

ACT No. VI OF 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 1st May 1857.)

AN ACT for the acquisition of land for public purposes.

WHEREAS it is expedient to make better provision for the acquisition
of land needed for public purposes within the territories
in the possession and under the Government of the East
India Company, and for the determination of the amount of compensation
to be made for the same : It is enacted as follows :—

Preamble.

I. Sections I to VII inclusive, Regulation I. 1824 of the Bengal
Code ; so much of Act XXVIII of 1839 as is in force ;
Act I of 1850 ; Act XVII of 1850 ; Act XLIII of 1850 ;
Act XX of 1852 ; and Act I of 1854—are hereby repealed, except so far
as they repeal the whole or any part of any other Regulation or Act, and
except as to suits or proceedings commenced, contracts made, acts done
and liabilities incurred before the passing of this Act.

Laws repealed.

II. Whenever it appears to the local Government that any land is
required to be taken by Government at the public expense
for a public purpose, a declaration shall be made to that
effect under the signature of a Secretary to the Govern-
ment or of some Officer duly authorized to certify the
orders of the Government, and such declaration shall be
conclusive evidence that the purpose for which the land is needed is a public
purpose ; and after making such declaration, the Government may take any
such land in the manner hereinafter provided.

Land may be taken
by Government under
the provisions of this
Act after declaration
made that it is required
for a public purpose.

III. Whenever

III. Whenever any land shall have been declared to be so required for a public purpose, the Government shall direct the Collector of the District, or some other Officer specially appointed in that behalf, to take order for the acquisition of the land in the manner hereinafter provided.

After declaration, Collector shall be directed to take order for acquisition of land as hereinafter provided.

IV. The Collector or other Officer shall thereupon cause the land to be marked out and measured, and a plan to be made of the same. After the land has been so marked out and measured, he shall cause a notice to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, to the effect that the land is about to be taken by Government for a public purpose; and shall also give notice to the same effect to the occupier (if any) of such land, and to all such persons known or believed to be interested therein or to be entitled by Section XXXVIII of this Act to act for persons so interested as shall reside or have agents within the Collectorate or other Revenue District in which the land is situate, by serving such notice on such persons or their agents. Such notice shall contain a citation calling on all persons interested in the land to appear personally or by agent at a time and place therein mentioned, such time not being less than fifteen days after the date of publication of the notice; and to state the nature of their interests in the land and the amount and particulars of their claims to compensation for the same.

Collector shall cause the land to be marked out and measured, and a plan to be made of the same; and shall give notice to all persons interested in the land.

V. On the day fixed, the Collector or other Officer shall proceed to enquire summarily into the value of the land and the amount of compensation to be awarded, and if he and all the persons interested who have attended in pursuance of the notice agree as to the amount of compensation to be allowed, shall make an award for the same: and if the said persons agree also in the apportionment of the compensation, such apportionment shall be specified in the award. The award shall be final and conclusive in regard to the value of the land and the amount of compensation for the same; and also in regard to the apportionment (if any) of the compensation among the persons who

Collector to enquire into the value of the land, and the amount of compensation to be awarded.

Collector in certain cases to make award which shall be conclusive.

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who have agreed thereto. The Collector or other Officer may, if no claimant shall attend pursuant to the notice, or if he shall think fit for any other cause, postpone the enquiry to a day to be fixed by him and notified in the manner provided in the preceding Section.

Postponement of enquiry.

VI. When the Collector or other Officer proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the

If no claimant attends, or if Collector and persons interested are unable to agree as to the amount of compensation, the dispute shall be referred to arbitrators.

enquiry or on the day to which the enquiry may have been postponed, if no claimant shall attend, or if the said Collector or other Officer shall be unable to agree with the persons interested who have attended in pursuance

of the notice as to the amount of compensation to be allowed, the matter shall be referred to the determination of arbitrators to be appointed in the manner hereinafter provided.

