allowance made for the extra labour involved in sowing, rolling, and harrowing in. It need hardly be said that temporary pastures are sown with spring corn. If the season is a good one they may supply a valuable bite for horned stock soon after the corn is cut; but at the same time if the outgoer either grazes, folds, or cuts the seeds himself, he will not be allowed full compensation. There

is some labour necessary after the corn crop has been cut, and this will consist in rolling in November and perhaps bush harrowing and rolling early in spring. The essential constituents of a one year's ley vary considerably. It might consist of red clover, or trefoil, or giant sainfoin, or trifolium, or Italian rye grass, &c., but the probability is that it would be a mixture varying according to the purpose for which it was intended, viz., grazing or cutting; but in any event Italian rye grass or red clover would invariably predominate in a one year's ley. The amount of seed required would be about 18 to 20 lbs. per acre, and the price would vary from 12s. to 15s. per acre. One shilling per acre might be allowed for sowing and a light rolling, and the compensation would scarcely exceed 15s. per acre. In fact, many valuers allow only 12s. per acre.

(*b*) **Two or Three Years' Ley.**—After the first crop has been cut or the seeds depastured or folded in the year following the white corn crop, the seeds would be old ley and ploughed up in preparation for wheat. Under these circumstances there would be no compensation, except, of course, for the necessary labour that had been bestowed in ploughing or cultivating the land for wheat. Sometimes, however, it is intended that a temporary pasture should exist for more than one year, and leys for two years or three years are fairly common. In such a case a heavier and somewhat different seed mixture will be necessary. For a two years' ley Italian rye grass would still be continued, but there would probably be less red clover, but more white clover and alsike; and for a three years' ley the quantity of seed would be greater than for a two years' ley; and for a four, six, or eight years' temporary pasture the weight would need to be slightly increased, and there would be the introduction of some of the finer and more expensive grasses. At the same time, for an extended ley of this character the prescription need not be so expensive as that required for a permanent pasture.

The Agricultural Holdings Act provides compensation for seeds sown more than two years prior to the determination

of the tenancy (see *ante*, pp. 178-180). Two classes of seeds admittedly maintain a vigorous growth beyond the first year and are laid down from periods of four up to eight years. We refer to *lucerne* and *sainfoin*. Lucerne and sainfoin seeds (like clover) are usually drilled with the spring corn crop, and lucerne requires a fairly heavy amount of seed, viz., about 56 lbs. of milled seed, or about 5 bushels if sown in the husk or unmilled. The seed mixture would cost about 30s. per acre in the case of sainfoin and 20s. per acre in the case of lucerne. Before the Agricultural Holdings Act allowed compensation for temporary pastures, it was quite common to compensate lucerne and sainfoin. The method of compensation is somewhat as follows:—

First Year.—The sainfoin or lucerne having been drilled with the spring corn in the same way as clover seeds, the outgoer is entitled to the cost of seed and labour whether the crop has been a failure or not. The sum allowed is usually 40s. per acre in the case of sainfoin, perhaps slightly less in the case of lucerne.

Second Year.—If the plant be good, the compensation would vary from 20s. to 30s. per acre, perhaps 25s. being an average.

Third Year.—For the third year the compensation allowed is usually about 10s. to 15s. per acre.

In the past, valuers have not been in the habit of compensating these plants beyond the third year. According to the Act a claim could now be advanced in the case of these or other seeds beyond the third year; but the value must be their worth to an incoming tenant, and it is not the practice to consider these seeds of much value beyond three years. It is admitted that the common English sainfoin and lucerne may continue for six or even eight years; but there should be no compensation in the case of sainfoin after three years, because in each subsequent year it will tend to foul the land, and thus eventually a heavy burden will be cast upon the incomer; and it would be quite inequitable both to cast this burden upon him and to charge him compensation for so doing. To merit full compensa-

tion during the first three years, sainfoin should not be subject to intensive folding by sheep. They scoop out the heart of the plant, and if frost or snow subsequently sets in, the plant rapidly dies; it is better to allow them to range over it lightly for a few hours per day.

(*f*) **Dilapidations and the Counter-claim.**—It must not be supposed that the landlord's only mode of procedure in regard to waste is to counter-claim. Obviously if this was his only method, and the tenant did not send in the claim, the landlord would be helpless. Many outgoers have the notion that if they do not send in a claim for unexhausted improvements the landlord cannot come upon them for dilapidations. This is quite an erroneous opinion, and an outgoer should never hesitate to send in his claim simply because he expects that a counter-claim will not be made against him. The landlord can, if he desires, sue in a court of law for the waste done to his holding instead of proceeding by the method of a counter-claim. It is very convenient, however, and probably saves expense, to counter-claim for dilapidations rather than to sue either in the High Court or County Court. We proceed, then, to consider some of the main deductions from the tenant's claim. These dilapidations fall into two well-defined classes:—

(1) Those having regard to the buildings; and

(2) Dilapidations to the land.

Dilapidations of Buildings.—In respect to this type of claim we must distinguish two classes of cases:—

(*a*) Where the tenant has not undertaken the burden of repairs or not signed a written agreement; and

(*b*) Cases where there are repairing clauses in the lease or agreement.

In the first class of cases the relationship of landlord and tenant implies that the tenant will use the property in a tenant-like manner. In a yearly tenancy he must do such minor repairs as are necessary to prevent the premises from deterioration: *e.g.*, he must keep the premises wind and water tight, and replace windows or doors which may become broken; but he is not liable for mere wear and tear

of the premises, nor would it be obligatory upon him to rebuild the premises if they were burnt down. If the tenant fails to mend the broken or cracked windows and to replace broken doors, the valuer will usually have little difficulty in assessing the damage, which is the amount of money necessary to effect the repairs.

In the second case, where the tenant has undertaken to do repairs, the agreement must be carefully consulted in order to ascertain the exact amount of the tenant's liability. A general covenant to repair is satisfied by the tenant keeping the premises in substantial repair: a literal performance of the covenant is not required. Where the tenant covenants to keep old premises in repair, he is not liable for such dilapidations as result from the natural operation of time and the elements; and with a view to determine the relative sufficiency of the repairs the valuer should consider whether the buildings were old or new at the beginning of the tenancy, and what was their then state of repair and condition generally. The tenant's obligation is frequently expressed in some such words as follows: "during the said term to keep the buildings in good tenantable repair, and so leave the same at the expiration thereof." This obligation means that the tenant must put and keep the premises in such repair as, having regard to the age, character and locality of the buildings, would make them fit for the occupation of a reasonably-minded tenant of the class who would be likely to take them. The tenant should carefully peruse his draft lease to see that there is a clause therein which exempts him from liability in the event of the premises being wholly or partially destroyed by fire, lightning, or tempest. If he does undertake such a responsibility, he should, of course, insure the premises at once in order to safeguard himself.

We have already pointed out that if the incoming tenant takes over the responsibility of repairing the buildings, he is entitled to be allowed the sum agreed upon for dilapidations thereof. On the other hand, if the landlord covenants with the new tenant forthwith to put the premises into a

proper state of repair, the landlord will receive the amount allowed for this specific dilapidation: that is, the incomer will pay the full award, and the landlord will receive the amount allowed for dilapidations to buildings and the outgoer the balance.

Dilapidation of Land.—Dilapidation for neglect of the proper cultivation of land raises quite different considerations. In the first place, the landlord does not receive the sum allowed for such neglect; the incomer expressly or impliedly contracts to cultivate the land according to the customs of the country and the rules of good husbandry. If there be foul land on the farm he has just taken, it is his duty to eradicate the foulness, and consequently he should receive the credit of the sum awarded for dilapidations to the land. The claim under this head generally resolves itself into a money claim for—

(*a*) The absence of a stipulated or customary amount of fallow or land in preparation for wheat, or

(*b*) A closely allied claim, viz., for a contravention of the laws of rotation of cropping, or

(*c*) A claim for the presence of neglected or foul land.

(*d*) A counter-claim for hay, straw, roots or green crops sold off.

(*e*) A claim for failure to repair gates, fences and ditches.

(1) **Absence of Roots or Seeds.**—In the case of the four-course rotation, the landlord would reasonably expect that approximately one-fourth of the arable land consisted of roots or fallows, and that another fourth was seeded down with clovers with the last year's corn crop. In considering this item the valuer will naturally consider the general state of the whole farm and the relative size of the various fields. It often happens that the fields cannot be parcelled together into lots making exactly one-fourth or one-fifth of the whole arable land. Some little latitude, therefore, is allowed, and the outgoer is not expected to divide a field in order to obtain mathematical exactitude. In the five-course rotation, the outgoer fulfils his covenant if one-fifth is root land and another fifth is left in seeds or other approved

preparation for wheat. Where there is a great insufficiency, however, the outgoer is fined, and the method adopted is that of reckoning one or two years' rent and rates on the insufficient area; a maximum of 40s. per acre penalty is a favourite one with many valuers. A wrong rotation of crops is a matter of a similar order. If the rotation is correct in the last year of the tenancy, it is immaterial that it may have been incorrect in a former year. Further, if the tenancy were determined by causes other than the usual one of notice to quit, claims for an insufficiency of roots or seeds or a divergence from the approved rotation are not pressed. In some districts, however (*e.g.*, in Lincolnshire), valuers still make a deduction for land that has been "cross cropped," unless artificials have been returned, even though the proper quantities of roots, seeds, etc., are left in the last year.

(2) **Foul Land.**—The presence on a farm of foul land is perhaps a more important consideration; at any rate, a penalty for foul land would doubtless be claimed whether the tenancy had been abruptly terminated or ended in the usual way. The valuer will inspect not only the stubbles, but also the young seeds, with the view of ascertaining the presence or absence of noxious weeds or couch; the presence of docks or thistles is also a serious matter, as their eradication is a difficult task. The damage in the case of land should be the cost of cleaning it; but valuers have a peculiar way of estimating this cost. They make a deduction equivalent to the rent and rates for half a year, a year, or even more, according to their judgment. The origin of this practice appears to be that the rent of land and the costs of cultivation are somewhat in proportion to its lightness or heaviness. We have already seen that the cost of ploughing light land is less than the same operation on a medium or stiffer soil. It must be admitted that the allowances made for dilapidations to land are rough approximations; in the case of foul land the allowance may vary from 15s. per acre to £2.

(3) **Hay, Straw, Clover, and Roots Sold Off.**—We have

already dealt with this subject, pointing out that in many districts Voelcker and Hall's scale of manurial values is accepted (see *ante*, pp. 204-205), and that the outgoer is dilapidated 23s. 10d. per ton for clover and sainfoin, 16s. 10d. per ton for meadow hay, 7s. for straw, and 3s. for mangolds, swedes, or turnips sold in the last year of the tenancy, and half these sums respectively for these feeding stuffs sold in the year preceding. These amounts are additional, of course, to any sum allowed to the incomer for the enhanced cost and the carriage incurred in purchasing what he requires. We have advanced arguments, suggesting that this scale is insufficient, and we have doubted the legality and expediency of reducing the fine to half the manurial value in the case of produce sold off in the last year but one of the tenancy (see *ante*, pp. 227-231). In fact, many Valuers' Associations recommend that a tenant shall be penalised at a somewhat higher rate than the figures in the Tables, as these figures merely take into account the chemical value of the manurial constituents of a ton of hay, straw, &c.; and practical men argue that an addition should be made for the beneficial mechanical effect that would have resulted from the application of the farm-yard manure which would have been available if the hay and straw had not been sold off. We have also indicated the method recommended by the Central Association of Tenant Right Valuers where hay, straw, and roots have been sold off in the last year contrary to the agreement or custom (see *ante*, pp. 230-231).

