

THE



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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Further and Final Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd March 1893:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Land Acquisition Act, 1870, was referred, have considered the Bill as amended by our Preliminary Report of the 1st February, and the papers noted in the margin, and have now the honour to submit this our Further and Final Report. In our Report of February 1st we recommended that the Act of 1870 should be wholly repealed and re-enacted with such amendments as might be approved by the Council. We have now acted upon this recommendation, and we attach to this Report a Bill repealing the Act of 1870 and re-enacting it with amendments.

2. We have made few changes in the recommendations made in February. In the subsequent remarks the references are to the sections of the Bill which we now present.

3. In section 3, the interpretation-clause, we have added, at the instance of the Governments of Bombay and the Punjab and the Chief Commissioner of Burma, a provision which will enable the Local Government to apply the Act for the acquisition of village-sites in those parts of the country where it may be customary for the State to provide village-sites. The Committee are in concert with the great majority of the authorities consulted in declining to recommend any further extension of the scope of the Act.

4. In section 17 we have introduced a sub-section permitting a shorter procedure under the direct orders of Government in those cases where sudden changes in the course of a river require new land to be immediately taken for the convenience of the traffic on a railway.

5. In section 19 we have, on the suggestion of the High Court of Bengal, added to the particulars which will be included in the report of the Collector to the Judge when a matter of dispute is referred for the decision of the Civil Court.

6. In section 27 we have widened the discretion of the Judge in the apportionment of costs, to meet an objection pressed by the Lieutenant-Governor of Bengal. It is represented that the owners of land frequently suppress the evidence as to the value of their property, which it is their duty to adduce before the Collector, hoping to deploy it to greater advantage before the Judge. We have now given express power to the Judge to give effect to this consideration in his award of costs when he is of opinion that evidence given before him has been wilfully kept back in the proceedings before the Collector.

7. We have removed to Part VIII the sections which now stand there as sections 53 and 54. They concern questions of procedure in the Civil Court, and, being thus made generally applicable, several sections in earlier parts of the present Act become superfluous, and have been accordingly omitted.

8. Section 31 contains the regulations as to the payment of the compensation-money. To this we have added additional sections laying down the procedure of the Collector and the Judge in those cases in which the occupant of the land acquired is from any disability incompetent to alienate it, or in which the compensation-money must remain in deposit till the settlement of a dispute as to title. One of the objections urged by Local Governments against the present law was that excessive charges of interest accumulated against Government when owners refused the Collector's award. The revised Bill met this objection by requiring the Collector to make immediate payment of his award, and empowering the owner to take payment of the compensation tendered, without prejudice to a protest regarding the sufficiency of it. In the cases abovementioned, however, it is only fair to the owner that the compensation-money deposited by the Collector should be immediately so invested as to yield him interest till the title to it is settled. We have added a clause giving formal power to the Collector with the sanction of the Local Government to adjust compensation by an exchange of land, a method of settlement which has been found in some provinces useful and convenient to all parties.

9. In this connection we may remark, in answer to a criticism by the Bengal Board of Revenue, that a deposit of money by the Collector in a Civil Court is, we understand, a paper transaction, which merely places the amount at the credit of the Court in its personal ledger in the Collector's treasury.

10. Part VI of the revised Bill, as of the present Act, concerning the temporary occupation of land, permits a reference to the Civil Court as to the sufficiency of the Collector's compensation. The Governments of Bombay and the North-Western Provinces have asked that the reference may include a question as to the apportionment of the compensation. We have adopted this suggestion.

11. We have altered the terms of the first clause of section 48, which gives certain powers to Government to withdraw from a contemplated acquisition of land, so as to make it quite clear that this withdrawal may be made at any time before possession is taken, but not afterwards. Instances were quoted in our Preliminary Report in which the Collector was proved by the Judge's award to have been seriously misled as to the value of the land, and in which the Government would not have acquired the land had it received a correct appraisalment. We think that a Government which provides compensation from the taxes of the Empire should have larger powers of withdrawal than are given by the present Act, but we are of opinion that no such power should be given after possession has once been taken, and that each Local Government must protect itself by executive instructions to Collectors to refrain from taking possession, until after the award of the Judge, in every case in which there is material difference between the Collector and the owner as to the value of the property.