VII. If upon the said enquiry any question arise respecting the title

In cases of conflicting claims, the person in possession shall be held for some purposes to be the person interested in the land.

to the land or any rights or interests therein between two or more persons making conflicting claims in respect thereof, the person deemed by the Collector or other Officer to be in possession as owner, or in receipt of the rents as being entitled thereto, shall, for the purpose

only of taking such measures as may be necessary for fixing the value of the land and the amount of compensation to be allowed for the same, be held as between such persons to be the person interested in the land.

After Collector's award or reference to arbitration, possession may be taken and the land shall be vested absolutely in the Government.

VIII. When the Collector or other Officer has made an award or directed a reference to arbitration, he may take immediate possession of the land which shall thenceforward be vested absolutely in the Government, free from all other estates, rights, titles, and interests.

IX. If the Collector or other Officer is opposed or impeded in taking

Magistrate to enforce surrender of land.

possession of such land, he shall apply to the Magistrate, who shall enforce the surrender of the land.

X. Clause 1. When any case is referred to arbitration, the Collector

Appointment of arbitrators.

or other Officer, and the person interested in the land, shall, unless they concur in the appointment of a single arbitrator,

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arbitrator, each appoint one arbitrator ; if there be several persons having a joint interest in the land, and they cannot agree in the appointment of an arbitrator, such disagreement shall be deemed a refusal to appoint within the meaning of the next following Section.

Clause 2. If there be several persons having distinct and separate interests in the land, and they cannot agree in the appointment of an arbitrator on their behalf, it shall be competent to the Collector or other Officer (subject to the orders of the Commissioner or other superior Revenue authority) to refer the question of the compensation to be allowed for each of such distinct and separate interests to a separate arbitration ; or to select any one of the persons interested whose interest appears to him to qualify such person to represent the others, and the person so selected shall appoint an arbitrator on behalf of all the persons interested.

In every case the appointment shall be in writing, and neither of the parties to the arbitration shall have power to revoke the same without the consent of the other.

If no claimant attends, or if no arbitrator is appointed by the persons interested, the arbitrator appointed by the Collector shall proceed to arbitrate.

XI. If no claimant shall have attended, or if the persons interested in the matter in dispute or authorized to act in that behalf refuse or neglect for the period of fifteen days to appoint an arbitrator, then a single arbitrator appointed by the Collector or other Officer shall arbitrate the matter. Provided that the person so appointed shall not be an Officer of Government.

Proviso.

XII. When more than one arbitrator shall be appointed, the arbitrators shall, before they enter upon the matter referred to them, nominate and appoint by writing a third person to act with them as arbitrator ; and in case the arbitrators shall neglect to appoint such third person for a period of one week after having been required to do so, the Collector or other Officer shall appoint a third arbitrator.

XIII. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed.

Arbitrator refusing or becoming incapable to act, &c.

appointed in his stead, in the same manner in which the first person was appointed.

XIV. When the amount of compensation is referred to arbitration, it shall be competent to the Collector or other Officer, with the written consent of all the persons interested, to require the arbitrators to determine the proportions in which all such persons are entitled to share in the amount awarded.

The arbitrators may by consent determine the proportions in which the persons interested are entitled to share in the amount of compensation awarded.

XV. When the Collector or other Officer and the persons interested in the land agree as to the amount of compensation, or when such amount shall have been settled by arbitration, if any dispute shall arise as to the apportionment of the same or any part thereof, it shall be competent to the Collector or other Officer, with the written consent of all persons interested in the matter in dispute, to refer the same to arbitration. If the parties cannot agree with respect to the nomination of the arbitrators, or if the persons nominated by them shall refuse to accept the arbitration, or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Collector or other Officer, he shall appoint some proper person or persons to arbitrate the matter. The provisions of this Act relating to arbitrators appointed under Sections X and XI and to the proceedings of such arbitrators shall be applicable to persons appointed arbitrators under this Section.

By consent arbitrators may be appointed to apportion the compensation in cases where the amount thereof has been agreed upon or has been settled by arbitration.

XVI. After the arbitrators have accepted the appointment, the Collector or other Officer shall be competent to exercise towards them such powers and authority for securing their attendance and the due completion of their award, as the Collector may legally exercise towards witnesses summoned before him when acting judicially for the purpose of compelling them to attend and give evidence.