(4) The tenant is bound by the laws of good husbandry to preserve the boundaries of the land demised to him and to keep his ditches clean. Quite apart from this implication of law, practically every agricultural contract of tenancy contains a clause whereby the tenant covenants to keep in good tenantable repair and condition all drains, outfalls, gates, gate posts, hedges (alive or dead), fences, ditches, watercourses, etc., and also to properly trim all quick fences, and each year to lay and plash such as require to be done at proper seasons of the year. It is notorious that fences and ditches are often left in a dilapidated con-

dition, and in the past valuers have been somewhat lenient in regard to untrimmed hedges and unscoured ditches. Recently Valuers' Associations have pressed upon their members the necessity for making proper allowances for such defects. No detailed rules can be enunciated: each case will depend upon its own facts; but in any event the allowance made should be sufficient to cover the cost of making good the outgoer's defaults.

CHAPTER IV.

CUSTOMS OF THE COUNTRY.

THE reader will have gathered that the writer's opinion is that the best course for landlords and tenants is to embody the whole of their contract in a written agreement, and not to rely upon custom, which is difficult to prove and is by no means uniform over a whole country. A work on Tenant Right Valuation, however, would be incomplete if it failed to enumerate existing customs in different localities. It is impossible to indicate these customs in a stereotyped form, for they often vary widely within the limits of one county. Hence, the following descriptions under the names of the respective counties must be looked upon as approximations only, and must not be taken to apply literally to the whole of the county. They represent the general tendency.

The customs will be given as far as possible in the following order: (1) Entry; (2) pre-entry; (3) hold-over; (4) hay and straw; (5) manure; (6) seeds; (7) roots, tillages, and fallows; (8) unexhausted feeding stuffs; (9) artificials and purchased manures; (10) a miscellaneous note where necessary.

BEDFORDSHIRE.

ENTRY.—Michaelmas.

PRE-ENTRY.—Not very general, but in some cases incomer allowed to enter on fallows, and to sow seeds in corn at Lady-day, and he has the use of the stable for his horses.

HOLD-OVER.—Frequently the outgoer has the use of part of the house, buildings, and stackyard till following Lady-day.

HAY AND STRAW.—Consuming price allowed.

MANURE.—Labour and cartage only allowed.

SEEDS.—Valued at cost of seed and sowing, provided they have not been grazed.

ROOTS.—Valued at cost of seed, purchased manures and cultivations. On bare fallows cultivations are allowed.

FEEDING STUFFS.—Generally the valuers are members of the Herts, Beds, and Bucks Valuers' Association, and use Voelcker and Hall's Tables.

PURCHASED MANURES.—No definite scale used, but a liberal allowance made, particularly in the case of bone meal, where half the cost is allowed after a white straw crop, and generally on the three years' principle when applied to pasture land.

BERKSHIRE.

ENTRY.—Generally Michaelmas, although occasionally changes take place at Christmas and Lady-day.

PRE-ENTRY.—The old custom allowed the incomer to enter upon the fallows intended for roots on the previous Lady-day, but he had no pre-entry of the house. This custom appears to be disappearing.

HOLD-OVER.—The outgoer frequently has accommodation in the house, and use of stackyard and barns until Lady-day.

HAY AND STRAW.—The basis for valuation is ruled by the entry of the outgoer; but it is general for the hay, first cut clover, and wheat straw to be taken at market price, and oat and barley straw at consuming price.

MANURE.—Passes gratis to the incomer, cartage being allowed where it has been led out and spread.

SEEDS, ROOTS AND TILLAGES.—The outgoer, who has cultivated the fallow land, is paid for the tillages, seeds, and labour expended thereon, irrespective of result, provided he has kept the rules of good husbandry. Similarly, in the case of seeds, he is paid for their cost and the labour of putting them in.

FEEDING STUFFS.—Many valuers are members of the Berks, Beds and Oxon branch of the Surveyors' Institution. Nearly all of them adopt Messrs. Voelcker and Hall's Tables without question.

PURCHASED MANURES.—The allowances for purchased manure may be described as liberal. In the case of a root crop, the whole cost of artificials is, of course, allowed where the roots are unconsumed, and half cost where the roots have been consumed. In the case of phosphatic manures and bone meal, generally half cost is allowed after a white straw crop; and one-quarter after a root crop fed on the land and followed by a white straw crop.

BUCKINGHAMSHIRE.

Entry.—Michaelmas entries prevail in the south and south-east of the country, and in that part the customs enumerated in the case of the county of Berks practically apply, with the under-mentioned variations, viz., in addition to the pre-entry customs mentioned above, the incomer is sometimes allowed to enter after August 1st to work fallows. Sometimes also in Michaelmas tenancies the corn is harvested by the incomer for the straw; but more generally the Berkshire custom of valuing the straw prevails.

In the north and north-west of the county, however, old Lady-day tenancies are not uncommon, and in such cases the Berkshire custom in reference to pre-entry and hold-over are of course not applicable.

Folding.—It is often stipulated that a certain number of sheep shall be kept on the farm during the last year by the outgoer till September 29th, and folded on such part of the farm as the incomer directs.

In the case of Lady-day entries, too, the hay and straw are generally valued at consuming price.

CAMBRIDGESHIRE.

The customs in this county vary widely, as there are many varieties of land.

Entry.—Generally Old Michaelmas. Usually there is no pre-entry, but the outgoer holds part of the buildings until Lady-day to thresh and dress his corn crops.

Hay.—Valued at consuming price.

Straw.—Various customs are met with, viz.—

(*a*) Frequently it is taken at a consuming price per acre, and not on the usual practice of per ton; but

(*b*) Where the incomer threshes and dresses the last year's crop, he is allowed the straw for his services.

Manure.—The manure usually passes free, but not invariably. Labour expended thereon in carting and spreading is allowed.

Seeds.—It is customary for the outgoer to sow the small seeds, and to be paid for them by the incomer.

Roots.—Both the usual methods of valuing roots are met with, viz.—

(*a*) At a consuming price per ton; and

(*b*) At the cost of seed, labour and manure.

Bare Fallows.—These are paid for at the cost of the cultivations and one year's rent and rates.

Feeding Stuffs.—In the Isle of Ely district, the valuers generally belong to the Wisbech Valuers' Association, and they adhere to the Lincolnshire custom and scale of basing their assessments on the cost of the feeding stuffs consumed. Change in this respect is not improbable, and when valuing east of the Ouse there is a tendency to adopt Voelcker and Hall's Tables. In fact it is admitted that valuation on the basis of the Revised Tables is sound in principle.

In the part of the county near the borders of Suffolk a tendency may also be noted to be guided by the scale of the Suffolk Society. Where cake has been fed, and artificials applied to green crops fed off in the last year of the tenancy, it is customary to allow half cost.

Purchased Manures.—A liberal allowance is made for purchased manures (particularly basic slag and undissolved bones). The normal allowance may perhaps be stated as follows: On a two years' principle in the case of meadow land and corn crops, the three years' principle in the case of green crops; and on a seven years' principle in the case of pasture land. The more liberal scale of the Suffolk Valuers' Society has its influence on the borders of that county.

CHESHIRE.

Entry.—February 2nd. The customs are very variable; the district around Nantwich, Northwich, the Wirral District, Middlewich, and Macclesfield, may all be said to have customs peculiar to the neighbourhood. Generally there is no pre-entry, although in some few cases in the west pre-entry on meadow land is permitted on December 29th.

Hold-over.—Very general. The outgoer retains till May 1st the house, buildings, and a pasture field called an "outlet" for cattle.

Hay and Straw.—Valued at consuming price.

Manure.—In North Cheshire the full value on unapplied manure, and cost of haulage to heaps or a field allowed; around Northwich two-thirds of value of unapplied manure and cartage; around Nantwich labour only allowed.

Seeds.—Clover and grass seeds sown by outgoer in the last year are paid for at cost of seed and sowing; subject to deductions for injurious stocking. Young seeds must not be eaten off after harvest.

The compensation for two years' and older temporary pasture is based on face value.

Roots.—Two-thirds mature value of crops.

Away-going Crop.—The outgoer takes an away-going crop of wheat, one-half after a corn crop, and two-thirds after a summer fallow. He reaps and sets up in "attocks" his share of the wheat crop, and the straw belongs to him. In many recent agreements the outgoer quits and gives up possession of house, buildings and land on February 2nd; and the right of "hold-over" until May 1st appears to be on the wane. It is quite common, however, for the outgoer and incomer to agree at the date of quitting as to the price of the away-going crop, and, of course, where the incomer becomes possessed of it in this manner, he deals with it in his own way. Not infrequently, too, the incomer agrees with the outgoer not to sow an away-going crop, and pays an agreed sum per acre for such abstention.

Feeding Stuffs.—There are four important societies, viz., the Cheshire Chamber of Agriculture, the Lancashire and Cheshire Committee of the Surveyors' Institution, the Lancashire and Cheshire Branch of the Land Agents' Society, and the Lancashire Farmers' Association, which practically control scales of compensation in the

counties of Cheshire and Lancashire. In 1912 the following revised scale was adopted by these bodies :—

No.		Last year of tenancy. Per ton.			Last year but one of tenancy. Per ton.		
		£	s.	d.	£	s.	d.
1	Decorticated cotton cake	2	16	0	1	8	0
2	Rape cake and soya cake...	2	0	0	1	0	0
3	Linseed cake	1	18	0	0	19	0
4	Malt culms	1	16	0	0	18	0
5	Undecorticated cotton cake and soya beans	1	14	0	0	17	0
6	Cocoa-nut cake, linseed, beans, peas, bran, and pollard	1	10	0	0	15	0
7	Dried grains	1	4	0	0	12	0
8	Palm-nut cake and pure clover or sainfoin hay	1	0	0	0	10	0
9	Malt, wheat, barley, oats, maize, and rice meal	0	14	0	0	7	0
10	Locust beans	0	12	0	0	6	0
11	Hay	0	15	0	0	7	6
12	Straw	0	7	0	0	4	0
13	Brewers grains (wet)	0	6	0	0	3	0
14	Mangolds, swedes and turnips	0	2	6	0	1	6

This scale is regarded as a maximum : moreover, the amount payable for the last year is limited to the average quantity consumed during the three years preceding the termination of the tenancy.

In estimating dilapidations for hay, straw, and roots, which were produced on the holding but sold off by the outgoer, the same figures are adopted as for compensation, subject to the consideration of local facilities for replacing manure being taken into account : in other words, it would be quite admissible for valuers to add the cost of the carriage of the manure which would be necessary to make up the manurial equivalent of the produce sold off.

Purchased Manures.—Valuers are advised to take into account such matters as the judicious application of manure, the retentive nature of the soil, the cleanliness, drainage and cultivation of the land, and also whether the cropping has been of an exhaustive nature. Subject to the consideration of these points, the four societies recommend that the following scale for compensation shall be used.

For application of

1. Ground raw bones on pasture land not afterwards mown ... ... An eight years' scale.
2. Raw bones on grass land afterwards mown or on tillage ... ... A four years' scale.
3. Boiled bones on pasture land not afterwards mown ... ... A five years' scale.

