



Bombay Government Gazette.

Published by Authority.

THURSDAY, 12TH MARCH 1885.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th February 1885, and was referred to a Select Committee:—

Bill No. 4 of 1885.

THE LAND ACQUISITION (MINES) BILL, 1885.

CONTENTS.

SECTION.

1. Short title, local extent and commencement.
2. Statement in declaration under section 6 of Act X of 1870 that mines not needed.
3. Notice to be given by owner, &c., before working mines lying under land.
4. Inspection of mines by Local Government.
5. If Local Government offers to pay compensation, mines not to be worked.
6. Amount of compensation to be determined under Act X of 1870.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Power to officer of Local Government to enter and inspect the working of mines.
9. Penalty for refusal to allow inspection.
10. If mines improperly worked, Local Government may require means to be adopted for safety of land acquired.
11. Construction of Act when land acquired has been transferred to a Company.
12. Definition of Company.

A Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as **X of 1870.** follows:—

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885.
- (2) It extends to the whole of British India; and
- (3) It shall come into force at once.

2. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks

fit, insert in the declaration a statement that any mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as are necessary to be dug or carried away or used in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) If any such statement is inserted in the declaration, any mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the declaration, except as aforesaid, shall not, when the Collector takes

The Land Acquisition (Mines) Bill, 1885.
(Sections 3-12.)

possession of the land under section 16 or section 17 of the said Act, vest in the Government.

[cf. 8 Vic., c. 20, s. 78.]

3. If the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do thirty days before the commencement of working.

Notice to be given by owner, &c., before working mines lying under land.

[cf. 8 Vic., c. 20, s. 78.]

4. On the receipt of a notice under the last foregoing section, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose.

Inspection of mines by Local Government.

[cf. 8 Vic., c. 20, s. 78.]

5. (1) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice under section 3 offer either—

- (a) to pay compensation for the mines or minerals or part thereof to the owner, lessee or occupier thereof; or
- (b) to pay compensation to the owner, lessee or occupier of the mines or minerals, or part thereof, in consideration of his working or getting them in such manner and subject to such restrictions as the Local Government may in its offer specify.

(2) If the offer mentioned in case (a) is made, then the owner, lessee or occupier shall not work or get the mines or minerals or part thereof;

(3) If the offer mentioned in case (b) is made, then the owner, lessee or occupier shall not work or get the mines or minerals, or part thereof, save in the manner and subject to the restrictions specified by the Local Government.

[cf. 8 Vic., c. 20, s. 78.]

6. If the Local Government and the owner, lessee or occupier of any such mines or minerals, do not agree as to the amount of compensation to be paid under the last foregoing section, the same shall be settled in accordance with the procedure prescribed by the Land Acquisition Act, 1870, for determining the amount of compensation.

Amount of compensation to be determined under Act X of 1870.

X of 1870.

[cf. 8 Vic., c. 20, s. 79.]

7. (1) If before the expiration of the said thirty days the Local Government does not offer to pay any compensation to the owner, lessee or occupier of the mines or minerals for any loss he may sustain as provided in section 5, the owner, lessee or occupier may work the mines, or any part thereof, in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines or minerals shall at once

at his own expense repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. For better ascertaining whether any such mines are being worked or have been worked so as to damage the land acquired or the works

Power to officer of Local Government to enter and inspect the working of mines.

thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter on any land in or near which the land acquired is situate, and wherein any such means are being worked or are supposed to be worked, and enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from the land acquired to the parts of the mines which are being worked or about to be worked.

9. If any owner, lessee or occupier of any such mines refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the Local Government a sum not exceeding two hundred rupees.

Penalty for refusal to allow inspection.

10. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and preventing injury thereto; and, if after such notice any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

If mines improperly worked, Local Government may require means to be adopted for safety of land acquired.