12. To section 50 we have added, at the desire of the Government of Bombay, a clause permitting the appearance before the Collector or the Court of the representative of a local authority or company on whose behalf land is being acquired. We cannot, however, agree that this authority should be permitted to appeal from the Collector's award. We have not given to Government itself power to make this appeal, because the Collector is only the agent of Government in the acquisition of land; his action is taken under rules laid down for his guidance, which include a preliminary valuation; and these rules ordinarily provide, and ought to provide, that, where the Collector finds cause to anticipate that his eventual award will substantially exceed his provisional estimate, he shall stay proceedings till he receives the further instructions of higher authority. No local authority or company is compelled to proceed under the Land Acquisition Act. If it can procure its land more cheaply by private negotiation, it is entirely at liberty to do so, but, if it elects to set in motion the very special powers given to Government for public objects, it can expect no higher privileges and powers than those given to Government itself.

13. We may explain, in answer to a criticism by the Board of Revenue, Lower Provinces, that power was given to the Collector in section 17 to give special damages for sudden dispossession in order to cover injuries which sudden dispossessions constantly entail. If, for instance, an owner is suddenly deprived of a pasture meadow, the market-value of the meadow may not represent the actual amount of his loss. It may be impossible to find fresh pasture for his cattle in the emergency except at special charges. We think it right that the Collector should be empowered, whenever he deprives a man suddenly of his land, to meet liberally the exceptional expenses to which the owner may be put.

14. We have again considered the question of a definition of the term "market-value," but we adhere to the opinion of our Preliminary Report that it is preferable to leave the term undefined. No material difficulty has arisen in the interpretation of it; the decisions of the several High Courts are at one in giving it the reasonable meaning of the price a willing buyer would give to a willing seller; but the introduction of a specific definition would sow the field for a fresh harvest of decisions; and no definition could lay down for universal guidance in the widely divergent conditions of India any further rule by which that price should be ascertained.

15. The Bombay Government have pointed out the difficulty of discriminating accurately between clause (3) of section 24 and clause (4) of section 25 of the present Act. The former permits to be taken into consideration in an award of compensation any damage sustained by reason of the acquisition injuriously affecting other property of the owner. The latter excludes from consideration any damage caused by the use to which the land acquired will be put, and it was contended that under the latter clause it was doubtful whether an owner could be compensated for the damage caused to the rest of a building-site by the construction on part of it of a public latrine. We think that, even as the Act at present stands, there is no doubt of the right of the owner to compensation for damage of this sort; but we have so altered clause (4), section 24 of the Bill, as to make it quite clear that we exclude from compensation only a possible depreciation of the acquired land itself from the use to which it will be put; that is to say, if garden lands are appropriated for a latrine, the owner will get compensation as for garden lands without reference to the lower value they will subsequently have.

16. The other alterations are merely verbal amendments, and need not be referred to in detail.

17. The further publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	4th February 1893.
Fort Saint George Gazette	14th February 1893.
Bombay Government Gazette	9th February 1893.
Calcutta Gazette	9th February 1893.
North-Western Provinces and Oudh Government Gazette .	11th February 1893.
Punjab Government Gazette	10th February 1893.
Central Provinces Gazette	18th February 1893.
Burma Gazette	18th February 1893.
Assam Gazette	18th February 1893.
Coorg District Gazette	1st March 1893.

18. We do not think that the additional amendments now proposed are of sufficient importance to require republication, and we recommend that the Bill appended to this Report be passed into law.

J. WOODBURN.
 PHIL. P. HUTCHINS.
 ALEX. EDW. MILLER.
 C. B. PRITCHARD.
 RASHBEHARY GHOSE.
 P. CHENTSAL RAO.
 C. C. STEVENS.

The 22nd March 1893.

No. III.

THE LAND ACQUISITION BILL,
1893.

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The Land Acquisition Bill, 1893.

(Part I.—Preliminary.—Sections 1—3.)

No. III.

A Bill to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement. 1. (1) This Act may be called the Land Acquisition Act, 1893.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

X of 1870.

Repeal.

2. (1) The Land Acquisition Act, 1870, is hereby repealed.

(2) But all proceedings commenced, officers appointed or authorized, agreements published and rules made under the said Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act.

(3) Any enactment or document referring to the said Act or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(a) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(c) the expression "Collector" means the Collector of a District, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act;

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;

(e) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies

v.:—15

es Acts, 1862 to 1890, or incorporated by VI of 1892, an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent:

(f) the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and

(g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability: a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted.