4. Boiled bones on grass land afterwards mown or on tillage... ...	A three years' scale.
5. Compounded artificial manures on mowing or tillage crops, an away-going crop to count as one year ...	A two years' scale.
6. Compounded artificial manures on pasture not mown	A three years' scale.
7. Pure dissolved bones on pasture ...	A four years' scale.
8. Pure dissolved bones on mowing or tillage	A two years' scale.
9. Lump lime or marl on grass... ...	A ten years' scale.
10. Lump lime or marl on tillage ...	An eight years' scale.
11. Ground lime or ground limestone on grass (not less than 80 per cent. lime)	A five years' scale.
12. Ground lime or ground limestone on tillage (not less than 80 per cent. lime)	A four years' scale.
13. Basic slag on pasture not mown ...	A four years' scale.
14. Basic slag on arable or mowing (80 per cent. fineness)	A three years' scale.
15. Superphosphate and potash manures on pasture not mown	A three years' scale.
16. Superphosphate and potash manures on mowing or tillage	A two years' scale.
17. Purchased animal manure and town horse manure on pasture, mowing or tillage, an away-going crop to count as one year	A two years' scale.

NOTE.—Cartage and spreading of lime done during the last two years of tenancy may be included in a claim.

DRAINING.—The usual scale is adopted, viz., a ten years' scale where the landlord supplies the pipes, and a twenty years' scale where the tenant finds both pipes and labour. Further, where the tenant has received the written consent of the landlord prior to the execution of the under-mentioned improvements, the associated Societies recommend these scales :—

(*a*) Eradicating old fences, filling up pits and levelling land : a fifteen years' scale.

(*b*) Planting new fences, protecting and keeping them clean while growing : cost of planting and protecting for the first ten years, and a ten years' scale afterwards.

(*c*) Planting of fruit trees and bushes, if left in good condition, should be subject to valuation up to fifteen years.

CORNWALL.

ENTRY.—Michaelmas entries are the most common, although Lady-day entries are not unknown in the north and east of the county.

PRE-ENTRY.—The customs of this county are not very definite, but

a Michaelmas incomer may usually enter at Midsummer to prepare a wheat tillage and cultivate roots.

Hold-over.—Similarly the Michaelmas outgoer has the use of the barns till Christmas to thresh his corn.

Away-going Crop.—In a Lady-day tenancy the valuation would comprise the growing wheat crop, and the cultivations made for the barley, turnip, and oat tillages. Labour on fallows would be allowed in both entries. More variation is met with in the Michaelmas tenancies: sometimes the outgoer prepares and tills the land for roots and spring crops: in other cases he does only part of this work and accordingly the valuations vary.

Hay.—Consuming price is general.

Straw.—Consuming price is sometimes paid. In other cases the incomer is allowed the straw for harvesting and marketing the outgoer's crops; and when the incomer purchases the standing crops before harvest he is allowed a deduction for the cost of harvesting and marketing.

Manure.—Sometimes the farm-yard manure is paid for; occasionally it passes free. In any event, if carted to heaps in the field, the cost of labour is allowed.

Seeds and Roots.—The cost of grass seeds and sowing is allowed; but the valuation of both seeds and roots and cultivations is somewhat indefinite and generally by arrangement.

Feeding Stuffs.—Voelcker and Hall's Revised Tables (1913) are now used.

Artificials.—Lime and undissolved bones, applied to pasture or arable land, are compensated on the five years' scale where the crops are consumed on the holding; but if the land be mown or a corn crop is taken, a further reduction of one-fifth of the cost is made for that year in respect thereof. Bone meal and basic slag on the three years' scale, if the crops are consumed; but if the land is mown or a corn or root crop taken, a further reduction of one-third of the cost is made for that year. For other purchased manures (except nitrate of soda and sulphate of ammonia) applied to green crops in last year of tenancy when consumed on the holding, one-half the cost in the case of Lady-day tenancies, two-thirds in Michaelmas tenancies. When applied in the last year but one to root or other green crops (including grass) fed on the holding, one-fifth. When applied to corn or green crops (other than those fed on the land) in the last year, one-fourth of cost in case of Michaelmas tenancies and at the discretion of the arbitrator in Lady-day tenancies. Similarly compensation (if any) for nitrate of soda and sulphate of ammonia is left to the valuers.

CUMBERLAND.

Entry.—Candlemas generally; Lady-day occasionally.

Pre-entry and Hold-over.—None usually. Occasionally the outgoer leaves the land at Candlemas, and the buildings at May-day; in such cases he must consume the whole of the hay, straw and roots and leave the manure free for the incomer.

Hay and Straw.—The tenant is bound to keep up his regular stock of horses, cattle and sheep, and is then permitted to sell at market

price or carry away any hay or straw unconsumed. Written agreements often define this practice by stating that in Candlemas tenancies the outgoer must consume one-half the hay and straw and two-thirds of the roots; and in Lady-day tenancies, two-thirds of the hay, straw and roots; and then the remainder (locally called "vestures") is to be taken by the incomer at a consuming price or in some cases the tenant is allowed to sell off such balance.

MANURE.—Free: labour and carting and spreading allowed.

SEEDS.—At cost of seed and sowing, but must not be grazed after November 11th.

BARE FALLOWS.—Cultivations and one year's rent and rates allowed.

AWAY-GOING CROP OF WHEAT.—The seed, cultivations, and one year's rent and rates allowed.

FEEDING STUFFS.—The majority of the valuers now use Voelcker and Hall's Tables.

DERBYSHIRE.

ENTRY.—Lady-day.

PRE-ENTRY.—On February 2nd, to plough for spring corn: accommodation for horses and man being allowed. This custom of pre-entry, however, is practically extinct. The privilege was stipulated for in some old estate agreements: but where it did exist the incomer seldom exercised this power, as he generally found it more profitable to pay the outgoer for the work done.

HOLD-OVER.—None.

HAY AND STRAW.—Customs vary widely in this country. Full value in the north is not uncommon: consuming price in the south. On the whole, consuming price is the more common.

MANURE.—The question of payment for manure is almost invariably governed by whether the hay is at consuming price or full value. If the hay is at full value then the manure belongs to the tenant, otherwise it generally belongs to the landlord.

SEEDS.—At cost of seed and sowing, provided they have not been grazed.

ROOTS AND FALLOWS.—In the north compensation is allowed for a clean turnip or bare fallow made in the preceding year on the basis of one year's rent and rates, cultivations, turnip seed and hoeing, labour on manure and purchased manures: deducting (in the case of turnip land) two-thirds of the value of the turnip crop if drawn off, and one-half if eaten on the land. Where, however, wheat has been grown on the summer fallow, to the allowances above mentioned must be added the cost of the seed, wheat and sowing.

FEEDING STUFFS.—In the north east of the county the valuers are members of the Derbyshire, Yorkshire and Notts Valuers' Association, and generally accept Voelcker and Hall's Tables, but the method of having two distinct scales for cakes and feeding stuffs consumed on and off the land did not meet with approval. A reduction (up to 25 per cent.) is made in the compensation on feeding stuffs consumed by milch cows. The valuers in the greater part of the county are members of the Midland Counties Valuers' Association and the Notts Valuers' Association.

Hitherto their valuings have been based on cost; but it is understood that they are willing to adopt tables in accord with the recommendations fo the Central Association of Tenant Right Valuers. It may be observed that the Midland Counties' Association has the largest membership of any valuers' society in England and its influence is felt in at least eight counties, although mainly in Leicester, Warwick, Northampton, Staffs and Worcester. It is significant therefore as indicating the trend of opinion that the Midland Association has promptly approved of Voelcker and Hall's Revised Tables, as amended by the Central Association of Tenant Right Valuers. Around Derby itself and in South Derbyshire generally the allowances based on cost have been one-fourth of the linseed and cotton cake of the final year, and one-eighth of the last year but one; and one-sixth and one-twelfth for compound cakes and other feeding stuffs. Wet brewers' grains are used extensively throughout the county. These are compensated at the rate of one-eighth for the last year, and one-sixteenth for the last year but one. In ascertaining the cost, railway carriage is added to the prime cost.

NOTE.—In addition to the Duke of Devonshire's and Duke of Rutland's estates, there are many small landed proprietors in this county, and the customs vary indefinitely, even on adjoining farms. Half-inch bones and liming are paid for liberally; viz., on a seven years' principle in the case of pasture land and a three years' principle for meadows.

DEVONSHIRE.

ENTRY.—Both Lady-day and Michaelmas tenancies are met with.

PRE-ENTRY.—None, except by agreement. Leases frequently do secure the right of pre-entry, and provide compensation for the privilege. The practices, however, vary widely.

HOLD-OVER.—None, except under agreement.

HAY AND STRAW.—Consuming price. Under some agreements the amount left must not exceed half the final year's crop.

MANURE.—May be sold off (particularly in Central Devonshire) in the absence of any stipulation in the agreement to the contrary.

SEEDS.—At the cost of seed and labour, if done by the outgoer.

ROOTS.—Unconsumed roots are often taken at consuming price.

FEEDING STUFFS.—Voelcker and Hall's scales are coming into vogue. Formerly the Central Chamber of Agriculture's three years' scale was adopted.

PURCHASED MANURES.—Bone meal and basic slag on the three years' principle, if applied to pasture land: an additional deduction of one-third if the land be mown. Undissolved bones on a five years' scale, with an extra deduction of one-fifth in the case of meadow, or crop led off.

NOTE.—Strictly there are no customs in Devonshire in connection with agriculture. Matters are provided for by lease or agreement. Hence, in Lady-day tenancies there is no away-going crop of wheat: the incomer either pays for the right of pre-entry to sow an away-going crop, the payment being based on the rent and rates of the land; or the outgoer does the work on the request and is paid for labour and seed wheat. In the absence of agreement, the outgoer helps himself to as much of

the produce of the farm as he can. Where no agreement for feeding stuffs or purchased manures is provided, the Scale of the Western Counties Tenant Right Valuers' Association operates. This society is a strong body with a membership of nearly 100 members, and its influence is felt in the adjoining counties of Somerset and Dorset.

DORSET.

NOTE.—The customs in the county of Dorset vary widely. In some parts the influence of the Western Counties Tenant Right Valuers' Association is felt. The Somerset, Wilts and Dorset Farmers' Association is also an influential body: no definite scale has been introduced by this association, but many of the members use Voelcker and Hall's Tables. There is one other association whose influence must be noticed, viz., the influence of the South Wilts Valuers' Association extends over Dorset, Wiltshire, Hampshire and the Isle of Wight. The members generally use the Central Chamber of Agriculture's Scale as a maximum: but limit the compensation to the consumption of the final two years of the tenancy; compound cakes in the absence of analysis are treated as corn; soya bean cake is rewarded on the same scale as decorticated cotton cake. The quantity of feeding stuffs consumed in the final two years must not exceed the average of the last three years.

ENTRY.—Both Old Michaelmas and Old Lady-day entries are met with, perhaps the last-mentioned being the more numerous. On the whole the northern and eastern parts of the county favour the Michaelmas entry, whilst the south and west prefer Lady-day.

PRE-ENTRY.—The customs in regard to both pre-entry and hold-over are very complicated; generally the tenants leave on the same principles under which they enter the farm. In the case of Michaelmas tenancies the incomer enters the turnip land on March 1st or April 1st, and has a right of pre-entry to sow grass seeds. Frequently he has a right of pre-entry about July 6th or July 15th to prepare land for wheat. He is allowed stabling and straw for food, and litter for a certain number of horses, the use of the yard for turning up manure, and part of the farmhouse and a cottage for the carter and shepherd.

In Lady-day tenancies the incomer frequently takes possession of the water meadows in February, and enters on the land for spring corn as soon as the roots are eaten.

HOLD-OVER.—In a Michaelmas tenancy, the outgoer keeps the barns for threshing and yards for feeding his hay and straw until Christmas in some cases, and until April in others. The outgoing Lady-day tenant would keep the barn-yard, part of the stables, and the major portion of the farm-house, and some cottages till July 6th. The varying customs in this county show the necessity of defining these privileges in a written agreement.