11. When a statement under section 2 has been made regarding any land and the land has been acquired for a Company and has been transferred by the Local Government to the Company, then sections 3 to 10, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the Company which has acquired the land" were substituted.

Construction of Act when land acquired has been transferred to a Company.

12. In this Act "Company" means a Company registered under the Indian Companies Act, 1882, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

Definition of Company.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

2. Act XXII of 1863, which was replaced by the Land Acquisition Act, 1870, contained specific provisions (sections 51 and 52) for cases in which mines and minerals lay under land taken up under that Act. These provisions were not, however, re-enacted in the Act of 1870, which, as the Government is advised, contemplates the acquisition of the underlying minerals as well as the surface of the land.

3. Hitherto this state of the law has caused no inconvenience. Now, however, owing to its being proposed to extend railways across districts where there is a certain amount of coal to be found, notice has been drawn to the inconvenience of the existing law which practically compels the Government either to purchase all the mines and minerals under the land over which it is proposed to construct a line or to abandon the undertaking altogether.

4. Under these circumstances, the present Bill has been prepared. It does not, however, simply re-enact the provisions which Act XXII of 1863 formerly contained, inasmuch as they do not appear to be adapted to the circumstances of the case. It follows rather the rules contained in the English Railway Clauses Consolidation Act, 1845, (8 Vic. c. 20, ss. 77 *et seq.*) which it extends to the acquisition of land for all purposes and not merely for the construction of Railways.

5. It provides, first, (section 2) that when a declaration is made by the Local Government under section 6 of the Land Acquisition Act, the Local Government may, if it thinks fit, insert in the declaration a statement that any mines or minerals lying under the land to be acquired are not needed, and that if any such statement is inserted in the declaration, the mines or minerals lying under the land shall not, when the Collector takes possession of the land under section 16 or section 17 of the Act, vest in the Government.

6. It then (section 3) declares that if the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working the same, he shall give the local Government notice in writing of his intention so to do thirty days before the commencement of working.

7. Next (section 4), the Bill empowers the local Government to cause the mines or minerals to be inspected by a person appointed by it for the purpose.

8. If it appears (section 5) to the local Government that the working of the mines or minerals is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice, offer either—

- (a) to pay compensation for the mines or minerals to the owner, lessee or occupier;
- (b) to pay compensation to the owner, lessee or occupier of the mines or minerals in consideration of his working or getting them in such manner and subject to such restrictions, as the Local Government may in its offer specify.

If the offer mentioned in case (a) is made, then the owner, lessee or occupier is prohibited from working the mines or minerals, whilst if the offer mentioned in case (b) is made, then he may not work or get the mines or minerals, save in the manner and subject to the restrictions specified by the local Government.

9. The Bill next provides (section 6) for the manner in which the amount of compensation to be paid under section 5 is to be determined.

10. Should, however, the local Government not offer to pay any compensation, section 7 permits the owner, lessee or occupier of the mines or minerals to work the mines in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate. Should any damage or obstruction be caused by improper working of the mines, the section provides for the repairing of the damage or the removal of the obstruction by or at the cost of the owner, lessee or occupier.

11. Sections 8 and 9 provide for the inspection of mines for the purpose of ascertaining whether they are being worked or have been worked so as to damage the land which has been acquired and section 10 declares that if any mines have been improperly worked, the Local Government may require the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary for making safe the land acquired and preventing injury thereto.

12. Lastly, section 11 makes the provisions of sections 3 to 10 applicable to cases where the land acquired has been transferred to a company, and section 12 defines what the term "Company" as used in the Bill means.

The 24th February 1885.

(Signed) T. C. HOPE.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

[Published with the "Bombay Government Gazette" on the 12th March 1885.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February 1885, and was referred to a Select Committee:—

Bill No. 3 of 1885.

A Bill to amend section 265 of the Indian Contract Act, 1872.

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872; It is hereby enacted as follows:—

New section substituted for section 265, Indian Contract Act.