Provided that—

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Chapter XXXI of XIV of 1892 the Code of Civil Procedure shall, mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

*The Land Acquisition Bill, 1893.**(Part II.—Acquisition.—Sections 4—10.)*

PART II.

ACQUISITION.

Preliminary Investigation.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the *official Gazette*, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Publication of preliminary Notification, and powers of officers thereupon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the

Payment for damage.

time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended Acquisition.

6. (1) Subject to the provisions of Part VII

of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Declaration that land is required for a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, out of some fund controlled or managed by a local authority, or by a Company.

(2) The declaration shall be published in the *official Gazette*, and shall state the district or

other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration, Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to persons interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him and registered under Part III of the *Indian Post Office Act, 1866*.

10. (1) The Collector may also require any such person to make or deliver to him at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition).

Power to require and enforce the making of statements as to names and interests.

*The Land Acquisition Bill, 1893.**(Part II.—Acquisition.—Sections 11-17. Part III.—Reference to Court and procedure thereon—Section 18.)*

tion), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

11. On the day so fixed or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8 and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(i) the true area of the land ;

(ii) the compensation which in his opinion should be allowed for the land ; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

14. For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

Taking Possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section 9 take possession of any waste or arable land needed for public purposes or for a Company.

Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18 (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by

Reference to Court.

The Land Acquisition Bill, 1893.

(Part III.—Reference to Court and Procedure thereon.—Sections 19-24.)

the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, or within six months from the date of the Collector's award, whichever period shall first expire.

19. In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;
- (b) the names of the persons whom he has reason to think interested in such land ;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

- (a) the applicant ;
- (b) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the declaration relating thereto under section 6 ;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land ;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner, or his earnings ;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and

sixthly, the damage (if any) bonâ fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition ;

secondly, any disinclination of the person interested to part with the land acquired ;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

fourthly, any damage which, after the date of the publication of the declaration under section 6, is likely to be caused to the land acquired by or in consequence of the use to which it will be put ;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or

The Land Acquisition Bill, 1893.

(Part III.—Reference to Court and Procedure thereon.—Sections 25-28.) Part IV.—Apportionment of Compensation.—Sections 29-30. Part V.—Payment.—Sections 31-32.)

seventhly, any outlay or improvements on the land acquired, commenced, made or effected after the date of the publication of the declaration under section 6.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than and may exceed the amount awarded by the Collector.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under the first clause of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector, that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be speci-

fied in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

[L. C. C. Act, 1845, ss. 69 and 78.]

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

The Land Acquisition Bill, 1893.

(Part V.—Payment.—Sections 33—34. Part VI.—Temporary Occupation of Land.—Sections 35—37. Part VII.—Acquisition of Land for Companies—Section 38.)

[L. C. C. Act,
1845, s. 69.]

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit ;

[Ibid., s. 78.]

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

[L. C. C. Act,
s. 69.]

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(a) the costs of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

[L. C. C. Act,
s. 80.]

33. When any money shall have been deposited

Investment of money deposited in other cases.

in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. When the amount of such compensation is not paid or deposited

Payment of interest.

on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation, or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

38. (1) Subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Company may be authorized to enter and survey.

The Land Acquisition Bill, 1893.

(Part VII.—Acquisition of Land for Companies.—Sections 39—44. Part VIII.—Miscellaneous.—Sections 45—46.)

(2) In every such case section 4 shall be construed as if, for the words "for such purpose," the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if, after the words "the officer," the words "of the Company," were inserted.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely:—

(1) the payment to Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company;

(4) the time within which, and the conditions on which, the work shall be executed and maintained; and

(5) the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled

to use the work) have the same effect as if it had formed part of this Act.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, X of 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII.

MISCELLANEOUS.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein and registered under Part III of the Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section 4 shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

The Land Acquisition Bill, 1893.

Part VIII.—Miscellaneous.—Sections 47—55).

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11 by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined:

(2) If in the case of any claim under section 23, sub-section 1, thirdly, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary;

but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such Fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

(2) All such rules, alterations and additions shall, when sanctioned by the Governor General in Council, be published in the official Gazette, and shall thereupon have the force of law.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.