AWAY-GOING CROP.—The Lady-day tenant's away-going crop is generally valued at harvest; in some cases, however, he takes his own crop off and is allowed a hold-over till October 10th for this purpose.

HAY AND STRAW.—At consuming price.

MANURE.—Generally passes free: sometimes consuming price is paid.

SEEDS.—At the cost of seed and labour, where sown by the outgoer.

ROOTS.—Both the usual methods prevail, viz., cost of tillages, or consuming value of the roots. Half tillages allowed where roots have been fed on.

FALLOWS.—At cost of labour, seed, manure, and one year's rent and rates.

FEEDING STUFFS.—See note above.

DURHAM.

ENTRY.—Old May-day, May 13th.

PRE-ENTRY.—The incomer can enter on arable land in January or February: sometimes on the part pastured the preceding year on April 6th, and the rest on May 13th. He may also sow grass seeds among the outgoing tenant's corn.

HOLD-OVER.—The outgoer may have part use of stack garth, barns and granaries until the following Lady-day for threshing out his crops, so as to give the incomer a regular supply of straw till Lady-day.

AWAY-GOING CROP.—The outgoer takes an away-going crop of wheat on one-third of the arable land: he leaves the straw free and must provide a regular supply for the incomer. Frequently, however, the away-going crop is taken by valuation as a standing crop at harvest.

HAY AND STRAW.—The customs are indefinite, but generally both must be consumed on the premises.

MANURE.—Usually free.

SEEDS.—At cost of seed and sowing.

ROOTS.—Do not figure largely in valuations, but a growing root crop (if any) would be taken at consuming price.

FALLOWS.—Not very common: indefinite method of treatment.

FEEDING STUFFS.—In the north of the county the Scale of the Newcastle Farmers' Club for both feeding stuffs and artificial manures is generally accepted without question (see under the heading NORTHUMBERLAND). In the south of the county the valuers are usually members of the North Riding and South Durham Tenant Right Valuers' Association. In 1912 this Association introduced (in conjunction with the West Riding and East Riding Associations) a scale based on residual manurial values. It is understood that Voelcker and Hall's Revised Tables, with certain modifications, will be applied from January 1st, 1914. The proposal to give a higher compensation where the food is consumed directly on the land has not met with the approval of the members; accordingly the lower scale (*i.e.*, 50 per cent. of the nitrogen, 75 per cent. of the phosphoric acid, and 75 per cent of the potash) will be used. Rye (with other cereals) is compensated at approximately 16s. 10d. and 8s. 5d. per ton for the last and last year but one; roots, mangolds, swedes and turnips at 3s. and 1s. 6d. per ton, and compound cakes and meals at 25s. 8d. and 12s. 10d. per ton for the respective years.

ESSEX.

ENTRY.—Michaelmas.

PRE-ENTRY.—No customary right of pre-entry. Under agreement the incomer is sometimes allowed pre-entry to sow grass seeds.

HOLD-OVER.—Use of barn, stackyard and granary allowed till Lady-day for threshing corn; but the threshing must be done so as to allow the incomer a regular supply of straw and chaff.

HAY.—Generally at consuming value: the consuming price in this case, however, is not always two-thirds the market price. The valuers often fix the price annually, and generally it varies from two-thirds to three-fourths market price: but when the market price is abnormally high or low, this custom is not strictly adhered to. Apparently the consuming price is arrived at by deducting from the market price the cost of cutting out and marketing the hay and the value of one load of manure brought on to the farm. Near London the market price on the spot is frequently allowed.

STRAW.—The incomer takes the straw and chaff for threshing, dressing, and delivering to market the corn of the last year's crop.

MANURE.—Paid for at a consuming price: generally about 3s. to 4s. per load of 40 cubic feet. Sheep folding allowed.

SEEDS.—Cost of seed and sowing, and one harrowing or rolling.

ROOTS.—Cost of cultivations, seed and manure, and sometimes rent and rates.

BARE FALLOWS.—Cost of labour, rent, and generally rates.

FEEDING STUFFS.—Formerly the method of assessing compensation on the basis of cost of the feeding stuffs was in vogue. The Essex Valuers' Association have considered Voelcker and Hall's Revised Tables (1913), and it is understood that they are willing to adopt them in future, subject to slight reservations: *e.g.*, in considering the manurial value of straw, the association is not inclined to take into account the mechanical value. Further, wet grains and purchased roots will be compensated at a rate not exceeding 2s. 6d. per ton for the last year, based on the average consumption of the last three years. This association too makes deductions up to 50 per cent. where foods have been consumed by milch cows, and a deduction of 25 per cent. where the foods made into dung have not been consumed in covered yards, but an extra allowance (up to 20 per cent.) is made where feeding stuffs are consumed on the land by bullocks or sheep.

PURCHASED MANURES.—Generally no allowance for artificial manures if a crop has been taken, except for basic slag, dissolved bones and bone meal; the last two being compensated on the two years' principle on arable or meadow land, and on the four years' scale on pasture. Recently we understand there has been a tendency to reduce these rates, and to make no allowance whatever for chemical manures used on arable land where one crop has been taken; but to allow half the cost of lime, raw bones, and basic slag used on pastures where one crop has been taken since the application thereof, and one-quarter after two crops have been taken.

NOTE.—There are many holdings in this county that are practically market gardens. In such cases the green crops are generally taken at their face value and not at the cost of the cultivations. Half dressings are frequently allowed where a green crop or potatoes have been taken; and on such holdings the hay and wheat straw are often paid for at market value, and the Lent corn straw at consuming price.

GLOUCESTER.

ENTRY.—The customs in this county are very varied, owing to differences of soil. Perhaps they may be grouped under three classes, although there would be wide differences within the limits of each of these three classes :—

(1) In the corn-growing districts around the Cotswold Hills, Cirencester, and generally to the east of Cheltenham, the entries are at Michaelmas.

(2) In the Vale of the Severn, where pasture farms and small arable farms are more prominent, the usual entry is at Lady-day : whilst

(3) On the Hereford and Monmouth borders Candlemas tenancies are met with.

PRE-ENTRY.—Usually none : but in the case of the border farms and some parts of the Vale, where the outgoer takes an off-going crop of wheat, the incomer may enter to plough for spring corn in November, and in some cases, in the Cotswold district, he may enter on the stubbles on August 20th.

HOLD-OVER.—In a Michaelmas take an outgoer is generally entitled to two rooms in the house for his workmen, the barns, the yard, and stable room till the following Lady-day. In Lady-day entries the outgoer takes an away-going crop on one-third of the arable land, and retains part of the house and buildings until he has harvested and threshed his corn.

HAY AND STRAW.—Generally at a consuming price per ton. Around Tetbury, the straw is at a consuming price per acre.

MANURE.—Sometimes paid for to the east of Cheltenham : generally, however, it is free, but the labour of hauling to heaps in the fields is paid for.

SEEDS.—One year seeds are valued at cost of seed and sowing : sainfoin is allowed for up to two years.

ROOTS.—Roots are paid for at full value of labour, sowing and artificials. The outgoer generally does all necessary cultivations on the land up to the usual time before quitting, and is paid for the cultivations.

FEEDING STUFFS.—Usually valued on Voelcker and Hall's Tables.

HAMPSHIRE.

ENTRY.—Michaelmas.

PRE-ENTRY.—The incomer may enter on March 25th, to plough for white turnips; at Midsummer to sow turnips; in August or when the green crops have been fed off, to prepare for a wheat crop.

HOLD-OVER.—Part of the house, or cottage room, stable, stackyard, and barn for threshing till March 25th or May 1st.

HAY AND STRAW.—By arrangement. Formerly hay and straw were consumed on the farm, and the outgoer was allowed to hold-over for this purpose. The straw is now often valued at a consuming price per acre, and market price for hay is not unknown.

MANURE.—Passes free : but the full value of carting to heaps or fields allowed.

SEEDS.—At cost of seed and sowing. Roots at cost of seed, labour and artificials. Cultivations on fallow paid for. Half tillages allowed where two root crops follow each other and the first was consumed on the land by sheep. Sainfoin paid for up to three years.

FEEDING STUFFS.—As in Dorset : see *ante*, p. 265.

HEREFORDSHIRE.

ENTRY.—February 2nd (Candlemas) : there are some Lady-day and Christmas tenancies.

PRE-ENTRY.—After October to plough stubbles and prepare for Lent corn or turnips, with stabling and accommodation for men.

HOLD-OVER.—The major part of the house, fold-yard and boosey pasture till May 1st.

AWAY-GOING CROP.—A wheat crop on one-third of the arable land allowed. Formerly (*a*) the outgoer planted and harvested his away-going crop, being permitted the use of barn, granary, and part of rick-yard, till May 1st following : now (*b*) the crop is generally valued about August, the price of the grain only being calculated, less an allowance for harvesting and marketing.

HAY, STRAW AND ROOTS.—Consumed by outgoer, unless the incomer agrees to take them.

MANURE.—Passes free.

SEEDS.—Full value of seed and labour, but the seeds must not be grazed after November 1st.

ARTIFICIALS.—See p. 199.

FEEDING STUFFS.—A scale based on manurial values was adopted in 1908. Compensation is paid for the consumption of the final two years only, but the feeding stuffs consumed in the last year shall not exceed in value the average of the two preceding years. The figures are as follows :—

	Consumed during last year. Per ton.			Consumed during last year but one. Per ton.		
	£	s.	d.	£	s.	d.
Decorticated cotton cake	2	10	0	1	5	0
Rape cake	1	16	0	0	18	0
Linseed cake	2	0	0	1	0	0
Malt culms	1	10	0	0	15	0
Undecorticated cotton and compound cakes ...	1	14	0	0	17	0
Cocoa-nut cake, linseed, bran, and pollards ...	1	0	0	0	10	0
Peas and beans	1	15	0	0	17	6
Dry grains, palm-nut cake, malt, wheat, barley, oats, maize, rice meal, and locust beans ...	0	14	0	0	7	0
Purchased mangolds, swedes, or turnips ...	0	2	6		—	
Purchased hay, clover, or sainfoin	0	10	0	0	5	0
Purchased straw	0	5	0	0	2	6

HERTFORDSHIRE.

ENTRY.—Michaelmas.

PRE-ENTRY.—Generally at Lady-day, to work fallows or to sow seeds amongst corn.

HOLD-OVER.—Part of house and buildings till May 1st (sometimes only till Lady-day) to thresh out crops and consume straw.

HAY AND STRAW.—Hay, first crop of clover and wheat straw, generally at market price. Second crop of clover and Lent corn straw at consuming price.

MANURE.—Free : but cartage is paid for.

SEEDS AND ROOTS.—If the incomer does not sow seeds, the outgoer is paid for the labour and seed : similarly, roots are paid for at cost of cultivations (seed, labour, and artificials). Fallows are usually worked by the incomer during his period of pre-entry.

FEEDING STUFFS.—These are compensated on the Scale of the Herts, Beds, and Bucks Valuers' Association. See p. 257.

HUNTS.

ENTRY.—Michaelmas.

PRE-ENTRY.—None.

HOLD-OVER.—The outgoer retains barns and stackyard for threshing and dressing until May 1st (sometimes till Lady-day).

HAY AND STRAW.—Hay at consuming price per ton : straw at consuming price per acre.

SEEDS.—At cost of seed and cultivations (whether a success or not), but must not be grazed.

ROOTS.—At a consuming price per ton.

FALLOWS.—Cost of cultivations allowed.