Collector to exercise certain powers for securing attendance of arbitrators and completion of award.

XVII. If no award be made within a period to be fixed for that purpose by the Collector or other Officer, he may order that the matter shall be referred to another arbitrator or arbitrators

In default of award within a specified period, other arbitrators may be chosen.

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trators to be chosen in the same manner and subject to the same rules as the first.

XVIII. The Collector or other Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.

XIX. Every witness examined before the arbitrators shall be examined upon oath or affirmation to be administered by or made before the said arbitrators.

XX. On the close of the enquiry, the arbitrators, or a majority of them, shall deliver a full and complete award in respect of the matter referred to them, and shall therein specify (as the nature of the case may require) the amount and particulars of compensation awarded by them, the persons entitled to compensation, and the proportions in which they are so entitled.

Witnesses to be examined upon oath, &c., before arbitrators.

XXI. The arbitrators on making their award shall be entitled to reasonable fees for their services, the amount of which shall be fixed by the Collector or other Officer subject to the orders of the Commissioner or other superior Revenue authority.

Award of the arbitrators.

XXII. The award shall declare the costs of the arbitration and by whom and in what proportion they shall be paid. All costs, including the fees of the arbitrators, incurred for the purpose only of determining the amount of compensation to be allowed for the land, shall be charged to the Government, unless the arbitrators shall award as compensation the same, or a less sum than shall have been offered by the Collector or other Officer, in which case each party shall bear his own costs

Arbitrators' fees.

Costs.

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costs so incurred and shall also pay a moiety of the fees of the arbitrators. Costs incurred for determining the apportionment of the compensation among the persons interested shall be paid by such persons in such proportions as the arbitrators shall direct.

XXIII. The proceedings of the arbitration shall be deposited in the office of the Collector or other Officer; and every person interested therein shall be entitled to a copy of the award on plain paper, under the seal and signature of the Collector or other Officer, which copy shall be *prima facie* evidence thereof.

Proceedings of the arbitration to be deposited in the Collector's Office. Copy of award signed &c. by him to be evidence.

XXIV. When any land is taken under the provisions of this Act, the amount of compensation to be awarded shall include any damage which may be sustained by any of the persons interested therein in respect of any adjoining land held therewith.

Compensation to include damage done to adjoining land.

XXV. If any compensation beyond the value of the land be awarded on account of any damage which may be sustained by any person interested in the land, the award shall specify the value of the land and the amount of such damage separately, and also the name of the person to whom compensation for damage is awarded.

If compensation be awarded for damage sustained as well as for value of the land the amount of damage shall be specified separately in the award.

XXVI. When any land taken under this Act forms part of an estate paying revenue to Government, the award shall specify the net rent of the land including the Government Revenue, and the computed value of such rent: and it shall be at the discretion of the Revenue authorities either to pay over the whole of such value to the owner of the estate on the condition of his continuing to pay the jumma thereof without abatement; or to determine what proportion of the net rent shall be allowed as a remission of revenue, in which case a deduction shall be made from the said value proportionate to the value of such remission.

Proceeding where land paying revenue to Government is taken.

XXVII. When the amount of compensation to be paid for land taken under the provisions of this Act is determined by the award of the Collector or other Officer under Section V, he

Amount of compensation when and how to be paid.

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he shall pay the amount awarded at the time when possession is taken of the land on account of Government. When the compensation is determined by the award of arbitrators under Section XX, the Collector or other Officer shall pay the amount awarded with interest at the rate of six per centum per annum from the time when possession was taken of the land on account of Government.

XXVIII. Except as provided in the next following Section, payment of the compensation shall be made, according to the award, to the persons named therein. Provided always that nothing in this Act contained shall affect the liability of any person who may receive the compensation awarded for any land or any portion of such compensation to pay the same to the person lawfully entitled thereto.

Payment of compensation to whom to be made.

Proviso.

XXIX. If there exist any ground which, in the judgment of the Collector or other Officer, renders it improper to make immediate payment of the compensation, or of any portion thereof, to any of the persons having or claiming any interest in the land or in the compensation awarded in respect thereof, the amount, or such portion of the amount as he may deem sufficient, shall be invested in Government Securities, and held in deposit until an order of Court shall be obtained for the payment thereof. Such order shall be obtained in the Court which would have had jurisdiction in respect of the land taken.