1. For section 265 of the said Act the following shall be substituted, namely:—

"265. In the absence of any contract to the contrary, after the termination of a partnership, the Court may at the suit of any one of the partners or his representatives wind up the business of the firm, provide for the payment of its debts, and distribute the surplus according to the shares of the partners respectively."

2. In section 213 of the Code of Civil Procedure the words and figures from and including the word "applications" to the end of the section are hereby repealed.

Repeal of part of section 213, Act XIV, 1882.

X. of 1872.

STATEMENT OF OBJECTS AND REASONS.

SECTION 265 of the Indian Contract Act provides that, in the absence of any contract to the contrary, after the termination of a partnership, each partner or his representatives may apply to the Court to wind up the business of the firm, to provide for the payment of its debts and to distribute the surplus according to the shares of the partners respectively. It is explained that the Court mentioned in the section means a Court not inferior to the Court of a District Judge within the limits of whose jurisdiction the place or principal place of business of the firm is situated. This section has been the subject of various decisions by the Calcutta and other High Courts, first as to the meaning of the words "may apply", and secondly with regard to the jurisdiction of the Courts in the case of applications under the section.

2. The use of the words "may apply" has given rise to doubts as to whether the legislature intended that proceedings under the section should be by way of miscellaneous application or by way of regular suit. It is considered that where a partner wishes to have the business of the firm wound up, the debts paid and the surplus distributed, he should proceed by instituting a regular suit. The questions which the Court has to consider in such a case cannot well be decided in a summary manner on a miscellaneous application, and in disposing of an application under section 265 the Court must in effect deal with it as if it were a suit. In using the words "may apply" the legislature intended probably to indicate merely that a partner had a right to have the business wound up, the payment of the debts provided for, and the surplus distributed, by the Court. It is unlikely that there was any intention to declare that the procedure in such a case should be by way of a miscellaneous application.

3. With regard to the question of jurisdiction, the general result of the decided cases is to confine the jurisdiction to the Court of the District Judge and thus to bring on his files a number of suits many of which are unimportant and such as could be equally well decided by the subordinate tribunals. The time of all District Judges is fully occupied by their multifarious duties, and it is very undesirable that the performance of these duties should suffer in consequence of the compulsory institution in their Courts of cases the time and labour expended over which are often entirely disproportionate to the interests at stake.

4. The present Bill has accordingly been prepared. It amends section 265 so as to show plainly that proceedings thereunder are to be by way of a regular suit, and it omits the *Explanation* to the section, thus leaving the question of jurisdiction to be decided by the ordinary rules. The Bill also repeals the last paragraph of section 213 of the Code of Civil Procedure, as the omission of the *Explanation* renders that paragraph unnecessary.

The 16th February 1885.

(Signed) C. P. ILBERT.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

[Published with the "Bombay Government Gazette" on the 19th March 1885.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th February 1885, and was referred to a Select Committee:—

Bill No. 4 of 1885.

THE LAND ACQUISITION (MINES)
BILL, 1885.

CONTENTS.

SECTION.

1. Short title, local extent and commencement.
2. Statement in declaration under section 6 of Act X of 1870 that mines not needed.
3. Notice to be given by owner, &c., before working mines lying under land.
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5. If Local Government offers to pay compensation, mines not to be worked.
6. Amount of compensation to be determined under Act X of 1870.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
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1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885.
- (2) It extends to the whole of British India; and
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VI.—6-2

2. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks

fit, insert in the declaration a statement that any mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as are necessary to be dug or carried away or used in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) If any such statement is inserted in the declaration, any mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the declaration, except as aforesaid, shall not, when the Collector takes possession of the land under section 16 or section 17 of the said Act, vest in the Government.

3. If the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do thirty days before the commencement of working.

4. On the receipt of a notice under the last foregoing section, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose.

5. (1) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice under section 3 offer either—

- (a) to pay compensation for the mines or minerals or part thereof to the owner, lessee or occupier thereof; or
- (b) to pay compensation to the owner, lessee or occupier of the mines or minerals, or part thereof, in consideration of his working or getting them in such manner and subject to such restrictions as the Local Government may in its offer specify.