FEEDING STUFFS.—No modern scale has been introduced. Payment is generally based on cost, and is variable. In some cases the compensation is half of the last year's cake bill, and one-quarter of the cost of other feeding stuffs, provided the amount does not exceed the cost of the preceding year.

ARTIFICIALS.—Half the cost of the artificials used on the root crop of the last year is allowed.

KENT.

ENTRY.—Old Michaelmas.

PRE-ENTRY.—None.

HOLD-OVER.—The outgoer retains part of the buildings till May 1st for threshing and dressing corn.

HAY AND STRAW.—Usually consuming price.

MANURE.—Near London, market price is allowed : in the west of the county, usually consuming price; in the east, generally labour only allowed.

SEEDS.—Cost of seed and sowing allowed.

ROOTS.—Labour, seed and manure, and frequently a year's rent and rates.

FALLOWS.—Cost of cultivations and a year's rent and rates. Cultivations done since harvest are allowed.

FEEDING STUFFS.—The valuers generally belong to the County Valuers' Club. Voelcker and Hall's Revised Tables have been considered by the club, and it is understood that the 1913 Tables will be adopted in future, subject to slight variations: *e.g.*, the valuers usually award the full allowances indicated in the tables where the feeding stuffs have been consumed on farms with proper yard accommodation for the preservation of the manure, and make deductions up to 25 per cent. from the compensation figures where the yards are open and where there is a considerable number of milch cows or young stock.

NOTE.—For valuation purposes, the county may be divided into three districts:—East, west, and the portion adjoining the metropolis. Owing to the fact that underwoods and hop poles have frequently to be considered, the valuations are heavy; but, on the other hand, it is said that dilapidations are somewhat strictly assessed.

LANCASHIRE.

The customs are practically similar to those in Cheshire (see pp. 259-261). Entries are at Candlemas. There is no pre-entry; and the hold-over of the buildings, yard, and outlet extends to May 12th. Near the big towns hay and straw are often taken at market price. Only labour on manure is paid for; and apparently the outgoer reaps and sets up the whole of the away-going crop, taking his share of half or two-thirds according to the Chester custom.

LEICESTER AND RUTLAND.

ENTRY.—Generally at Lady-day, but Michaelmas tenancies are frequently met with in the southern districts.

PRE-ENTRY AND HOLD-OVER.—Are not customary.

HAY, STRAW AND ROOTS.—Consuming price allowed.

MANURE.—Formerly passed free, but consuming price is becoming general. Labour allowed.

SEEDS.—At cost of seed and sowing, but they must not have been grazed after October 11th.

FALLOWS.—At the cost of the cultivations, and in some cases rent and rates.

FEEDING STUFFS.—Many of the valuers are members of the Midland Tenant Right Valuers' Association. For the Midland scale, see *ante*, pp. 263-264.

PURCHASED MANURES.—Purchased manure applied to the root crop of the last year is liberally compensated. Basic slag is remunerated on the three years' principle in the case of pasture, and the two years' scale in the case of mown land, seeds, peas, or beans.

BONING.—Is allowed for on the five years' scale on arable and meadow land, and on the ten years' principle on pasture.

LINCOLNSHIRE.

ENTRY.—Lady-day (April 6th).

PRE-ENTRY.—None by custom. Agreements frequently secure the right of pre-entry for sowing spring corn.

HOLD-OVER.—None by custom. Agreements sometimes allow until May 13th for the house, buildings, and pasture land.

AWAY-GOING CROP.—Generally taken by the incomer by valuation.

HAY.—Consuming price allowed.

STRAW.—Consuming price allowed in some cases; but in others, cost of stacking only allowed.

MANURE.—Passes free, but carting is paid for.

SEEDS.—Compensated at cost of seed and labour, but they must not have been grazed after October 11th.

BARE FALLOWS.—Cost of cultivations allowed, and often one year's rent and rates.

FEEDING-STUFFS.—Valuers in this county are well organised, and the Lincolnshire Tenant Right Valuers' Association has more than 100 members, and is generally looked up to as the leading association of its type in the country. In the past its well-known Scale of Compensation based on cost has influenced all the rest of the country. The Lincolnshire valuers still adhere to this scale when a tenant quits under custom; but are willing to apply the modern tables of manurial values when the tenant quits under the Agricultural Holdings Act. The Lincolnshire Customary Scale is :—One-third the cost of linseed, cotton, rape, soya-bean cake and malt culm fed in the last year, one-sixth if fed in the year previous. Corn, corn cake, malt, and similar feeding stuffs are paid for at the rate of one-sixth the cost if fed in the last year, and one-twelfth if consumed in the year previous. The customary scale is still in use, but the Lincolnshire Association have considered Voelcker and Hall's Revised Tables, and it is possible that they may ultimately be adopted.

PURCHASED MANURES.—(A) *Bone Manure* :—

(1) If applied to green crops eaten on (*a*) during last year, whole cost allowed; (*b*) for preceding year, half cost. "Cost" includes carriage.

(2) Dry bones on pasture land are allowed on the ten years' scale. Dissolved bones on a five years' scale.

(3) No allowance for bone manure where a crop has been taken.

(B) *Basic Phosphate Manures* :—

(1) Allowed on the three years' scale in case of pasture land.

(2) Half cost allowed on meadow land where one crop has been taken.

(3) Whole cost allowed, where used with roots grown in final year.

(C) *Other Artificial Manures* :—

(1) When green crops eaten on (*a*) during last year, whole cost allowed; (*b*) previous year, *nil*.

(2) If crop of corn or celery has been taken since the application, no allowance.

(3) Two-thirds of cost if applied to pasture during last year, and one-third if applied previous year.

(4) One-third of the cost of chemical or purchased manures of approved manurial value used with a potato crop on lands adapted to potato grow-

ing during the last year of the tenancy, where the land is clean, provided the area does not exceed one-fourth of the arable land on the holding: but the amount used per acre shall not exceed the amount used the previous year, and in no case shall the compensation exceed £1 per acre for chemical or purchased manures used with a potato or following crop. Special allowances are payable in the Isle of Axholme.

CHALKING, CLAYING AND MARLING are allowed on the twelve years' principle, but it is estimated as follows:—viz., that if the tenant quits during the first four years, he is allowed the whole cost, and one-eighth deduction is made for each of the remaining eight years.

MIDDLESEX.

ENTRY.—Michaelmas.

PRE-ENTRY.—The incomer enters in April or May to cultivate fallows or sow seeds in the corn. The right of pre-entry is on the wane.

HOLD-OVER.—Part of the stackyard, barn, and part of the stables till May 1st to thresh and dress corn.

HAY.—At market price generally.

STRAW.—Market price usually: but in districts remote from the metropolis, Lent corn straw is valued at consuming price. Manure is paid for at market price.

SEEDS.—At cost of seed and sowing.

ROOTS.—Both the method of valuing (*a*) on the basis of the cost of labour, seed and manure (occasionally rates and rent included), and (*b*) that of allowing the face value reckoned at consuming price are met with.

FEEDING STUFFS.—By arrangement.

MONMOUTHSHIRE.

ENTRY.—February 2nd for the land, May 1st for the house, buildings and a boosey pasture. The incomer is sometimes allowed to enter on the stubbles on January 1st, to prepare for roots and spring corn.

HAY AND STRAW.—Usually valued at consuming price: often, however, straw is left free and no allowance is made for stacking it.

AWAY-GOING CROP.—A wheat crop is allowed on a third or a quarter of the arable land: if after a bare fallow, the outgoer is allowed four-fifths of its value; if after clover ley, two-thirds of value.

MANURE.—Passes free.

SEEDS.—Paid for at the cost of seed, sowing, and one harrowing.

ROOTS.—Usually consumed by May 1st; if not, compensation is settled by the valuers.

FEEDING STUFFS.—The Monmouthshire Chamber of Agriculture's Scale is similar to that used in Cheshire.

PURCHASED MANURES.—It has also adopted a scale of compensation for purchased manures applied to grass, roots or green crops, consumed on the farm, and it is as follows:—

Undissolved bones	For last year	three-quarters of cost.
,, ,, ...	For second year	one-half of cost.
,, ,, ...	For third year	one-quarter of cost.

Dissolved bones	For last year one-half of cost.
,, ,, ...	For second year one-quarter of cost
Superphosphate	For last year one-half of cost.
,, ...	For second year one-quarter of cost.
Other phosphatic manures, such as basic slag and ground coprolites	For last year three-quarters of cost.
Other phosphatic manures, such as basic slag and ground coprolites	For second year one-half of cost.
Other phosphatic manures, such as basic slag and ground coprolites	For third year one-quarter of cost.
Nitrate of soda, soot, sulphate of ammonia, and other nitrogenous manures	For last year one-quarter of cost. Nothing beyond.
Stable manure	For last year two-thirds of cost.
,, ,, ...	For second year one-half of cost.
,, ,, ...	For third year one-quarter of cost.

Further, practically the same scale is applied to arable land or grass from which a crop has been taken : thus, in the case of a crop taken off, after an application of undissolved bones, one-fourth would be held to be exhausted. But in the case of nitrates the whole value of manure is held to be exhausted after one crop.

The above scale is fairly generally accepted throughout the county of Monmouth as a basis of valuation. The County Chamber of Agriculture intend to revise it.

NORFOLK.

ENTRY.—October 11th.

PRE-ENTRY.—Unusual.

HOLD-OVER.—Outgoer allowed use of barns and stackyard for threshing and dressing corn up to June 1st following.

HAY.—Valued at consuming price.

STRAW.—The incomer threshes and dresses all corn grown during the last year of the tenancy and delivers it within a certain distance, receiving the chaff and straw for so doing. If the outgoer threshes before Michaelmas, he must protect the straw and an allowance is made, if not more than half the crop has been threshed.

MANURE.—Valued at a consuming price (generally 3s.) per load of 40 cubic feet.

SEEDS.—The incomer pays for the seed and sowing on new layers.

ROOTS.—Valued at consuming price.

FEEDING STUFFS.—The valuers are members of the Norfolk Tenant Right Valuers' Association. When Voelcker and Hall's Revised Tables (1913) were issued the Norfolk Association decided to adopt them from Michaelmas, 1914, but reserved the right of drawing up regulations to meet local customs, and in particular to reduce the compensation for foods consumed by cows by one-third.

BONING.—On arable land is compensated on the four years' scale, and on the eight years' scale in the case of pasture.

NORTHAMPTON.

ENTRY.—Lady-day and Michaelmas tenancies.

PRE-ENTRY AND HOLD-OVER.—None.

HAY AND STRAW.—Hay at a consuming price per ton: straw usually at a consuming price per acre.

MANURE.—Passes free: but payment for cartage is allowed when the manure has been moved.

SEEDS.—Valued at the cost of seeds and sowing. If the seeds, properly seeded and thoroughly cleaned, exceed one-third of the arable land, the excess may be compensated at a price up to 30s. per acre. Dilapidation is charged if one-eighth of the arable land is not duly and properly seeded.

ROOTS.—Sometimes valued at consuming price: more frequently on the basis of the cost of the cultivations. Where the root crop, through no fault of the outgoer, has been a total failure, he is allowed no less than half a year's rent and payments, half the labour, and the full cost of artificial and other manures. Where the crop is a part failure, the amount of the compensation is left to the decision of the valuers or their arbitrator.

FALLOWS.—Allowed for at the cost of labour and one year's rent and rates.

FEEDING STUFFS.—The valuers are members of the Midland Tenant Right Valuers' Association, and the allowances for unexhausted feeding stuffs, purchased manures, liming, boning, marling and basic slag are the same as those that obtain in the county of Leicester (see p. 271).

NORTHUMBERLAND.

ENTRY.—May 13th.