Payment of compensation may in certain cases be deferred.

Amount to be held in deposit until an order of Court is obtained for payment thereof.

What Court to have jurisdiction to make the order.

XXX. If the land taken be within the local limits of any of Her Majesty's Supreme Courts of Judicature, and the amount of compensation awarded do not exceed five hundred Rupees, the order may be made by the Court of Small Causes.

In certain cases the Small Cause Court may order payment.

XXXI. No award of arbitrators made in accordance with the provisions of this Act, shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other

Reversal or alteration of award.

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other arbitrators to be appointed in the same manner as the first. All suits to set aside an award under this Act shall be instituted within three months from the date of the award.

Limitation of suits to set aside an award.

XXXII. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house or other building or manufactory, if the owner desire that the whole of such house, building, or manufactory shall be taken.

A part of a house or building not to be taken.

XXXIII. Whenever any land is needed for a road, canal, railway, or the like, and the local Government makes the declaration provided in Section II, it shall not be necessary to specify the extent, limits, or position of the land, but it shall be sufficient to declare the general direction of the line of the work and the average breadth of the land required for the same.

When land is needed for a road, canal, &c., the general direction of the line shall be declared.

XXXIV. When any declaration has been made under the provisions of Section II of this Act, the Collector or other Officer may authorize any person, with his servants and workmen, to enter upon the land for the purpose of making a survey thereof; and in the case of a road, canal, or railway, to set out the intended line thereof, and to mark such line by cutting a trench or placing land-marks; and where otherwise the survey cannot be completed, and the line marked, to cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter into any house or building or upon the curtilage of any house or any enclosed garden (unless with the consent of the occupier thereof) without previously giving the said occupier twenty-four hours' notice of his intention to do so.

After declaration, persons authorized may enter upon the land and make a survey.

Line of road may be marked out.

Land may be cleared.

Previous notice of entry to be given to occupiers of houses, &c.

XXXV. It shall be the duty of the Collector or other Officer to take account of all necessary damage done as aforesaid, and forth with to offer payment for the same to the persons interested. In case the offer is not accepted, the damage shall be allowed for in the compensation to be awarded.

Account of damage to be taken and payment to be offered.

XXXVI. Whoever

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XXXVI. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal, or railway, or wilfully destroys, damages, or displaces any land-mark, or effaces or fills any trench intended to mark such line, shall, on conviction, be liable to be imprisoned for any term not exceeding six months, or to fine not exceeding two hundred Rupees, or to both.

XXXVII. The powers of this Act shall extend, in the case of any road, canal, or railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre line of the road, canal, or railway, as marked on the ground, for taking earth or other materials for making or repairing the road, canal, or railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon, and of any land which may be needed for making temporary roads, from any public road to the intended line of railway; and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone, gravel, sand, and other materials taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained, in case of disagreement, in the same manner as compensation for land permanently taken.

XXXVIII. In any proceedings under this Act, the following persons shall be deemed persons entitled to act as and to the extent hereinafter provided, (that is to say)—
Trustees, Committees of lunatics, &c. empowered to act. a trustee or trustees for other persons beneficially interested shall in all cases be deemed the person or persons entitled to act with reference to any such proceedings, 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. The guardians of minors and the Committees 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.

XXXIX. The

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XXXIX. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction (that is to say)—

Interpretation.

The words "the local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories in the possession and under the Government of the East India Company in which the land in question is situate; and shall include any Chief Commissioner or other Chief Civil Officer of a Province whom the Governor General in Council may authorize to exercise the powers vested by this Act in the local Government.

The word "land" shall extend to tenements and hereditaments of any tenure, and all houses, buildings, trees, or appurtenances thereupon, as well as land.

The expression "person interested in the land" shall include all persons interested in the land either for life or for years, or in remainder, reversion, or succession, and all mortgagees, leaseholders, or tenants, not being tenants by the month or at will, of such land.

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "person" shall include a corporation.