The Land Acquisition (Mines) Bill, 1885.
(Sections 6-12.)

(2) If the offer mentioned in case (a) is made, then the owner, lessee or occupier shall not work or get the mines or minerals or part thereof;

(3) If the offer mentioned in case (b) is made, then the owner, lessee or occupier shall not work or get the mines or minerals, or part thereof, save in the manner and subject to the restrictions specified by the Local Government.

[cf. S Vic., c. 20, s. 78.]

6. If the Local Government and the owner, lessee or occupier of any such mines or minerals, do not agree as to the amount of compensation to be paid under the last foregoing section, the same shall be settled in accordance with the procedure prescribed by the Land Acquisition Act, 1870, for determining the amount of compensation.

X of 1870.

[cf. S Vic., c. 20, s. 79.]

7. (1) If before the expiration of the said thirty days the Local Government does not offer to pay any compensation to the owner, lessee or occupier of the mines or minerals for any loss

he may sustain as provided in section 5, the owner, lessee or occupier may work the mines, or any part thereof, in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines or minerals shall at once at his own expense repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. For better ascertaining whether any such mines are being worked or have been worked so as to damage the land acquired or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter on any land

in or near which the land acquired is situate, and wherein any such mines are being worked or are supposed to be worked, and enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from the land acquired to the parts of the mines which are being worked or about to be worked.

9. If any owner, lessee or occupier of any such mines refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the Local Government a sum not exceeding two hundred rupees.

10. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and preventing injury thereto; and, if after such notice any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

11. When a statement under section 2 has been made regarding any land and the land has been acquired for a Company and has been transferred by the Local Government to the Company, then sections 3 to 10, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the Company which has acquired the land" were substituted.

12. In this Act "Company" means a Company registered under the Indian Companies Act, 1882, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

2. Act XXII of 1863, which was replaced by the Land Acquisition Act, 1870, contained specific provisions (sections 51 and 52) for cases in which mines and minerals lay under land taken up under that Act. These provisions were not, however, re-enacted in the Act of 1870, which, as the Government is advised, contemplates the acquisition of the underlying minerals as well as the surface of the land.

3. Hitherto this state of the law has caused no inconvenience. Now, however, owing to its being proposed to extend railways across districts where there is a certain amount of coal to be found, notice has been drawn to the inconvenience of the existing law which practically compels the Government either

to purchase all the mines and minerals under the land over which it is proposed to construct a line or to abandon the undertaking altogether.

4. Under these circumstances, the present Bill has been prepared. It does not, however, simply re-enact the provisions which Act XXII of 1863 formerly contained, inasmuch as they do not appear to be adapted to the circumstances of the case. It follows rather the rules contained in the English Railway Clauses Consolidation Act, 1845, (8 Vic. c. 20, ss. 77 *et seq.*) which it extends to the acquisition of land for all purposes and not merely for the construction of Railways.

5. It provides, first, (section 2) that when a declaration is made by the Local Government under section 6 of the Land Acquisition Act, the Local Government may, if it thinks fit, insert in the declaration a statement that any mines or minerals lying under the land to be acquired are not needed, and that if any such statement is inserted in the declaration, the mines or minerals lying under the land shall not, when the Collector takes possession of the land under section 16 or section 17 of the Act, vest in the Government.

6. It then (section 3) declares that if the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working the same, he shall give the Local Government notice in writing of his intention so to do thirty days before the commencement of working.

7. Next (section 4), the Bill empowers the Local Government to cause the mines or minerals to be inspected by a person appointed by it for the purpose.