PRE-ENTRY.—The incomer enters on February 2nd to plough for fallows, and at a later date to sow seeds amongst the spring corn.

HOLD-OVER.—Sometimes the outgoer is allowed use of the barn, cottage, and stable room, till May 1st of the following year for storing, threshing and dressing his away-going crops.

AWAY-GOING CROPS.—The outgoer is generally allowed an away-going crop of oats, wheat, or barley. Where the four-course rotation prevails, he takes one-half of the arable land for his away-going crops; and two-thirds if the farm be on the five-course rotation. He harvests his own crop, but is bound to leave the straw. Frequently these away-going crops are taken by the incomer at valuation before harvest, a deduction being made for reaping and marketing.

HAY, STRAW AND ROOTS.—Not allowed to be sold off, and must be consumed on the premises. A slight relaxation of this restriction is sometimes permitted in the case of hay in the districts near the big towns.

MANURE.—Passes free.

SEEDS.—If clover or grass seeds have been sown by the outgoer and not grazed after October 1st, he is allowed the full value of the seed and labour.

Fallows.—No definite practice in regard to fallows; no minimum amount of fallow or green crop prescribed; but the maximum amount of corn crops allowed is generally half of the arable land.

Feeding Stuffs and Purchased Manure.—The valuers in this county and throughout North Durham practically accept without question the Scale of the Newcastle Farmers' Club. This society has been the pioneer in advocating modern scientific tables. These tables are purchasable, and may be obtained from the Secretary, A. J. Hargrave, Esq., The Newcastle Farmers' Club, Collingwood Restaurant, Newcastle-on-Tyne.

On the whole, it must be admitted that the Newcastle Scale is a very liberal one. In regard to feeding stuffs, practically the figures of the Central Chamber of Agriculture's Scale for the final year of the tenancy are accepted as the value of the residuum, except that the value of the residuum of rape cake is put at 38s. per ton, and seeds hay is valued at 17s. 6d. per ton. Compound feeding cake, wet brewers' grains, and potatoes are also included in the table. The allowances are of course intended to apply where no crop has been taken. Where crops have been taken (whether on grass or arable land) a deduction is made for each crop. Four crops exhaust the residual value in the case of first and second class farms (but at slightly different rates), whilst three crops exhaust the residual value in the case of third-class farms.

NOTTINGHAM.

Entry.—Both New and Old Lady-day.

No Pre-entry or Hold-over.

Hay.—Consuming price generally; but near Nottingham, market value, less expense of working allowed.

Straw.—Usually consuming price; but where the manure belongs to the tenant, an allowance of 1s. per cubic yard is made to the outgoer.

Manure.—All three methods are met with: (*a*) passes free; (*b*) consuming price; and (*c*) full value. The cost of hauling to field is allowed.

Growing Crops.—The outgoer is allowed for the full value of the cultivations and seed for growing crops of wheat, oats, barley, peas, beans, etc. Where the wheat follows a summer fallow, rent and rates are also included.

Seeds.—Young seeds are valued at cost of seed and labour.

Roots.—When consumed on the land, half the valuation is allowed. In those cases where the manure belongs to the tenant and the roots have been led to the yard, he is allowed full value.

Fallows.—There should be a minimum of one-fourth of the arable land in roots or bare fallow, and not more than one-half in corn. The full value of the cultivations, artificials, and a year's rent and rates are allowed on bare fallow in the last year of the tenancy; and half tillages where there was a bare fallow in the last year but one.

Feeding Stuffs.—In parts of the north and north-west of the county the influence of the Derbyshire, Yorks and Notts Tenant Right Valuers' Association is felt. Over most of the county the rules of the Notts Tenant Right Valuers' Association prevail. Hitherto their scale has been based on cost: viz., one-quarter of the cost of linseed, cotton, or rape cake and meal or malt culm fed in the last year, and one-eighth

of the cost of that fed in the preceding year. For purchased and home-grown corn one-sixth and one-twelfth. It is probable that a change will be made in accordance with the recommendation of the Central Association of Tenant Right Valuers, and that Voelcker and Hall's Revised Tables will be adopted.

PURCHASED MANURES.—Undissolved bones on the four years' principle on roots or fallows, seven years' on pasture, and three years' on grass mown. Dissolved bones and artificials of equal manurial worth, on the three years' scale on pasture, one-third of the cost on grass mown, one-third of the cost after corn succeeding fallow, and full cost (and carriage) where applied to roots or fallows. Basic slag, the four years' scale on pasture; two years' scale on grass mown; and one-third of the cost after a corn crop succeeding roots or fallow.

OXFORDSHIRE.

ENTRY.—Chiefly Michaelmas; some Lady-day tenancies around Banbury and Warwick.

PRE-ENTRY.—In rare cases a Michaelmas incomer is allowed to enter in February to work the fallows; in all cases he can enter by September 1st to prepare wheat land, and is allowed stable for horses and lodging for his men.

HOLD-OVER.—The Michaelmas outgoer is allowed part of the house, buildings and yards till March 25th, to thresh and dress his corn.

HAY AND STRAW.—First cut hay and clover are usually valued at market price. Other hay, clover, and straw are valued at consuming price.

MANURE.—Labour only allowed.

SEEDS.—Cost of seed and sowing.

ROOTS.—At the value of the cultivations, seed and purchased manure.

FALLOWS.—At the cost of cultivations. Usually there should be a minimum of one-fifth roots or fallows, and a maximum of two-thirds white straw crops.

FEEDING STUFFS.—Formerly the compensation was based on the Lincs. scale of cost. No official scale has been recognised, but Voelcker and Hall's Tables are used by valuers, some of whom are members of the Midland Association.

PURCHASED MANURES.—Full value of all artificials applied to all green or fallow crops, grown in the last year and unconsumed, is allowed; if the roots be consumed, half the cost is allowed.

RUTLAND.

See Leicester, p. 271, *ante*.

SHROPSHIRE.

ENTRY.—Usually Lady-day.

PRE-ENTRY.—After November 1st (in some cases October 1st), to plough stubbles, accommodation being provided for horses and men. In parts of South Shropshire there is no pre-entry, as the outgoer does the work and is paid by valuation.

HOLD-OVER.—The outgoer is allowed part of the house, buildings, and a boosey pasture till May 1st.

HAY AND STRAW.—Consuming price allowed.

MANURE.—Generally passes free; but lime and reasonable labour spent on compost heaps, used on the farm in the last year or left in a proper state for application to be paid for at a valuation.

YOUNG SEEDS.—Are compensated at cost price of seed and sowing, but must not be depastured after November 1st. Temporary pastures at face value.

ROOTS.—Consumed by the outgoer. Compensation is paid for all cultivations done for the benefit of the incomer.

FEEDING STUFFS.—An up-to-date Table of Allowances has been adopted by the Shropshire Chamber of Agriculture. The figures quoted below are taken as a maximum and the manures used and feeding stuffs consumed must not exceed in value the average of the last three years :—

No.	Item of Outlay.	Last year of tenancy. Per ton.			Last year of tenancy but one. Per ton.		
		£	s.	d.	£	s.	d.
1	Decorticated cotton cake	3	8	0	1	12	0
2	Undecorticated cotton cake	2	0	0	0	18	6
3	Bombay undecorticated cotton cake ...	1	18	0	0	17	0
4	Linseed cake	2	8	0	1	2	0
5	Soya bean cake	3	5	0	1	10	6
6	Rape cake	2	9	0	1	3	6
7	Malt culms	2	3	0	1	0	0
8	Cocoa-nut cake	1	16	0	0	17	3
9	Linseed	1	16	6	0	17	3
10	Beans	1	15	6	0	17	9
11	Peas	1	16	6	0	16	0
12	Wheat, barley, oats, maize, rice meal, locust beans, and malt	0	18	0	0	9	0
13	Bran, pollards, and dried grains ...	1	10	0	0	15	0
14	Palm-nut cake	1	4	6	0	12	3
15	Mangolds, swedes, and turnips	0	3	0	0	1	6
16	Clover hay...	1	4	0	0	12	0
17	Hay	0	18	0	0	9	0
18	Straw	0	10	0	0	5	0
	N.B.—Compound cakes at 7s. 6d. per unit of nitrogen, and 7s. 6d. for the whole of the phosphates and potash: half this allowance for last year but one of tenancy.						

DILAPIDATIONS.—The sum allowed for selling off hay and straw in last year of tenancy shall be the difference between market value and consuming value.

PURCHASED MANURES.—See p. 198, *ante*.

SOMERSETSHIRE.

ENTRY.—Both Lady-day and Michaelmas tenancies are usual in this county.

PRE-ENTRY.—Unusual by custom. Agreements sometimes secure pre-entry for the Lady-day tenant on the arable land to prepare for spring corn in November, and the outgoer gives up the meadows on November 1st. Similarly, the Michaelmas incomer frequently secures the right to enter on stubbles immediately after harvest.

HOLD-OVER.—Not usual. The Michaelmas outgoer occasionally has part use of the buildings and a cottage till Christmas to thresh and dress his corn. The customs in regard to pre-entry, hold-over, and other matters vary widely in this country. It is said that eleven different customs exist.

HAY.—At consuming price, which is sometimes estimated at three-quarters of the market price.

STRAW.—At a consuming price per ton or per acre; frequently only half the market price is allowed.

MANURE.—Generally free; occasionally part value of the unapplied manure is allowed. The cost of hauling to fields and spreading is always allowed.

SEEDS.—Cost of seed, sowing and harrowing allowed.

ROOTS.—Roots should be consumed. When not wholly consumed, all the three usual methods of valuing are met with, viz. :—

(1) The cost of the seed, tillages and artificials.
(2) As a mature crop at market price.
(3) As a mature crop at consuming price.

FALLOWS.—At cost of cultivations; frequently an additional allowance of half a year's rent and rates is made. Similarly for winter vetches. On heavy bare fallows, sometimes one year's rent and rates are allowed.

AWAY-GOING CROP.—The Lady-day tenant has not an away-going crop; but he is allowed full value of the labour and seed of the growing wheat crop.

FEEDING STUFFS.—No scale has been recognised by the Chamber of Agriculture; but the valuers are members of the Western Counties Valuers' Association, and adopt their scale.

PURCHASED MANURES.—Half the value of artificials applied to a root crop which has been consumed on the land is allowed. There is no allowance for artificials after a white straw crop. Boning is compensated on the five years' scale.

STAFFORDSHIRE.

ENTRY.—Lady-day generally: some Michaelmas entries.

PRE-ENTRY AND HOLD-OVER.—Not common; occasionally the incomer is allowed to enter on the stubbles on February 1st, accommodation for man and horses being provided.

AWAY-GOING CROP OF WHEAT.—The outgoer is allowed two-thirds of the crop, if after a bare fallow; and one-half after seeds, peas, beans or vetches. The crop is generally taken by valuation in July after quitting. In South Staffordshire the outgoer is allowed two-thirds of the crop after seeds that have been taken up before Midsummer. The outgoer pays for weeding, and the straw is left to pay for the reaping.

HAY.—At consuming price. In some parts of South Staffordshire an allowance is also made for the extra cost of stacking.

STRAW.—Usually consuming price.

MANURE.—Passes free; but the full value of hauling from the yards is allowed.

SEEDS.—At the cost of seeds and labour.

ROOTS.—At consuming price.

BARE FALLOWS AND WINTER PLOUGHINGS.—At cost of cultivations. If bare fallows have been worked in autumn, rent and rates up to Lady-day are allowed.