8. If it appears (section 5) to the Local Government that the working of the mines or minerals is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice, offer either—

(a) to pay compensation for the mines or minerals to the owner, lessee or occupier ;

(b) to pay compensation to the owner, lessee or occupier of the mines or minerals in consideration of his working or getting them in such manner and subject to such restrictions, as the Local Government may in its offer specify.

If the offer mentioned in case (a) is made, then the owner, lessee or occupier is prohibited from working the mines or minerals, whilst if the offer mentioned in case (b) is made, then he may not work or get the mines or minerals, save in the manner and subject to the restrictions specified by the Local Government.

9. The Bill next provides (section 6) for the manner in which the amount of compensation to be paid under section 5 is to be determined.

10. Should, however, the Local Government not offer to pay any compensation, section 7 permits the owner, lessee or occupier of the mines or minerals to work the mines in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate. Should any damage or obstruction be caused by improper working of the mines, the section provides for the repairing of the damage or the removal of the obstruction by or at the cost of the owner, lessee or occupier.

11. Sections 8 and 9 provide for the inspection of mines for the purpose of ascertaining whether they are being worked or have been worked so as to damage the land which has been acquired and section 10 declares that if any mines have been improperly worked, the Local Government may require the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary for making safe the land acquired and preventing injury thereto.

12. Lastly, section 11 makes the provisions of sections 3 to 10 applicable to cases where the land acquired has been transferred to a Company, and section 12 defines what the term "Company" as used in the Bill means.

The 24th February 1885.

(Signed) T. C. HOPE.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

[Published with the "Bombay Government Gazette" on the 26th March 1885.]

PART VI.

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LEGISLATIVE DEPARTMENT.

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1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885.

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

(3) It shall come into force at once.

VI.—6-3

2. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that any mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as are necessary to be dug or carried away or used in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) If any such statement is inserted in the declaration, any mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the declaration, except as aforesaid, shall not, when the Collector takes possession of the land under section 16 or section 17 of the said Act, vest in the Government.

3. If the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do thirty days before the commencement of working.

4. On the receipt of a notice under the last foregoing section, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose.

5. (1) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice under section 3 offer either—

(a) to pay compensation for the mines or minerals or part thereof to the owner, lessee or occupier thereof; or

(b) to pay compensation to the owner, lessee or occupier of the mines or minerals, or part thereof, in consideration of his working or getting them in such manner and subject to such restrictions as the Local Government may in its offer specify.

The Land Acquisition (Mines) Bill, 1885.
(Sections 6-12.)

(2) If the offer mentioned in case (a) is made, then the owner, lessee or occupier shall not work or get the mines or minerals or part thereof;

(3) If the offer mentioned in case (b) is made, then the owner, lessee or occupier shall not work or get the mines or minerals, or part thereof, save in the manner and subject to the restrictions specified by the Local Government.

[cf. 8 Vic., c. 20, s. 78.]

6. If the Local Government and the owner, lessee or occupier of any such mines or minerals, do not agree as to the amount of compensation to be paid under the last foregoing section, the same shall be settled in accordance with the procedure prescribed by the Land Acquisition Act, 1870, for determining the amount of compensation.

X of 1870.

[cf. 8 Vic., c. 20, s. 79.]

7. (1) If before the expiration of the said thirty days the Local Government does not offer to pay any compensation to the owner, lessee or occupier of the mines or minerals for any loss he may sustain as provided in section 5, the owner, lessee or occupier may work the mines, or any part thereof, in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines or minerals shall at once at his own expense repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. For better ascertaining whether any such mines are being worked or have been worked so as to damage the land acquired or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter on any land

Power to officer of Local Government to enter and inspect the working of mines.

thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter on any land

in or near which the land acquired is situate, and wherein any such mines are being worked or are supposed to be worked, and enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from the land acquired to the parts of the mines which are being worked or about to be worked.

9. If any owner, lessee or occupier of any such mines refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the Local Government a sum not exceeding two hundred rupees.

10. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and preventing injury thereto; and, if after such notice any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

11. When a statement under section 2 has been made regarding any land and the land has been acquired for a Company and has been transferred by the Local Government to the Company, then sections 3 to 10, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the Company which has acquired the land" were substituted.

12. In this Act "Company" means a Company registered under the Indian Companies Act, 1882, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

Construction of Act when land acquired has been transferred to a Company.

Definition of Company.

VI of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

2. Act XXII of 1863, which was replaced by the Land Acquisition Act, 1870, contained specific provisions (sections 51 and 52) for cases in which mines and minerals lay under land taken up under that Act. These provisions were not, however, re-enacted in the Act of 1870, which, as the Government is advised, contemplates the acquisition of the underlying minerals as well as the surface of the land.

3. Hitherto this state of the law has caused no inconvenience. Now, however, owing to its being proposed to extend railways across districts where there is a certain amount of coal to be found, notice has been drawn to the inconvenience of the existing law which practically compels the Government either

to purchase all the mines and minerals under the land over which it is proposed to construct a line or to abandon the undertaking altogether.

4. Under these circumstances, the present Bill has been prepared. It does not, however, simply re-enact the provisions which Act XXII of 1863 formerly contained, inasmuch as they do not appear to be adapted to the circumstances of the case. It follows rather the rules contained in the English Railway Clauses Consolidation Act, 1845 (8 Vic., c. 20, ss. 77 *et seq.*), which it extends to the acquisition of land for all purposes and not merely for the construction of Railways.

5. It provides, first, (section 2) that when a declaration is made by the Local Government under section 6 of the Land Acquisition Act, the Local Government may, if it thinks fit, insert in the declaration a statement that any mines or minerals lying under the land to be acquired are not needed, and that if any such statement is inserted in the declaration, the mines or minerals lying under the land shall not, when the Collector takes possession of the land under section 16 or section 17 of the Act, vest in the Government.

6. It then (section 3) declares that if the owner, lessee or occupier of any mines or minerals lying under any land so acquired is desirous of working the same, he shall give the Local Government notice in writing of his intention so to do thirty days before the commencement of working.

7. Next (section 4), the Bill empowers the Local Government to cause the mines or minerals to be inspected by a person appointed by it for the purpose.

8. If it appears (section 5) to the Local Government that the working of the mines or minerals is likely to cause damage to the surface of the land or any works thereon, the Local Government may at any time before the expiration of thirty days from the receipt of the notice, offer either—

(a) to pay compensation for the mines or minerals to the owner, lessee or occupier ;

(b) to pay compensation to the owner, lessee or occupier of the mines or minerals in consideration of his working or getting them in such manner and subject to such restrictions, as the Local Government may in its offer specify.

If the offer mentioned in case (a) is made, then the owner, lessee or occupier is prohibited from working the mines or minerals, whilst if the offer mentioned in case (b) is made, then he may not work or get the mines or minerals, save in the manner and subject to the restrictions specified by the Local Government.

9. The Bill next provides (section 6) for the manner in which the amount of compensation to be paid under section 5 is to be determined.

10. Should, however, the Local Government not offer to pay any compensation, section 7 permits the owner, lessee or occupier of the mines or minerals to work the mines in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate. Should any damage or obstruction be caused by improper working of the mines, the section provides for the repairing of the damage or the removal of the obstruction by or at the cost of the owner, lessee or occupier.

11. Sections 8 and 9 provide for the inspection of mines for the purpose of ascertaining whether they are being worked or have been worked so as to damage the land which has been acquired and section 10 declares that if any mines have been improperly worked, the Local Government may require the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary for making safe the land acquired and preventing injury thereto.

12. Lastly, section 11 makes the provisions of sections 3 to 10 applicable to cases where the land acquired has been transferred to a Company, and section 12 defines what the term "Company" as used in the Bill means.

The 24th February 1885.

(Signed) T. C. HOPE.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.