FEEDING STUFFS.—The Staffordshire Chamber of Agriculture published a Scale of Compensation Values to take effect from March 21, 1917. It is somewhat novel in character, as the compensation shown in column 1 is based on the mean of columns 1 and 3 of Voelcker and Hall's Table, 1914: similarly, column 2 is the mean of columns 2 and 4 of Voelcker and Hall.

PURCHASED MANURES.—A Table of Values for purchased manures has also been prepared, identical with that used in Shropshire (see *ante*, p. 198), except that—

(1) Raw half-inch bones on pasture lands (grazed) will be remunerated on the five years basis (and not six years as in Shropshire).

(2) Basic slag on pastures (grazed); three-quarters cost of that applied in last year of tenancy (in Shropshire, two-thirds).

(3) Lime from the kiln on pasture lands; on an eight years basis (in Shropshire on a five years' basis).

The new scale of maximum allowances for feeding stuffs is as follows :—

No.	Foods.	Compensation value for each ton of food consumed.	
		1 During last year of tenancy.	2 During last year but one of tenancy.
		£ s. d.	£ s. d.
1	Decorticated cotton cake...	3 15 1	1 12 4
2	Undecorticated cotton cake (Egyptian)...	2 2 5	0 18 6
3	Undecorticated cotton cake (Bombay) ...	1 18 4	0 16 10
4	Linseed cake	2 11 7	1 2 2
5	Linseed	2 0 0	0 17 3
6	Soya bean cake	3 11 2	1 10 5
7	Palm-nut cake	1 6 8	0 11 5
8	Cocoa-nut cake	1 19 8	0 17 3
9	Earth-nut cake	3 17 7	1 13 1
10	Rape cake	2 14 4	1 3 5
11	Beans	2 2 4	0 18 2
12	Peas	1 17 1	0 15 10
13	Wheat	0 19 8	0 8 6
14	Barley	0 18 2	0 7 10
15	Oats	1 0 11	0 9 0
16	Maize	0 17 9	0 7 7
17	Rice meal	0 19 7	0 8 4
18	Locust beans	0 14 11	0 6 7
19	Malt	1 0 0	0 8 8
20	Malt culms	2 5 7	0 19 10
21	Bran	1 15 0	0 15 7
22	Brewers' grains (dried)	1 14 0	0 14 6
23	Brewers' grains (wet)	0 8 6	0 3 7
24	Clover hay...	1 7 5	0 11 11
25	Meadow hay	0 19 1	0 8 5
26	Wheat straw	0 *14 0	0 *6 7
27	Barley straw	0 *14 0	0 *6 8
28	Oat straw	0 *15 0	0 *7 2
29	Mangolds	0 3 4	0 1 6
30	Swedes	0 3 2	0 1 4
31	Turnips	0 2 7	0 1 2

*Includes mechanical value of 7s. per ton for the last year and 3s. 6d. per ton for the last year but one.

	Compensation value for each ton consumed.	
	During last year of tenancy.	During last year but one of tenancy.
	£ s. d.	£ s. d.
FEEDING CAKES AND MEALS. "That where the albuminoids are from 18% to 20% the same allowance for feed cakes and meals be given as No. 3 (undecorticated cotton cake—Bombay)" viz.: "That where the percentage is above 20% or below 18% of albuminoids the allowance be raised or lowered accordingly, taking 19% as the mean."	1 18 4	0 16 10
SHARPS, FOURTHS, etc. "That for sharps, fourths, and similar commodities the allowance be the average of the allowance for wheat, barley, and oats in the said table," viz.:	0 19 7	0 8 5
PIG MEAL. "That the allowance for special pig meals be calculated on their percentage of albuminoids."		
CALF MEAL. "That an allowance be made for calf meal, as distinct from milk substitutes, according to its percentage of albuminoids."		

NOTE.—The manurial value of other foods not contained in this table may be arrived at by the following calculations. Ascertain from the analysis the percentage of albuminoids, and divide this figure by 6.25 to obtain the percentage of nitrogen, from which the proper manurial value can be fairly assigned by comparing with other percentages of nitrogen in Messrs. Voelcker and Hall's Table. A unit of nitrogen to be valued at 7s. 6d.

Compound cakes containing less than 18 per cent. albuminoids are to be valued with a definite basis of 7s. 6d. per unit for nitrogen, plus 7s. 6d. per ton for the whole of the phosphates and potash contained in the cake, half such sum to be allowed for their manurial value, the last year but one.

SUFFOLK.

ENTRY.—October 11th.

PRE-ENTRY.—None.

HOLD-OVER.—Outgoer has the use of barn and granary till Lady-day.

HAY.—At a consuming price, fixed annually by the Suffolk Society of Estate Agents and Valuers.

STRAW.—The incomer takes the straw free, but if the outgoer threshed before Michaelmas, the incomer pays for the threshing at prices fixed by the above-mentioned society. After Michaelmas the incomer threshes, dresses, and carries to market the outgoer's corn. The selling off of straw is dilapidated at a price generally in excess of its manurial value, usually about 12s. 6d. per ton for wheat and oat straw, and 10s. per ton for other straw; and half these sums for the straw of the preceding year sold off.

MANURE.—Usually valued at 4s. per load of 40 cubic feet; but generally the allowance would be 2s. per load when the manure was made in uncovered yards, and 3s. in covered yards, when a claim is allowed for the unexhausted value of feeding stuffs.

SEEDS.—At the cost of seed and sowing. Lucerne is valued on the four years' scale; sainfoin on the two years' principle.

ROOTS.—At the cost of cultivations, seeds, manure, rent and rates. On the lighter land the growing crop of roots is paid for at consuming value. Sheep folding is compensated on a detailed scale formulated by the society; the allowance being reduced when a claim for the unexhausted value of feeding stuffs is entertained.

FALLOWS.—Cultivations after harvest are paid for. Bare fallows are remunerated at the cost of the cultivations, manure, rent and rates, but the tendency is to consider the manner in which the work has been done and to assess the compensation on the real value of the same instead of the actual cost of the fallows.

FEEDING STUFFS.—The Central Chamber of Agriculture's Scale has been introduced, but the compensation is limited to the consumption of the last two years of the tenancy. Moreover, where a crop has been taken in the last year, only half the scale allowance is made, and similarly for the last year but one, where two crops have been taken, only half the scale allowance is allowed. Further, in the case of feeding stuffs consumed by cows, two-thirds only of the Central Chamber's Scale shall be allowed. Valuations under custom, based on cost of feeding stuffs, are, however, very common.

PURCHASED MANURES.—Fish manure and rape: one-eighth after one crop. Basic slag on pastures: one-third after the first year. Dissolved bones on pastures: one-fourth after the first year. Dry bones crushed: on the three years' scale on pastures, and on the two years' scale on green crops consumed on the farm. Purchased dung or town manure: one-fourth of the whole cost if one crop (other than a white straw crop) taken.

DRAINING.—Tile draining: on the twelve years' scale where the tenant finds both pipes and labour, and on the eight years' scale where the landlord finds the pipes. Bush draining is compensated on the six years' scale. Mole draining on the four years' scale.

SURREY.

ENTRY.—Michaelmas.

PRE-ENTRY.—None.

Outgoer allowed to HOLD-OVER barns, granary and stackyards till March 25th, to thresh and dress his corn.

HAY AND STRAW.—Practice varies; near London the hay and wheat straw are at market price, remaining straw at fodder and dung price.

MANURE.—Usually paid for either at market price or consuming price; but the allowance for feeding stuffs is taken into account when fixing the compensation for farm-yard manure. Labour of carting and spreading allowed.

SEEDS.—At cost of seed and sowing.

ROOTS.—Paid for (hit or miss) at cost of cultivations, seed, manure, rent and rates; but rent and rates are not usually allowed if roots follow a green crop cut.

BARE FALLOWS.—Cost of cultivations, manure, rent and rates. In some cases half manures are allowed when only one corn crop has been taken since the fallowing.

FEEDING STUFFS.—Formerly based on cost; now there is a tendency to use Voelcker and Hall's Tables.

SUSSEX.

ENTRY.—Both New and Old Michaelmas. Usually there is no PRE-ENTRY. The outgoer holds part of barn and granary and stackyard till May 1st.

HAY AND STRAW.—Various customs. Hay at consuming price and straw free (in return for threshing, winnowing and marketing outgoer s crops) are the most usual customs.

MANURE.—Usually at feeding price and labour.

SEEDS.—Young seeds at cost of seeds and sowing. No allowance for clover leys. Sainfoin up to four years old is compensated.

ROOTS.—Both the method of valuing at consuming price, and at the cost of cultivations (plus an allowance for rent and rates) are known.

BARE FALLOWS.—Cost of cultivations, manure, rent and rates. Half manures were formerly allowed. Cultivations on the stubbles since harvest are paid for.

UNDERWOODS.—The valuation of underwoods is often an important item in a Sussex outgoing.

FEEDING STUFFS.—The Sussex Valuers' Association has adopted Voelcker and Hall's Tables, but awards only three-quarters of the values given in the tables in the case of second-class farms.

WARWICKSHIRE.

ENTRY.—Both Lady-day and Michaelmas tenancies. Usually there is neither PRE-ENTRY nor HOLD-OVER; but agricultural customs vary widely in this county. It is said that there are half a dozen different customs within six miles of Warwick, and the under-mentioned must merely be regarded as types.

Hay and Straw.—At consuming price.

Manure.—Labour only allowed.

Wheat Crop.—The Lady-day incomer takes the away-going crop of wheat on entry at a valuation, based on the cost of seed, labour and cultivations.

Seeds.—Cost of seed and sowing.

Roots.—Consuming price.

Bare Fallows.—Cost of cultivations and one year's rent and rates.

Feeding Stuffs and Artificials.—The allowances for feeding stuffs, liming, boning and artificials are valued according to the scale of the Midland Counties Tenant Right Valuers' Association, and are similar to those in operation in Leicester.

WESTMORLAND.

Entry.—In the north at Candlemas. In the south a modified Lady-day tenancy exists : viz., arable land is entered on February 14th, grass on April 5th, and the buildings on May 12th.

Pre-entry.—Not general.

Hold-over.—Part of the house, buildings, and yard till May 12th. The customs in regard to hay and straw, manure, seeds, roots, and fallows, away-going crop, and feeding stuffs, are practically identical with those obtaining in Cumberland. Westmorland agreements often grant fairly liberal allowances for liming and boning. There is a tendency to make a deduction (up to 20 per cent.) in case of feeding stuffs consumed by milch cows and to make an addition on a similar scale for feeding stuffs given to fattening stock, but the practice varies widely.

WILTSHIRE.

Entry.—Michaelmas; but there are some Lady-day tenancies on grass farms in North Wilts.

Pre-entry.—Formerly the Michaelmas incomer was allowed to enter at Lady-day to prepare land for wheat and roots, and to sow grass seeds and roots. In modern times the outgoer would do these cultivations and be paid for the work and seed. The incomer, however, would enter on clover leys and roots after they had been fed off for the purpose of preparing for wheat.

Hold-over.—The Michaelmas outgoer has half the dwelling-house, and part of the buildings and yards till Lady-day (sometimes till May 1st) to thresh and dress his corn.

Hay and Straw.—Hay and first cut clover usually at market price; second cut and straw at consuming price.

Manure.—Generally only cost of labour allowed.

Seeds.—At cost of seed and sowing. Sainfoin roots under four years' growth are compensated.

Roots.—When roots have not been sown by the incomer, the compensation is assessed on the basis of the cultivations, seed and manure. All manuring and tillages for the benefit of the incomer are paid for.

Half tillages on green crops and roots fed on the holding by sheep are allowed; but there is no allowance for rent or rates on either bare fallows or root land.

FEEDING STUFFS AND PURCHASED MANURES.—As in Dorset and Hants.

WORCESTER.

ENTRY.—Michaelmas chiefly; but Candlemas and Lady-day tenancies in the north.

PRE-ENTRY.—The Lady-day incomer often has a right to enter at Candlemas to plough, being allowed stable room.

HOLD-OVER.—The Michaelmas outgoer holds part of the house, buildings and yard, and sometimes a boosey pasture, till Lady-day; and the Lady-day outgoer has two rooms in the house, and part of the buildings till May 1st, to consume his hay, straw and roots.

HAY AND STRAW AND ROOTS.—In theory these are consumed by the outgoer, but in practice they are taken at consuming price by the incomer.

AWAY-GOING CROP.—The Lady-day tenant is allowed an away-going crop of wheat on one-third of the arable land. In theory he plants and harvests the wheat, takes away the corn, and leaves the straw and chaff for the incomer. In practice the incomer purchases the off-going crop at a valuation made in July, and sometimes the valuation is based on the cost of the seed and cultivations.

MANURE.—Labour only allowed.

SEEDS.—At cost of seed and sowing, if well done and not grazed.

BARE FALLOWS.—All labour on bare fallows allowed.

FEEDING STUFFS AND PURCHASED MANURES.—Hitherto the allowances have been based on cost: viz., a third of the cost of the linseed and cotton cake fed in the last year, and one-sixth of that consumed in the previous year. For other feeding stuffs the allowances were one-fourth and one-eighth. Boning was paid for on the seven years' scale on pasture land, and four years' on meadow and arable. Purchased manures applied to pasture land were compensated at one-half in the last year, and one-fourth in the previous year; similarly, if applied in the last year to green crops consumed on the farm one-half was allowed, or one-fourth if the crop was taken off the land. No official action has been taken to alter these allowances; but there is a tendency to be influenced by the action of adjoining counties in adopting modern manurial tables. See the customs of Hereford, Stafford, Shropshire, and Warwick.

YORKSHIRE.

ENTRY.—Various dates of entry prevail, but the most usual type is the Old Lady-day entry (April 6th), with PRE-ENTRY for ploughing after February 2nd, and HOLD-OVER of the house and buildings until May 13th.

HAY AND STRAW.—Consuming price is general, but market price is paid near the large West Riding towns.

MANURE.—Generally paid for at a consuming price per cubic yard.

SEEDS.—Paid for at the cost of seed, sowing and harrowing; but young seeds must not be grazed after November 1st.

ROOTS.—Consuming price is generally paid in the North and East Riding. In the West Riding the system of tillages and half tillages obtains. The term "tillage" is a Yorkshire expression for the allowances for working turnip or bare summer fallows. Full tillage is allowed when there is a bare summer or root fallow in the last year of the tenancy; and half tillages are allowed when the land was fallow in the last year but one.

The compensation for full tillage is estimated as follows: rent and rates, the cost of the cultivations, the cost of turnip seed and hoeing, and the cost of the manure applied. From the amount so obtained, the under-mentioned deductions are made where roots have been grown, viz. :—

Swedes drawn off £4 0s. 0d. per acre.
Swedes eaten on £2 0s. 0d. per acre.
Turnips drawn off £3 0s. 0d. per acre.
Turnips eaten on £1 10s. 0d. per acre.
Mangolds £4 0s. 0d. per acre.
Potatoes £5 0s. 0d. per acre.
Rape eaten on 15s. per acre.

In calculating the compensation for half tillages the allowances are :—
Half the rent and rates, half the cost of the cultivations, half the cost of the manure applied. From this amount a deduction is made for roots at the rate of one-half of the aforesaid deductions for full tillages.

AWAY-GOING CROP.—Methods peculiar to Yorkshire are adopted for valuing the away-going crop. This crop is taken in the West Riding after fallows, rape, swedes, turnips or mangolds; in the North and East Ridings more generally after seeds (pastured during the previous summer). Formerly the three-course shift was a common rotation on strong land, and then one-third of the arable might be cropped with an away-going crop; on lighter land the four-course rotation prevailed, and accordingly the allowance was limited to one-fourth. Changes have, however, been taking place, and in many districts the five-course system is now allowed; in fact, over large sections of the East Riding there is a fairly definite five-course rotation as follows :—Wheat, barley, roots, oats and seeds. In these cases the outgoer has approximately an away-going crop of wheat of one-fifth of the arable land. The crop, however, is not limited to wheat. Generally it is taken by valuation. It is viewed at harvest, and an estimated yield per acre is agreed upon; then towards the end of the year the assessment is made and is based upon the average price of corn from harvest to Christmas. From this these deductions are made :—generally one year's rent, rates and taxes. In the West Riding (known locally as the onstand), and in some parts of the North and East Riding, this deduction is a fixed sum of 6s. 8d. per acre only; a further deduction is made for "inning" and "outing" expenses, *i.e.*, cost of harvesting, threshing, dressing and delivering to market. In the West Riding, consuming price is often paid for the straw, or it is allowed to stand as the equivalent of the inning and outing

expenses; in the North and East Riding the straw is usually not valued. The net sum so obtained is paid for by the incomer in two instalments.

Feeding Stuffs.—Up to the end of 1911 the unexhausted manurial value of feeding stuffs was compensated on the basis of cost. There are four important Tenant Right Valuers' Associations in the county: the North Riding and South Durham, the East Riding, the West Riding, and the Derby, Yorks, and Notts. All four societies are members of the Central Association of Tenant Right Valuers, and three of the societies introduced a uniform scale based on residual manurial values for all tenancies falling in after January 1st, 1912. The South Yorks and Derby Valuers were willing to accept Voelcker and Hall's or the Central Chamber of Agriculture's Scale, and the three other societies used Voelcker and Hall's Scale slightly modified. Where the urine had been allowed to run to waste deductions were made (even up to 25 per cent.), and the consumption of feeding-stuffs by dairy stock was also penalised by deductions (up to 25 per cent.) where new milk was sold off.

Artificials.—A scale has been adopted for artificials by the aforesaid societies; boning is generally compensated on the six years' scale on grass land grazed, and on the three years' scale on arable land or meadow. Other artificials are remunerated liberally.

NORTH WALES.

(ANGLESEY, CARNARVON, DENBIGH, FLINT, MERIONETHSHIRE, MONTGOMERYSHIRE.)

At one time it could scarcely be said that Tenant Right existed in North Wales. Generally the tenancies began on November 30th, the outgoer retaining the house, outbuildings, and a boosey pasture until May 1st; and the incomer paid the first half-year's rent on March 25th, after being in possession barely four months. There was thus no division of crops between the off-going and incoming tenant, as the outgoer reaped all his crops before the tenancy of the land expired, and the incomer sowed in the autumn or early spring the crops he reaped in the following summer, and in respect of which he paid the half-year's rent on March 25th. Such an item as an allowance for unexhausted improvements was scarcely known in North Wales. Changes have, however, been taking place here as elsewhere. In the Isle of Anglesey, Merionethshire and Montgomeryshire, there was an attempt to establish Tenant Right. Montgomeryshire in particular has been influenced by the adjoining county of Shropshire. As far as these changes have made headway through North Wales, they may be summarised as follows :—

Entry.—November 13th in Anglesey; November 30th in Carnarvon. Hold-over of the house, buildings, and a boosey pasture till May 1st. Michaelmas in Denbigh and Flint, again with the hold-over of house, buildings, and boosey pasture till May 1st; both Lady-day and Candlemas entries are common in Merionethshire, the outgoer having the hold-over of house, buildings, and boosey pasture till May 1st. Lady-day entries are the most common in Montgomeryshire, the incomer taking the meadow on February 2nd, and having pre-entry on the stubble

on November 1st; the outgoer having the house, buildings and usual boosey pasture till May 1st.

Hay and Straw.—Consuming price.

Manure.—Passes free: but in Anglesey the manure made from July to November of the last year of the tenancy is often paid for.

Seeds.—At the cost of seed and labour.

Roots.—At the cost of cultivations. In Anglesey, however, consuming price is often paid.

Feeding Stuffs.—No customary scale: but in Montgomeryshire the Scale of the Shropshire Chamber of Agriculture is accepted.

Artificials.—No fixed scale. As in other matters, Montgomery is influenced by Shropshire. Otherwise the most usual allowances are:—Liming on the three years' principle, undissolved bones on the five years' scale, and purchased manures on the two years' scale.

SOUTH WALES.

(BRECKNOCK, CARDIGAN, CARMARTHEN, GLAMORGANSHIRE, PEMBROKE, AND RADNORSHIRE.)

Tenant Right has a much more secure footing in South Wales; in fact, the county of Glamorgan in particular is ranked with Lincolnshire and Yorks as being a pioneer in the matter. Recently great credit for this is due to the South Wales Valuers and to the Glamorganshire Chamber of Agriculture, whose Scale of Compensation is now practically adopted throughout South Wales.

Entry.—Generally at Michaelmas; but in Glamorgan Michaelmas, Candlemas, and Lady-day entries are met with, and in Radnorshire Lady-day entries prevail.

Pre-entry.—Very little pre-entry prevails; except that in Brecknock the incomer is often allowed living accommodation and stabling from May 1st, and in Radnorshire the incomer can enter on the arable lands on November 1st to prepare for spring corn and roots.

Hold-over.—Practically none, except in Candlemas entries. In Glamorgan the outgoer has the use of the house, buildings, and a boosey pasture until May 1st in Candlemas and Lady-day tenancies; and in Radnorshire, the house, part of the buildings, and boosey pastures to the same date.

Hay and Straw.—Consuming price paid throughout, except that in Radnorshire (Lady-day tenancies) the tenant is supposed to consume his hay or leave it free.

Manure.—South Wales is much more advanced than North Wales in regard to manure; in fact, it is usually valued at market price, except in Brecknock and Radnorshire, where it passes free.

Seeds.—Seeds are valued at the cost of seed and sowing. In Glamorgan the young seeds must not have been grazed after harvest.

Roots.—The roots are generally consumed in Brecknock and Radnorshire, but in other counties are valued at the cost of the cultivations. In Glamorganshire bare fallows are remunerated at the cost of culti-

vations and rent and rates for twelve months. Half-fallows are also allowed, and ploughing in autumn is paid for.

Feeding Stuffs.—We have frequently made mention of the fact that the Glamorganshire Chamber of Agriculture has adopted a scale of compensation for feeding stuffs and artificials. For artificials, see p. 197.

The scale of feeding stuffs is that of the Central Chamber of Agriculture, but it is limited to the consumption of the final two years of the tenancy. A slight divergence from the Central Chamber's Scale has been made, however, in the case of purchased clover, hay, and straw. The Glamorganshire Scale allows 12s. 6d. per ton for clover, lucerne or sainfoin consumed in the last year of the tenancy, and 6s. 3d. per ton consumed in the last year but one. For hay the allowances are 10s. and 5s. per ton for the two years respectively; and for straw 5s. and 2s. 6d. It will be observed that these allowances are somewhat lower than the Central Chamber's Scale. It should further be noted that when the tenant has sold off clover, hay, straw, and roots during the last two years of his tenancy, he is dilapidated on the basis of these figures.

Compound feeding cakes are compensated at the rate of 14s. and 7s. per ton respectively, unless vouchers are produced showing the percentage of nitrogen, &c., contained in the cakes.

Dry stone walling is compensated on the fourteen years' scale: and even hedging and ditching are allowed for on the three years' scale.

It is considered that the publication of Voelcker and Hall's Revised Scale will not cause alterations to be made in the current South Wales scale.

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The Eastern Press, Ltd., London and Reading.

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